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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF MATTHEW JONES IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Matthew Jones, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am a 20-year-old resident of Santee, California. I do not have any criminal history, nor am I a member of the armed services or law enforcement.

3. I do not have a California hunter's licence issued by the Department of Fish and Wildlife. I have no interest in hunting.

4. I do not currently own any firearms. However, I would like to purchase a firearm for self-defense and other lawful purposes.

5. On April 23, 2019, I went to AO Sword, a gun shop in El Cajon, California, to buy a firearm for self-defense and other lawful purposes. I said to the employee behind the counter I wanted to buy a gun; and he asked me if I was 21 years old. I told him I was 20 years old.

6. Once I told the employee that I was 20, he informed me that due to my age, he would not be able to sell me any type of firearm. He said this was not a store policy, but rather a requirement under state law that recently increased the minimum purchasing age for firearms to 21. Because I was prohibited from purchasing any kind of firearm, I left the shop.

7. I wanted to buy a gun for self-defense and other lawful purposes, but was prevented from doing so because of the California law. As a result, I was denied the ability to exercise my Second Amendment rights, including my right to purchase, use,

and retain a firearm for self-defense and other lawful purposes. This unlawful prohibition and infringement on my Second Amendment rights will continue until I am 21 years old. But for the California law, I would have purchased a firearm. However, due solely to my age, I cannot purchase a firearm without fear of being criminally prosecuted for violating the law.

8. I have no interest in purchasing a firearm in order to hunt; I do not have a valid, unexpired hunting license issued by the California Department of Fish and Wildlife; and have no need for or interest in attending a hunter's safety course or paying unnecessary and burdensome fees associated with these classes and licenses. I am also not an active or retired peace officer or federal officer, nor am I a current or retired member of the armed forces. However, I am old enough to serve in the U.S. armed forces and vote.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 13, 2019.

Matthew Jones

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF THOMAS FURRH IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Thomas Furrh, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am a 20-year-old resident of Vista, California, where I live in an apartment with four roommates.

3. I do not have a criminal history, nor am I a member of the armed services or law enforcement.

4. I do not have a California hunter's licence issued by the California Department of Fish and Wildlife and I have no interest in hunting.

5. Currently, I do not own any firearms. However, I would like to purchase a firearm for self-defense and other lawful purposes.

6. On May 15, 2019, I entered the gun shop Beebe Family Arms and Munitions (Beebe Arms) in Fallbrook, California, to purchase a firearm for self-defense and other lawful purposes.

7. I told the employee behind the counter I wished to purchase a firearm. He asked me if I was 21 years old. I told him I was 20 years old.

8. Once I told the employee that I was 20, he immediately informed me that due to a recent change in California law, they were prohibited from selling or transferring any type of firearms to me due solely to my age.

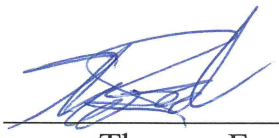
9. I asked if I could legally purchase a firearm from an individual rather than from a gun shop. The employee told me that since all firearms transfers are

required to go through a federally licensed dealer, Beebe Arms was also prevented from conducting a private party transfer of any type of firearm to me. Because I was prohibited from purchasing any kind of firearm, I left the Beebe Arms.

10. I wanted to buy a gun for self-defense and other lawful purposes, but was prevented from doing so because of the California law. As a result, I was denied the ability to exercise my Second Amendment rights, including the right to purchase, use, and retain a firearm in self-defense and other lawful purposes. This unlawful prohibition and infringement on my Second Amendment rights will continue until I am 21 years old. But for the California law, I would have purchased a firearm. However, due solely to my age, I cannot purchase a firearm without fear of being criminally prosecuted for violating the law.

11. I have no interest in purchasing a firearm in order to hunt; I do not have a valid, unexpired hunting license issued by the California Department of Fish and Wildlife; and have no need for or interest in attending a hunter's safety course or paying for irrelevant and burdensome fees associated with these classes and licenses. I am also not an active or retired peace officer or federal officer, nor am I a current or retired member of the armed forces. However, I am old enough to serve in the U.S. armed forces and vote.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 14, 2019.



Thomas Furrh

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF KYLE YAMAMOTO IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Kyle Yamamoto, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am a 19-year-old resident of Hacienda Heights, California.

3. I do not have a criminal history, nor am I a member of the armed services or law enforcement.

4. I do not have a California hunter's licence issued by the Department of Fish and Wildlife as I have no interest in hunting.

5. Currently, I do not own any firearms. However, I would like to purchase a firearm for self-defense and other lawful purposes.

6. On June 2, 2019, I attended the Crossroads of the West Gun Show (Gun Show) at the Orange County Fair and Event Center in Costa Mesa, California, in order to purchase a rifle for self defense and other lawful purposes.

7. At the Gun Show, I visited several booths operated by various licensed firearms dealers. To my knowledge, all dealers are required to follow all federal and state firearms regulations and all possessed valid licenses to deal in firearms and ammunition in the State of California.

8. At one of these booths occupied by licensed dealer, I found a rifle that I was interested in purchasing. Once I informed the dealer that I wanted to purchase the rifle, he asked for my California Driver's License. I provided my driver's license and

was immediately informed that I could not purchase the rifle due to a recent change in California law. The dealer told me that since I was not 21, they were prohibited from selling or transferring any firearm to me unless I was law enforcement, military, or possessed a valid hunter's license. I informed the dealer that I did not fall under any of these exceptions. Because I was prohibited from purchasing any kind of firearm, I left the booth immediately afterward.

9. I subsequently asked several other dealers at the Gun Show about the recent change in the law. They all confirmed what the first dealer had told me. Because I was not able to purchase any kind of firearm, I left the Gun Show.

10. I wanted to buy a gun for self-defense and other lawful purposes, but was prevented from doing so because of the California law. As a result, I was denied the ability to exercise my Second Amendment rights, including the right to purchase, use, and retain a firearm in self-defense and other lawful purposes. This unlawful prohibition and infringement on my Second Amendment rights will continue until I am 21 years old. But for California law, I would have purchased a firearm. However, due solely to my age, I cannot purchase a firearm without fear of being criminally prosecuted for violating the law.

11. I have no interest in purchasing a firearm in order to hunt; I do not have a valid, unexpired hunting license issued by the California Department of Fish and Wildlife; and have no need for or interest in attending a hunter's safety course or

paying for irrelevant and burdensome fees associated with these classes and licenses. I am also not an active or retired peace officer or federal officer, nor am I a current or retired member of the armed forces. However, I am old enough to serve in the U.S. armed forces and vote.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on August 30, 2019.



Kyle Yamamoto

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF JOHN PHILLIPS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, John Phillips, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am the owner of Poway Weapons and Gear (PWG), a firearms range and retailer in Poway, California. PWG is the largest indoor range in California, serving just under 200,000 visitors per year and supporting almost 4,000 members that are roughly 65 percent male and 35 percent female. PWG employs 37 full-time employees as well as additional seasonal staff as needed.

3. PWG is also a 5-Star range/retailer as certified by the National Shooting Sport Foundation. At PWG, we take the sale and responsible use of firearms very seriously. We provide firearms training to over 8,000 students per year and interact on our ranges with countless more people. Since opening our range and training center in 2014, we have helped educate over 50,000 students. PWG is a strong supporter of our nation's Second Amendment rights and proudly complies with every step in the regulatory process to meet our own 5-Star standards relative to reputable firearms sales. We take great pride in our record of compliance with local, state, and federal laws and regulations, while also helping ensure the local community can benefit from PWG's efforts through firearms legal education.

4. Since Penal Code section 27510 went into effect on January 1, 2019, PWG business activities have been significantly and adversely impacted because

PWG employees have been forced to refuse firearms sales, transfers, and handling to otherwise qualified adults 18 to 20 years of age.

5. Because PWG is both a range and a retail store, PWG also has been forced to prohibit otherwise qualified young adults from using rental firearms and taking part in lawful shooting at the range, or face substantial criminal penalties. Because California's age-based gun ban prohibits a licensed dealer from selling, supplying, delivering, or giving *possession or control* of a firearm to any person under 21 years of age," PWG cannot even deliver a rental firearm to someone who is *over the age of 21* when they are accompanied by someone who is under 21 as PWG cannot lawfully *"supply"* a firearm to an individual who we know intends to shoot with their older partner.

6. In addition to being forced to deny individuals firearms purchase, transfers, and rentals, PWG has had to deny numerous otherwise qualified young adults customers from attending or taking part in PWG's firearms classes. Most PWG classes require students to handle firearms in some manner. Because PWG is prohibited from allowing even "possession or control" of any firearm to adults ages 18 to 20, PWG has had to deny all adults in that age range from attending our firearms classes.

7. California's age-based gun ban also prevents PWG from offering hunter's education classes to anyone under the age of 21, let alone adults ages 18 to 20. Anyone under 21, including those adults ages 18 to 20 who wish to comply

with Penal Code section 27510's exemption — which allows individuals over 18 to acquire long guns (*e.g.* shotguns, rifles) if they possess a valid, unexpired hunting license issued by the Department of Fish and Wildlife — are unable to take PWG's classes. Because law prohibits licensed dealers from selling, supplying, delivering, or giving *possession or control* of a firearm to any person under 21 years of age, PWG cannot lawfully allow individuals under 21 *take control of a firearm for a safe handling demonstration;* however, this is a requirement for the hunter's safety course — which is the only exemption available to the general public.

8. Thus, California's age-based gun ban prohibits PWG from selling and renting firearms to otherwise qualified, Young Adults. It also requires PWG to prevent anyone *over 21* from renting a PWG firearm if that person is accompanied by another person *under 21* – due to the exposure to criminal prosecution for supplying a firearm to someone under the age of 21.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 12, 2019.

John Phillips

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DARIN PRINCE IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Darin Prince, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am the co-owner and co-operator of North County Shooting Center, Inc. (NCSC), a federally-licensed firearms dealer and gun range located at 1440 Descanso Avenue, in San Marcos, California 92069.

3. NCSC is both an S-Corp and a federal-and state-licensed firearms retailer and range owned by Stanley Tuma and me. As a full-service shooting range and gun store, NCSC sells firearms, ammunition, and other related accessories. As part of its range activities, NCSC provides firearms for rental use within its indoor shooting range. NCSC also provides various firearms training courses that take place on NCSC's premises.

4. Due to California's age-based gun ban, NCSC has been directly and adversely harmed by halting all otherwise lawful sales and deliveries of firearms to young adults under the age of 21.

5. Further, NCSC has been forced to prohibit, and has prohibited, young adults ages 18 to 20 from attending various firearms classes hosted by NCSC. As a direct result, NCSC has sustained financial injury, harm, and losses from the sale and rentals of otherwise lawful goods and services. NCSC also faces substantial criminal penalties for the violation of the new law.

6. A major part of NCSC's business activities include renting firearms to customers who use those firearms at the NCSC range. Due to California's age-based gun ban prohibiting licensed dealers from selling, supplying, delivering, or giving *possession or control* of a firearm to any person under 21 years of age, NCSC has been forced to deny numerous otherwise qualified young adults from *purchasing, renting, or even handling* a firearm of any kind from NCSC's store and range, or risk substantial criminal penalties.

7. In addition, NCSC has had to deny numerous adult customers, ages 18 to 20, from attending or taking part in NCSC's firearms classes. Most NCSC classes require students to handle firearms in some manner. Because NCSC is prevented from allowing even possession or control of any firearm to young adults ages 18 to 20, NCSC has had to deny all adults in that age range from attending our firearms classes who would otherwise be permitted – even when accompanied by a person over 21 years of age.

8. California's age-based gun ban also prevents NCSC from offering hunter education classes to adults ages 18 to 20 who wish to comply with Penal Code section 27510's exemption. The exemption allows individuals 18 and over to acquire long guns (*e.g.*, shotguns, rifles) if they possess a valid, unexpired hunting license issued by the Department of Fish and Wildlife; however, to obtain a hunter's license, other California laws require the prospective license holder to take hunter education class. Consistent with California law, the hunter's education class requires that students

handle and demonstrate the safe handling of a firearm. Because California's age-based gun ban prevents NCSC from selling, supplying, delivering, or giving *possession or control* of a firearm to anyone under 21 years of age, NCSC cannot lawfully provide the necessary instruction because of the law's prohibition on possessing and controlling firearms – elements essential to the hunter education class.

9. Thus, California's age-based gun ban prohibits NCSC from selling and renting firearms to otherwise qualified, Young Adults. It also requires NCSC to prevent anyone *over 21* from renting an NCSC firearm if that person is accompanied by another person *under 21* – due to the exposure to criminal prosecution for supplying a firearm to someone under the age of 21.

10. NCSC brings this case on behalf of itself, and as a representative of a class of similar entities consisting of licensed California retailers too numerous to individually name or include as parties to this action. They are licensed firearms retailers and shooting ranges in California that are injured because they are now prohibited from selling, supplying, delivering, or giving possession or control of a firearm to any person under 21 years of age, who would otherwise be permitted to lawfully purchase, rent, possess, control, and acquire firearms.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 23, 2019.

Darin Prince

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF ANTHONY WILLIAMS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Anthony Williams, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am a 31-year-old resident of Fallbrook, California. I am currently employed as a store clerk and gunsmith at Beebe Family Arms and Munitions (Beebe Arms), located at 1032 S. Main Avenue, Fallbrook, California 92028.

3. As a store clerk, I hold a Certificate of Eligibility issued by the State of California. With this certificate, I am permitted to sell firearms and ammunition.

4. Since January 1, 2019, when SB 1100 went into effect and raised the minimum age requirements to purchase firearms to 21, Beebe Arms has made it a store policy to immediately ask the age of any potential purchaser of a firearm or ammunition.

5. Based on my experience, many individuals that have come into Beebe Arms to purchase a firearm are still unaware that the California law has changed. Thus, I routinely determine the age of the potential purchaser as soon as they state they are interested in purchasing a firearm.

6. On May 15, 2019, I was working behind the counter at Beebe Arms when a male individual, later identified as Thomas Furrh, came into the shop and indicated that he wanted to purchase a firearm.

7. I immediately asked Mr. Furrh how old he was. Mr. Furrh told me that he was 20 years old. I told Mr. Furrh the laws had recently changed and that

California increased the minimum age to purchase a firearm to 21-years-old. I told Mr. Furrh that since he was not 21, he would not be able to purchase any kind of firearm unless he was law enforcement, military, or possessed a valid hunting license issued by the California Department of Fish and Wildlife. Otherwise, as a licensed dealer, Beebe Arms is prohibited from selling or transferring him any firearm; or risk substantial criminal penalties for violating the law.

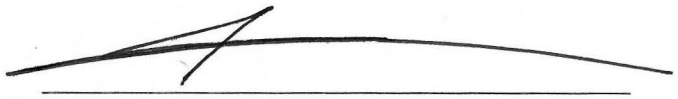
8. Mr. Furrh told me he did not fall under any of the exceptions and was not looking to purchase a firearm in order to hunt.

9. Mr. Furrh asked if it was possible to purchase a firearm if it wasn't purchased from a gun shop. I told him all firearms transfers must go through a licensed dealer, even private-party transfers. Thus, Beebe Arms was also prohibited from conducting a private-party transfer to Mr. Furrh.

10. Mr. Furrh left Beebe Arms shortly thereafter.

11. Because Penal Code section 27510 prohibits licensed dealers from selling, supplying, delivering, or giving possession or control of a firearm to any person under 21 years of age, I, as an employee of Beebe Arms, have had to deny several individuals their ability to exercise their Second Amendment rights, including the right to purchase, use or possess a firearm in self-defense or other lawful purposes.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 9, 2019.



Anthony Williams

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF BRANDON COMBS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 1 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Department: 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Brandon Combs, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am the President of the Institutional Plaintiff Firearms Policy Coalition, Inc. (FPC), a non-profit organization incorporated under the laws of Delaware, with its principal place of business in Sacramento, California. FPC's members and supporters reside both within and outside the State of California, including in San Diego County, California. FPC serves its members, supporters, and the public through direct legislative advocacy, grassroots advocacy, litigation, legal and policy efforts, research, education, outreach, and other such programs. The purposes of FPC include defending the United States Constitution and the people's rights, privileges, and immunities deeply rooted in this Country's history and tradition, especially the fundamental right to acquire, keep, and bear arms under the Second Amendment.

3. In addition to the individually-named Plaintiffs, who are each and every one of them FPC members, FPC has other members and supporters in California or who may move into California, who possess all the indicia of membership — individuals of more than 18 and less than 21 years of age who, but for the challenged law, are not otherwise legally prohibited from acquiring or possessing firearms but who are not exempt from the challenged law and Defendants' policies, practices, and customs that infringe on their fundamental, individual rights ("Constitutionally

Injured Legal Adults" or "Young Adults"). FPC also has members and supporters that will become Constitutionally Injured Legal Adults in the near future.

4. FPC strongly opposed the legislation, Senate Bill 1100, (2017-2018 Reg. Sess.) ("SB 1100") that led to enactment of the challenged law and Defendants' policies, practices, and customs that infringe on the fundamental, individual rights of Constitutionally Injured Legal Adults. As an institutional Plaintiff, FPC represents its Constitutionally Injured Legal Adult members and supporters, and similarly situated members of the public, who include gun owners throughout California and others affected by California's unconstitutional and burdensome gun control schemes, such as licensed firearm retailers, who were and are adversely and directly harmed and injured by Defendants' enforcement of the challenged law, policies, practices, and customs.

5. The challenged law and Defendants' actions and omissions have caused FPC to expend and divert resources that would otherwise be available for other purposes to protect the rights and property of its members, supporters, and the general public, including by and through this litigation.

6. I obtained and reviewed the available legislative history of SB 1100. Attached hereto as **Exhibit 1** is a true and correct copy of the California Department of Finance Department SB 1100 finance analysis, summary, and comments. The Department's analysis for fiscal years 2018-19 and 2020-21 shows estimated adverse

fiscal impacts to California with the passage of this new law. Specifically, for those fiscal periods, the Department estimated incurring increase costs of more than $1.5 million, plus the need for three additional staff positions to administer "the expected increase in arrest prints, update departmental documentation and procedures, and [support] the ongoing maintenance…for the required systems." (**Ex.1,** p. 2.) The Department also anticipated annual revenue losses of more than $235,000.00, from special accounts and funds due to lost sales resulting from increasing "the minimum age to purchase firearms." (*Ibid*.)

7. Further, the Department *opposed* SB 1100 "because it expands an existing crime which would lead to additional cases entering the court system, increase the statewide adult jail population, and impact the ability of counties to manage their offender population…." (**Ex. 1**, p. 3.) The Department pointed out that the new law will "impose additional criminal sanctions [which] will further strain the local criminal justice system…[and create] General fund cost measures that are not included in the Administration's fiscal plan." (**Ex. 1**, pp.2-3.)

8. The challenged law (Penal Code section 27510(a)) and Defendants' policies, practices, and customs apply to *any* person or entity licenced by the federal and state government, to sell or transfer firearms.

9. In short, anyone who engages in the highly regulated, licensed firearms business is barred from selling, supplying, delivering, transferring, or giving

possession or control of, *any* firearm to any Young Adult — all of whom have an individual right to acquire, keep, and bear arms for lawful purposes, including but not limited to self-defense.

10. In spite of the State of California's clear animus towards it and those who exercise it, the Second Amendment right to keep and bear arms is not a second-class right. I am not aware of any other constitutionally enumerated, fundamental, individual right — particularly a 'negative right' against government infringement — that would be subject to a ban, or even significant restrictions, for Young Adults who are not adjudicated as mentally defective, incarcerated, imprisoned, subject to probation or parole, or the like. Other fundamental rights, including the right to freedom of speech, protest, assembly, due process, speedy trial, and worship, for example, are all fully available to law-abiding Young Adults. A ban on such rights, affecting law-abiding legal adults over the age of 18 and under the age of 21, would almost certainly be fiercely rejected and enjoined from enforcement.

11. The challenged law, (Penal Code section 27510), and Defendants' policies, practices, and customs, have denied, and will continue to deny, millions of Constitutionally Injured Legal Adults their fundamental, individual right to acquire, keep, and bear arms secured under the Second and Fourteenth Amendments to the United States Constitution.

12. Attached hereto as **Exhibit 2** is a true and correct copy of the Senate Committee on Public Safety (April 17, 2018) from the legislative history of the challenged law (SB 1100).

13. Attached hereto as **Exhibit 3** is a true and correct copy of the Assembly Committee on Public Safety, Background Information Request from the legislative history of the challenged law (SB 1100).

14. Attached hereto as **Exhibit 4** is a true and correct copy of the Assembly Committee on Public Safety (June 19, 2018) from the legislative history of the challenged law (SB 1100).

15. Attached hereto as **Exhibit 5** is a true and correct copy of the Department of Justice letter to Hon. Anthony Portantino (August 3, 2018) from the legislative history of the challenged law (SB 1100).

16. I have reviewed the Joint Case Management Statement ("CMS") submitted on October 1, 2019. Dkt. No. 11. In the CMS, Defendants' counsel states that "SB 1100's amendments to Section 27510 provide *ample* avenues for responsible adults between the ages of 18 and 20 to purchase or receive long guns by transfer." Dkt. No. 11, p. 11 (emphasis added). First, this statement highlights that Section 27510 bans the sale, supply, delivery, and giving possession or control of *any* handgun *and* any long guns (e.g., rifles, shotguns) to *any* Constitutionally Injured Legal Adult who is not otherwise prohibited from acquiring or possessing firearms for

lawful purposes. Said differently, this constitutes an absolute ban applicable to all ordinary, law-abiding Young Adults in California. Second, as explained below, the exemptions listed in Section 27510 are not "ample." Instead, as shown below, the few Section 27510 exemptions amount to window dressing to blur the *de facto* ban enacted by the Legislature and enforced by Defendants against all ordinary, law-abiding Young Adults.

17. However, on October 11, 2019, only *10 months* after the SB 1100's amendments went into effect, Governor Gavin Newsom signed Senate Bill 61 (SB 61) into law. SB 61 made amendments to Section 27510 and further restricted its so-called "exemptions." Now, even if a Young Adult were to go through the process of obtaining a hunting license they would still be prohibited from purchasing, transferring, acquiring, or obtaining possession of all handgun *and all semiautomatic centerfire rifles.* This new restriction also applies to Young Adults that successfully enter into the military and *who are subsequently honorably retired.*

18. I obtained and reviewed the available legislative history of SB 61. Attached hereto as **Exhibit 6** is a true and correct copy of SB 61's legislative history.

19. As amended by SB 61, Section 27510 states:

> (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.
>
> (b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is **not a**

handgun or a semiautomatic centerfire rifle to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is **not a handgun or a semiautomatic centerfire rifle** to a person who is 18 years of age or older and **provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.** For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member

(3) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(D) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

Cal. Pen. Code § 27510(a)-(b)(1) and (b)(2) (A)-(E).

20. Based on my review of publically available information regarding the application requirements of the various law enforcement agencies and the U.S. Military, these so-called "exemptions" do not allow Young Adults to exercise their fundamental, individual right (*e.g.*, buying a firearm).

21. For example, in California, based on my review of local law enforcement agencies webpages, many law enforcement agencies require that individuals be at least 20 years old before they are *even eligible to apply* for the initial pre-hiring testing and screening requirements for law enforcement training. Attached hereto as **Exhibit 7** is a true and correct copy of the San Diego Sheriff's Department "Sheriff's Hiring Process" found on the San Diego Sheriff's website. It states the minimum age for a Deputy Sheriff Patrol position is "20 ½ years of age at time of application; 21 years of age at time of appointment." Attached hereto as **Exhibits 8, 9, 10, and 11** are true and correct copies of other California law enforcement agencies hiring requirements and application processes (*e.g.*, San Diego Police Department, Chula Vista Police Department, Los Angeles Police Department, and Los Angeles Sheriff Department). Each of these agencies has minimum age requirement of *over 18* and as high as 20, just *to apply* for a position, and a minimum age of 21 at graduation. Additionally, after calling the California Highway Patrol (CHP) recruiting office (online at https://www.chp.ca.gov/CHP-Careers/Officer) at (888) 843-3275, I spoke with a CHP representative and learned that the CHP requires

CHP officer applicants to be 20-years-old at the time of initial application, and cannot join their force until a qualified candidate is 21 years old.

22. Further, San Diego Sheriff applicants must take part in and pass testing/screening to even be accepted into training.[1] For example, as a part of the San Diego Sheriff Department's application process, applicants must:

(1) Fill out the initial online application;

(2) Wait for and then answer a subsequent questionnaire with 27 supplemental questions;

(3) Watch a mandatory video;

(4) Register and take a written exam;

(5) Wait 3-to-6 weeks for exam results;

(6) Upon passing the exam, applicants are placed on an "eligibility list for one year" and if selected, they are invited to meet with a background investigator to move on to the next step of the application process;

(7) Applicants then fill out a "Prescreen Questionnaire (Personal History Statement) and watch an additional mandatory video;

(8) Undergo and pass a comprehensive "background investigation;"

(9) Take and pass a "Computer Voice Stress Analysis" … or polygraph test;

[1] Based on my review of a number of California law enforcement agency websites, other law enforcement agencies also have similar application and hiring processes. *See* **Exhibits 8-11.**

(10) Take and pass an Employment Interview or "Lieutenant's Interview;"

(11) Take and pass a "Physical Agility Test …;"

(12) Take and pass a "Psychological Evaluation," which includes a written exam and a meeting with a psychologist;

(13) Take and pass a medical exam; and

(14) Applicants can then *wait to potentially receive a job offer* and be assigned to an academy where they will undergo further training only after all such requirements have been completed and passed.

Exhibit 7.

23. Completion of all the above *does not guarantee* that the applicant will become an active law enforcement officer. Thus, completion the requirements does not even guarantee the ability to purchase a firearm.

24. Further, for an ordinary law-abiding Constitutionally Injured Legal Adult to make use of this so-called "exemption," they must *switch careers, apply for, and obtain a highly dangerous job that could result in their death.* All for the ability to exercise their fundamental rights to purchase and acquire a firearm for self-defense and other lawful purposes. This could hardly be considered an "exemption" to Section 27510's ban.

25. Similar, *more extreme* requirements are required to meet another Section 27510 exemption — namely, becoming an "active federal officer or law enforcement agent." Attached hereto as **Exhibit 12** is a true and correct copy of the eligibility and

employment requirements from FBI Jobs.gov. This publicly available website lists the minimum requirements to become an active special agent with the FBI. Notably, for a special agent position, applicants must be at least 23 years old. See **Exhibit 12**.

26. Moreover, similar testing, contract, and oath requirements are imposed, to apply for and become an active member of the armed forces. Attached hereto as **Exhibit 13** is a true and correct copy of "Today's Military – Enlisting in the Military," which depicts the general requirements to enlist in the military. For example, applicants must:

(1) Visit a Military Entrance Processing Station (MEPS). "The MEPS is a joint service organization that determines an applicant's physical qualifications, aptitude and moral standards as set by each branch of military service." Each MEPS is staffed with military and civilian professionals who carefully screen each applicant to ensure they meet the physical, academic, and moral standards set by each Service." See **Exhibit 13**.

(2) Take the Armed Services Vocational Aptitude Battery (ASVAB). The ASVAB is a 3-hour multiple choice exam that "helps determine the careers for which an individual is best suited" and "has questions about standard school subjects like math, English, writing, and science." See **Exhibit 13**.

(3) Take and pass the physical exam

(4) Meet with a service enlistment counselor to find a job specialty.

(5) Take the Oath of Enlistment. See **Exhibit 13**.

(6) Afterwards, applicants will do one of two things, depending on the terms of their enlistment: (i) *Direct Ship*: Report to basic training shortly after completing MEPS testing requirements. (It varies

based on job assignment and branch.) A recruiter will provide instructions on transportation to basic training at this time; or (ii) *Delayed Entry Program (DEP):* Commit to basic training at a time in the future, generally within one year. See **Exhibit 13**.

27. Depending on the applicant's job assignment and branch of the armed services, they will have to complete, at minimum, some form of basic training.

28. I have also reviewed publically available information regarding basic training in the U.S. Army. Attached hereto as **Exhibit 14** is a true and correct copy of Military.com - "What to Except In Army Boot Camp."

29. The requirements to take and pass Army basic training are extremely extensive and dangerous. For example, Army basic training is a 10-week course in which applicants learn Army rules, regulations, and processes in classroom instruction. They are required to conduct daily physical fitness, marksmanship training, and courses on map reading and first aid. Additionally, applicant must take and pass the "Basic Rifle Marksmanship Qualification Course" and "Fit to Win Obstacle Course." Later, hand grenade training, live fire exercises, and foot marching are all tested in the "Confidence Course." In Week 8, applicants take part in "combat skill development" right before taking part in the final test of a three-day field retreat to Victory Forge. After 10 weeks of training, applicants may graduate and then can be assigned to any part of the country for service. See **Exhibit 14**.

30. Again, this could hardly be considered an "ample" exemption. This exemption requires a binding military service contract that can last for years, weeks of initial demanding and dangerous training, and the potential to be relocated anywhere in the country for service. There is also the potential to take part in and fight in wars. Again, all such requirements must be satisfied before a Young Adult can buy a gun. As shown above, the Section 27510 exemptions are extremely narrow, and inapplicable to all ordinary, law-abiding Young Adults in California.

31. Prior to SB 61, Section 27510 permitted "[a] [Constitutionally Injured Legal Adult] who provides proper identification that he or she is an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States" to purchase a firearm. However, that individual must still complete the numerous requirements and tests stated above, *and then be honorably discharged* in order to be able to use this exemption. Again, exemption this does not apply to ordinary, law-abiding Young Adults. Further, by the time that individual is honorably discharged, they are likely over 21 years of age, rendering the exemption an illusion.

32. With the signing of SB 61, the State has further restricted this exemption and now prevents honorably retired Young Adults ages 18-20 from purchasing, transferring, acquiring, or gaining possession of all semiautomatic centerfire rifles. No explanation is given for this amendment. The additional restriction shows that

Section 27510 is not a safety and training provision to buy firearms – because honorably retired military have gone through the same training as active military. One is permitted to purchase semiautomatic centerfire rifles; and one is prohibited. The only logical conclusion is that training has nothing to do with the law. Instead, it is an under 21 firearms ban.

33. In reviewing the legislative history of SB 61, of the approximately 400 pages of legislative history, there are only three general statements on two pages that discuss any reason for the new amendments to Section 27510 and the three general statements are pure speculation.

34. The three statements are as follows:

> More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a [certificate of eligibility] with the DOJ as well. See **Exhibit 6**, at 180.

> The issue is that semi-automatic centerfire rifles are a more common choice of firearm when committing a mass shooting and is rarely used for Hunting. It is prevalent that we eliminate someone under the age of 21 years from obtaining this type of firearm. See **Exhibit 6**, at 406.

> With the recent shooting in San Diego, CA by a 19 year old with news outlets reporting he obtained the firearm legally, but has not come out of how he obtained it legally. It is important we insure there are no loopholes with-in the system which is why the existing hunting license and honorably retired military exemption be tightened up as to semiautomatic centerfire rifle. See **Exhibit 6**, at 406.

35. First, no certificate of eligibility exemption was ever implemented in the signed bill.

36. Second, all murders in which a firearm was used in the United States totaled 10,265. Murders involving *all rifles* (not just semiautomatic centerfire rifles) totaled 297. Attached hereto as **Exhibit 15** is a true and correct copy of the Federal Bureau of Investigation, Criminal Justice Information Services Division, 2018 Crime in the United States, Table 8. In California, murders committed with rifles and shotguns totaled 51, compared to 252 murders committed by knives, and 87 murders committed by "hand, fists, feet." See **Exhibit 15**. Attached hereto as **Exhibit 16** is a true and correct copy of the Federal Bureau of Investigation, Criminal Justice Information Services Division, 2018 Crime in the United States, Table 20. These common firearms are hardly a significant problem. See **Exhibit 16.**

37. Third, most mass shootings are committed with handguns. See attached hereto as **Exhibit 17,** is a true and correct copy of the digital article, *ALLERRT Active Shooter Data: Characteristics of Active Shootings*, Advanced Law Enforcement Rapid Response Training. Available at: http://activeshooterdata.org/the-event.html

38. Fourth, there is no support provided for the Legislature's contention that semiautomatic centerfire rifles are *rarely* used for hunting. In fact, semiautomatic centerfire rifles are used in hunting and many other lawful purposes. See **Exhibit 18** attached hereto, which is a true and correct copy of various digital articles discussing semiautomatic centerfire firearms being used for hunting and websites selling semiautomatic centerfire rifles for hunting purposes. Importantly, "semiautomatic centerfire rifles" include many other models of rifles beyond the common AR15 style firearm. These articles are available at:

https://www.nssf.org/msr/

https://biggamelogic.com/deer-rifles/

https://www.fieldandstream.com/ultimate-ar-for-deer-hunting/

https://ruger.com/products/mini14RanchRifle/specSheets/5801.html

https://www.browning.com/products/firearms/rifles/bar/current-production.html

https://www.benelliusa.com/rifles

https://time.com/4390506/gun-control-ar-15-semiautomatic-rifles/

39. Finally, the Legislature admits that they are placing further restrictions on Young Adults based on a single shooting in which they do not

have all the facts – "with news outlets reporting he obtained the firearm legally, but has not come out of how he obtained it legally."

40. Thus, five of the six Section 27510 exemptions have: (i) minimum age requirements; (ii) minimum education requirements; (iii) physical fitness requirements; (iv) binding Military Service commitments (which are subject to criminal penalties if violated); (v) mandatory involvement in highly dangerous activities and training; (vi) psychological testing; (vii) and relocation. This list is not exhaustive. And even if a Young Adult applicant were to meet the requirements and pass the tests, they could still not obtain the desired position and, therefore, not meet the illusory section 27510 exemptions. To be sure, these are not actual and accessible exemptions, but rather *additional restrictions and tests* required by the State and enforced by Defendants to preclude Young Adults from exercising their Second Amendment right to keep and bear arms for self-defense and other lawful purposes.

41. Even Section 27510's "most accessible" [2] hunting license exemption – after meeting all requirements, making all payments, and passing all tests – is irrelevant and inapplicable to ordinary, law-abiding Constitutionally Injured Legal Adults who wish to purchase a firearm for self-defense in the home and for other

[2] In this instance, the term "most accessible" is only used to identify that the exemption listed in Section 27510(b)(1) — requiring a valid hunting license — is the only exemption that does not require a Young Adult to enter into a highly dangerous career.

lawful purposes, including proficiency training and competition at shooting ranges. Further, with the amendments made by SB 61, Young Adults that obtain a hunting license are still prohibited from purchasing semiautomatic centerfire rifles.

42. Notably, a person cannot simply purchase a hunting license "over the counter" without meeting significant requirements and requiring significant time and money. *See* Bogan Declaration filed concurrently herewith. Young Adults should not have to feign an interest in, pay for, and take a *hunting safety and conservation course*, or acquire a hunting license in order to exercise their Second Amendment rights.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on November 12, 2019.



Brandon Combs

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2	Legislative History – Senate Committee on Public Safety, Bill Analysis, SB 1100 (as provided by LRI History LLC, 2018-894, pages 50-56).	0005-0012
3	Legislative History – Assembly Committee on Public Safety Background Information Request Form – Measure SB 1100 (as provided by LRI History LLC, 2018-894, pages 69-71).	0013-0016
4	Legislative History – Assembly Committee on Public Safety, SB 1100 (Portantino) – As Amended June 11, 2018 (as provided by LRI History LLC, 2018-894, page 72-75).	0017-0021
5	Legislative History – August 3, 2018 Letter to Senator Portantino from Mario De Bernardo, Deputy Attorney General, for Xavier Becerra, Attorney General (as provided by LRI History LLC, 2018-894, pages 248-249).	0022-0024
6	The Core Legislative History of Pending California Senate Bill 61- Portantino (2019-2020) (as provided by LRI History LLC)	0025-0437
7	San Diego Sheriff's Department "Sheriff's Hiring Process" found on the San Diego Sheriff's website	0438-0441
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EXHIBIT "1"

LRI History LLC

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Department of Finance Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/28/2018
POSITION: Oppose

BILL NUMBER: SB 1100
AUTHOR: Portantino, Anthony

BILL SUMMARY: Firearms: transfers.

This bill prohibits the sale or transfer of any firearm by a licensed dealer to any person under 21 years of age, except as specifically exempted.

FISCAL SUMMARY

The Department of Justice estimates costs of $342,000 and 3.0 positions in fiscal year 2018-19, $654,000 in 2019-20, and $556,000 in 2020-21 and ongoing to administer this bill. Specifically, the California Justice Information Services Division requires 3.0 positions and additional staff time to address the expected increase in arrest prints, update departmental documentation and procedures, and the ongoing maintenance support for the required systems. The Bureau of Firearms also requires additional staff time to update existing regulations. The Dealers' Record of Sale Special Account, which collects fees imposed on firearm purchasers, currently has a structural deficit and is unable to cover the costs of this bill. Therefore, this bill creates a General Fund cost pressure to fund these activities. Any request for additional resources will be evaluated through the annual budget process.

The Department of Justice anticipates annual revenue loss of $152,000 to the Dealers' Record of Sale Special Account, $75,000 to the Firearms Safety and Enforcement Special Fund, and $8,000 to the Firearm Safety Account due to a reduction in Dealers' Record of Sale submissions and Firearms Safety Certificates resulting from the increased minimum age to purchase firearms. The major revenue sources for these funds are fees imposed on the firearms purchasing process, course fees, duplicate certificate fees, and test fees.

By expanding the definition of an existing crime, this bill would have an impact on the county jail population. Under certain circumstances, the California Constitution requires the state to reimburse local entities for the increased costs associated with a state-imposed program that requires local entities to implement a new program or provide a higher level of service. Any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime. We note this measure could, however, impose new costs and workload on counties, which creates additional fiscal pressure on the local criminal justice system.

COMMENTS

The Department of Finance is opposed to this bill because it expands an existing crime which would lead to additional cases entering the court system, increase the statewide adult jail population, and impact the ability of counties to manage their offender population since certain lower-level offenders now serve their sentence in county jails and/or are supervised by county probation departments. To successfully implement public safety realignment, counties must have maximum flexibility in allocating their public safety resources. New laws that impose additional criminal sanctions at this critical time will further strain the

Analyst/Principal (0210) E.Jungwirth	Date	Program Budget Manager Amy Jarvis	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved Position Disapproved
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS--(CONTINUED) **Form DF-43**

AUTHOR	AMENDMENT DATE	BILL NUMBER
Portantino, Anthony	06/28/2018	SB 1100

COMMENTS (continued)

local criminal justice system by imposing additional fiscal pressure on county public safety resources. In addition, this bill creates General Fund cost pressures that are not included in the Administration's fiscal plan.

Existing law prohibits the sale or transfer of a handgun, except as specifically exempted, to any person under 21 years of age. Existing law also prohibits the sale or transfer of a firearm, other than a handgun, except as specifically exempted, to any person under 18 years of age. This bill would prohibit the sale or transfer of any firearm by a licensed dealer, except as specifically exempted, to any person under 21 years of age.

Existing law also requires a person who wishes to manufacture or assemble a firearm to first apply to the Department of Justice for a unique serial number or other identifying mark. Applicants must be at least 18 years of age for a firearm that is not a handgun, and at least 21 years of age for a firearm that is a handgun. This bill instead requires an applicant to be at least 21 years of age for any firearm, except that applications made before February 1, 2019, can be granted for an applicant who is at least 18 years of age but less than 21 years of age for a firearm that is not a handgun.

This bill also includes specific exemptions to these prohibitions, including, among others, an active peace officer who is authorized to carry a firearm in the course and scope of his or her employment.

According to the author's office, raising the age limit to 21 years of age to purchase a firearm insures we as Californians are taking proper steps toward public safety.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2018-2019	FC	2019-2020	FC	2020-2021	Fund Code
0820/Justice	SO	No	C	342	C	654	C	556	0001

EXHIBIT "2"

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2017 - 2018 Regular

Bill No:	SB 1100	**Hearing Date:**	April 17, 2018
Author:	Portantino		
Version:	March 19, 2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	GC		

Subject: ***Firearms: Transfers***

HISTORY

Source: Author

Prior Legislation: AB 1674 (Santiago), 2015, vetoed
AB 202 (Knox), Ch. 128, Stats. of 1999

Support: California Chapters of the Brady Campaign; Giffords Law Center to Prevent Gun Violence

Opposition: Firearms Policy Coalition

PURPOSE

The purpose of this bill is to extend the prohibition on purchasing more than one handgun a month to include all firearms and increases the age from 18 to 21 years for a person to purchase a firearm from a licensed dealer.

Existing law prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

This bill extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

Existing law exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

- Any law enforcement agency.
- Any agency duly authorized to perform law enforcement duties.
- Any state or local correctional facility.

- Any private security company licensed to do business in California.
- Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.
- Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.
- Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).
- Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.
- The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
- The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.
- The return of any handgun to its owner.
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill adds the following exceptions to the one gun a month prohibition:

- The purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.
- The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

Existing law prohibits the sale or transfer of a handgun, except as specifically exempted, to any person below the age of 21 years. (Pen. Code § 27510.)

Existing law also prohibits the sale or transfer of a firearm, other than a handgun, except as specifically exempted, to any person below the age of 18 years. (Pen. Code § 27510.)

This bill prohibits the sale or transfer by a licensed dealer of a long gun to a person below the age of 21 years, increasing the age from 18 years to 21 years of age. The bill exempts long gun purchases or transfers when the purchaser or transferee has a valid, unexpired hunting permit.

COMMENTS

1. Need for This Bill

According to the author:

> While handguns are used in the majority of gun deaths, long guns have been used to perpetrate many of the largest mass shootings in U.S. history, including the tragic event that took place in San Bernardino, California.
>
> California is home to the most stringent gun laws in the county. One example is requiring an individual to be 21 years of age in order to purchase a handgun. Another is the general limitation on a gun dealer delivery of only one handgun to an individual in a 30 day period.
>
> Since these laws have taken effect, data shows that there has been a successful reduction in the incidence of gun trafficking while not burdening legitimate gun owners or persons who wish to acquire guns.
>
> In order to be uniformly consistent, California should apply the 30 day delivery period and 21 year age limit to long guns.
>
> Firearms will not be delivered whenever the dealer is notified by the DOJ that within the preceding 30-day period the purchaser has made another application to purchase a firearm. In addition, because of the interaction of state and federal law, receivers or frames (the gun minus the barrel) are also applicable to the 30-day purchase period. This bill will also define a frame or a receiver of a firearm.
>
> Lastly, this bill would also prohibit the sale or transfer of any firearm by a licensed dealer, except as specially exempted, to any person below the age of 21 years.

2. One Gun a Month

According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.

> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
>
> - 71% for guns recovered in New York;
> - 72% for guns recovered in Massachusetts; and
> - 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.
>
> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period. . .

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon. . .

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for

> each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

Senate Bill 1674 (Santiago), of 2015: Veto Message

The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.
>
> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

3. Increasing the Age for Purchase of Long Guns

This bill would increase the minimum age from 18 to 21 years for a person to purchase all firearms in California. The age restriction would also impact the ability to transfer a weapon. Under current law a person must be 21 years of age to purchase a handgun, and this bill applies those same rules to the purchase and transfer of all firearms (including long guns). The bill creates an exception to this rule when the purchaser or transferee has a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

On February 14, 2018 Nikolas Cruz shot and killed seventeen people and wounded an additional seventeen people at Marjory Stoneman Douglas High School in Parkland, Florida. The perpetrator was 19-years old at the time of the incident, and he used assault rifles. Following the incident Florida passed legislation to increase the minimum age for buying rifles to 21-years. The National Rifle Association challenged the law and filed a lawsuit in the United States District court for the Northern District of Florida alleging that the ban on gun sales to people under 21 years of age is unconstitutional because it violates their rights under the Second and Fourteenth Amendments to the U.S. Constitution because 18-year-olds are classified as adults.

On March 1, 2018 George Skelton wrote an editorial for the LA Times[1] on this bill. He stated the following regarding this provision:

> In Sacramento, state Sen. Anthony Portantino (D-La Cañada Flintridge) proposes taking an even bigger step. He introduced legislation Wednesday to increase the legal age to 21 in California for buying any gun, including a shotgun or rifle with low ammo capacity. A shooter with a hunting license would be exempt because he'd taken a gun safety course.

[1] http://www.latimes.com/politics/la-pol-ca-skelton-guns-schools-teachers-20180301-story.html

> What about a skeet shooter? Or someone who just likes to plink tin cans out by the barn?
>
> Doesn't make sense that an 18-year-old can enlist in the Army and be armed with an automatic M-16 to fight terrorists, but can't buy a bolt-action plinker back home until he's 21.
>
> In Florida, where the gun lobby usually prevails in the Legislature, a House committee bucked the NRA on Tuesday and approved a bill to raise the rifle-buying age from 18 to 21. This came after emotional testimony from parents of students killed in the school shooting.
>
> The committee also voted to allow arming of teachers. But it rejected a ban on assault weapons.
>
> Everyone needs to get their priorities straight: Let the teachers teach. Treat 18-year-olds like adults. Get rid of all assault weapons.

However, there are a number of instances when lawmakers have limited the ability of person's under the age of 21 to engage in activities which are otherwise lawful. Notably, persons under the age of 21 are not allowed to ingest alcohol or marijuana under California law.

4. California Hunting Licenses

This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid, unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements
- Choose the correct type of hunting license.
- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs $28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

5. Argument in Support

According to the California Chapters of the Brady Campaign:

> The California Brady Campaign generally believes that handguns and long guns (rifles, shotguns and lower receivers) should be subject to the same laws. Modern sporting rifles are often high powered semi-automatic weapons with exchangeable magazines that can pose a greater threat than handguns. In the early 1990s, it was thought that handguns made up an overwhelming share of crime guns, but the data shows that is no longer the case. Of the 26,682 crime guns entered into the

Department of Justice Firearms Systems database in 2009, 11,500 were long guns.[i]

Existing law prohibits the sale or transfer of a handgun to a person below the age of 21 years. SB 1100 will similarly prohibit, with exceptions, the sale or transfer of a long gun by a licensed firearm dealer to a person under age 21. Additionally, the bill will require those who manufacture or assemble a long gun to be at least 21 years old in order to obtain a serial number for the firearm and register it with the California Department of Justice. These provisions makes sense as those under age 21 are disproportionally linked to crime. In 2015, 23.4 percent of those arrested for murder and non-negligent manslaughter in the U.S. were under 21[ii] and 26.5 percent of those arrested for "weapons carrying, possession, etc." were under age 21.[iii] Individuals age 18 to 20 comprise only 4% of the population but commit 17% of gun homicides.[iv]

Maturity, impulsive or reckless behavior, and responsibility vary greatly among 18-20 year olds. This is recognized in other areas – those under age 21 cannot buy alcohol, rent a car, or purchase a handgun – and the same age restriction should apply to long guns.

Additionally, SB 1100 will limit purchases of long guns from licensed firearms dealers in California to no more than one gun per person per 30-day period, with appropriate exemptions. This is current law for handguns and is a recognized strategy for curbing the illegal flow of guns by taking the profit out of selling guns from bulk purchases on the black market. It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, many of these bulk purchases are for lower receivers, which can be built up into military-style weapons and sold for a big profit. Firearms acquired in bulk are frequently used in crime. A University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.[v] Limiting multiple-gun sales within a short period of time for all firearm, including long guns, is clearly in the interest of public safety.

-- END –

---

[i] Data provided by the California Department of Justice, April 6, 2010.
[ii] FBI 2015 Crime in the United States, https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-41.
[iii] Ibid.
[iv] "Uniform Crime Reporting Program Data: Supplementary Homicide Reports, 2015," US Department of Justice, Federal Bureau of Investigation, https://ucr.fbi.gov/nibrs/addendumfor-submitting-cargo-theft-data/shr.
[v] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). https://www.ncjrs.gov/pdffiles1/nij/grants/221074. pdf.

EXHIBIT "3"

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chairman

BACKGROUND INFORMATION REQUEST

*Please complete and return **2 copies of this form** and **2 copies of all supporting materials** (including, press releases, support/opposition letters, proposed amendments, etc) **ASAP** of receipt of this form.*
A bill cannot be heard if a completed worksheet is not returned.

In addition, please e-mail this background information request form electronically to: Estefani Avila (**estefani.avila @asm.ca.gov**), Committee Secretary, Gary Olson (**gary.olson@asm.ca.gov**), Republican Consultant, and Kevin Sabo (**kevin.sabo@asm.ca.gov**), Speakers Office of Research **All material sent electronically should be flagged individually (i.e., support/opposition letters, proposed amendments, news articles)**

Measure: SB 1100

Author: Portantino

Staff: Tara McGee

Staff Contact Number: 916-651-4025

Please use Times New Roman Font and 12 point size for all responses. Thank you.

BILL ORIGIN:

1) Source: What person, organization, or governmental entity requested introduction? Please include the name, address, and phone number of the contact person.

Author Sponsored

2) Similar Legislation: Has a similar bill been previously introduced? Please identify the bill number, author, appropriate legislative session, and disposition of the bill.

AB 3 (Bonta) -2018

AB 1674 (Santiago)-2015

AB 202 (Knox) – 1999

BACKGROUND:

1) What is the problem or deficiency in existing law which this bill will remedy?

While handguns are used in the majority of gun deaths, long guns have been used to perpetrate many of the largest mass shootings in U.S. history, including the tragic event that took place in San Bernardino, California.

California is home to the most stringent gun laws in the county. One example is requiring an individual to be 21 years of age in order to purchase a handgun. Another is the general limitation on a gun dealer delivery of only one handgun to an individual in a 30 day period.

Since these laws have taken effect, data shows that there has been a successful reduction in the incidence of gun trafficking while not burdening legitimate gun owners or persons who wish to acquire guns.

In order to be uniformly consistent, California should apply the 30 day delivery period and 21 year age limit to long guns.

Firearms will not be delivered whenever the dealer is notified by the DOJ that within the preceding 30-day period the purchaser has made another application to purchase a firearm. In addition, because of the interaction of state and federal law, receivers or frames (the gun minus the barrel) are also applicable to the 30-day purchase period. This bill will also define a frame or a receiver of a firearm.

Lastly, this bill would also prohibit the sale or transfer of any firearm by a licensed dealer, except as specially exempted, to any person below the age of 21 years.

2) If there has been an interim committee report, study, news article, statistic or other evidence on the bill, please submit copies and/or links of these materials to the Committee.

none.

3) Are there any similar federal legislation or related bills or laws in other states? Please attach or provide any information and links, as appropriate.

4) Please include an author's statement as you wish it to appear on the committee analysis:

Raising the age limit to 21 years of age to purchase a firearm and having the one gun a month law apply to all firearms insures we as Californians are taking proper steps toward public safety. While Washington continues to be unable to pass prudent gun legislation it is imperative that California steps up. Young people across America are demanding that legislators respond to the crisis of gun violence on campuses. As a dad and a legislator I am determined to build on their leadership and help California act appropriately.

SUPPORT

The CA Chapters of the Brady Campaign: Sponsor
American Academy of Pediatrics
Bay Area Student Activists
City of Santa Monica
Giffords Law Center to Prevent Gun Violence

OPPOSITION
California Sportsmen's Lobby
Firearms Policy Coalition
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International

All letters of support or opposition must be forwarded to the committee as soon as possible. Please note that these letters will NOT be returned.

AMENDMENTS:

Do you plan ANY amendments to this bill prior to hearing? If so, please submit a copy of the language submitted to Legislative Counsel or provide a brief summary of planned amendments to the committee as soon as possible.

Yes, please see attached amendments. They will be back from Counsel on 6/12/18.

COMMITTEE POLICY ON AUTHOR'S AMENDMENTS

Author's amendments must be submitted to the Committee (in Legislative Counsel Form) by Wednesday, 5:00 p.m., prior to the scheduled committee hearing date. AMENDMENTS (ORIGINAL, SIGNED BY MEMBER, PLUS **EIGHT** COPIES IN LEGISLATIVE COUNSEL FORM) MUST BE **HAND DELIVERED** TO THE COMMITTEE AT 1020 "N" STREET, ROOM 111. **DO NOT** SEND AMENDMENTS THROUGH INTER-AGENCY MAIL.

PLEASE RETURN THIS FORM TO: ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Phone: 916-319-3744
Fax: 916-319-3745
e-mail to: estefani.avila@asm.ca.gov

EXHIBIT "4"

Date of Hearing: June 19, 2018
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 1100 (Portantino) – As Amended June 11, 2018

SUMMARY: Increases the age for which a person can purchase a long-gun from a licensed dealer from 18 to 21 years of age, except as specified. Specifically, **this bill**:

1) Exempts the sale of a firearm, that is not a handgun, to the following persons that are 18 years of age or older:

   a) A person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

   b) An active peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

   c) An active federal officer, or law enforcement agent, who is authorized to carry a firearm in the course and scope of his or her employment;

   d) A reserve peace officer, who is authorized to carry a firearm in the course and scope of his or her employment; and,

   e) An active member of the United States Armed Forces, the National Guard, the Air national Guard, or the active reserve components of the United States, where the individuals in these organizations are properly identified. Proper identification includes the Armed Forces Identification Card or other written documentation certifying that the individual is an active or honorably retired member.

2) Makes conforming changes to the age requirements for an application for the granting of serial number by DOJ to persons wishing to manufacture or assemble a firearm.

EXISTING LAW:

1) Prohibits the sale or transfer of a handgun, except as specifically exempted, to any person below the age of 21 years. (Pen. Code § 27510.)

2) Prohibits any person from making an application to purchase more than one handgun within any 30-day period. (Pen. Code, § 27535, subd. (a).)

3) Exempts from the above 30-day prohibition any of the following:

   a) Any law enforcement agency;

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b) Any agency duly authorized to perform law enforcement duties;

c) Any state or local correctional facility;

d) Any private security company licensed to do business in California;

e) Any person who is a peace officer, as specified, and is authorized to carry a firearm in the course and scope of employment:

f) Any motion picture, television, video production company or entertainment or theatrical company whose production by its nature involves a firearm;

g) Any authorized representative of a law enforcement agency, or a federally licensed firearms importer or manufacturer;

h) Any private party transaction conducted through a licensed firearms dealer;

i) Any person who is a licensed collector and has a current certificate of eligibility issued by the Department of Justice (DOJ);

j) The exchange, replacement, or return of a handgun to a licensed dealer within the 30-day period; and,

k) A community college that is certified by the Commission on Peace Officer Standards and Training (POST) to present law enforcement academy basic course or other commission-certified training. (Pen. Code, § 27535, subd. (b).)

4) Prohibits a handgun from being delivered when a licensed firearms dealer is notified by the DOJ that within the preceding 30-day period the purchaser has made another application to purchase a handgun and the purchase was not exempted, as specified. (Pen. Code, § 27540, subd. (f).

5) Provides that the penalties for making more than one application to purchase a handgun within any 30-day period is as follows:

a) A first violation is an infraction punishable by a fine of fifty dollars ($50);

b) A second violation is an infraction punishable by a fine of one hundred ($100); and,

c) A third violation is a misdemeanor. (Pen. Code, § 27590, subd. (e)(1)-(3).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Raising the age limit to 21 years of age to purchase a firearm and having the one gun a month law apply to all firearms insures we as Californians are taking proper steps toward public safety. While Washington continues to be unable to pass prudent gun legislation it is imperative that California steps up. Young people

across America are demanding that legislators respond to the crisis of gun violence on campuses. As a dad and a legislator I am determined to build on their leadership and help California act appropriately."

2) **Argument in Support**: According to the *California Chapters of the Brady Campaign to Prevent Gun Violence*, "Existing law prohibits the sale or transfer of a handgun to any person below the age of 21 years. SB 1100 will similarly prohibit, with exceptions, the sale or transfer of a long gun by a licensed firearm dealer to a person under age of 21. Additionally, the bill will require those who manufacture or assemble a long gun to be at least 21 years old in order to obtain a serial number for the firearm and register it with the California Department of Justice. These provisions makes sense as those under age 21 are disproportionally linked to crime. In 2015, 23.4 percent of those arrested for murder and non-negligent manslaughter in the U.S. were under 21 and 26.5 percent of those arrested for "weapons carrying, possession, etc." were under age 21. Individuals age 18 to 20 compromise only 4% of the population but commit 17% of gun homicides. "Maturity, impulsive or reckless behavior, and responsibility vary greatly among 18-20 year olds. This is recognized in other areas – those under age 21 cannot buy alcohol, rent a car, or purchase a handgun – and the same age restriction should apply to long guns.

3) **Argument in Opposition**: According to the *Outdoor Sportsmen's Coalition of California,* "SB 1100 would needlessly raise the age for purchasing a rifle or shotgun from 18 to 21onth.

"Rather than raise the minimum age for lawful individuals to purchase a rifle or shotgun, or limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

"Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

"The restrictions proposed in SB 1100 will not prevent it.

4) **Related Legislation**: AB 3 (Bonta) is similar to this bill in that it prohibits the sale of any firearm to a person under 21 years of age. AB 3 is pending hearing in the Senate public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Chapters of the Brady Campaign to prevent Gun Violence
Giffords Law Center to Prevent Gun Violence
American Academy of Pediatrics
Bay Area Student Activists
City of Santa Monica

Opposition

California Sportsman's Lobby
Gun Owners of California
Firearms Policy Coalition
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
California Sportsman's Lobby
National Shooting Sports Foundation

Analysis Prepared by: Gregory Pagan / PUB. S. / (916) 319-3744

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EXHIBIT "5"

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
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SACRAMENTO, CA 94244-2550

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E-Mail: mario.debernardo@doj.ca.gov

August 3, 2018

The Honorable Anthony Portantino
State Capitol, Room 3086
Sacramento, CA 95814

RE: Minimum Age Requirement for Long Guns (SB 1100): SUPPORT

Dear Senator Portantino:

On behalf of Attorney General Xavier Becerra, I am pleased to inform you that the California Department of Justice (DOJ) supports SB 1100 (Portantino). This bill would help protect our schools and communities by prohibiting a person under 21 from purchasing or possessing long guns, such as semi-automatic rifles.

Under California law, the minimum age requirement to purchase or possess a handgun is 21 years of age. However, the minimum age requirement to purchase or possess a long gun is 18. While handguns are used in the majority of gun deaths, long guns have been used to carry out many of the largest mass shootings in U.S. history. Moreover, mass shootings carried out at schools are generally committed by people under 21—e.g., Nikolas Cruz (Stoneman Douglas High School, 17 killed); Dimitrios Pagourtzis (Santa Fe High School, 10 killed); Adam Lanza (Sandy Hook Elementary School, 27 killed); Jeff Weise (Red Lake High School, 9 killed); and Eric Harris and Dylan Klebold (Columbine High School, 13 killed).

Our country's tragic history of mass shootings clearly demonstrates that long guns are as dangerous as handguns, especially in the hands of minors. In recognition of this, SB 1100 would bring parity to California's gun laws by setting the minimum age requirement to purchase or possess a long gun to 21—the same requirement for handguns.

The Attorney General is honored to support this common sense measure. If you have any questions or comments for DOJ, please do not hesitate to contact me.

Sincerely,

MARIO De BERNARDO
Deputy Attorney General

For XAVIER BECERRA
Attorney General

cc: Assembly Appropriations Committee
Assembly Republican Caucus

Provided by LRI History LLC

EXHIBIT "6"



LRI History LLC

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The Core
Legislative History of

Pending California Senate Bill 61 – Portantino (2019-2020)

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Authentication of the Records and Table of Contents

Core Legislative History Research Report Regarding:
Pending California SB 61 – Portantino (2019-2020)

I, Lisa Hampton, declare that this report includes:

- *Historical documents relating to the above legislation.* These documents were obtained by the staff of LRI History LLC, or under their direction, and are true and correct copies of the originals obtained from the designated official, public sources in California unless another source is indicated, with the following exceptions: In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, paging and relevant identification have been inserted.

  Since 1983 LRI has specialized in the historical research surrounding the adoption, amendment and/or repeal of California statutes, regulations and constitutional provisions pursuant to California Code of Civil Procedure § 1859 which states in pertinent part: "In the construction of a statute the intention of the Legislature ... is to be pursued, if possible ...." Our research and expert witness services have assisted the courts in understanding and applying the underlying purpose of enactments in countless cases, such as *Redlands Community Hospital v. New England Mutual Life Insurance Co,* 23 Cal. App.4th 899 at 906 (1994). LRI also provides similar research for other states and at the federal level. (Formerly Legislative Research Institute, Legislative Research, Incorporated, and Legislative Research & Intent LLC).

- *A table of contents itemizing the documents.* This table of contents cites the sources of the documents.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and that I could and would so testify in a court of law if called to be a witness.

Executed October 10, 2019.

Lisa Hampton, President

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PRIMARY SOURCE RECORDS (UNPUBLISHED HARDCOPY): At least one official California source is cited for the primary source records provided in this report. Multiple copies may have been obtained from various sources (primarily State Capitol, the state library system and/or legislative offices), but the clearest/most legible version was selected for this report.

ENACTMENT HISTORY

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General Enactment History

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE BILL **No. 61**

Introduced by Senator Portantino
(Principal coauthors: Senators Glazer and Wiener)
(Coauthor: Assembly Member Bonta)

January 3, 2019

An act to amend Sections 26835, 27535, 27540, and 27590 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as introduced, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. A violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill would make the 30-day prohibition and the dealer delivery prohibition described above applicable to all types of firearms. The bill would also exempt from that prohibition the purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the state, and the acquisition of a firearm, other than a handgun, at specified charity fundraising events.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. ~~(a)~~ A licensee shall ~~post~~ conspicuously *post* within the licensed premises the following warnings in block letters not less than one inch in height:

~~(1)~~

(a) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

~~(2)~~

(b) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

~~(3)~~

(c) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND

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A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

~~(4)~~

(d) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

~~(5)~~

(e) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

~~(6)~~

(f) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

~~(7)~~

(g) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, ~~THEN~~ YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS

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A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

~~(8)~~

(h) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE ~~PISTOL, REVOLVER, OR OTHER~~ FIREARM ~~CAPABLE OF BEING CONCEALED UPON THE PERSON~~ WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE ~~PISTOL, REVOLVER, OR OTHER~~ FIREARM ~~CAPABLE OF BEING CONCEALED UPON THE PERSON~~ WITHIN ANY 30-DAY PERIOD."

~~(9)~~

(i) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

~~(b) This section shall become operative on January 1, 2019.~~

SEC. 2. Section 27535 of the Penal Code is amended to read:

27535. (a) ~~No~~ *A* person shall *not* make an application to purchase more than one ~~handgun~~ *firearm* within any 30-day period.

(b) Subdivision (a) ~~shall~~ *does* not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650),

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or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a ~~handgun~~ *firearm* where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a ~~handgun~~ *firearm* when the person's ~~handgun~~ *firearm* was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the ~~replacement handgun.~~ *replacement.*

(12) The return of any ~~handgun~~ *firearm* to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(14) The purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(15) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the frame or receiver listed in the application to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.

SEC. 3. Section 27540 of the Penal Code is amended to read:

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27540. A dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall not deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) A ~~handgun shall not be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate. Commencing January 1, 2015, any~~ firearm, including a handgun, shall not be delivered unless the purchaser, transferee, or person being loaned the firearm presents a firearm safety certificate to the dealer, except that in the case of a handgun, an unexpired handgun safety certificate may be presented.

(f) A ~~handgun~~ *firearm* shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a ~~handgun~~ *firearm* and that the previous application to purchase ~~involved none~~ *did not involve any* of the entities *or circumstances* specified in subdivision (b) of Section 27535.

SEC. 4. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four ~~years.~~ *years:*

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of

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this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and ~~imprisonment.~~ *imprisonment:*

(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.

(3) A violation of Section 27510 involving the delivery of a handgun.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.

(5) A violation of Section 27545 involving a handgun.

(6) A violation of Section 27550.

(7) A violation of Section 27585 involving a handgun.

(d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence ~~prescribed.~~ *prescribed:*

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(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) For purposes of this ~~subdivision~~ *subdivision*, each application to purchase a ~~handgun~~ *firearm* in violation of Section 27535 ~~shall be deemed~~ *is* a separate offense.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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AMENDED IN SENATE MAY 17, 2019

SENATE BILL **No. 61**

Introduced by Senator Portantino
(Principal coauthors: Senators Glazer and Wiener)
(Coauthor: Senator Skinner)
(Coauthor: Assembly Member Bonta)

January 3, 2019

An act to amend Sections ~~26835, 27535, 27540,~~ *27510, 27540,* and 27590 ~~of~~ *of, and to amend, repeal, and add Sections 26835 and 27535 of,* the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. A violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill ~~would~~ *would, effective July 1, 2021,* make the 30-day prohibition and the dealer delivery prohibition described above applicable to all types of firearms. The bill would also exempt from that prohibition the purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the state, and the acquisition of a firearm, other than a handgun, at specified charity fundraising events.

Existing law prohibits a licensed firearm dealer from selling a firearm to a person under 21 years of age. Existing law provides an exemption to this prohibition for the sale of a firearm, other than a handgun, to a person 18 years of age or older who has a valid hunting license or is an honorably discharged member of the Armed Forces.

This bill would prohibit the sale of a semiautomatic centerfire rifle to either of those exempted persons who are under 21 years of age.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

~~SECTION 1. Section 26835 of the Penal Code is amended to read:~~

~~26835. A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:~~

~~(a)~~

~~"FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."~~

~~(b)~~

~~"IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES~~

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~~IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."~~

~~(c) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."~~

~~(d) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."~~

~~(e) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."~~

~~(f) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."~~

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~~(g) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."~~

~~(h) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD."~~

~~(i) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."~~

~~SEC. 2. Section 27535 of the Penal Code is amended to read:~~

~~27535. (a) A person shall not make an application to purchase more than one firearm within any 30-day period.~~

~~(b) Subdivision (a) does not apply to any of the following:~~

~~(1) Any law enforcement agency.~~

~~(2) Any agency duly authorized to perform law enforcement duties.~~

~~(3) Any state or local correctional facility.~~

~~(4) Any private security company licensed to do business in California.~~

~~(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.~~

~~(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.~~

~~(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650),~~

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~~or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.~~

~~(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).~~

~~(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.~~

~~(10) The exchange of a firearm where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.~~

~~(11) The replacement of a firearm when the person's firearm was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.~~

~~(12) The return of any firearm to its owner.~~

~~(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.~~

~~(14) The purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.~~

~~(15) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.~~

~~(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the frame or receiver listed in the application to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.~~

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

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(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

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(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

~~(b) This section shall become operative on January 1, 2019.~~

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(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES

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IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

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27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person *who is* under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun *or a semiautomatic centerfire rifle* to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun *or a semiautomatic centerfire rifle* to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment as a reserve peace officer.

(D) A person who provides proper identification of ~~his or her~~ active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

(E) A person who provides proper identification ~~that he or she is~~ *of being* an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(c) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age.

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(d) Subdivision (c) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(1) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(2) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(3) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(4) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

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(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 5. Section 27535 is added to the Penal Code, to read:

27535. (a) A person shall not make an application to purchase more than one firearm within any 30-day period.

(b) Subdivision (a) does not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry

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a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a firearm where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a firearm when the person's firearm was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.

(12) The return of any firearm to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(14) The purchase of a firearm, other than a handgun, or a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(15) The acquisition of a firearm, other than a handgun, or a semiautomatic centerfire rifle at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the

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frame or receiver listed in the application to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.

(d) This section shall become operative on July 1, 2021.

~~SEC. 3.~~

SEC. 6. Section 27540 of the Penal Code is amended to read:

27540. A dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall not deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) A firearm, including a handgun, shall not be delivered unless the purchaser, transferee, or person being loaned the firearm presents a firearm safety certificate to the dealer, except that in the case of a handgun, an unexpired handgun safety certificate may be presented.

(f) ~~A firearm~~ *Until July 1, 2021, a handgun* shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a ~~firearm~~ *handgun* and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

(g) Commencing July 1, 2021, a firearm shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a firearm and that the previous

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application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

~~SEC. 4.~~

SEC. 7. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years:

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment:

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(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.

(3) A violation of Section 27510 involving the delivery of a handgun.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.

(5) A violation of Section 27545 involving a handgun.

(6) A violation of Section 27550.

(7) A violation of Section 27585 involving a handgun.

(d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed:

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) ~~For~~ *(A) Until July 1, 2021, for* purposes of this subdivision, each application to purchase a ~~firearm~~ *handgun* in violation of Section 27535 is a separate offense.

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a firearm in violation of Section 27535 is a separate offense.

~~SEC. 5.~~

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

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the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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AMENDED IN ASSEMBLY JUNE 11, 2019

AMENDED IN SENATE MAY 17, 2019

SENATE BILL No. 61

Introduced by Senator Portantino
(Principal coauthors: Senators Glazer and Wiener)
(Coauthor: Senator Skinner)
(Coauthor: Assembly Member Bonta)

January 3, 2019

An act to amend Sections 27510, 27540, and 27590 of, and to amend, repeal, and add Sections 26835 and 27535 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. A violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill would, effective July 1, 2021, make the 30-day prohibition and the dealer delivery prohibition described above applicable to all types of firearms. The bill would also exempt from that ~~prohibition~~ *prohibition, as specified,* the purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the state, *the purchase of a firearm, other than a handgun, by a person*

who is honorably discharged from the armed forces, and the acquisition of a firearm, other than a handgun, at specified charity fundraising events.

Existing law prohibits a licensed firearm dealer from selling a firearm to a person under 21 years of age. Existing law provides an exemption to this prohibition for the sale of a firearm, other than a handgun, to a person 18 years of age or older who has a valid hunting license or is an honorably discharged member of the Armed Forces.

This bill ~~would~~ *would, effective January 1, 2021,* prohibit the sale of a semiautomatic centerfire rifle to either of those exempted persons who are under 21 years of ~~age.~~ *age, unless they possess a certificate of eligibility from the Department of Justice.*

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

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(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A

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SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT

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HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

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(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm

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that is not a handgun or a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(D) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

(E) A person who provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(c) ~~A~~ *Commencing January 1, 2021, a* person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age.

(d) Subdivision (c) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(1) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

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(2) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(3) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(4) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

(5) A person who provides proper identification as an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(6) A person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry

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a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 5. Section 27535 is added to the Penal Code, to read:

27535. (a) A person shall not make an application to purchase more than one firearm within any 30-day period.

(b) Subdivision (a) does not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

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(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a firearm where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a firearm when the person's firearm was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.

(12) The return of any firearm to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(14) The purchase of a firearm, other than a handgun, or a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(15) The acquisition of a firearm, other than a handgun, or a semiautomatic centerfire rifle at an auction or similar event

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conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

(16) The purchase of a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(17) The acquisition of a semiautomatic centerfire rifle, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(18) The acquisition of a semiautomatic centerfire rifle at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation by a person who has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(19) The purchase of a firearm, other than a handgun, by a person who provides proper identification as an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the frame or receiver listed in the application to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.

(d) This section shall become operative on July 1, 2021.

SEC. 6. Section 27540 of the Penal Code is amended to read:

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27540. A dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall not deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) A firearm, including a handgun, shall not be delivered unless the purchaser, transferee, or person being loaned the firearm presents a firearm safety certificate to the dealer, except that in the case of a handgun, an unexpired handgun safety certificate may be presented.

(f) Until July 1, 2021, a handgun shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

(g) Commencing July 1, 2021, a firearm shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a firearm and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

SEC. 7. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years:

(1) If the violation is of subdivision (a) of Section 27500.

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(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment:

(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.

(3) A violation of Section 27510 involving the delivery of a handgun.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.

(5) A violation of Section 27545 involving a handgun.

(6) A violation of Section 27550.

(7) A violation of Section 27585 involving a handgun.

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(d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed:

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) (A) Until July 1, 2021, for purposes of this subdivision, each application to purchase a handgun in violation of Section 27535 is a separate offense.

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a firearm in violation of Section 27535 is a separate offense.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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AMENDED IN ASSEMBLY SEPTEMBER 3, 2019

AMENDED IN ASSEMBLY JUNE 11, 2019

AMENDED IN SENATE MAY 17, 2019

SENATE BILL **No. 61**

Introduced by Senator Portantino
(Principal coauthors: Senators Glazer and Wiener)
(Coauthor: Senator Skinner)
(~~Coauthor:~~ *Coauthors:* Assembly ~~Member~~ *Members* Bonta *and Maienschein*)

January 3, 2019

An act to amend Sections 27510, 27540, and 27590 of, and to amend, repeal, and add Sections 26835 and 27535 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. A violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill would, effective July 1, 2021, make the 30-day prohibition and the dealer delivery prohibition described above *also* applicable to ~~all types of firearms. The bill would also exempt from that prohibition,~~

~~as specified, the purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the state, the purchase of a firearm, other than a handgun, by a person who is honorably discharged from the armed forces, and the acquisition of a firearm, other than a handgun, at specified charity fundraising events.~~ *semiautomatic centerfire rifles.*

Existing law prohibits a licensed firearm dealer from selling a firearm to a person under 21 years of age. Existing law provides an exemption to this prohibition for the sale of a firearm, other than a handgun, to a person 18 years of age or older who has a valid hunting ~~license~~ *license, is a law enforcement officer, as specified,* or is an honorably discharged member of the Armed Forces. *Existing law makes a violation of this prohibition a crime.*

This bill ~~would, effective January 1, 2021,~~ *would* prohibit the sale of a semiautomatic centerfire rifle to ~~either of those exempted persons who are under 21 years of age, unless they possess a certificate of eligibility from the Department of Justice~~. *any person under the age of 21, except a law enforcement officer or active duty member of the Armed Forces, as specified.*

The bill would state that its provisions are severable.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS

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STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE

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GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

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(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE ~~WEB SITE~~ *INTERNET WEBSITE* OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

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(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE ~~FIREARM~~ *HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE* WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE ~~FIREARM~~ *HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE* WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

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27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

~~(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:~~

~~(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.~~

~~(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.~~

~~(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.~~

~~(D) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.~~

~~(E) A person who provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.~~

~~(c) Commencing January 1, 2021, a person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age.~~

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~~(d) Subdivision (c) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:~~

~~(1) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.~~

~~(2) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.~~

~~(3) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.~~

~~(4) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.~~

~~(5) A person who provides proper identification as an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.~~

~~(6) A person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.~~

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person who is 18 years of age or older and provides proper identification of being an honorably discharged member of the United States

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Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member

(3) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(D) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry

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a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c)

This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 5. Section 27535 is added to the Penal Code, to read:

27535. (a) A person shall not make an application to purchase more than one ~~firearm~~ *handgun or semiautomatic centerfire rifle* within any 30-day period. *This subdivision does not authorize a person to make an application to purchase both a handgun and semiautomatic centerfire rifle within the same 30-day period.*

(b) Subdivision (a) does not apply to any of the following:

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(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a ~~firearm~~ *handgun or semiautomatic centerfire rifle* where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a ~~firearm~~ *handgun or semiautomatic centerfire rifle* when the person's firearm was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.

(12) The return of any ~~firearm~~ *handgun or semiautomatic centerfire rifle* to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law

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enforcement academy basic course or other commission-certified law enforcement training.

~~(14) The purchase of a firearm, other than a handgun, or a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.~~

~~(15) The acquisition of a firearm, other than a handgun, or a semiautomatic centerfire rifle at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.~~

~~(16) The purchase of a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.~~

~~(17) The acquisition of a semiautomatic centerfire rifle, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.~~

~~(18) The acquisition of a semiautomatic centerfire rifle at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation by a person who has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.~~

~~(19) The purchase of a firearm, other than a handgun, by a person who provides proper identification as an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.~~

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~~(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the frame or receiver listed in the application to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.~~

~~(d)~~

(c) This section shall become operative on July 1, 2021.

SEC. 6. Section 27540 of the Penal Code is amended to read:

27540. A dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall not deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) A firearm, including a handgun, shall not be delivered unless the purchaser, transferee, or person being loaned the firearm presents a firearm safety certificate to the dealer, except that in the case of a handgun, an unexpired handgun safety certificate may be presented.

(f) Until July 1, 2021, a handgun shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

(g) Commencing July 1, 2021, a ~~firearm~~ *handgun or semiautomatic centerfire rifle* shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day ~~period~~ *period*, the purchaser has made another application to purchase ~~a firearm~~ *either a handgun or*

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semiautomatic centerfire rifle and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

SEC. 7. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years:

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment:

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(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.

(3) A violation of Section 27510 involving the delivery of a handgun.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.

(5) A violation of Section 27545 involving a handgun.

(6) A violation of Section 27550.

(7) A violation of Section 27585 involving a handgun.

(d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed:

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) (A) Until July 1, 2021, for purposes of this subdivision, each application to purchase a handgun in violation of Section 27535 is a separate offense.

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a ~~firearm~~ *handgun or semiautomatic centerfire rifle* in violation of Section 27535 is a separate offense.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SEC. 8.~~

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

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the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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AMENDED IN ASSEMBLY SEPTEMBER 6, 2019

AMENDED IN ASSEMBLY SEPTEMBER 3, 2019

AMENDED IN ASSEMBLY JUNE 11, 2019

AMENDED IN SENATE MAY 17, 2019

SENATE BILL No. 61

Introduced by Senator Portantino
(Principal coauthors: Senators Glazer and Wiener)
(Coauthor: Senator Skinner)
(Coauthors: Assembly Members Bonta and Maienschein)

January 3, 2019

An act to amend Sections 27510, 27540, and 27590 of, and to amend, repeal, and add Sections 26835 and 27535 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, as amended, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. A violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill would, effective July 1, 2021, make the 30-day prohibition and the dealer delivery prohibition described above also applicable to semiautomatic centerfire rifles.

Existing law prohibits a licensed firearm dealer from selling a firearm to a person under 21 years of age. Existing law provides an exemption to this prohibition for the sale of a firearm, other than a handgun, to a person 18 years of age or older who has a valid hunting license, is a law enforcement officer, as specified, or is an honorably discharged member of the Armed Forces. Existing law makes a violation of this prohibition a crime.

This bill would prohibit the sale of a semiautomatic centerfire rifle to any person under the age of 21, except a law enforcement officer or active duty member of the Armed Forces, as specified.

The bill would state that its provisions are severable.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 26835 of the Penal Code proposed by AB 645 and SB 172 to be operative only if this bill and AB 645, SB 172, or both are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON

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FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

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(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 1.1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall ~~post~~ conspicuously *post* within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU

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MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE ~~WEB SITE~~ *WEBSITE* OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A ~~PISTOL, REVOLVER, OR OTHER~~ FIREARM ~~CAPABLE OF BEING CONCEALED UPON THE PERSON,~~ WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A

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SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall ~~become operative on January 1, 2019.~~ *remain in effect only until July 1, 2021, and as of that date is repealed.*

SEC. 1.2. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

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(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

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(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

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(b) This section shall ~~become operative on January 1, 2019.~~ *remain in effect only until June 1, 2020, and as of that date is repealed.*

SEC. 1.3. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall ~~post~~ conspicuously *post* within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE ~~WEB SITE~~ *WEBSITE* OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A ~~PISTOL, REVOLVER, OR OTHER~~ FIREARM ~~CAPABLE OF BEING CONCEALED UPON THE PERSON,~~ WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF

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YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A

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LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall ~~become operative on January 1, 2019.~~*remain in effect only until June 1, 2020, and as of that date is repealed.*

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR

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LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR

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SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 2.1. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED

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CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A

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LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 2.2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

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(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A

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LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on June 1, 2020.

(d) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2.3. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A

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PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR

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SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on July 1, 2021.

SEC. 2.4. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A

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LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE

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BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on June 1, 2020.

(d) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2.5. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS

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FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND

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OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person

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18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person who is 18 years of age or older and provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member

(3) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(D) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

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(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

~~(c) This~~

(c) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

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SEC. 5. Section 27535 is added to the Penal Code, to read:

27535. (a) A person shall not make an application to purchase more than one handgun or semiautomatic centerfire rifle within any 30-day period. This subdivision does not authorize a person to make an application to purchase both a handgun and semiautomatic centerfire rifle within the same 30-day period.

(b) Subdivision (a) does not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun or semiautomatic centerfire rifle where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun or semiautomatic centerfire rifle when the person's firearm was lost or stolen, and the person

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reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.

(12) The return of any handgun or semiautomatic centerfire rifle to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall become operative on July 1, 2021.

SEC. 6. Section 27540 of the Penal Code is amended to read:

27540. A dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall not deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) A firearm, including a handgun, shall not be delivered unless the purchaser, transferee, or person being loaned the firearm presents a firearm safety certificate to the dealer, except that in the case of a handgun, an unexpired handgun safety certificate may be presented.

(f) Until July 1, 2021, a handgun shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

(g) Commencing July 1, 2021, a handgun or semiautomatic centerfire rifle shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day

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period, the purchaser has made another application to purchase either a handgun or semiautomatic centerfire rifle and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

SEC. 7. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years:

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment:

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(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.

(3) A violation of Section 27510 involving the delivery of a handgun.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.

(5) A violation of Section 27545 involving a handgun.

(6) A violation of Section 27550.

(7) A violation of Section 27585 involving a handgun.

(d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed:

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) (A) Until July 1, 2021, for purposes of this subdivision, each application to purchase a handgun in violation of Section 27535 is a separate offense.

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a handgun or semiautomatic centerfire rifle in violation of Section 27535 is a separate offense.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. (a) Sections 1.1 and 2.1 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by both this bill and Senate Bill 172. Those sections shall only become

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operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 26835 of the Penal Code, (3) Assembly Bill 645 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 172, in which case Sections 1, 1.2, 1.3, 2, 2.2, 2.3, 2.4, and 2.5 of this bill shall not become operative.

(b) Sections 1.2, 2.2, and 2.3 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by both this bill and Assembly Bill 645. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 26835 of the Penal Code, (3) Senate Bill 172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 645, in which case Sections 1, 1.1, 1.3, 2, 2.1, 2.4, and 2.5 of this bill shall not become operative.

(c) Sections 1.3, 2.4, and 2.5 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by this bill, Assembly Bill 645, and Senate Bill 172. Those sections of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend Section 26835 of the Penal Code, and (3) this bill is enacted after Assembly Bill 645 and Senate Bill 172, in which case Sections 1, 1.1, 1.2, 2, 2.1, 2.2 and 2.3 of this bill shall not become operative.

~~SEC. 9.~~

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Senate Bill No. 61

Passed the Senate September 13, 2019

_____

Secretary of the Senate

Passed the Assembly September 13, 2019

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2019, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 27510, 27540, and 27590 of, and to amend, repeal, and add Sections 26835 and 27535 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 61, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. A violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill would, effective July 1, 2021, make the 30-day prohibition and the dealer delivery prohibition described above also applicable to semiautomatic centerfire rifles.

Existing law prohibits a licensed firearm dealer from selling a firearm to a person under 21 years of age. Existing law provides an exemption to this prohibition for the sale of a firearm, other than a handgun, to a person 18 years of age or older who has a valid hunting license, is a law enforcement officer, as specified, or is an honorably discharged member of the Armed Forces. Existing law makes a violation of this prohibition a crime.

This bill would prohibit the sale of a semiautomatic centerfire rifle to any person under the age of 21, except a law enforcement officer or active duty member of the Armed Forces, as specified.

The bill would state that its provisions are severable.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 26835 of the Penal Code proposed by AB 645 and SB 172 to be operative only if this bill and AB 645, SB 172, or both are enacted and this bill is enacted last.

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The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO

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THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO

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DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 1.1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR

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CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR

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OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 1.2. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS,

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CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS

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A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until June 1, 2020, and as of that date is repealed.

SEC. 1.3. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED

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THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL

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BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall remain in effect only until June 1, 2020, and as of that date is repealed.

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A

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MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

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(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 2.1. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT,

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RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

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(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

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(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 2.2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND

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USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL

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INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on June 1, 2020.

(d) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2.3. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

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(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

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(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice,

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including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on July 1, 2021.

SEC. 2.4. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

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(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

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(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on June 1, 2020.

(d) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2.5. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

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(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS

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A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person who is 18 years of age or older and provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the

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active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member

(3) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(D) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

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(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 5. Section 27535 is added to the Penal Code, to read:

27535. (a) A person shall not make an application to purchase more than one handgun or semiautomatic centerfire rifle within any 30-day period. This subdivision does not authorize a person to make an application to purchase both a handgun and semiautomatic centerfire rifle within the same 30-day period.

(b) Subdivision (a) does not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

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(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun or semiautomatic centerfire rifle where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun or semiautomatic centerfire rifle when the person's firearm was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.

(12) The return of any handgun or semiautomatic centerfire rifle to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall become operative on July 1, 2021.

SEC. 6. Section 27540 of the Penal Code is amended to read:

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27540. A dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall not deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person's identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) A firearm, including a handgun, shall not be delivered unless the purchaser, transferee, or person being loaned the firearm presents a firearm safety certificate to the dealer, except that in the case of a handgun, an unexpired handgun safety certificate may be presented.

(f) Until July 1, 2021, a handgun shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

(g) Commencing July 1, 2021, a handgun or semiautomatic centerfire rifle shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser has made another application to purchase either a handgun or semiautomatic centerfire rifle and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

SEC. 7. Section 27590 of the Penal Code is amended to read:

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years:

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(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, Section 27560 involving a firearm that is not a handgun, or Section 27565 involving a firearm that is not a handgun, of this article or former Section 12100 of this code, as Section 12100 read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment:

(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a handgun to a minor.

(3) A violation of Section 27510 involving the delivery of a handgun.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a handgun.

(5) A violation of Section 27545 involving a handgun.

(6) A violation of Section 27550.

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(7) A violation of Section 27585 involving a handgun.

(d) If both of the following circumstances apply, an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed:

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e) (1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) (A) Until July 1, 2021, for purposes of this subdivision, each application to purchase a handgun in violation of Section 27535 is a separate offense.

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a handgun or semiautomatic centerfire rifle in violation of Section 27535 is a separate offense.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. (a) Sections 1.1 and 2.1 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by both this bill and Senate Bill 172. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 26835 of the Penal Code, (3) Assembly Bill 645 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 172, in which case Sections 1, 1.2, 1.3, 2, 2.2, 2.3, 2.4, and 2.5 of this bill shall not become operative.

(b) Sections 1.2, 2.2, and 2.3 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by both this bill and Assembly Bill 645. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January

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1, 2020, (2) each bill amends Section 26835 of the Penal Code, (3) Senate Bill 172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 645, in which case Sections 1, 1.1, 1.3, 2, 2.1, 2.4, and 2.5 of this bill shall not become operative.

(c) Sections 1.3, 2.4, and 2.5 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by this bill, Assembly Bill 645, and Senate Bill 172. Those sections of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend Section 26835 of the Penal Code, and (3) this bill is enacted after Assembly Bill 645 and Senate Bill 172, in which case Sections 1, 1.1, 1.2, 2, 2.1, 2.2 and 2.3 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Approved _____, 2019

_____

Governor

SB-61 Firearms: transfers. (2019-2020)

Date	Action
09/20/19	Enrolled and presented to the Governor at 10 a.m.
09/13/19	Assembly amendments concurred in. (Ayes 27. Noes 11.) Ordered to engrossing and enrolling.
09/13/19	In Senate. Concurrence in Assembly amendments pending.
09/13/19	Read third time. Passed. Ordered to the Senate.
09/06/19	Ordered to third reading.
09/06/19	Read third time and amended.
09/04/19	Read second time. Ordered to third reading.
09/03/19	Read second time and amended. Ordered to second reading.
08/30/19	From committee: Do pass as amended. (Ayes 13. Noes 5.) (August 30).
07/10/19	July 10 set for first hearing. Placed on APPR. suspense file.
06/26/19	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (June 25). Re-referred to Com. on APPR.
06/11/19	From committee with author's amendments. Read second time and amended. Re-referred to Com. on PUB. S.
06/03/19	Referred to Com. on PUB. S.
05/22/19	In Assembly. Read first time. Held at Desk.
05/22/19	Read third time. Passed. (Ayes 27. Noes 10. Page 1220.) Ordered to the Assembly.
05/20/19	Read second time. Ordered to third reading.
05/17/19	Read second time and amended. Ordered to second reading.
05/17/19	From committee: Do pass as amended. (Ayes 4. Noes 2. Page 1089.) (May 16).
05/10/19	Set for hearing May 16.
04/22/19	April 22 hearing: Placed on APPR. suspense file.
04/05/19	Set for hearing April 22.
04/02/19	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2. Page 525.) (April 2). Re-referred to Com. on APPR.
03/06/19	Set for hearing April 2.
01/16/19	Referred to Com. on PUB. S.
01/07/19	Read first time.
01/04/19	From printer. May be acted upon on or after February 3.
01/03/19	Introduced. To Com. on RLS. for assignment. To print.

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SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No:	SB 61	**Hearing Date:**	April 2, 2019
Author:	Portantino		
Version:	January 3, 2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	GC		

Subject: ***Firearms: Transfers***

HISTORY

Source: Author

Prior Legislation: SB 1177 (Portantino), 2018, vetoed
AB 1674 (Santiago), 2015, vetoed

Support: Bay Area Student Activists; Brady California United Against Gun Violence; Coalition Against Gun Violence; Giffords Law Center to Prevent Gun Violence; Los Angeles County Board of Supervisors; Los Angeles City Attorney

Opposition: California Rifle and Pistol Association; California Sportsman's Lobby; National Shooting Sports Foundation; Outdoor Sportsmen's Coalition of California; Safari Club International; Safari Club International Foundation

PURPOSE

The purpose of this bill is to extend the prohibition on purchasing more than one handgun a month to include all firearms.

Existing law prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

This bill extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

Existing law exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

- Any law enforcement agency.
- Any agency duly authorized to perform law enforcement duties.
- Any state or local correctional facility.
- Any private security company licensed to do business in California.
- Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.
- Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.
- Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).
- Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.
- The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
- The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.
- The return of any handgun to its owner.
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill adds the following exceptions to the one gun a month prohibition:

- The purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.
- The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

COMMENTS

1. Need for This Bill

According to the author:

> In California, existing law prohibits applying to purchase more than one handgun within a 30-day period and prohibits a firearms dealer from delivering a handgun to a person who has submitted more than one purchase application within a 30-day period. Unfortunately, when this became law it failed to include long guns. This is a simple fix to existing law that creates a safer process for the purchasing and delivering of all types of firearms in California.

2. One Gun a Month

According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
>
> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
>
> - 71% for guns recovered in New York;
> - 72% for guns recovered in Massachusetts; and
> - 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.
>
> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period. . .

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon. . .

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

Assembly Bill 1674 (Santiago), of 2015: Veto Message

The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.
>
> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

Senate Bill 1177 (Portantino), of 2018: Veto Message

The Governor stated in his veto message of Senate Bill 1177, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period, with the same exemptions included in this bill:

> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

3. California Hunting Licenses

This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid, unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements
- Choose the correct type of hunting license.
- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs $28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

4. Argument in Support

According to Brady California:

> In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.
>
> Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.
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> It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale. A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale. Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.
>
> Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons

with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

5. Argument in Opposition

According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase. Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

-- END –

SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 61 (Portantino) - Firearms: transfers

Version: January 3, 2019
Urgency: No
Hearing Date: April 22, 2019
Policy Vote: PUB. S. 5 - 2
Mandate: Yes
Consultant: Shaun Naidu

Bill Summary: SB 61 would prohibit the purchase of more than one long gun in a 30-day period, except as specified.

Fiscal Impact:
- Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

- Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

- System update: The Department of Justice (DOJ) anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

Background: Existing law prohibits any person from making an application to purchase more than one handgun within any 30-day period. The handgun purchase limitation, however, does not apply to the following:
- Any law enforcement agency;
- Any agency duly authorized to perform law enforcement duties;
- Any state or local correctional facility;
- Any private security company licensed to do business in California;
- Any person who is properly identified as a full-time paid peace officer, as defined, and who is authorized to, and does, carry a firearm during the course and scope of employment as a peace officer;
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm;
- Any person who may claim an exemption from the waiting period set forth in Penal Code section 27540;
- Any private party transaction conducted through a licensed firearms dealer;
- Any person who is licensed as a collector and the regulations issued pursuant thereto and has a current certificate of eligibility issued by DOJ;
- The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement;

- The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase the replacement handgun;
- The return of any handgun to its owner; or
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

The punishment for making an application to purchase more than one handgun within a 30-day period without an exception is as follows:

- A first violation is an infraction punishable by a base fine of $50.
- A second violation is an infraction punishable by a base fine of $100.
- A third or subsequent violation is a misdemeanor punishable by imprisonment in the county jail for up to six months, a base fine of up to $1,000, or both the imprisonment and fine.

Each application to purchase a handgun during the prohibited period is deemed a separate offense.

Proposed Law: This bill would extend the limitation of making an application to purchase more than one handgun in a 30-day period, along with the exceptions to the limitation, to all types of firearms. This bill would expand the exception to the limitation relative to long guns to a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and the acquisition of a long gun at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of the corporation or its local chapter. For the purpose of these two exceptions, the barrel must be at least 16 inches in length.

Related Legislation: SB 1177 (Portantino, 2018) and AB 1674 (Santiago, 2016) similarly attempted to extend the limitation of purchasing one handgun within a 30-day period to the purchase of all types of firearms. The Governor vetoed both measures. In his message on AB 1674, the Governor stated that he believed that the bill "would have the effect of burdening lawful citizens who wish to sell certain firearms they no longer need[ ]" and that this additional restriction is not needed given the state's stringent laws restricting gun ownership. With respect to SB 1177, the Governor stated that his "views have not changed" since vetoing AB 1674.

Staff Comments: The Department of Justice estimates annual reductions of the specified amounts of fee collection for the following special funds resulting from SB 61: a $1.7 million decrease to DROS, a $441,000 decrease to the Firearms Safety and Enforcement Special Fund, and an $88,000 to the Firearm Safety Account is predicted to decrease by $88,000. In addition to experiencing the largest impact with respect to fee revenue loss, DROS also would be used to fund the limited-term position the department anticipates requiring to implement SB 61. The Dealers Record of Sale Special Account has experienced significant revenue decreases in recent years to the extent that it is structurally imbalanced. From FY 2017-18 to FY 2018-19 DROS revenues dropped by 22 percent; proposed revenue for FY 2019-20 is projected to remain consistent with 2018-19, however. The FY 2019-20 proposed budget anticipates a beginning balance of $6.159 million, revenues of $21.471 million,

expenditures of $24.88 million, and an ending reserve of $2.75 million. Given the operational deficit of DROS, the revenue loss and added expense resulting from SB 61 would create cost pressure on the General Fund to backfill any shortage.

-- END --

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SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 61 (Portantino) - Firearms: transfers

Version: January 3, 2019
Urgency: No
Hearing Date: May 16, 2019
Policy Vote: PUB. S. 5 - 2
Mandate: Yes
Consultant: Shaun Naidu

********** ANALYSIS ADDENDUM – SUSPENSE FILE **********
The following information is revised to reflect amendments adopted by the committee on May 16, 2019

Bill Summary: SB 61 would prohibit the purchase of more than one long gun in a 30-day period, except as specified.

Fiscal Impact:

- Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

- Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

- System update: The Department of Justice (DOJ) anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

Author Amendments: Prohibit the sale of a semiautomatic centerfire rifle to specified exempted persons under age 21 and delay the effective date of specified provisions.

-- END --

SENATE RULES COMMITTEE SB 61
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 61
Author: Portantino (D), et al.
Amended: 9/6/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 4-2, 5/16/19
AYES: Portantino, Bradford, Hill, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 27-10, 5/22/19
AYES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
NO VOTE RECORDED: Roth

ASSEMBLY FLOOR: 46-17, 9/13/19
(ROLL CALL NOT AVAILABLE)

SUBJECT: Firearms: transfers

SOURCE: Author

DIGEST: This bill prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Assembly Amendments (1) limit the purchase limitations to one gun a month for semiautomatic centerfire rifles, in addition to handguns which are limited under existing law; (2) remove the language defining frames or receivers as firearms under specified scenarios; and (3) add double-jointing language to prevent chaptering issues with SB 172 (Portantino) and AB 645 (Irwin).

ANALYSIS:

Existing law:

1) Prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

2) Prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

3) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

   g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill:

1) Extends the prohibition on purchasing more than one handgun a month to also include semiautomatic centerfire rifles.

2) Exempts the following from the one gun a month prohibition: (Pen. Code, § 27535, subd. (b).)

a) Any law enforcement agency.

b) Any agency duly authorized to perform law enforcement duties.

c) Any state or local correctional facility.

d) Any private security company licensed to do business in California.

e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves

the use of a firearm.

g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun or semiautomatic centerfire rifle where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun or semiautomatic centerfire rifle when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun or semiautomatic centerfire rifle to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training,

3) Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

Background

One Gun a Month. According to the Senate Public Safety Committee analysis of AB 202 (Knox, 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely

> traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
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> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

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> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
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> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

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not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period.

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon.

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

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AB 1674 (Santiago, 2015): Veto Message. The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
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> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.

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> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.
- Sales tax revenue loss (GF) likely in the hundreds of thousands of dollars to low millions of dollars annually due to the limitation on the number of firearms that may be purchased in a 30-day period.
- One-time costs (GF/Dealer Record of Sale Account) of $281,000 to the DOJ for limited term information technology staff and equipment to update systems to track both handguns and long guns to ensure only one purchase within a 30-day period.

SUPPORT: (Verified 9/12/19)

Bay Area Student Activists
Brady California United Against Gun Violence
Coalition Against Gun Violence
Giffords Law Center to Prevent Gun Violence
Los Angeles City Attorney
Los Angeles County Board of Supervisors

OPPOSITION: (Verified 9/12/19)

California Rifle and Pistol Association
California Sportsman's Lobby
Gun Owners of California
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation

ARGUMENTS IN SUPPORT: According to Brady California United Against Gun Violence:

> In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.
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more likely to be used for illegal purposes than guns purchased individually.

Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61*. However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

ARGUMENTS IN OPPOSITION: According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California

businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase.

Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Prepared by: Gabe Caswell / PUB. S. /
9/13/19 19:33:29

****** END ******

Provided by LRI History LLC

Date of Hearing: June 25, 2019
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 61 (Portantino) – As Amended June 11, 2019

SUMMARY: Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one long gun in any 30-day period, except as specified. Specifically, **this bill**:

1) Prohibits a person from making an application to purchase more than one firearm of any type within any 30-day period and makes conforming changes to the existing prohibition against the purchase of more than one handgun in any 30-day period. (Pen. Code, § 27535, subd. (a).)

2) Adds the following entities to the existing exemption to the 30-day prohibition relating to sale of handguns:

   a) The purchase of a firearm other than a handgun by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

   b) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit, or mutual benefit corporation to fund the activities of that corporation or local chapter of that corporation; and,

   c) Clarifies that for the purpose of the above exemption, the frame or receiver of a firearm is a handgun, unless the application to purchase and delivered to the recipient is equipped with, is attached to, or is currently accompanied by, a barrel of 16 inches or greater in length.

3) Provides that effective January 1, 2021 a licensed firearms dealer shall not sell, supply, deliver, or give a semiautomatic centerfire rifle to any person under 21 years of age. This provision shall not apply to any of the following persons 18 years of age or older:

   a) An active peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

   b) An active federal officer, or law enforcement agent, who is authorized to carry a firearm in the course and scope of his or her employment;

   c) A reserve peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

   d) An active member of the United States Armed Forces, the National Guard, the Air national Guard, or the active reserve components of the United States, where the

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individuals in these organizations are properly identified. Proper identification includes the Armed Forces Identification Card or other written documentation certifying that the individual is an active or honorably retired member; and,

e) A person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and a certificate of eligibility issued by the Department of Justice (DOJ).

EXISTING LAW:

1) Prohibits a licensed firearms dealer from selling, supplying, or giving possession or control of a firearm to any person under 21 years of age. (Pen. Code, § 27510, subd. (a).)

2) Provides that the above prohibition does not apply to or affect the sale, supplying, or giving possession or control of a firearm to any person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife. (Pen. Code, § 27510, subd. (b)(1).)

3) Exempts the sale of a firearm, that is not a handgun, to the following persons that are 18 years of age or older:

a) An active peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

b) An active federal officer, or law enforcement agent, who is authorized to carry a firearm in the course and scope of his or her employment;

c) A reserve peace officer, who is authorized to carry a firearm in the course and scope of his or her employment; and,

d) An active member of the United States Armed Forces, the National Guard, the Air national Guard, or the active reserve components of the United States, where the individuals in these organizations are properly identified. Proper identification includes the Armed Forces Identification Card or other written documentation certifying that the individual is an active or honorably retired member. (Pen. Code, §27510, subd. (b)(2).)

4) Prohibits any person from making an application to purchase more than one handgun within any 30-day period. (Pen. Code, § 27535, subd. (a).)

5) Exempts from the above 30-day prohibition any of the following:

a) Any law enforcement agency;

b) Any agency duly authorized to perform law enforcement duties;

c) Any state or local correctional facility;

d) Any private security company licensed to do business in California;

e) Any person who is a peace officer, as specified, and is authorized to carry a firearm in the course and scope of employment;

f) Any motion picture, television, video production company or entertainment or theatrical company whose production by its nature involves a firearm;

g) Any authorized representative of a law enforcement agency, or a federally licensed firearms importer or manufacturer;

h) Any private party transaction conducted through a licensed firearms dealer;

i) Any person who is a licensed collector and has a current certificate of eligibility issued by the DOJ;

j) The exchange, replacement, or return of a handgun to a licensed dealer within the 30-day period; and,

k) A community college that is certified by the Commission on Peace Officer Standards and Training (POST) to present law enforcement academy basic course or other commission-certified training. (Pen. Code, § 27535, subd. (b).)

6) Provides that a person may request a certificate of eligibility form the DOJ, and requires the department to examine its records and records available to the department in the National Instant Criminal Background Check System (NICS) in order to determine if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Pen. Code, § 26710, subds. (a) & (b).)

7) Requires DOJ to issue a certificate of eligibility to an applicant if the if the department's records indicate that the person is not a person who is prohibited by state or federal law from possessing a firearm, and requires the department regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates. (Pen. Code, § 26710, subds. (c) & (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement:** According to the author, "More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a CEO with the DOJ as well."

2) **Governor's Vetoes:** AB 1174 (Santiago), of the 2015-2016 Legislative Session, and SB 1177 (Portantino), of the 2017-2018 Legislative Session, each prohibited any person from making more than one application to purchase a long gun within any 30 day period. Both AB 1174 and SB 1177 were vetoed by the Governor.

In regard to AB 1174, the Governor stated in his veto message, "This bill generally prohibits the purchase of more than one firearm within any 30 day period. It should be noted that California already bans the purchase of more than one handgun per month. While well intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms they no longer need. Given California's restricting gun ownership, I do not believe this additional restriction is needed."

In regard to SB 1177, the Governor stated in his veto message, "This bill prohibits a person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed."

3) **Argument in Support:** According to the *Ventura County Board of Supervisors*, "As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi--- pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

"We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions."

4) **Argument in Opposition:** According to the California Rifle and Pistol Association "SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

"SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

"You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate

recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

"Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase."

"Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ."

5) **Prior Legislation:**

a) SB 1100 (Portantino), Chapter 894, Statutes of 2018, increased the age for which a person can purchase a long-gun from a licensed dealer from 18-21 years of age, except as specified.

b) SB 1177 (Portantino), of the 2017-2018 Legislative Session, prohibited any person from making more than one application to purchase more than one long one within any 30 day period. SB 1177 was vetoed by the Governor.

c) AB 1674 (Santiago), of the 2015-2016 Legislative Session, prohibited any person from making more than one application to purchase more than one long gun within any 30 day period. SB 1674 was vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Student Activists
Brady California United Against Gun Violence
California Police Chiefs Association
Coalition Against Gun Violence, A Santa Barbara County Coalition
Laguna Woods Democratic Club
Los Angeles City Attorney
Los Angeles County Board of Supervisors
Physicians for Social Responsibility - San Francisco Bay Area Chapter

Ventura County Board of Supervisors
Women For: Orange County

Oppose

California Rifle and Pistol Association, Inc.
California Sportsman's Lobby, Inc.
Gun Owners of California, Inc.
National Rifle Association - Institute for Legislative Action
National Shooting Sports Foundation, Inc.
Outdoor Sportsmen's Coalition of California
Safari Club International - California Chapters

Analysis Prepared by: Gregory Pagan / PUB. S. / (916) 319-3744

Date of Hearing: July 10, 2019

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 61 (Portantino) – As Amended June 11, 2019

Policy Committee: Public Safety Vote: 5 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill prohibits a person from making an application to purchase more than one firearm of any type within any 30-day period. This bill specifically prohibits a person from making an application to purchase more than one long gun in any 30-day period unless the person has a hunting license issued by the Department of Fish and Wildlife and a certificate of eligibility issued by the Department of Justice (DOJ). This bill also prohibits, beginning January 1, 2021, the sale of a semiautomatic centerfire rifle to any person under 21 years of age.

FISCAL EFFECT:

1) DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.

2) Sales tax revenue loss (GF) likely in the hundreds of thousands of dollars to low millions of dollars annually due to the limitation on the number of firearms that may be purchased in a 30-day period.

3) One-time costs (GF/Dealer Record of Sale Account) of $281,000 to the DOJ for limited term information technology staff and equipment to update systems to track both handguns and long guns to ensure only one purchase within a 30-day period.

COMMENTS:

1) **Purpose.** According to the author:

> More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a [certificate of eligibility] with the DOJ as well.

2) **Dealer Record of Sale (DROS) Special Account.** The DROS Special Account has experienced significant revenue decreases in recent years to the extent that it is structurally imbalanced. Penal Code section 30015, subdivision (a) codified the allocation of $24 million dollars from the DROS Special Account to address the APPS backlog in 2013 largely resulting in the structural imbalance. AB 74 (Committee on Budget), Chapter 23, Statutes of 2019, allocates approximately $22 million dollars to backfill the DROS Special Account.

Additionally, existing law specifically limits how DOJ may use DROS funds, including costs associated with the Armed Prohibited Persons System (APPS), background checks, inspection for security and safe storage, regulating transfer for sale via the internet, certain public education campaigns, private patrol operator regulations and re-testing for not unsafe handguns. DOJ is not authorized to use DROS funds for general law enforcement purposes.

Over the past five years, there is increasing litigation over whether DOJ is improperly using DROS funds. Case law prohibits taxing a constitutional right unless it is necessary to meet the "expense incident to the administration of the act and to the maintenance of public order in the matter licensed." Cox v. New Hampshire (1941) 312 U.S. 569, 577. Further loss of revenue to the DROS Special Account due to the reduction in the number of firearms sold may result in increased fees and a greater need to use DROS funds for general law enforcement activities. This may result in more litigation and associated costs.

3) **Related Legislation.** AB 1669 (Bonta) creates the Dealers' Record of Sale Supplemental Subaccount within the DROS Special Account to offset the reasonable costs of firearms-related regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms. AB 1669 is pending hearing in the Senate Public Safety Committee.

4) **Prior Legislation.**

   a) SB 1100 (Portantino), Chapter 894, Statutes of 2018, increased the minimum age, from 18 years to 21 years, for which a person may purchase a long-gun from a licensed dealer, except as specified.

   b) SB 1177 (Portantino), of the 2017-2018 Legislative Session, prohibited any person from making more than one application to purchase more than one long gun within any 30-day period. SB 1177 was vetoed by the Governor.

   c) AB 1674 (Santiago), of the 2015-2016 Legislative Session, prohibited any person from making more than one application to purchase more than one long gun within any 30-day period. SB 1674 was vetoed by the Governor.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

SENATE THIRD READING
SB 61 (Portantino)
As Amended September 3, 2019
Majority vote

SUMMARY:

Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Major Provisions

1) Prohibits a person from making an application to purchase more than one centerfire automatic rifle within any 30-day period and makes conforming changes to the existing prohibition against the purchase of more than one handgun in any 30-day period.

2) Adds the following entities to the existing exemption to the 30-day prohibition relating to sale of handguns:

   a) The purchase of a firearm other than a handgun by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

   b) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit, or mutual benefit corporation to fund the activities of that corporation or local chapter of that corporation; and,

   c) Clarifies that for the purpose of the above exemption, the frame or receiver of a firearm is a handgun, unless the application to purchase and delivered to the recipient is equipped with, is attached to, or is currently accompanied by, a barrel of 16 inches or greater in length.

3) Provides that a licensed firearms dealer shall not sell, supply, deliver, or give possession of a firearm to any person under 21 years of age. This provision shall not apply to or affect the sale of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older that possesses a valid unexpired hunting license issued by the Department of Fish and Wildlife, or is an honorably discharged member of the United States military.

4) States that the provisions of this bill are severable.

COMMENTS:

According to the Author:
"More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a CEO with the DOJ as well."

Arguments in Support:
According to the Ventura County Board of Supervisors, "As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi-¬- pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

"We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions."

Arguments in Opposition:
According to the California Rifle and Pistol Association "SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

"SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

"You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

"Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first

firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase."

"Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee:

1) DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.

2) Sales tax revenue loss (General Fund (GF)) likely in the hundreds of thousands of dollars annually due to the limitation on the number of centerfire semiautomatic rifles that may be purchased in a 30-day period.

3) One-time costs (GF/Dealer Record of Sale Account) of less than $100,000 to the DOJ for limited term information technology staff and equipment to update systems to track centerfire semiautomatic rifles to ensure only one purchase within a 30-day period.

VOTES:

SENATE FLOOR: 27-10-1
YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
ABS, ABST OR NV: Roth

ASM PUBLIC SAFETY: 5-2-1
YES: Jones-Sawyer, Bauer-Kahan, Quirk, Santiago, Wicks
NO: Lackey, Mathis
ABS, ABST OR NV: Kamlager-Dove

ASM APPROPRIATIONS: 13-5-0
YES: Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas
NO: Bigelow, Brough, Diep, Fong, Obernolte

UPDATED:

VERSION: September 3, 2019

CONSULTANT: Gregory Pagan (Counsel)/ PUB. S. / (916) 319-3744 FN: 0001642

SENATE THIRD READING
SB 61 (Portantino)
As Amended September 6, 2019
Majority vote

SUMMARY:

Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Major Provisions

1) Prohibits a person from making an application to purchase more than one centerfire automatic rifle within any 30-day period and makes conforming changes to the existing prohibition against the purchase of more than one handgun in any 30-day period.

2) Adds the following entities to the existing exemption to the 30-day prohibition relating to sale of handguns:

   a) The purchase of a firearm other than a handgun by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

   b) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit, or mutual benefit corporation to fund the activities of that corporation or local chapter of that corporation; and,

   c) Clarifies that for the purpose of the above exemption, the frame or receiver of a firearm is a handgun, unless the application to purchase and delivered to the recipient is equipped with, is attached to, or is currently accompanied by, a barrel of 16 inches or greater in length.

3) Provides that a licensed firearms dealer shall not sell, supply, deliver, or give possession of a firearm to any person under 21 years of age. This provision shall not apply to or affect the sale of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older that possesses a valid unexpired hunting license issued by the Department of Fish and Wildlife, or is an honorably discharged member of the United States military.

4) States that the provisions of this bill are severable.

COMMENTS:

According to the Author:
"More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a CEO with the [Department of Justtice] as well."

Arguments in Support:
According to the Ventura County Board of Supervisors, "As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi-¬- pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

"We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions."

Arguments in Opposition:
According to the California Rifle and Pistol Association "SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

"SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

"You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

"Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first

firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase."

"Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee:

1) DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.

2) Sales tax revenue loss (General Fund (GF)) likely in the hundreds of thousands of dollars annually due to the limitation on the number of centerfire semiautomatic rifles that may be purchased in a 30-day period.

3) One-time costs (GF/Dealer Record of Sale Account) of less than $100,000 to the DOJ for limited term information technology staff and equipment to update systems to track centerfire semiautomatic rifles to ensure only one purchase within a 30-day period.

VOTES:

SENATE FLOOR: 27-10-1
YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
ABS, ABST OR NV: Roth

ASM PUBLIC SAFETY: 5-2-1
YES: Jones-Sawyer, Bauer-Kahan, Quirk, Santiago, Wicks
NO: Lackey, Mathis
ABS, ABST OR NV: Kamlager-Dove

ASM APPROPRIATIONS: 13-5-0
YES: Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas
NO: Bigelow, Brough, Diep, Fong, Obernolte

UPDATED:

VERSION: September 6, 2019

CONSULTANT: Gregory Pagan (Counsel) / PUB. S. / (916) 319-3744 FN: 0002053

SENATE RULES COMMITTEE SB 61
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 61
Author: Portantino (D), et al.
Amended: 5/17/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 4-2, 5/16/19
AYES: Portantino, Bradford, Hill, Wieckowski
NOES: Bates, Jones

SUBJECT: Firearms: transfers

SOURCE: Author

DIGEST: This bill is to extends the prohibition on purchasing more than one handgun a month to include all firearms.

ANALYSIS:

Existing law:

1) Prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

2) Prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

3) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

   g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

   h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

   i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

   j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

   k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

   l) The return of any handgun to its owner.

   m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill:

1) Extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

2) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

   g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

   h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

   i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

   j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

   k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training,

3) Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

Background

One Gun a Month. According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
>
> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of

> crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
>
> - 71% for guns recovered in New York;
> - 72% for guns recovered in Massachusetts; and
> - 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.
>
> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period.

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon.

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun

within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

Assembly Bill 1674 (Santiago), of 2015: Veto Message. The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.
>
> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

Senate Bill 1177 (Portantino), of 2018: Veto Message. The Governor stated in his veto message of Senate Bill 1177, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period, with the same exemptions included in this bill:

> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

California Hunting Licenses. This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid, unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements.
- Choose the correct type of hunting license.

- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs $28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

System update: The Department of Justice anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

SUPPORT: (Verified 5/16/19)

Bay Area Student Activists
Brady California United Against Gun Violence
Coalition Against Gun Violence
Giffords Law Center to Prevent Gun Violence
Los Angeles County Board of Supervisors
Los Angeles City Attorney

OPPOSITION: (Verified 5/16/19)

California Rifle and Pistol Association
California Sportsman's Lobby

Gun Owners of California
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation

ARGUMENTS IN SUPPORT: According to Brady California United Against Gun Violence:

> In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.
>
> Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.
>
> It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale. A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale. Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.

Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61*. However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

ARGUMENTS IN OPPOSITION: According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's

wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase. Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired

effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Prepared by: Gabe Caswell / PUB. S. /
5/20/19 10:19:57

****** END ******

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Senate Policy Committee Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE COMMITTEE ON PUBLIC SAFETY
Nancy Skinner, Chairman

BACKGROUND INFORMATION REQUEST

Please complete and return this form to the Senate Public Safety Committee. Please e-mail any other relevant material to one of our committee assistants Sarah Loftin or Zandra Chavez.

PLEASE NOTE THE FOLLOWING:

- ***The Committee will contact you to set your bill.***
- ***The Committee WILL NOT automatically set any bill.***
- ***Letters may not be reflected in the Committee analysis of your bill, if submitted to the Committee less than 7 days from the date your bill is set to be heard (the Tuesday preceding your hearing date).***
- ***If you have more than 5 support/opposition letters, please print out hard copies and deliver to the committee.***
- ***Your bill may not be set until this form is completed and returned to the Committee.***
- ***This form is two pages. Please complete every question. Send a copy of this completed form and any attachments to the Committee's Minority Policy Consultant, Eric Csizmar (eric.csizmar@sen.ca.gov (651-1772)).***

Measure: SB-61

Author: Portantino

Subject: Firearms: transfers.

Staff Contact Name, Phone Number and E-mail: Tara McGee, 916-651-4025, Tara.McGee@sen.ca.gov

1. Which agency, organization, or individual requested the introduction of this bill?

   - Author Sponsored

2. Which agencies, organizations, or individuals (outside of the sponsor) have expressed support? Please attach copies of letters.

The Brady Campaign, California Chapter

3. Which agencies, organizations, or individuals have expressed opposition? Please attach copies of letters.

None.

4. If a similar bill has been introduced in this or any previous session, what was the number and year of its introduction?

SB 1177 (Portantino) -2017/2018

AB 1674 (Santiago)- 2015/2016

5. What problem or deficiency under current law does the bill seek and remedy? Please be as specific as possible, and include any legal or empirical information upon which the bill is based. **NOTE: Some or all of this statement may be quoted verbatim in the Committee's analysis.**

In California, existing law prohibits applying to purchase more than one handgun within a 30-day period and prohibits a firearms dealer from delivering a handgun to a person who has submitted more than one purchase application within a 30-day period. Unfortunately, when this became law it failed to include long guns. This is a simple fix to existing law that creates a safer process for the purchasing and delivering of all types of firearms in California.

6. Are you planning any amendments to be offered before the Committee hearing? If so, please describe the amendments. NOTE: THE HEARING OF A BILL MAY BE DELAYED IF 1 SIGNED AND 10 UNSIGNED COPIES OF THE AMENDMENTS IN LEGISLATIVE COUNSEL FORM ARE NOT PROVIDED TO THE COMMITTEE **IN A TIMELY MANNER.**

No.

BRADY
UNITED AGAINST GUN VIOLENCE
CALIFORNIA

LEGISLATION & POLICY CHAIR
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CALIFORNIA BRADY EXECUTIVE COMMITTEE

PRESIDENT
Mattie Scott
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PAST PRESIDENT
Peggy McCrum
Long Beach

Griffin Dix
Oakland/Alameda Co.

Carol Landale
Kelli McCarthy
San Diego County

Loren Lieb
San Fernando Valley

Niki Smith
Stockton

Suzanne Verge
Los Angeles

Toni Shellen
Tri-City/Alameda Co.

March 18, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol
Sacramento, CA 95814

Support: SB 61 (Portantino) – Preventing Trafficking of Long Guns

Dear Senator Portantino:

Brady California United Against Gun Violence is a grassroots organization working to reduce firearm crime, injury, and death. There are Brady chapters throughout the state, many of whose members have lost a loved one to gunfire. A key policy objective for Brady California is to disrupt the flow of illegal guns into impacted communities. SB 61 will help address this problem and Brady California stands in strong support.

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.

Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.

It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale.[i] A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale.[ii] Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.[iii]

Since 1999, Californians have typically purchased more long guns than handguns every year.[iv] Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period.[v] *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014).[vi] Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns.[vii] Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included.[viii] The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers,[ix] which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

Sincerely,

Amanda Wilcox
Legislation and Policy Chair
Brady California United Against Gun Violence

Cc: Members of Senate Public Safety Committee

---

[i] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (1999) National Report* 40 (Nov. 2000).
[ii] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (2000) National Report* 50 (July 2002).
[iii] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). https://www.ncjrs.gov/pdffiles1/nij/grants/221074. pdf.
[iv] California Department of Justice, "Dealer's Record of Sale (Calendar Year Statistics)," http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/dros_chart.pdf?.
[v] Data provided by the California Department of Justice, November 3, 2015.
[vi] Data provided by the California Department of Justice, November 3, 2015.
[vii] Data provided by the California Department of Justice, November 3, 2015.
[viii] Data provided by the California Department of Justice, March 7, 2016.
[ix] Data provided by the California Department of Justice, March 7, 2016.

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BAY AREA STUDENT ACTIVISTS

February 7, 2018

Senator Anthony Portantino
California State Senate
State Capitol, Room 3083
Sacramento, CA 95814

SUBJECT: SB 61 (Portantino) – Letter of Support

Dear Senator Portantino,

Bay Area Student Activists strongly supports bill SB 61: Firearms: transfers. This bill would extend the current one-gun-every-thirty-days rule for handguns to all firearms (exempting persons possessing a hunting license).

BAStA is an entirely student-led organization that aims to uplift the voices of students, especially high school students, on issues that affect them, notably on gun control.

Currently, limitations are placed on the number of handguns a person can purchase in a month. Current law (AB 202 of the 1999-2000 session) limits the purchase of handguns from a firearms dealer to one every thirty days. Several exemptions may apply, including for those with hunting licenses, and in transfers between private parties. However, no such restrictions apply to long guns. This bill would eliminate the exemption for transfers between private parties and extend the remaining limitation on the number of handgun purchases that can be made in one month to *all firearms*.

We support this bill because firearms are all instruments designed to kill, regardless of whether a firearm is a handgun or a long gun. Gun are all a danger to society when they fall into the wrong hands, and it is appropriate to apply this common-sense regulation to all guns, not just handguns. It is worth noting that the California Department of Justice has found that half of firearms recovered from persons prohibited from possessing a firearm are long guns. There is no reason for this restriction to apply only to handguns.

Furthermore, the exemption applying currently to the handgun purchase limitation for transfers between private persons is an unnecessary exception to proper process. When the transfer of a deadly weapon takes place, proper oversight should be exercised, notably through a firearms dealer. This provides a surer process so that guns do not fall into the wrong hands than a simple transfer between two individuals, and thus helps to protect from the misuse of guns.

While Bay Area Student Activists does not affirmatively support the continued exemption of persons holding hunting licenses from common-sense gun control measures, we acknowledge

BAY AREA STUDENT ACTIVISTS

the rigour of the process for procuring such a license, and are therefore committed to supporting the bill as it stands.

Ultimately, the relative danger of handguns as opposed to other guns is still debated, but we know that they are *all* guns, which means that they *all* have the capability of inflicting deadly harm on anything or anyone who their owner decides to point it at.

We therefore strongly support this bill, SB 61.

We thank you for your leadership on this issue.

Sincerely,

Calvin Quick
[signed]

Legislative Coordinator
Bay Area Student Activists (BAStA)
Email: calvin@quickstonian.com; BAStA Email: bayareastudentactivists@gmail.com
Phone: 1(415) 521-9126; Fax: 1(628) 256-3552

BRADY
UNITED AGAINST GUN VIOLENCE
CALIFORNIA

LEGISLATION & POLICY CHAIR
Amanda Wilcox
Nevada/Placer
P.O. Box 892
Rough & Ready, CA 95975
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ORGANIZING MANAGER
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CALIFORNIA BRADY EXECUTIVE COMMITTEE

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San Diego County

Loren Lieb
San Fernando Valley

Niki Smith
Stockton

Suzanne Verge
Los Angeles

Toni Shellen
Tri-City/Alameda Co.

March 18, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol
Sacramento, CA 95814

Support: SB 61 (Portantino) – Preventing Trafficking of Long Guns

Dear Senator Portantino:

Brady California United Against Gun Violence is a grassroots organization working to reduce firearm crime, injury, and death. There are Brady chapters throughout the state, many of whose members have lost a loved one to gunfire. A key policy objective for Brady California is to disrupt the flow of illegal guns into impacted communities. SB 61 will help address this problem and Brady California stands in strong support.

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.

Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.

It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale.[i] A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale.[ii] Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.[iii]

Since 1999, Californians have typically purchased more long guns than handguns every year.[iv] Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period.[v] *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014).[vi] Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns.[vii] Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included.[viii] The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers,[ix] which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

Sincerely,

Amanda Wilcox
Legislation and Policy Chair
Brady California United Against Gun Violence

Cc: Members of Senate Public Safety Committee

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[i] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (1999) National Report* 40 (Nov. 2000).
[ii] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (2000) National Report* 50 (July 2002).
[iii] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). https://www.ncjrs.gov/pdffiles1/nij/grants/221074. pdf.
[iv] California Department of Justice, "Dealer's Record of Sale (Calendar Year Statistics)," http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/dros_chart.pdf?.
[v] Data provided by the California Department of Justice, November 3, 2015.
[vi] Data provided by the California Department of Justice, November 3, 2015.
[vii] Data provided by the California Department of Justice, November 3, 2015.
[viii] Data provided by the California Department of Justice, March 7, 2016.
[ix] Data provided by the California Department of Justice, March 7, 2016.

COALITION AGAINST GUN VIOLENCE

A Santa Barbara County Coalition

March 18, 2019

Senator Anthony Portantino
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

VIA FAX: (916) 651-4925

Re: SB 61 (Portantino) Preventing Gun Trafficking

On behalf of the Coalition Against Gun Violence, a Santa Barbara County Coalition, I write in support of Senate Bill 61. This bill extends existing law that limits purchases of new handguns to no more than one gun per person per 30-day period to new long guns, including high-powered semiautomatic rifles. The bill will deter gun traffickers, who purchase firearms in bulk to sell for profit on the black market.

SB 61 will reduce the trafficking of illegal guns. This bill will reduce gun crime and save lives. For these reasons, the CAGV is in support of SB 61 and appreciates your introduction of this important measure. The Coalition Against Gun Violence urges you to sign SB 61 into law.

Sincerely,

Toni Wellen

Toni Wellen, Chair

PO Box 699, Summerland, CA 93067 • cagvsb@gmail.com • 805-564-6803 • sbcoalition.org •

GIFFORDS LAW CENTER
TO PREVENT GUN VIOLENCE

268 Bush Street #555, San Francisco, CA 94104 415-433-2062 GIFFORDSLAWCENTER.ORG

March 26, 2019

The Honorable Nancy Skinner
Chair, Public Safety Committee
California State Senate
Sacramento, CA 95814

Re: Support for SB 61 (Portantino) – Limiting Bulk Firearm Purchases

Dear Senator Skinner,

On behalf of Giffords Law Center to Prevent Gun Violence, I urge you to support SB 61 (Portantino), legislation that would help curb the flow of firearms on the black market in California. Now led by former Congresswoman and shooting survivor Gabby Giffords, our organization has worked for 25 years to enact evidence-based policy reforms at the local, state, and national levels to save lives from gun violence.

In 1999, California enacted our state's one-handgun-per-month law, which generally prohibits a person from purchasing more than one new handgun from a licensed firearms dealer in any 30-day period. The law also prohibits a dealer from completing the sale of a handgun once the Department of Justice (DOJ) notifies the dealer that the person attempting to acquire the handgun has applied to purchase another handgun within the previous 30 days. In floor debates and bill analyses prepared prior to the one-handgun-per-month law's enactment, the Legislature noted that these "bulk purchase limits" would affect a very small percentage of purchasers, while effectively limiting the small number of buyers most likely to be involved in crimes and violence. This law helps to curb the flow of handguns on the illegal black market and prevents dangerous individuals from quickly amassing stockpiles of weapons.

However, current law does not apply these limitations to long guns sold by dealers. This loophole allows gun traffickers to easily purchase unlimited numbers of rifles and shotguns for illegal distribution to people who could not legally acquire them, including organized gangs and cartels, and allows individuals who intend to perpetrate violence themselves, like mass shooters, to quickly stockpile large numbers of firearms.

SB 61 would start to close this dangerous loophole by generally extending California's existing one-handgun-per-month law to long gun purchases too.

SB 61 would still provide targeted exceptions for licensed hunters acquiring new hunting rifles and shotguns. This bill would also still allow other individuals to lawfully purchase up to 12 new firearms per year from licensed dealers, to acquire additional firearms from unlicensed sellers (even though such transactions must be conducted through a licensed dealer), and to liquidate a collection of used firearms to a single purchaser. It would also still

allow people to loan or transfer their firearms to family members, acquaintances, and sport or hunting partners in a variety of circumstances, while placing reasonable limitations on dangerous individuals' ability to obtain mass quantities of guns for illegal purposes.

Laws limiting multiple firearm sales are important to public safety. Although bulk firearm purchases comprise a very small share of the overall market for firearms, they represent a significant source of guns sold to criminals. A 2007 University of Pennsylvania report to the National Institute of Justice found that guns purchased in a "multiple sale"—meaning guns purchased by a person who bought at least one other firearm within five business days—were up to 64% more likely to be used for illegal purposes than guns purchased individually.[i] An ATF report similarly found that purchases of multiple long guns are a "significant indicator" of gun trafficking.[ii] An ATF study of gun trafficking by one cartel in Mexico found that the cartel purchased 336 firearms in a 15-month period, including 251 long guns, and that all but one of those firearms was purchased in bulk sales from a U.S. gun dealer.[iii] Experts also identify "stockpiling weapons" as a significant warning sign of a mass shooter's violent intentions.[iv]

Additionally, a dangerous person's ability to quickly amass weapons is hazardous to public safety regardless of whether those weapons are sold by dealers or unlicensed sellers, and regardless of whether they are long guns or handguns. Treating all firearm sales equally is common sense and would further California's efforts in recent years to align the legal requirements governing handgun and long gun sales in the state. ATF has reported that long guns have become Mexican cartels' "weapons of choice,"[v] and the agency has had to implement special reporting requirements on California gun dealers to track certain multiple long gun sales because our state is such a significant source of these firearms for violent cartels over the border.[vi]

Within California, DOJ has reported that long guns comprise half the illegal firearms recovered by law enforcement from prohibited persons in this state.[vii] In addition, an examination of forensic data collected from the mass shootings that have occurred in the United States throughout the last 30 years showed that exactly half of the weapons used to perpetrate those tragedies were long guns.[viii] Curbing bulk purchases of all firearms would help keep more deadly weapons from falling into dangerous hands.

SB 61 (Portantino) will implement sensible and reasonable safeguards to curb the flow of firearms on the illegal black market and into the hands of those most likely to use these weapons in crimes and violence.

For these reasons, we urge you to support SB 61 (Portantino).

Sincerely,



Ari Freilich
California Legislative Affairs Director & Staff Attorney
Giffords Law Center to Prevent Gun Violence

[i] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use – A Report to the National Institute of Justice, U.S. Dept. of Justice* (2007), https://www.ncjrs.gov/pdffiles1/nij/grants/221074.pdf.

[ii] U.S. Gov. Accountability Office, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges* (2009): 28, http://www.gao.gov/new.items/d09709.pdf

[iii] U.S. Dept. of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, November 2010, 38-39, www.justice.gov/oig/reports/ATF/e1101.pdf.

[iv] Peter Langman, Ph.D., *School Shooters: The Warning Signs*, Jul. 29, 2014, https://schoolshooters.info/sites/default/files/school_shooters_warning_signs_1.1.pdf

[v] U.S. Dept. of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, November 2010, 36, www.justice.gov/oig/reports/ATF/e1101.pdf.

[vi] Letter from Charles Houser, Chief, Nat'l Tracing Ctr., to Fed. Firearms Licensees, Jul. 12, 2011, 1, http://www.scribd.com/doc/61159256/ATF-Multiple-Rifle-Sale-Reporting-Requirement-Letter. See also Agency Information Collection Activities; *Proposed Collection Comments Requested: Report of Multiple Sale or Other Disposition of Certain Rifles*, 76 Fed. Reg. 24,058, 24,058, Apr. 29, 2011; Bureau of Alcohol, Tobacco, Firearms & Explosives, *Q&As for the Report of Multiple Sale or Other Disposition of Certain Rifles*, http://www.atf.gov/files/firearms/industry/080911-qa-multiple-rifles.pdf.

[vii] Data provided by the Cal. Dept. of Justice, Mar. 4, 2010.

[viii] Mark Follman *et al.*, "US Mass Shootings, 1982-2015: Data from Mother Jones' Investigation," *Mother Jones Magazine*, Dec. 28, 2012.

COUNTY OF LOS ANGELES
Sacramento Legislative Office
1100 K Street, Suite 400, Sacramento, California 95814
(916) 441-7888 • Fax (916) 445-1424
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SACHI A. HAMAI
Chief Executive Officer

BRIAN J. STIGER
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Fourth District
KATHRYN BARGER
Fifth District

March 11, 2019

The Honorable Nancy Skinner, Chair
Senate Public Safety Committee
State Capitol, Room 5094
Sacramento, California 95814

RE: SB 61 (Portantino), As Introduced January 3, 2019 – SUPPORT
Relating to Firearms: Transfers
Set April 2, 2019, in the Senate Public Safety Committee

Dear Senator Skinner:

The Los Angeles County Board of Supervisors supports SB 61 (Portantino).

Current law generally prohibits an individual from making more than one application to purchase a handgun within any 30-day period. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the State Department of Justice that within the preceding 30-day period, the purchaser has made another application to purchase a handgun. SB 61 would provide that an existing law which makes it unlawful for a person to purchase more than one handgun every 30 days is applicable to all types of firearms.

The County's Department of Public Health (DPH), and their Injury and Violence Prevention Program (IVPP) indicate that laws limiting the number of firearms a person can purchase within a certain timeframe can help to reduce the number of guns that enter the secondary market—weapons that are more likely to wind up at the scene of a crime. DPH-IVPP notes that commonsense regulation of gun purchases can help to reduce gun trafficking and, in turn, gun violence. Therefore, I urge the Committee's **"AYE"** vote on SB 61. Please contact me at (916) 441-7888 or dseitz@ceo.lacounty.gov if you have any questions.

Sincerely,

Donna Seitz
Assistant Chief Legislative Representative

c: Senator Anthony Portantino
Each Member and Consultant,
Senate Public Safety Committee

MICHAEL N. FEUER
CITY ATTORNEY

February 21, 2019

The Honorable Nancy Skinner
Chair, Senate Public Safety Committee
State Capitol, Room 2031
Sacramento, CA 95814

RE: SB 61 (Portantino) Firearms: transfers.
SUPPORT

Dear Chair Skinner,

I write to express my support for SB 61 (Portantino) and respectfully request your "AYE" vote when this bill is heard in your committee. This bill would expand the prohibition on individuals from purchasing more than one handgun in any 30-day period and apply it to all firearms.

As you know, AB 202 (Knox, Chapter 128, Statutes of 1999) prohibited an individual from purchasing more than one handgun in any 30-day period. AB 809, which I authored in 2011, requires long gun data to be entered into the Automated Firearms Database, an important law enforcement tool, in a manner similar to handguns.

California Department of Justice (DOJ) data has shown that nearly 82% of the long guns sold in the state were sold as single purchases to individuals within one 30-day period. Additional data from DOJ also show that when multiple long guns are bought in a single transaction, it is twice as likely that the sale included lower receivers. These lower receivers can then be built into illegal assault weapons and sold on the black market, allowing unscrupulous individuals to circumvent California's strict gun control laws. SB 61 (Portantino) will stem the flow of long guns into the black market while having no negative effect on the overwhelming majority of gun purchasers in the state.

I would also to take this opportunity to thank the author, Senator Portantino, a longtime advocate of efforts to reduce gun violence. I am pleased to support SB 61 (Portantino). Thank you for your consideration.

Sincerely,

Michael N. Feuer
Los Angeles City Attorney

Cc: Members and Consultants, Senate Public Safety Committee
The Honorable Anthony Portantino, 25th Senate District

MAR 27 2019

March 25, 2019

late

Senator Anthony Portantino
State Capitol
Sacramento, California 95814

[redacted]

Dear Senator Portantino:

Gun Owners of California is writing to respectfully oppose your SB 61, a reintroduction of last year's SB 1177 (Portantino), which seeks to prohibit the number of firearms an individual can purchase within a specified period of time.

Our concerns pertain to the intention to build upon the 1999 bill that restricted purchases of handguns to no more than one per person per month to include *all* firearms, including long guns. Gun Owners has consistently supported efforts to prevent the flow of illegal firearms, but there is no data suggesting someone who purchases two guns a month – or three guns for that matter – is a danger to society or engaging in illicit activity. In fact, even though long gun purchases in California have literally exploded to over a million per year, a 2015 report by the Department of Justice 2015 (Firearms Used in Crimes) reveals they are used minimally - roughly 12%. What's more, there is no "recognized strategy" that limiting firearm purchases reduces gun trafficking or keeps firearms out of "dangerous hands." There is simply no evidence that restricting the number of guns an individual can buy in a month will have any effect positive on crime.

Penalizing the lawful for the misdeeds of the unlawful will never have its anticipated resolution and reducing the pool of firearms available for lawful individuals to possess will do nothing to stem an increase in crime. The safety of Californians is at the very foundation of our mission, and regrettably, there is no indication that SB 61 will further protect the citizens of our state. It has been our consistent goal to work toward common sense solutions regarding the issue of crime and firearm ownership; this can be done, however, without sacrificing our Constitutional rights and the ability of the law abiding to protect their families. I would welcome the opportunity to discuss this with you at your convenience.

Respectfully,

Sam Paredes, Executive Director

cc: Members, Senate Committee on Public Safety

GUN OWNERS OF CALIFORNIA
1831 Iron Point Road, Folsom CA 95630 – (916) 984-1400 (916) 984-1402 fax
www.GunOwnersCA.com
A Political Committee Dedicated to Crime Control – Not Gun Control

The California
Sportsman's Lobby, Inc.

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

[redacted]

Location: Senate Floor

[redacted]rtantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

The California Sportsman's Lobby is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in the laws relating to these activities.

The California Sportsman's Lobby (CSL) promotes the conservation, enhancement, scientific management, and wise use of all our natural resources; CSL seeks an end of activities needlessly destructive to natural resources; CSL endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation, enhancement, and wise use of all our natural resources; and CSL works to secure more and better outdoor opportunities for all citizens, regardless of race, creed, or color as essential to the physical and spiritual well being of all the people.

This is to notify you of the opposition of the California Sportsmen's Lobby (CSL) to SB 61.

It would unjustifiably limit the purchase of a rifle or shotgun by any lawful person to one per month.

Rather than limit such purchases by lawful individuals to one per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Such persons will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer. The restrictions proposed in SB 61 would not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and for persons acquiring firearms at nonprofit fundraising events, it does not offset the opposed limitation on other lawful persons.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Randall Walker
President, California Sportsman's Lobby

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
California Sportsman's Lobby

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

[redacted]: Oppose

Location: Senate Floor

[redacted]**Portantino) Firearms: transfers (As Amended May 17, 2019)**

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as introduced, that would limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a rifle or shotgun. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of rifles or shotguns for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one rifle or one shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

[redacted]

Location: Senate Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to notify you of the opposition of the Outdoor Sportsmen's Coalition of California (OSCC) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

P.O. Box 848, Fresno, CA 93712

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and persons acquiring firearms at nonprofit fundraising events, it does not offset the needless limitation on other lawful individuals.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month, will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Randall Walker, President
Outdoor Sportsmen's Coalition of California

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
Outdoor Sportsmen's Coalition of California

Safari Club International

A NON-PROFIT ORGANIZATION DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING

SCI
FIRST FOR HUNTERS

SCI CA Coalition

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

[redacted]

Location: Senate Floor

[redacted]tantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

Safari Club International and Safari Club International Foundation (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

This is to notify you of the opposition of the SCI CA Coalition (SCI) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

While the exemption in the bill from the one gun per month limit for licensed hunters, and firearms acquired at nonprofit fundraising events, is appreciated, it does not mitigate the inappropriate limitation on others, such as recreational and competitive shooters.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, SCI CA Coalition opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Lisa C. McNamee
Co-Legislative Coordinator
SCI CA Coalition

Don Giottonini
Co-Legislative Coordinator
SCI CA Coalition

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
SCI CA Coalition

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

September 11, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

[redacted]

Location: Senate Floor (Concurrence)

Re: SB 61 (Portantino) Firearms: transfers (As Amended September 6, 2019)

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as amended, that would limit the purchase of a semiautomatic centerfire rifle by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a semiautomatic centerfire rifle. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of semiautomatic centerfire rifles for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one semiautomatic centerfire rifle purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Office of Senate Floor Analysis
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

Be Safe. Shoot Straight. Fight Back!

CRPA.ORG

CALIFORNIA RIFLE & PISTOL ASSOCIATION

March 4th, 2019

Honorable Senator Nancy Skinner
Chair Senate Committee on Public Safety
State Capitol Room 2031
Sacramento, CA 95814

Re: Senate Bill 61 (Portantino) – Firearms: Transfers
[redacted]ed

Dear Senator Skinner,

On behalf of the C[redacted], and its members, I write to express our strong opposition to Senate Bill 61 (SB 61). SB 61 would make it a crime to attempt to purchase more than one firearm of any type within a 30-day period.

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the of millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Be Safe. Shoot Straight. Fight Back!

CALIFORNIA RIFLE & PISTOL ASSOCIATION

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase. Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Senator Skinner nothing has changed, this is just a bad bill that will not curb crime and will only impact law abiding citizens. For the foregoing reasons, the California Rifle and Pistol Association strongly opposes SB 61 and urges your no vote in committee.

Respectfully Submitted,

Roy M. Griffith Jr.
Legislative Liaison
California Rifle and Pistol Association, Inc.
rgriffith@crpa.org

CC: Mr. Gabriel Caswell, Counsel Senate Public Safety, Gabriel.Caswell@sen.ca.gov
Ms. Jennifer Kaku, Consultant Senate Public Safety, Jennifer.Kaku@sen.ca.gov



The California
Sportsman's Lobby, Inc.

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: [redacted]

Location: Senate Public Safety Committee

Re: [redacted] Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

The [redacted]s a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in the laws relating to these activities.

The California Sportsman's Lobby (CSL) promotes the conservation, enhancement, scientific management, and wise use of all our natural resources; CSL seeks an end of activities needlessly destructive to natural resources; CSL endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation, enhancement, and wise use of all our natural resources; and CSL works to secure more and better outdoor opportunities for all citizens, regardless of race, creed, or color as essential to the physical and spiritual well being of all the people.

This is to notify you of the opposition of the California Sportsmen's Lobby (CSL) to SB 61.

It would unjustifiably limit the purchase of a rifle or shotgun by any lawful person to one per month.

Rather than limit such purchases by lawful individuals to one per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Such persons will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer. The restrictions proposed in SB 61 would not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and for persons acquiring firearms at nonprofit fundraising events, it does not offset the opposed limitation on other lawful persons.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Randall Walker
President, California Sportsman's Lobby

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
California Sportsman's Lobby

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position [redacted]

Location: Senate Public Safety Committee

Re: [redacted] Firearms: transfers (As Introduced January 3, 2019)

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the [redacted] ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as introduced, that would limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a rifle or shotgun. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of rifles or shotguns for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one rifle or one shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: [redacted]

Location: Senate Public Safety Committee

Re: [redacted] Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

The [redacted] a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to notify you of the opposition of the Outdoor Sportsmen's Coalition of California (OSCC) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

P.O. Box 848, Fresno, CA 93712

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and persons acquiring firearms at nonprofit fundraising events, it does not offset the needless limitation on other lawful individuals.

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Limiting all adults to a maximum of one rifle or shotgun purchase per month, will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Randall Walker, President
Outdoor Sportsmen's Coalition of California

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
Outdoor Sportsmen's Coalition of California

Safari Club International

A NON-PROFIT ORGANIZATION • DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING

SCI
FIRST FOR HUNTERS

SCI CA Coalition

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position [redacted]

Location: Senate Public Safety Committee

Re [redacted] firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

[redacted] and [redacted] (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

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Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Lisa C. McNamee
Co-Legislative Coordinator
SCI CA Coalition

Don Giottonini
Co-Legislative Coordinator
SCI CA Coalition

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
SCI CA Coalition

CONFLICT NOTIFICATION

March 26, 2019

OFFICE OF LEGISLATIVE COUNSEL

SB 61

The above measure introduced by Senator Portantino and set for hearing in the

Senate Committee on Public Safety

appears to be in conflict with

AB 645 - Irwin
SB 172 - Portantino

Open the attachments included in this email for a complete list of Code Sections, Statutes Other Than Codes, Budget Items, and Constitution Sections in conflict.

A conflict exists when two or more bills and/or constitutional amendments amend, add, repeal, or amend and renumber the same section, article, chapter, division, title, or heading.

The enactment of these measures in their present form could give rise to a serious legal problem that may be avoided by appropriate amendments.

We urge you to consult with our Conflicts Unit at ConflictsUnit.Senate@lc.ca.gov or (916) 341-8230 at your earliest convenience.

LIS Link: For more information regarding bills in conflict, go to the Reports page in LIS and select the Canned Reports tab to research Bills that Amend Identical Code Sections and Bill Status.

Provided by LRI History LLC

List of Code Sections in Conflict

Requested Measure: SB 0061

Session: 2019-2020 Regular Session

Code/Section	Measure ID/Ver	Current Lead Authors	Chapter Num	Amd Out*
PEN 26835	AB 0645 98	Assembly Member Irwin		N
	SB 0061 99	Senator Portantino		N
	SB 0172 98	Senator Portantino		N

*Y (Yes) or N (No) indicates whether section or item has been amended out of measure.

Exhibit 6
0237

Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2504 Page 258 of 458

CONFLICT NOTIFICATION

March 06, 2019

OFFICE OF LEGISLATIVE COUNSEL

SB 61

The above measure introduced by Senator Portantino and set for hearing in the

Senate Committee on Public Safety

appears to be in conflict with

AB 645 - Irwin

Open the attachments included in this email for a complete list of Code Sections, Statutes Other Than Codes, Budget Items, and Constitution Sections in conflict.

A conflict exists when two or more bills and/or constitutional amendments amend, add, repeal, or amend and renumber the same section, article, chapter, division, title, or heading.

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Provided by LRI History LLC

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Requested Measure: SB 0061

Session: 2019-2020 Regular Session

Code/Section	Measure ID/Ver	Current Lead Authors	Chapter Num	Amd Out*
PEN 26835	AB 0645 99	Assembly Member Irwin		N
	SB 0061 99	Senator Portantino		N

*Y (Yes) or N (No) indicates whether section or item has been amended out of measure.

Exhibit 6
0239

Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2506 Page 260 of 458

PS

GL

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RN 19 15008 PAGE 1
Substantive

AMENDMENTS TO SENATE BILL NO. 61

Amendment 1
In the heading, between lines 2 and 3, insert:

(Coauthor: Senator Skinner)

Amendment 2
In the title, in line 1, strike out "26835, 27535, 27540," and insert:

27510, 27540,

Amendment 3
In the title, in line 1, strike out "of" and insert:

of, and to amend, repeal, and add Sections 26835 and 27535 of,

Amendment 4
On page 2, strike out lines 1 to 33, inclusive, and strike out pages 3 and 4, on page 5, strike out lines 1 to 37, inclusive, and insert:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE

RN1915008

GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

~~(b) This section shall become operative on January 1, 2019.~~

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE

BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment as a reserve peace officer.

(D) A person who provides proper identification of ~~his or her~~ active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

(E) A person who provides proper identification ~~that he or she is~~ of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(c) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age.

(d) Subdivision (c) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(1) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(2) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(3) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(4) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 5. Section 27535 is added to the Penal Code, to read:

27535. (a) A person shall not make an application to purchase more than one firearm within any 30-day period.

(b) Subdivision (a) does not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a firearm where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a firearm when the person's firearm was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement.

(12) The return of any firearm to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(14) The purchase of a firearm, other than a handgun, or a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(15) The acquisition of a firearm, other than a handgun, or a semiautomatic centerfire rifle at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the frame or receiver listed in the application

to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.

(d) This section shall become operative on July 1, 2021.

Amendment 5

On page 5, in line 38, strike out "SEC. 3." and insert:

SEC. 6.

Amendment 6

On page 6, in line 24, strike out "A firearm" and insert:

Until July 1, 2021, a handgun

Amendment 7

On page 6, in line 27, strike out "firearm" and insert:

handgun

Amendment 8

On page 6, between lines 29 and 30, insert:

(g) Commencing July 1, 2021, a firearm shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a firearm and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

Amendment 9

On page 6, in line 30, strike out "SEC. 4." and insert:

SEC. 7.

Amendment 10

On page 8, in line 13, strike out "For" and insert:

(A) Until July 1, 2021, for

Amendment 11
On page 8, in line 14, strike out "firearm" and insert:

handgun

Amendment 12
On page 8, between lines 15 and 16, insert:

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a firearm in violation of Section 27535 is a separate offense.

Amendment 13
On page 8, in line 16, strike out "SEC. 5." and insert:

SEC. 8.

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Substantive

AMENDMENTS TO SENATE BILL NO. 61

Amendment 1
In the heading, between lines 2 and 3, insert:

(Coauthor: Senator Skinner)

Amendment 2
In the title, in line 1, strike out "26835, 27535, 27540," and insert:

27510, 27540,

Amendment 3
In the title, in line 1, strike out "of" and insert:

of, and to amend, repeal, and add Sections 26835 and 27535 of,

Amendment 4
On page 2, strike out lines 1 to 33, inclusive, and strike out pages 3 and 4, on page 5, strike out lines 1 to 37, inclusive, and insert:

SECTION 1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE

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GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

~~(b) This section shall become operative on January 1, 2019.~~

(b) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

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(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, YOU HAVE TO GO THROUGH THE

BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE FIREARM WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 3. Section 27510 of the Penal Code is amended to read:

27510. (a) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a firearm to any person who is under 21 years of age.

(b) (1) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(2) Subdivision (a) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a firearm that is not a handgun or a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(A) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment.

(B) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment.

(C) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of ~~his or her~~ employment as a reserve peace officer.

(D) A person who provides proper identification of ~~his or her~~ active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

(E) A person who provides proper identification ~~that he or she is~~ of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States. For purposes of this subparagraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an honorably discharged member.

(c) A person licensed under Sections 26700 to 26915, inclusive, shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age.

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(d) Subdivision (c) does not apply to or affect the sale, supplying, delivery, or giving possession or control of a semiautomatic centerfire rifle to any of the following persons who are 18 years of age or older:

(1) An active peace officer, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is authorized to carry a firearm in the course and scope of employment.

(2) An active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment.

(3) A reserve peace officer, as defined in Section 832.6, who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer.

(4) A person who provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States. For purposes of this paragraph, proper identification includes an Armed Forces Identification Card or other written documentation certifying that the individual is an active member.

SEC. 4. Section 27535 of the Penal Code is amended to read:

27535. (a) No person shall make an application to purchase more than one handgun within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen pursuant to Section 25250 prior to the completion of the application to purchase the replacement handgun.

(12) The return of any handgun to its owner.

(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(c) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

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27535. (a) A person shall not make an application to purchase more than one firearm within any 30-day period.

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(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.

(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), or Article 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a firearm where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

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(13) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

(14) The purchase of a firearm, other than a handgun, or a semiautomatic centerfire rifle by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

(15) The acquisition of a firearm, other than a handgun, or a semiautomatic centerfire rifle at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

(c) For the purposes of paragraphs (14) and (15) of subdivision (b), the frame or receiver of a firearm is a handgun unless the frame or receiver listed in the application

to purchase and delivered to the recipient is equipped with, is attached to, or is concurrently accompanied by, a barrel of 16 inches or greater in length.

(d) This section shall become operative on July 1, 2021.

Amendment 5

On page 5, in line 38, strike out "SEC. 3." and insert:

SEC. 6.

Amendment 6

On page 6, in line 24, strike out "A firearm" and insert:

Until July 1, 2021, a handgun

Amendment 7

On page 6, in line 27, strike out "firearm" and insert:

handgun

Amendment 8

On page 6, between lines 29 and 30, insert:

(g) Commencing July 1, 2021, a firearm shall not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a firearm and that the previous application to purchase did not involve any of the entities or circumstances specified in subdivision (b) of Section 27535.

Amendment 9

On page 6, in line 30, strike out "SEC. 4." and insert:

SEC. 7.

Amendment 10

On page 8, in line 13, strike out "For" and insert:

(A) Until July 1, 2021, for

Amendment 11
On page 8, in line 14, strike out "firearm" and insert:

handgun

Amendment 12
On page 8, between lines 15 and 16, insert:

(B) Commencing July 1, 2021, for purposes of this subdivision, each application to purchase a firearm in violation of Section 27535 is a separate offense.

Amendment 13
On page 8, in line 16, strike out "SEC. 5." and insert:

SEC. 8.

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Senate Fiscal Committee Materials

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SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 61 (Portantino) - Firearms: transfers

Version: January 3, 2019
Urgency: No
Hearing Date: April 22, 2019

Policy Vote: PUB. S. 5 - 2
Mandate: Yes
Consultant: Shaun Naidu

Bill Summary: SB 61 would prohibit the purchase of more than one long gun in a 30-day period, except as specified.

Fiscal Impact:
- Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

- Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

- System update: The Department of Justice (DOJ) anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

Background: Existing law prohibits any person from making an application to purchase more than one handgun within any 30-day period. The handgun purchase limitation, however, does not apply to the following:
- Any law enforcement agency;
- Any agency duly authorized to perform law enforcement duties;
- Any state or local correctional facility;
- Any private security company licensed to do business in California;
- Any person who is properly identified as a full-time paid peace officer, as defined, and who is authorized to, and does, carry a firearm during the course and scope of employment as a peace officer;
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm;
- Any person who may claim an exemption from the waiting period set forth in Penal Code section 27540;
- Any private party transaction conducted through a licensed firearms dealer;
- Any person who is licensed as a collector and the regulations issued pursuant thereto and has a current certificate of eligibility issued by DOJ;
- The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement;

- The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase the replacement handgun;
- The return of any handgun to its owner; or
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

The punishment for making an application to purchase more than one handgun within a 30-day period without an exception is as follows:

- A first violation is an infraction punishable by a base fine of $50.
- A second violation is an infraction punishable by a base fine of $100.
- A third or subsequent violation is a misdemeanor punishable by imprisonment in the county jail for up to six months, a base fine of up to $1,000, or both the imprisonment and fine.

Each application to purchase a handgun during the prohibited period is deemed a separate offense.

Proposed Law: This bill would extend the limitation of making an application to purchase more than one handgun in a 30-day period, along with the exceptions to the limitation, to all types of firearms. This bill would expand the exception to the limitation relative to long guns to a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and the acquisition of a long gun at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of the corporation or its local chapter. For the purpose of these two exceptions, the barrel must be at least 16 inches in length.

Related Legislation: SB 1177 (Portantino, 2018) and AB 1674 (Santiago, 2016) similarly attempted to extend the limitation of purchasing one handgun within a 30-day period to the purchase of all types of firearms. The Governor vetoed both measures. In his message on AB 1674, the Governor stated that he believed that the bill "would have the effect of burdening lawful citizens who wish to sell certain firearms they no longer need[ ]" and that this additional restriction is not needed given the state's stringent laws restricting gun ownership. With respect to SB 1177, the Governor stated that his "views have not changed" since vetoing AB 1674.

Staff Comments: The Department of Justice estimates annual reductions of the specified amounts of fee collection for the following special funds resulting from SB 61: a $1.7 million decrease to DROS, a $441,000 decrease to the Firearms Safety and Enforcement Special Fund, and an $88,000 to the Firearm Safety Account is predicted to decrease by $88,000. In addition to experiencing the largest impact with respect to fee revenue loss, DROS also would be used to fund the limited-term position the department anticipates requiring to implement SB 61. The Dealers Record of Sale Special Account has experienced significant revenue decreases in recent years to the extent that it is structurally imbalanced. From FY 2017-18 to FY 2018-19 DROS revenues dropped by 22 percent; proposed revenue for FY 2019-20 is projected to remain consistent with 2018-19, however. The FY 2019-20 proposed budget anticipates a beginning balance of $6.159 million, revenues of $21.471 million,

expenditures of $24.88 million, and an ending reserve of $2.75 million. Given the operational deficit of DROS, the revenue loss and added expense resulting from SB 61 would create cost pressure on the General Fund to backfill any shortage.

-- END --

SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 61 (Portantino) - Firearms: transfers

Version: January 3, 2019
Urgency: No
Hearing Date: May 16, 2019

Policy Vote: PUB. S. 5 - 2
Mandate: Yes
Consultant: Shaun Naidu

********** ANALYSIS ADDENDUM – SUSPENSE FILE **********
The following information is revised to reflect amendments adopted by the committee on May 16, 2019

Bill Summary: SB 61 would prohibit the purchase of more than one long gun in a 30-day period, except as specified.

Fiscal Impact:
- Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

- Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

- System update: The Department of Justice (DOJ) anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

Author Amendments: Prohibit the sale of a semiautomatic centerfire rifle to specified exempted persons under age 21 and delay the effective date of specified provisions.

-- END --

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Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2529 Page 283 of 458

SCHEDULE 10 AT 2019-20 GOVERNOR'S BUDGET
SUMMARY OF FUND CONDITION STATEMENTS
(Dollars In Thousands)

Fund	Beginning Reserve 2017-18	Revenues 2017-18	Expenditures 2017-18	Beginning Reserve 2018-19	Revenues 2018-19	Expenditures 2018-19	Beginning Reserve 2019-20	Revenues 2019-20	Expenditures 2019-20	Ending Reserve 2019-20
0449-Winter Recreation Fund	510	275	423	362	250	381	231	250	366	115
0452-Elevator Safety Account	28,219	19,931	24,075	24,075	22,066	29,773	16,368	25,066	28,821	12,613
0453-Pressure Vessel Account	706	4,851	3,984	1,573	5,329	5,881	1,021	5,811	5,919	913
0456-Expedited Site Remediation Trust Fund	1,617	-1,291	320	6	--	--	6	--	--	6
0457-Tax Credit Allocation Fee Account	36,344	6,524	2,660	40,208	6,540	3,511	43,237	41,554	4,037	80,754
0458-Site Operation and Maintenance Account, Hazardous Substances Account	2	197	408	-209	411	404	-202	551	312	37
0459-Telephone Medical Advice Services Fund	1,046	--	10	1,036	--	--	1,036	--	--	1,036
0460-Deglers Record of Sale Special Account	7,760	24,561	22,954	9,367	21,627	24,835	6,159	21,471	24,880	2,750
0461-Public Utilities Commission Transportation Reimbursement Account	32,566	25,035	16,378	41,223	17,497	21,571	37,149	12,441	24,941	24,649
0462-Public Utilities Commission Utilities Reimbursement Account	46,831	131,415	124,219	54,027	147,149	148,399	52,777	151,653	156,644	47,786
0464-California High-Cost Fund-A Administrative Committee Fund	33,841	36,197	40,157	29,881	37,164	49,288	17,757	34,961	49,324	3,394
0465-Energy Resources Programs Account	38,789	68,290	63,874	43,205	67,583	82,620	28,168	67,583	82,160	13,591
0467-State Notes Expense Account	250	--	--	250	--	--	250	--	--	250
0470-California High-Cost Fund-B Administrative Committee Fund	64,238	-6,569	15,047	42,622	61,331	22,385	81,568	10,478	22,395	69,651
0471-Universal Lifeline Telephone Service Trust Administrative Committee Fund	289,538	490,012	372,122	407,428	461,671	387,026	482,073	461,671	363,541	580,203
0475-Underground Storage Tank Fund	106	1	--	107	--	--	107	--	--	107
0478-Vectorborne Disease Account	172	186	183	175	132	217	90	132	220	2
0479-Energy Technologies Research, Development and Demonstration Account	2,916	24	--	2,940	13	--	2,953	13	--	2,966
0481-Garment Manufacturers Special Account	-20	254	--	234	380	500	114	386	500	--
0483-Deaf and Disabled Telecommunications Program Administrative Committee Fund	50,904	51,930	59,603	43,231	52,968	67,240	28,959	49,820	67,292	11,487
0485-Armory Discretionary Improvement Account	651	22	20	653	40	158	535	40	160	415
0487-Financial Responsibility Penalty Account	1,094	9	--	1,103	--	--	1,103	--	--	1,103
0492-State Athletic Commission Neurological Examination Account	579	17	55	541	22	56	507	22	59	470
0493-California Teleconnect Fund Administrative Committee Fund	86,152	112,128	80,990	117,290	83,749	128,108	72,931	73,699	108,457	38,173

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SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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SB 61

UNFINISHED BUSINESS

Bill No: SB 61
Author: Portantino (D), et al.
Amended: 9/6/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 4-2, 5/16/19
AYES: Portantino, Bradford, Hill, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 27-10, 5/22/19
AYES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
NO VOTE RECORDED: Roth

ASSEMBLY FLOOR: 46-17, 9/13/19
(ROLL CALL NOT AVAILABLE)

SUBJECT: Firearms: transfers

SOURCE: Author

DIGEST: This bill prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Assembly Amendments (1) limit the purchase limitations to one gun a month for semiautomatic centerfire rifles, in addition to handguns which are limited under existing law; (2) remove the language defining frames or receivers as firearms under specified scenarios; and (3) add double-jointing language to prevent chaptering issues with SB 172 (Portantino) and AB 645 (Irwin).

ANALYSIS:

Existing law:

1) Prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

2) Prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

3) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

   g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

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h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill:

1) Extends the prohibition on purchasing more than one handgun a month to also include semiautomatic centerfire rifles.

2) Exempts the following from the one gun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves

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the use of a firearm.

g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun or semiautomatic centerfire rifle where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun or semiautomatic centerfire rifle when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun or semiautomatic centerfire rifle to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training,

3) Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

Background

One Gun a Month. According to the Senate Public Safety Committee analysis of AB 202 (Knox, 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely

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> traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
>
> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
>
> - 71% for guns recovered in New York;
> - 72% for guns recovered in Massachusetts; and
> - 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.
>
> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may

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not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period.

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon.

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

  (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

AB 1674 (Santiago, 2015): Veto Message. The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.

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> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

SB 1177 (Portantino, 2018): Veto Message. The Governor stated in his veto message of Senate Bill 1177, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period, with the same exemptions included in this bill:

> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.
- Sales tax revenue loss (GF) likely in the hundreds of thousands of dollars to low millions of dollars annually due to the limitation on the number of firearms that may be purchased in a 30-day period.
- One-time costs (GF/Dealer Record of Sale Account) of $281,000 to the DOJ for limited term information technology staff and equipment to update systems to track both handguns and long guns to ensure only one purchase within a 30-day period.

SUPPORT: (Verified 9/12/19)

Bay Area Student Activists
Brady California United Against Gun Violence
Coalition Against Gun Violence
Giffords Law Center to Prevent Gun Violence
Los Angeles City Attorney
Los Angeles County Board of Supervisors

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OPPOSITION: (Verified 9/12/19)

California Rifle and Pistol Association
California Sportsman's Lobby
Gun Owners of California
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation

ARGUMENTS IN SUPPORT: According to Brady California United Against Gun Violence:

> In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.
>
> Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.
>
> It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale. A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale. Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64%

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more likely to be used for illegal purposes than guns purchased individually.

Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

ARGUMENTS IN OPPOSITION: According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California

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businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase.

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Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Prepared by: Gabe Caswell / PUB. S. /
9/13/19 15:51:52

****** END ******

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NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

September 11, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Floor (Concurrence)

Re: SB 61 (Portantino) Firearms: transfers (As Amended September 6, 2019)

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as amended, that would limit the purchase of a semiautomatic centerfire rifle by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a semiautomatic centerfire rifle. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of semiautomatic centerfire rifles for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one semiautomatic centerfire rifle purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Office of Senate Floor Analysis
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

SENATE RULES COMMITTEE SB 61
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 61
Author: Portantino (D), et al.
Amended: 9/6/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 4-2, 5/16/19
AYES: Portantino, Bradford, Hill, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 27-10, 5/22/19
AYES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
NO VOTE RECORDED: Roth

SUBJECT: Firearms: transfers

SOURCE: Author

DIGEST: Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Assembly Amendments ~~do the following~~:

1) Limit the purchase limitations to one gun a month for semiautomatic centerfire rifles, in addition to handguns which are limited under existing law.

2) Removes the language defining frames or receivers as firearms under specified scenarios; and

3) Add double jointing language to prevent chaptering issues with SB 172 (Portantino) and AB 645 (Irwin).

ANALYSIS:

Existing law:

1) Prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

2) Prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

3) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

   g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

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h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill:

1) Extends the prohibition on purchasing more than one handgun a month to also include semiautomatic centerfire rifles.

2) Exempts the following from the one gun a month prohibition: (Pen. Code, § 27535, subd. (b).)

a) Any law enforcement agency.

b) Any agency duly authorized to perform law enforcement duties.

c) Any state or local correctional facility.

d) Any private security company licensed to do business in California.

e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves

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the use of a firearm.

g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun or semiautomatic centerfire rifle where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun or semiautomatic centerfire rifle when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun or semiautomatic centerfire rifle to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training,

3) Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

Background

One Gun a Month. According to the Senate Public Safety Analysis of ~~Assembly Bill~~ AB 202 (Knox, ~~of~~ 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and

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> it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
>
> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
>
> - 71% for guns recovered in New York;
> - 72% for guns recovered in Massachusetts; and
> - 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.
>
> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

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- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period.

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon.

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

  (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

~~Assembly Bill~~ AB *1674 (Santiago), of 2015: Veto Message.* The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.

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Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

Senate Bill 1177 (Portantino), of 2018: Veto Message. The Governor stated in his veto message of Senate Bill 1177, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period, with the same exemptions included in this bill:

> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.
- Sales tax revenue loss (GF) likely in the hundreds of thousands of dollars to low millions of dollars annually due to the limitation on the number of firearms that may be purchased in a 30-day period.
- One-time costs (GF/Dealer Record of Sale Account) of $281,000 to the DOJ for limited term information technology staff and equipment to update systems to track both handguns and long guns to ensure only one purchase within a 30-day period.

SUPPORT: (Verified 9/12/19)

Bay Area Student Activists
Brady California United Against Gun Violence
Coalition Against Gun Violence
Giffords Law Center to Prevent Gun Violence
Los Angeles County Board of Supervisors
Los Angeles City Attorney

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OPPOSITION: (Verified 9/12/19)

California Rifle and Pistol Association
California Sportsman's Lobby
Gun Owners of California
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation

ARGUMENTS IN SUPPORT: According to Brady California United Against Gun Violence:

> In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.
>
> Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.
>
> It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale. A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale. Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64%

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more likely to be used for illegal purposes than guns purchased individually.

Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

ARGUMENTS IN OPPOSITION: According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California

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businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase.

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Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Prepared by: Gabe Caswell / PUB. S. /
9/12/2019 5:20:29

**** END ****

Provided by LRI History LLC

The California Sportsman's Lobby, Inc.

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

The California Sportsman's Lobby is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in the laws relating to these activities.

The California Sportsman's Lobby (CSL) promotes the conservation, enhancement, scientific management, and wise use of all our natural resources; CSL seeks an end of activities needlessly destructive to natural resources; CSL endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation, enhancement, and wise use of all our natural resources; and CSL works to secure more and better outdoor opportunities for all citizens, regardless of race, creed, or color as essential to the physical and spiritual well being of all the people.

This is to notify you of the opposition of the California Sportsmen's Lobby (CSL) to SB 61.

It would unjustifiably limit the purchase of a rifle or shotgun by any lawful person to one per month.

Rather than limit such purchases by lawful individuals to one per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Such persons will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer. The restrictions proposed in SB 61 would not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and for persons acquiring firearms at nonprofit fundraising events, it does not offset the opposed limitation on other lawful persons.

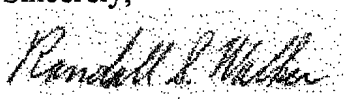
Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,



Randall Walker
President, California Sportsman's Lobby

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
California Sportsman's Lobby

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as introduced, that would limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a rifle or shotgun. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of rifles or shotguns for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one rifle or one shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to notify you of the opposition of the Outdoor Sportsmen's Coalition of California (OSCC) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

P.O. Box 848, Fresno, CA 93712

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and persons acquiring firearms at nonprofit fundraising events, it does not offset the needless limitation on other lawful individuals.

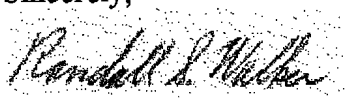
Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month, will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,



Randall Walker, President
Outdoor Sportsmen's Coalition of California

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
Outdoor Sportsmen's Coalition of California



Safari Club International

A NON-PROFIT ORGANIZATION ♦ DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING



SCI
FIRST FOR HUNTERS

SCI CA Coalition

May 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended May 17, 2019)

Dear Senator Portantino:

Safari Club International and Safari Club International Foundation (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

This is to notify you of the opposition of the SCI CA Coalition (SCI) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

While the exemption in the bill from the one gun per month limit for licensed hunters, and firearms acquired at nonprofit fundraising events, is appreciated, it does not mitigate the inappropriate limitation on others, such as recreational and competitive shooters.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, SCI CA Coalition opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Lisa C. McNamee
Co-Legislative Coordinator
SCI CA Coalition

Don Giottonini
Co-Legislative Coordinator
SCI CA Coalition

cc: Office of Legislative Affairs, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Office of Senate Floor Analysis
Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Ms. Kathryn Lynch, Legislative Advocate
SCI CA Coalition

SENATE RULES COMMITTEE SB 61
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 61
Author: Portantino (D), et al.
Amended: 5/17/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 4-2, 5/16/19
AYES: Portantino, Bradford, Hill, Wieckowski
NOES: Bates, Jones

SUBJECT: Firearms: transfers

SOURCE: Author

DIGEST: This bill is to extends the prohibition on purchasing more than one handgun a month to include all firearms.

ANALYSIS:

Existing law:

1) Prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

2) Prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

3) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

a) Any law enforcement agency.

b) Any agency duly authorized to perform law enforcement duties.

c) Any state or local correctional facility.

d) Any private security company licensed to do business in California.

e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

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This bill:

1) Extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

2) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

   b) Any agency duly authorized to perform law enforcement duties.

   c) Any state or local correctional facility.

   d) Any private security company licensed to do business in California.

   e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

   f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

   g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

   h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

   i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

   j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

   k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

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l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training,

3) Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

Background

One Gun a Month. According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
>
> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of

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crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:

- 71% for guns recovered in New York;
- 72% for guns recovered in Massachusetts; and
- 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period.

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon.

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun

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within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

Assembly Bill 1674 (Santiago), of 2015: Veto Message. The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.
>
> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

Senate Bill 1177 (Portantino), of 2018: Veto Message. The Governor stated in his veto message of Senate Bill 1177, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period, with the same exemptions included in this bill:

> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

California Hunting Licenses. This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid, unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements.
- Choose the correct type of hunting license.

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- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs $28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

System update: The Department of Justice anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

SUPPORT: (Verified 5/16/19)

Bay Area Student Activists
Brady California United Against Gun Violence
Coalition Against Gun Violence
Giffords Law Center to Prevent Gun Violence
Los Angeles County Board of Supervisors
Los Angeles City Attorney

OPPOSITION: (Verified 5/16/19)

California Rifle and Pistol Association
California Sportsman's Lobby

Gun Owners of California
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation

ARGUMENTS IN SUPPORT: According to Brady California United Against Gun Violence:

> In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.
>
> Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.
>
> It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale. A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale. Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.

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Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

ARGUMENTS IN OPPOSITION: According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's

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wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase. Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired

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effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Prepared by: Gabe Caswell / PUB. S. /
5/16/2019 3:9:44

****** END ******

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A

SENATE RULES COMMITTEE SB 61
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

DRAFT

THIRD READING

Bill No: SB 61
Author: Portantino (D), et al.
Introduced: 1/3/19 5/17
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/2/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SA

SUBJECT: Firearms: transfers

SOURCE: Author ✓

DIGEST: This bill is to extends the prohibition on purchasing more than one handgun a month to include all firearms.

ANALYSIS:

Existing law:

1) Prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

2) Prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

3) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

   a) Any law enforcement agency.

b) Any agency duly authorized to perform law enforcement duties.

c) Any state or local correctional facility.

d) Any private security company licensed to do business in California.

e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

l) The return of any handgun to its owner.

m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill:

1) Extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

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2) Exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

a) Any law enforcement agency.

b) Any agency duly authorized to perform law enforcement duties.

c) Any state or local correctional facility.

d) Any private security company licensed to do business in California.

e) Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

f) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

g) Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.

h) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

i) Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.

j) The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

k) The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

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m) A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic

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course or other commission-certified law enforcement training,

3) Specifies that specified licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to any person who is under 21 years of age, with specified exemptions.

Background

One Gun a Month

According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.
>
> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's

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adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:

- 71% for guns recovered in New York;
- 72% for guns recovered in Massachusetts; and
- 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period. . .

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon. . .

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more

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> than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

Assembly Bill 1674 (Santiago), of 2015: Veto Message

The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.
>
> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

Senate Bill 1177 (Portantino), of 2018: Veto Message

The Governor stated in his veto message of Senate Bill 1177, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period, with the same exemptions included in this bill:

> This bill prohibits any person from purchasing more than one long-gun per month.
>
> I vetoed a substantially similar bill in 2016, and my views have not changed.

California Hunting Licenses

This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid,

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unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements
- Choose the correct type of hunting license.
- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs $28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

Acc. to the SA

Fee revenue loss: The Department of Justice estimates an overall annual revenue reduction of 10 percent in fee collection resulting from fewer firearm purchases, equating to an overall annual loss of $2.23 million. See comment below. (Various special funds)

Tax revenue loss: Unknown, likely-significant loss in sales tax revenue resulting from the limitation on the number of long guns a person may purchase. (General Fund, local funds)

System update: The Department of Justice (DOJ) anticipates that need of 1.0 limited-term Information Technology Specialist I in FY 2020-21 at a cost of $281,000, inclusive of attendant equipment and operating expenses. (Special fund*, General Fund)

* Dealers Record of Sale Special Account (DROS)—structurally imbalanced

SUPPORT: (Verified 5/16/19)

Bay Area Student Activists
Brady California United Against Gun Violence
Coalition Against Gun Violence
Giffords Law Center to Prevent Gun Violence
Los Angeles County Board of Supervisors
Los Angeles City Attorney

OPPOSITION: (Verified 5/16/19)

California Rifle and Pistol Association
California Sportsman's Lobby
Gun Owners of California
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation

ARGUMENTS IN SUPPORT:

According to Brady California: United Against G.U.

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.

Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.

It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale. A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale. Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a

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multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.

Since 1999, Californians have typically purchased more long guns than handguns every year. Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns. Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

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ARGUMENTS IN OPPOSITION:

According to California Rifle and Pistol Association:

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

The author and proponents have argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a

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California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase. Both California and Federal law already address the author's concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, does allow for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, the author has argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

The author and proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed".

Prepared by: Gabe Caswell / PUB. S. /
5/16/2019 3:9:44

**** END ****

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Assembly Policy Committee Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chairman

BACKGROUND INFORMATION REQUEST

Please complete and return 2 copies of this form and 2 copies of all supporting materials (including, press releases, support/opposition letters, proposed amendments, etc) ASAP of receipt of this form.

A bill cannot be heard if a completed worksheet is not returned.

In addition, please e-mail this background information request form electronically to:
Estefani Avila (estefani.avila @asm.ca.gov), Committee Secretary
and Gary Olson (gary.olson@asm.ca.gov).
All material sent electronically should be flagged individually
(i.e., support/opposition letters, proposed amendments, news articles)

Further we ask that you advise your advocates to submit position letters through the CA Legislature portal. Click here to access.

Measure: SB 61

Author: Portantino

Staff: Tara McGee

Staff Contact Number: 916-651-4025

Please use Times New Roman Font and 12 point size for all responses. Thank you.

BILL ORIGIN:

1) Source: What person, organization, or governmental entity requested introduction? Please include the name, address, and phone number of the contact person.

   Author sponsored.

2) Similar Legislation: Has a similar bill been previously introduced? Please identify the bill number, author, appropriate legislative session, and disposition of the bill.

   SB 1177 (Portantino), 2018, vetoed
   AB 1674 (Santiago), 2015, vetoed
   SB 1100 (Portantino) – Chaptered in 2018

SB 746 (Portantino) – Chaptered in in 2018

BACKGROUND:

1) What is the problem or deficiency in existing law which this bill will remedy?
Current law establishes the purchase of only being able to purchase a handgun in a 30 day period. SB 61 would extend this 30-day limit to purchase to all types of firearms. The bill will also make it so that any person under the age of 21 years of age without exemptions cannot purchase a semi-automatic centerfire rifle unless the obtain a COE with the Department of Justice and are active or retired military, have a hunting license or active law enforcement.

2) If there has been an interim committee report, study, news article, statistic or other evidence on the bill, please submit copies and/or links of these materials to the Committee.

   No.

3) Are there any similar federal legislation or related bills or laws in other states? Please attach or provide any information and links, as appropriate.

4) Please include an author's statement as you wish it to appear on the committee analysis:

   More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by creating the person to obtain a CEO with the Department of Justice as well.

SUPPORT AND OPPOSITION

All letters of support or opposition must be forwarded to the committee as soon as possible. Please note that these letters will NOT be returned.

AMENDMENTS:

Do you plan ANY amendments to this bill prior to hearing? If so, please submit a copy of the language submitted to Legislative Counsel or provide a brief summary of planned amendments to the committee as soon as possible.

As to the "one gun a month" provision, there are discussions as to creating a carve out for semiautomatic centerfire rifles for charity events where the recipient of the gun has a COE or is a licensed hunter with a hunter or the purchaser at a charity event has a hunting license. There are some featureless long standing semiautomatic centerfire rifles that are used in hunting and have been used in hunting for generations.

Given how the one-gun-a-month law works now, licensed collectors with COE's are exempt from the law. [COE's are discussed in the next paragraphs].

As to the Age 18 to 21 provision on semiautomatic centerfire rifles, there is a discussion as to the delayed implementation of the tweaking of SB 1100 to 1/1/2021. The reason is that there is pending litigation in Washington State discussed above which challenges the dealer processing of semiautomatic rifles [rim-fire and centerfire] to persons under age 21. Because of that litigation, the 18 to 21 prohibition in SB 61 does not cover rim-fire rifles. However, the District Court has indicated that he will strike that legislation down because it does not have any hunting exemption. The judge at the same time has stated that he would sustain the legislation if it had some sort of enhanced licensing procedure.

It so happens that in California we have the Certificate of Eligibility which is a fingerprint based [live scan] background check which has been in effect for many years. The COE costs in excess of $71.00 and takes at least a month to issue. That would appear to meet the Court's concern. SB 61 in effect would as amended retain the SB 1100 exemptions for retired military and licensed hunters as to semiautomatic centerfire rifles if they also have a COE.

COMMITTEE POLICY ON AUTHOR'S AMENDMENTS

Author's amendments must be submitted to the Committee (in Legislative Counsel Form) by Wednesday, 5:00 p.m., prior to the scheduled committee hearing date. AMENDMENTS (ORIGINAL, SIGNED BY MEMBER, PLUS **EIGHT** COPIES IN LEGISLATIVE COUNSEL FORM) MUST BE **HAND DELIVERED** TO THE COMMITTEE AT 1020 "N" STREET, ROOM 111. **DO NOT** SEND AMENDMENTS THROUGH INTER-AGENCY MAIL.

PLEASE RETURN THIS FORM TO: ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Phone: 916-319-3744
Fax: 916-319-3745
e-mail to: estefani.avila@asm.ca.gov

SB 61 (Portantino)
Firearms: Transfers (One Gun a Month)

PROBLEM

The bulk of gun trafficking and violence has been perpetuated by handguns. For that reason, California has long had enhanced procedures in place to address that by various measures, one of which is the general limitation on a gun dealer delivering more than 1 handgun to an individual during a 30 day period. The "one gun a month" or "bulk transfer" law has numerous exemptions. Since it went into effect in 2000 the data suggests it has reduced the incidence of gun trafficking while not burdening legitimate gun owners or persons who wish to acquire guns.

Recent data suggest that long guns are becoming a significant piece of California's gun trafficking problem. Over the past ten years, Californians have typically purchased more long guns than handguns, including 538,149 guns in 2013. Of the 26,682 crime guns entered into the California Department of Justice's (DOJ) Automated Firearms Systems (AFS) database in 2009, 11,500 were long guns. Furthermore, DOJ has found that half the illegal firearms recovered from prohibited persons are long guns.

BACKGROUND

Over the past ten years, Californians have annually purchased more long guns than handguns. The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. The vast majority of long gun purchasers will not be impacted by SB 61. An individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns.

DOJ data shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed entirely of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or long gun, or purchased new from a dealer or through a private party transaction. Limiting firearms sales to one gun per month is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands.

SUMMARY

In SB 61, firearms will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser had made another application to purchase a firearm. In addition, because of the interaction of state and federal law, receivers or frames (the gun minus the barrel) are also applicable to the 30-day purchase period.

SB 61 would also prohibit the sale of a semiautomatic centerfirerifle to either of those exempted persons who are under 21 years of age.

EXISTING LAW

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per month. AB 202 provided a number of exemptions, including private party transactions. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to all firearms, including long guns (rifles, shotguns, and lower receivers), and removes the exemption for private party transfers.

SUPPORT

Brady California United Against Gun Violence
Bay Area Student Activists (BAStA)
California Police Chiefs
City of Los Angeles
County of Los Angeles
Giffords Law Center
Physicians for Social Responsibility, SF Chapter
The Los Angeles County Board of Supervisors
Women for: Orange County

Version: 6/6/2019

Office of Senator Anthony J. Portantino
SB 61 – Fact Sheet
Contact: Tara McGee – (916) 651-4025 or Tara.McGee@sen.ca.gov

Date of Hearing: June 25, 2019
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 61 (Portantino) – As Amended June 11, 2019

SUMMARY: Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one long gun in any 30-day period, except as specified. Specifically, **this bill**:

1) Prohibits a person from making an application to purchase more than one firearm of any type within any 30-day period and makes conforming changes to the existing prohibition against the purchase of more than one handgun in any 30-day period. (Pen. Code, § 27535, subd. (a).)

2) Adds the following entities to the existing exemption to the 30-day prohibition relating to sale of handguns:

   a) The purchase of a firearm other than a handgun by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

   b) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit, or mutual benefit corporation to fund the activities of that corporation or local chapter of that corporation; and,

   c) Clarifies that for the purpose of the above exemption, the frame or receiver of a firearm is a handgun, unless the application to purchase and delivered to the recipient is equipped with, is attached to, or is currently accompanied by, a barrel of 16 inches or greater in length.

3) Provides that effective January 1, 2021 a licensed firearms dealer shall not sell, supply, deliver, or give a semiautomatic centerfire rifle to any person under 21 years of age. This provision shall not apply to any of the following persons 18 years of age or older:

   a) An active peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

   b) An active federal officer, or law enforcement agent, who is authorized to carry a firearm in the course and scope of his or her employment;

   c) A reserve peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

   d) An active member of the United States Armed Forces, the National Guard, the Air national Guard, or the active reserve components of the United States, where the

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individuals in these organizations are properly identified. Proper identification includes the Armed Forces Identification Card or other written documentation certifying that the individual is an active or honorably retired member; and,

e) A person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife and a certificate of eligibility issued by the Department of Justice (DOJ).

EXISTING LAW:

1) Prohibits a licensed firearms dealer from selling, supplying, or giving possession or control of a firearm to any person under 21 years of age. (Pen. Code, § 27510, subd. (a).)

2) Provides that the above prohibition does not apply to or affect the sale, supplying, or giving possession or control of a firearm to any person 18 years of age or older who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife. (Pen. Code, § 27510, subd. (b)(1).)

3) Exempts the sale of a firearm, that is not a handgun, to the following persons that are 18 years of age or older:

   a) An active peace officer, who is authorized to carry a firearm in the course and scope of his or her employment;

   b) An active federal officer, or law enforcement agent, who is authorized to carry a firearm in the course and scope of his or her employment;

   c) A reserve peace officer, who is authorized to carry a firearm in the course and scope of his or her employment; and,

   d) An active member of the United States Armed Forces, the National Guard, the Air national Guard, or the active reserve components of the United States, where the individuals in these organizations are properly identified. Proper identification includes the Armed Forces Identification Card or other written documentation certifying that the individual is an active or honorably retired member. (Pen. Code, §27510, subd. (b)(2).)

4) Prohibits any person from making an application to purchase more than one handgun within any 30-day period. (Pen. Code, § 27535, subd. (a).)

5) Exempts from the above 30-day prohibition any of the following:

   a) Any law enforcement agency;

   b) Any agency duly authorized to perform law enforcement duties;

   c) Any state or local correctional facility;

   d) Any private security company licensed to do business in California;

e) Any person who is a peace officer, as specified, and is authorized to carry a firearm in the course and scope of employment;

f) Any motion picture, television, video production company or entertainment or theatrical company whose production by its nature involves a firearm;

g) Any authorized representative of a law enforcement agency, or a federally licensed firearms importer or manufacturer;

h) Any private party transaction conducted through a licensed firearms dealer;

i) Any person who is a licensed collector and has a current certificate of eligibility issued by the DOJ;

j) The exchange, replacement, or return of a handgun to a licensed dealer within the 30-day period; and,

k) A community college that is certified by the Commission on Peace Officer Standards and Training (POST) to present law enforcement academy basic course or other commission-certified training. (Pen. Code, § 27535, subd. (b).)

6) Provides that a person may request a certificate of eligibility form the DOJ, and requires the department to examine its records and records available to the department in the National Instant Criminal Background Check System (NICS) in order to determine if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Pen. Code, § 26710, subds. (a) & (b).)

7) Requires DOJ to issue a certificate of eligibility to an applicant if the if the department's records indicate that the person is not a person who is prohibited by state or federal law from possessing a firearm, and requires the department regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates. (Pen. Code, § 26710, subds. (c) & (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement:** According to the author, "More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a CEO with the DOJ as well."

2) **Governor's Vetoes:** AB 1174 (Santiago), of the 2015-2016 Legislative Session, and SB 1177 (Portantino), of the 2017-2018 Legislative Session, each prohibited any person from making more than one application to purchase a long gun within any 30 day period. Both AB 1174 and SB 1177 were vetoed by the Governor.

In regard to AB 1174, the Governor stated in his veto message, "This bill generally prohibits the purchase of more than one firearm within any 30 day period. It should be noted that California already bans the purchase of more than one handgun per month. While well intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms they no longer need. Given California's restricting gun ownership, I do not believe this additional restriction is needed."

In regard to SB 1177, the Governor stated in his veto message, "This bill prohibits a person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed."

3) **Argument in Support:** According to the *Ventura County Board of Supervisors*, "As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi--pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

"We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions."

4) **Argument in Opposition:** According to the California Rifle and Pistol Association "SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

"SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

"You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate

recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

"Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase."

"Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ."

5) **Prior Legislation:**

a) SB 1100 (Portantino), Chapter 894, Statutes of 2018, increased the age for which a person can purchase a long-gun from a licensed dealer from 18-21 years of age, except as specified.

b) SB 1177 (Portantino), of the 2017-2018 Legislative Session, prohibited any person from making more than one application to purchase more than one long one within any 30 day period. SB 1177 was vetoed by the Governor.

c) AB 1674 (Santiago), of the 2015-2016 Legislative Session, prohibited any person from making more than one application to purchase more than one long gun within any 30 day period. SB 1674 was vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Student Activists
Brady California United Against Gun Violence
California Police Chiefs Association
Coalition Against Gun Violence, A Santa Barbara County Coalition
Laguna Woods Democratic Club
Los Angeles City Attorney
Los Angeles County Board of Supervisors
Physicians for Social Responsibility - San Francisco Bay Area Chapter

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Ventura County Board of Supervisors
Women For: Orange County

Oppose

California Rifle and Pistol Association, Inc.
California Sportsman's Lobby, Inc.
Gun Owners of California, Inc.
National Rifle Association - Institute for Legislative Action
National Shooting Sports Foundation, Inc.
Outdoor Sportsmen's Coalition of California
Safari Club International - California Chapters

Analysis Prepared by: Gregory Pagan / PUB. S. / (916) 319-3744

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SENATE THIRD READING
SB 61 (Portantino)
As Amended August 30, 2019
Majority vote

SUMMARY:

Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Major Provisions

1) Prohibits a person from making an application to purchase more than one centerfire automatic rifle within any 30-day period and makes conforming changes to the existing prohibition against the purchase of more than one handgun in any 30-day period.

2) Adds the following entities to the existing exemption to the 30-day prohibition relating to sale of handguns:

   a) The purchase of a firearm other than a handgun by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

   b) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit, or mutual benefit corporation to fund the activities of that corporation or local chapter of that corporation; and,

   c) Clarifies that for the purpose of the above exemption, the frame or receiver of a firearm is a handgun, unless the application to purchase and delivered to the recipient is equipped with, is attached to, or is currently accompanied by, a barrel of 16 inches or greater in length.

3) Provides that a licensed firearms dealer shall not sell, supply, deliver, or give possession of a firearm to any person under 21 years of age. This provision shall not apply to or affect the sale of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older that possesses a valid unexpired hunting license issued by the Department of Fish and Wildlife, or is an honorably discharged member of the United States military.

4) States that the provisions of this bill are severable.

COMMENTS:

>

According to the Author:
"More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening

when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a CEO with the DOJ as well."

Arguments in Support:
According to the Ventura County Board of Supervisors, "As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi-¬-pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

"We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions."

Arguments in Opposition:
According to the California Rifle and Pistol Association "SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

"SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

"You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

"Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473

and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase."

"Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee

VOTES:

SENATE FLOOR: 27-10-1
YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
ABS, ABST OR NV: Roth

ASM PUBLIC SAFETY: 5-2-1
YES: Jones-Sawyer, Bauer-Kahan, Quirk, Santiago, Wicks
NO: Lackey, Mathis
ABS, ABST OR NV: Kamlager-Dove

UPDATED:

VERSION: June 11, 2019

CONSULTANT: Gregory Pagan / PUB. S. / (916) 319-3744 FN:

Revised – As Amended RN1919400

SENATE THIRD READING
SB 61 (Portantino)
As Amended September 3, 2019
Majority vote

SUMMARY:

Prohibits the sale of a semiautomatic centerfire rifle to any person under 21 years of age, and prohibits a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period, except as specified.

Major Provisions

1) Prohibits a person from making an application to purchase more than one centerfire automatic rifle within any 30-day period and makes conforming changes to the existing prohibition against the purchase of more than one handgun in any 30-day period.

2) Adds the following entities to the existing exemption to the 30-day prohibition relating to sale of handguns:

a) The purchase of a firearm other than a handgun by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife;

b) The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit, or mutual benefit corporation to fund the activities of that corporation or local chapter of that corporation; and,

c) Clarifies that for the purpose of the above exemption, the frame or receiver of a firearm is a handgun, unless the application to purchase and delivered to the recipient is equipped with, is attached to, or is currently accompanied by, a barrel of 16 inches or greater in length.

3) Provides that a licensed firearms dealer shall not sell, supply, deliver, or give possession of a firearm to any person under 21 years of age. This provision shall not apply to or affect the sale of a firearm that is not a handgun or a semiautomatic centerfire rifle to a person 18 years of age or older that possesses a valid unexpired hunting license issued by the Department of Fish and Wildlife, or is an honorably discharged member of the United States military.

4) States that the provisions of this bill are severable.

COMMENTS:

According to the Author:

"More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a CEO with the DOJ as well."

Arguments in Support:
According to the Ventura County Board of Supervisors, "As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi-¬-pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

"We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions."

Arguments in Opposition:
According to the California Rifle and Pistol Association "SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

"SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

"You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

"Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first

firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase."

"Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee:

1) DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.

2) Sales tax revenue loss (GF) likely in the hundreds of thousands of dollars annually due to the limitation on the number of centerfire semiautomatic rifles that may be purchased in a 30-day period.

3) One-time costs (GF/Dealer Record of Sale Account) of less than $100,000 to the DOJ for limited term information technology staff and equipment to update systems to track centerfire semiautomatic rifles to ensure only one purchase within a 30-day period.

VOTES:

SENATE FLOOR: 27-10-1
YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NO: Bates, Borgeas, Chang, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk
ABS, ABST OR NV: Roth

ASM PUBLIC SAFETY: 5-2-1
YES: Jones-Sawyer, Bauer-Kahan, Quirk, Santiago, Wicks
NO: Lackey, Mathis
ABS, ABST OR NV: Kamlager-Dove

ASM APPROPRIATIONS: 13-5-0
YES: Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas
NO: Bigelow, Brough, Diep, Fong, Obernolte

UPDATED:

VERSION: September 3, 2019

CONSULTANT: Gregory Pagan (Counsel) / PUB. S. / (916) 319-3744 FN:

Provided by LRI History LLC

PROPOSED AMENDMENTS TO SB 61
Legislative Counsel No. **1919400**
Set # 1 (Portantino)

The proposed amendments double joint this bill with SB 172 (Portantino), and AB 645 (Irwin) to avoid chaptering issues.

CONSULTANT: Gregory Pagan / PUB. S. / (916) 319-3744 FN:

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Nonsubstantive

AMENDMENTS TO SENATE BILL NO. 61
AS AMENDED IN ASSEMBLY SEPTEMBER 3, 2019

Amendment 1
On page 4, between lines 36 and 37, insert:

SEC. 1.1. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall ~~post~~ conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE ~~WEB SITE~~ WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A ~~PISTOL, REVOLVER, OR OTHER~~ FIREARM ~~CAPABLE OF BEING CONCEALED UPON THE PERSON,~~ WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

RN1919400

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall ~~become operative on January 1, 2019.~~ remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 1.2. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE WEB SITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER

YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall ~~become operative on January 1, 2019.~~ remain in effect only until June 1, 2020, and as of that date is repealed.

SEC. 1.3. Section 26835 of the Penal Code is amended to read:

26835. (a) A licensee shall ~~post~~ conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE ~~WEB SITE~~ WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A ~~PISTOL, REVOLVER, OR OTHER~~ FIREARM ~~CAPABLE OF BEING CONCEALED UPON THE PERSON,~~ WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A ~~LOADED~~ FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH

THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall ~~become operative on January 1, 2019.~~remain in effect only until June 1, 2020, and as of that date is repealed.

Amendment 2

On page 6, between lines 38 and 39, insert:

SEC. 2.1. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) This section shall become operative on July 1, 2021.

SEC. 2.2. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR

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OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on June 1, 2020.

(d) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2.3. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL

OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on July 1, 2021.

SEC. 2.4. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH

THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN

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APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on June 1, 2020.

(d) This section shall remain in effect only until July 1, 2021, and as of that date is repealed.

SEC. 2.5. Section 26835 is added to the Penal Code, to read:

26835. (a) A licensee shall conspicuously post within the licensed premises the following warnings in block letters not less than one inch in height:

(1) "FIREARMS MUST BE HANDLED RESPONSIBLY AND SECURELY STORED TO PREVENT ACCESS BY CHILDREN AND OTHER UNAUTHORIZED USERS. CALIFORNIA HAS STRICT LAWS PERTAINING TO FIREARMS, AND YOU MAY BE FINED OR IMPRISONED IF YOU FAIL TO COMPLY WITH THEM. VISIT THE INTERNET WEBSITE OF THE CALIFORNIA ATTORNEY GENERAL AT HTTPS://OAG.CA.GOV/FIREARMS FOR INFORMATION ON FIREARM LAWS APPLICABLE TO YOU AND HOW YOU CAN COMPLY."

(2) "IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(3) "CHILDREN MAY BE UNABLE TO DISTINGUISH FIREARMS FROM TOYS AND MAY OPERATE FIREARMS, CAUSING SEVERE INJURIES OR DEATH. IF YOU KEEP A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(4) "YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE OR IMPRISONMENT, IF YOU KEEP A FIREARM WHERE A MINOR IS LIKELY TO ACCESS IT OR IF A MINOR OBTAINS AND IMPROPERLY USES IT, OR CARRIES IT OFF OF THE PREMISES TO A SCHOOL

OR SCHOOL-SPONSORED EVENT, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(5) "IF YOU NEGLIGENTLY STORE OR LEAVE A FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A SIGNIFICANT FINE, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(6) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(7) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(8) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE HANDGUN OR SEMIAUTOMATIC CENTERFIRE RIFLE WITHIN ANY 30-DAY PERIOD."

(9) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

(b) In addition to the notice required by subdivision (a), a licensee shall post conspicuously within the licensed premises, in block letters not less than one inch in height, an additional notice, including, but not limited to, a notice provided by a suicide prevention program, containing the following statement:

"IF YOU OR SOMEONE YOU KNOW IS CONTEMPLATING SUICIDE, PLEASE CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 1-800-273-TALK (8255)."

(c) This section shall become operative on July 1, 2021.

Amendment 3

On page 10, strike out line 31, in line 32, strike out "This" and insert:

(c) This

Amendment 4
On page 15, between lines 37 and 38, insert:

SEC. 9. (a) Sections 1.1 and 2.1 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by both this bill and Senate Bill 172. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 26835 of the Penal Code, (3) Assembly Bill 645 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 172, in which case Sections 1, 1.2, 1.3, 2, 2.2, 2.3, 2.4, and 2.5 of this bill shall not become operative.

(b) Sections 1.2, 2.2, and 2.3 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by both this bill and Assembly Bill 645. Those sections shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 26835 of the Penal Code, (3) Senate Bill 172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 645, in which case Sections 1, 1.1, 1.3, 2, 2.1, 2.4, and 2.5 of this bill shall not become operative.

(c) Sections 1.3, 2.4, and 2.5 of this bill incorporate amendments to Section 26835 of the Penal Code proposed by this bill, Assembly Bill 645, and Senate Bill 172. Those sections of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend Section 26835 of the Penal Code, and (3) this bill is enacted after Assembly Bill 645 and Senate Bill 172, in which case Sections 1, 1.1, 1.2, 2, 2.1, 2.2 and 2.3 of this bill shall not become operative.

Amendment 5
On page 15, in line 39, strike out "SEC. 9." and insert:

SEC. 10.

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The California
Sportsman's Lobby, Inc.

September 4, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95814

Position: Opposition Withdrawn

Location: Assembly Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended September 3, 2019)

Dear Senator Portantino:

The California Sportsman's Lobby is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in the laws relating to these activities.

The California Sportsman's Lobby (CSL) promotes the conservation, enhancement, scientific management, and wise use of all our natural resources; CSL seeks an end of activities needlessly destructive to natural resources; CSL endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation, enhancement, and wise use of all our natural resources; and CSL works to secure more and better outdoor opportunities for all citizens, regardless of race, creed, or color as essential to the physical and spiritual well being of all the people.

This is to notify you that CSL is withdrawing its opposition to SB 61 as amended on September 3, 2019.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Randall Walker
President, California Sportsman's Lobby

cc: Mr. Gregory Pagan, Consultant, Assembly Public Safety Committee
Mr. Gary Olson, Consultant, Assembly Republican Caucus
Speaker's Office of Research and Floor Analysis
Ms. Kathryn Lynch, Legislative Advocate
California Sportsman's Lobby

Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

September 4, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95814

Position: Opposition Withdrawn

Location: Assembly Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended September 3, 2019)

Dear Senator Portantino:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to notify you that OSCC is withdrawing its opposition to SB 61 as amended on September 3, 2019.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Randall L. Walker

Randall Walker, President
Outdoor Sportsmen's Coalition of California

cc: Mr. Gregory Pagan, Consultant, Assembly Public Safety Committee
Mr. Gary Olson, Consultant, Assembly Republican Caucus
Speaker's Office of Research and Floor Analysis
Ms. Kathryn Lynch, Legislative Advocate
Outdoor Sportsmen's Coalition of California

P.O. Box 848, Fresno, CA 93712

Safari Club International

A NON-PROFIT ORGANIZATION • DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING

SCI
FIRST FOR HUNTERS

SCI CA Coalition

September 4, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95814

Position: Opposition Withdrawn

Location: Assembly Floor

Re: SB 61 (Portantino) Firearms: transfers (As Amended September 3, 2019)

Dear Senator Portantino:

Safari Club International and Safari Club International Foundation (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

This is to notify you that SCI is withdrawing its opposition to SB 61 as amended on September 3, 2019.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Lisa C. McNamee
Co-Legislative Coordinator
SCI CA Coalition

Don Giottonini
Co-Legislative Coordinator
SCI CA Coalition

cc: Mr. Gregory Pagan, Consultant, Assembly Public Safety Committee
Mr. Gary Olson, Consultant, Assembly Republican Caucus
Speaker's Office of Research and Floor Analysis
Ms. Kathryn Lynch, Legislative Advocate
SCI CA Coalition

Lynch & Associates
1127 11th Street, Suite 610
Sacramento, CA 95814
Telephone: (916) 443-0202
Fax: (916) 443-7353
Cell: (916) 838-6600
Email: lynch@lynchlobby.com

Kathryn A. Lynch
Legislative Advocate

September 4, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95814

Position: Opposition Withdrawn

Location: Assembly Floor

Re: SB 61 (Portantino) Firearms: transfers

Dear Senator Portantino:

This is to notify you that the California Sportsman's Lobby, Outdoor Sportsmen's Coalition of California, and Safari Club International–CA Chapters are withdrawing their opposition to SB 61 as amended on September 3, 2019.

Should you have any questions, please contact me, their legislative advocate, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Kathryn Lynch
Legislative Advocate

cc: Mr. Gregory Pagan, Consultant, Assembly Public Safety Committee
Mr. Gary Olson, Consultant, Assembly Republican Caucus
Speaker's Office of Research and Floor Analysis
Ms. Kathryn Lynch, Legislative Advocate

GIFFORDS LAW CENTER
TO PREVENT GUN VIOLENCE

268 Bush Street #555, San Francisco, CA 94104 415-433-2062 GIFFORDSLAWCENTER.ORG

VIA EMAIL

February 18, 2019

The Honorable Reginald Jones-Sawyer, Jr.
Chair, Public Safety Committee
California State Assembly
Sacramento, CA 95814

Re: Support for AB 61 (Ting) – Gun Violence Restraining Orders

Dear Chairman Jones-Sawyer,

On behalf of the Giffords Law Center to Prevent Gun Violence, I urge you to **support AB 61 (Ting)**. Now led by former Congresswoman Gabby Giffords and Captain Mark Kelly, our organization has worked for 25 years to enact evidence-based policy reforms at the local, state, and national levels to save lives from gun violence.

In 2014, California became the first state in the nation to enact a Gun Violence Restraining Order law (often known in other states as an Extreme Risk Protection Order or ERPO). Since January 1, 2016, this groundbreaking law has provided Californians with an important tool to reduce the risk of mass shootings, suicides, and gun violence in our state.

This law provides legal standing to law enforcement and a person's family or household members to present sworn evidence to a court that a person is an extreme risk to themselves or others with a firearm. If the judge concludes that the respondent poses a significant danger to self or others, the court may issue a Gun Violence Restraining Order (GVRO) to temporarily suspend the respondent's access to guns and ammunition. This order prevents that person from passing a background check to obtain weapons and may also authorize law enforcement to remove weapons in the respondent's possession.

Provided by LRI History LLC

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TO PREVENT GUN VIOLENCE

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This law addresses the fact—tragically demonstrated in countless shooting tragedies—that individuals who have not been involuntarily committed to a psychiatric hospital and who are not otherwise prohibited from owning guns may still pose known and significant threats to public safety.

Under existing law, however, the GVRO process remains unavailable to other community members who may have unique personal knowledge of a person's mental state or dangerousness.

AB 61 would help close this gap by allowing school personnel and co-workers to also petition a court for issuance of a GVRO where they have personal knowledge regarding a person's dangerousness. In many cases, these individuals will have more regular contact with a troubled student or co-worker than that person's family members or law enforcement. School personnel and co-workers may also be better suited to bring GVRO petitions in some circumstances than family members who are in denial or estranged from an unstable individual or who may fear the repercussions of filing a petition to disarm a loved one.

A brutally familiar drumbeat of school, workplace, and public shootings have demonstrated the importance of opening courtroom doors to school officials and co-workers to file GVRO petitions. The gunman who perpetrated the February 14, 2018 school shooting in Parkland, Florida, for instance, had been prohibited by school officials from carrying a backpack on school grounds for fear that he might be concealing weapons. But under California law, those same educators and school administrators would not have had legal standing to petition a court with sworn evidence of his dangerousness with firearms.

Prior to the June 12, 2016 shooting at a gay night club in Orlando, Florida, the gunman's co-workers had also repeatedly reported that he was "dangerous," "unstable," and "unhinged," and that he had made credible threats of violence and of committing a mass shooting.[i] One former co-worker told reporters, "When news broke of the shooting . . . I absolutely knew he was the shooter." By contrast, the gunman's father said his family was "not aware of any action he [was] taking" and "in shock like the whole country;"[ii] though the gunman's wife believed her husband

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was planning to attack a gay nightclub, she made no attempt to notify law enforcement.[iii]

In such cases, where family members are unable or unwilling to help disarm a dangerous person, other well-situated individuals should be able to proactively and directly intervene. But existing California law provides no legal standing for co-workers and others with unique personal insight about a potential gunman's dangerousness to petition a court to hear relevant information and issue a GVRO. **AB 61 would simply empower more community members to "see something and say something" by filing a sworn petition to a judge when they observe serious and imminent threats to public safety.**

To be clear, AB 61 would *not* alter the strict legal standard under which courts must evaluate whether to issue a GVRO; all of the due process protections afforded by existing GVRO statutes would still apply. *Ex parte* GVROs may only be issued in emergency cases if the judge finds that there is a substantial likelihood that the respondent poses a significant danger to self or others in the near future by having access to a firearm *and* that a GVRO is necessary under the circumstances to prevent such harm.[iv] GVROs issued after notice and a hearing have to meet an even higher burden of proof to demonstrate "clear and convincing evidence" of the respondent's dangerousness and the GVRO's necessity.[v] **Existing law also guards against potential abuse of the GVRO process by imposing significant criminal penalties on individuals who file a knowingly false or harassing petition, including felony perjury charges.** And AB 61 makes clear that it would *not* legally obligate any person to file a petition.

Finally, we wish to point out that co-workers and school administrators are already authorized to seek *ex parte*, firearm-prohibiting protective orders against a dangerous student or colleague who has specifically threatened them as individuals.[vi] AB 61 would, importantly, authorize these same individuals to speak for others' safety too when they have personal knowledge that a person is a clear danger to themselves or intends to commit violence against others.

We believe this legislation would improve public safety and help more

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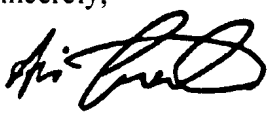
community members take proactive steps to thwart mass shootings and other tragedies.

For these reasons, we urge you to support AB 61 (Ting)

Sincerely,



Ari Freilich
California Legislative Affairs Director & Staff Attorney
Giffords Law Center to Prevent Gun Violence

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[i] The New Yorker, "The Security Firm That Employed the Orlando Shooter Protects American Nuclear Facilities" (Jun. 27, 2016), at http://www.newyorker.com/news/news-desk/the-security-firm-that-employed-the-orlando-shooter-protects-american-nuclear-facilities.
Los Angeles Times, "Orlando Terror Attack updates" (Jun. 16, 2016), at http://www.latimes.com/nation/la-na-orlando-nightclub-shooting-live-former-coworker-i-complained-multiple-1465777922-htmlstory.html; Business Insider, "He 'became obsessed': Former coworker describes the Orlando shooter's 'scary' behavior" (Jun. 14, 2016), at http://www.businessinsider.com/orlando-shooters-former-coworker-describes-his-scary-behavior-2016-6.
[ii] Haaretz, "Father of Orlando Shooter 'In Shock,' Says His Son Was Angry After Seeing Two Men Kissing" (Jun. 12, 2016), at http://www.haaretz.com/world-news/americas/1.724548.
[iii] NBC News, "Orlando Gunman's Wife Gave No Warning to Cops Before Attack" (Jun. 15, 2016), at http://www.nbcnews.com/storyline/orlando-nightclub-massacre/omar-mateen-s-wife-tried-talk-him-out-orlando-attack-n592051.
[iv] Cal. Pen. Code § 18150(b).
[v] Cal. Pen. Code § 18175 (b).
[vi] See, e.g., Cal Code Civ. Proc. §§ 527.6, 527.8, 527.85, and 527.9.

Friends Committee on Legislation of California

1225 8th Street, Suite 220
Sacramento, CA 95814-4809

August 8th, 2019

Assembly Member Lorena Gonzalez
Chair, Assembly Appropriations Committee
State Capitol – Room 2114
Sacramento, CA 95814

Re: Senate Bill 61 (Portantino) – SUPPORT

Dear Chairwoman Gonzalez,

The Friends Committee on Legislation of California (FCLCA), a Quaker-based lobby that advocates for state laws that are just, compassionate and respectful of the inherent worth of every person, is pleased to support SB 61. This important bill will limit purchases of long guns from licensed firearm dealers to one gun per person per 30-day period.

We are shocked and saddened by recent events in El Paso, Dayton and Gilroy, and we are further dismayed by the U.S. Senate's unwillingness to consider common sense reforms to reduce gun violence in their wake. While much of the public discourse has focused on the problems of mental illness and white nationalism and extremism, we think it's important to understand that other industrialized nations also grapple with these issues but have much lower rates of gun violence. The primary difference that cuts across all of these variables is that in the U.S. guns are so readily available. Though federal legislation is sorely needed, the good news is that our state's tough gun laws have reduced gun violence here in California.

In 1999 the Legislature wisely passed legislation to limit hand gun purchases to one per month in (AB 202, Knox), and we should apply the same logic to long gun sales. More and more crimes are being committed with long guns, and there is ample evidence that an individual who purchases large numbers of firearms at one time may be selling them in the underground economy. A University of Pennsylvania report found that one-fourth of all guns used in the commission of crimes were purchased in multiple gun sales and that guns purchased in bulk were much more likely to be used illegally than guns that were purchased individually. Moreover, many of these bulk purchases are for long guns with lower receivers, which can be converted into military-style weapons. These types of weapons have no legitimate use in civil society. SB 61 prohibits the sale of semiautomatic rifles to persons under age 21, with certain exceptions.

(continued)

Reducing the proliferation of firearms and the frequency of gun violence is an effective strategy for improving public safety, and FCLCA urges the Appropriations Committee to move SB 61 to the full Assembly.

Sincerely yours,

JIM LINDBURG
Legislative Director

C. Senator Anthony Portantino

June 12, 2019

Senator Anthony Portantino
State Capitol
Sacramento, California 95814

RE: | SB 61 - OPPOSE

Dear Senator Portantino:

Gun Owners of California is writing to respectfully oppose your SB 61, a reintroduction of last year's SB 1177 (Portantino), which seeks to prohibit the number of firearms an individual can purchase within a specified period of time.

Our concerns pertain to the intention to build upon the 1999 bill that restricted purchases of handguns to no more than one per person per month to include *all* firearms, including long guns. Gun Owners has consistently supported efforts to prevent the flow of illegal firearms, but there is no data suggesting someone who purchases two guns a month – or three guns for that matter – is a danger to society or engaging in illicit activity. In fact, even though long gun purchases in California have literally exploded to over a million per year, a 2015 report by the Department of Justice 2015 (Firearms Used in Crimes) reveals they are used minimally - roughly 12%. What's more, there is no "recognized strategy" that limiting firearm purchases reduces gun trafficking or keeps firearms out of "dangerous hands." There is simply no evidence that restricting the number of guns an individual can buy in a month will have any effect positive on crime.

Penalizing the lawful for the misdeeds of the unlawful will never have its anticipated resolution and reducing the pool of firearms available for lawful individuals to possess will do nothing to stem an increase in crime. The safety of Californians is at the very foundation of our mission, and regrettably, there is no indication that SB 61 will further protect the citizens of our state. It has been our consistent goal to work toward common sense solutions regarding the issue of crime and firearm ownership; this can be done, however, without sacrificing our Constitutional rights and the ability of the law abiding to protect their families. I would welcome the opportunity to discuss this with you at your convenience.

Respectfully,

Sam Paredes, Executive Director

cc: Members, Assembly Committee on Public Safety

GUN OWNERS OF CALIFORNIA
1831 Iron Point Road, Folsom CA 95630 – (916) 984-1400 (916) 984-1402 fax
www.GunOwnersCA.com
A Political Committee Dedicated to Crime Control – Not Gun Control

Physicians for Social Responsibility
San Francisco Bay Area Chapter

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Tom Newman, MD, MPH

April 12, 2019

Senator Anthony Portantino
California State Capitol, Rm. 3086
Sacramento, CA 95814

Re: SB 61 (Portantino) Support

Dear Senator Portantino,

San Francisco Bay Area Physicians for Social Responsibility (SF Bay Area PSR) is writing to express strong support for SB 61 (Portantino) which would extend the prohibition on purchasing more than one handgun per month to include all firearms.

SF Bay Area PSR is a non-profit education and advocacy organization with approximately 2,500 members. Our organization combines the power of community activism with the knowledge and credibility of physicians and other health professionals to promote public policies that support human health.

Almost 3,000 Californians die every year by gun violence aimed at others or through suicide. It's estimated that as many as twice that number suffer non-fatal injuries by firearms.[i] Members of San Francisco Bay Area PSR and PSR nationwide work in hospital emergency rooms and treat all too many of the victims of senseless and gross acts of violence.

We agree with Brady California United Against Violence that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. We believe that limiting the number of purchases per month of all guns would help stem the tide of gun violence.

Thank you for authoring this important bill to make California safer.

Sincerely,

Robert M. Gould, M.D.
President, San Francisco Bay Area Physicians for Social Responsibility

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[i] CDC reports that, nationwide, twice as many people suffer non-fatal injuries as die from gun violence. Centers for Disease Control, National Vital Statistics Report, Vol. 61, Number 4, *Deaths: Final Data for 2010*, May 8, 2013. vitalhttp://www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_04.pdf

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March 26, 2019

The Honorable Nancy Skinner
Chair, Public Safety Committee
California State Senate
Sacramento, CA 95814

Re: Support for SB 61 (Portantino) – Limiting Bulk Firearm Purchases

Dear Senator Skinner,

On behalf of Giffords Law Center to Prevent Gun Violence, I urge you to support SB 61 (Portantino), legislation that would help curb the flow of firearms on the black market in California. Now led by former Congresswoman and shooting survivor Gabby Giffords, our organization has worked for 25 years to enact evidence-based policy reforms at the local, state, and national levels to save lives from gun violence.

In 1999, California enacted our state's one-handgun-per-month law, which generally prohibits a person from purchasing more than one new handgun from a licensed firearms dealer in any 30-day period. The law also prohibits a dealer from completing the sale of a handgun once the Department of Justice (DOJ) notifies the dealer that the person attempting to acquire the handgun has applied to purchase another handgun within the previous 30 days. In floor debates and bill analyses prepared prior to the one-handgun-per-month law's enactment, the Legislature noted that these "bulk purchase limits" would affect a very small percentage of purchasers, while effectively limiting the small number of buyers most likely to be involved in crimes and violence. This law helps to curb the flow of handguns on the illegal black market and prevents dangerous individuals from quickly amassing stockpiles of weapons.

However, current law does not apply these limitations to long guns sold by dealers. This loophole allows gun traffickers to easily purchase unlimited numbers of rifles and shotguns for illegal distribution to people who could not legally acquire them, including organized gangs and cartels, and allows individuals who intend to perpetrate violence themselves, like mass shooters, to quickly stockpile large numbers of firearms.

SB 61 would start to close this dangerous loophole by generally extending California's existing one-handgun-per-month law to long gun purchases too.

SB 61 would still provide targeted exceptions for licensed hunters acquiring new hunting rifles and shotguns. This bill would also still allow other individuals to lawfully purchase up to 12 new firearms per year from licensed dealers, to acquire additional firearms from unlicensed sellers (even though such transactions must be conducted through a licensed dealer), and to liquidate a collection of used firearms to a single purchaser. It would also still

allow people to loan or transfer their firearms to family members, acquaintances, and sport or hunting partners in a variety of circumstances, while placing reasonable limitations on dangerous individuals' ability to obtain mass quantities of guns for illegal purposes.

Laws limiting multiple firearm sales are important to public safety. Although bulk firearm purchases comprise a very small share of the overall market for firearms, they represent a significant source of guns sold to criminals. A 2007 University of Pennsylvania report to the National Institute of Justice found that guns purchased in a "multiple sale"—meaning guns purchased by a person who bought at least one other firearm within five business days—were up to 64% more likely to be used for illegal purposes than guns purchased individually.[i] An ATF report similarly found that purchases of multiple long guns are a "significant indicator" of gun trafficking.[ii] An ATF study of gun trafficking by one cartel in Mexico found that the cartel purchased 336 firearms in a 15-month period, including 251 long guns, and that all but one of those firearms was purchased in bulk sales from a U.S. gun dealer.[iii] Experts also identify "stockpiling weapons" as a significant warning sign of a mass shooter's violent intentions.[iv]

Additionally, a dangerous person's ability to quickly amass weapons is hazardous to public safety regardless of whether those weapons are sold by dealers or unlicensed sellers, and regardless of whether they are long guns or handguns. Treating all firearm sales equally is common sense and would further California's efforts in recent years to align the legal requirements governing handgun and long gun sales in the state. ATF has reported that long guns have become Mexican cartels' "weapons of choice,"[v] and the agency has had to implement special reporting requirements on California gun dealers to track certain multiple long gun sales because our state is such a significant source of these firearms for violent cartels over the border.[vi]

Within California, DOJ has reported that long guns comprise half the illegal firearms recovered by law enforcement from prohibited persons in this state.[vii] In addition, an examination of forensic data collected from the mass shootings that have occurred in the United States throughout the last 30 years showed that exactly half of the weapons used to perpetrate those tragedies were long guns.[viii] Curbing bulk purchases of all firearms would help keep more deadly weapons from falling into dangerous hands.

SB 61 (Portantino) will implement sensible and reasonable safeguards to curb the flow of firearms on the illegal black market and into the hands of those most likely to use these weapons in crimes and violence.

For these reasons, we urge you to support SB 61 (Portantino).

Sincerely,



Ari Freilich
California Legislative Affairs Director & Staff Attorney
Giffords Law Center to Prevent Gun Violence

[i] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A Report to the National Institute of Justice, U.S. Dept. of Justice* (2007), https://www.ncjrs.gov/pdffiles1/nij/grants/221074.pdf.

[ii] U.S. Gov. Accountability Office, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges* (2009): 28, http://www.gao.gov/new.items/d09709.pdf

[iii] U.S. Dept. of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, November 2010, 38-39, www.justice.gov/oig/reports/ATF/e1101.pdf.

[iv] Peter Langman, Ph.D., *School Shooters: The Warning Signs*, Jul. 29, 2014, https://schoolshooters.info/sites/default/files/school_shooters_warning_signs_1.1.pdf

[v] U.S. Dept. of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, November 2010, 36, www.justice.gov/oig/reports/ATF/e1101.pdf.

[vi] Letter from Charles Houser, Chief, Nat'l Tracing Ctr., to Fed. Firearms Licensees, Jul. 12, 2011, 1, http://www.scribd.com/doc/61159256/ATF-Multiple-Rifle-Sale-Reporting-Requirement-Letter. See also Agency Information Collection Activities; *Proposed Collection Comments Requested: Report of Multiple Sale or Other Disposition of Certain Rifles*, 76 Fed. Reg. 24,058, 24,058, Apr. 29, 2011; Bureau of Alcohol, Tobacco, Firearms & Explosives, *Q&As for the Report of Multiple Sale or Other Disposition of Certain Rifles*, http://www.atf.gov/files/firearms/industry/080911-qa-multiple-rifles.pdf.

[vii] Data provided by the Cal. Dept. of Justice, Mar. 4, 2010.

[viii] Mark Follman *et al.*, "US Mass Shootings, 1982-2015: Data from Mother Jones' Investigation," *Mother Jones Magazine*, Dec. 28, 2012.

HURST+BROOKS+ESPINOSA

May 3, 2019

The Honorable Anthony Portantino, Chair
Senate Appropriations Committee
State Capitol, Room 3086
Sacramento, CA 95814

RE: SB 61 (Portantino) – Firearms: transfers (As introduced 1/3/2019)
On Suspense File – Senate Appropriations Committee
County of Ventura: SUPPORT

Dear Senator Portantino:

On behalf of the Ventura County Board of Supervisors, I write in support of SB 61, your measure that would prohibit the purchase of more than one long gun during a 30-day period, except as specified. This measure is currently on the Senate Appropriations Suspense File.

As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi-pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions.

1127 Eleventh St., Ste. 805
Sacramento, CA 95814
916.245.3445
hbradvocacy.com

The County of Ventura is pleased to support SB 61 and thank you for your leadership in advancing this legislation. Should you have any questions about the County's position, please do not hesitate to contact me at ehe@hbeadvocacy.com or 916-272-0012. Thank you.

Sincerely,



Elizabeth Espinosa
Legislative Representative

cc: Members and Consultants, Senate Appropriations Committee
Ventura County Legislative Delegation

Provided by LRI History LLC

Be Safe. Shoot Straight. Fight Back!

CRPA.ORG
CALIFORNIA RIFLE & PISTOL ASSOCIATION

March 4th, 2019

Honorable Senator Anthony J. Portantino
State Capitol Room 2206
Sacramento, CA 95814

Re: Senate Bill 1177 (Portantino) – Firearms: Transfers

Position: Opposed

Dear Senator Portantino,

On behalf of the California Rifle and Pistol Association (CRPA), and its members, I write to express our strong opposition to Senate Bill 61 (SB 61). SB 61 would make it a crime to attempt to purchase more than one firearm of any type within a 30-day period.

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the of millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

Be Safe. Shoot Straight. Fight Back!

CALIFORNIA RIFLE & PISTOL ASSOCIATION

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase.

Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, allows for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, both you and your proponents have argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

Respectfully, as a reminder you and your proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed". Senator, I do commend you on your perseverance; but, nothing has changed this is just a bad bill that will not curb crime and will only impact law abiding citizens. For the foregoing reasons, the California Rifle and Pistol Association strongly opposes SB 61.

Respectfully Submitted,

Roy M. Griffith Jr.
Legislative Liaison
California Rifle and Pistol Association, Inc.
rgriffith@crpa.org

CC: Tara.McGee@sen.ca.gov ; Legislative Aide

BRADY
UNITED AGAINST GUN VIOLENCE
CALIFORNIA

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Stockton

Suzanne Verge
Los Angeles

Toni Shellen
Tri-City/Alameda Co.

March 18, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol
Sacramento, CA 95814

Support: SB 61 (Portantino) – Preventing Trafficking of Long Guns

Dear Senator Portantino:

Brady California United Against Gun Violence is a grassroots organization working to reduce firearm crime, injury, and death. There are Brady chapters throughout the state, many of whose members have lost a loved one to gunfire. A key policy objective for Brady California is to disrupt the flow of illegal guns into impacted communities. SB 61 will help address this problem and Brady California stands in strong support.

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.

Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.

It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale.[i] A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale.[ii] Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.[iii]

Since 1999, Californians have typically purchased more long guns than handguns every year.[iv] Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period.[v] *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014).[vi] Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns.[vii] Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included.[viii] The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers,[ix] which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

Sincerely,

Amanda Wilcox

Amanda Wilcox
Legislation and Policy Chair
Brady California United Against Gun Violence

Cc: Members of Senate Public Safety Committee

---

[i] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (1999) National Report* 40 (Nov. 2000).
[ii] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (2000) National Report* 50 (July 2002).
[iii] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). https://www.ncjrs.gov/pdffiles1/nij/grants/221074. pdf.
[iv] California Department of Justice, "Dealer's Record of Sale (Calendar Year Statistics)," http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/dros_chart.pdf?.
[v] Data provided by the California Department of Justice, November 3, 2015.
[vi] Data provided by the California Department of Justice, November 3, 2015.
[vii] Data provided by the California Department of Justice, November 3, 2015.
[viii] Data provided by the California Department of Justice, March 7, 2016.
[ix] Data provided by the California Department of Justice, March 7, 2016.

LAGUNA WOODS DEMOCRATIC CLUB
Post Office Box 2254, Laguna Hills, California 92654-2254

April 13, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

Re: SB 61 Preventing Gun Trafficking - SUPPORT

Dear Senator Portantino

The Directors and 300 Members of Laguna Woods Democratic Club, a large and active chartered Orange County club, offer their support for SB 61.

We understand that although the bulk purchase of handguns has been limited since 2000, the purchase of rifles and shotguns (long guns) has not. These long guns include high-powered rifles with exchangeable magazines and lower receivers, which can be assembled into illegal assault weapons and trafficked...a truly terrifying scenario.

Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or long gun. Limiting new firearm sales to one gun per month, with appropriate exceptions, is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands.

We are proud to live in a state which has tough gun safety laws. Sometimes it does seem that we are always closing loopholes, but even those are important steps for the safety of our residents.

Thank you for addressing this important issue. We support SB 61 and hope it will become law.

Kind regards,

Linda Nearing

Linda Nearing
President

lagunawoodsdemocrats.org *lwdemoclub@yahoo.com* *We're on Facebook*

Physicians for Social Responsibility
San Francisco Bay Area Chapter

548 Market Street, #90725, San Francisco, CA 94104-5401
phone: 415-562-6726
email: action@sfbaypsr.org
www.sfbaypsr.org
Facebook: https://www.facebook.com/SFPSR

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Rohini J. Haar, MD, MPH
Frank H. Lucido, MD
Tom Newman, MD, MPH

April 12, 2019

Senator Anthony Portantino
California State Capitol, Rm. 3086
Sacramento, CA 95814

Re: SB 61 (Portantino) Support

Dear Senator Portantino,

San Francisco Bay Area Physicians for Social Responsibility (SF Bay Area PSR) is writing to express strong support for SB 61 (Portantino) which would extend the prohibition on purchasing more than one handgun per month to include all firearms.

SF Bay Area PSR is a non-profit education and advocacy organization with approximately 2,500 members. Our organization combines the power of community activism with the knowledge and credibility of physicians and other health professionals to promote public policies that support human health.

Almost 3,000 Californians die every year by gun violence aimed at others or through suicide. It's estimated that as many as twice that number suffer non-fatal injuries by firearms.[i] Members of San Francisco Bay Area PSR and PSR nationwide work in hospital emergency rooms and treat all too many of the victims of senseless and gross acts of violence.

We agree with Brady California United Against Violence that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. We believe that limiting the number of purchases per month of all guns would help stem the tide of gun violence.

Thank you for authoring this important bill to make California safer.

Sincerely,

Robert M. Gould, M.D.
President, San Francisco Bay Area Physicians for Social Responsibility

[i] CDC reports that, nationwide, twice as many people suffer non-fatal injuries as die from gun violence. Centers for Disease Control, National Vital Statistics Report, Vol. 61, Number 4, *Deaths: Final Data for 2010*, May 8, 2013.

Women For: Orange County

Working for a Better World

a grassroots advocacy organization founded in 1984

P.O. Box 5402, Irvine, California 92616, 714.590.7804

www.womenfororangecounty.org/womenforoc@aol.com

April 24, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol
Sacramento, CA 95814

Re: SB 61 Position: Support

Dear Senator Portantino:

I am writing on behalf of **Women For: Orange County**. **Women For: OC** is dedicated to the attainment of peace, justice, and human and civil rights, and for that reason we are opposed to the proliferation of illegal guns in our society.

We strongly support Senate Bill 61, which would limit purchases of new long guns to one per person per 30-day period. This bill will reduce the trafficking of illegal guns.

Therefore, **Women For: Orange County** is pleased to support SB 61. Thank you for your authorship of this important bill, which will keep our communities safer from gun violence.

Sincerely,
Judy Curry
President
Women For: Orange County

California POLICE CHIEFS Association Inc.

P.O. Box 255745 Sacramento, California 95865-5745 Telephone (916) 481-8000 FAX (916) 481-8008
E-mail: lmcgill@californiapolicechiefs.org • Website: californiapolicechiefs.org

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Irvine
LESLIE MCGILL, CAE
Executive Director
Ex-Officio

April 16, 2019

Honorable Anthony Portantino
California State Senate
California State Capitol
Sacramento, CA 95814

Senate Bill 61 (Support)

Dear Senator Portantino,

The California Police Chiefs Association is proud to **support** SB 61, which would extend the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

This bill eliminates the possibility of long guns being purchased in bulk and reduces the risk of gun violence in the state. According to the University of Pennsylvania, "a quarter of all guns used in crimes were purchased as part of a multiple-gun sale…guns purchased in bulk were up to 64% more likely to be used for illegal purposes…" SB 61 does not infringe on Californian's right to purchase a firearm, but instead reduces the risk of gun trafficking within the state.

For these reasons, we are proud to support this measure. For additional questions, please contact our Legislative Advocate, Jonathan Feldman, at jfeldman@lawpolicy.com.

Thank you,

Ronald A. Lawrence
President

Jonathan Feldman
Legislative Advocate

BAY AREA STUDENT ACTIVISTS

February 7, 2018

Senator Anthony Portantino
California State Senate
State Capitol, Room 3083
Sacramento, CA 95814

SUBJECT: SB 61 (Portantino) – Letter of Support

Dear Senator Portantino,

Bay Area Student Activists strongly supports bill SB 61: Firearms: transfers. This bill would extend the current one-gun-every-thirty-days rule for handguns to all firearms (exempting persons possessing a hunting license).

BAStA is an entirely student-led organization that aims to uplift the voices of students, especially high school students, on issues that affect them, notably on gun control.

Currently, limitations are placed on the number of handguns a person can purchase in a month. Current law (AB 202 of the 1999-2000 session) limits the purchase of handguns from a firearms dealer to one every thirty days. Several exemptions may apply, including for those with hunting licenses, and in transfers between private parties. However, no such restrictions apply to long guns. This bill would eliminate the exemption for transfers between private parties and extend the remaining limitation on the number of handgun purchases that can be made in one month to *all firearms*.

We support this bill because firearms are all instruments designed to kill, regardless of whether a firearm is a handgun or a long gun. Gun are all a danger to society when they fall into the wrong hands, and it is appropriate to apply this common-sense regulation to all guns, not just handguns. It is worth noting that the California Department of Justice has found that half of firearms recovered from persons prohibited from possessing a firearm are long guns. There is no reason for this restriction to apply only to handguns.

Furthermore, the exemption applying currently to the handgun purchase limitation for transfers between private persons is an unnecessary exception to proper process. When the transfer of a deadly weapon takes place, proper oversight should be exercised, notably through a firearms dealer. This provides a surer process so that guns do not fall into the wrong hands than a simple transfer between two individuals, and thus helps to protect from the misuse of guns.

While Bay Area Student Activists does not affirmatively support the continued exemption of persons holding hunting licenses from common-sense gun control measures, we acknowledge

BAY AREA STUDENT ACTIVISTS

the rigour of the process for procuring such a license, and are therefore committed to supporting the bill as it stands.

Ultimately, the relative danger of handguns as opposed to other guns is still debated, but we know that they are *all* guns, which means that they *all* have the capability of inflicting deadly harm on anything or anyone who their owner decides to point it at.

We therefore strongly support this bill, SB 61.

We thank you for your leadership on this issue.

Sincerely,

Calvin Quick
[signed]

Legislative Coordinator
Bay Area Student Activists (BAStA)
Email: calvin@quickstonian.com; BAStA Email: bayareastudentactivists@gmail.com
Phone: 1(415) 521-9126; Fax: 1(628) 256-3552

COALITION AGAINST GUN VIOLENCE
A Santa Barbara County Coalition

March 18, 2019

Senator Anthony Portantino
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

VIA FAX: (916) 651-4925

Re: SB 61 (Portantino) Preventing Gun Trafficking

On behalf of the Coalition Against Gun Violence, a Santa Barbara County Coalition, I write in support of Senate Bill 61. This bill extends existing law that limits purchases of new handguns to no more than one gun per person per 30-day period to new long guns, including high-powered semiautomatic rifles. The bill will deter gun traffickers, who purchase firearms in bulk to sell for profit on the black market.

SB 61 will reduce the trafficking of illegal guns. This bill will reduce gun crime and save lives. For these reasons, the CAGV is in support of SB 61 and appreciates your introduction of this important measure. The Coalition Against Gun Violence urges you to sign SB 61 into law.

Sincerely,

Toni Wellen

Toni Wellen, Chair

PO Box 839, Summerland, CA 93067 • cagvsb@gmail.com • 805-564-6803 • sbcoalition.org •

COUNTY OF LOS ANGELES
Sacramento Legislative Office
1100 K Street, Suite 400, Sacramento, California 95814
(916) 441-7888 • Fax (916) 445-1424
http://ceo.lacounty.gov

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Chief Executive Officer

BRIAN J. STIGER
Chief Legislative Representative

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Fifth District

March 11, 2019

The Honorable Nancy Skinner, Chair
Senate Public Safety Committee
State Capitol, Room 5094
Sacramento, California 95814

RE: SB 61 (Portantino), As Introduced January 3, 2019 – SUPPORT
Relating to Firearms: Transfers
Set April 2, 2019, in the Senate Public Safety Committee

Dear Senator Skinner:

The Los Angeles County Board of Supervisors supports SB 61 (Portantino).

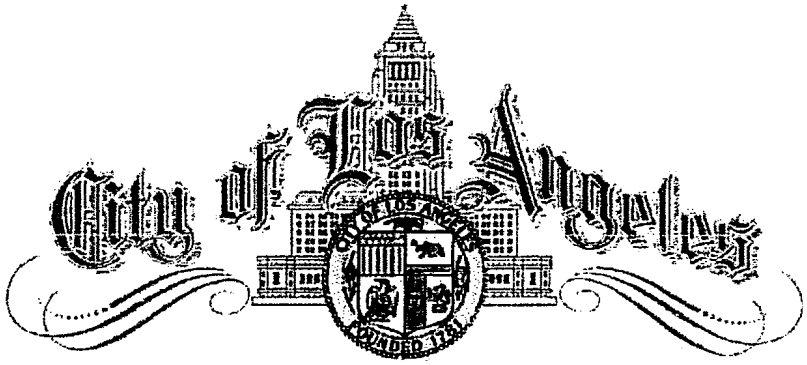
Current law generally prohibits an individual from making more than one application to purchase a handgun within any 30-day period. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the State Department of Justice that within the preceding 30-day period, the purchaser has made another application to purchase a handgun. SB 61 would provide that an existing law which makes it unlawful for a person to purchase more than one handgun every 30 days is applicable to all types of firearms.

The County's Department of Public Health (DPH), and their Injury and Violence Prevention Program (IVPP) indicate that laws limiting the number of firearms a person can purchase within a certain timeframe can help to reduce the number of guns that enter the secondary market—weapons that are more likely to wind up at the scene of a crime. DPH-IVPP notes that commonsense regulation of gun purchases can help to reduce gun trafficking and, in turn, gun violence. Therefore, I urge the Committee's **"AYE"** vote on SB 61. Please contact me at (916) 441-7888 or dseitz@ceo.lacounty.gov if you have any questions.

Sincerely,

Donna Seitz
Assistant Chief Legislative Representative

c: Senator Anthony Portantino
Each Member and Consultant,
Senate Public Safety Committee



MICHAEL N. FEUER
CITY ATTORNEY

February 21, 2019

The Honorable Nancy Skinner
Chair, Senate Public Safety Committee
State Capitol, Room 2031
Sacramento, CA 95814

RE: SB 61 (Portantino) Firearms: transfers.
SUPPORT

Dear Chair Skinner,

I write to express my support for SB 61 (Portantino) and respectfully request your "AYE" vote when this bill is heard in your committee. This bill would expand the prohibition on individuals from purchasing more than one handgun in any 30-day period and apply it to all firearms.

As you know, AB 202 (Knox, Chapter 128, Statutes of 1999) prohibited an individual from purchasing more than one handgun in any 30-day period. AB 809, which I authored in 2011, requires long gun data to be entered into the Automated Firearms Database, an important law enforcement tool, in a manner similar to handguns.

California Department of Justice (DOJ) data has shown that nearly 82% of the long guns sold in the state were sold as single purchases to individuals within one 30-day period. Additional data from DOJ also show that when multiple long guns are bought in a single transaction, it is twice as likely that the sale included lower receivers. These lower receivers can then be built into illegal assault weapons and sold on the black market, allowing unscrupulous individuals to circumvent California's strict gun control laws. SB 61 (Portantino) will stem the flow of long guns into the black market while having no negative effect on the overwhelming majority of gun purchasers in the state.

I would also to take this opportunity to thank the author, Senator Portantino, a longtime advocate of efforts to reduce gun violence. I am pleased to support SB 61 (Portantino). Thank you for your consideration.

Sincerely,

Michael N. Feuer
Los Angeles City Attorney

Cc: Members and Consultants, Senate Public Safety Committee
The Honorable Anthony Portantino, 25th Senate District

City Hall East 200 N. Main Street Room 800 Los Angeles, CA 90012 (213) 978-8100 Fax (213) 978-8312

Exhibit 6
0382

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (As Introduced January 3, 2019)

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as introduced, that would limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2651 Page 405 of 458

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a rifle or shotgun. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of rifles or shotguns for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one rifle or one shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2652 Page 406 of 458

The California Sportsman's Lobby, Inc.

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

The California Sportsman's Lobby is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in the laws relating to these activities.

The California Sportsman's Lobby (CSL) promotes the conservation, enhancement, scientific management, and wise use of all our natural resources; CSL seeks an end of activities needlessly destructive to natural resources; CSL endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation, enhancement, and wise use of all our natural resources; and CSL works to secure more and better outdoor opportunities for all citizens, regardless of race, creed, or color as essential to the physical and spiritual well being of all the people.

This is to notify you of the opposition of the California Sportsmen's Lobby (CSL) to SB 61.

It would unjustifiably limit the purchase of a rifle or shotgun by any lawful person to one per month.

Rather than limit such purchases by lawful individuals to one per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Such persons will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer. The restrictions proposed in SB 61 would not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and for persons acquiring firearms at nonprofit fundraising events, it does not offset the opposed limitation on other lawful persons.

Firearms ownership by individuals is a constitutionally protected right of all adults.

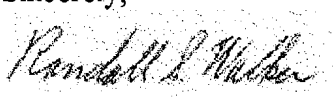
Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2653 Page 407 of 458

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,



Randall Walker
President, California Sportsman's Lobby

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
California Sportsman's Lobby

Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to notify you of the opposition of the Outdoor Sportsmen's Coalition of California (OSCC) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

P.O. Box 848, Fresno, CA 93712

Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2655 Page 409 of 458

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and persons acquiring firearms at nonprofit fundraising events, it does not offset the needless limitation on other lawful individuals.

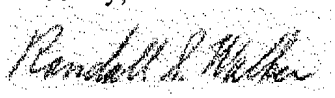
Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month, will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,



Randall Walker, President
Outdoor Sportsmen's Coalition of California

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
Outdoor Sportsmen's Coalition of California

Safari Club International

A NON-PROFIT ORGANIZATION • DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING

SCI
FIRST FOR HUNTERS

SCI CA Coalition

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

Safari Club International and Safari Club International Foundation (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

This is to notify you of the opposition of the SCI CA Coalition (SCI) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

While the exemption in the bill from the one gun per month limit for licensed hunters, and firearms acquired at nonprofit fundraising events, is appreciated, it does not mitigate the inappropriate limitation on others, such as recreational and competitive shooters.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

Case 3:19-cv-01226-L-AHG Document 21-8 Filed 11/12/19 PageID.2657 Page 411 of 458

For the above reasons, SCI CA Coalition opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Lisa C. McNamee
Co-Legislative Coordinator
SCI CA Coalition

Don Giottonini
Co-Legislative Coordinator
SCI CA Coalition

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
SCI CA Coalition

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
555 CAPITOL MALL, STE 625
SACRAMENTO, CA 95814

STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, WESTERN REGIONAL DIRECTOR

April 18, 2019

The Honorable Philip Ting
P.O. Box 942849, Rm 6026
Sacramento, California 94249-0019

RE: Assembly Bill 61: Gun violence restraining orders

Position: OPPOSE

Dear Assembly Member Ting:

On behalf of the National Rifle Association (NRA) and its hundreds of thousands of members in California, I write to express our opposition to Assembly Bill 61 as amended.

AB 61 would amend the "Gun Violence Restraining Order" procedures that were created by AB 1014 (2014). NRA is opposed the current GVRO procedures because they provide a mechanism for an individual to lose the right to keep and bear arms without due process of law. AB 61 would compound these problems by significantly expanding the classes of individuals who could seek a GVRO.

Under current law, only "immediate family members" and law enforcement officers can use the GVRO laws to petition to have an individual stripped of their firearm rights. AB 61 would additionally authorize employers, coworkers and employees of a secondary or postsecondary schools that the person has attended in the last six months to petition for a GVRO. By substantially increasing the numbers of people who can petition for a GVRO, this bill could open the GVRO system to abuse. A disgruntled coworker, an unhappy employer, or a controlling professor could petition to deny a person their right to bear arms if AB 61 were to become law. And, because the GVRO system already allows for *ex parte* procedures, the individual whose rights would be restricted would not have an opportunity to contest any allegations until up to 21 days after the issuance of the original order. Even if the court finds in favor of the person whose rights were restricted, it may take that individual several months to have their firearms returned.

The NRA is open to discussing options to address the situations that are contemplated under this bill, however we are committed that all persons should be afforded due process prior to the removal or suspension of their constitutional rights.

For the foregoing reasons, we oppose AB 61.

Sincerely,



Daniel Reid
Western Regional Director

Provided by LRI History LLC

CONFLICT NOTIFICATION

June 11, 2019

OFFICE OF LEGISLATIVE COUNSEL

SB 61

The above measure introduced by Senator Portantino and set for hearing in the

Assembly Committee on Public Safety

appears to be in conflict with

AB 645 - Irwin
SB 172 - Portantino

Open the attachments included in this email for a complete list of Code Sections, Statutes Other Than Codes, Budget Items, and Constitution Sections in conflict.

A conflict exists when two or more bills and/or constitutional amendments amend, add, repeal, or amend and renumber the same section, article, chapter, division, title, or heading.

The enactment of these measures in their present form could give rise to a serious legal problem that may be avoided by appropriate amendments.

We urge you to consult with our Conflicts Unit at ConflictsUnit.Senate@lc.ca.gov or (916) 341-8230 at your earliest convenience.

LIS Link: For more information regarding bills in conflict, go to the Reports page in LIS and select the Canned Reports tab to research Bills that Amend Identical Code Sections and Bill Status.

Assembly Committee Rollcalls

Public Safety

Date of Hearing: June 25, 2019

BILL NO.	SB 23	SB 35	SB 42	SB 61
ACTION VOTED ON	Do pass as amended and re-refer to Cmte on Appr.	Do pass and re-refer to Cmte on Appr.	Do pass as amended and re-refer to Cmte on Appr.	Do pass and re-refer to Cmte on Appr.
	Aye : No	Aye : No	Aye : No	Aye : No
Jones-Sawyer, Chair	X :	X :	X :	X :
Lackey, V. Chair	X :	X :	X :	: X
Bauer-Kahan	X :	X :	X :	X :
Diep (*Mathis)	X :	X :	Not Voting	: X
Kamlager-Dove	Not Voting	X :	X :	Not Voting
Quirk	X :	X :	X :	X :
Santiago	X :	X :	X :	X :
Wicks	Not Voting	X :	X :	X :
	Ayes : 6 Noes : 0	Ayes : 8 Noes : 0	Ayes : 7 Noes : 0	Ayes : 5 Noes : 2

(Note: *Indicates temporary appointment. See Assembly Daily Journal.)

RECEIVED: _____

Reginald Byron Jones-Sawyer Sr., CHAIR

LRI History LLC

intent@lrihistory.com
www.lrihistory.com
(916) 442.7660

Assembly Fiscal Committee Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

Date of Hearing: July 10, 2019

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 61 (Portantino) – As Amended June 11, 2019

Policy Committee: Public Safety Vote: 5 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill prohibits a person from making an application to purchase more than one firearm of any type within any 30-day period. This bill specifically prohibits a person from making an application to purchase more than one long gun in any 30-day period unless the person has a hunting license issued by the Department of Fish and Wildlife and a certificate of eligibility issued by the Department of Justice (DOJ). This bill also prohibits, beginning January 1, 2021, the sale of a semiautomatic centerfire rifle to any person under 21 years of age.

FISCAL EFFECT:

1) DOJ estimates an overall annual revenue reduction of 10% in fee collection (Firearms Safety and Enforcement Fund/Dealer Record of Sale Special Account) resulting from fewer firearm purchases, equating to an overall loss of $2.23 million dollars annually.

2) Sales tax revenue loss (GF) likely in the hundreds of thousands of dollars to low millions of dollars annually due to the limitation on the number of firearms that may be purchased in a 30-day period.

3) One-time costs (GF/Dealer Record of Sale Account) of $281,000 to the DOJ for limited term information technology staff and equipment to update systems to track both handguns and long guns to ensure only one purchase within a 30-day period.

COMMENTS:

1) **Purpose.** According to the author:

> More and more shootings are occurring with long guns so it is important that we treat the laws of both handguns and long guns the same. The law that passed last year requiring no one under the age of 21 to purchase a firearm has exemptions that we are strengthening and tightening when it comes to the purchase of semi-automatic center fire rifle by requiring the person to obtain a [certificate of eligibility] with the DOJ as well.

2) **Dealer Record of Sale (DROS) Special Account.** The DROS Special Account has experienced significant revenue decreases in recent years to the extent that it is structurally imbalanced. Penal Code section 30015, subdivision (a) codified the allocation of $24 million dollars from the DROS Special Account to address the APPS backlog in 2013 largely resulting in the structural imbalance. AB 74 (Committee on Budget), Chapter 23, Statutes of 2019, allocates approximately $22 million dollars to backfill the DROS Special Account.

Additionally, existing law specifically limits how DOJ may use DROS funds, including costs associated with the Armed Prohibited Persons System (APPS), background checks, inspection for security and safe storage, regulating transfer for sale via the internet, certain public education campaigns, private patrol operator regulations and re-testing for not unsafe handguns. DOJ is not authorized to use DROS funds for general law enforcement purposes.

Over the past five years, there is increasing litigation over whether DOJ is improperly using DROS funds. Case law prohibits taxing a constitutional right unless it is necessary to meet the "expense incident to the administration of the act and to the maintenance of public order in the matter licensed." Cox v. New Hampshire (1941) 312 U.S. 569, 577. Further loss of revenue to the DROS Special Account due to the reduction in the number of firearms sold may result in increased fees and a greater need to use DROS funds for general law enforcement activities. This may result in more litigation and associated costs.

3) **Related Legislation.** AB 1669 (Bonta) creates the Dealers' Record of Sale Supplemental Subaccount within the DROS Special Account to offset the reasonable costs of firearms-related regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms. AB 1669 is pending hearing in the Senate Public Safety Committee.

4) **Prior Legislation.**

   a) SB 1100 (Portantino), Chapter 894, Statutes of 2018, increased the minimum age, from 18 years to 21 years, for which a person may purchase a long-gun from a licensed dealer, except as specified.

   b) SB 1177 (Portantino), of the 2017-2018 Legislative Session, prohibited any person from making more than one application to purchase more than one long gun within any 30-day period. SB 1177 was vetoed by the Governor.

   c) AB 1674 (Santiago), of the 2015-2016 Legislative Session, prohibited any person from making more than one application to purchase more than one long gun within any 30-day period. SB 1674 was vetoed by the Governor.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

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LRI

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The Core Legislative History of

Pending California Senate Bill 61 – Portantino (2019-2020)

Supplement

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Authentication of the Records and Table of Contents

Core Legislative History Research Report Regarding:
Pending California SB 61 – Portantino (2019-2020)
Supplement

I, Lisa Hampton, declare that this report includes:

- *Historical documents relating to the above legislation.* These documents were obtained by the staff of LRI History LLC, or under their direction, and are true and correct copies of the originals obtained from the designated official, public sources in California unless another source is indicated, with the following exceptions: In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, paging and relevant identification have been inserted.

  Since 1983 LRI has specialized in the historical research surrounding the adoption, amendment and/or repeal of California statutes, regulations and constitutional provisions pursuant to California Code of Civil Procedure § 1859 which states in pertinent part: "In the construction of a statute the intention of the Legislature ... is to be pursued, if possible ...." Our research and expert witness services have assisted the courts in understanding and applying the underlying purpose of enactments in countless cases, such as *Redlands Community Hospital v. New England Mutual Life Insurance Co,* 23 Cal. App.4th 899 at 906 (1994). LRI also provides similar research for other states and at the federal level. (Formerly Legislative Research Institute, Legislative Research, Incorporated, and Legislative Research & Intent LLC).

- *A table of contents itemizing the documents.* This table of contents cites the sources of the documents.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and that I could and would so testify in a court of law if called to be a witness.

Executed October 15, 2019.

Lisa Hampton, President

Table of Contents

PRIMARY SOURCE RECORDS (UNPUBLISHED HARDCOPY): At least one official California source is cited for the primary source records provided in this report. Multiple copies may have been obtained from various sources (primarily State Capitol, the state library system and/or legislative offices), but the clearest/most legible version was selected for this report.

UNITEMIZED MATERIALS BY SOURCE

Author's File.....1

Bill analysis.....2

Unitemized materials 7

(Source: State Capitol)

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www.lrihistory.com
(916) 442.7660

Author's File Materials

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

SENATE COMMITTEE ON PUBLIC SAFETY
Nancy Skinner, Chairman

BACKGROUND INFORMATION REQUEST

Please complete and return this form to the Senate Public Safety Committee. Please e-mail any other relevant material to one of our committee assistants Sarah Loftin or Zandra Chavez.
PLEASE NOTE THE FOLLOWING:

- ***The Committee will contact you to set your bill.***
- ***The Committee WILL NOT automatically set any bill.***
- ***Letters may not be reflected in the Committee analysis of your bill, if submitted to the Committee less than 7 days from the date your bill is set to be heard (the Tuesday preceding your hearing date).***
- ***If you have more than 5 support/opposition letters, please print out hard copies and deliver to the committee.***
- ***Your bill may not be set until this form is completed and returned to the Committee.***
- ***This form is two pages. Please complete every question. Send a copy of this completed form and any attachments to the Committee's Minority Policy Consultant, Eric Csizmar (eric.csizmar@sen.ca.gov (651-1772)).***

Measure: SB-61

Author: Portantino

Subject: Firearms: transfers.

Staff Contact Name, Phone Number and E-mail: Tara McGee, 916-651-4025, Tara.McGee@sen.ca.gov

1. Which agency, organization, or individual requested the introduction of this bill?

   - Author Sponsored

2. Which agencies, organizations, or individuals (outside of the sponsor) have expressed support? Please attach copies of letters.

The Brady Campaign, California Chapter

3. Which agencies, organizations, or individuals have expressed opposition? Please attach copies of letters.

None.

4. If a similar bill has been introduced in this or any previous session, what was the number and year of its introduction?

SB 1177 (Portantino) -2017/2018

AB 1674 (Santiago)- 2015/2016

5. What problem or deficiency under current law does the bill seek and remedy? Please be as specific as possible, and include any legal or empirical information upon which the bill is based. **NOTE: Some or all of this statement may be quoted verbatim in the Committee's analysis.**

In California, existing law prohibits applying to purchase more than one handgun within a 30-day period and prohibits a firearms dealer from delivering a handgun to a person who has submitted more than one purchase application within a 30-day period. Unfortunately, when this became law it failed to include long guns. This is a simple fix to existing law that creates a safer process for the purchasing and delivering of all types of firearms in California.

6. Are you planning any amendments to be offered before the Committee hearing? If so, please describe the amendments. NOTE: THE HEARING OF A BILL MAY BE DELAYED IF 1 SIGNED AND 10 UNSIGNED COPIES OF THE AMENDMENTS IN LEGISLATIVE COUNSEL FORM ARE NOT PROVIDED TO THE COMMITTEE **IN A TIMELY MANNER.**

No.

SB 61 (Portantino)
Firearms: Transfers

PROBLEM

The bulk of gun trafficking and violence has been perpetuated by handguns. For that reason, California has long had enhanced procedures in place to address that by various measures, one of which is the general limitation on a gun dealer delivering more than 1 handgun to an individual during a 30 day period. The "one gun a month" or "bulk transfer" law has numerous exemptions. Since it went into effect in 2000 the data suggests it has reduced the incidence of gun trafficking while not burdening legitimate gun owners or persons who wish to acquire guns.

Recent data suggest that long guns are becoming a significant piece of California's gun trafficking problem. Over the past ten years, Californians have typically purchased more long guns than handguns, including 538,149 guns in 2013. Of the 26,682 crime guns entered into the California Department of Justice's (DOJ) Automated Firearms Systems (AFS) database in 2009, 11,500 were long guns. Furthermore, DOJ has found that half the illegal firearms recovered from prohibited persons are long guns.

While it is currently illegal for someone under the age of 21 to purchase a firearm in California, there are exemptions to allow a firearm for active military, law enforcement and for hunting. The issue is that semi- automatic centerfire rifles are a more common choice of firearm when committing a mass shooting and is rarely used for Hunting. It is prevalent that we eliminate someone under the age of 21 years from obtaining this type of firearm.

BACKGROUND

Over the past ten years, Californians have annually purchased more long guns than handguns. The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period. The vast majority of long gun purchasers will not be impacted by SB 61. An individual purchased 177 long guns in two transactions within a one month period (April 2014). Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns.

DOJ data shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included. The largest bulk sale of long guns in one month to an individual (177 long guns) was composed entirely of lower receivers, which can be built into illegal assault weapons and sold on the black market.

Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or long gun, or purchased new from a dealer or through a private party transaction. Limiting firearms sales to one gun per month is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands.

With the recent shooting in San Diego, CA by a 19 year old with news outlets reporting he obtained the firearm legally, but has not come out of how he obtained it legally. It is important we insure there are no loopholes within the system which is why the existing hunting license and honorably retired military exemption be tightened up as to semiautomatic centerfire rifle.

SUMMARY

In SB 61, firearms will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser had made another application to purchase a Semi-automatic center fire rifle or handgun.

SB 61 would also prohibit the sale of a semiautomatic centerfire rifle to those under 21 years of age unless you are active military or law enforcement.

EXISTING LAW

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per month. AB 202 provided a number of exemptions, including private party transactions. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to all firearms, including long

Office of Senator Anthony J. Portantino
SB 61 – Fact Sheet
Contact: Tara McGee – (916) 651-4025 or Tara.McGee@sen.ca.gov

guns (rifles and shotguns) [The private party exemption remains – constitutionally required].

As to long guns, SB 61 exempts licensed hunters and charity auctions from one gun a month as to long guns. However, the hunting exemption and auction exemption do not apply to semiautomatic centerfire rifles. While some of these rifles are used in hunting, manty are not.

To address this SB 61 requires a combination of two factors to exist for someone to claim an exemption from one gun a month as to semiautomatic centerfire rifles:

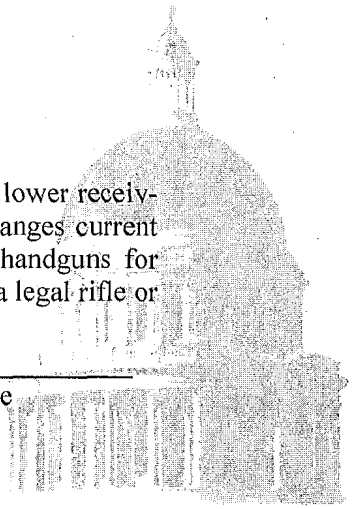
Acquisition by a licensed hunter at a charity auction.

Acquisition at a charity event by the holder of California DOJ Certificate of Eligibility ("COE") [Live scan based Cal-DOJ issued license].

Acquisition by a licensed hunter with a COE.

Honorably retired military with COE.

In addition, the current statute does not cover lower receivers which are considered the gun. SB 61 changes current law that lower receivers will be treated as handguns for "one gun a month" unless the gun come with a legal rifle or shotgun barrel.



SUPPORT

Brady California United Against Gun Violence
Bay Area Student Activists (BAStA)
California Police Chiefs
City of Los Angeles
County of Los Angeles
Giffords Law Center
Physicians for Social Responsibility, SF Chapter
The Los Angeles County Board of Supervisors
Women for: Orange County

Version: 10/11/2019

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NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
555 CAPITOL MALL, STE 625
SACRAMENTO, CA 95814

STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, WESTERN REGIONAL DIRECTOR

April 18, 2019

The Honorable Philip Ting
P.O. Box 942849, Rm 6026
Sacramento, California 94249-0019

RE: Assembly Bill 61: Gun violence restraining orders

Position: OPPOSE

Dear Assembly Member Ting:

On behalf of the National Rifle Association (NRA) and its hundreds of thousands of members in California, I write to express our opposition to Assembly Bill 61 as amended.

AB 61 would amend the "Gun Violence Restraining Order" procedures that were created by AB 1014 (2014). NRA is opposed the current GVRO procedures because they provide a mechanism for an individual to lose the right to keep and bear arms without due process of law. AB 61 would compound these problems by significantly expanding the classes of individuals who could seek a GVRO.

Under current law, only "immediate family members" and law enforcement officers can use the GVRO laws to petition to have an individual stripped of their firearm rights. AB 61 would additionally authorize employers, coworkers and employees of a secondary or postsecondary schools that the person has attended in the last six months to petition for a GVRO. By substantially increasing the numbers of people who can petition for a GVRO, this bill could open the GVRO system to abuse. A disgruntled coworker, an unhappy employer, or a controlling professor could petition to deny a person their right to bear arms if AB 61 were to become law. And, because the GVRO system already allows for *ex parte* procedures, the individual whose rights would be restricted would not have an opportunity to contest any allegations until up to 21 days after the issuance of the original order. Even if the court finds in favor of the person whose rights were restricted, it may take that individual several months to have their firearms returned.

The NRA is open to discussing options to address the situations that are contemplated under this bill, however we are committed that all persons should be afforded due process prior to the removal or suspension of their constitutional rights.

For the foregoing reasons, we oppose AB 61.

Sincerely,



Daniel Reid
Western Regional Director

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2019/04/01 22:46:11 1 / 1

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
555 CAPITOL MALL, STE 625
SACRAMENTO, CA 95814
(916) 446-2455

STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, WESTERN REGIONAL DIRECTOR

April 1, 2019

The Honorable Anthony Portantino
State Capitol, Room 3086
Sacramento, California 95814

RE: Senate Bill 61 (Portantino) – Firearms: transfers
Position: Oppose

Dear Senator Portantino:

On behalf of the National Rifle Association and its hundreds of thousands of members in California, I write to express our strong opposition to Senate Bill 61.

California has stringent laws when it comes to the purchase, possession, and transfer of all firearms. In order for a person to purchase any firearm in California, they must possess a firearm safety certificate, pass a criminal background check and wait 10 days prior to receipt. Additionally, current California law strictly regulates the sale/transfer of all firearms and generally requires the involvement of a licensed dealer, absent very narrow and limited circumstances. Unless the transfers are infrequent and without regularity, individuals engaging in the transfer of long guns must have a highly regulated license to sell firearms from the California Department of Justice. (Cal. Pen. Code sections 16730, 26520).

This bill aims to restrict the rights of law-abiding citizens by limiting the number of firearms they can purchase during a 30-day period. No rationale or objective data is presented in support of SB 61. It is a 'do something' knee-jerk reaction designed to inconvenience those seeking to lawfully exercise their constitutional right to purchase a rifle or shotgun while doing nothing to address the criminal misuse of firearms.

For the foregoing reasons, the National Rifle Association opposes SB 61.

Sincerely,

Daniel Reid
Western Regional Director

Be Safe. Shoot Straight. Fight Back!

CRPA.ORG
CALIFORNIA RIFLE & PISTOL ASSOCIATION

March 4th, 2019

Honorable Senator Anthony J. Portantino
State Capitol Room 2206
Sacramento, CA 95814

Re: Senate Bill 1177 (Portantino) – Firearms: Transfers

Position: Opposed

Dear Senator Portantino,

On behalf of the California Rifle and Pistol Association (CRPA), and its members, I write to express our strong opposition to Senate Bill 61 (SB 61). SB 61 would make it a crime to attempt to purchase more than one firearm of any type within a 30-day period.

SB 61 would significantly reduce long gun sales in California. This translates into a loss of manufacturing jobs at both the state and national levels, and a significant loss of revenue for California businesses. Additionally, this bill will significantly impact the of millions of dollars of Federal Pitman Roberson tax money that would be earmarked to develop and enhance habitat critical for California's wildlife. The Department of Justice (DOJ), has estimated previous versions of this same bill's implementation alone will cost hundreds of thousands of dollars, and result in significant overtime hours for Department personal to perform the necessary analysis, development, testing, and implementation to various Department databases.

SB 61 will also effectively prohibit the creation of new businesses in California involving hands on instruction in the safe handling of firearms. Should this bill become law, certified firearm instructors would no longer be able acquire the necessary firearms without having to wait months, if not years, to conduct classes for groups such as the Boy Scouts of America, Hunter Education, Youth shooting sports, and other clubs or organizations that wish to participate in firearm safety classes.

You and your proponents argued in testimony there is no legitimate reason for anyone to need to purchase more than one firearm a month. There are, in fact, numerous legitimate recreational and Second Amendment protected reasons why an individual might want, and need, to transfer more than one firearm a month. For example, someone new to the sport of recreational competitive shooting, 'Three Gun' competitions, may very well need to purchase a pistol, shotgun, and rifle without having to wait 30 days between each purchase. This bill would require someone wanting to acquire all three types of firearms to undergo a process that would take at least 70 days assuming everything goes smoothly. The procedure for purchasing these firearms is already very time and travel intensive. Each transaction requiring a trip to the licensed dealer.

271 E. Imperial Highway, Suite 620, Fullerton, CA 92835
(714) 992-2772 • (800) 305-2772
www.CRPA.org

Be Safe. Shoot Straight. Fight Back!

CRPA.ORG
CALIFORNIA RIFLE & PISTOL ASSOCIATION

Currently individuals in California must go through the following steps to purchase a firearm; Obtain a firearm safety certificate; Go to a California licensed firearms dealer; Complete 4473 and (Dealer Record of Sales) DROS applications; Pass the required background check; Wait the required 10 days; Go back to dealer; Perform a safe handling demonstration; Pick up first firearm. Under SB 61 the individual would have to wait the required 30 days, then go back to dealer again; and repeat the process for each subsequent purchase.

Both California and Federal law already address your concerns regarding the trafficking of firearms by narrowly limiting the number of firearms an individual can sell. Rather than having the desired effect of targeting criminals, this bill will impact only the law abiding, thereby further limiting available funding to DOJ.

SB 61, allows for numerous exemptions to the restriction which do not apply to the general public, though well intended by the author will create a nightmare DOJ and law enforcement to implement and enforce. Additionally, both you and your proponents have argued this bill is necessary because the vast majority of firearms recovered from APPS seizures are long guns. However, data from the Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF, clearly shows the vast majority of firearms recovered by law enforcement are handguns, which are already subject to the 30-day restriction, illustrating the restrictions ineffectiveness at reducing crime.

Respectfully, as a reminder you and your proponents have tried three previous versions of this bill in the last three years. All vetoed by Governor Brown; 2016: AB 1674, 2017: SB 497 and in 2018: SB 1177. In his 2018 veto statement the Governor stated: "I am returning SB 1177 without my signature. This bill prohibits any person from purchasing more than one long-gun per month. I vetoed a substantially similar bill in 2016, and my views have not changed", in his 2016 veto statement Governor Brown said in part; " while well-intended, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need. Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed". Senator, I do commend you on your perseverance; but, nothing has changed this is just a bad bill that will not curb crime and will only impact law abiding citizens. For the foregoing reasons, the California Rifle and Pistol Association strongly opposes SB 61.

Respectfully Submitted,

Roy M. Griffith Jr.
Legislative Liaison
California Rifle and Pistol Association, Inc.
rgriffith@crpa.org

CC: Tara.McGee@sen.ca.gov ; Legislative Aide

GIFFORDS LAW CENTER
TO PREVENT GUN VIOLENCE

268 Bush Street #555, San Francisco, CA 94104 415-433-2062 GIFFORDSLAWCENTER.ORG

March 26, 2019

The Honorable Nancy Skinner
Chair, Public Safety Committee
California State Senate
Sacramento, CA 95814

Re: Support for SB 61 (Portantino) – Limiting Bulk Firearm Purchases

Dear Senator Skinner,

On behalf of Giffords Law Center to Prevent Gun Violence, I urge you to support SB 61 (Portantino), legislation that would help curb the flow of firearms on the black market in California. Now led by former Congresswoman and shooting survivor Gabby Giffords, our organization has worked for 25 years to enact evidence-based policy reforms at the local, state, and national levels to save lives from gun violence.

In 1999, California enacted our state's one-handgun-per-month law, which generally prohibits a person from purchasing more than one new handgun from a licensed firearms dealer in any 30-day period. The law also prohibits a dealer from completing the sale of a handgun once the Department of Justice (DOJ) notifies the dealer that the person attempting to acquire the handgun has applied to purchase another handgun within the previous 30 days. In floor debates and bill analyses prepared prior to the one-handgun-per-month law's enactment, the Legislature noted that these "bulk purchase limits" would affect a very small percentage of purchasers, while effectively limiting the small number of buyers most likely to be involved in crimes and violence. This law helps to curb the flow of handguns on the illegal black market and prevents dangerous individuals from quickly amassing stockpiles of weapons.

However, current law does not apply these limitations to long guns sold by dealers. This loophole allows gun traffickers to easily purchase unlimited numbers of rifles and shotguns for illegal distribution to people who could not legally acquire them, including organized gangs and cartels, and allows individuals who intend to perpetrate violence themselves, like mass shooters, to quickly stockpile large numbers of firearms.

SB 61 would start to close this dangerous loophole by generally extending California's existing one-handgun-per-month law to long gun purchases too.

SB 61 would still provide targeted exceptions for licensed hunters acquiring new hunting rifles and shotguns. This bill would also still allow other individuals to lawfully purchase up to 12 new firearms per year from licensed dealers, to acquire additional firearms from unlicensed sellers (even though such transactions must be conducted through a licensed dealer), and to liquidate a collection of used firearms to a single purchaser. It would also still

allow people to loan or transfer their firearms to family members, acquaintances, and sport or hunting partners in a variety of circumstances, while placing reasonable limitations on dangerous individuals' ability to obtain mass quantities of guns for illegal purposes.

Laws limiting multiple firearm sales are important to public safety. Although bulk firearm purchases comprise a very small share of the overall market for firearms, they represent a significant source of guns sold to criminals. A 2007 University of Pennsylvania report to the National Institute of Justice found that guns purchased in a "multiple sale"—meaning guns purchased by a person who bought at least one other firearm within five business days—were up to 64% more likely to be used for illegal purposes than guns purchased individually.[i] An ATF report similarly found that purchases of multiple long guns are a "significant indicator" of gun trafficking.[ii] An ATF study of gun trafficking by one cartel in Mexico found that the cartel purchased 336 firearms in a 15-month period, including 251 long guns, and that all but one of those firearms was purchased in bulk sales from a U.S. gun dealer.[iii] Experts also identify "stockpiling weapons" as a significant warning sign of a mass shooter's violent intentions.[iv]

Additionally, a dangerous person's ability to quickly amass weapons is hazardous to public safety regardless of whether those weapons are sold by dealers or unlicensed sellers, and regardless of whether they are long guns or handguns. Treating all firearm sales equally is common sense and would further California's efforts in recent years to align the legal requirements governing handgun and long gun sales in the state. ATF has reported that long guns have become Mexican cartels' "weapons of choice,"[v] and the agency has had to implement special reporting requirements on California gun dealers to track certain multiple long gun sales because our state is such a significant source of these firearms for violent cartels over the border.[vi]

Within California, DOJ has reported that long guns comprise half the illegal firearms recovered by law enforcement from prohibited persons in this state.[vii] In addition, an examination of forensic data collected from the mass shootings that have occurred in the United States throughout the last 30 years showed that exactly half of the weapons used to perpetrate those tragedies were long guns.[viii] Curbing bulk purchases of all firearms would help keep more deadly weapons from falling into dangerous hands.

SB 61 (Portantino) will implement sensible and reasonable safeguards to curb the flow of firearms on the illegal black market and into the hands of those most likely to use these weapons in crimes and violence.

For these reasons, we urge you to support SB 61 (Portantino).

Sincerely,



Ari Freilich
California Legislative Affairs Director & Staff Attorney
Giffords Law Center to Prevent Gun Violence

[i] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A Report to the National Institute of Justice, U.S. Dept. of Justice* (2007), https://www.ncjrs.gov/pdffiles1/nij/grants/221074.pdf.

[ii] U.S. Gov. Accountability Office, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges* (2009): 28, http://www.gao.gov/new.items/d09709.pdf

[iii] U.S. Dept. of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, November 2010, 38-39, www.justice.gov/oig/reports/ATF/e1101.pdf.

[iv] Peter Langman, Ph.D., *School Shooters: The Warning Signs*, Jul. 29, 2014, https://schoolshooters.info/sites/default/files/school_shooters_warning_signs_1.1.pdf

[v] U.S. Dept. of Justice, Office of the Inspector General, *Review of ATF's Project Gunrunner*, November 2010, 36, www.justice.gov/oig/reports/ATF/e1101.pdf.

[vi] Letter from Charles Houser, Chief, Nat'l Tracing Ctr., to Fed. Firearms Licensees, Jul. 12, 2011, 1, http://www.scribd.com/doc/61159256/ATF-Multiple-Rifle-Sale-Reporting-Requirement-Letter. See also Agency Information Collection Activities; *Proposed Collection Comments Requested: Report of Multiple Sale or Other Disposition of Certain Rifles*, 76 Fed. Reg. 24,058, 24,058, Apr. 29, 2011; Bureau of Alcohol, Tobacco, Firearms & Explosives, *Q&As for the Report of Multiple Sale or Other Disposition of Certain Rifles*, http://www.atf.gov/files/firearms/industry/080911-qa-multiple-rifles.pdf.

[vii] Data provided by the Cal. Dept. of Justice, Mar. 4, 2010.

[viii] Mark Follman *et al.*, "US Mass Shootings, 1982-2015: Data from Mother Jones' Investigation," *Mother Jones Magazine*, Dec. 28, 2012.

COALITION AGAINST GUN VIOLENCE
A Santa Barbara County Coalition

March 18, 2019

Senator Anthony Portantino
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

VIA FAX: (916) 651-4925

Re: SB 61 (Portantino) Preventing Gun Trafficking

On behalf of the Coalition Against Gun Violence, a Santa Barbara County Coalition, I write in support of Senate Bill 61. This bill extends existing law that limits purchases of new handguns to no more than one gun per person per 30-day period to new long guns, including high-powered semiautomatic rifles. The bill will deter gun traffickers, who purchase firearms in bulk to sell for profit on the black market.

SB 61 will reduce the trafficking of illegal guns. This bill will reduce gun crime and save lives. For these reasons, the CAGV is in support of SB 61 and appreciates your introduction of this important measure. The Coalition Against Gun Violence urges you to sign SB 61 into law.

Sincerely,

Toni Wellen

Toni Wellen, Chair

PO Box 869, Summerland, CA 93067 • cagvsb@gmail.com • 805-564-6803 • sbcoalition.org •

FAX COVER SHEET

TO	Anthony Portantino
COMPANY	
FAX NUMBER	19166514925
FROM	Kathy Lynch
DATE	2019-03-22 20:15:44 GMT
RE	SB 61

COVER MESSAGE

We are sending this communication through the MetroFax system to assure and verify delivery of our communication and to provide us with a record of the date and time of that delivery.

We will be pleased to meet with you to discuss the content of this communication. Kathy Lynch can be reached by e-mail at lynch@lynchlobby.com, by telephone at 916-443-0202, by cell at 916-838-6600, and by FAX at 916-443-7353.

We thank you for this opportunity to communicate our position on this bill.



The California
Sportsman's Lobby, Inc.

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

The California Sportsman's Lobby is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in the laws relating to these activities.

The California Sportsman's Lobby (CSL) promotes the conservation, enhancement, scientific management, and wise use of all our natural resources; CSL seeks an end of activities needlessly destructive to natural resources; CSL endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation, enhancement, and wise use of all our natural resources; and CSL works to secure more and better outdoor opportunities for all citizens, regardless of race, creed, or color as essential to the physical and spiritual well being of all the people.

This is to notify you of the opposition of the California Sportsmen's Lobby (CSL) to SB 61.

It would unjustifiably limit the purchase of a rifle or shotgun by any lawful person to one per month.

Rather than limit such purchases by lawful individuals to one per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Such persons will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer. The restrictions proposed in SB 61 would not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and for persons acquiring firearms at nonprofit fundraising events, it does not offset the opposed limitation on other lawful persons.

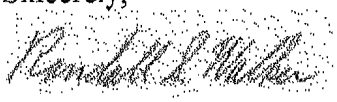
Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,



Randall Walker
President, California Sportsman's Lobby

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
California Sportsman's Lobby

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 264 Cell 503-729-6325 mfindlay@nssf.org

Michael Findlay
Director,
Government Relations - State Affairs

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (As Introduced January 3, 2019)

Dear Senator Portantino:

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 12,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations, including more than 1,300 in California alone. Our manufacturer members make the firearms used by law-abiding California sportsmen, the U.S. military and law enforcement agencies throughout the state.

This is to notify you of the opposition of the National Shooting Sports Foundation (NSSF) to SB 61, as introduced, that would limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit purchases for all individuals to one such firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should instead be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

With respect to mental health practitioners and others in positions of authority who should do so, it appears there are many who do not notify the Department of Justice (DOJ) or other appropriate agencies of individuals whom they have determined are likely to be a danger to themselves or others.

Sometimes, agencies and authorities who have been notified of such persons fail to act.

This is another area that needs more focus, instead of setting arbitrary, ineffective purchase limits for the acquisition of a rifle or shotgun. There is no evidence that such a purchase limit would have an impact on the criminal misuse of firearms.

Limiting the purchases of rifles or shotguns for an entire class of citizens as proposed in SB 61 would not solve crime problems and tragedies.

Firearms ownership by individuals is a constitutionally protected right.

NSSF supports practical solutions that will ensure that unauthorized individuals do not have access to any firearm of any kind at any time.

It has sponsored the FixNics® campaign to encourage states to submit all disqualifying criminal and mental health records to the FBI's National Criminal Instant Background Check System (NICS). Since its inception, the number of disqualifying records sent by states to the FBI has increased by 200 percent and is continuing to grow, making the federal NICS background check system increasingly more effective. This is where the emphasis should be.

Limiting all adults to a maximum of one rifle or one shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, the National Shooting Sports Foundation opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Michael Findlay
Director of Government Relations – State Affairs

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
National Shooting Sports Foundation

Dedicated to Preserving Your Rights To Hunt and Fish In the State of California

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

The Outdoor Sportsmen's Coalition of California is a nonprofit organization of sportsman's clubs and individuals dedicated to preserving outdoor recreation in California. Our principal activities are to monitor legislation that might negatively impact hunting, fishing and other recreation, and to oppose unwise changes in laws and regulations relating to these activities.

The Outdoor Sportsmen's Coalition of California (OSCC) promotes the conservation enhancement, scientific management, and wise use of all our natural resources; OSCC seeks to end activities needlessly destructive to natural resources; OSCC endeavors to educate and encourage the public generally, and the youth specifically, to an understanding of the advantages and importance of the conservation and enhancement of our natural resources.

OSCC works to enhance outdoor opportunities for all citizens. With several thousand members located throughout California, we stay in contact with our membership via newsletters and the internet so they can be involved as they see fit.

This is to notify you of the opposition of the Outdoor Sportsmen's Coalition of California (OSCC) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

P.O. Box 848, Fresno, CA 93712

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

While the purchase limit exemption in the bill is appreciated for licensed hunters, and persons acquiring firearms at nonprofit fundraising events, it does not offset the needless limitation on other lawful individuals.

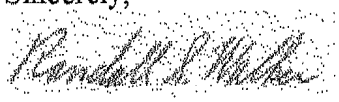
Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month, will not solve crime and mental health problems.

For the above reasons, the Outdoor Sportsmen's Coalition of California opposes SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,



Randall Walker, President
Outdoor Sportsmen's Coalition of California

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
Outdoor Sportsmen's Coalition of California

Safari Club International

A NON-PROFIT ORGANIZATION • DEDICATED TO CONSERVING WILDLIFE AND PRESERVING HUNTING

SCI
FIRST FOR HUNTERS

SCI CA Coalition

March 21, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol Building
Sacramento, CA 95829

Position: Oppose

Location: Senate Public Safety Committee

Re: SB 61 (Portantino) Firearms: transfers (Introduced January 3, 2019)

Dear Senator Portantino:

Safari Club International and Safari Club International Foundation (SCI) is a worldwide Non-Profit organization with the mission to protect the freedom to hunt and to promote wildlife conservation. SCI recognizes hunting as a valuable management tool. SCI currently has over 45,000 members and approximately 4,000 members in California. SCI also has 30,000 California Affiliates, 950,000 U.S. Affiliates and over 7,000,000 International Affiliates. SCI spends millions annually for Wildlife Conservation, Research and Education.

This is to notify you of the opposition of the SCI CA Coalition (SCI) to SB 61, as introduced.

It would needlessly limit the purchase of a rifle or shotgun by anyone to one per month.

While the exemption in the bill from the one gun per month limit for licensed hunters, and firearms acquired at nonprofit fundraising events, is appreciated, it does not mitigate the inappropriate limitation on others, such as recreational and competitive shooters.

Rather than limit such purchases to one firearm per month, experience with mass homicides and other crimes involving firearms has clearly shown that the focus should be on preventing criminals and individuals suffering from mental illness from acquiring firearms, not on those who are not a part of the problem.

Persons who have an intent to commit such crimes, or other illegal acts involving the use of a firearm, will always be able to obtain firearms through unlawful sources without going through a licensed firearms dealer.

The restrictions proposed in SB 61 will not prevent it.

Firearms ownership by individuals is a constitutionally protected right of all adults.

Limiting all adults to a maximum of one rifle or shotgun purchase per month will not solve crime and mental health problems.

For the above reasons, SCI CA Coalition opposes the enactment of SB 61.

Should you have any questions, please contact our legislative advocate, Kathryn Lynch, at (916) 443-0202 or lynch@lynchlobby.com.

Sincerely,

Lisa C. McNamee
Co-Legislative Coordinator
SCI CA Coalition

Don Giottonini
Co-Legislative Coordinator
SCI CA Coalition

cc: Senator Steven Glazer, Co-Author
Senator Scott Wiener, Co-Author
Mr. Anthony Williams, Legislative Affairs Secretary, Governor's Office
Mr. Gabe Caswell, Consultant, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Caucus
Ms. Kathryn Lynch, Legislative Advocate
SCI CA Coalition

COUNTY OF LOS ANGELES
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March 11, 2019

The Honorable Nancy Skinner, Chair
Senate Public Safety Committee
State Capitol, Room 5094
Sacramento, California 95814

RE: SB 61 (Portantino), As Introduced January 3, 2019 – SUPPORT
Relating to Firearms: Transfers
Set April 2, 2019, in the Senate Public Safety Committee

Dear Senator Skinner:

The Los Angeles County Board of Supervisors supports SB 61 (Portantino).

Current law generally prohibits an individual from making more than one application to purchase a handgun within any 30-day period. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the State Department of Justice that within the preceding 30-day period, the purchaser has made another application to purchase a handgun. SB 61 would provide that an existing law which makes it unlawful for a person to purchase more than one handgun every 30 days is applicable to all types of firearms.

The County's Department of Public Health (DPH), and their Injury and Violence Prevention Program (IVPP) indicate that laws limiting the number of firearms a person can purchase within a certain timeframe can help to reduce the number of guns that enter the secondary market—weapons that are more likely to wind up at the scene of a crime. DPH-IVPP notes that commonsense regulation of gun purchases can help to reduce gun trafficking and, in turn, gun violence. Therefore, I urge the Committee's **"AYE"** vote on SB 61. Please contact me at (916) 441-7888 or dseltz@ceo.lacounty.gov if you have any questions.

Sincerely,

Donna Seitz
Assistant Chief Legislative Representative

c: Senator Anthony Portantino
Each Member and Consultant,
Senate Public Safety Committee

California POLICE CHIEFS Association Inc.

P.O. Box 255745 Sacramento, California 95865-5745 Telephone (916) 481-8000 FAX (916) 481-8008
E-mail: lmcgill@californiapolicechiefs.org • Website: californiapolicechiefs.org

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RICK ARMENDARIZ, Assistant Chief
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Irvine
LESLIE MCGILL, CAE
Executive Director
Ex-Officio

April 16, 2019

Honorable Anthony Portantino
California State Senate
California State Capitol
Sacramento, CA 95814

Senate Bill 61 (Support)

Dear Senator Portantino,

The California Police Chiefs Association is proud to **support** SB 61, which would extend the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

This bill eliminates the possibility of long guns being purchased in bulk and reduces the risk of gun violence in the state. According to the University of Pennsylvania, "a quarter of all guns used in crimes were purchased as part of a multiple-gun sale…guns purchased in bulk were up to 64% more likely to be used for illegal purposes…" SB 61 does not infringe on Californian's right to purchase a firearm, but instead reduces the risk of gun trafficking within the state.

For these reasons, we are proud to support this measure. For additional questions, please contact our Legislative Advocate, Jonathan Feldman, at jfeldman@lawpolicy.com.

Thank you,

Ronald A. Lawrence
President

Jonathan Feldman
Legislative Advocate

BRADY
UNITED AGAINST GUN VIOLENCE
CALIFORNIA

LEGISLATION & POLICY CHAIR
Amanda Wilcox
Nevada/Placer
P.O. Box 892
Rough & Ready, CA 95975
(530) 432-2171
CABrady@live.com

ORGANIZING MANAGER
Shikha Hamilton
San Mateo Co.

CALIFORNIA BRADY EXECUTIVE COMMITTEE

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Stockton

Suzanne Verge
Los Angeles

Toni Shellen
Tri-City/Alameda Co.

March 18, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol
Sacramento, CA 95814

Support: SB 61 (Portantino) – Preventing Trafficking of Long Guns

Dear Senator Portantino:

Brady California United Against Gun Violence is a grassroots organization working to reduce firearm crime, injury, and death. There are Brady chapters throughout the state, many of whose members have lost a loved one to gunfire. A key policy objective for Brady California is to disrupt the flow of illegal guns into impacted communities. SB 61 will help address this problem and Brady California stands in strong support.

In 1999, legislation (AB 202) was enacted that limits purchases of handguns from licensed firearms dealers in California to no more than one per person per 30-day period. The purpose of the bill was to curb the illegal flow of handguns by taking the profit out of selling guns from bulk purchases on the black market. SB 61 applies existing law under AB 202 to long guns, including rifles, shotguns, and lower receivers.

Under SB 61, firearms (handguns *and* long guns) will not be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period, the purchaser had made another application to purchase a firearm. Private party transactions will continue to be exempt. Additionally, rifle and shotgun (but not lower receiver) purchasers with a valid hunting license issued by the Department of Fish and Wildlife and the acquisition of a rifle or shotgun at an auction or similar event conducted by a nonprofit will be exempt.

It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, firearms acquired this way are frequently used in crime. In fact, an ATF study of tracing data demonstrated that 22% of all handguns recovered in crime in 1999 were originally purchased as part of a multiple sale.[i] A similar study found that 20% of all handguns recovered in crime in 2000 were originally purchased as part of a multiple sale.[ii] Additionally, a University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.[iii]

Since 1999, Californians have typically purchased more long guns than handguns every year.[iv] Currently, these long guns include high powered featureless weapons with exchangeable magazines that enable rapid reload and lower receivers, which can be assembled into illegal military-style weapons. Limiting multiple-gun sales within a short period of time for such weapons, which are more lethal than handguns, is clearly in the interest of public safety.

The Department of Justice began to retain records of long gun purchases on January 1, 2014. An analysis of the transaction data from the period January 2014 through June 2015 shows that 81.9% of long guns were sold as a single long gun purchase within a 30-day period.[v] *Clearly, the vast majority of long gun purchasers will not be impacted by SB 61.* However, at the opposite end of the spectrum, an individual purchased 177 long guns in two transactions within a one month period (April 2014).[vi] Furthermore, sales to single individuals ranging from 5 to 54 long guns per month occurred on 1,787 occasions, totaling 12,090 guns.[vii] Department data also shows that when multiple long guns are transferred in a sale, it is more than twice as likely that lower receivers are included.[viii] The largest bulk sale of long guns in one month to an individual (177 long guns) was composed *entirely* of lower receivers,[ix] which can be built into illegal assault weapons and sold on the black market.

Brady California believes that handguns and long guns should generally be subject to the same laws. Preventing the flow of illegal guns is important to public safety regardless of whether the firearm is a handgun or a long gun. Limiting firearms sales to one gun per 30-day period is a recognized strategy to reduce gun trafficking and keep firearms out of dangerous hands. Brady California thanks you for introducing SB 61.

Sincerely,

Amanda Wilcox

Amanda Wilcox
Legislation and Policy Chair
Brady California United Against Gun Violence

Cc: Members of Senate Public Safety Committee

---

[i] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (1999) National Report* 40 (Nov. 2000).
[ii] Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (2000) National Report* 50 (July 2002).
[iii] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). https://www.ncjrs.gov/pdffiles1/nij/grants/221074. pdf.
[iv] California Department of Justice, "Dealer's Record of Sale (Calendar Year Statistics)," http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/dros_chart.pdf?.
[v] Data provided by the California Department of Justice, November 3, 2015.
[vi] Data provided by the California Department of Justice, November 3, 2015.
[vii] Data provided by the California Department of Justice, November 3, 2015.
[viii] Data provided by the California Department of Justice, March 7, 2016.
[ix] Data provided by the California Department of Justice, March 7, 2016.

Provided by LRI History LLC



February 7, 2018

Senator Anthony Portantino
California State Senate
State Capitol, Room 3083
Sacramento, CA 95814

SUBJECT: SB 61 (Portantino) – Letter of Support

Dear Senator Portantino,

Bay Area Student Activists strongly supports bill SB 61: Firearms: transfers. This bill would extend the current one-gun-every-thirty-days rule for handguns to all firearms (exempting persons possessing a hunting license).

BAStA is an entirely student-led organization that aims to uplift the voices of students, especially high school students, on issues that affect them, notably on gun control.

Currently, limitations are placed on the number of handguns a person can purchase in a month. Current law (AB 202 of the 1999-2000 session) limits the purchase of handguns from a firearms dealer to one every thirty days. Several exemptions may apply, including for those with hunting licenses, and in transfers between private parties. However, no such restrictions apply to long guns. This bill would eliminate the exemption for transfers between private parties and extend the remaining limitation on the number of handgun purchases that can be made in one month to *all firearms*.

We support this bill because firearms are all instruments designed to kill, regardless of whether a firearm is a handgun or a long gun. Gun are all a danger to society when they fall into the wrong hands, and it is appropriate to apply this common-sense regulation to all guns, not just handguns. It is worth noting that the California Department of Justice has found that half of firearms recovered from persons prohibited from possessing a firearm are long guns. There is no reason for this restriction to apply only to handguns.

Furthermore, the exemption applying currently to the handgun purchase limitation for transfers between private persons is an unnecessary exception to proper process. When the transfer of a deadly weapon takes place, proper oversight should be exercised, notably through a firearms dealer. This provides a surer process so that guns do not fall into the wrong hands than a simple transfer between two individuals, and thus helps to protect from the misuse of guns.

While Bay Area Student Activists does not affirmatively support the continued exemption of persons holding hunting licenses from common-sense gun control measures, we acknowledge



the rigour of the process for procuring such a license, and are therefore committed to supporting the bill as it stands.

Ultimately, the relative danger of handguns as opposed to other guns is still debated, but we know that they are *all* guns, which means that they *all* have the capability of inflicting deadly harm on anything or anyone who their owner decides to point it at.

We therefore strongly support this bill, SB 61.

We thank you for your leadership on this issue.

Sincerely,

Calvin Quick
[signed]

Legislative Coordinator
Bay Area Student Activists (BAStA)
Email: calvin@quickstonian.com; BAStA Email: bayareastudentactivists@gmail.com
Phone: 1(415) 521-9126; Fax: 1(628) 256-3552

HURST+BROOKS+ESPINOSA

May 3, 2019

The Honorable Anthony Portantino, Chair
Senate Appropriations Committee
State Capitol, Room 3086
Sacramento, CA 95814

RE: **SB 61 (Portantino) – Firearms: transfers (As introduced 1/3/2019)**
On Suspense File – Senate Appropriations Committee
County of Ventura: SUPPORT

Dear Senator Portantino:

On behalf of the Ventura County Board of Supervisors, I write in support of SB 61, your measure that would prohibit the purchase of more than one long gun during a 30-day period, except as specified. This measure is currently on the Senate Appropriations Suspense File.

As you know, Ventura County was the site of the November 2018 shooting at the Borderline bar, which tragically resulted in 12 deaths. This mass shooting has left our community shattered and in search of ways to prevent similar tragedies. We appreciate the Legislature's multi-pronged effort to advance legislation in 2019 that reduces the likelihood that persons who pose a threat to themselves or others are restricted from possessing firearms. As a general policy, the County of Ventura supports legislation that reduces the likelihood of accidental or intentional homicides and, in particular, mass homicides.

We believe SB 61 would be part of the solution in reducing gun violence. It would make long guns generally subject to the same purchasing restrictions as handguns. Limitations imposed on the purchase of handguns were enacted 20 years ago (AB 202, 1999). That legislation was intended to reduce the illegal flow of handguns by eliminating the opportunity to sell guns from bulk purchases on the black market. SB 61 would apply the law enacted under AB 202 to long guns, as specified. It would, however, include several narrow exceptions.

1127 Eleventh St., Ste. 805
Sacramento, CA 95814
916.245.3445

hbeadvocacy.com

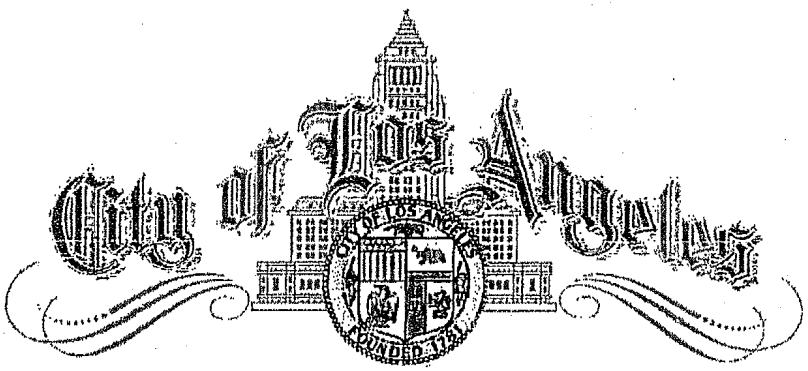
The County of Ventura is pleased to support SB 61 and thank you for your leadership in advancing this legislation. Should you have any questions about the County's position, please do not hesitate to contact me at ehe@hbeadvocacy.com or 916-272-0012. Thank you.

Sincerely,

Elizabeth Espinosa
Legislative Representative

cc: Members and Consultants, Senate Appropriations Committee
Ventura County Legislative Delegation

Provided by LRI History LLC



MICHAEL N. FEUER
CITY ATTORNEY

February 21, 2019

The Honorable Nancy Skinner
Chair, Senate Public Safety Committee
State Capitol, Room 2031
Sacramento, CA 95814

RE: SB 61 (Portantino) Firearms: transfers.
SUPPORT

Dear Chair Skinner,

I write to express my support for SB 61 (Portantino) and respectfully request your "AYE" vote when this bill is heard in your committee. This bill would expand the prohibition on individuals from purchasing more than one handgun in any 30-day period and apply it to all firearms.

As you know, AB 202 (Knox, Chapter 128, Statutes of 1999) prohibited an individual from purchasing more than one handgun in any 30-day period. AB 809, which I authored in 2011, requires long gun data to be entered into the Automated Firearms Database, an important law enforcement tool, in a manner similar to handguns.

California Department of Justice (DOJ) data has shown that nearly 82% of the long guns sold in the state were sold as single purchases to individuals within one 30-day period. Additional data from DOJ also show that when multiple long guns are bought in a single transaction, it is twice as likely that the sale included lower receivers. These lower receivers can then be built into illegal assault weapons and sold on the black market, allowing unscrupulous individuals to circumvent California's strict gun control laws. SB 61 (Portantino) will stem the flow of long guns into the black market while having no negative effect on the overwhelming majority of gun purchasers in the state.

I would also to take this opportunity to thank the author, Senator Portantino, a longtime advocate of efforts to reduce gun violence. I am pleased to support SB 61 (Portantino). Thank you for your consideration.

Sincerely,

Michael N. Feuer
Los Angeles City Attorney

Cc: Members and Consultants, Senate Public Safety Committee
The Honorable Anthony Portantino, 25th Senate District

Women For: Orange County

Working for a Better World

a grassroots advocacy organization founded in 1984

P.O. Box 5402, Irvine, California 92616, 714.590.7804

www.womenfororangecounty.org/womenforoc@aol.com

April 24, 2019

The Honorable Anthony Portantino
California State Senate
State Capitol
Sacramento, CA 95814

Re: SB 61 Position: Support

Dear Senator Portantino:

I am writing on behalf of **Women For: Orange County**. **Women For: OC** is dedicated to the attainment of peace, justice, and human and civil rights, and for that reason we are opposed to the proliferation of illegal guns in our society.

We strongly support Senate Bill 61, which would limit purchases of new long guns to one per person per 30-day period. This bill will reduce the trafficking of illegal guns.

Therefore, **Women For: Orange County** is pleased to support SB 61. Thank you for your authorship of this important bill, which will keep our communities safer from gun violence.

Sincerely,
Judy Curry
President
Women For: Orange County



LRI

John W. Dillon (Bar No. 296788)
Gatzke Dillon & Ballance LLP
2762 Gateway Road
Carlsbad, California 92009
Telephone: (760) 431-9501
Facsimile: (760) 431-9512
E-mail: jdillon@gdandb.com

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF BRANDON COMBS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 2 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Department: 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

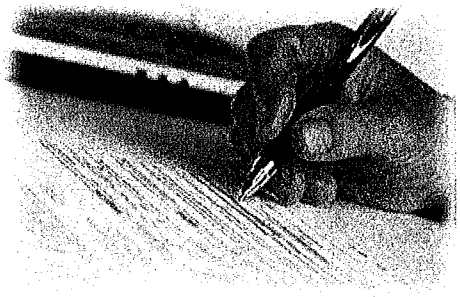
EXHIBIT "7"

Join the
San Diego County Sheriff's Department (/index.html)

Sheriff's Hiring Process

STEP 1. Fill out online application/Complete Questionnaire/View Video. It is highly suggested that you apply for both positions IF YOU QUALIFY so check both positions on the application. The County of San Diego Department of Human Resources will send you an email inviting you to fill out a questionnaire with 27 supplemental questions along with instructions on how to view a mandatory video with words from the Sheriff. (Please note: The Apply links in the left column will bring you to the County of San Diego Department of Human Resources web site).

NOTE: Upon successful completion of viewing the video and answering the questionnaire, your application will be submitted, processed and validated to ensure you meet the minimum requirements. This can take several weeks.



STEP 2. Written Exam (Relative weight 100%). Upon successful completion of STEP 1 the County of San Diego Department of Human Resources will contact you via email inviting you to register for the California P.O.S.T. written exam. The email notice will have instructions on how to register. It is one exam for both positions, so register for one exam only! Results take approximately 3-6 weeks. Upon passing the exam, you will be placed on the eligibility list for one year. If selected, you will be invited to meet with a background investigator to complete the next step (STEP 3).

STEP 3. Prescreen questionnaire/Personal History Statement. The County of San Diego Department of Human Resources will send you an email inviting you to fill out a Prescreen Questionnaire (Personal History Statement) and instructions on how to view an additional mandatory video with words from the Sheriff.

STEP 4. Comprehensive Background Investigation. You will be assigned a Background Investigator.

STEP 5. Computer Voice Stress Analysis (CVSA) and Employment Interview. Truth verification exam (type of polygraph) and employment interview (Lieutenant's Interview).

STEP 6. Physical Agility Test (PAT). See FAQ page for details.

STEP 7. Psychological Evaluation. You will fill out a written exam and meet with a psychologist.

STEP 8. Medical Exam

STEP 9. Job Offer. You receive a job offer and be assigned to attend an academy and attend a new hire orientation.

STEPS 5 - STEPS 8 may not be completed in numerical order due to scheduling of events.

Minimum Requirements

Deputy Sheriff Patrol:

- 20 ½ years of age at time of application; 21 years of age at time of appointment. (There is no maximum age limit)
- U.S. citizen *or* Resident Alien in the process of becoming a U.S. citizen
- U.S. High School graduate or G.E.D.
- No felony convictions. Not on Probation. Misdemeanors may be disqualifying depending on the number, type of violation, and date of the violation.
- Vision: 20/100 uncorrected, corrected to at least 20/30
- Valid California Drivers License prior to appointment. Valid photo ID to take the written exam.
- Effective oral and written communications in English.

Deputy Sheriff Detentions/Courts:

- 18 years of age at the time of the test. (There is no maximum age limit)
- U.S. citizen *or* Resident Alien in the process of becoming a U.S. citizen
- U.S. High School graduate or G.E.D.
- No felony convictions. Not on Probation. Misdemeanors may be disqualifying depending on the number, type of violation, and date of the violation.
- Vision: 20/100 uncorrected, corrected to at least 20/30

Exhibit 7
0439

- Valid California Drivers License prior to appointment. Valid photo ID to take the written exam.
- Effective oral and written communications in English.

147 37

We Are Hiring!

Applications will be accepted from 12:00 a.m. on

September

16

Monday

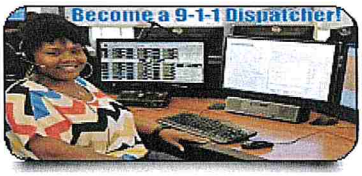
through 11:59 p.m. on

January

31

Friday

Learn How to Apply (join-sheriffs-department.html)



(/dispatcher/index.html)

Quick Links

Deputy Sheriff - Law Enforcement
Information (/join-deputy-sheriff.html) | Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/2494208/deputy-sheriffs-cadet-19574707?page=2&pagetype=jobOpportunitiesJobs)

Deputy Sheriff - Detentions/Courts
Information (/join-detentions-deputy.html) | Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/2491361/deputy-sheriff-cadet-detentions-court-services-19579707?page=2&pagetype=jobOpportunitiesJobs)

Deputy Sheriff - Lateral
Information (/join-lateral-deputy.html) | Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/2302766/deputy-sheriff-lateral-19574601l?keywords=19574601L&pagetype=jobOpportunitiesJobs)

Deputy Sheriff-Detentions/Court Services-Lateral
Information & Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/2307089/deputy-sheriff-detentions-court-services-lateral-19575701l?keywords=19575701L&pagetype=jobOpportunitiesJobs)

Deputy Sheriff Cadet-Promotional
Information & Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/2306367/deputy-sheriffs-cadet-promotional-19574701p?keywords=19574701P&pagetype=promotionalJobs)

Emergency Services Dispatcher Trainee
Information (/dispatcher/index.html) | Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/1934164/sheriffs-emergency-services-dispatcher-trainee-18282001?keywords=dispat&pagetype=jobOpportunitiesJobs)

Licensed Mental Health Clinician
Information & Apply (https://www.governmentjobs.com/careers/sdcounty/jobs/2346108/licensed-mental-health-clinician-sheriffs-detentions-19527902?page=4&pagetype=jobOpportunitiesJobs)

Exhibit 7
0440

960-hour Rehire

(Active & retired employees only)

Information & Apply (http://goo.gl/PdsmH9)

Civilian Job Opportunities (/join-sheriff-civilians.html)

Law Enforcement Reserves (/join-reserves.html)

Hiring Process (/join-sheriffs-department.html)

Law Enforcement Academy (/law-enforcement-academy.html)

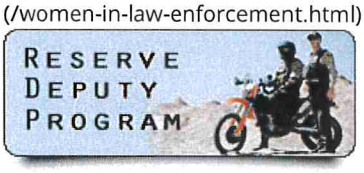
Detentions Academy (/detentions-academy.html)



(/join-sheriff-veterans.html)



(/women-in-law-enforcement.html)



(/join-reserves.html)

EXHIBIT "8"

Police

Police Officer Requirements

Before you begin the process for Police Officer (/police/recruiting/opportunities/policeofficer), carefully review the hiring process (/join-san-diego-police-department).

- Possible Disqualifiers for Police Officers/Recruits (/sites/default/files/legacy/police/pdf/possibledisqualifiers.pdf)

General

U.S. citizenship or permanent resident who is eligible and has applied for U.S. citizenship prior to the application for employment.

Minimum Age

20 years of age on the day you take the Written Test; 21 at time of Academy graduation (No maximum age limit).

Education

- Graduation from a high school located within the United States or a U.S. territory;
- OR passage of the California High School Proficiency Examination OR G.E.D. with scores that meet the California standard established by the American Council on Education;
- OR possession of a two- or four-year degree from an accredited college or university. (Accreditation must be from an institutional accrediting body that has been recognized by the Council on Post-secondary Accreditation.)

Candidates screened by the Police Department must present proof of education when they submit their "Personal History Statement" (Word (/sites/default/files/legacy/police/pdf/phs.doc) PDF (/sites/default/files/legacy/police/pdf/phs.pdf)).

License

A valid California Class C Driver's License, which permits you to drive an automobile, will be required at the time of hire.

Typing Certificate

Since Police Officers routinely use laptop computers, candidates must demonstrate typing ability. An ORIGINAL typing certificate indicating the ability to type at a corrected speed of 30 words per minute on a typewriter or computer keyboard must be submitted during the Police Department's Background Investigation Process. The certificate must be issued under International Typing Contest Rules and specify the net and gross speed, the number of errors and that the test was five minutes or longer. Certificates specifying more than five errors will not be accepted. Individuals who are serving or have served in City of San Diego job classifications that meet or exceed the minimum typing requirements need not submit a typing certificate. Internet typing tests will not be accepted.

Typing tests are given at, but you are not limited to, the following locations: (Call individual centers for further information.)

- Centre City / Skills Center: 619-388-4600
- Mid-City Center: 619-388-4500
- Cesar Chavez Center: 619-230-2895
- North City Center: 619-388-1800
- Educational Cultural Complex: 619-388-4956
- The West City Center: 619-221-6973
- Palomar College: 760-744-1150 ext. 2497 (San Marcos Campus) or ext. 8193 (Escondido Campus)

Exhibit 8
0443

If you have additional questions about San Diego Police Department Recruiting, see the Frequently Asked Questions (/police/recruiting/faqs), call 619-531-COPS (2677) or email sdpdrecruiting@pd.sandiego.gov (mailto:sdpdrecruiting@pd.sandiego.gov).

If you have an emergency, dial 9-1-1.

To access 9-1-1 from a cell phone or outside San Diego, dial 619-531-2065.

For 24-hour non-emergencies, dial 619-531-2000 or 858-484-3154.

Exhibit 8

Join Us

- Join Us Home (/join-san-diego-police-department)
- Career Opportunities (/police/recruiting/opportunities)
  - Lateral Transfer (/police/recruiting/opportunities/lateral)
- Benefits (/police/recruiting/benefits)
- Police Dispatch Recruiting Events (/police/recruiting/meet/dispatchevents)
- C.A.M.P. (/police/recruiting/camp)
- Volunteer Opportunities (/police/recruiting/volunteer)
- Frequently Asked Questions (/police/recruiting/faqs)
- Contact Recruiting Unit (/police/recruiting/contact)

EXHIBIT "9"

Job Opportunities

powered by NEOGOV

Job Title: Police Recruit
Opening Date/Time: Sat. 09/14/19 12:00 AM Pacific Time
Closing Date/Time: Fri. 12/13/19 11:59 PM Pacific Time
Salary: $5,268.27 - $5,531.67 Monthly
Job Type: Permanent, Full-Time
Location: Chula Vista, California
Department: Police

Print Job Information | Apply

Description and Essential Functions | Benefits | Supplemental Questions

To learn and participate in established curriculum and subsequently pass all tests given by training staff, including academics and manipulative skills such as defensive tactics, firing weapons with accuracy, and driving at high speeds on a set test course while maintaining control. Police Recruit is the entry-level position to a career in municipal law enforcement. After successfully completing the Police Academy, the Police Recruit will then automatically promote to the classification of Peace Officer.

Essential Functions:
Functions may include, but are not limited to, the following: learn and participate in all classroom and field activities while attending the police academy; write/type reports and complete all assignments; participate in daily physical training at the same intensity as the majority of the group, or as directed by academy training staff; run up to six miles at an eight minute/mile pace; perform up to sixty sit-ups straight; perform sixty push-ups straight; spar with training staff and/or fellow recruits; fire weapons; drive vehicles; talk on radio; build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service; and perform other related duties and physical training activities as assigned.

Minimum Qualifications:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be: must be at least 20 years of age at time of application and 21 years of age at time of appointment; must have a valid California Driver's License at time of appointment; must meet citizenship requirements as defined under California Government Code Sections 1031(a) and 1031.5.

Education - Per Government Code section 1031(e), United States high school graduation, or passage of the General Education Development (GED) test, or attainment of a two-year or four-year degree from an accredited college or university. NOTE: Verification at time of hire is required. Additional college course work in Police Administration and/or Criminal Justice is highly desirable.

Knowledge, Skills and Abilities / Physical Demands and Working Conditions:

Knowledge, Skills and Abilities:
Knowledge of: customer service; modern office practices and procedures; computer equipment and software applications related to assignment; basic mathematics; English usage, spelling, grammar, and punctuation. Ability to: participate in all physical training exercises; learn and participate in classroom lectures; prioritize and coordinate several activities/assignments; learn and apply procedures and techniques learned in the police academy; use initiative and sound independent judgment within established guidelines; communicate clearly and concisely, both orally and in writing; establish and maintain effective working relationships with those contacted in the course of work; and work with various cultural and ethnic groups in a tactful and effective manner.

Physical Demands and Working Conditions:
The Physical Agility Test (PAT) is designed to be a specific measure of the physical capabilities necessary to perform the duties of a Peace Officer. Test events are designed to simulate actual areas of police work. The events include: 1) a 1.5-mile run to be completed in 14 minutes or less; 2) an agilities course to be completed in 3.5 minutes or less. Lift up to 150 lbs. Must be able to see a target up to 50 yards away and focus enough on it to accurately fire a weapon at it. Must be able to hear voices of training staff over other loud noises such as gunfire and yelling. Some of the work is performed indoors in a classroom setting, and some of the work takes place outside while performing the physical training exercises.

Additional Information:

RECRUITMENT NO. 19507109

Description and Essential Functions | Benefits | Supplemental Questions

To be considered for this position, applicants must submit a City Application and Supplemental Questionnaire by the closing date listed. Candidates whose applications indicate the required education and experience most directly related to the position will be invited to participate in the selection process. All notices will be sent via e-mail.

Unless otherwise noted, a passing score must be achieved at each step of the recruitment process in order to have your name placed on the eligibility list for hiring consideration. The eligibility list established as a result of this recruitment will be for a duration of twelve (12) months, unless otherwise extended. Please note: The examination materials for this recruitment are validated, copyrighted, and/or inappropriate for review.

Employees in the Police Recruit position are represented by the Association of Chula Vista Employees (ACE) and receive benefits afforded to ACE-represented employees. After successfully completing the Police Academy, the Police Recruit will automatically promote to the classification of Peace Officer, a position represented by the Chula Vista Police Officers' Association (POA) and receive benefits outlined in the POA Memorandum of Understanding. Click here to view POA benefit summary information.

Personal Qualifications
Please click here for a list of disqualifying criteria.

Must possess a good character and reputation; superior self-command, alertness, and judgment; ability to establish and maintain good working and public relations. Conviction of a serious offense, repeated or numerous convictions for minor offenses, conviction of an offense involving moral turpitude, or discharge from the military service under other than honorable conditions may be disqualifying. Candidates will be subject to a thorough background investigation, a voice stress analysis, and after a conditional offer of employment, a psychological and medical evaluation.

Recruitment and Selection Process - Applicants must pass ALL of the following assessments:

Application Review
Applications will be reviewed to ensure that candidates meet the age, licensing, citizenship, and education requirements. All statements made in the application materials are subject to verification; false statements will be cause for disqualification or discharge.

Written Examination - *Tentatively scheduled for January 4, 2020*
The written examination is a California Peace Officer Standards and Training (POST) Entry-Level Test Battery that has two components:
1. Reading Component - measures reading comprehension
2. Writing Component - measures clarity, vocabulary, and spelling

The written exam takes approximately 3.5 hours to administer. This includes thirty minutes for the proctor to read the test instructions and for the applicants to code demographic information on machine-readable forms. The scoring procedure is automated thus requiring the applicants to code their names, addresses, social security numbers, etc., on the forms. Two and one-half (2.5) hours are allowed for actual completion of the test battery.

POST scores the written examination. Results are released 2 - 3 weeks after the written exam. Successful candidates are eligible to continue in the selection process. Candidates who are unsuccessful on the written exam will not be eligible to continue in the selection process, however may re-apply, and test at a future date.

The Applicant Preparation Guide for the POST Entry-Level Test Battery provides a thorough overview of the test, practice test items, and test taking strategies. For more information go to www.POST.CA.gov.

POST 30-Day Rule: Applicants must wait for a period of one month (30 calendar days) before taking a subsequent exam. If you have taken or will take the POST PELLETB exam 30 days prior to our scheduled exam, you are **INELIGIBLE** to take the written exam.

Exception for Written Test: If you possess POST PELLETB written exam results from another agency **AND** the letter is dated within **6 months** prior to our test date; you may submit these results with your application or via email to amatsuhiro@chulavistaca.gov by 12/13/19. Only applicants with a Tscore of 50 and above will be invited to continue in the process.

Officer Pre-Background Questionnaire
This confidential questionnaire is designed to assist the Police Department in conducting a preliminary suitability screening. This confidential questionnaire will be provided at the written examination. You are required to pass both the written examination and the Officer Pre-Background questionnaire to continue in the selection process.

Physical Agility Test (PAT) - *Tentatively scheduled for February 1, 2020*
The Physical Agility Test (PAT) is developed to assess fitness and agility capabilities necessary to perform the duties of a Peace Officer. Test events are designed to simulate actual areas of police work. The PAT is comprised of two timed events:

Exhibit 9
0448

Description and Essential Functions | Benefits | Supplemental Questions

1. 1.5 mile run to be completed in 14 minutes or less
2. Obstacle/agility course to be completed in 3.5 minutes or less

The PAT is a pass/fail test with no numeric score. Candidates are verbally notified immediately after the PAT if they passed or failed. Successful candidates are eligible to continue in the selection process.

Oral Board Interview - *Tentatively scheduled for the week of February 10, 2020*
The oral board interview will consist of questions regarding candidate's education, experience, interest, and personal qualifications to determine suitability for law enforcement service. The oral board panel will have members from the Human Resources Department and ranking members from the Police Department.

Passing the interview requires a score of 70 or higher. The score you receive will determine your rank on the eligibility list. The City of Chula Vista certifies the top three ranks, plus any ties, to the department for continuation in the background process. Candidates will be notified if they are eligible to proceed to the background investigation.

Background Investigation
Peace Officers are responsible for protecting and serving the public and are entrusted with substantial authority to carry out these responsibilities. As such, the California Peace Officer Standards and Training (POST) requires that the history of peace officer applicants be thoroughly investigated to make sure that nothing in their background is inconsistent with performing peace officer duties. Failure to pass the background investigation will result in removal of the candidate's name from the eligibility list.

Chief's Interview

Psychological Evaluation and Medical Examination
California Government Code 1031(f) requires all California peace officers to be free from any emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer. Peace officers must also be free from any physical condition that might adversely affect the exercise of peace officer powers.

CHULA VISTA POLICE DEPARTMENT

RECRUITING FAQ

Q: Are you currently hiring/testing?
A: We hire police recruits and lateral police officers on an ongoing basis.

Q: What are the minimum requirements?
A:

- Be 21 years of age with a high school diploma (no upper age limit).
- Have vision correctable to 20/40 and be physically fit.
- Have a valid California driver's license.
- Be a U.S. citizen or obtain citizenship within three years of applying.
- Have good moral character.

Q: Where is the police academy?
A: Selected candidates will attend a six-month regional police academy at Miramar College. Uniforms, equipment, and books will be provided.

Q: What is the testing process?
A:

- The written examination includes reading comprehension, English grammar, sentence structure, vocabulary, and spelling.
- A Physical Agility Test (PAT) is required for police officer recruits; 1.5 mile run within 14 minutes; obstacle course within 3:30 minutes.
- An oral interview.
- A background check, to include truth verification, psychological examination, and medical examination.

Q: What should I study for the written exam?
A:

- The public library or local bookstores have literature on Entry Level Law Enforcement Officer examinations.
- Improving reading comprehension is a key component of the exam.
- Read each question carefully. Choose the best possible answer. Try to answer every question; those left blank will be incorrect.
- For more information, visit www.post.ca.gov.

Q: How long does it take to get hired?
A: Completion of the hiring process averages between four to six months.

CITY OF CHULA VISTA
315 Fourth Avenue, MS P-200, Chula Vista, CA 91910 | www.chulavistapd.org | (619) 585-5652 | fax (619) 409-5985

EXHIBIT "10"

JOIN



Qualifications

AGE	EDUCATION	CITIZENSHIP	BACKGROUND
At least **20 YEARS** of age at the time of application and **21 YEARS** of age by police academy graduation.	Graduation from a U.S. high school, G.E.D. or equivalent from a U.S. institution, or a California High School Proficiency Examination (CHSPE) certificate is required. A two-year or a four-year college degree from an accredited U.S. or foreign institution may be substituted for the high school requirement.	The City of Los Angeles requires that a Police Officer candidate be a United States citizen, or that a non-citizen be a permanent resident alien who, in accordance with the requirements of the U.S. Citizenship and Immigration Services (USCIS), is eligible and has applied for citizenship. During the selection process, each non-citizen is required to prove that USCIS accepted his/her application for citizenship prior to the date the Police Officer written test was taken. California State law requires that citizenship be granted within three years after the employment application date. For information regarding citizenship requirements, contact the USCIS. **RESIDENCY** You do not have to be a resident of Los Angeles to apply for or work as an LAPD Officer.	Los Angeles Police Department Officers are entrusted with responsibility to keep our cities safe from crime and corruption. Therefore, a history of ethical and moral behavior is of the utmost importance. Your background will be looked at very closely. Candidates who have a history of unethical or immoral behavior will not be hired. You will be subjected to an intensive background evaluation, pursuant to the City of Los Angeles Public Safety Background Standards.

JOIN



APPLY →

FAQ's →

There are seven steps to the application process:

Online Application and Personal Qualifications Essay (PQE) written test

STEP 1

All applicants must complete the **Online Application**. You must complete BOTH sections, which will take approximately 5 minutes to complete. You MUST submit the Online Application and print a copy to bring with you to the written test. **For testing calendar click** here. (https://personline.lacity.org/apps/testingcalendar/)

The **Personal Qualifications Essay (PQE)** consists of essay questions related to judgment and decision making and behavioral flexibility. Your written communication skills will also be evaluated.

Personal History Statement (PHS)

Completion and submittal of a **Personal History Statement (PHS)** is the first step of the Background Investigation. The PHS requires compilation of extensive biographical information, fingerprinting, and an interview with a background investigator. The investigation will also include checks of employment, police, financial, education, and military records, and interviews with family members, neighbors, supervisors, co-workers, and friends.

STEP 2

The Physical Fitness Qualifier and Continuous Physical Preparation

In order to better prepare for the exam and the physical demands of the academy, you are **required to attend** the Candidate Advancement Program (CAP) **and** complete the Physical Fitness Qualifier (PFQ). You **must** complete the PFQ **at least once** prior to appointment.

The PFQ consists of four events: 1) maximum sit-ups in on minute, 2) 300-meter sprint, 3) maximum push-ups in one minute, and 4) 1.5 mile-run. This is the same physical fitness test that academy recruits take the third day of the Police Academy.

The Physical Fitness Qualifier (PFQ) and Candidate Advancement Program (CAP)

STEP 3

In order to better prepare for the exam and the physical demands of the academy, you are **required to attend** the Candidate Advancement Program (CAP) **and** complete the Physical Fitness Qualifier (PFQ). You **must** complete the PFQ **at least once** prior to appointment. Your goal is to score 50 or higher on the PFQ and you are encouraged to take it as many times as you like. If you are struggling to reach the goal of 50 you must attend CAP to get tips and training from our recruitment officers.

The PFQ consists of four events: 1) maximum sit-ups in on minute, 2) 300-meter sprint, 3) maximum push-ups in one minute, and 4) 1.5 mile-run. This is the same physical fitness test that recruit officers take the third day of the Police Academy.

The Academy Physical Training Program (http://joinlapd-d7-prod.us-west-2.elasticbeanstalk.com/academy-physical-training-program) is intense and demanding, the first physical fitness test occurs during the first week of the Academy. It is critical that candidates don't wait until they are in the Academy to get into good physical shape. It is recommended to begin a physical conditioning program as soon as you apply.

Polygraph Examination and Department Interview

STEP 4

The **Polygraph Examination** is conducted to confirm information obtained during the selection process.

The **Department Interview** will be conducted by a panel to assess your personal accomplishments, job motivation, instrumentality, interpersonal skills, continuous learning orientation, and oral communication skills. Only those candidates who pass this part of the process will receive a Conditional Job Offer.

Medical Evaluation

The Medical Evaluation is thorough and it is essential that you be in excellent health with no conditions which would restrict your ability to safely perform the essential functions of the Police Officer job. Good physical condition is necessary, as training in the Academy is rigorous. Failure to be in **excellent** physical condition may delay or disrupt training and result in a dismissal from the Academy.

Exhibit 10
0454

STEP 5

Field Investigation

STEP 6

The **Field Investigation** includes checks of employment, police, financial, education, and military records and interviews with family members, neighbors, supervisors, co-workers, and friends. You will be evaluated on your past behavior and the extent to which your behavior demonstrates positive traits that support your candidacy for Police Officer. The Field Investigation provides you the time and opportunity to get in shape for the Academy. You have very few active responsibilities during this step of the process, so we encourage you to attend as many CAP sessions as possible and to continue to take the Physical Fitness Qualifier.

Psychological Evaluation

STEP 7

The **Psychological Evaluation** consists of an oral interview and evaluation by a City psychologist on factors related to successful performance in the difficult and stressful job of Police Officer. The information evaluated includes the written psychological tests along with information obtained in the background investigation process.

Contact a Mentor Today! (node/39)

Mentors are available Monday – Friday from 6:00 A.M. until 4:30 P.M

213-473-3450

APPLICATION

PERSONAL QUALIFICATIONS ESSAY

PERSONAL HISTORY STATEMENT

DEPARTMENT INTERVIEW, POLYGRAPH & PFQ

MEDICAL EVALUATION

FIELD INVESTIGATION

PSYCHOLOGICAL EVALUATION

EXHIBIT "11"

Los Angeles County
Sheriff's Department

MENU

Search OK

Requirements

To apply for a Deputy Sheriff Trainee position, the following is required:

Be at least 19.5 years old to apply / 20 years old at appointment
A U.S. citizen or eligible resident alien awaiting citizenship application decision
A U.S. High school graduate or GED, or passed a U.S. high school proficiency test
Valid Class C driver's license (Out-of-state applicants can use a valid license from their home state while filing, but will need a valid California Class C license at the time of hire)
Be in good physical condition and free from any medical conditions that would interfere with the responsibilities of a Deputy Sheriff
Have at least 20/70 vision in each eye, correctable to 20/30 with only minor color impairment
No major hearing impairment (no more than 25 db loss in the better ear and 35 db loss in weaker ear)
No felony convictions or currently on probation; misdemeanors may be disqualifying, depending on the number, type of violation, and date of the violation
IV – Arduous Physical Class (Must be able to lift 25 lbs while bending, twisting or working on irregular surfaces and may require extraordinary physical exertion)

Additionally, a successful candidate will have these attributes to become a Deputy Sheriff:

Possess and demonstrate integrity
Demonstrated ability to use good judgment and problem solving
Capacity for empathy and compassion
Capacity to multi-task
Ability to demonstrate courage and to take responsibility
Ability to be resourceful and show initiative
Demonstrating assertiveness
Capacity for engaging in teamwork and ability to collaborate

Deputy Sheriff Apply Now

Los Angeles County
Sheriff's Department

MENU

Search OK

Application Process

To make sure we're getting the best applicants you must pass a number of exams and screenings. The full process to become a Deputy Sheriff typically takes between six and nine months.

1. Application / Supplemental Questions
Selection Requirements, Work Conditions, & Pre-Background Questionnaire

2. Written Test

3. Validated Physical Ability Test – VPAT
Up to 2 opportunities in six months to pass

4. Oral Interview / Intake

5. Background Investigation [Approximately 3 months to complete]
Polygraph, Ride Along, Jail Tour, Orientation, Reference & Employment Checks

6. Admin Review

7. Medical / Psych [Approximately 2 months to complete]

8. Pre-Academy Consultation

9. Academy

** Please allow up to three (3) weeks in between each task for administrative processing and review.

EXHIBIT "12"



Major Duties

The FBI Special Agent (SA) position requires significant commitment and dedication. Special Agents must:

- Adhere to the highest standards of conduct, especially in maintaining honesty and integrity.
- Be available for worldwide assignment on either a temporary or a long-term basis. Not sure about the transfer process?
- Work a minimum of 50 hours a week (which may include irregular hours) and be on call 24/7, including holidays and weekends.
- Maintain a high level of fitness necessary to complete FBI Academy at Quantico training and throughout your career.
- Carry a firearm and be willing to use deadly force, if necessary.
- Be willing and able to participate in arrests, execution of search warrants and other dangerous assignments, all of which pose the risk of personal bodily harm.

FBI Employment Requirements for All Positions

- Must be a U.S. Citizen.
- Must be able to obtain a Top Secret SCI (Sensitive Compartmented Information) clearance.
- Must be in compliance with the FBI Drug Policy.

See more about FBI employment requirements (/working-at-FBI/eligibility).

APPLY NOW (HTTPS://APPLY.FBIJOBS.GOV/PSC/PS/EMPLOYEE/HRMS/C/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?PAGE=HRS_APP_JBPST_FL&ACTION=U&FOCUS=APPLICANT&SITEID=16&JOBOPENINGID=221876&POSTINGSEQ=1)

Employment Requirements for the Special Agent Position

To be eligible for the FBI Special Agent position, applicants must meet the following minimum qualifications at the time of application:

- Be between 23 and 36 years of age.
  - FBI Special Agents have a mandatory retirement age of 57. In order to achieve the required 20 years of service for retirement, Special Agents must enter on duty no later than the day before their 37th birthday. Applicants must apply for the Special Agent position prior to their 36th birthday to allow adequate time to complete the Special Agent Selection System. The FBI may disqualify applicants at any time if it is determined that they will reach age 37 before appointment.
  - Current FBI employees must apply prior to their 39th birthday and must be appointed and assigned to the FBI Academy no later than the month of their 40th birthday.
- Have a minimum of a bachelor's degree from a U.S.-accredited college or university.
- Have at least two years of full-time professional work experience; or one year if you have earned an advanced degree (master's or higher).
- Possess a valid driver's license and have six months of driving experience.
- Meet the Special Agent physical fitness standards (see the Physical Requirements (/career-paths/special-agents/physical-requirements) page).
- Be available to report to one of the FBI's 56 Field Offices (https://www.fbi.gov/contact-us/field-offices) for interviews and testing several times throughout the application process. You are responsible for your own travel to and from the Field Office. Applicants who reside overseas must be available for travel to the United States for testing and processing at an FBI Field Office at your own expense; you may choose a Field Office (https://www.fbi.gov/contact-us/field-offices) that is most convenient for you. While travel from an overseas location to the Processing Field Office (PFO) is the responsibility of the applicant, any additional travel for Phase II testing from the PFO will be incurred by the FBI.
- If you are currently on active duty in the military, you must be within one year of completing your service before submitting your application.

Core Competencies



COLLABORATION



COMMUNICATION



FLEXIBILITY / ADAPTABILITY



INITIATIVE



INTERPERSONAL ABILITY



LEADERSHIP



ORGANIZING / PLANNING



PROBLEM SOLVING / JUDGMENT

FBI Special Agents are required to adhere to strict standards of conduct and exemplify the FBI's Core Competencies listed above. Please explain how you have demonstrated these competencies in real-life situations within your resume. Provide as much information as possible. Use the Situation, Action, Result format to describe the situation, the actions you took and the resulting outcomes.

Definitions of the FBI Core Competencies (/sites/default/files/FBI_Core_Competencies_Definitions.pdf).

Special Agent Selection Process: Core Competencies



Becoming an Agent: The First Week



Exhibit 12
0462

ACCESSIBILITY (HTTPS://WWW.FBI.GOV/ACCESSIBILITY?EMID=) | EQUAL OPPORTUNITY (/EQUAL-OPPORTUNITY) | PRIVACY POLICY (/PRIVACY-POLICY) | FBI.GOV (HTTPS://WWW.FBI.GOV/) |
FBIJOBS.GOV is an official site of the U.S. Government, U.S. Department of Justice
FBI is a partner with the U.S. Intelligence Community

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[/]

FBI Jobs

ELIGIBILITY

Ensure you meet our mission standards.

If you believe an FBI career is the right fit for you, familiarize yourself with our qualification requirements here.

APPLY TO JOBS (HTTPS://APPLY.FBIJOBS.GOV/)

Home [/] / Working at FBI / Eligibility

EMPLOYMENT ELIGIBILITY

In order to be eligible for employment with the FBI, applicants must violate none of the automatic employment disqualifiers, and adhere to the FBI's pre-employment drug policy. Please ensure you meet these standards before submitting an application. All of these disqualifiers are extensively researched during the FBI Background Investigation Process.

EMPLOYMENT DISQUALIFIERS

Below are specific elements that will automatically disqualify job candidates for employment with the FBI. These include:

- Non-U.S. citizenship
- Conviction of a felony (Special Agent candidates only: conviction of a domestic violence misdemeanor or more serious offense)
- Violation of the FBI Employment Drug Policy (please see below for additional details)
- Default on a student loan insured by the U.S. Government
- Failure of an FBI-administered urinalysis drug test
- Failure to register with the Selective Service System (for males only, exceptions apply – please click here (https://www.sss.gov/Portals/0/PDFs/WhoMustRegisterChart.pdf) to find out more)
- Knowingly or willfully engaged in acts or activities designed to overthrow the U.S. government by force
- Failure to pay court ordered child support
- Failure to file federal, state, or local income tax returns

Please note that if you are disqualified by any of the above tests, you are not eligible for employment with the FBI. Please make sure you can meet FBI employment requirements and pass all disqualifiers before you apply for an FBI position.

EMPLOYMENT DRUG POLICY

The FBI is firmly committed to a drug-free society and workplace. Applicants for employment with the FBI who are currently using illegal drugs, misusing or abusing legal drugs or other substances at the time of the application process will be found unsuitable for employment. While the FBI does not condone any prior unlawful drug use by applicants, the FBI realizes some otherwise qualified applicants may have used illegal drugs at some point in their past. The guidelines set forth in this policy should be followed for determining whether an applicant's prior drug use makes him or her unsuitable for employment, balancing the needs of the FBI to maintain a drug-free workplace and the public integrity necessary to accomplish its law enforcement and intelligence missions by hiring the most qualified candidates to fill the FBI's personnel needs.

A candidate will be found unsuitable for employment and automatically disqualified if he/she deliberately misrepresents his or her drug history in connection with his or her application for employment. Additionally, candidates are automatically disqualified under the following criteria:

Marijuana Usage:

Candidates cannot have used marijuana within the three (3) years preceding the date of their application for employment, regardless of the location of use (even if marijuana usage is legal in the candidate's home state). The various forms of marijuana include cannabis, hashish, hash oil, and tetrahydrocannabinol (THC), in both synthetic and natural forms.

A candidate's use of marijuana in its various forms for medical reasons, regardless of whether or not it was prescribed by a licensed practicing physician, cannot be used as a mitigating factor.

Illegal Drugs:

Candidates cannot have used any illegal drug, other than marijuana, within the ten (10) years preceding the date of the application for employment.

Additionally, candidates cannot have sold, distributed, manufactured, or transported any illegal drug or controlled substance without legal authorization.

Prescription Drugs/Legally Obtainable Substances:

Candidates cannot have used anabolic steroids without a prescription from a licensed practicing physician within the past ten (10) years preceding the date of the application for employment.

Finally, candidates cannot have sold, distributed, manufactured, or transported any prescription drug without legal authorization.

FBI BACKGROUND INVESTIGATION

All FBI employees must undergo an FBI Background Investigation and receive an FBI Top Secret security clearance. Once you have received and accepted a conditional job offer, the FBI will initiate an intensive background investigation. You must go through this background investigation, and you must pass, before moving forward with employment. The preliminary employment requirements include a polygraph examination; a test for illegal drug use; credit and records checks; and extensive interviews with former and current colleagues, neighbors, friends, professors, etc. Before applying for any FBI position, please make sure that the FBI Employment Disqualifiers do not apply to you.

Exhibit 12
0465



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PRIVACY POLICY (/PRIVACY-POLICY) | FBI.GOV (HTTPS://WWW.FBI.GOV/) |
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FBI Is a partner with the U.S. Intelligence Community

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EXHIBIT "13"

TODAY'S MILITARY

MENU

Main Menu

ABOUT THE MILITARY

HOW TO JOIN

CAREERS & BENEFITS

EDUCATION & TRAINING

MILITARY LIFE

FOR PARENTS

LANGUAGE: ENGLISH | ESPAÑOL

EDUCATOR RESOURCES

REQUEST INFORMATION

FAQS

HOW TO JOIN

Enlisting in the Military

Once you have talked to a recruiter, you'll set a date to visit a Military Entrance Processing Station (MEPS) to finish the enlistment process. The MEPS is a joint Service organization that determines an applicant's physical qualifications, aptitude and moral standards as set by each branch of military service. There are MEPS locations all over the country.

On This Page

MEPS VISIT TIPS

STEPS TO ENLISTING

Exhibit 13

TODAY'S MILITARY

MENU

Military Entrance Processing Station (MEPS) Overview



Military Entrance Processing Station (MEPS) Overview

Each MEPS is staffed with military and civilian professionals who carefully screen each applicant to ensure they meet the physical, academic and moral standards set by each Service.

LENGTH 2:56 | VIEW TRANSCRIPT

Related Videos

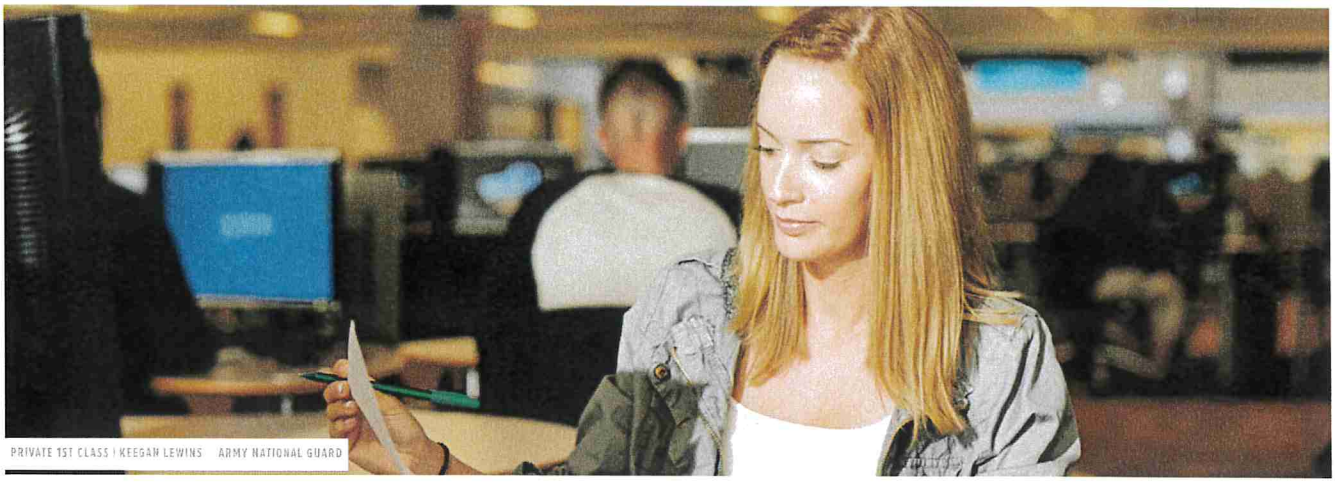
A Day at the Military Entrance Processing Station (MEPS)	Taking the Oath of Enlistment

MEPS Visit Tips

Here are a few things you should keep in mind for the visit:

- Bring a Social Security card, birth certificate and driver's license
- Remove piercings, and do not wear clothing with obscene images
- Bring glasses or wear contacts, and bring along an eyeglass or contact lens case and solution
- Get a good night's sleep and arrive early

You'll officially complete the process of joining the Military once you meet all of the Service requirements assessed at the MEPS. The process typically takes one to two days, with food and lodging provided.



Step 1: Take the Armed Services Vocational Aptitude Battery (ASVAB)

The **ASVAB** is a multiple-choice exam that helps determine the careers for which an individual is best suited. Both traditional pen-and-paper exams and a computer-based version are available. The ASVAB takes approximately three hours to complete and has questions about standard school subjects like math, English, writing and science. Each Service uses a custom combination of ASVAB results to produce scores related to different career fields. Alternatively, recruits may take the PiCAT, or Prescreen Internet Based Computerized Adaptive Test, which is an untimed, unmonitored version of the ASVAB that can be taken online.

In addition, some high schools offer and administer the ASVAB test to their students. If you have taken the test already, you should inform your recruiter and see if your results are still valid.



Step 2: Pass the Physical Examination

A recruiter will discuss physical **eligibility requirements** with you beforehand. The physical is a regular medical exam, similar to what you would receive from a family doctor. Some recruiters may conduct a short physical training (PT) test with potential recruits as well.

Examinations include:

- Height and weight measurements
- Hearing and vision examinations
- Urine and blood tests
- Drug and alcohol tests
- Muscle group and joint maneuvers
- Specialized test if required (pregnancy test for women, body fat percentage test for those who are overweight, tests relating to any unusual medical history)



Step 3: Meet With a Counselor and Determine a Career

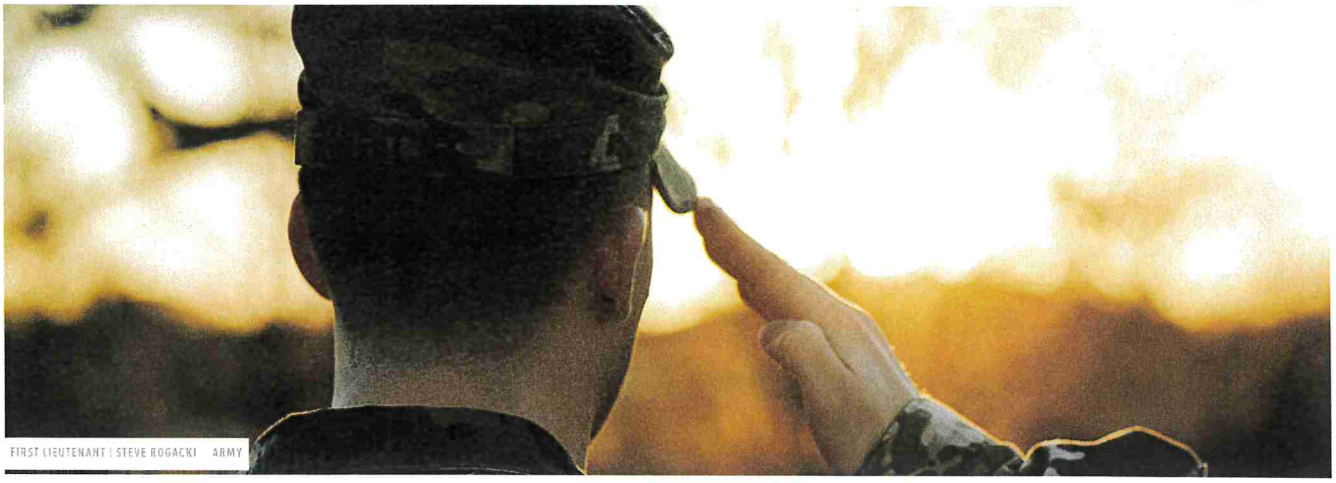
At this point, a service enlistment counselor meets with you to find the right job specialty. A few different factors contribute to career selection:

- Needs of the Service
- Job availability
- ASVAB score
- Physical requirements (for example, a recruit needs normal color vision for some careers)
- Recruit preference

LEARN MORE: EXPLORE CAREERS

The service enlistment counselor will also go over the enlistment agreement. It is important to understand this fully before signing. When you sign this agreement, you are making a serious commitment to the Military.

At this time, you will also be fingerprinted for your file, which is required for background checks and security clearances.

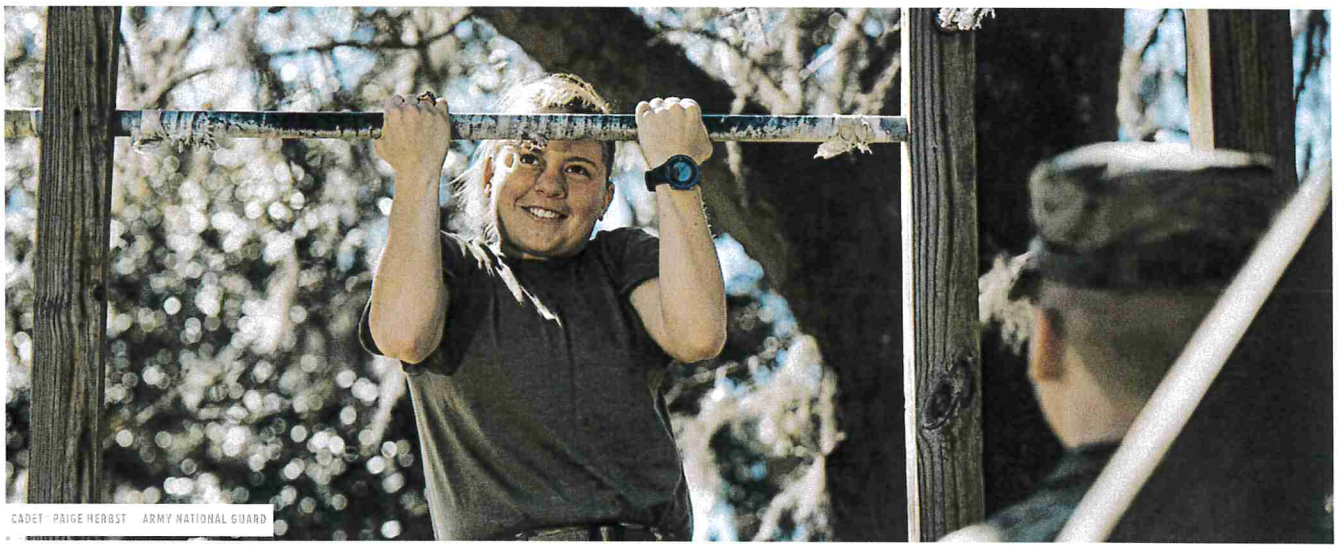


FIRST LIEUTENANT | STEVE ROGACKI ARMY

Step 4: Take the Oath of Enlistment

Once your career has been determined, you are ready to take the Oath of Enlistment. In this statement, you vow to defend the United States Constitution and obey the Uniform Code of Military Justice (UCMJ). Family members are invited to watch and take photos.

I, (name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the president of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.



CADET PAIGE HERBST ARMY NATIONAL GUARD

Step 5: After the MEPS

You'll do one of two things, depending on the terms of your enlistment:

- Direct Ship: Report to Basic Training shortly after completing MEPS testing requirements. (It varies based on job assignment and branch.) A recruiter will provide instructions on transportation to Basic Training at this time.
- Delayed Entry Program (DEP): Commit to Basic Training at a time in the future, generally within one year. Most recruits enter DEP before shipping, including those who enlist before completing high school. Recruits enrolled in DEP may return to their homes until the time comes to report for duty.

Remember, a recruiter can answer any additional questions you may have about the enlistment process.

QUESTIONS TO ASK A RECRUITER

More In How To Join

ASVAB TEST

BECOMING AN OFFICER

BOOT CAMP

QUESTIONS TO ASK A RECRUITER

EXHIBIT "14"



Military.com

Get ready for Army Basic Training Schedules & Timelines - Army Army Basic Training is an intense 10 week program. The breakdown is as follows:

ZERO WEEK: RECEPTION

This is where your transformation for civilian life to the Army world begins—from bidding farewell to your civilian clothes, getting your Army haircut and getting ready to become physical fit.

WEEK 1: FALL IN

Once Reception Week completes, it's now time to get down to business, lots to learn in a short period of time, new rules, regulations and processes involved in being in the Army. Classroom instruction begins.

WEEK 2: DIRECTION

Your new mentor is your Drill Sergeant, leaving the classroom for the field, it's time to test your physical and

Military.com

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Related Topics

Army, Basic Training/Boot Camp

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Join the Military

- Contact a Recruiter
- The ASVAB Test
- Service Choices
- Eligibility Requirements
- Military Jobs
- Pay Benefits
- Visiting a Recruiter
- ROTC

Select Service

ARMY MARINES NAVY AIR FORCE

NATIONAL GUARD COAST GUARD SPOUSE LOGIN

Related Articles About Enlisting





Man Gets First Haircut in 15 Years in Order to Enlist in Army

Reynaldo Arroyo, 23, who enlisted as an infantryman, donated his hair to Locks of Love.


California Democrat Renews Bill to Let 'Dreamers' Enlist


14 Sikh High Schoolers Get Waivers to Enter Army Basic With Beard, Turban


New Pentagon Transgender Enlistment Ban Takes Effect


Why the Marines Are Throwing Big Cash Bonuses at Infantry Squad Leaders

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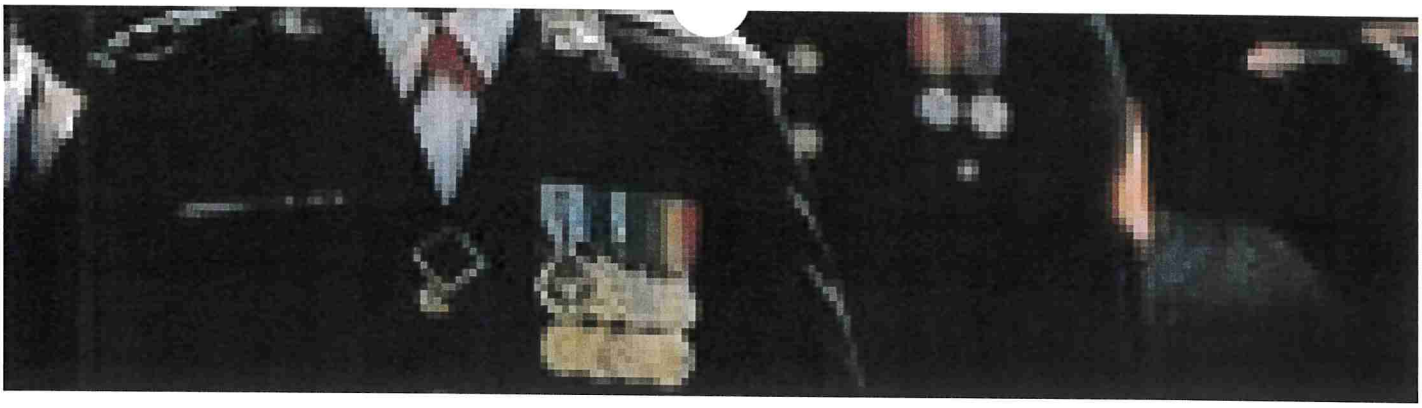
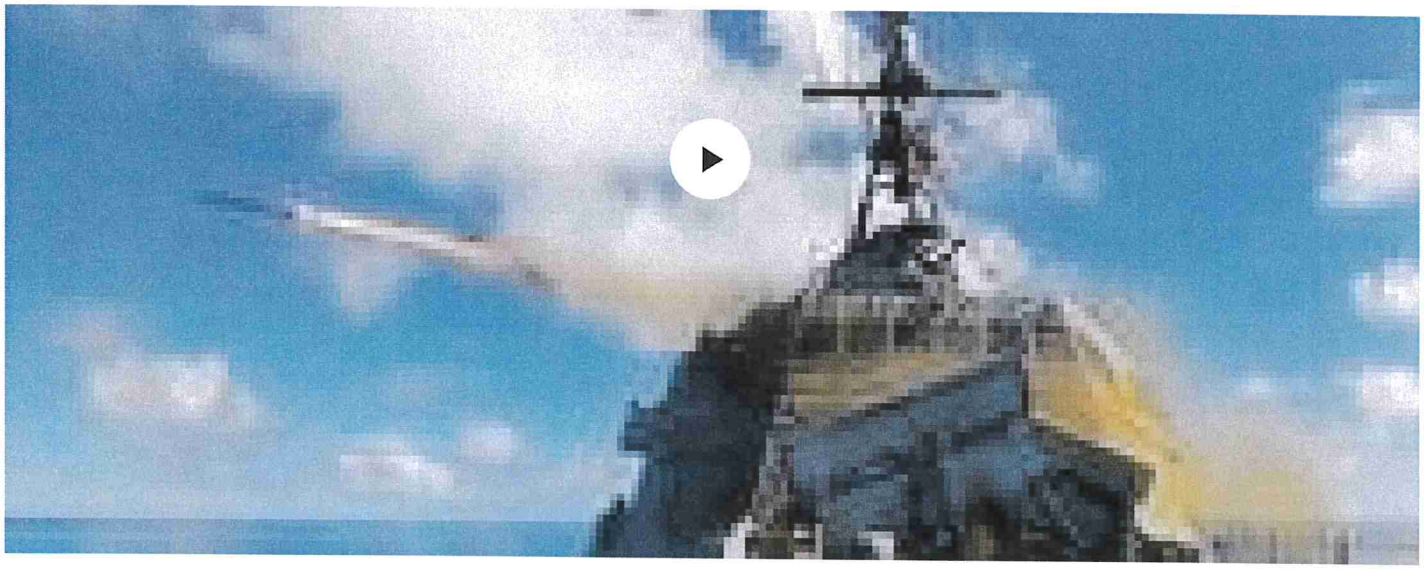


The Corps Vision

The Marine Corps plays an integral role in the National Defense Strategy. Its training, capabilities and global presence ensure...

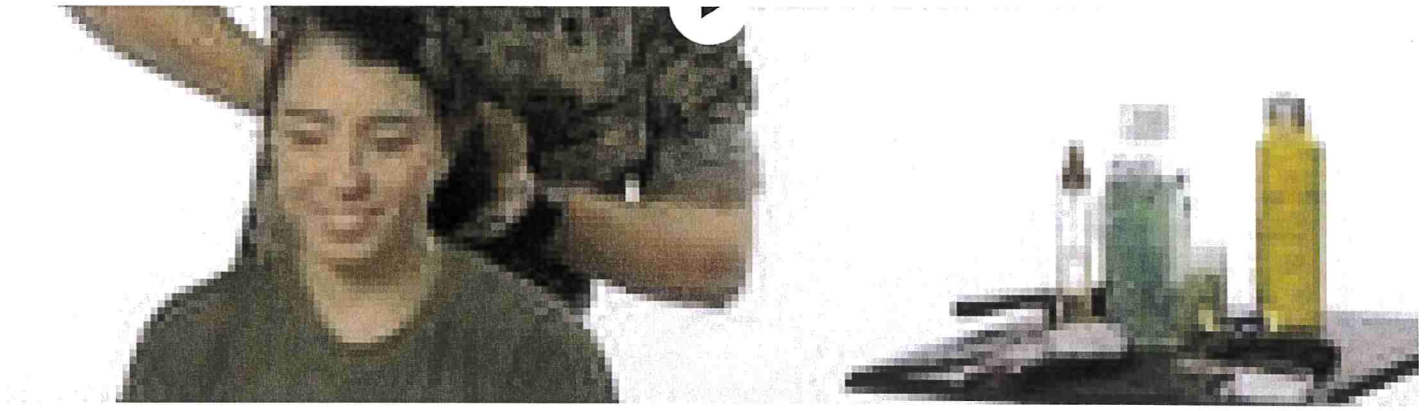


Littoral Combat Ship Fires Naval Strike Missile in Pacific Exercise

The Independence-variant littoral combat ship USS Gabrielle Giffords (LCS 10) successfully demonstrated the capabilities of the Naval Strike Missile...

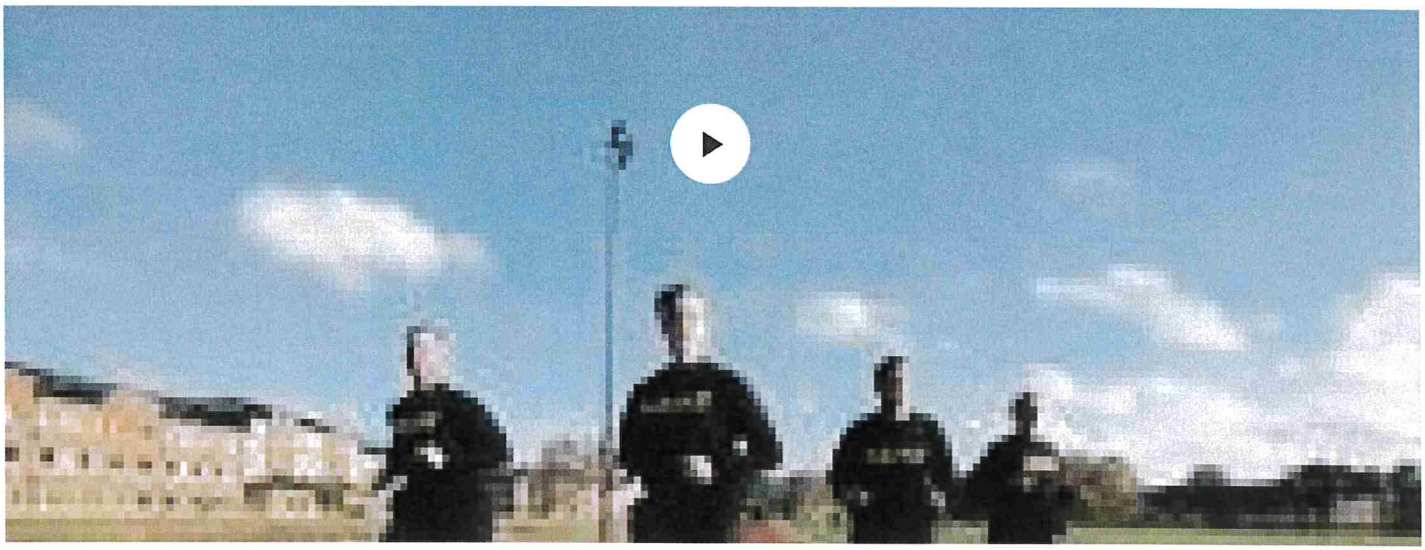


Exhibit 14
0478



Male Marines Attempt to Form Sock Buns

How do Marines celebrate National Hair Day? Watch as Okinawa-based attempt to style a female Marine's hair into a...



Alternate Assessment for Selected Soldiers with Permanent Profiles

Army senior leaders have approved a modification of the ACFT that included three aerobic test events for selected Soldiers...





Medical Teams Save Soldier During Historic Flight

Extracorporeal Membrane Oxygenation, Critical Care Air Transport, and Aeromedical Evacuation teams came together on a historic trip, saving the...

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Military.com

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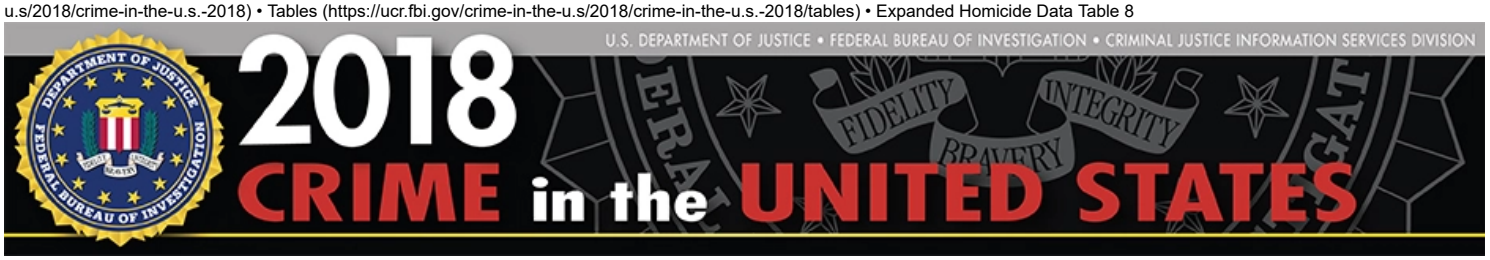
EXHIBIT "15"



Expanded Homicide Data Table 8

Murder Victims
by Weapon, 2014–2018

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-8.xls/output.xls)

Weapons	2014	2015	2016	2017	2018
Total	**12,278**	**13,780**	**15,318**	**15,195**	**14,123**
Total firearms:	7,803	9,103	10,372	11,006	10,265
Handguns	5,342	6,176	6,762	7,051	6,603
Rifles	235	215	300	390	297
Shotguns	238	247	247	264	235
Other guns	88	151	172	180	167
Firearms, type not stated	1,900	2,314	2,891	3,121	2,963
Knives or cutting instruments	1,545	1,525	1,558	1,609	1,515
Blunt objects (clubs, hammers, etc.)	431	436	464	472	443
Personal weapons (hands, fists, feet, etc.)[1]	668	647	664	710	672
Poison	9	8	12	15	5
Explosives	6	1	1	0	4
Fire	55	63	78	96	72
Narcotics	70	69	118	110	78
Drowning	12	12	9	8	9
Strangulation	84	96	97	89	70
Asphyxiation	93	105	92	111	90

Weapons	2014	2015	2016	2017	2018
Other weapons or weapons not stated	1,502	1,715	1,853	969	900

- [1] Pushed is included in personal weapons.
- NOTE: The Uniform Crime Reporting Technical Refresh enables updating of prior years' crime data; therefore, data presented in this table may not match previously published data.

EXHIBIT "16"



Table 20

Murder
by State, Types of Weapons, 2018

Data Declaration (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-20/table-20.xls/@@template-layout-view?override-view=data-declaration)

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-20/table-20.xls/output.xls)

State	Total murders[1]	Total firearms	Handguns	Rifles	Shotguns	Firearms (type unknown)	Knives or cutting instruments	Other weapons	Hands, fists, feet, etc.[2]
Alabama[3]	2	2	2	0	0	0	0	0	0
Alaska	47	31	7	3	0	21	8	3	5
Arizona	339	203	139	12	6	46	45	87	4
Arkansas	218	156	66	6	5	79	17	38	7
California	1,739	1,177	834	24	27	292	252	223	87
Colorado	207	147	99	2	8	38	27	13	20
Connecticut	83	54	10	2	0	42	18	9	2
Delaware	48	40	14	1	2	23	4	3	1
District of Columbia	151	120	120	0	0	0	20	7	4
Georgia	568	460	410	11	10	29	44	62	2
Hawaii	33	11	6	1	0	4	10	6	6
Idaho	32	19	14	2	2	1	4	8	1
Illinois[3]	864	708	592	14	4	98	77	53	26
Indiana	371	294	136	10	7	141	33	29	15

State	Total murders[1]	Total firearms	Handguns	Rifles	Shotguns	Firearms (type unknown)	Knives or cutting instruments	Other weapons	Hands, fists, feet, etc.[2]
Iowa[4]	43	20	6	2	2	10	8	9	6
Kansas	110	78	47	0	2	29	7	19	6
Kentucky	237	179	112	12	6	49	17	32	9
Louisiana	521	436	233	12	5	186	30	44	11
Maine	23	11	6	0	1	4	2	6	4
Maryland	470	388	345	1	10	32	39	30	13
Massachusetts	136	93	37	0	1	55	25	13	5
Michigan	550	394	166	17	11	200	31	99	26
Minnesota	104	49	36	4	0	9	16	28	11
Mississippi	142	118	99	3	2	14	7	15	2
Missouri	555	473	235	16	9	213	40	32	10
Montana	34	17	9	3	0	5	2	12	3
Nebraska	43	26	22	0	1	3	5	9	3
Nevada	201	134	46	1	1	86	23	24	20
New Hampshire	21	12	6	0	0	6	3	4	2
New Jersey	286	202	152	0	2	48	37	28	19
New Mexico	137	87	39	3	0	45	23	22	5
New York	546	313	254	6	10	43	124	63	46
North Carolina	479	346	231	15	16	84	44	52	37
North Dakota	16	9	8	0	0	1	1	1	5
Ohio	546	383	184	3	7	189	49	87	27
Oklahoma	202	134	95	7	3	29	28	29	11
Oregon	81	48	30	3	1	14	12	18	3
Pennsylvania	787	580	464	17	7	92	83	99	25
Rhode Island	16	12	1	1	1	9	2	1	1
South Carolina	386	296	188	8	6	94	29	42	19
South Dakota	13	8	5	0	0	3	4	1	0
Tennessee	496	397	245	26	8	118	28	49	22
Texas	1,301	956	522	33	37	364	128	133	84
Utah	59	28	17	1	0	10	12	10	9
Vermont	10	3	3	0	0	0	0	5	2
Virginia	391	297	141	8	5	143	30	49	15
Washington	232	138	76	2	5	55	45	35	14

State	Total murders[1]	Total firearms	Handguns	Rifles	Shotguns	Firearms (type unknown)	Knives or cutting instruments	Other weapons	Hands, fists, feet, etc.[2]
West Virginia	57	34	21	1	1	11	5	14	4
Wisconsin	178	136	67	4	2	63	15	16	11
Wyoming	12	8	6	0	2	0	2	0	2

- [1] Total number of murders for which supplemental homicide data were received.
- [2] Pushed is included in hands, fists, feet, etc.
- [3] Limited supplemental homicide data were received.
- [4] Limited data for 2018 were available for Iowa.

Data Declaration (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-20/table-20.xls/@@template-layout-view?override-view=data-declaration)

Provides the methodology used in constructing this table and other pertinent information about this table.

EXHIBIT "17"

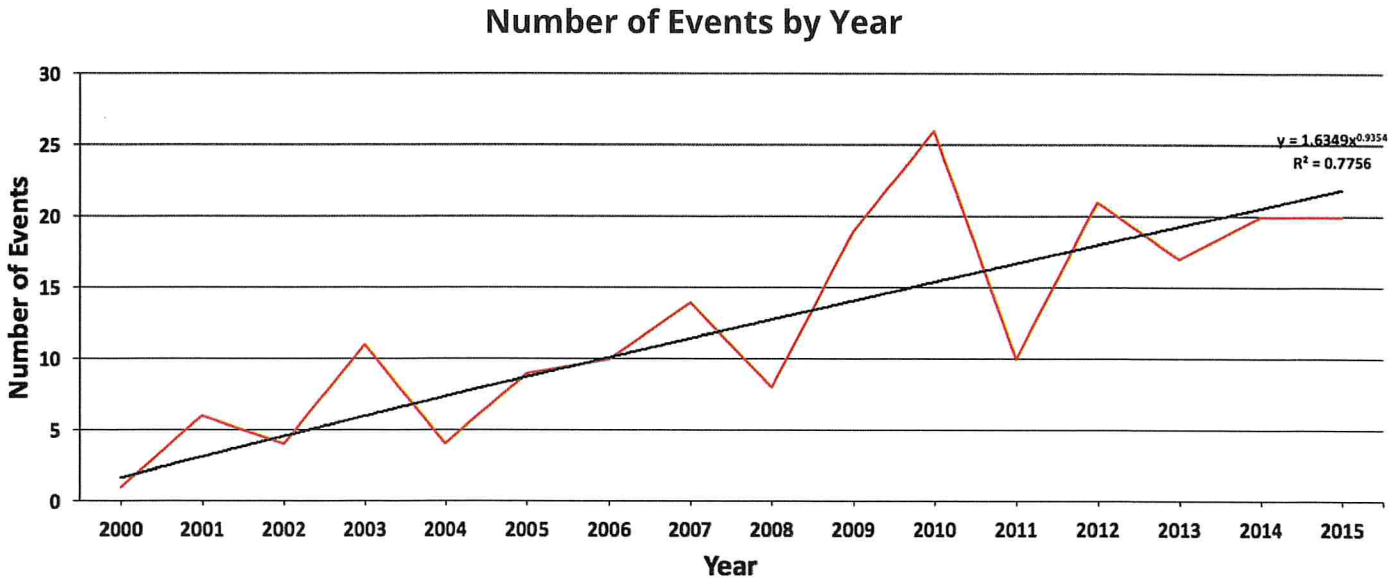
ALERRT ACTIVE SHOOTER DATA

Search

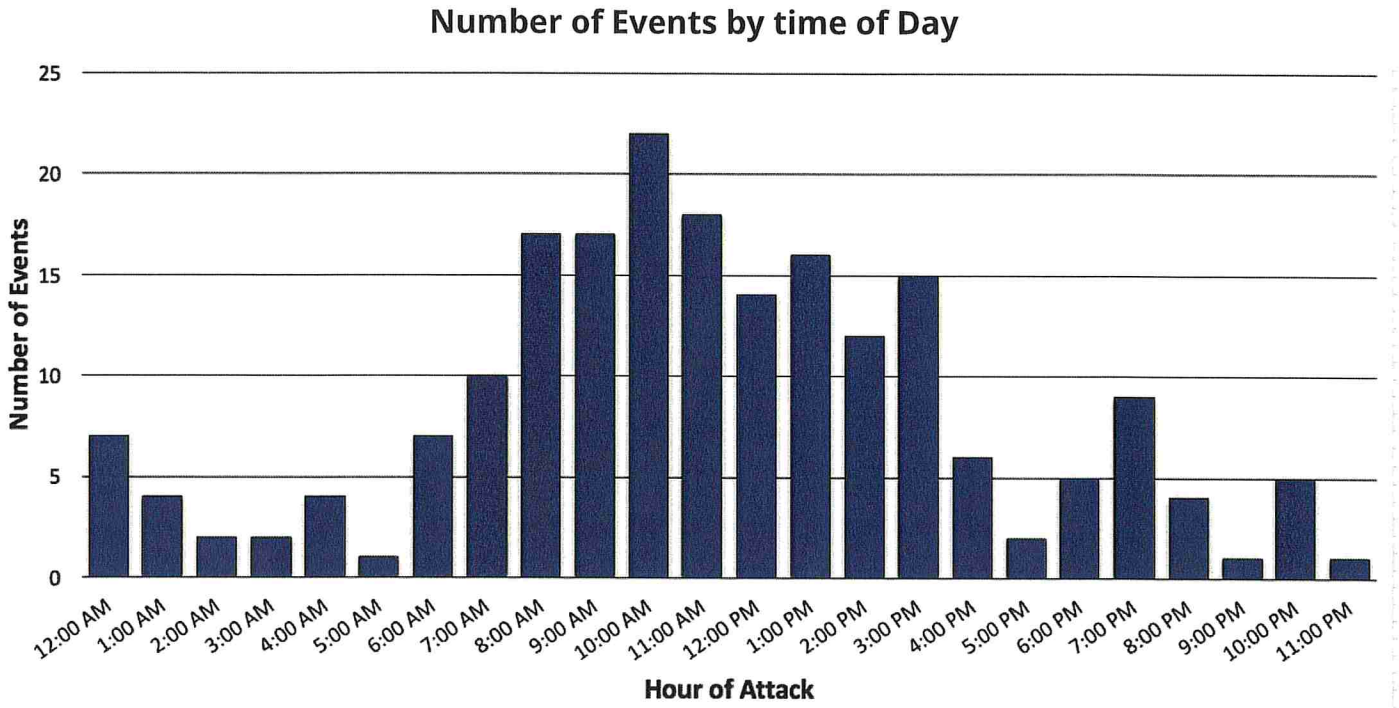
Characteristics of Active Shootings

The following section will present data regarding active shooting events that took place in all types of locations. The data is based on active shooting events that occurred in school locations the United States between 2000 and 2015.

ALERRT and the FBI identified a total of 200 active shooter events (ASE's) between 2000 and 2015.

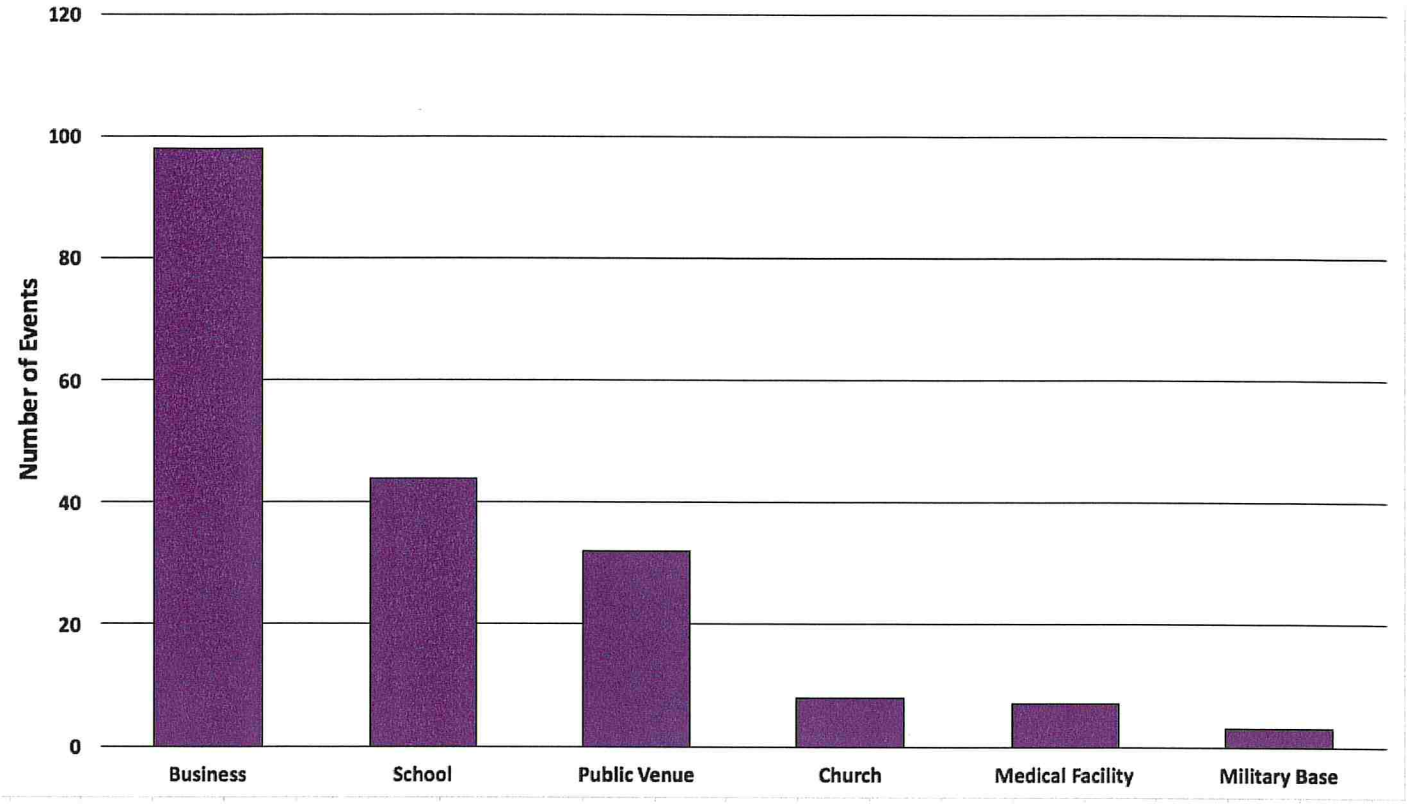


The above graphic shows the number of active shooting events that have occurred in the United States between 2000 and 2015. The superimposed power trend-line indicates the number of yearly active shooter events is plateauing (power = .9354).



This graph presents the times of day that active shooting events took place. The majority of active shootings took place between 8:00 a.m. and 4:00 p.m. Although, as the graph shows, active shootings have occurred at all times of day.

Number of Active Shootings By Location



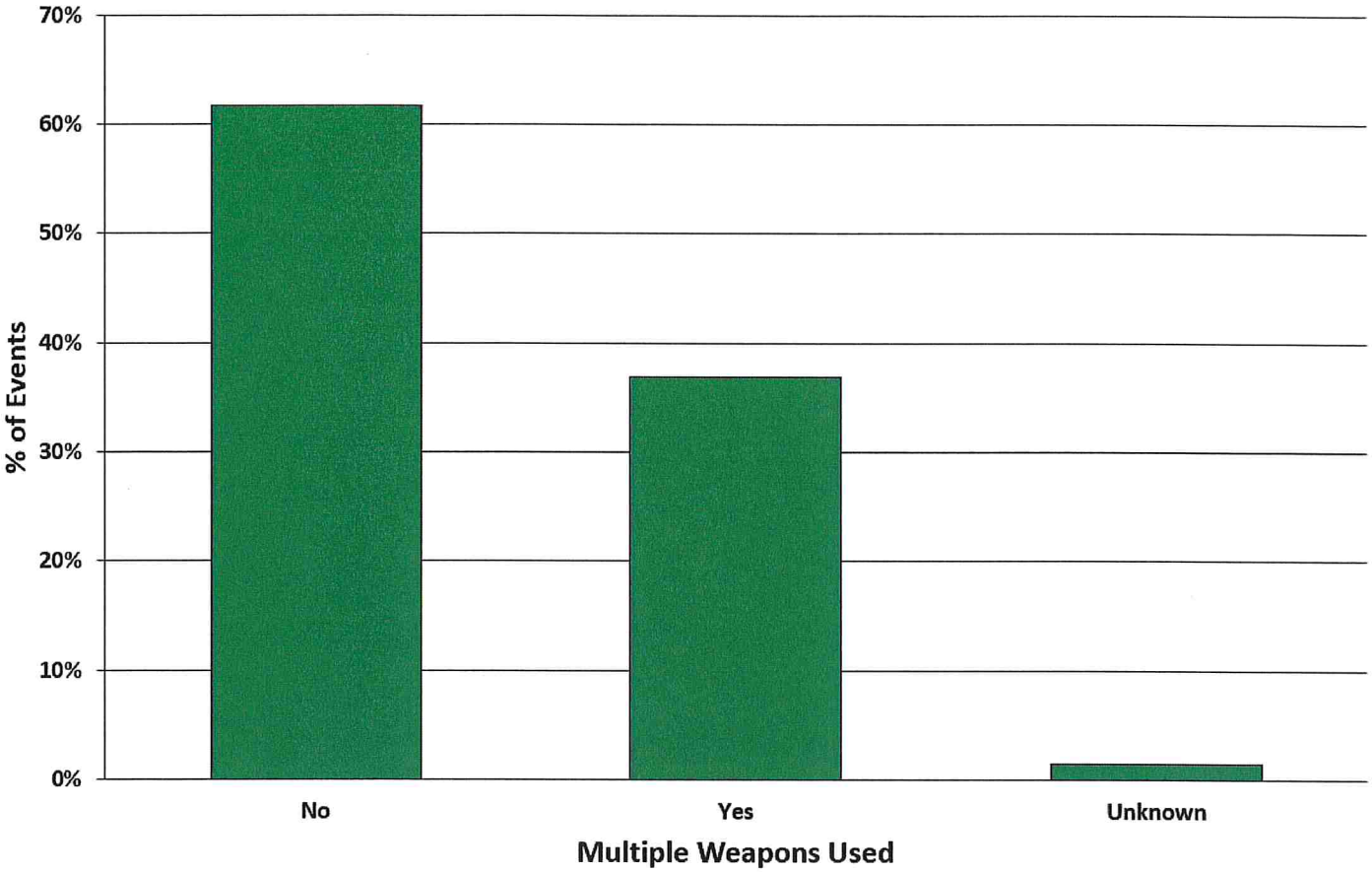
The above graph presents the number of active shooting events that occurred between 2000 and 2015.

Business locations experienced the most active shooting events, with 98 events. Schools had the second highest amount of active shootings, with 44 events. There were 32 active shootings that took place in a public venue environment. There were 8 active shootings that occurred in churches and 7 that occurred within medical facilities during this time period. Military bases experienced 3 active shootings.

WEAPONRY

The following graphs provide details regarding the weaponry used in active shootings. The way in which weapons are categorized depends on the type of weapon(s) the active shooter used during the event. For example, if the shooter used multiple weapons, the most powerful weapon used would be the one listed for the event. Thus, if a shooter had two pistols during the attack, the pistol would be categorized as the most powerful . However, if the shooter had a pistol and a rifle during the attack, the rifle would be categorized as the most powerful weapon.

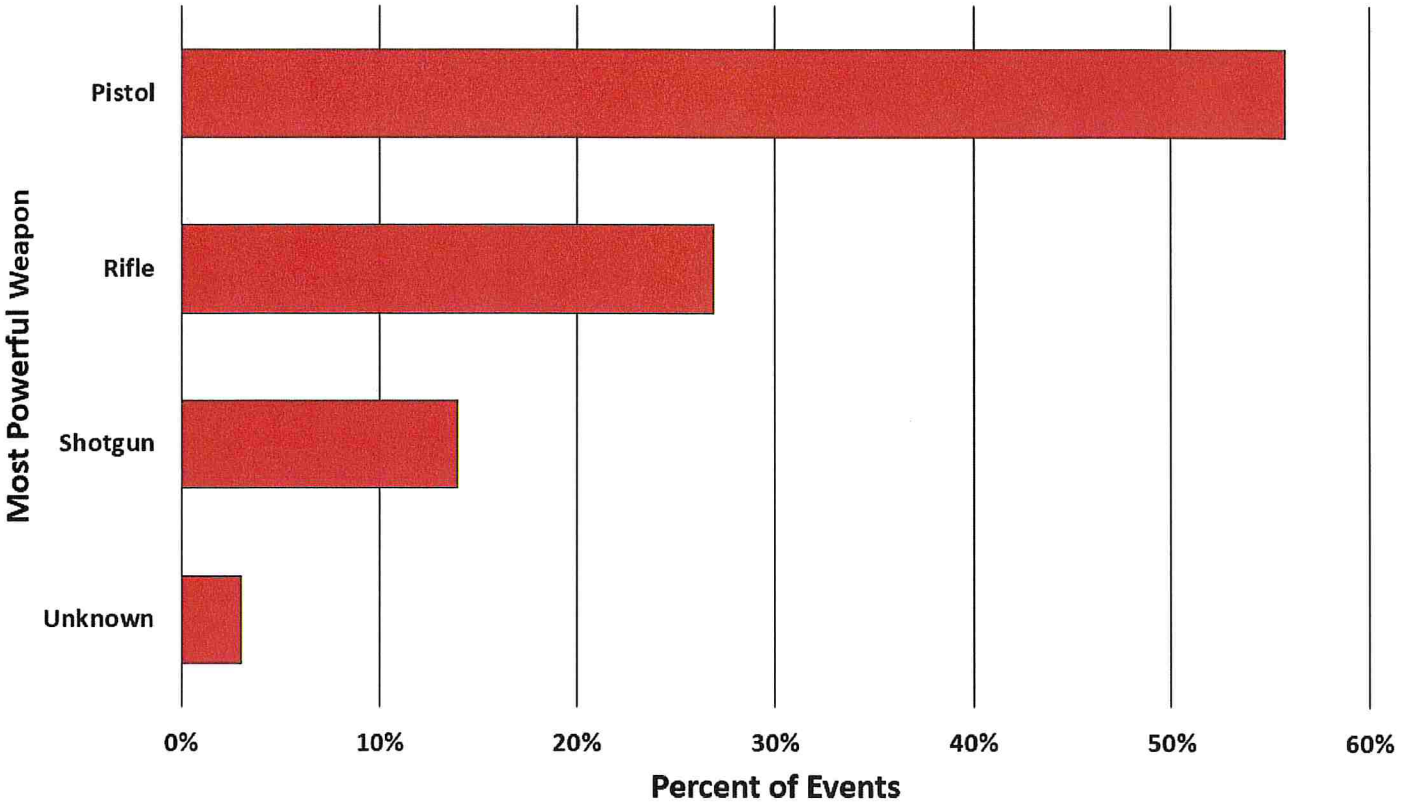
Multiple Weapons Used



This graph presents the percentage of active shooting cases where the shooter had more than one weapon on his/her person.

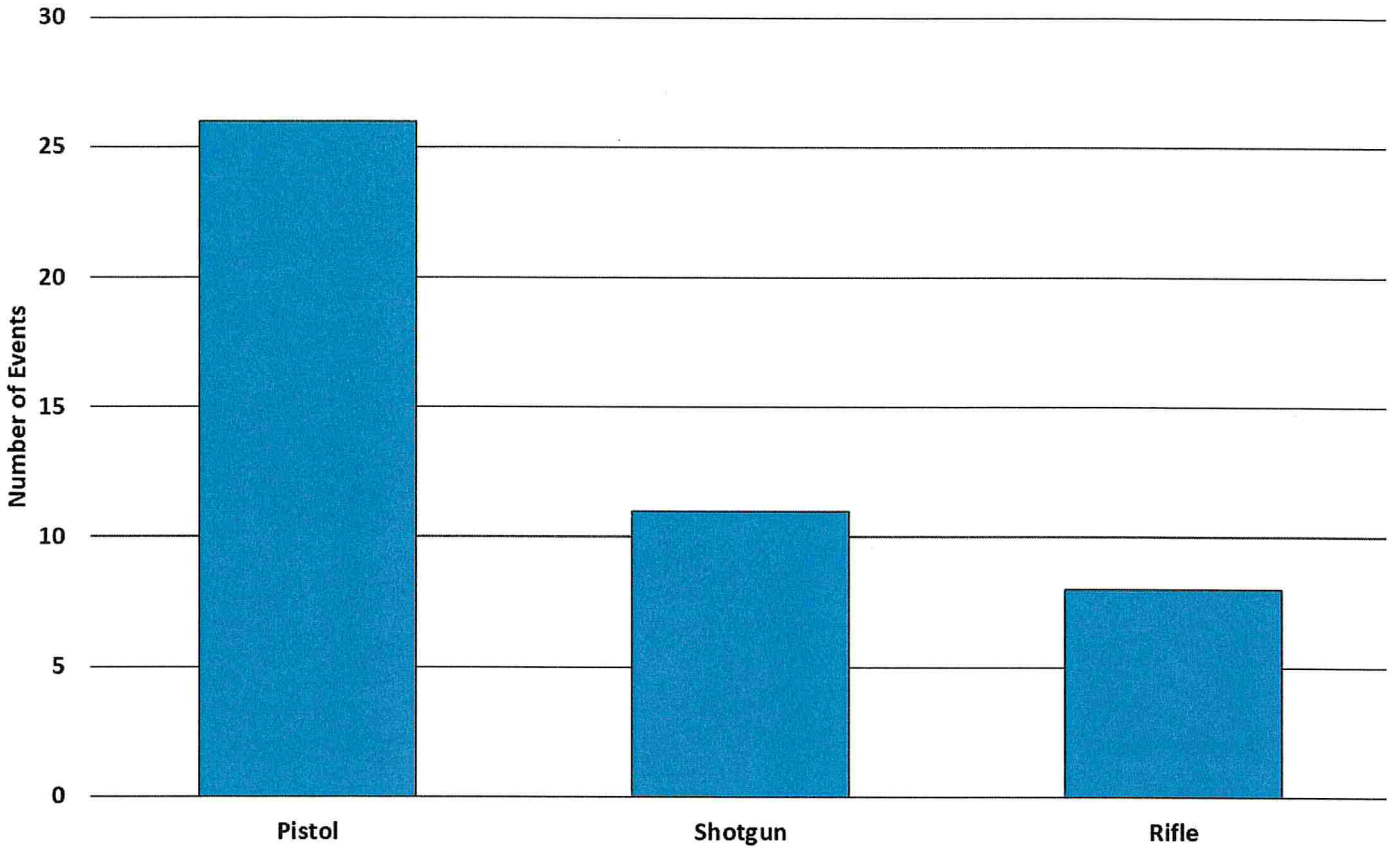
Multiple weapons were used by active shooters in 77 of the 200 active shooting cases.

Most Powerful Weapon Used



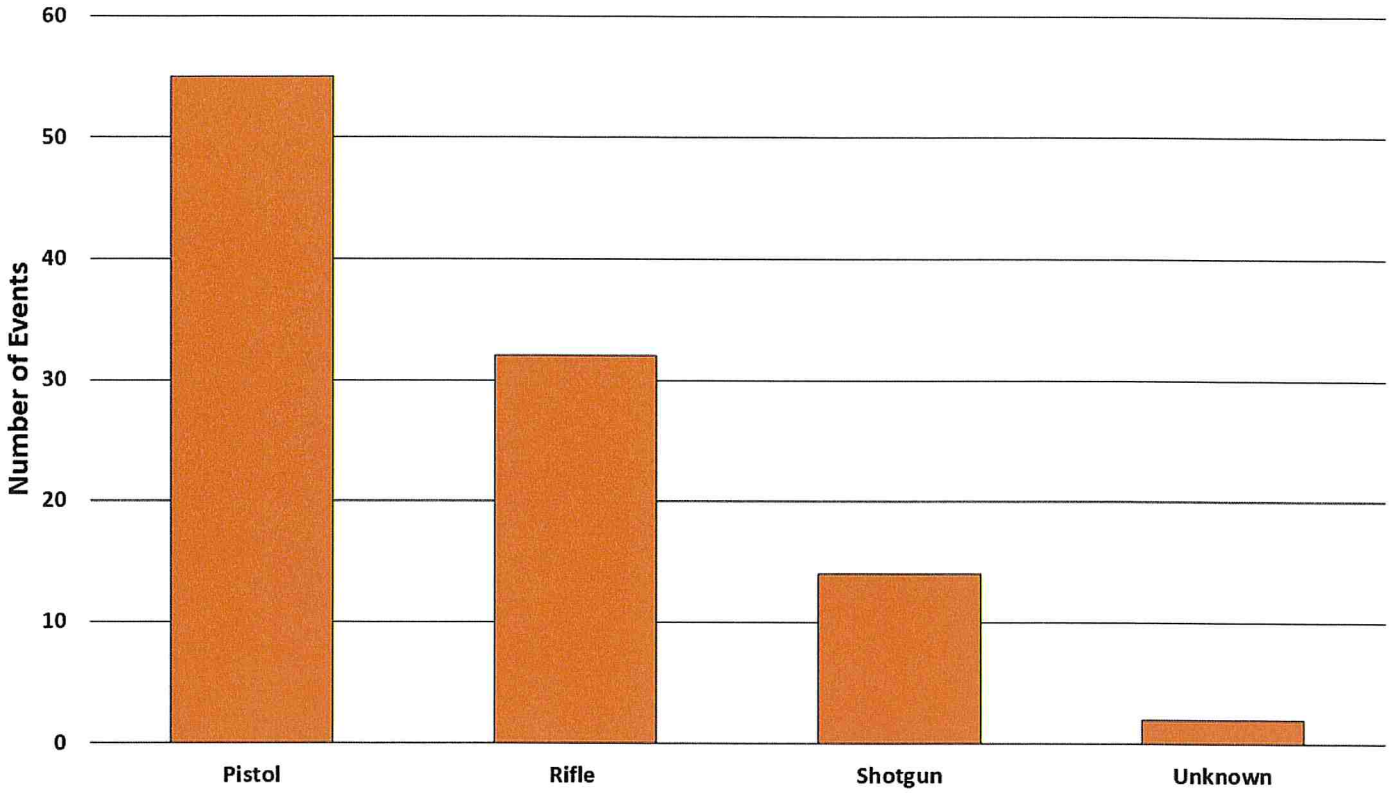
Shooters used a variety of weapons during their attacks. These can be disaggregated into three categories of most powerful weapon used with pistols being the least powerful and rifles being the most. As seen in the graphic, pistols were the most powerful weapon used (56% of attacks) in a majority of the attacks. Rifles were the next most used weapon (27% of attacks) and the least used weapon in active shootings was the shotgun (14% of attacks).

Most Powerful Weapon Used in School Active Shootings

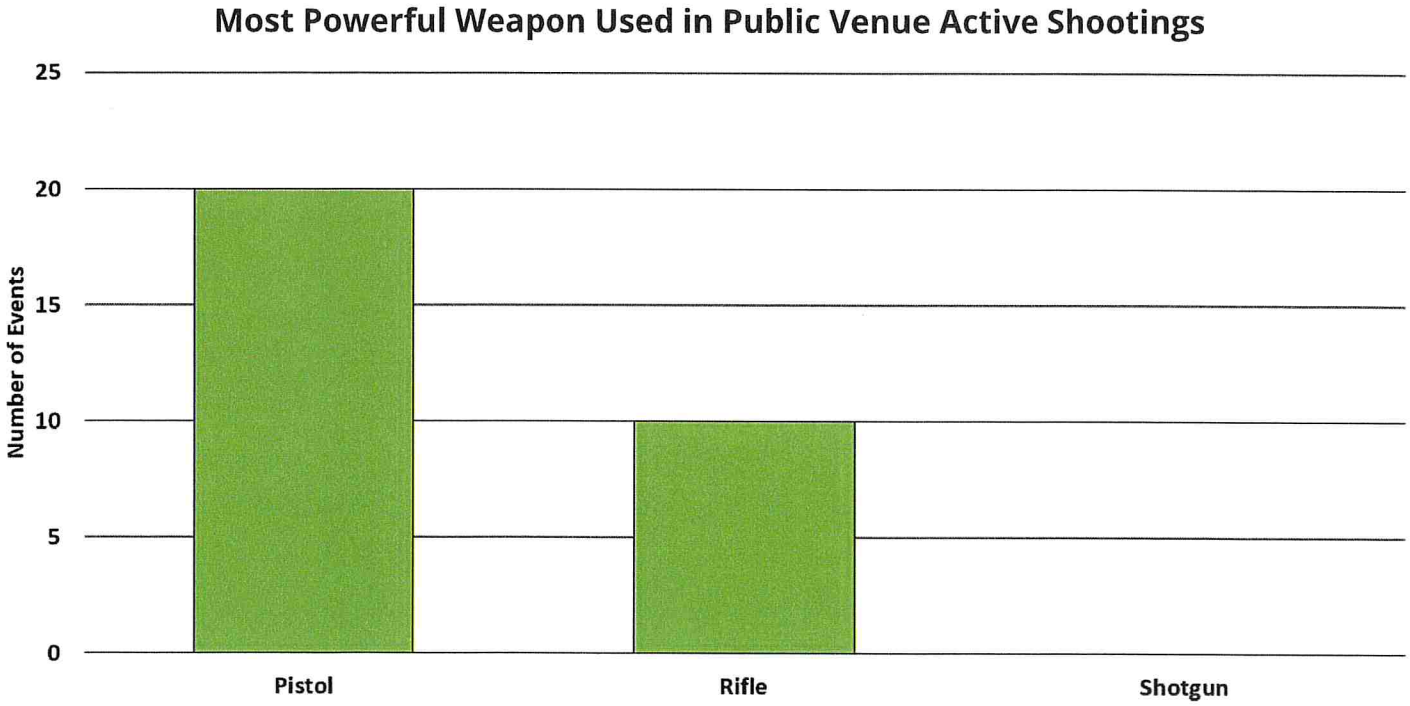


This graph shows the most powerful types of weapon used in school active shootings. School shooters typically used pistols (26 events) in their attacks. There were eleven events where the shooter used a shotgun and eight events where a rifle was used.

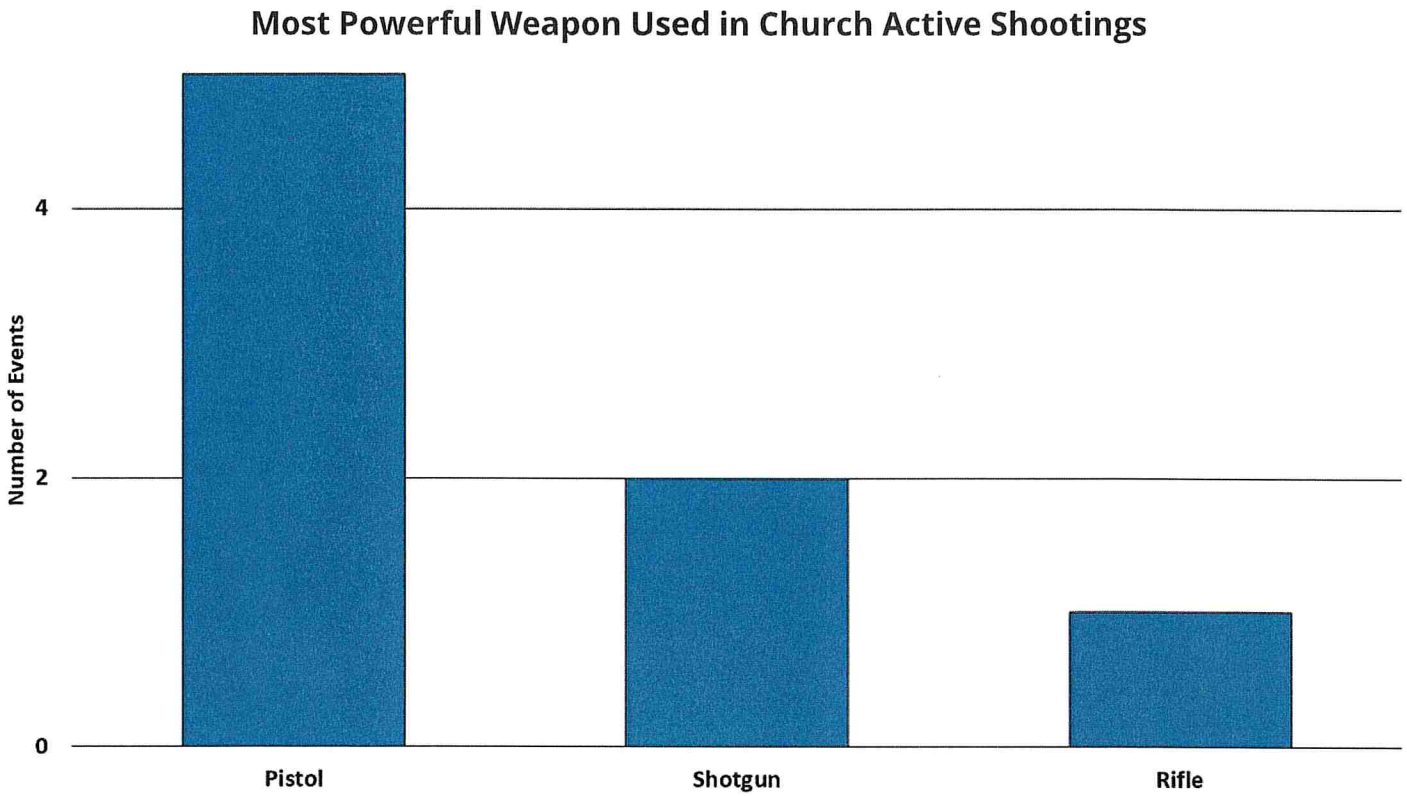
Most Powerful Weapon used in Business Active Shootings



This graph presents the types of weapons used in active shootings that occurred in business locations. The active shooter used a pistol in 56 events in a business setting. The second most common weapon used in a business active shooting was the rifle (32 events) and the least commonly used weapon was the shotgun (14 events). There was one event where the weapon used was unknown due to the fact the shooter fled the scene and was never apprehended.

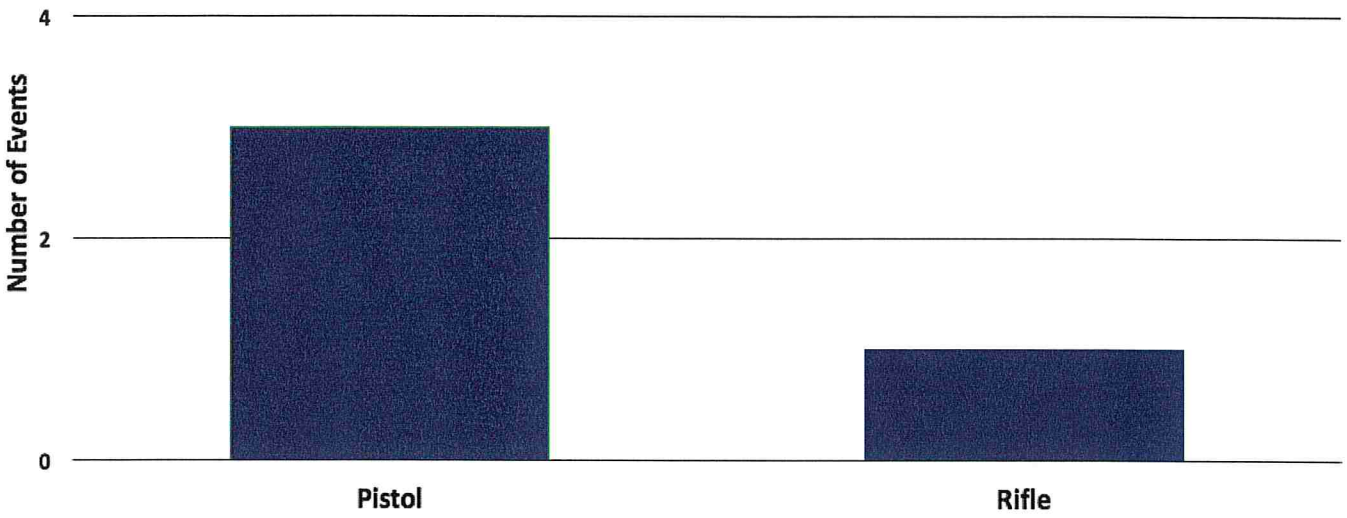


This graph presents the type of weapons used in active shootings that took place in a public venue. There were 19 events where the shooter used a pistol and 10 events where the shooter used a rifle. There were no known cases where the shooter used a shotgun in a public venue active shooting.



This graph present the type of weapons used in active shootings that took place in a church. It appears that like the school, business, office, and public venue locations, the majority of active shootings that took place in a church also used a pistol, the most powerful weapon listed. In total, there were 5 events where the shooter used a pistol, 2 events where a shotgun was used, and 1 event where a rifle was used.

Most Powerful Weapon Used in Military Base Active Shootings



The above graph shows the type of weapons used in active shootings that took place on military bases. In 3 events, the active shooter used a pistol. In 1 event, the active shooter used a rifle.

This website was developed at the Advanced Law Enforcement Rapid Response (ALERRT; ALERRT.org) program. More than 85,000 law enforcement officers across the nation have been trained in ALERRT operations and tactics to respond to active shooter situations. This vital training is delivered by veteran law enforcement SWAT specialists with proven experience in active shooter response and police training. In March of 2013, the FBI announced that ALERRT is the national standard through which they are training their agents. Mississippi, Oklahoma, North Carolina, Iowa, Alabama, Iowa, Louisiana, and South Carolina are among the first states to train and adopt the ALERRT curriculum as their state standard in active shooter response. Other states are moving forward with this as their standard and many large cities (New York City, Miami, Houston, Dallas, Atlanta, and San Antonio) are training all of their front line officers in ALERRT tactics and standards

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EXHIBIT "18"

MODERN SPORTING RIFLE: INTRODUCTION

Understanding America's Rifle

The term "modern sporting rifle" was coined to describe today's very popular semiautomatic rifle designs, including the AR-15 and its offspring. These rifles are used by hunters, competitors, a lot of Americans seeking home-defense guns and by many others who simply enjoy going to the range.

Though modern sporting rifles are increasingly popular, they are too often misunderstood.

The central reason these firearms are misunderstood is political. Though the semiautomatic design used in today's pistols, rifles and shotguns was invented in the late-nineteenth century and was popularly sold to consumers in America and Europe in the early twentieth century, the modern sporting rifle has been called a "weapon of war" by those who want to ban them.

Though some modern sporting rifles might cosmetically look like fully automatic rifles the military uses, modern sporting rifles by law have many internal differences.

To dispel the myths about modern sporting rifles so that we can have honest and factual discussions about them here are the facts about these rifles.





Modern Sporting Rifle Facts

- Modern sporting rifles are among the most popular firearms being sold today.
- The "AR" in "AR-15" rifle stands for ArmaLite rifle, after the company that developed it in the 1950s. "AR" does NOT stand for "assault rifle" or "automatic rifle."
- AR-15-style rifles are NOT "assault weapons" or "assault rifles." An assault rifle is fully automatic, a machine gun. Automatic firearms have been severely restricted from civilian ownership since 1934.
- If someone calls an AR-15-style rifle an "assault weapon," then they've been duped by an agenda. The only real way to define what is an "assault weapon" is politically, as in how any given law chooses to define the term—this is why the states that have banned this category of semiautomatic firearms have done so with very different definitions.
- AR-15-style rifles can look like military rifles, such as the M-16, but by law they function like other semiautomatic civilian sporting firearms, as they fire only one round with each pull of the trigger.
- Versions of modern sporting rifles are legal to own in most states, provided the purchaser passes the mandatory FBI background check required for all retail firearm purchasers.
- Since America's founding, civilian sporting rifles have evolved along with military firearms. The modern sporting rifle simply follows that pattern.
- These rifles' accuracy, reliability, ruggedness and versatility serve target shooters and hunters well. They are true all-weather firearms.
- Modern sporting rifles are chambered in .22 LR, .223 (5.56 x 45mm), 6.8 SPC, .308, .450 Bushmaster and in many other calibers. Upper receivers for pistol calibers such as 9 mm, .40, and .45 are available. There are even .410 shotgun versions.

most cases are chambered in calibers less powerful than common big-game hunting cartridges like the .30-06 Springfield and .300 Win. Mag.

- The AR-15 platform is modular. Owners like being able to affix different "uppers" (the barrel and chamber) to the "lower" (the grip, stock).
- They have been commercially sold to the American public since the 1960s.
- They are commonly-owned, with more than 16 million modern sporting rifles owned by civilians by 2018.
- And, they are a lot of fun to shoot!

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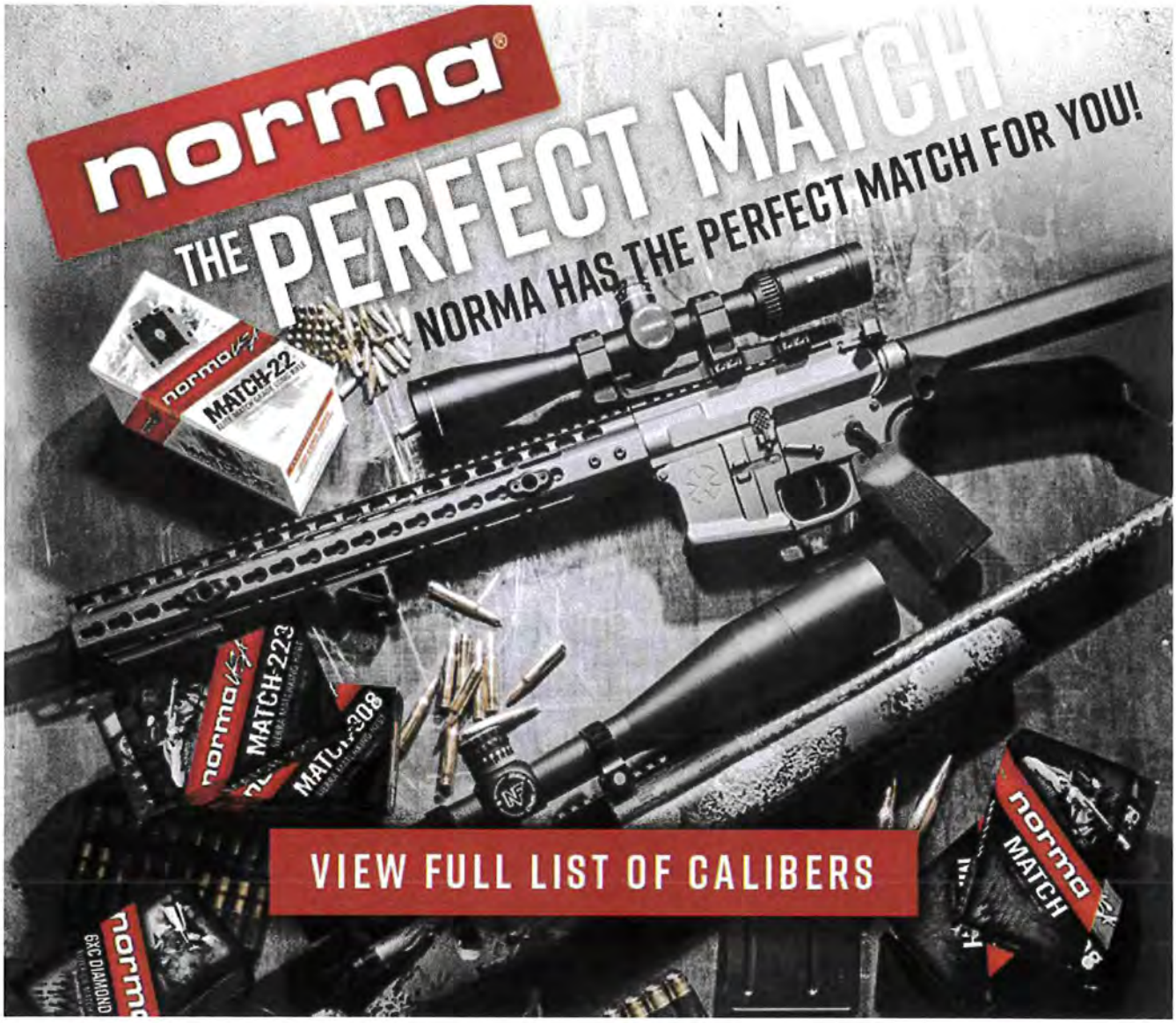

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Exhibit 18
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Best Deer Rifles – 2019 Buyer's Guide Review

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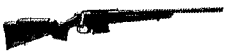
Deer are the most hunted large game in America. The market has responded with a seemingly endless selection of rifles for hunting deer.

Personal taste does play a large part in choosing a deer rifle; that said, not all deer rifles are created equal. Follow our guide to find the best one for you.

Comparison Chart of the Best Deer Rifles

PRODUCT		
Ruger American .308 Win. Black Composite Stock Rifle		
OUR TOP PICK	Cold hammer-forged barrel with a 1:10 twist rate Ruger's adjustable Marksman trigger with 3 or 5-pound pull Components are completely sourced and assembled in the USA.	VIEW LATEST PRICE
Tikka - Tikka T3x 6.5 Creedmoor		



Overall build quality and tolerances are very hard to beat

Modular stock is adjustable using separate pistol grip replacements

Chambered in an outstanding mid-powered round, the 6.5 Creedmoor

VIEW LATEST PRICE

Browning Ab3 Composite Stalker .243 Win Rifle



Bolt lift is only 60° for quick cycling

Inflex recoil pad deflects the butt away from your face

Bolt unlock button allows the bolt to open with safety on

VIEW LATEST PRICE

Psa Gen2 Pa10 18" Mid-length .308 Win Rifle



Closely follows standard A2 and M2 mil-spec design parameters

Comes with all internal components including charging handle and BCG

Designed to be compatible with as many AR-15 components as possible

VIEW LATEST PRICE

Savage 16/116 Trophy Hunter .270 Win

Includes a Nikon 3-9x40 scope with a BDC reticle

Savage's adjustable AccuTrigger

VIEW LATEST

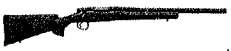


system for a crisp trigger pull

High-quality barrel offers industry-leading out-of-the-box accuracy

PRICE

Remington 700 Sps Tactical .308 Win Rifle



At 7.5 pounds, the rifle is light despite the heavy barrel

Heavy contour barrel for great accuracy on repeated shots

Stock has Hogue over-molding, a beavertail fore-end, and a SuperCell buttpad

VIEW LATEST PRICE

Henry Repeating Arms - Big Boy Steel 44 Magnum



Huge 10-round capacity in the tube magazine

Classic buckhorn-style sight with a diamond insert

Very lightweight for a reproduction of a classic rifle

VIEW LATEST PRICE

Springfield Armory M1A SOCOM .308 Win Kryptek Highlander Rifle



Features a ten round detachable box magazine

Short 16-inch barrel is perfect for hunting in heavy foliage

Includes forward rail for easy mounting long eye relief optics

VIEW LATEST PRICE

Savage Axis Ii Xp Compact .243 Win 20" Rifle



Comes with a great all-round 3-9x40mm Bushnell scope

Designed to be ergonomic and comfortable for small-framed shooters

Overall great accuracy supported by Savage's adjustable AccuTrigger system

VIEW LATEST PRICE

Henry Repeating Arms - Big Boy 20in 357 Magnum



Can fire both .357 Magnum and .38 Special rounds

Classic old west design approved for cowboy action shooting events

Gorgeous, select American walnut stock perfectly matches the brass receiver

VIEW LATEST PRICE

What is the Best Caliber for Deer Hunting?

Practically every hunter has their own unique preference, based on what they're used to, what they've had the greatest success with, what has been available, or simply sentimentality. Things to look for are velocity, energy transfer, and availability. Any caliber from .243 up is good, though for deer there isn't much point in accepting the increased recoil and cost of ammo above .30-06.

In the USA, calibers that are current or former standard military issue tend to reign supreme. Foremost among these for deer hunting is the .30-06. Designed to outgun the Spanish over a hundred years ago, the .30-06 is one of the most popular and versatile calibers on the planet. It is great for larger deer, but not everyone likes the recoil.

This is where another favorite with a military background comes in, the .308. It is a classic mid-power round that shoots flat and is ideal for mid-sized game like deer.



Remington Model 783 .30-06 Springfield Hunting Rifle (Source)

The .243 design is based on the .308, but with the case necked-down to accept a smaller bullet for greater velocity. It is an excellent round, especially for smaller deer. The .243 gives you great versatility; it is perfect for everything from rabbits to deer, all the most practical game for the table. Like the .308, It is also an outstanding long-range round.

The 6.5 Creedmoor is a recent entrant into the deer caliber game, but it has taken the shooting world by storm. The ballistic performance is better than .308 or .243 in every way, but unlike those rounds, you won't find it in every rural mom & pop sportsman's shop in the country.

What Makes a Great Deer Hunting Rifle?

A lot of personal taste goes into choosing the perfect deer gun. Your regular shooting environment and local laws will also determine what rifle is best for you.

Many types of action are available from the rare pump action rifle to the lever action, from the semi-auto to the bolt action, to name a few. Bolt action rifles are the most common hunting rifles in the world today. They are extremely reliable, accurate and quiet to operate.

Lever action rifles have that old west charm and the benefit of never needing to change your hand position to chamber a round. The lever can get in the way when shooting prone, however.

As semi-auto designs have become more reliable and accurate, their popularity in deer hunting has increased. A good sportsman should be able to take a deer with one well-placed, clear, confident, and ethical shot. The need for a second shot ideally should not arise. Nevertheless, as the popularity of semi-autos increases, so do the options available.

Quick Take | Best Deer Rifles

Just looking for the top three best deer rifles? Here they are:

1. Ruger American .308 Win. Black Composite Stock Rifle
2. Tikka - Tikka T3x 6.5 Creedmoor
3. Browning Ab3 Composite Stalker .243 Win Rifle

Review of the Best Deer Rifles

Given the considerations above, we have done the research so that you don't have to. Read on for our picks for the best deer rifles available today.

Best Overall:
Ruger American .308 Win. Black Composite Stock Rifle



CHECK LATEST PRICE

PROS

- Completely sourced and built in the USA
- Highly engineered bolt has a 70° throw to easily clear scopes
- Includes Ruger's Marksman trigger adjustable to either a 3 or 5-pound pull

CONS

- Does not include sights

Ruger was founded in 1949 in Connecticut by Bill Ruger. The company has come to dominate the American market by offering affordable prices for very reliable and well-designed firearms. The Ruger American rifle is no exception. The main feature of this rifle is that it is one hundred percent sourced and built in the USA.

This version comes with a 22-inch cold hammer-forged barrel with a 1:10-inch twist rate with six rifling grooves. The barrel is bedded with Ruger's proprietary Power Bedding to free-float the barrel for the best possible accuracy. Sights are not included but a base is. The bolt is a full-diameter, one-piece three lug design with a 70° throw for ample scope clearance. The bolt also has dual cocking cams for smooth, easy cycling from your shoulder.

This rifle comes with a four-round detachable rotary magazine. The trigger is Ruger's adjustable 'Marksman' model with either a three pound or a five-pound pull. The rifle has a comfortable tang safety. The lightweight, black synthetic stock comes with a rubber recoil pad and sling swivel studs. The weight is a decent 6.12

pounds and the length of pull is 13.75 inches.

Bottom Line

This is a very affordable rifle and the ideal choice for the true patriot. Support American manufacturing with the Ruger American rifle. The top features of the Ruger American rifle are the highly engineered bolt, the adjustable trigger, and the great safety design.

Runner-up:
Tikka - Tikka T3x 6.5 Creedmoor



CHECK LATEST PRICE

PROS

- Excellent Finnish design, quality, tolerances, and attention to detail

- 6.5 Creedmoor is arguably the best mid-power rifle cartridge available today
- The pistol grip and fore-end geometries are adjustable with aftermarket replacement parts

CONS

- 6.5 Creedmoor is not as readily available as .308

This is my personal favorite rifle. Tikka was founded in Finland in 1893 but has been owned by Sako since 1983. Despite being a manufacturers' budget brand, Tikka surpasses the quality of most other manufacturers out there. Every rifle they sell is guaranteed to have 1 MOA accuracy straight out of the box.

This model has a detachable ten-round box magazine and a universal rail. The short 20-inch barrel has a 1:8-inch twist rate with four grooves of rifling. The rifle features a heavy-duty recoil lug to take pressure off the screws. The bolt shroud is also unusually heavy-duty to keep the moving parts safe.

Besides the fine workmanship on the receiver and barrel, the synthetic stocks on Tikka rifles are very highly engineered. They are foam filled to reduce noise caused by brushing foliage in the woods. They have a non-slip grip, but most importantly, they are modular. You can buy separate pistol grip replacements with various different geometries depending on your hand size and shooting style. The forend width can be adjusted in a similar way. A recoil pad is included. The rifle weighs a fairly normal 7.5 pounds.

Bottom Line

This is easily my personal choice in a great deer rifle and a great all-rounder. The quality can't be beaten anywhere near the price point. The best features of this rifle are the 6.5 performance, the adjustable stock, and the overall quality.

Best for the Money:
Browning Ab3 Composite Stalker .243 Win Rifle



CHECK LATEST PRICE

PROS

- Low 60° bolt lift for rapid cycling
- Bolt can be opened with the safety on thanks to bolt unlock button
- Inflex recoil pad pushes the buttstock down and away from your face when firing

CONS

- Only comes in black

Browning was founded in 1878 by everyone's favorite firearms designer, the god of guns, John Moses Browning. The company is now owned by the estimable FN

Herstal, with which John Moses worked closely during his lifetime.

The AB3 is an upgrade on the legendary Browning A-bolt. It offers both high performance and affordability. The heart of any firearm is the barrel, and the AB3's 22-inch barrel is a work of art. It is made from cold-rolled steel that is then precision button-rifled with a 1:10-inch twist. It is triple-checked by quality control before the interior is finished and air-gauged to ensure a consistent diameter throughout the bore. The chamber is hand-reamed for the tightest possible tolerances and the most precise headspace.

This rifle comes with a 5-round detachable magazine. The bolt slide is chromed and the receiver is drilled and tapped for scope rings or mounts. The safety is top tang style for the best ergonomics and indexing. The bolt lift is only 60° for fast cycling and scope clearance. A special bolt unlock button allows the bolt to be opened with the safety on.

The receiver is steel and finished with matte bluing. The stock gives a 13 5/8 inch length of pull and includes an Inflex recoil pad. The pad deflects the butt away from your face when shooting. The stock also features textured grip, a palm swell, and sling swivel studs.

Bottom Line

The top features of this rifle are the bolt throw and the Inflex recoil pad.

Best Semi Automatic Deer Rifle:

PSA Gen 2 Pa10 18" Mid-length .308 Win Rifle





CHECK LATEST PRICE

PROS

- Rigorously adheres to A2 and M2 mil-spec design standards
- All internal components are included, including charging handle and BCG
- Made to be compatible with the widest possible variety of AR-15 components

CONS

- Loose tolerances
- May not work with after-market stocks

Hunting with modern sporting rifles (i.e. AR-style rifles) has skyrocketed in popularity in recent years. Palmetto State Armory is one of the biggest firearms retailers in the country, so they have the market data to know how to build the kind of AR that people want.

This turns out to be pretty close to mil-spec. This .308, AR-10 rifle has an 18-inch A2-style barrel including an A2-style muzzle device. The twist rate is 1:10 inches. The mid-length gas system uses a gas block integrated into the classically-styled front sight base. The forged 7075 T6 aluminum receiver is flat topped with a full rail. The receiver includes feed ramps, forward assist, and a dust cover. A charging handle is also included.

The bolt is made of 9310 steel and the carrier uses 8620 steel. Both are nitride treated. The gas key is treated the same way and is staked. The lower receiver is made of the same aluminum as the upper. It houses a single stage, mil-spec style trigger. A 20-round PMAG is included.

The handguard is a mid-length polymer unit. The grip is a classic A2-style. The buffer tube is aluminum and supports a classic M4-style 6-position telescoping stock. PSA's approach to the AR-10 is to give you compatibility with most AR-15 components.

Bottom Line

This is a great mil-spec, AR-15 compatible AR-10. It is also a great platform on which to customize your perfect AR-style rifle.

Best Youth Deer Rifle:
Savage 16/116 Trophy Hunter .270 Win



CHECK LATEST PRICE

PROS

- Comes with a 3-9x40 scope with a BDC reticle from Nikon
- Finely manufactured barrel has market-leading out-of-the-box accuracy
- The AccuTrigger trigger system is adjustable and offers a crisp trigger pull

CONS

- Aesthetic details are a bit rough

Savage is a classic American firearms manufacturer founded in 1894. They have been through tough times but have bounced back. Now, they offer some of the most accurate out-of-the-box rifles available today. This rifle has many of the design features that contribute to that accuracy, such as Savage's crisp and adjustable AccuTrigger trigger system.

The one thing that contributes more to accuracy than a good trigger is the barrel, and this is where Savage really shines. This rifle has a free-floated, button-rifled 22-inch stainless steel barrel. The twist rate is one in ten inches. It is supported by dual pillars bedded into the stock. The rifle includes a four-round detachable box magazine. Weight is a bit high at 9.22 ounces and the length of pull is a standard 13.5.

The stock is black synthetic. Besides the accuracy, the major perk of this rifle is that it comes with a Nikon scope. The magnification range on the scope is pretty standard at 3-9x with a 40mm objective lens for good light transmission. The reticle is a bullet drop compensator, giving you multiple aiming points depending on the range you are shooting.

Bottom Line

If you want a practical, knock-around truck gun that is super accurate but doesn't

If you want a practical, knock around truck gun that is super accurate but doesn't look like much, this rifle is for you. Many hunters rave about the .270 caliber and this is a great platform for it. The top features of this rifle are the accuracy and the included scope.

Best Long Range Deer Rifle:
Remington 700 SPS Tactical .308 Win Rifle



CHECK LATEST PRICE

PROS

- The rifle is relatively light in spite of its heavy barrel.
- Stock has grippy Hogue over-molding, a wide beavertail fore-end, and a SuperCell buttpad
- Heavy contour barrel offers great accuracy when you need to take shots at a high frequency

CONS

- Does not include scope mount

Remington Arms of Hunstville Alabama was founded in 1816, making it the oldest firearms manufacturer in the USA. It has developed more cartridges than any company in the world and today it is America's largest producer of rifles and shotguns. The company's success has been bolstered by various cherry military contracts, including those to use this rifle, the Remington 700, as a NATO sniper rifle.

The barrel on this model is a 20-inch heavy-contour tactical-style model with a 1:10-inch twist. It is carbon steel, matte blued, and is threaded for flash hiders. Despite the heavy barrel, the whole rifle still only weighs seven and a half pounds. The barrel is dual-point pillar bedded. Metal surfaces on the rifle feature a durable, satin black oxide finish.

This rifle features Remington's X-Mark Pro externally adjustable trigger. The magazine is a four-round hinged floorplate design. The receiver is drilled and tapped for scope mounts. The black synthetic stock has high-end Hogue over-molding for sure grip. The fore-end has a tactical-style semi-beavertail for extra stability. There is a SuperCell recoil pad on the butt. The length of pull is a standard 13 3/8 inches.

Bottom Line

This is an excellent rifle if you like that modern military sniper rifle vibe. The top features of this rifle are the ergonomic stock and the overall lightness.

Best 44 Mag Rifle for Deer Hunting:
Henry Repeating Arms - Big Boy Steel 44 Magnum



CHECK LATEST PRICE

PROS

- Large tube magazine has a capacity of 10 rounds
- Old West style buckhorn-style sight with a diamond insert
- Surprisingly light for a reproduction of a 100-year-old rifle

CONS

- Lever actions can be hard to cycle in prone position

Henry was founded in 1996 in Brooklyn by a father and son team. They have revived both the Henry name and the classic Henry designs, albeit with some mechanical updates. If you love that old west style and like to keep life simple by shooting the same ammo in your magnum revolver and rifle, this is the gun for you. It is a lightweight reproduction of B.T. Henry's classic 1860 rifle.

The lever action design gives a follow-up shot that is almost as fast as a semi-auto. Unlike the original rifle, this one has a round barrel rather than an octagon. It is 20 inches long and blued. The choice to update the old-timey octagon barrel is a major factor that helps keep the rifle down to seven pounds. The rear sight is an adjustable, classic semi-buckhorn with a diamond insert and the front sight is a simple brass bead. The receiver is drilled and tapped for a scope.

The tube magazine has a ten-round capacity, but for a long day of hunting you probably just want to load three or four to keep the weight down. The rifle has a transfer bolt safety. The furniture is made of chequered American walnut with a matte finish. It comes with swivel studs and a solid black rubber recoil pad.

Bottom Line

This is a great quality rifle with a classic flair. The top features are the low weight and large capacity. It is perfect for the straight-walled-cartridge hunting laws being introduced in some states.

Best 308 Deer Rifle:

Springfield Armory M1A SOCOM .308 Win Kryptek Highlander Rifle



CHECK LATEST PRICE

PROS

- Comes with a ten round detachable box magazine
- The short 16-inch barrel is great for hunting in thick bush
- Comes with a forward rail for easy mounting of long eye relief scopes or other optics

CONS

- The front sight to rear sight aperture ratio means your target may be obscured at 100 yards

Few rifles can boast to be as much of an American classic as the Springfield M14/M1A. The M14 was standard military issue from 1959 to 1970, seeing service in the Korean War and Vietnam War. It was an attempt to update the venerable M1 Garand with a lighter cartridge for full-auto fire. This option was rarely if ever used.

After the original Springfield Armory was shut down, rights to the name were bought and the private Springfield Armory was founded in 1974. It has produced the M1A, exactly like an M14 but without full-auto, ever since. This SOCOM 16 model is designed to provide less felt recoil and less muzzle rise. It has a very short barrel at 16 inches, making it an ideal brush gun.

The barrel wears a proprietary muzzle break. The traditional M14 is a bit tricky to mount optics on, but this model has a forward rail to let you mount long eye relief optics with little trouble. This is not critical, however, as the stock iron sights are a solid, classic design that every American should probably be comfortable shooting. The front sight has an XS tritium insert to provide a clear sight picture at night. Magazine capacity is a comfortable ten rounds in a detachable box magazine.

Bottom Line

The top features of this classic American rifle are the forward rail and the short barrel.

Best 243 Deer Rifle:
Savage Axis Ii XP Compact .243 Win 20" Rifle



CHECK LATEST PRICE

PROS

- Includes an excellent all-around 3-9x40mm scope from Bushnell
- Engineered to be comfortable and lightweight for small-framed shooters
- Savage's AccuTrigger system contributes to the rifle's overall great accuracy

CONS

- Only comes in pink camo

As noted above, Savage is a venerable American firearms maker that produces some of the most accurate out-of-the-box rifles you can buy. This is a compact model in fabulous pink for that special lady in your life, or possibly for yourself.

It comes with a 20-inch, carbon steel button-rifled barrel with a twist rate of 1 in 9.25 inches. The chamber has thread-in barrel headspacing. The receiver is also made of carbon steel with a matte black finish. Like the Savage detailed above, this model comes with Savage's adjustable AccuTrigger trigger system. Just in front of that, there is a practical, 4-round detachable box magazine. This capacity is more than sufficient for most hunting scenarios.

Savage has updated the ergonomics on this model to make it comfortable for small-framed shooters. It offers a 12.75-inch length of pull. At 6.2 pounds it is also incredibly light, thanks partly to the synthetic stock. A big perk of this rifle is that it comes with a Bushnell Banner 3-9x40mm scope. This is a pretty standard all-around option. The rifle and scope should make a good pair as they are produced by subsidiaries of the same parent company.

Bottom Line

Savage is an excellent choice if you want an affordable, super accurate rifle. This is a great choice for smaller shooters, especially with the adjustable trigger and included scope. The finish may not scream luxury, but if you want a real tool that you can rely on and knock around a bit, you can't beat a Savage like this one.

Best 357 Rifle For Deer:

Henry Repeating Arms - Big Boy 20in 357 Magnum



CHECK LATEST PRICE

PROS

- Capable of firing both .357 Magnum and .38 Special cartridges
- Traditional old west design approved for cowboy action shooting competitions
- Attractive American walnut stock and fore-end look great with the brass receiver

CONS

- Relatively heavy

This is another reproduction rifle for those hunters who want an old West look or have to deal with straight walled cartridge laws. In fact, this model is SASS approved for cowboy action shooting events.

The 20-inch octagonal barrel wears a classically styled, fully adjustable semi-buckhorn rear sight with a reversible white diamond insert. The front sight is a simple brass bead. Under the barrel is a ten round tube magazine. The straight-grip stock and forearm are crafted from choice American walnut. This matches well with the brass barrel band and the iconic Henry brass receiver.

The weight is a bit high at 8.68 pounds. The action is crisp and smooth. As you might expect, this model can shoot both .357 magnum and .38 Special rounds.

Bottom Line

This is a gorgeous rendition of a classic American rifle. Whether you want to join a cowboy action shooting event or must abide by straight wall hunting laws, this is a beautiful choice. The lever action also gives you extremely quick follow up shots. The ten round mag makes it feasible for this rifle to work double shift in home defense. The top features are the classic aesthetics, smooth cycling and ability to shoot both .357 and .38 Special.

Conclusion

If you're like me, you have probably found three or four guns that really appeal to you and will spend some time clicking back and forth between their specs and pics, wondering how to decide. Whichever rifle you end up with, we wish you good luck and safe hunting.

Other Tips and Things to Remember

If there's one hunting subject that engenders different opinions, it's which deer rifle to choose. Let's bypass the "emotional imperatives", and try to settle on some generally-accepted facts:

There are many variables -- and therefore it's not ONLY the rifle that you have to consider when making a purchase, it's the weight of the bullet, type of action, scope...

lots of things. While not everything can be covered in a short article, here are just some of the basics to consider in choosing the best deer rifle.

Who's Shooting?

The first thing to consider is WHO is going to using the rifle. Age and gender play a big role. For instance, no sane person is going to select a 45/70 buffalo gun with a 300 grain bullet for a kid or a woman (but sadly it does happen -- you know, the old, "Me Tarzan, You Jane" bit -- even though "Jane" may be poorly-equipped to handle anything even close to it and isn't going to be hunting for a T-Rex anytime soon).

If a young person or woman starts out by being handed a super-high-powered rifle, the first shot fired will be their last. The noise. The tremendous recoil. The missed target. These all will provide an immediate negative impact (literally and figuratively) on the first-time shooter. Don't give anyone a rifle that'll scare or frighten them. Make sure it's something that they can handle and "the caliber be damned." Many savvy hunters will start a kid or woman out with something as simple as a .22. The new shooter will be able to handle it, and recognize how its mechanism operates. And, after a bit of "break in," will then be able to emotionally and physically tolerate something bigger. Of course it's ESSENTIAL that any new shooter take a gun-safety course. That's a "gimme." Safety is "job one!" Never forget that.

OK -- we've now gotten past the initial "training" time, and are ready to move forward. General speaking, a .243 or .270 will work just fine in most instances for a kid or a woman, and it'll surely get the job done. These calibers have good range, and don't have the kick or recoil of something like a .30-06 or a 7mm mag.

Type of Terrain and Range of Shot

Select a deer rifle that's going to be right for the type of terrain you're generally going to be hunting. For instance, if it's going to be short range (25 to 50 yards), with heavy brush and cover, a good choice might be a 30/30 or .35 caliber. Stick to lever action, or auto-loader, and no scope.
These rifles work "fast" and "easy," and will get through heavy brush quickly and accurately. They're light, they're easy to operate, and pack enough wallop to bring down your deer.

The most popular caliber to use longer shots (100-200 yards) in generally open areas is

the tried-and-true .30-06. Indeed, after over 100 years, many hunters and marksmen still consider the Springfield Model 1903, .30-06, bolt-action Army rifle to be among the most accurate rifles ever manufactured (all you lovers of the Mauser Model 98, or .308, or .300 mag notwithstanding).

The '03 Springfield was updated in WWII, and used as a sniper rifle -- any of you who saw "Saving Private Ryan" will recognize that fact. If you can find one (they're classics and are not cheap), it's one heckuva deer rifle.

But most any other .30-06 bolt action rifle will work equally well. The '03 Springfield just happens to be a personal favorite. If you want something that'll work for even longer range (up to 600 plus yards), use the hot, flat-flying 7mm mag. (We know a deer hunter -- actually caribou in this instance who nailed one with a 7mm mag at 650 yards -- with OPEN SIGHTS, standing position, in Quebec -- once-in-a-lifetime shot, but he says he does it all the time. Yeah. Right). Everyone has their favorite manufacturer -- Remington, Browning, Winchester, Mossberg -- they're all good. Make sure, if you want super-accuracy, to use a bolt action only. Auto-loaders and lever actions work just fine, but they don't have the accuracy of the classic bolt action system.

As for scoping -- same general story: Nikon, Bushnell, Leupold all make excellent scopes and the cost can be very high -- depending on the light they draw in and their amplification. If you're going to do medium-to-long range shooting, you will need a scope. The new pinpoint laser scopes are terrific -- but can be expensive.

As for bullet weight, that'll vary. For short, heavy range cover, use 180-220 grains, which will blow through brush and thick cover. For mid-range out to 200 yards, 165-185 grains will be optimum (the '03 Springfield, .30-06, 172 grain bullet load is classic). For real long-range use a 150 grain bullet in conjunction with a .243, .270 or 7mm mag.

Hunting Area Restrictions

If you deer hunt in areas where RIFLES ARE PROHIBITED (and there are those areas in populated areas so check carefully before you head out), you'll need to opt for a shotgun. A shotgun with a slug barrel. Nothing long range, but lots of deer hunters love to use these shotguns because the slug has tremendous stopping power.

Muzzle Loaders

Many deer hunters long for the days of Jeremiah Johnson, and prefer a muzzleloader, like a Hawkens or equal. One shot, big caliber, big stopping power, and with all the modern appurtenances in manufacturing, loading, and firing, it's quite accurate. Muzzleloaders can be used during regular deer hunting season, or the muzzleloader-only season, which usually occurs after the regular gun deer season.

Weight and Materials

The "newest of the new" rifles have composite materials in much of the construction. The rifle is lighter, less prone to erosion, rust or breakage.
Some like the "heft" of wood and steel. Others don't. It's strictly what YOU are most comfortable with, however, and there's no "right or wrong."

Choosing a Hunting Rifle for Kids and Women

My partner Dave Miller has one of these rifles, even though he looks like a lineman for the Packers, Dave carries this rifle and zaps every deer he shoots with it "dead right there," indicating time and time again the 7X30 Waters is out of proportions in knock down power from the paper ballistics.

The favorite rifle of the wife of Jack O'Conner was Eleanor's 7X57 Mauser. With it she matched the game taken by the great outdoor writer, who pontificated the use of the 270 Winchester. The 7X57 is almost a dead equal to the 7mm-08 so it turns into a personal choice when choosing a rifle to match the recommended calibers here. If I bought one for myself it would be the Ruger Number 1 light Sporter, but Aunt Sandy would steal it from me so fast I'd never get to use it.

Is there such thing as a big bore youth and ladies rifle? You bet there is. First, if you like primitive firearms and need one for Mom, you need go no further than a 45 or 50 caliber black powder rifles. A 150 grain load makes both of them a 444 Marlin, but the 100 grain load equates to a 44 magnum with far less recoil.

The "Little Big Man" the 44 magnum it self, invented by the Gun Writer, Elmer Keith as a powerful hand gun cartridge, the famous 44 magnum is a fine woods deer cartridge in a rifle. Field performance is far better than a 30-30 or the 243 in the "DRT" department, and is only limited by trajectory, so keep your deer shots inside 150 yards. As far as noise and recoil, let's put it this way. If Aunt Sandy shows up at the Fort Polk Range with the now famous H&R handy gun known as "Pink Tiger" there is a riot. The women

shooters instantly look at their husbands, in a glare of envy, while they watch Aunt Sandy picking off water bottles all the way out to 200 yards. The single shot versions are also legal in Louisiana and Mississippi during the Primitive Weapon season as a bonus.

Sandy uses Hornady 225 grain flex tip "Leverevalution" ammo arguably the finest hunting rounds for the 44 magnum. I have never heard a complaint from a woman or a youth hunter from age 10 on up, about the shoot ability of a 44 magnum. All you will really get is broke from buying the ammo to feed the interest in shooting.

Final Thoughts

Before purchasing a deer rifle, do your "due diligence." Consult with those whom you know have been deer hunting for many seasons, and a local gun shop.
They sell them all, and they can give you specific tips and suggestions to help you in your decision. You'll get a very wide range of opinions and, at times, some very heated arguments.

Do you need "bells and whistles", or a million other options? In the end,
choose the rifle that fits YOUR needs and YOUR abilities without regard for what someone else thinks is best.

The bottom-line is, getting that elusive Yooper's "30 Point Buck" and, with the right rifle, you might! (By the way, someone actually got a legitimate 30 pointer this past season).

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Joseph von Benedikt

GUNS

The Ultimate AR for Deer Hunting

This home-built black rifle is lightweight, powerful, and out-of-this-world accurate

November 17, 2017

AR-enamored deer hunters get short shrift. On one end of the stick, standard AR-15 platforms can't house truly versatile deer cartridges. On the other, AR-10-style rifles capable of housing .308-size rounds tend to handle like railroad ties.

Blend the best characteristics of both, and you've got a proper deer rifle—one that's light and handy, yet powerful enough to offer flat shooting at longer ranges. It's actually easier to do than you think. Because the AR platform is basically a big boy's ultimate Erector Set, you can build a custom black rifle for deer hunting in your garage—and maybe even save a few bucks. That's exactly what I did, and the result is the rifle pictured above.

Specs:

Receiver:	Superlight, skeletonized 2A Armament Xanthos

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Scope:	Leupold VX-6HD 3–18x44mm
Handguard:	Free-floating, 9.9-ounce, 2A Armament 15-inch Xanthos
Barrel:	Proof Research 22-inch carbon-fiber-wrapped CamGas, threaded for a suppressor

Going Hot

You can't begin to build your own AR without first deciding what caliber you want, and when you live in the West, like I do, you want one with legitimate reach. That pretty much rules out AR-15 calibers. But several potent deer rounds shine in AR-10s, including .338 Federal, .260 Remington, 6.5 Creedmoor, and .308 Winchester.

I went with the hottest caliber on the planet right now—not because it's trendy but because the 6.5 is inherently accurate and provides a significant ballistic advantage at longer ranges. If you don't need that performance edge for your style of deer hunting, it's much simpler to stick with the .308, because the Creedmoor (as well as the .260 Rem.) produces excessive bore pressure in standard-length AR gas systems. In my case, the barrel I wanted (more on that in a bit) provided a solution to the gas problem, which made choosing the 6.5 easy.

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Weight-Loss Program

Starting with an AR-10 platform meant that the tricky part was getting the weight down without compromising performance. Some of the heaviest components happen to be some of the most critical for reliability and accuracy. So you can't hack ounces randomly. A lightweight bolt-carrier group (BCG), for example, would have saved me ¾ pound but would also have introduced potential tuning and reliability issues. Instead, I trimmed weight in the receiver and barrel.

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Rigid design and precise machining are vital to accuracy in an AR receiver, but weight is not. As long as it's strong and offers a precise fit with the barrel, even a superlight, skeletonized receiver can be reliable and accurate. The 2A Armament Xanthos receiver I chose is a perfect example, and it weighs just 16 ounces, compared with the 28 to 34 ounces of a typical forged AR-10 receiver set. At $949, the cost is significantly more than that of a standard receiver, but it's worth it.

Lightweight barrels, in contrast, are inherently problematic. Machining away material reduces rigidity, allowing accuracy-killing vibration and oscillation. With less mass to absorb heat, lightweight barrels also get hot and lose accuracy quickly during longer shot strings.

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There's only one good solution—and that is to get your barrel from Proof Research. The Montana-based aerospace company builds specialty tubes that provide heavy-barrel accuracy at mountain-rifle weight by wrapping cut-rifled, hand-lapped, match-grade cores with a carbon fiber that adds tremendous stiffness—around 10 times that of a similar-weight all-steel barrel. The result is superb accuracy and hot-barrel integrity in a featherweight barrel. And there's a bonus: Proof's new Caliber Matched Gas System(CamGas), which features extended gas ports in its 6.5 and .260 barrels, solves the problem of excessive bore pressure, providing reliable function and reduced felt recoil.

Instead of a fad-following short barrel, I went with a 22-inch CamGas tube, threaded for a suppressor. Even so, it weighs only 2 pounds 14 ounces. You can argue that deer can't tell a 100-fps difference, but when a Wyoming wind stands to reroute your bullet from the vitals and to the guts, that extra speed helps to keep it on line for a clean kill.

Furniture Shopping

Because a free-floating handguard lets an accurate barrel do its work without interference, I went with a 9.9-ounce 2A Armament 15-inch Xanthos model, which is both rigid and light. I'm a trigger snob, so I installed the skeletonized version of Timney'soutstanding AR-10 Competition trigger, which is as crisp as my British mother-in-law and far easier to manipulate. To make the rifle suppressor-tunable, I opted for a Superlative Arms adjustable gas block rather than a less expensive fixed block.

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from Brownells (see sidebar). Having seen Murphy's Law savage more than one scope during wilderness hunts, I also installed a set of Magpul's folding MBUS Pro backup sights. The whole thing cost me a little more than $3,000, which isn't cheap, but it isn't expensive, either, for a custom AR.

Range Results

I topped the rifle with Leupold's new VX-6HD 3–18x44mm, which in my mind is the lightest truly capable long-range riflescope on the market. The finished rifle has a nice between-the-hands balance and it shoulders and points well. Not like an English shotgun, mind you, but better than many of today's modern bolt-action deer rifles, and that's saying something for an AR-10.

In the end, polite recoil, perfect reliability, and stellar accuracy makes even this black, bony-looking deer rifle lovable. Six factory 6.5 Creedmoor loads and six handloads all averaged sub-MOA groups. In a series of three groups of three shots—without cooling the barrel in between—Hornady's 143-grain ELD-X Precision Hunter factory load averaged 0.47 inch. My Sierra 140-grain GameKing handload averaged 0.30 inch.

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Granddad's Savage 99 lever may have more charm. But my homebuilt AR is impervious to moisture and temperature extremes and is more accurate than most bolt actions. Weighing in at just 7.5 pounds and packing plenty of wallop for big whitetails and muleys way out there, it's what you'll never find on the rack: the ultimate deer AR.

Tip of the Month: Builder's Helper

If you're even a little bit mechanical, you can probably build your own AR, but don't go it alone. Along with many of the basic parts you'll need for your rifle, Brownells.com has a "Learn" section that provides a series of two-minute videos that will make the process much easier. In addition to common household tools, you'll need a couple of inexpensive specialty tools, also available from Brownells, including a buttstock tool, a lower-receiver vise block, and a barrel extension torque tool. While common AR-15 parts are easy to work because specs are standardized, AR-10 parts often are not. Consult the manufacturer or supplier to be sure that the parts you want will all play nicely together. That done, assembly can be completed in an evening.

MINI-14® RANCH



MODEL NUMBER: 5801 | CALIBER: 5.56 NATO

Stock	Hardwood	**Twist**	1:9" RH	**Overall Length**	38"
Front Sight	Blade	**Capacity**	5	**Length of Pull**	13.50"
Rear Sight	Adjustable	**Finish**	Blued	**Grooves**	6
Barrel Length	18.50"	**Weight**	7 lb.	**Suggested Retail**	$999.00
Material	Alloy Steel				

- Simple, rugged, Garand-style action with breech bolt locking system, a fixed-piston gas system and self-cleaning moving gas cylinder gives unparalleled reliability under harsh operating conditions.
- Cold hammer-forged barrel results in ultra-precise rifling that provides exceptional accuracy and longevity.
- Integral scope mounts, machined directly on the solid steel receiver, provide a stable mounting surface for included scope rings, eliminating a potential source of looseness and inaccuracy in the field.
- Accurate sighting system with ghost ring rear aperture sight and a non-glare, protected blade front sight.
- Receiver is drilled and tapped for mounting the included Picatinny rail.
- Also includes: two magazines; Picatinny rail; scope rings.

BAR MODELS
Current Production

(/products/firearms/rifles/bar.html)

These BAR rifles are in current production. In most cases you can expect to see them at your Browning dealer or have your dealer order one for you. *Please note that all optics and accessories in photos are shown for illustrative purposes only. Firearms do not include scopes or accessories shown unless specifically indicated in the description.*

BAR Rifles In Current Production

Caliber/Gauge ▾ | Barrel Length ▾

BAR Mark III - Hell's Canyon Speed

NEW for 2019 - Burnt Bronze Cerakote finish, A-TACS AU camo, composite shim-adjustable stock, Inflex recoil pad.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mk-3-hells-canyon-speed.html)

BAR MK 3 DBM, Wood

Got wood? The BAR MK 3 is a multipurpose 308 Winchester semi-automatic rifle with an 18" fluted barrel and oil finish Grade II Turkish walnut stock. This MK 3 sports a detachable box magazine, lightweight alloy receiver with Picatinny rail scope bases, and a proven reliable gas piston system.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mk3-DBM-wood.html)

BAR Mark III

Autoloader with traditional walnut stock, polished blued steel barrel, engraved alloy receiver, Inflex recoil pad



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mark-3.html)

BAR MK 3 Stalker

Composite stock with classic style lines and shim adjustable cast and drop at comb. Gas-piston operation, lightweight alloy receiver drilled and tapped for scope mounts, hinged floor plate with detachable box magazine.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mk3-stalker.html)

BAR MK 3 Mossy Oak Break-Up Country

Mossy Oak Break-Up Country camouflage pattern on the stock and barrel. Composite stock with classic style lines and shim adjustable cast and drop at comb. Gas-piston operation, lightweight alloy receiver drilled and tapped for scope mounts, hinged floor plate with detachable box magazine.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mk3-mossy-oak-breakup-country.html)

BAR MK 3 DBM (Detachable Box Magazine)

Multipurpose 308 Winchester semi-automatic rifle. Gas-piston design. 18" hammer-forged barrel. Detachable box magazine fed. Picatinny rail scope bases. Lightweight alloy receiver and composite stock.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mk3-stalker-detachable-magazine.html)

BAR Mark II Safari with BOSS

With Browning's exclusive BOSS system. Traditional stock, polished blued steel barrel and engraved receiver, select gloss walnut stock, rounded forearm.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mark-ii-safari-boss.html)

BAR Mark II Safari

Traditional stock, polished blued steel barrel and engraved receiver, select gloss walnut stock, rounded forearm, sporter style barrel.



(https://www.browning.com/products/firearms/rifles/bar/current-production/bar-mark-ii-safari.html)

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Action
- (•) Any Action
- ( ) Over/Under
- ( ) Pump
- ( ) Semi-auto (A.R.G.O.)
- ( ) Semi-auto (Inertia Driven®)
- ( ) Semi-auto (Inertia Driven®)old

Application Type
- (•) Any Application
- ( ) Clays
- ( ) Field
- ( ) Hunting
- ( ) Slug
- ( ) Tactical

Caliber/Gauge
- (•) Any Caliber/Gauge
- ( ) .308 Winchester
- ( ) .30-06 Springfield
- ( ) .300 Win Mag
- ( ) .338 Win Mag

Chamber Size
- (•) Any Chamber Size
- ( ) 2-3/4"
- ( ) 3"
- ( ) 3-1/2"
- ( ) 3-3/4"

Maximum Price

10000

R1 Pro Big Game Rifle

Finish/Stock: AA-Grade Satin Walnut / Wood Stock **Gauge: .30-06 Springfield** **Chambered for:**



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11776	22	44.0	7.2

Find a Dealer (/dealers) LEARN MORE (r1-big-game-rifle)

Starting Price: $1,499

Exhibit 18
0543

R1 Big Game Rifle

Finish/Stock: Black Synthetic with GripTight® Coating, ComforTech® / Comfortech **Gauge: .300 Win Mag**
Chambered for:



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11772	24	46	7.3

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LEARN MORE (r1-big-game-rifle)

Starting Price: $1,349

R1 Big Game Rifle

Finish/Stock: Black Synthetic with GripTight® Coating, ComforTech® / Comfortech **Gauge: .338 Win Mag**
Chambered for:



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11773	24	46	7.3

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LEARN MORE (r1-big-game-rifle)

Starting Price: $1,349

R1 Big Game Rifle

Finish/Stock: Black Synthetic with GripTight® Coating, ComforTech® / Comfortech Gauge: .30-06 Springfield Chambered for:



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11771	22	44.0	7.1

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Starting Price: $1,349

R1 Big Game Rifle

Finish/Stock: AA-Grade Satin Walnut / Wood Stock Gauge: .30-06 Springfield Chambered for:



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11770	22	44.0	7.2

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Starting Price: $1,149

R1 Big Game Rifle

Finish/Stock: Black Synthetic with GripTight® Coating, ComforTech® / Synthetic Stock **Gauge: .308 Winchester**
Chambered for:



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11778	22	44.0	7.1

Find a Dealer (/dealers) LEARN MORE (r1-big-game-rifle)

Starting Price: $1,349

R1 Big Game Rifle

Finish/Stock: AA-Grade Satin Walnut / **Gauge: .308 Winchester** **Chambered for:**



(r1-big-game-rifle)

Item Number	Barrel Length	Overall Length	Average Weight
11777	22	44.0	7.2

Find a Dealer (/dealers) LEARN MORE (r1-big-game-rifle)

Starting Price: $1,149

TIME

Here Are 7 Animals Hunters Kill Using an AR-15



George Sodergren poses with a coyote he killed with his AR-15 in Maine. (George Sodergren)

BY **WILL DRABOLD**

JULY 6, 2016

After the Orlando nightclub shooting, Democrats criticized the routine sale of the type of semiautomatic rifle used by Omar Mateen. Hillary Clinton called them "weapons of war." Illinois Sen. Dick Durbin said that if you

used a gun like the AR-15 — or the similar Sig Sauer used in Orlando — to go hunting "you should stick to fishing."

But many gun owners say they use semiautomatic rifles to hunt regularly.

In interviews with TIME, leaders of 15 state shooting groups said semiautomatic rifles are popular with hunters in their states. Hunters say they favor the gun for its versatility, accuracy and customizable features for shooting animals. The semiautomatic feature, which allows these guns to shoot up to 45 rounds a minute, is not always necessary, but useful in some situations, hunters say.

"It's the most capable tool for the job at this time," said Eric Mayer, who runs AR15hunter.com. "Bar none. Period. It is."

Despite the criticism of semiautomatic rifles and their use in high profile mass shootings, gun control advocates say they are not focused on banning them, as they were during the 1994-2004 assault weapons ban. Stacey Radnor, spokeswoman for Everytown for Gun Safety, said that they are more focused on strengthening background checks and closing loopholes on sales than on banning specific guns.

TIME spoke with seven hunters who use semiautomatic guns like the AR-15.

Jay Perreira, Hawaii: Hunting feral goats

The jagged cliffs of Na Pali Coast State Park feature prominently at the beginning of the 1993 blockbuster film *Jurassic Park*. Rising out of the Pacific, the green slopes are home to more than the world's image of reincarnated dinosaurs. Feral goats roam these mountains, and Jay Perreira often has them in the sight of his AR-15.

Perreira has lived on Kauai, the fourth-largest Hawaiian island, his entire life. For the last 15 years, the construction worker has hunted with the AR-15. Semiautomatic rifles have been used to hunt since the early 1900s. In 1963, a few years after the rifle was invented, Colt advertised the AR-15 as a "superb hunting partner." (Colt confirmed to TIME the authenticity of this advertisement.) Today, Americans own at least a few million AR-15s and as many as eight million, according to the National Shooting Sports Foundation.

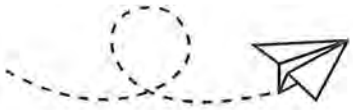
The 45-year-old told TIME his favorite feature of the AR-15 is how easily it can be disassembled. The gun can be taken apart and carried several miles in a backpack through Kauai's mountains to goat sanctuaries. "I know the rifle gets a really bad rap," Perreira said. "But around here, I know a lot of guys that have them."

Jonathan Owen, Texas: Hunting feral pigs



A west Texas pig sighting is not a cute barnyard encounter; it's a reason to grab a rifle. Across the southern United States, wild pigs cause $1.5 billion in annual

property damage. Boar can weigh up to 300 pounds, run up to 30 miles per hour and in Jonathan Owen's experience, quickly turn violent.



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"You do not have to hunt with an AR-15," Owen, an Abilene, Texas resident who runs SHWAT.com, told TIME. "But the practical benefits of being able to engage a lot of pigs at a time, safely, is a big win." The semiautomatic and large capacity magazine features allow Owen to take several shots at multiple pigs in a few seconds. When engaging a pack of wild pigs in west-Texas' shrubbery, Owen says these features ensure his safety.

"Hog hunting can be the pursuit of dangerous game," Owen said. "They can turn on you."

Eric Mayer, Arizona: Hunting antelope jackrabbits

Hunting the Giant Jackrabbits of Arizona with an ...



Antelope jackrabbits dart up to 30 miles per hour between bunches of upright dead sticks that could generously be called bushes. For skilled shooters, hunting these northern Arizona sprinters is a challenge. But Eric Mayer told TIME it's nearly impossible without an AR-15.

The semiautomatic rifle can stay focused on a moving target between shots. Mayer, a Los Angeles resident who owns several outdoor recreation websites, says this is a huge advantage. "A semiauto changed my life," Mayer said. "I'm able to make the (shot) because I don't have to run the bolt (and) lose the target in my scope."

In a bolt-action rifle, a metal bolt must be manually pulled back and pushed forward to load a new bullet after each shot. Bolt-action rifles have been used to hunt since the 1800s. While these rifles, as well as shotguns, remain popular with hunters, semiautomatic guns have become popular because they can take multiple shots without losing sight of an animal.

Gary Marbut, Montana: Hunting elk

A firearms instructor and longtime gun rights advocate, Gary Marbut hunts with the larger caliber cousin of the AR-15: the AR-10. Marbut's rifle is still

semiautomatic, but fires with more power. Many hunters say the standard caliber, or diameter of the bullet, of an AR-15 is preferable for hunting smaller animals. The average power of the shot can be less than a standard hunting shotgun. For Marbut to successfully hunt elk that weigh at least 500 pounds, the larger bullet is a must.

Marbut, 69, first used the AR-platform during three years he spent in the military. Adopted by the U.S. military in the 1960s, the M-16 is the fully automatic version of the AR. The military still uses a variant of the gun. The familiarity Marbut developed with the gun in the military prepared him to hunt with it when he returned home to Montana.

After stalking elk for hours through forested mountainous terrain in western Montana, Marbut says he needs a gun he can trust to hit its mark. That gun is his AR. "The last two elk I've taken, I took at about 300 yards," he told TIME, a distance equivalent to three football fields. "They were both headshots."

George Sodergren, Maine: Hunting coyotes

George Sodergren grew up around guns in southern Maine. He respects them and chooses his hunting firearms carefully. He does not believe a semi-automatic rifle is necessary for all animals. But for coyotes, he makes an exception.

After a heavy snowfall, Sodergren, a 49-year-old machinist, can track these skittish forest predators. Smaller than the typical golden retriever, a coyote combines its sense of smell with an ability to run up to 40 miles per hour to stay clear of threats. To kill one, Sodergren needs a versatile gun. "When you

grab the (AR-15), it's like shaking the hand of a good friend you haven't seen in a long time," he told TIME.

When Sodergren hunts coyotes, he positions himself downwind so they cannot smell him. Coyotes can approach in packs, so Sodergren says the AR-15 gives him the chance to land more than one shot. "I believe in one well-placed shot," Sodergren said. "(But) if you've got multiple animals or you miss, you've got a quick follow-up shot.

Will Chambers, Michigan: Hunting deer

While the AR-15 is preferable for smaller game, Will Chambers makes the same gun work for animals of all sizes. To hunt deer, Chambers outfits his AR-15 with a larger caliber receiver — the long end of a gun that determines the size of the bullet the gun fires. He changes the bullet diameter from the standard .223 to .277 inches. That small difference can mean killing an adult deer in one shot or condemning the animal to a slow death. There are hundreds of ways to customize and accessorize the AR-15.

Ohio is one of several states that bans hunting deer with rifles. Chambers, a 34-year-old farmer from northwestern Ohio who also runs AR15hunter.com, heads to northern Michigan to hunt deer with his rifle. At dusk in January, Chambers shot 70 yards through a snowy forest with his AR-15 and killed a whitetail doe.

"These are not scary black rifles," Chambers told TIME. "These are very useful tools for hunting."

Kenny Gallahorn, Alaska: Hunting spotted seal

To be clear, Kenny Gallahorn does not hunt with an AR-15. His gun uses a smaller bullet. But his Ruger .22 gun is both semiautomatic and widely used by hunters.

In Kotzebue, Alaska, the Iñupiat tribe hunts seals and other animals to survive. Subsistence hunting among Alaskan Natives is popular across the state, but it is vital in the northwestern region with no roads that is roughly the size of Indiana. For an Iñupiaq like Gallahorn, hunting and gathering can make up to 50 percent of annual household food.

Seal hunting comes down to timing. As Gallahorn takes his boat into the Kotzebue Sound in the fall and spring, he watches the edges of floating ice. There, for only a second, seals emerge. "If I shoot and miss the first one, another one will pop up five feet away," Gallahorn told TIME. "That's the need for a semiautomatic."

If he hits a seal the first time, Gallahorn says there is no need for a second shot. He floats over to the animal, spears it and pulls it into his boat. The spotted seals Gallahorn hunts are typically two- to four-feet long and weigh up to a couple hundred pounds. He eats them two-to-three times a month.

And when it comes to seal hunting, Gallahorn is not alone in his use of a semiautomatic. "The majority of people hunt with semiautomatics," Gallahorn said.

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TIME

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and
Magistrate Judge Allison H. Goddard

DECLARATION OF ALAN GOTTLIEB IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Alan Gottlieb, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am the founder of the Second Amendment Foundation (SAF). Acting in this role within the organization, I am familiar with SAF's membership, which includes members that are 18-to-20 years of age (Young Adults). SAF also has members that are under the age of 18 that will become Young Adults in the future. Finally, SAF acquires new members in this age group each year.

3. The SAF is a non-profit educational foundation incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. SAF seeks to preserve the effectiveness of the Second Amendment through educational and legal action programs. SAF has over 650,000 members and supporters nationwide, including thousands of members in California. The SAF's purpose includes education, research, publishing, and legal action focusing on the constitutional right to own and possess firearms under the Second Amendment, and the consequences of gun control. The Court's interpretation of the Second Amendment directly impacts SAF's organizational interests, as well as SAF's members and supporters in California, who enjoy exercising their Second Amendment rights.

4. Several SAF members are Young Adults that have been adversely and directly harmed and injured by Defendants' enforcement of the statutory prohibition on the sale or transfer of firearms to Young Adults.

5. Penal Code section 27510 has denied, and will continue to deny, millions of responsible, law-abiding Young Adults their fundamental, individual right to keep and bear arms secured under the Second and Fourteenth Amendments of the U.S. Constitution. Defendants' actions and omissions have caused SAF to dedicate resources that would otherwise be available for other purposes to protect the rights and property of its members, supporters, and the general public, including by and through this litigation.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 6, 2019.

Alan M. Gottlieb

Alan Gottlieb

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants

Case No.: 19-cv-01226-L-AHG

Hon. Judge M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DAVID T. HARDY IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 1 of 4)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

DECLARATION OF DAVID T. HARDY

I, David T. Hardy, declare as follows:

1. I am not a party to the captioned action, am over the age of 18, have personal knowledge of the facts stated herein, and am competent to testify as to the matters stated and the opinions rendered below.

2. I graduated from the University of Arizona with a bachelor's degree (with honors) in 1972. I received my Juris Doctorate degree with honors at the same institution in 1975. In law school, I served as Associate Editor of the Arizona Law Review.

3. I began my law practice in Tucson, Arizona in 1975. In 1982, I began work as a career attorney with the U.S. Department of Interior in Washington, D.C., ending as a GS-14. In 1992 returned to Tucson and have since practiced law as a sole practitioner. My work has heavily focused on the Second and Fourteenth Amendments.

4. To date, I have published seven books, including the *Origins and Development of the Second Amendment* and *Dred Scott: The Inside Story*. I have published 27 law review articles, most of which concern the Second or Fourteenth Amendments, or arms laws. Two have been cited by the U.S. Supreme Court. See *McDonald v. City of Chicago*, 561 U.S. 742, 763, n. 10 (2010) (plurality), 561 U.S. at 841 (Thomas, J., concurring). One article has been cited by eleven U.S. Circuit Courts of Appeals. I also submitted amicus briefs in *District of Columbia v. Heller*, *McDonald v. City of Chicago*, and *New York State Rifle and Pistol Ass'n v. New York*.

5. I published my first law review article on the Second Amendment in 1974. In the 45 years since, I have researched arms-related topics in the Library of Congress, the National Archives, and university libraries at William and Mary and the University of Virginia. My photocopy collection on this topic exceeds nine shelf-feet.

6. Attached hereto as **Exhibit 1** is a true and correct copy of my Curriculum Vitae. It describes my education, employment background, career experience, and publications.

7. Based on my education, work experience, research background, publications, and review of the research of others, in my opinion, 18-to-20-year-old adults (which I will hereafter refer to as "Young Adults") possess the same protection under the Second Amendment as adults 21 and over. Further, in my opinion, any firearm ban on Young Adults, based solely on age, significantly infringes on the core Second Amendment rights of Young Adults.

8. Mirroring the historical inquiry used by the Supreme Court in *Heller*, I conducted a detailed textual and historical review of firearms regulations on Young Adults. As identified in *Heller*, the text, structure, and contemporary drafting documents are the primary historical sources for the Supreme Court's originalist inquiry. I also reviewed pre-Civil War case law and commentators, whose "intellectual foundations were close to those of the founding generation." I also reviewed Post-Civil War sources, although bearing in mind that, as the Court taught in *Heller*, that these "do not provide as much insight into [the Second Amendment's] original meaning as

earlier sources." *Heller*, 554 U.S. at 614.

Colonial and Founding Era Laws

9. Based on my review of Colonial and Founding Era firearms regulations, in my opinion, there were *no* age-based restrictions on the acquisition, purchase, or possession of firearms. Although this period did have what is most accurately described as various firearm safety and storage regulations, none of these regulations were in the same category or equivalent to any age-based firearm restriction. My opinion is supported by other historical analyses cited below.

10. The historical examples of various Founding Era firearms regulations consist mainly of laws that prevented discharging guns at certain times, or using firearms in an especially dangerous manner such as firing guns in public places or in celebration (which also risked causing a false alarm relating to Indian raids), "fire hunting" (*i.e.*, where participants were likely to hurt themselves needlessly). Attached hereto as **Exhibit 2** is a true and correct copy of Clayton E. Cramer, *Colonial Firearm Regulation*, 16 J. of Firearms & Pub. Pol'y 1, 30-34 (2004). Other regulations consisted of gunpowder storage laws that only applied when that volatile explosive exceeded a safe amount. (Urban fires were common in the days of candles and fireplaces, and black powder could be ignited by any drifting spark. It thus made sense to store large quantities in public magazines, designed for protection against fire and sparks. These were brick, had wooden floors secured without nails lest a boot nail strike a spark, and had ventilation screened and baffled to keep out drifting embers from building fires).

In my opinion, these firearms safety regulations are nothing like broad prohibitions against the purchase, acquisition, and possession of any firearm for an entire class of ordinary law-abiding people based solely on age. *Heller* specifically rejected such examples because any such restrictions were not germane to an outright ban on keeping firearms for self-defense. In other words, these safety regulations did not interfere with the self-defense "core" right of the Second Amendment. *Heller*, 554 U.S. at 634.

11. Additionally, I reviewed the various firearms regulations that targeted particular groups for public safety reasons, and because they were not seen as members of the body politic. These regulations generally applied to Indians, slaves, sometimes free blacks, Catholics, and (during the Revolution) Loyalists to the Crown. See **Exhibit 2** (Cramer 2004 at 16-23).

12. In my opinion, these prejudicial restrictions on Indians, slaves, free blacks, and others are hardly relevant precedent to current, under-21 firearm bans. These were directed at persons seen as outside the body politic. Aside from the moral implications of relying on racist and bigoted laws, the 1st and 13th Amendments, applicable to the states through the 14th Amendment, explicitly abrogated any authority or precedent any of these laws once had. In other words, an historical analysis shows that none of these regulations can justify limits on firearms purchase or possession by Young Adults.

13. The regulations that permitted disarming "Loyalists to the Crown", in my opinion, are also distinct from a categorical age-based firearms prohibition. These

"Loyalty Test[s]" were meant to disarm persons above a certain age who refused to swear allegiance to the newly-independent states. Their penalties were imposed based on individual conduct, conduct that placed the person outside the new body politic. Those who refused to swear ("non-jurors) were subjected, not just to disarmament, but to a number of other measures that would be seen as clearly unconstitutional today.

> New Jersey issued fines and threatened non-jurors with confiscation. New York confiscated the property of non-signers and exiled them to the British lines. Pennsylvania non-signers were threatened with the loss of civil rights as well as with fines, punitive taxes, and professional bans in the case of lawyers, apothecaries, doctors, and merchants, was the case in Maryland. Rhode Island and Connecticut deprived non-jurors of their rights to vote and to sue in a court of law…. North Carolina confiscated non-jurors' property and stripped them of their civil rights; they were to leave the state within thirty days.

Holger Hoock, Scars of Independence 452 n. 68 (2017).

14. Thus, in my opinion, an historical review of Founding Era firearms regulations shows that although various firearms safety regulations existed during the Colonial and Founding Era, they were far from anything remotely similar to a categorical firearms ban based solely on age.

15. Further review of the Colonial and Founding Era firearm-related regulations, confirms that an historical-based analysis does not support age-based firearms bans. In fact, the state militia laws explicitly reject such bans and even support a core Second Amendment right applicable to Young Adults.

State Militia Statutes

16. I conducted a review of the various Colonial and Founding Era militia

statutes. Importantly, at the time of the passage of the Second Amendment, or shortly thereafter, the minimum age for militia service in every state was eighteen. The year the Second Amendment was ratified — 1791 — is "the critical year for determining the amendment's historical meaning." See *McDonald v. City of Chicago,* 130 S.Ct. 3020, 3035 and n. 14; *Moore v. Madigan*, 702 F.3d 933, 935 (7th Cir. 2012). Said state militia laws set around the time of ratification of the Second Amendment and the federal Militia Act of 1792 consist of the following:

a. ***Connecticut***: "…who is, or shall be of the age of eighteen years…" – Connecticut Acts and Laws, October Session (1792) (following a reprint of the federal militia law, Connecticut provided that militia fines imposed on those who had not yet reached the age of twenty-one would be paid by their parents).

b. ***Delaware***: "… who is, or shall be of the age of eighteen years…" – Ch. XXXVI, An Act for Establishing the Militia In This State, Laws of the State of Delaware (1793).

c. ***Georgia***: "…all the male inhabitants…above the age of eighteen…" - An Act to Revise and Amend the Militia Law of This State, and to Adapt the Same to the Act of the Congress of the United States, Passed the Eighth Day of May, One Thousand Seven Hundred and Ninety-Two, Entitled An Act More Effectually to Provide for the National Defence by Establishing and Uniform Militia Throughout the United States, as contained in Digest of the Laws of Georgia, 460 (1792).

d. ***Maryland***: "…who is, or shall be of the age of eighteen years…" - Ch.

LIII, An Act to Regulate and Discipline the Militia of This State, Laws of Maryland (1793).

e. ***Massachusetts***: "…who is, or shall be of the age of eighteen years…" - Ch. 1, An Act for Regulating and Governing the Militia of the Commonwealth of Massachusetts, and for Repealing All Laws Heretofore Made for That Purpose; excepting an Act Entitled, An Act for Establishing Rules and Articles for Governing the Troops Stationed in Forts and Garrisons, Within This Commonwealth, and Also the Militia, When Called Into Actual Service, Massachusetts Acts and Laws, May Session (1793).

f. ***New Hampshire***: "…who is, or shall be of the age of eighteen years and under the age of forty years…" - An Act for Forming and Regulating the Militia Within This State, and For Repealing All the Laws Heretofore Made for That Purpose, 441 (1792).

g. ***New Jersey***: "…all and every free and able-bodied white male Citizen, between the ages of eighteen and forty-five…" - Ch. CCCCXIII, An Act for Organizing and Training the Militia of This State, Sec. 4, Acts of the General Assembly of the State of New Jersey (1792).

h. ***New York***: "…who is, or shall be, of the age of eighteen years… shall severally and respectively be enrolled in the militia…" - Ch. 45, An Act to Organize the Militia of This State. Laws of New York (1793).

i. ***North Carolina***: "That all freemen and indented servants within this State,

from eighteen to fifty years of age, shall compose the militia thereof…" - Ch. XXII, An Act for Establishing a Militia in This State, Laws of North Carolina — 1786, 813 (amended by An Act to Carry Into Effect an Act of Congress, Entitled, An Act More Effectually to Provide for the National Defence, by Establishing an Uniform Militia Throughout the United States, Also to Amend an Act, Passed at Fayetteville, in the Year One Thousand Seven Hundred and Eighty Six, Entitled, An Act for Establishing the Militia in This State), Acts of the North Carolina General Assembly 1786-1787, North Carolina General Assembly, 1786, Vol. 24, 783-884 (1793).

j. ***Pennsylvania***: "…each and every free, able-bodied white male citizen… who is or shall be of the eighteen years of age…" - Ch. MDCXCVI, An Act for Regulating the Militia of the Commonwealth of Pennsylvania, Statutes at Large of Pennsylvania (1793).

k. ***South Carolina***: "…enroll every citizen who shall, from time to time, arrive at the age of eighteen years…" - An Act to Organize the Militia Throughout the State of South Carolina, in Conformity with the Act of Congress, Statutes at Large of South Carolina, Vol. 8 (1794-1837) (enrolling citizens turning 18 and evidencing a shift from the former militia age of 16).

l. ***Virginia***: "…young men from eighteen to 25 years of age…" - Ch. CXLVI, An Act for Regulating the Militia of this Commonwealth, Virginia (1792).

For further information regarding each of the above militia statutes, please see **Exhibits 3** through **14**, below.

17. Based on the above review of colony-by-colony militia laws during the Colonial and Founding Era (seventeenth or early eighteenth century through the end of the eighteenth century), I have noted common characteristics of such laws among the colonies and states. First, the most common age for militia duty was 16 to 50 years old; and the maximum age often went as high as 60. Second, the minimum age was sometimes 18, and never higher (except for one 19-year period in Virginia).

18. Further, the frequent renewals and revisions of Colonial and early state militia laws reflect the legislatures' continuing determination that persons 18-years-old and over be well-armed. With each revision, Young Adults remained part of the militia, and had the right (indeed, the legal duty) to purchase, acquire, use, and possess firearms.

19. At first glance, there appears to be two examples of states which chose to enroll only those 21 and older in their militia — New Jersey (in 1779) and Ohio (in 1843). However, neither state set the minimum age to join the militia at 21.

20. Specifically, New Jersey's 1779 Act was not a general militia act, but rather, a specific purpose act of the type states would enact from time-to-time as supplements to their overall militia structure. See Ch. XIII, An Act for the Regulating, Training, and Arraying of the Militia, and For Providing More Effectually for the Defence and Security of the State, Sec. 10, Acts of the General Assembly of the State of New Jersey, 40 (1781) (affirming the age group to be enrolled in the state militia as

sixteen to fifty and using twenty-one as the cut-off age for a specific purpose act, but not ruling out the use of those between the ages of sixteen and twenty-one *who were still part of the militia*). New Jersey's militia age was 18 in 1792. *See* **Exhibit 9** (enrolling free, white males from eighteen to forty-five in the state militia). Further, the 1779 Act and similar acts addressed a specific need and would sometimes only be in effect for a certain period of time. *See* Ch. XI, An Act to Establish a Company of Artillery, in the City of New-Brunswick, Acts of the General Assembly of the State of New Jersey, 11 (1782). Moreover, the 1779 Act does not state that 21 was the minimum age for militia service; instead, it states the officers would make lists of everyone above 21, not exempted by some other duties. It laid out a specific number of militiamen to be drafted from each county so that an even 1000 was reached. Finally, the 1779 Act states that "nothing herein contained shall be construed to prevent employing Officers, and enlisting non-commissioned Officers and Privates between the Age of sixteen and twenty-one years." Ch. XIII, An Act for the Regulating, Training, and Arraying of the Militia, and For Providing More Effectually for the Defence and Security of the State, Sec. 10, Acts of the General Assembly of the State of New Jersey, 40 (1781)

21. With regard to the Ohio statute from 1843, it merely exempted persons under 21 from the militia duties *during times of peace*. Ohio's minimum age changed to twenty-one the following year. See An Act To Organize and Discipline the Militia, Sec. 1, Ohio Statutes (1837) and An Act To Regulate the Militia, Sec. 2, Ohio Statutes (1844). However, sixteen year olds were still allowed to volunteer for the militia even

after the shift. *Id*. In fact, the militia age in Ohio was eighteen at in 1843. *Id*.

22. Thus, based on my historical review of the relevant state militia laws, it could not be more clear, at the crucial point of our nation's history — Young Adults were always considered part of the militia and always held the right to keep and bear arms.

Federal Militia Act

23. The federal Militia Act of 1792 (1 Stat. 271) required that a male who "is or shall be of the age of 18 years" "shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt," and 24 rounds of ammunition. Attached hereto as **Exhibit 15** is a true and correct copy of the Uniform Militia Act, 1 Stat. 271-72 (1792). The main consideration in raising the age to 18 was better resistance to disease, which was more dangerous than the enemy on military campaigns. Those who chose to carry a rifle instead of a musket were required to possess the rifle and more than twenty rounds of ammunition. *Id*. The Militia Act of 1792, with amendments, remained law until repealed in 1903. It did allow States to exempt persons from "militia duty." See **Exhibit 15** at p. 272. In the 1830s and 1840s, several States generally exempted citizens from this duty. However, these individuals still remained members of the militia, but were not subject to drill, muster, and being "called forth" by the President or their state Governor. *Id*.

24. The most encyclopedic treatment of militia statutes as they pertain to the Second Amendment right of 18-to-20-year-olds is found in: (1) David B. Kopel &

Joseph G.S. Greenlee, *History and Tradition in Modern Circuit Cases on the Second Amendment Rights of Young People*, 43 Southern Illinois University Law Journal 119 (2018) (hereinafter Kopel & Greenlee 2018); and (2) Kopel, David B. and Greenlee, Joseph, *The Second Amendment Rights of Young Adults* (forthcoming in 2019), 43 Southern Illinois Law Journal (2019) (hereinafter Kopel & Greenlee 2019).

25. Attached hereto as **Exhibit 16** is a true and correct copy of Kopel & Greenlee 2018. Attached hereto as **Exhibit 17** a true and correct copy of Kopel & Greenlee 2019.

26. Additionally, not only were 18-to-20-year-olds able to freely purchase and acquire firearms, they were also *required* to possess them. In fact, "over 250 Colonial and state militia statutes through 1799 mandated that persons," usually 16 or 18 (and older) serve in the militia using their own arms. See **Exhibit 17** at 33-34. For example, during the Founding Era, Colonial militia laws (with the exception of Pennsylvania, due to objections by its Quaker population) required males to own at least one musket, plus a supply of ammunition for it, and to be present annually for inspection and drill. This duty generally commenced at the person's 16th birthday. Anyone who failed in their duty were subject to punishment by court-martial. See **Exhibit 15** at 271.

27. Many of the earliest Supreme Court rulings on federal preemption of state laws arose from militia court martials. See, e.g., *Houston v. Moore*, 18 U.S. 1 (1820). On that basis, laws prohibiting 18-to-20-year-olds from purchasing or possessing at least long guns (e.g., rifles and shotguns) would have failed under the Supremacy

Clause, prior to the 1903 repeal of the 1792 Militia Act. Federal law *required* 18-year-olds to be armed, and state law could not interfere with that. See *Presser v. Illinois*, 116 U.S. 252, 265-266 (1886) (leaving aside the constitutional issue, the citizenry comprises the militia of the U.S. and States cannot prohibit them from keeping and bearing arms so as to "disable the people from performing their duty to the general government").

Founding Era Attitudes

28. Although the Colonial and Founding Era regulations and militia statutes prove that Young Adults held the core right to keep and bear arms under the Second Amendment, I also reviewed various and more generalized "Founding Era Attitudes" regarding the Second Amendment Rights of Young Adults. In my opinion, Founding Era attitudes do not support the notion that Young Adults could be categorically disarmed due solely to their age. Rather, Founding Era attitudes explicitly support the Second Amendment rights of Young Adults. Indeed, it was common for American children (under the age of 18) to be familiar with firearms, let alone Young Adults.

29. For example, on July 8, 1775, the Continental Congress warned King George III that America's superiority with arms, due to their training beginning in childhood, would make them a formidable foe: "Men trained to Arms from their Infancy, and animated by the Love of Liberty, will afford neither a cheap or easy Conquest." Attached hereto as **Exhibit 18** is a true and correct copy of *1 Journals of the AM. Congress From 1774-1788*, at 169 (adopted July 8, 1775) (1823). Similarly,

David Ramsey, a legislator from South Carolina and delegate to the Continental Congress stated, "Europeans, from their being generally unacquainted with fire arms are less easily taught to use them than Americans, who are from their youth familiar with these instruments of war." Attached hereto as **Exhibit 19** is a true and correct copy of 1 David Ramsey, *The History of the American Revolution* 181 (Liberty Fund 1990) (1789). He also noted that "[f]or the defence of the colonies, the inhabitants had been, from their early years, enrolled in companies, and taught the use of arms." *Id.* at 178.

30. Writings from Thomas Jefferson provide insight into American attitudes of gun ownership of Young Adults. In explaining the events in America to a Scottish friend, Thomas Jefferson stated, "[w]e are all in arms, exercising and training old and young to the use of the gun." Attached hereto as **Exhibit 20** is a true and correct copy of 3 Am. Archives 4th Ser. (Clark & Force) 621 (1840). Jefferson also opined that during the Revolution, the reasons American battle casualties were so much lower than the British was "our superiority in taking aim when we fire; every soldier in our army having been intimate with his gun from his infancy." Attached hereto as **Exhibit 21** is a true and correct copy of the letter from Thomas Jefferson to Giovanni Fabbroni (June 8, 1778), in "From Thomas Jefferson to Giovanni Fabbroni, 8 June 1778," Founders Online, National Archives, accessed April 11, 2019, https://founders.archives.gov/documents/Jefferson/01-02-02-0066. [Original source: *The Papers of Thomas* Jefferson, vol. 2, 1777-18 June 1779, ed. Julian P. Boyd. Princeton: Princeton University Press, 1950, pp. 195-198.] In precise legal usage,

"infancy" meant the same as "minority." The word was not used exclusively in the modern sense, in which an "infant" is a child younger than a toddler.

31. Although the historical attitudes surrounding Young Adults' and gun ownership are more subjective than the general firearms regulations and militia statutes of the time, in my opinion, these general attitudes are clear. As Tench Coxe said, "the power of the sword are in the hands of the yeomanry of America from 16 to 60…. Their swords… are the birthright of an American." Attached hereto as **Exhibit 22** is a true and correct copy of Tench Coxe, *A Pennsylvanian, No. 3, Pennsylvania Gazette*, Feb. 20, 1788.

Other Arms-Related Statutes and Duties

32. Other arms-related statutes and duties during this period support the notion that Young Adults held the right to keep and bear arms. These duties required the use of arms and Young Adults were required to take part in them. Specifically, Young Adults (as well as adults over 21) were required to bring their *own arms* to help protect the community in various ways.

33. First, all able-bodied men from 15 or 16 to 60 were obliged to join in the "hue and cry" to pursue fleeing criminals. As a part of this duty, deadly force was permitted if necessary to prevent escape. See **Exhibit 17** at 33-34.

34. Second, there was "watch and ward" guard duty for towns and villages. See **Exhibit 17** at p. 33, fn. 250. Young Adults took party in this duty to provide security for the towns and villages. Third, Young Adults were expected to

participate in the *posse comitatus*. This was the power of the sheriff, coroner, magistrate, or other officials to summon all able-bodied males to assist in keeping the peace. Attached hereto as **Exhibit 23** is a true and correct copy of David B. Kopel, *The Posse Comitatius and the Office of Sheriff: Armed Citizens Summoned to the Aid of Law Enforcement*, 104 J. Crim. L. & Criminology 761, 763, (2015) (Kopel 2015). The traditional minimum age for posse service was 15 or 16 years; the upper age limit was 70 by some commentators, while other said there was no limit. *Id.* at 796. Young Adults were required to participate in this posse service. Indeed, James Wilson, shortly before being appointed to the U.S. Supreme Court, stated in 1790, that "No man above fifteen and under seventy years of age, ecclesiastical or temporal, is exempted from this service." See James Wilson, *Lectures on Law*, in 2 Collected Works of James Wilson 1017 (Kermit L. Hall & Mark David Halls eds., 2007) (Ch. VII, "The Subject Continued. Of Sheriffs and Coroners"). Thus, even at the age of 15 or 16, Americans were expected to use their own arms to help enforce the law (including by defending themselves).

Late 19th-Century Case Law

35. I also reviewed the various early to mid-19th century state firearms laws and regulations to determine if age-based restrictions on firearms were in place. This review consisted of a diligent search for early age-restricting laws, in session laws, case law, and academic articles. From 1800 to at least 1850, there were no age-based firearms regulations. Thus, as in the Colonial period and the Founding Era, there were

no age-based arms restrictions in the early Republic or the Jacksonian period.

36. The first age restrictions on firearms appear in the South shortly before the Civil War. In 1856, Alabama prohibited giving handguns to male minors. In 1860, Kentucky outlawed providing handguns to minors, free blacks, or slaves. Other than these two laws, age-based restrictions did not appear until the last quarter of the 19th Century. However, as stated above, late nineteenth century laws "do not provide as much insight into [the Second Amendment's] original meaning as earlier sources." *Heller*, 554 U.S. at 614. Thus, my analysis must take this into account. Importantly, both of these laws were restrictions on giving handguns to legal "minors" under the age of majority. No law ever restricted all types of firearms for legal adults (who had reached the age of majority) based on their age up to and through this period.

37. In my review of the mid-to-late 19th Century, I found only a handful of States that limited firearm purchases based on age. However, these restrictions applied to children or minors who had not reached the age of majority and were not considered legal adults. Further, the age restrictions applied to individuals well under 18; specifically, ages 14, 15, or 16. First, in 1880, Ohio provided that anyone who "sells, barters, or gives away to any minor *under the age of fourteen years*, any air-gun, musket, rifle-gun, shot-gun, revolver, pistol, or firearm" would be guilty of a misdemeanor. Rev. Stat. of Ohio §6986 (6th ed. 1895) (emphasis added). Second, in 1881, a Pennsylvania law made it illegal to sell "to any person *under sixteen years of age*, any cannon, revolver, pistol, or other such deadly weapon.' See *McMilleb v.*

Steele, 275 Pa. 584, 119 A. 721 (1923). In this instance, the term "deadly weapon" does not appear to have applied to long arms (*e.g.*, rifles and shotguns), and at least as quoted by the court, did not forbid possession. Third, in 1882, New Jersey provided that it would be a misdemeanor for a person to "sell, barter or exchange… any gun, pistol, toy pistol, or fire-arms in this state to any person *under the age of fifteen years*." (emphasis added). This was amended four weeks later to add a section forbidding persons under 15 to "fire or use" a firearm "except in the presence of his father or guardian, or for the purpose of military drill in accordance with the rules of a school." See Supplement to the Revision of the Statutes of New Jersey 205-06 (1887).

38. None of the above-referenced laws applied to legal adults who had reached the age of majority (at that time generally 21) or individuals under the age of majority who were ages 18-to-20.

Modern Federal Age-Based Firearm Restrictions

39. In terms of federal law, the National Firearms Act of 1934; which regulated sale and possession of machine guns and other specialized firearms, contained no age restrictions. See 48 Stat. 1236.

40. The first federal restriction on ordinary firearms purchase came in the Federal Firearms Act of 1938 (52 Stat. 1250), which forbade firearms sales to those convicted of violent crimes and fugitives from justice, but it contained no age restrictions.

41. The first federal age restriction appears in the Gun Control of 1968. It set

the minimum age to purchase rifles and shotguns from licensed dealers at 18 and set the minimum age to purchase handguns from licensed dealers at 21. Handgun transfers between two non-licensed individuals (commonly referred to a "private party transfer") were not prohibited. Thus, those under 21 who wished to purchase handguns were free to acquire them through private party transfers or through their parents

42. Additional federal age-based restrictions on firearms did not occur until much later in the 20th Century. The 1993 Youth Handgun Safety Act restricted, but did not ban, juvenile (under 18 years old) handgun possession. See YOUTH HANDGUN SAFETY ACT OF 1993, 1003 Bill Tracking S. 1087. Later, federal law was amended to prohibit juveniles (under 18) from possessing handguns (subject to limited exceptions). 18 U.S.C. 922(x)(2) (2018).

43. In 2009, the First Circuit upheld the federal ban on juvenile handgun possession in *United States v. Rene E*. 583 F.3d 8 (1st Cir. 2009). However, in my opinion, it provides little support for an age-based firearm ban on the purchase, sale, transfer, and use of any firearm for Young Adults (ages 18-to-20). The statute at issue related to handgun possession by those aged under 18.

44. Later, the National Rifle Association challenged the federal law that prohibited federally-licensed firearms dealers from selling handguns to Young Adults under the Second Amendment. On appeal, the Fifth Circuit upheld the lower court's decision that the prohibition was constitutional under the Second Amendment. The Fifth Circuit applied an "historical analysis" of firearms regulations and determined the

conduct at issue was outside the Second Amendment's protection. However, in an abundance of caution, the Fifth Circuit also applied intermediate scrutiny to uphold the challenged law. *NRA of Am. v. Bureau of Alcohol*, 700 F.3d 185, 205-212 (5th Cir. 2012) (*NRA I*).

45. In my review of *NRA I* and current federal law, the federal handgun law still allows Young Adults to purchase and possess *all types of rifles and shotguns* from licensed dealers, private party transfers, and family transfers. 18 U.S.C.S. § 922(b)(1) and (c)(1). Additionally, Young Adults ages 18 to 20 may still purchase, acquire, transfer, and sell *handguns* through private party transfers and family transfers. These exceptions were explicitly relied on in upholding the law as constitutional. See *NRA I*, 700 F.3d at 191-92.

46. In contrast, current California law prevents both dealer and private party sales, transfers, and control or possession of any type of firearm (e.g., handguns, rifles, and shotguns). Penal Code section 27510.

47. Relatedly, in my opinion and based on other secondary source critiques, the Fifth Circuit's historical analysis of the Second Amendment relative to Young Adults is flawed. See **Exhibit 16** [Kopel & Greenlee 2018] and **Exhibit 17** [Kopel & Greenlee 2019]. My analysis above regarding Colonial and Founding Era firearms regulations and militia statutes, and my analysis of firearms regulations up through 1900 are the base for my criticism.

Other State Age-Based Firearm Restrictions

48. In the 20th Century, it is generally accepted that the earliest relatively strict gun law is New York's 1911 Sullivan Act. 1911 N.Y. Laws ch. 195. It amended section 1897 of the Penal Law to make it a misdemeanor to sell any "gun, revolver, pistol or other firearm" to a person *under the age of 16*, and prohibited possession by those persons. The history that follows is less than clear. Section 1897 had started as a prohibition against those under 18 possessing brass knuckles or "slung shots," flexible clubs, but did not list firearms. 1908 N.Y. Laws ch. 93. The 1911 law added the "firearms" restriction. A 1913 amendment to section 1897 expanded the list of weapons forbidden to juveniles, but it removed the "firearms" portion of the prohibition. 1913 N.Y. Laws ch. 608. The same list of prohibited weapons, sans firearms, was repeated two years later. 1915 NY Laws ch. 390. This was repeated in 1917. 1917 NY Laws ch. 580. Based on my review, it appears that the ban on firearms possession by those under 16 began in 1911, was repealed in 1913, and went unchanged until at least through 1915. This provision, also evidently lasted throughout most of the 20th century. Justice Scalia has noted that in high school (he graduated in 1953) he carried a rifle through the New York City subways without any problem. See Associated Press, Feb. 27, 2008, online at https://www.deseretnews.com/article/635187836/Young-Scalia-carried-rifle-while-riding-NY-subway.html.

49. New York's Sullivan Act, which also required a discretionary license to purchase a handgun, did not become popular in other States. To pre-empt its spread, in 1924, the United States Revolver Association published a proposed Uniform Act.

Report of the Committee on a Uniform Act to Regulate the Sale and Possession of Firearms (1924). Section 9 of that proposal would have forbidden sales of handguns to those under the age of 18. It did not restrict handgun sales to Young Adults ages 18 and over. Also, it would not have affected sales of rifles or shotguns, nor did it restrict handgun possession by those under 18; the restrictions on possession were limited to felons and non-citizens.

50. The following year, the National Conference of Commissioners on Uniform Laws produced its own version of a uniform law — the Uniform Firearm Act. *See* Second Report of the Committee on a Uniform Act to Regulate the Sale and Possession of Firearms (1925). The Commissioners followed with further drafts in 1926, 1928, and 1930. Section 8 of each draft tracked the 1924 version, forbidding only dealer sales, of handguns, to those under 18. Private transfers of handguns and all transfers of long guns were not subject to an age limit. Young Adults would not have been affected.

History of California Age-Based Firearm Restrictions

51. As of 1917, California law contained no age restrictions on firearm sales or transfers. 1917 CA Statutes ch. 145. In 1923, California largely adopted the Uniform Acts and imposed a minimum of 18 years of age or older on the sale, delivery, or transfer of "any pistol, revolver or other firearm capable of being concealed upon the person…." 1923 CA Statutes ch. 339, § 10. Even then, there was no California ban on the sale, supply, delivery, possession, or control of any long guns based on age (e.g., rifles and shotguns). *Id.*

52. Prior to the enactment of SB 1100, which amended California Penal Code section 27510, existing California law prohibited the sale or transfer of a handgun, except as exempted, to any person under the age of 21 through federally licensed dealer and private party transfers. However, it expressly allowed a person at least 18 years of age to buy or transfer "long guns" (e.g., rifles and shotguns) through both federally licensed dealer sales, private party transfers, and familial transfers.

53. Based on my review of age-based firearms restrictions, California Penal Code 27510 is an extreme outlier. Only five other states have implemented age-restrictions on all types of firearms for Young Adults. Many of these restrictions have only been in place within the last five years.

54. Attached hereto as **Exhibit 3** is a true and correct copy of Connecticut Acts and Laws, October Session (1792).

55. Attached hereto as **Exhibit 4** is a true and correct copy of, An Act for Establishing the Militia In This State, Delaware (1793).

56. Attached hereto as **Exhibit 5** is a true and correct copy of, An Act to Revise and Amend the Militia Law of This State, and to Adapt the Same to the Act of Congress of the United States, Passed the Eighth Day of May, One Thousand Seven Hundred and Ninety-Two, Entitled An Act More Effectually to Provide for the National Defence by Establishing and Uniform Militia Throughout the United States, as contained in Digest of the Laws of Georgia, 460 (1792).

57. Attached hereto as **Exhibit 6** is a true and correct copy of, Ch. LIII, An

Act to Regulate and Discipline the Militia of This State, Laws of Maryland (1793).

58. Attached hereto as **Exhibit 7** is a true and correct copy of, Ch. 1, An Act for Regulating and Governing the Militia of the Commonwealth of Massachusetts, and for Repealing All Laws Heretofore Made for That Purpose; excepting an Act Entitled, An Act for Establishing Rules and Articles for Governing the Troops Stationed in Forts and Garrisons, Within This Commonwealth, and Also the Militia, When Called Into Actual Service, Massachusetts Acts and Laws, May Session (1793).

59. Attached hereto as **Exhibit 8** is a true and correct copy of, An Act for Forming and Regulating the Militia Within This State, and For Repealing All the Laws Heretofore Made for That Purpose, New Hampshire, 441 (1792).

60. Attached hereto as **Exhibit 9** is a true and correct copy of, Ch. CCCCXIII, An Act for Organizing and Training the Militia of This State, Sec. 4, Acts of the General Assembly of the State of New Jersey (1792).

61. Attached hereto as **Exhibit 10** is a true and correct copy of Ch. 45, An Act to Organize the Militia of This State. Laws of New York (1793).

62. Attached hereto as **Exhibit 11** is a true and correct copy of, Ch. XXII, An Act for Establishing a Militia in This State, Laws of North Carolina — 1786, 813 (amended by An Act to Carry Into Effect an Act of Congress, Entitled, An Act More Effectually to Provide for the National Defence, by Establishing an Uniform Militia Throughout the United States, Also to Amend an Act, Passed at Fayetteville, in the Year One Thousand Seven Hundred and Eighty Six, Entitled, An Act for Establishing

the Militia in This State), Acts of the North Carolina General Assembly 1786-1787, North Carolina General Assembly, 1786, Vol. 24, 783-884 (1793).

63. Attached hereto as **Exhibit 12** is a true and correct copy of Ch. MDCXCVI, An Act for Regulating the Militia of the Commonwealth of Pennsylvania, Statutes at Large of Pennsylvania, 454-481 (1793).

64. Attached hereto as **Exhibit 13** is a true and correct copy of An Act to Organize the Militia Throughout the State of South Carolina, in Conformity with the Act of Congress, Statutes at Large of South Carolina, Vol. 8 (1794-1837).

65. Attached hereto as **Exhibit 14** is a true and correct copy of Ch. CXLVI, An Act for Regulating the Militia of this Commonwealth, Virginia (1792).

CONCLUSIONS

66. My research leads me to the following conclusions:

67. Age restrictions on the purchase or possession of firearms were utterly unknown in the Colonial Era, Founding Era, and up through at least 1850. Indeed, state militia laws and other regulations (such as *posse* duties) *required* Young Adults to own, possess, and use firearms. From 1792 until 1903, this same requirement to own, possess, and use firearms was imposed by federal law.

68. Colonial and Founding Era firearms safety regulations did not contain age restrictions. Many dealt with the then-common fire danger of possessing large quantities of black powder.

69. Certain racist and bigoted firearm restrictions that prohibited firearms

purchases, or disarmed "certain groups" such as Indians, slaves, free blacks, and Catholics, provide no precedent for modern law and are explicitly abrogated by the First, Thirteenth, and Fourteenth Amendments.

70. Firearms restrictions that prohibited firearm purchases or disarmed the non-virtuous or Loyalists were historically rare, found only during wartime, and based upon personal misconduct: refusal to swear allegiance. They were accompanied by penalties that included loss of civil rights, confiscation of property, and exile. Thus, they provide no support for categorical ban on the acquisition or possession of *any* firearm by Young Adults.

71. Overwhelming historical evidence, including state militia laws and federal militia requirements, confirms that Young Adults always have been considered part of the militia.

72. Post-1850, the few age restrictions in place only applied to those under 18 and were narrow in that they usually applied only to handguns (e.g., pistols and revolvers). Later restrictions applied only to individuals who had not reached the age of majority and only applied to handguns.

73. Age restrictions on the purchase or possession of rifles appear to have originated in the 1960s. Prior to that period, even New York, which had the strictest gun laws at the time, did not restrict possession of rifles based on age.

74. Federal age-based handgun restrictions appear for the first time in 1968. However, they were specific to federally-licensed dealer sales, and of handguns. The

federal restrictions on long guns (e.g., rifles and shotguns) only applied to those *under* 18.

75. Federal circuit court cases that have exhausted age-based restrictions have only addressed restrictions on handguns, never rifles and shotguns, and never prohibitions on *all* firearms based on age.

76. Those relevant federal circuit court cases also rely on a flawed historical analysis and have been heavily criticized.

77. State prohibitions on all types of firearm purchases are extreme outliers that only have been in place in the last several years. Until the mid-20th Century, with the 1968 Gun Control Act, age restrictions on firearms in general were not common. It is only in recent years that these laws have been implemented at both the federal and state level.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on October 4, 2019.



David T. Hardy

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EXHIBIT "1"

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Education

J.D., University of Arizona 1975, with honors. Associate editor, Arizona Law Review, 1st place moot court 1st & 2nd years, won Regionals 3rd year.
B.A., University of Arizona 1972, with high honors & Honors Program (today the Honors College), in 3 years.

Experience

10 years' governmental service, Interior Department, Washington D.C.; 33 years in private practice. Experience ranged from Endangered Species and Administrative Procedure Acts to a death penalty reversal in the Arizona Supreme Court and a 5-4 in the US Supreme Court. (details below).

26 law review articles authored, two cited by the U.S. Supreme Court, and one by eleven U.S. Circuit Courts of Appeals, and another by Larry Tribe's AMERICAN CONSTITUTIONAL LAW. Author of five books, one a NY Times best-seller.

Publications

Legal Periodicals

Standards of Review, the Second Amendment, and Doctrinal Chaos, 42 S. ILL. L. J. 91 (2018).

Criminology, Gun Control, and the Right to Arms, 58 HOWARD L. J. 679 (2015).

The Right to Arms and Standards of Review: A Tale of Three Circuits, 46 CONN. L. REV. 1435 (2014).

Dred Scott v. John San(d)ford: The Case for Collusion, 41 N. KY L. REV. 37 (2014).

EXHIBIT 1
0002

McDonald v. Chicago, *Fourteenth Amendment Incorporation and Judicial Role Reversals,* 8 N.Y.U. J. OF L. & LIBERTY 15 (2013).

The Rise and Demise of the "Collective Right" Interpretation of the Second Amendment, 59 CLEVELAND ST. L. REV. 315 (2011).

Originalism, Its Tools, and Some Caveats, 2 AKRON L. REV. STRICT SCRUTINY 1 (2010).

Ducking the Bullet: District of Columbia v. Heller *and the Stevens Dissent*, 2010 CARDOZO L. REV. DE NOVO 101 (2010).

Original Popular Understanding of the 14th Amendment as Reflected in the Print Media of 1866-68, 30 WHITTIER L. REV. 695 (2009). Cited by the Supreme Court in *McDonald v. City of Chicago*, by the plurality, and by Justice Thomas' concurrence, 561 U.S. 742, 763, n. 10, 841 (2010).

The Lecture Notes of St. George Tucker: A Framing Era View of the Bill of Rights, 103 NORTHWESTERN U. L. REV. 1527 (2009).

Standing to Sue in the Absence of Prosecution: Can a Case Be Too Controversial for "Case or Controversy"?, 29 THOMAS JEFFERSON L. REV. 53 (2008).

A Well-Regulated Militia, 15 WM. & MARY BILL OF RIGHTS JOURNAL 1237 (2007), cited in *Binderup v. Attorney General*, 836 F.3d 336, 371 n. 17 (3rd Cir. 2016).

The Firearm Owners' Protection Act, 17 CUMB. L. REV. 585 (1987). Cited in a Supreme Court dissent and by eleven U.S. Circuit Courts of Appeals:

- *Staples v. United States*, 511 U.S. 610, 626 n.4 (1994) (Stevens, J., dissenting);
- *U. S. v. Andrade*, 135 F3d. 104, 109 n. 3 (1st Cir. 1998);
- *Torraco v. Port Authority*, 615 F.3d 129, 143 (2d Cir. 2010);
- *Ass'n of N.J. Rifle and Pistol Clubs v. Port Authority*, 730 F.3d 252, 256-57 (3rd Cir. 2013);
- *U.S. v. Hayden*, 64 F.3d 126, 129 (3d Cir. 1995);
- *U.S. v. Langley*, 62 F.3d 602 (4th Cir. 1995) (*en banc*);
- *United States v. Golding*, 332 F.3d 838 (5th Cir. 2003);
- *U.S. v. Kirk*, 70 F.3d 791, 798 n.1 (5th Cir. 1995), *en banc*, 105 F.3d 997, 1006-07 (1997);
- *U.S. v. McGill*, 74 F.3d 64, 67 (5th Cir. 1996);
- *U.S. v. Knutson*, 113 F.3d 27, 30 (5th Cir. 1997):
- *U.S. v. Rodriguez*, 132 F.3d 208,211 (5th Cir. 1997);
- *U.S. v. Golding*, 332 F.3 838, 841 N. 12 (5th Cir. 2003);
- *U. S. v. Cassidy*, 899 F.3d 543, 546 n.8 (6th Cir. 1990);
- *U.S. v. Choice*, 201 F.3d 837, 841 n. 5 (6th Cir. 2000);

EXHIBIT 1
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- *U.S. v. Kenney*, 91 F.3d 884, 886 (7th Cir. 1996);
- *U.S. v. Farrell*, 69 F.3d 891, 893 (8th Cir. 1995);
- *U.S. v. Sherbondy*, 865 F.2d 996, 1002 (9th Cir. 1988);
- *U.S. v. Marchant*, 55 F.3d 509, 514 (10th Cir. 1995);
- *U.S. v. Wilkes*, 58 F.3d 1518, 1519 (10th Cir. 1995);
- *U.S. v. Haney*, 264 F.3d 1161, 1169 (10th Cir. 2001);
- *Lomont v. O'Neill*, 285 F.3d 9 (D.C. Cir. 2002);
- *U.S. v. Otiaba*, 862 F. Supp. 251, 253-54 (D.N.D. 1994) (declining to follow 2d Circuit, since "that court did not have available to it Hardy's analysis....");
- *U.S. v. Hunter*, 843 F. Supp. 235, 246 (E.D. Mich. 1994);
- *Cisewski v. Department of Treasury*, 773 F. Supp.. 148, 150 (E.D. Wis. 1991);
- *In re Two Seized Firearms*, 127 N.J. 84, 602 A.2d 728, 731 (1992);
- 2A KEVIN O'MALEY, ET AL., FEDERAL JURY PRACTICE AND INSTRUCTIONS §39.09 at 36 (5th Ed. 2000);
- 78 Wisc. Opinions of the Atty'y Gen. 22 (1989).

The Second Amendment and the Historiography of the Bill of Rights, 4 J. OF LAW & POLITICS 1 (1987).

Armed Citizens and Citizen Armies: Origins of the Second Amendment, 9 HARV. J. OF L. & PUB. POLICY 559 (1986). Cited in LAURENCE TRIBE, AMERICAN CONSTITUTIONAL LAW 897 n. 211 (3d Ed. 2000).

Fields & Hardy, *The Militia and the Constitution*, 136 MILITARY L. REV. 1 (1992).

Product Liability and Weapons Manufacture, 10 J. OF PRODUCTS LIABILITY 61 (1987).

Fields & Hardy, *The Third Amendment and the Issue of the Maintenance of Standing Armies:*, 35 AMER. J. OF LEGAL HISTORY 393 (1991).

Strict Liability and the Manufacture of Weapons, 20 WAKE FOREST L. REV. 541 (1984).

Legal Restriction of Firearm Ownership as an Answer to Violent Crime; What was the Question?, 6 HAMLINE L. REV. 391 (1983).

Harris v. McRae--The Clash of a Nonenumerated Right with Legislative Control of the Purse, 31 CASE-WESTERN RES. UNIV. L. REV. 465 (1981).

Firearms Ownership and Regulation, 20 WM & MARY L. REV. 235 (1978).

Privacy and Public Funding: Maher v. Roe as the Interaction of Roe v. Wade and Dandridge v. Williams, 18 ARIZ. L. REV. 903 (1977). Cited in:

- *D.R. v. Mitchell*, 456 F. Supp. 609, 614, 615, 622 (D. Utah 1978);
- *Women's Health Services v. Maher*, 482 F. Supp. 725, 735 (D. Conn. 1980).

Hardy & Stompoly, *Of Arms and the Law*, 51 CHI-KENT L REV. 62 (1974).

Note, *Informants' Statements as a Basis for Stop and Frisk*, 15 ARIZ. L. REV. 677 (1973).

Books

DRED SCOTT: THE INSIDE STORY (2019).

MASS KILLINGS: MYTH, REALITY, AND SOLUTIONS (2018)

I'M FROM THE GOVERNMENT, AND I'M HERE TO KILL YOU: THE HUMAN COST OF OFFICIAL NEGLIGENCE (2017). This is actually a treatise calling for reform of the Federal Tort Claims Act and the Federal Rules of Criminal Procedure.

DAVID T. HARDY & JASON CLARKE, MICHAEL MOORE IS A BIG FAT STUPID WHITE MAN (2004) Six weeks on N.Y. Times bestseller list. (The publisher *insisted* on the title, by the way; it was a successful marketing ploy.)

THIS IS NOT AN ASSAULT (2001).

ORIGINS AND DEVELOPMENT OF THE SECOND AMENDMENT (1986).

THE COMPLETE SHORTWAVE LISTENERS' HANDBOOK (3d ed. 1986).

Monographs and Anthologies

OF MICE AND MEN: SURVIVING ENDANGERED SPECIES ACT LITIGATION (1993).

Chapters dealing with checks and balances, impeachment, bills of attainder, and a biography of James Madison in THE NEW FEDERALIST PAPERS (1989).

Miscellaneous

Directed a two-hour documentary film on the 2d and 14th Amendments, "In Search of the Second Amendment," nominated for the ABA's Silver Gavel Award.

Creator of four websites and a blog, www.armsandthelaw.com.

President, Tucson Rod and Gun Club.

PRESENTATIONS

In 2018, I have presented at Southern Illinois University's symposium on "Exploring the Second Amendment: 10 Years after *Heller*," and at the St. Louis Civil War Roundtable on the *Dred Scott* case. In past years I have given Pima County Bar CLEs on Supreme Court watching and on bringing federal test cases. Back when Barbara Atwood taught Civil Procedure, Leighton Rockafellow and I would give an annual presentation on personal jurisdiction. I have often spoken at the National Firearm Law Symposium; in 2010, due to another speaker's emergency I had to give two presentations. The audience evaluations rated them No. 1 and 2 of the symposium, with scores of 3.94 and 3.88, where 4 was the highest rating.

I have appeared on ABC Nightline, Book TV, Court TV (twice), Scarborough Country and over a hundred radio shows.

EMPLOYMENT HISTORY

Private Practice, Tucson, Az. 1992 – present

Primarily civil litigation and appeals. Admitted to U.S. Supreme Court, Arizona Supreme Court, 4th, 6th, and 9th Circuits, U.S. District Courts for Arizona, Colorado, and District of Columbia.

Reported decisions include:

- *Mack v. United States*, consolidated with *Pritnz v. United States*, 521 U.S. 898 (1997) (10th Amendment, 5-4 win);
- *State v. Detrich*, 178 Ariz. 380, 873 P.2d 1302 (1994) (5-0 reversal of murder conviction and death penalty);
- *Arizona Libertarian Party v. Board of Supervisors of Cochise County*, 205 Ariz. 345, 70 P.3d 1146 (App. 2003) (election statutes);
- *Arizona Libertarian Party v. Schmerl*, 200 Ariz. 486, 28 P.3d 948 (App. 2001) (First Amendment: successful defense of Arizona electoral system);
- *Arizona Libertarian Party, Inc. v. Bayless*, 351 F.3d 1277 (9th Cir. 2003) (successful First Amendment attack on State electoral system);
- *NRA v. Magaw*, 132 F.3d 272 (6th Cir. 1997) (standing and ripeness);
- *A. Uberti & C. v. Leonardo* , 181 Ariz. 565, 892 P.2d 1354 (1995) (*In personam* jurisdiction in product liability case).

Office of the Solicitor, Dep't of the Interior, Wash. DC, 1982-1992

- Ten years' agency work, mainly representing U.S. Fish and Wildlife Service, occasionally detailed to other federal agencies. GS-14.
- Continuous work under Endangered Species Act, NEPA, etc.
- Chief legal advisor to FWS Law Enforcement Division.
- Litigation: Represented FWS in variety of federal lawsuits, including *US v. Dion*, 476 U.S. 734 (1986) (Eagle Act abrogates Indian hunting rights).
- Mineral, Oil and Gas Rights: Held primary staff responsibility for preparing Interior's legal position on oil, gas and mineral rights underlying Nat'l Wildlife Refuge System (68,000,000 acres) lands.
- Water Rights & Wilderness: Attorney Trish Bangert and I prepared the pivotal Solicitor's Opinion on water rights in designated Wilderness Areas. The position was subsequently adopted by the Attorney General as the position of the entire government.

Partner, Sharp, Sando, Alfred & Hardy, Tucson, 1976-1982

- Was assigned individual rating of "b(v)" by Martindale-Hubbell.
- Small firm general practice, torts, contracts, criminal defense.

Associate, Browning & Wilson-Druke, Tucson, 1975-76

- Left when partners dissolved the firm.

EXHIBIT "2"

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Colonial Firearm Regulation

Clayton E. Cramer

Recently published scholarship concerning the regulation of firearms in Colonial America claims that because Colonial governments distrusted the free population with guns, the laws required guns to be stored centrally, and were not generally allowed in private hands. According to this view, even those guns allowed in private hands were always considered the property of the government. This Article examines the laws of the American colonies and demonstrates that at least for the free population, gun control laws were neither laissez-faire nor restrictive. If Colonial governments evinced any distrust of the free population concerning guns, it was a fear that not enough freemen would own and carry guns. Thus, the governments imposed mandatory gun ownership and carriage laws.

Clayton E. Cramer is an independent scholar who took the leading role in exposing the Michael Bellesiles hoax. His website is www.claytoncramer.com.

I. The Legal Significance of Colonial Firearm Regulation Today

In much the same way that an understanding of the limits of free speech in Colonial America may provide insights into the intent of Congress and the states when they adopted the First Amendment, so an understanding of colonial firearms regulation has the potential to illuminate our understanding of the limits of the right protected by the Second Amendment. What types of firearms laws were common, and might therefore have been considered within the legitimate scope of governmental regulation?

In the last several years, widely publicized scholarship by Michael Bellesiles has asserted that the English colonies strictly regulated the individual possession and use of firearms. While acknowledging that the English government ordered the colonists to own firearms for the public defense as a cost-cutting measure, he asserts:

> At the same time, legislators feared that gun-toting

> freemen might, under special circumstances, pose a threat to the very polity that they were supposed to defend. Colonial legislatures therefore strictly regulated the storage of firearms, with weapons kept in some central place, to be produced only in emergencies or on muster day, or loaned to individuals living in outlying areas. They were to remain the property of the government. The Duke of York's first laws for New York required that each town have a storehouse for arms and ammunition. Such legislation was on the books of colonies from New Hampshire to South Carolina.[1]

This assertion—that the Colonial governments distrusted their free people with firearms, and closely controlled their possession in governmental hands—has began to appear in court decisions concerning the meaning of the right to keep and bear arms provisions contained in the U.S. Constitution and 46 of the state constitutions.[2]

Then as now, laws were not always obeyed, and were sometimes indifferently or unequally enforced. The evidence from contemporary accounts, from probate records, or even from archaeological digs (which could suggest something about gun ownership levels by recovered artifacts), might provide us with evidence for evaluating how often those laws were followed. Under the best of conditions, however, analysis of this type is complex, and differing interpretative models may come to differing conclusions as to whether those laws were generally obeyed, generally ignored, or perhaps were somewhere in between. By comparison, evaluating the claim that Colonial governments passed laws that restricted firearms ownership and use (regardless of how those laws were actually enforced) is fairly easy.

An examination of the Colonial statutes reveals that, contrary to Bellesiles's claim of distrusted and disarmed freemen, almost all colonies *required* white adult men to possess firearms and ammunition. Some of these statutes were explicit that militiamen were to keep their guns at home; others imply the requirement, by specifying fines for failing to bring guns to musters or church. Colonies that did not explicitly require

firearms ownership passed laws requiring the carrying of guns under circumstances that implied nearly universal ownership.

None of the Colonial militia statutes even *suggest* a requirement for central storage of all guns. None of the Colonial laws in any way limited the possession of firearms by the white non-Catholic population; quite the opposite. Most colonies did, however, pass laws restricting possession of firearms by blacks and Indians. In a few cases, in a few colonies, whites suspected of disloyalty (including Catholics) were also disarmed.

As the statutes demonstrate, colonial governments did not hold that firearms in private hands, "were to remain the property of the government."[3] Indeed, the evidence is largely in the other direction—that colonial governments were often reluctant to seize weapons for public use. When driven by necessity to do so, they compensated owners of those guns.

Colonial regulations that limited the use of firearms were usually for reasons of public safety. These regulations were similar in nature, though generally less restrictive in details, than similar laws today.

II. FIREARMS AND CIVIC DUTY

The laws regulating firearms ownership adopted by the American colonies bear a strong resemblance to each other. This is not surprising, since by 1740, every colony bore allegiance to the English crown, and the laws reflected the shared heritage. The similarity in laws is especially noticeable with respect to the English duty of nearly all adult men to serve in the militia, and to bear arms in defense of the realm.

A. Connecticut

Among the Colonial militia statutes, Connecticut's 1650 code contains one of the clearest expressions of the duty to own a gun: "That all persons that are above the age of sixteene yeares, except magistrates and church officers, shall beare arms...; and every male person with this jurisdiction, above the said age, shall have in continuall readines, a good muskitt or other gunn, fitt for service, and allowed by the clark of the band.…" [4] A less elaborate form of the law appeared in 1636, with reiterations in 1637, 1665, 1673, 1696, and 1741.[5] Fines varied between two

and ten shillings for lacking firearms or for failure to appear with firearms "compleat and well fixt upon the days of training…."[6]

B. Virgina

Virginia provides another example of a militia statute obligating all free men to own a gun. A 1684 statute required free Virginians to "provide and furnish themselves with a sword, musquet and other furniture fitt for a soldier… two pounds of powder, and eight pounds of shott…."[7] A similar 1705 statute required every foot soldier to arm himself "with a firelock, muskett, or fusee well fixed" and gave him eighteen months to comply with the law before he would subject to fine.[8] There are minor modifications to the statute in 1738 that still required all members of the militia to appear at musters with the same list of gun choices, but reduced the ammunition requirement to one pound of powder and four pounds of lead balls.[9] A 1748 revision is also clear that militiamen were obligated to provide themselves with "arms and ammunition."[10] The 1748 statute, however, did acknowledge that all freemen might not be wealthy enough to arm themselves, and provided for issuance of arms "out of his majesty's magazine."[11] By 1755, all cavalry officers were obligated to provide themselves with "holsters and pistols well fixed…."[12]

C. New York

Another typical colonial militia statute is the Duke of York's law for New York (adopted shortly after the colony's transfer from the Dutch), that provided, "Besides the Generall stock of each Town[,] Every Male within this government from Sixteen to Sixty years of age, or not freed by public Allowance, shall[,] if freeholders[,] at their own, if sons or Servants[,] at their Parents and Masters Charge and Cost, be furnished from time to time and so Continue well furnished with Arms and other Suitable Provition hereafter mentioned: under the penalty of five Shillings for the least default therein[:] Namely a good Serviceable Gun, allowed Sufficient by his Military Officer to be kept in Constant fitness for present Service" along with all the other equipment required in the field.[13]

D. Maryland

Similar to statutes appearing in other colonies, Maryland's "An Act for Military Discipline" enacted in February or March of 1638/9 (O.S.) required "that every house keeper or housekeepers within this Province shall have ready continually upon all occasions within his her or their house for him or themselves and for every person within his her or their house able to bear armes[,] one Serviceable fixed gunne of bastard muskett boare…" along with a pound of gunpowder, four pounds of pistol or musket shot, "match for matchlocks and of flints for firelocks…."[14] A different form of this law, ordering every member of the militia to "appear and bring with him one good serviceable Gun, fixed, with Six Charges of Powder," appears in a 1715 Maryland statute book as well.[15] Cavalrymen were obligated to "find themselves with Swords, Carbines, Pistols, Holsters and Ammunition" with a fine for failure to appear armed at militia muster.[16]

Of course, laws were sometimes passed but not enforced in colonial times, just as happens now. But the provisions for enforcement in Maryland would seem likely to encourage enforcement for purely selfish reasons. The officers of the militia were required to verify compliance with the law by "a Sight or view of the said armes and ammunition" every month. People who failed to possess arms and ammunition were to be fined thirty pounds of tobacco, payable to the militia officer responsible for the inspection. Anyone who lacked arms and ammunition was to be armed by their militia commander, who could force payment at "any price… not extending to above double the value of the said armes and ammunition according to the rate then usual in the Country."[17]

To make sure that householders moving to the new land were adequately armed, it appears that one of the conditions of receiving title to land in Maryland beginning in 1641 was bringing "Armes and Ammunition as are intended & required by the Conditions abovesaid to be provided & carried into the said Province of Maryland for every man betweene the ages of sixteene & fifty years w[hi]ch shalbe transported thether." The arms required included "one musket or bastard musket with a snaphance lock," ten pounds of gunpowder, forty pounds of bullets, pistol, and goose shot.[18]

The Maryland militia law of 1638/9 was revised in 1642

requiring, "That all housekeepers provide fixed gunn and Sufficient powder and Shott for each person able to bear arms."[19] A 1658 revision of the law required "every householder provide himselfe speedily with Armes & Ammunition according to a former Act of Assembly viz 2 [pounds] of powder and 5 [pounds] of shott & one good Gun well fixed for every man able to bear Armes in his house." A householder was subject to fines of 100, 200, or 300 pounds of tobacco, for the first, second, and third failures to keep every man in the house armed.[20]

In 1756, Maryland again made it explicit that " all and every Person and Persons of the Militia of this Province are as aforesaid, not only liable to the Duties and Services required by this Act, but also if able to find, at their own proper Cost and Charge, Suitable Arms…." At the same time, concerned that those exempted from militia duty who were wealthy were getting an unfair advantage, it ordered that exempts were obligated to "each of them find one good and Sufficient Firelock, with a Bayonet, and deliver the Same to the Colonel or Commanding Officer of the County wherein he shall reside, or pay to the Said Colonel or Commanding Officer the Sum of Three Pounds Current Money in lieu thereof…."[21]

At the start of the Revolution, Maryland still assumed that the freemen of the colony were armed as required by law. The Maryland Convention in 1775 threatened that: "if any Minute or Militia-man shall not appear at the time and place of Muster with his Firelock and other accoutrements in good order, … he shall forfeit and pay a sum not exceeding five shillings Common money…."[22]

E. Massachusetts

Massachusetts adopted a measure March 22, 1630/1 that required all adult men to be armed.[23] Although this measure is not explicit that the arms were *firearms*, it is apparent that guns were not in short supply in Massachusetts, because within 15 years, the Colonial government had made the requirement for guns explicit, and had even become quite demanding as to what type of guns were acceptable for militia duty. An order of October 1, 1645 directed that in the future, the only arms that would be allowed "serviceable, in our trained bands… are ether

full musket boare, or basterd musket at the least, & that none should be under three foote 9 inches…."[24] Even those exempt from militia duty were not exempt from the requirement to have a gun in their home. A June 18, 1645 order required "all inhabitants" including those exempt from militia duty, "to have armes in their howses fitt for service, with pouder, bullets, match, as other souldiers…."[25]

Massachusetts Bay Colony, like many modern governments, expressed its concern about the nexus of guns and children. A May 14, 1645 order directed that "all youth within this jurisdiction, from ten yeares ould to the age of sixteen yeares, shalbe instructed, by some one of the officers of the band, or some other experienced souldier… upon the usuall training dayes, in the exercise of armes, as small guns, halfe pikes, bowes & arrows….."[26] The duty to be armed meant that even children were required to learn to use a gun.

F. New Haven and Plymouth

Other colonies also required their free adult males to own guns. New Haven Colony passed such laws in 1639, 1643, 1644, and 1646.[27] Plymouth Colony did the same in 1632, 1636, and 1671 (although the last statute is less clear than the earlier two as to requiring private ownership).[28]

G. New Hampshire

A statute in New Hampshire's 1716 compilation ordered "That all Male Persons from Sixteen Years of Age to Sixty, (other than such as are herein after excepted) shall bear Arms … allowing Three Months time to every Son after his coming to Sixteen Years of Age, and every Servant so long, after his time is out, to provide themselves with Arms and Ammunition…. That every Listed Souldier and Housholder, (except Troopers) shall be always provided with a well fix'd, Firelock Musket, of Musket or Bastard-Musket bore,… or other good Fire-Arms, to the satisfaction of the Commission Officers of the Company… on penalty of *Six Shillings* for want of Such Arms, as is hereby required…." [emphasis in original] Similar requirements were imposed on cavalrymen.[29]

H. New Jersey

New Jersey's 1703 militia statute was similar, requiring all

men "between the Age of Sixteen and Fifty years" with the exception of ministers, physicians, school masters, "Civil Officers of the Government," members of the legislature, and slaves, to be members of the militia. "Every one of which is listed shall be sufficiently armed with one good sufficient Musquet or Fusee well fixed, a Sword or [Bayonet], a Cartouch box or Powder-horn, a pound of Powder, and twelve sizeable Bullets, who shall appear in the Field, so armed, twice every year…."[30]

I. Delaware

In 1742, Delaware required, "That every Freeholder and taxable Person residing in this Government (except such as are hereafter excepted) shall, on or before the First Day of March next, provide himself with the following Arms and Ammunition, viz. One well fixed Musket or Firelock, one Cartouch-Box, with Twelve Charges of Gun-Powder and Ball therein, and Three good Flints, to be approved of by the Commanding Officer of the respective Company to which he belongs, and shall be obliged to keep such Arms and Ammunition by him, during the Continuance of this Act...." There was a fine of forty shillings for those who failed to do so.

While "every Freeholder and taxable Person" in Delaware was obligated to provide himself with a gun, not all were required to enlist in the militia, only "all Male Persons, above Seventeen and under Fifty Years of Age" with a few exceptions. The exemptions from militia duty are quite interesting. Quakers were exempted from the requirement to provide themselves with guns, from militia duty, and from nightly watch duty, in exchange for paying two shillings six pence for every day that "others are obliged to attend the said Muster, Exercise, or Watch...."

Others were exempted from militia musters, but not from the requirement to fight, or the requirement to own a gun. "[A]ll Justices of the Peace, Physicians, Lawyers, and Millers, and Persons incapable through Infirmities of Sickness or Lameness, shall be exempted and excused from appearing to muster, except in Case of an Alarm: They being nevertheless obliged, by this Act, to provide and keep by them Arms and Ammunition as aforesaid, as well as others. And if an Alarm happen, then all

those, who by this Act are obliged to keep Arms as aforesaid... shall join the General Militia....” Ministers appear to have been exempted from all of these requirements.[31]

J. Rhode Island

There seems to be no explicit Rhode Island law that required every man to own a gun. There is, however, a 1639 statute that ordered “noe man shall go two miles from the Towne unarmed, eyther with Gunn or Sword; and that none shall come to any public Meeting without his weapon.”[32] While not an explicit order that every man was required to own a gun, widespread gun ownership was clearly assumed. The Rhode Island city of Portsmouth did impose a requirement to own a gun in 1643, and directed militia officers to personally inspect every inhabitant of the town to verify that they had both bullets and powder.[33]

K. South Carolina

Much like Rhode Island, South Carolina’s obligation to own a gun is not explicit, but did require “all, and every person and persons now in this Colony” to “appeare in armes ready fitted in their severall Companies….”[34] “Armes,” of course, might include a sword or other non-firearm weapon, but South Carolina’s 1743 requirement to bring guns to church (to be discussed later), suggests that “armes” meant guns.

L. North Carolina

North Carolina passed militia laws in or before 1715 and in 1746 that were similar in form. The earlier statute required every member of the militia (every freeman between 16 and 60) to show up for muster “with a good Gun well-fixed Sword & at least Six Charges of Powder & Ball” or pay a fine.[35] The 1746 statute obligated “all the Freemen and Servants... between the Age of Sixteen Years, and Sixty” to enlist in the militia, and further, required all such persons “be well provided with a Gun, fit for Service,… and at least Twelve Charges of Powder and Ball, or Swan Shot, and Six spare Flints.....” Failure to have those when called to militia muster would subject one to a fine of two shillings, eight pence, “for Want of any of the Arms, Accoutrements, or Ammunition....” Interestingly enough, unlike other colonies, the definition of militia member under both

statutes did not exclude free blacks.[36] According to John Hope Franklin, "free Negroes served in the militia of North Carolina with no apparent discrimination against them."[37]

M. Georgia

Georgia's long and poorly written militia law of 1773 at first appears to provide for the government to arm the militia, since it declares that the governor or military commander may "assemble and call together all male Persons in this Province from the Age of Sixteen Years to Sixty Years… at such times, and arm and array them in such manner as is hereafter expressed…."[38] But later the statute directs that, "every Person liable to appear and bear arms at any Exercise Muster or Training… Shall constantly keep and bring with them… one Gun or Musket fit for Service[,] one Catridge [*sic*] Box with at least Nine Catridges filled with Good Gun Powder and Ball that shall fit his Piece[,] a horn or Flask containing at least a Quarter of a Pound of Gun Powder[,] a shot Pouch with half a pound of Bulletts…." This is followed by a *very* complete list of tools required to use a gun in the field.[39]

A member of the militia who was an indentured servant, or otherwise subject to "Government or Command" of another, was not obligated to arm himself, but like New York and other colonies, his master was. He "Shall constantly keep such arms amunition [*sic*] and Furniture for every such Indented Servant…."[40] The militia statute also provided for enlisting male slaves from 16 to 60 "as [their masters] can Recommend as Capable and faithful Slaves." Masters were also supposed to arm such slaves when in actual militia service "with one Sufficient Gun… powder Horn and shot pouch…."[41]

Failure to appear "completely armed and furnished as aforesaid at any General Muster" could result in a fine of twenty shillings. Militia officers were allowed to appear at the residence of any person obligated to militia duty up to six times a year, "and to Demand a Sight of their arms amunition [*sic*] and accoutrements aforesaid…." Failure to possess the arms and ammunition could result in a five shilling fine.[42] Similar provisions applied to those who were cavalry militiamen.[43]

N. Pennsylvania

Pennsylvania is the only colony that does not appear to have imposed an obligation to own guns on its citizens.[44] It appears that Pennsylvania's exception was because of its Quaker origins and Quaker pacifism.

O. Indentured Servants

As part of requiring the arming of all freemen, several colonies imposed requirements that masters give guns to indentured servants who had completed their term of service. A 1699 Maryland statute (reiterated in 1715) directed what goods the master was to provide a servant completing his term. Along with clothes and a variety of tools, the master was also directed to give a newly freed male servant, "One Gun of Twenty Shillings Price, not above Four Foot by the barrel, nor less than Three and a Half; which said Gun shall, by the Master or Mistress, in the Presence of the next Justice of the Peace, be delivered to such Free-man, under the Penalty of Five Hundred Pounds of Tobacco on such Master or Mistress omitting so to do…." To encourage the newly freed servant to keep his gun, "And the like Penalty on the said Free-man selling or disposing thereof within the Space of Twelve Months…." Starting in 1705, Virginia imposed a similar requirement that freedom dues include a musket worth at least twenty shillings.[45] A 1715 North Carolina statute gave masters the choice of fulfilling freedom dues with either a suit or "a good well-fixed Gun…."[46]

P. Gunpowder

Gunpowder import records also provide some clues about firearms ownership and use—and suggest that if guns were kept centrally stored, it was no impediment to colonists using those guns. The British Board of Trade recorded quantities of gunpowder imported through American ports for a brief period just before the Revolution. We have surviving records for the years 1769, 1770, and 1771 that show the American colonies imported a total of 1,030,694 pounds.[47] Of course, this shows only gunpowder imported with knowledge of the Crown; Americans smuggled goods quite regularly during those years, and there was some domestic production of gunpowder as well.[48]

Gunpowder was used not only for civilian small arms, but also for cannon, blasting, and (in extremely small quantities), for

tattooing. It seems likely that at least some of this million pounds of gunpowder was sold to the British military, colonial governments, or the Indians. Nonetheless, the quantity is enormous. Even if only one-quarter of the million pounds of gunpowder was used in civilian small arms, that is enough for eleven to seventeen million shots over those three years—in a nation where, according to some, few Americans owned guns, most guns were stored in central storehouses because of mistrust of the population, and few Americans hunted with guns.[49]

Q. Summary

Common to nearly every colony was the requirement that members of the militia (nearly all free white men) possess muskets and ammunition; the rest, such as Rhode Island and South Carolina, clearly assume it. Some of these statutes are explicit that militiamen are to keep their guns at home; others imply it, by specifying fines for failure to appear with guns at church or militia musters. If the militiaman's gun was stored in an armory, and was issued "only in emergencies or on muster day," it is strange that the governments fined militiaman for failing to appear with gun and ammunition. None of the Colonial militia statutes even *suggest* a requirement for central storage of all guns. None of these laws in any way regulated the possession of firearms by the white population, except for requiring nearly all white men to own guns.

III. THE OBLIGATION TO CARRY FIREARMS

Another part of the civic duty to be armed included the duty to bring guns to church and other public meetings, or while traveling.

A. Guns in Church

The statute that most clearly states the intent of "bring your guns to church" laws is a 1643 Connecticut order, "To prevent or withstand such sudden assaults as may be made by Indeans upon the Sabboth or lecture dayes, It is Ordered, that one person in every several howse wherein is any souldear or souldears, shall bring a musket, pystoll or some peece, with powder and shott to e[a]ch meeting…." Connecticut found

within a month that, "Whereas it is obsearved that the late Order for on[e] in a Family to bring his Arms to the meeting house every Sabboth and lecture day, hath not bine attended by divers persons" there was now a fine for failing to do so.[50]

Massachusetts Bay Colony also imposed a requirement to come to church armed, though it was repealed and reinstated several times as fear of Indian attack rose and fell. A March 9, 1636/7 ordinance required individuals to be armed. (Britain and its colonies changed from Julian to Gregorian calendar in 1752; as part of that change, the beginning of the new year changed from March 25 to January 1. What had been January 3, 1751 on the Julian calendar would be January 3, 1752 on the Gregorian calendar. Dates from before March 25, 1752 are typically recorded in a form that shows what year appears in the records—but also what year we would consider that date to have been.)

Because of the danger of Indian attack, and because much of the population neglected to carry their guns, every person above eighteen years of age (except magistrates and elders of the churches) was ordered to "come to the publike assemblies with their muskets, or other peeces fit for servise, furnished with match, powder, & bullets, upon paine of 12*d.* for every default…."[51]

The requirement to bring guns to church was repealed November 20, 1637[52] (perhaps because of the Antinomian crisis to be discussed below). A May 10, 1643 order that directed the military officer in each town to "appoint what armes to bee brought to the meeting houses on the Lords dayes, & other times of meeting" suggests that this requirement was again back in force. The motivation for the 1643 law appears to have been preventing theft of arms while the inhabitants were attending church.[53]

Rhode Island's 1639 law ordered that, "none shall come to any public Meeting without his weapon." There was a fine of five shillings for failing to be armed at public meetings.[54] Maryland did likewise in 1642: "Noe man able to bear arms to goe to church or Chappell… without fixed gunn and 1 Charge at least of powder and Shott."[55] The Rhode Island town of Portsmouth passed a similar requirement in 1643,[56] as did New Haven Colony in 1644.[57]

Plymouth's 1641 law is oddly worded, and might at first be

read as referring to a communal obligation of the township: "It is enacted That every Towneship within this Government do carry a competent number of pieeces fixd and compleate with powder shott and swords every Lord's day to the meetings…." The rest of the sentence clarifies that at least one member of each household was obligated to bring weapons to church during that part of the year when Indian attack was most feared: "one of a house from the first of September to the middle of November, except their be some just & lawfull impedyment."[58] By 1658, Plymouth had reduced the requirement so that only one fourth of the militia was obligated to come to church armed on any particular Sunday.[59] In 1675, apparently in response to a current military crisis, all were again required to come to church armed "with att least six charges of powder and shott" during "the time of publicke danger…."[60]

The earliest mandatory gun carrying law is a 1619 Virginia statute that required everyone to attend church on the Sabbath, "and all suche as beare armes shall bring their pieces, swords, pouder and shotte." Those failing to bring their guns were subject to a three shilling fine.[61] This law was restated in 1632 as: "All men that are fittinge to beare arms, shall bring their pieces to the church…."[62]

While the original motivation in colonies both North and South for bringing guns to church was fear of Indian attack, by the eighteenth century, the Southern colonies' concerns appear to have shifted to fear of slave rebellion. Virginia's 1619 and 1632 statutes were somewhat vague as whether all white men were required to come armed to church or not, because of the qualification "fittinge to beare arms." The requirement was more clearly restated in a November 1738 statute that required all militiamen to come to church armed, if requested by the county's militia commander. Other language in the statute suggests that protection of the white inhabitants from possible slave uprising was now the principal concern.[63]

South Carolina's 1743 confusingly worded statute required "every white male inhabitant of this Province, (except travelers and such persons as shall be above sixty years of age,) who [are] liable to bear arms in the militia of this Province… shall, on any Sunday or Christmas day in the year, go and resort to any church or any other public place of divine worship within this Province,

and shall not carry with him a gun or a pair of horse-pistols… with at least six charges of gun-powder and ball, and shall not carry the same into the church or other place of divine worship as aforesaid" would be fined twenty shillings. Other provisions required church-wardens, deacons, or elders to check each man coming in, to make sure that he was armed. The purpose was "for the better security of this Province against the insurrections and other wicked attempts of Negroes and other Slaves…."[64] A very similar statute appears in Georgia in 1770.[65]

B. Guns for Travelers

Along with the duty to be armed at church, several colonies required travelers to be armed. A 1623 Virginia law (reissued in similar form in 1632) required, "That no man go or send abroad without a sufficient parte will armed…. That go not to worke in the ground without their arms (and a centinell upon them.)… That the commander of every plantation take care that there be sufficient of powder and am[m]unition within the plantation under his command and their pieces fixt and their arms compleate…."[66]

Massachusetts imposed a similar requirement in 1631, ordering that no person was to travel singly between Massachusetts Bay and Plymouth, "nor without some armes, though 2 or 3 togeathr." While the law does not specify that "armes" meant firearms, it would seem likely, considering Massachusetts's other laws requiring all militiamen to own a gun.[67] The measure was strengthened in 1636: "And no person shall travel above one mile from his dwelling house, except in places wheare other houses are neare together, without some armes, upon paine of 12*d.* for every default…."[68]

Rhode Island imposed a similar requirement in 1639: "It is ordered, that noe man shall go two miles from the Towne unarmed, eyther with Gunn or Sword…." There was a fine of five shillings for failing to be armed.[69] Maryland's 1642 law requiring everyone to come to church armed also dictated, "Noe man able to bear arms to goe… any considerable distance from home without fixed gunn and 1 Charge at least of powder and Shott."[70]

While the requirements varied from colony to colony, and the motivations changed in the South from fear of Indians to fear of slaves, common to many of the colonies was the duty to

come to church armed. Somewhat less commonly there was an obligation to be armed (sometimes explicitly with a gun) while traveling away from settled areas.

IV. RACE, SLAVERY, & REGULATION

Colonial governments imposed a duty to own guns, but otherwise seem to have imposed few restrictions on gun possession—for whites. For Indians and blacks (either free or slave), colonial laws were much more restrictive.

A. Indians

Colonial concern about Indians acquiring guns is not surprising. Firearms provided a significant advantage to whites because of the novelty of the weapon, because gunfire created fear and confusion, and because a gun could do damage under circumstances where an arrow could not.

William Bradford's account of the Pilgrims' first battle with Indians shows the advantage that guns provided the Europeans. A band of Pilgrims who were exploring the new land in December of 1620 found themselves under attack by Indians armed with bow and arrow. When the Pilgrims began firing muskets, most of the attacking Indians retreated. One brave member of the band, perhaps their leader, stood behind a tree, "within half a musket shot of us," and fired arrows repeatedly at the Pilgrims. He was far enough way, and making sufficiently good use of cover, that Myles Standish, the only professional soldier among the Pilgrim settlers, had little opportunity of hitting him. Finally, Standish, after taking "full aim at him… made the bark or splinters of the tree fly about his ears, after which he gave an extraordinary shriek, and away they went, all of them."[71]

When the Pilgrims arrived in 1620, the Indians of Massachusetts had no guns. Only three years later, John Pory's account reported that those Indians unfriendly to the Pilgrims had been "furnished (in exchange of skins) by some unworthy people of our nation with pieces, shot, [and] powder…."[72] By 1627, the Indians of Massachusetts Bay were believed to have at least sixty guns, largely supplied by Thomas Morton, an Englishman whose trading post, Merrymount, was filled with the

sort of hedonists whom the Pilgrims had hoped to leave behind in England. Morton bartered guns for furs with the Indians, violating a royal proclamation against supplying firearms, powder, or shot to the Indians.[73]

Even after Morton's banishment to England, there were problems with other Europeans selling guns to the Indians. Governor Bradford's history of Plymouth details the arrest of an Englishman named Ashley for illegal sales in 1631, and complained about French traders selling guns and ammunition to the Indians.[74]

Attempts to regulate gun sales to the Indians appear in many colonies, and the severity of the punishments suggests that not all colonists shared their government's concerns. Much like the modern effort to disarm people who are not trusted, the colonial gun control efforts were a series of very strict bans that could not be enforced, and were sometimes replaced with more realistic laws that sought to control rather than prohibit sales.

The prohibitions vary in the severity of punishments and vigorous of enforcement. In 1640, Springfield, Massachusetts tried a woman accused of selling her late husband's gun to an Indian. Her defense was that she did not sell it, but lent it to the Indian, "for it lay [spoiling] in her [cellar]," and she expected to reclaim it shortly. The judge warned her that she should get it home again speedily, "for no commonwealth would allow of such a misdemeanor."[75] At the other extreme, a 1642 Maryland law prohibited providing gunpowder or shot to the Indians, and made execution one of the possible punishments.[76]

Massachusetts Bay Colony, to supplement the royal proclamation against providing guns or ammunition to the Indians, passed its own ordinance on May 17, 1637 prohibiting sale of guns, gunpowder, shot, lead, or shot molds to the Indians, or repair of their guns.[77] In 1642, Massachusetts Bay complained that "some of the English in the eastern parts" who were under no government at all, were supplying gunpowder and ammunition to the Indians. Unsurprisingly, Massachusetts Bay passed laws punishing those sales.[78]

Other evidence of a mistrust based on race can be seen in a pair of orders concerning militia duty. The first, on May 27, 1652, required all "Scotsmen, Negers, & Indians inhabiting with or servants to the English" between 16 and 60 to train with the militia.[79] In May, 1656, perhaps after the military crisis of the

moment had passed, "no Negroes or Indians… shalbe armed or permitted to trayne…."[80]

Connecticut struggled with unlawful sales of guns to Indians. The very first entry in *Public Records of the Colony of Connecticut* concerns a 1636 complaint that "Henry Stiles or some of the ser[vants] had traded a piece with the Indians for corn."[81] In 1640, Connecticut ordered George Abbott to pay a £5 fine for "selling a pistol & powder to the Indians…."[82] A few years later, Robert Slye, George Hubberd, John West, and Peter Blatchford were each fined £10 for "exchanging a gun with an Indian…."[83]

Connecticut found enforcement of its gun control law prohibiting sales to the Indians[84] frustrated by other colonies. Because merchants in the Dutch and French colonies were selling guns to the Indians, Connecticut next prohibited sale of guns outside the colony. Finally, Connecticut prohibited foreigners from doing business with Indians in Connecticut; the ban was retaliation for continued sales of guns to the Indians by Dutch and French traders elsewhere.[85] Connecticut also repeatedly fined colonists for selling ammunition to the Indians.[86]

By the middle of the seventeenth century, either the original fear of the Indians having guns was receding throughout the New England colonies, or the futility of trying to keep them disarmed was becoming apparent. The laws appear to have changed by the 1660s to less restrictive forms. In 1662, a Springfield, Massachusetts court fined two Indians for drunkenness. Not having the money for the fine, one of them, "Left a gun with the County Treasurer till they make payment."[87] On April 29, 1668, the Massachusetts General Court decided to license the sale of "powder, shot, lead, guns, i.e., hand guns [small arms]" to Indians "not in hostility with us or any of the English in New England…."[88] In 1668-69, an Indian sued Francis West in Plymouth for the theft of a hog and a gun. The court ordered West to pay for the stolen hog and return the gun to the Indian.[89]

A similar progression is visible in Connecticut in this same period. In 1660, Connecticut ordered that "if any Indians shall bring in guns into any of the towns" that the colonists were to seize them. The Indians could redeem their seized guns for 10*s.*

each, with half paid to the Treasury, and the other half paid to the Englishman who seized the gun. Because the Indians could redeem their guns, it seems that the objection was not to the Indians having guns, but bringing them to town.

By the following year, this ban on Indians bringing guns to town was repealed for the Tunxis Indians that lived nearby, who "have free liberty to carry their guns, through the English towns, provided they are not above 10 men in company."[90] The Tunxis Indians were apparently trusted enough to come to town (in small numbers) armed.

Virginia provides perhaps the best example of the shifting views of the colonists about the effectiveness of such laws. A March 1658 Virginia statute provided that "what person or persons so ever shall barter or sell with any Indian or Indians for piece, powder or shot, and being lawfully convicted, shall forfeit his whole estate…." Any Virginian who found an Indian with gun, powder, or shot, was legally entitled to confiscate it.[91]

By the following year, "it is manifest that the neighboring plantations both of English and [foreigners] do plentifully furnish the Indians with guns, powder & shot, and do thereby draw from us the trade of beaver to our great loss and their profit, and besides the Indians being furnished with as much of both guns and ammunition as they are able to purchase, *It is enacted,* That every man may freely trade for guns, powder and shot: It derogating nothing from our safety and adding much to our advantage…."[92] [emphasis in original]

In October 1665, Virginia again prohibited the sale of guns and ammunition to the Indians. The statute admitted that New Amsterdam's sales of guns to the Indians had made the March 1658 law unenforceable. The seizure of New Amsterdam by the Duke of York in 1664 had changed the situation. "[T]hose envious neighbors are now by his majesty's justice and providence removed from us," the ban was again in force.[93]

The ban on gun sales was not obeyed, however. In March 1676, as tensions between whites and Indians escalated into Bacon's Rebellion, Virginia enacted a new statute, complaining "the traders with Indians by their [avarice] have so armed the Indians with powder, shot and guns, that they have been thereby emboldened…." The new statute made it a capital offense to sell guns or ammunition to the Indians, and also declared that any colonist found "within any Indian town or three miles without

the English plantations" with more than one gun and "ten charges of powder and shot for his necessary use" would be considered guilty of selling to the Indians, and punished accordingly.[94]

In times of tension, of course, colonies might again pass restrictions on sale of guns or ammunition to Indians, but Maryland seems to have followed the model of Virginia—severe restrictions followed by more realistic regulations. A 1638/9 Maryland law made it a felony "to sell give or deliver to any Indian or to any other declared or professed enemie of the Province any gunne pistol powder or shott without the knowledge or lycence of the Leiutenant Generall…."[95] A 1649 statute provided that "noe Inhabitant of this Province shall deliver any Gunne or Gunnes or Ammunicon or other kind of martiall Armes, to any Indian borne of Indian Parentage…."[96] A 1763 Maryland law prohibited "any Person or Persons within this Province to Sell or give to any Indian Woman or Child any Gun Powder Shot or lead Whatsoever[,] nor to any Indian Man within this Province more than the Quantitys of one Pound of Gun Powder and six Pounds of Shot or lead at any one Time[,] and not those or lesser Quantitys of Powder or Lead oftener than once in Six Months…."[97]

B. Blacks

Laws disarming blacks were more common in the southern colonies. A 1680 Virginia statute prohibited "any negroe or other slave to carry or arme himselfe with any club, staffe, gunn, sword or any other weapon of defence or offence…"[98]

By May, 1723, however, there seem to have been enough free blacks and Indians in the militia that the law was changed, "That every free negro, mulatto, or indian, being a house-keeper, or listed in the militia, may be permitted to keep one gun, powder, and shot…." Those blacks and Indians who were "not house-keepers, nor listed in the militia" were required to dispose of their weapons by the end of October, 1723. Blacks and Indians living on frontier plantations were required to obtain a license "to keep and use guns, powder, and shot…."[99] Even the small number of blacks and Indians who were members of the militia were apparently no longer trusted with guns in public by 1738. They were still required to muster, but "shall appear

without arms…."[100]

Other southern colonies showed similar mistrust of blacks with guns. A Maryland statute passed in or before 1715 directed, "That no Negro or other slave, within this Province, shall be permitted to carry any Gun or any other offensive Weapon, from off their Master's Land, without Licence from their said Master...."[101] While less clear, Delaware's 1742 militia statute prohibited all indentured servants and slaves from bearing arms, or mustering in any company of the militia. It is unclear from the statute if this ban applied to free blacks as well.[102]

A Georgia statute of 1768 "for the Establishing and Regulating Patrols" prohibited slaves possessing or carrying "Fire Arms or any Offensive Weapon whatsoever, unless such Slave shall have a Ticket or License in Writing from his Master Mistress or Overseer to Hunt and Kill Game Cattle or Mischievous Birds or Birds of Prey…." Other provisions allowed a slave to possess a gun while in the company of a white person 16 years or older, or while actually protecting crops from birds. Under no conditions was a slave allowed to carry "any Gun Cutlass Pistol or other Offensive Weapon" from Saturday sunset until sunrise Monday morning. The "Patrols" alluded to in the law's title were for the purpose of "Searching and examining any Negroe house for Offensive Weapons Fire Arms and Ammunition."[103]

Unlike the white population, blacks and Indians were not generally trusted with guns, and the laws reflected this. While individual whites might be disarmed as punishment for a crime or suspected disloyalty (as will be discussed next), gun ownership was generally unrestricted, except for blacks or Indians.

V. DISARMING THE DISLOYAL

Individual whites were sometimes disarmed if they were perceived as disloyal to the polity.

A. Antinomians

In 1637 Massachusetts, Anne Hutchinson's Antinomian heresy threatened the social order. Hutchinson's beliefs had spread rapidly through Puritan society, and "some persons being

so hot headed for maintaining of these sinfull opinions, that they feared breach of peace, even among the Members of the superiour Court… those in place of government caused certain persons to be disarmed in the severall Townes, as in the Towne of Boston, to the number of 58, in the Towne of Salem 6, in the Towne of Newbery 3, in the Towne of Roxbury 5, in the Towne of Ipswitch 2, and Charles Towne 2."[104]

Today we can look with disfavor on this disarming order for a variety of violations of the Constitution: as a bill of attainder; as a violation of due process; for granting favor to one religious point of view. These concerns, of course, are ahistorical. What the disarming order tells us about Colonial Massachusetts strongly indicates that gun regulation was generally *not* restrictive.

While consistent with the claim that Colonial governments disarmed persons who were not trusted, that there was a need to cause "certain persons to be disarmed" suggests that firearms were *not* stored in central storehouses and were not usually under governmental control. Most freemen were armed, as the laws of all the colonies except Pennsylvania required. Only as punishment for a specific crime—heresy—did Massachusetts disarm Hutchinson's partisans. The number disarmed—77 out of a population then in the thousands—is far less than the percentage legally disarmed in America today.

Virginia's statutes provide a positive variant of this notion. A 1676/7 statute directed, "It is ordered that all persons have hereby liberty to sell armes and ammunition to any of his majesties loyall subjects inhabiting this colony…."[105] Any loyal subject of the crown was permitted to purchase and own guns.

B. Catholics

Maryland provides a somewhat different example. Catholics were exempted from militia duty because, like Hutchinson's Antinomians, and blacks almost everywhere in the colonies, they were not completely trusted. In light of the role that Catholics played in the recurring attempts to restore the Stuarts to the throne of England, the distrust is unsurprising.

In exchange for exemption from militia duty, Catholics were doubly taxed on their lands.[106] As part of the same statute, members of the militia were required to swear an oath of

allegiance to King George II. Catholics who refused the oath—thus refusing their legal obligation as British subjects to defend the realm—were not allowed to possess arms or ammunition.[107]

The law of Britain concerning Catholics and arms after the accession of William I to the throne is at first glance quite confusing. A 1689 law prohibited Catholics from possessing "any arms, Weapons, Gunpowder, or Ammunition (other than such necessary Weapons as shall be allowed to him by Order of the Justices of the Peace, at their general Quarter sessions, for the Defence of his House or Person)."[108] The law both prohibited Catholics from possessing arms, and yet allowed them, under some restrictions, to have at least defensive arms. Joyce Malcolm argues that, "This exception is especially significant, as it demonstrates that even when there were fears of religious war, Catholic Englishmen were permitted the means to defend themselves and their households; they were merely forbidden to stockpile arms."[109]

At least in times of crisis, the English law would appear to have been the justification for disarming Catholics both in Britain and America. In Britain, for example, the death of the queen in 1714 caused orders that, "The Lords Leiutents of the severall Countrys were directed to draw out the Militia to take from Papists & other suspected Persons their Arms & Horses & to be watchfull of the Publick Tranquillity."[110]

Yet there seem to be relatively few incidents that appear in the *Archives of Maryland* that actually involve taking away arms from Catholics, and even these bear careful scrutiny. In 1744, "No Roman Catholick be for the future enrolled or mustered among the Militia of the said County and that if any of the *Publick Arms* be in the Possession of any Roman Catholick, the Colonel of the said County is hereby desired to oblige the Person in whose Custody such Arms are, to deliver the same to him." [emphasis added][111] The law apparently did not order confiscation of privately owned arms owned by Catholics.

By contrast, in 1756, "all Arms Gunpowder and Ammunition of what kind soever any Papist or reputed Papist within this Province hath or shall have in his House or Houses" were ordered seized.[112] That the order was adopted when it was, however, suggests that while the 1689 law *allowed* complete prohibition of Catholic gun ownership at the discretion of the government, in Maryland they were not *usually* prohibited from

possession.

Catholics settled mainly in Maryland. In other colonies, there is no evidence that Catholics in general were disarmed.

Georgia provides an example of selective Catholic disarmament. At the start of the French & Indian War, British forces demanded that the French population of Nova Scotia swear an oath of allegiance to the crown. Persons who refused were forcibly removed to other British colonies. Some of these Acadians (the ancestors of the Cajuns) were bound as indentured servants in Georgia. A 1756 law prohibited indentured Acadians "to have or use any fire Arms or other Offensive Weapons otherwise than in his Masters Plantation or immediately under his Inspection…."[113] There seems to be no general prohibition on Catholic ownership of firearms in Georgia; the Acadians were disarmed because they had refused to be loyal subjects of the British government, and the suspicion of disloyalty followed them to Georgia.

VI. PRIVATE VS. GOVERNMENT OWNERSHIP

Regarding Bellesiles's claim that guns "were to remain the property of the government,"[114] the evidence suggests quite the opposite.

A. Guns for the Poor

On any number of occasions, the Colonial governments supplied guns to subjects too poor to purchase them. The laws usually specified that the recipient was to pay for the gun.

For example, a March 22, 1630/1 Massachusetts statute required the entire adult male population to be armed. Every person, including servants, was to own "good & sufficient armes" of a type "allowable by the captain or other officers, those that want & are of abilitie to buy them themselves, others that are unable to have them provided by the town…." Those who were armed by the town under the March 22 statute were to reimburse the town "when they shalbe able."[115] On March 6, 1632/3, the law was amended to require that any single person who had not provided himself with acceptable arms would be compelled to work for a master. The work earned him the cost of the arms provided to him by the government.[116]

Connecticut's Code of 1650 provided that a person who were required to arm themselves, or arm a dependent, but "cannot purchase them by such means as he hath, hee shall bring to the clark so much corne or other merchantable goods" as was necessary to pay for them. The value of the arms was to be appraised by the clerk "and two others of the company, (whereof one to bee chosen by the party, and the other by the clarke,) as shall be judged of a greater value by a fifth parte, then such armes or ammunition is of.…"

Thus, the man who would not purchase a gun and ammunition would have one provided by the government, but at a price as much as twenty percent above the market price. The high price created an incentive to purchase a gun privately.

Another part of the law provided for hiring out any unarmed single men to earn the price of a gun and ammunition.[117] Very similar laws appeared in New York[118] and New Hampshire.[119]

A 1673 Virginia law, while less explicit about the process for determining the value of the arms, directed militia officers to purchase guns on the public account for distribution to those who could not afford them, "for them to dispose of the same as there shalbe occasion; and that those to whome distribution shalbe made doe pay for the same at a reasonable rate…."[120] The law does not directly disprove that guns were "to remain the property of the government." It does, however, seem a bit strange for the government to provide guns to individual militiamen, and then require them to pay for those guns, if the guns were to remain governmental property.

B. Public Arms

Not every Virginia militiaman apparently succeeded in arming himself; a 1748 statute provided "it may be necessary in time of danger, to arm part of the militia, not otherwise sufficiently provided, out of his majesty's magazine and other stores within this colony…." Contrary to the claim that all guns were considered the property of the government, the same statute criminalized embezzlement of "arms or ammunition" that were issued to those who were too poor to arm themselves, and thus drew a distinction between public arms issued from "his majesty's magazine" and other, presumably privately owned firearms.[121]

Similarly, a Maryland statute of 1733 passed "to prevent the Embezzlement of the Public Arms" directed "That all the Public Arms shall be Marked with such Marks… to denote such Arms to belong to the Public; after which Marks so made, no Person or Persons whatsoever, shall presume to Sell or Purchase such Arms so Marked…."[122] If all guns automatically belonged to the government, it seems a bit odd that there was a need to mark them as "Public Arms."

In 1756, Maryland's militia officers were ordered to make a diligent search for arms and ammunition, demanding that everyone show what guns they had. The reason would appear to be, "Whereas on many Occasions Arms Ammunition and military Accoutrements of different Kinds have been delivered out of the public Magazines of this Province and are now dispersed among the Inhabitants and have been Sold or Sent from one to another and it is represented that the Locks have been taken of from many of the Said Arms and put to private Use…."[123] If all guns were "automatically government property," the careful search for publicly owned arms, distinguishing them from private property, would make no sense.

Massachusetts at one point directed that, "The surveyar genrall of the armes of the country shall have power to sell any of the country armes for an equall price, either in corne or other country pay, & to p[ro]vide armes againe therew[i]th so soone as may bee, so hee sell them not out of this jurisdiction."[124] Publicly owned arms were to be sold (not issued or loaned), as long as they were sold in Massachusetts.

A 1765 Virginia statute is also strong evidence that guns were not regarded as automatically government property. It provided for militia commanders in "each of the counties from which the militia has been sent into service in the pay of this colony shall, within the space of three months after the passing this act, sell, for the best price that be had for the same, all arms, ammunition, provisions, and necessaries purchased at the publick expense in the said counties…."[125] Surplus government guns were clearly sold, not loaned out to militiamen.

C. Private Arms

Other evidence establishes that Colonial governments at least sometimes recognized that guns could be private property,

and were *not* regarded as automatically the property of the government. Connecticut's records provide such evidence. In 1639, after the Pequot War, "a musket with 2 letters I W" was found, "conceaved to be Jno. Woods who was killed att the Rivers mouth. It was ordered for the present [that] the musket should be delivered to Jno. Woods friends until other appeare."[126] If the Connecticut government regarded a dead man's musket as "government property," it is odd that they delivered it to his friends.

We also have examples of colonists fined for selling guns to the Indians—and with no suggestion that these were publicly owned arms. A 1636 complaint in the Connecticut records shows that "Henry Stiles or some of the ser[vants] had traded a peece with the Indians for Corne."[127] In 1640, George Abbott is ordered to pay a £5 fine for "selling a pystoll & powder to the Indeans…."[128] Fines are also repeatedly assessed for selling guns to the Indians, with no hint or suggestion that these were government property.[129]

Were guns privately owned or government property? We have evidence such as a Connecticut lawsuit in 1639 by a "Jno. Moody contra Blachford, for a fowling peece he bought and should have payd for it 40*s*."[130] In 1640, also in Connecticut, a William Hill was fined £4 "for buying a stolen peece of Mr. Plums man."[131] There is nothing in the reports of these cases that suggests that these guns were considered government property.

Similarly, in New Haven Colony, a civil suit of 1645 concerns a gun purchased by Stephen Medcalfe from a Francis Linley. The gun was defective, and when it exploded, Medcalfe lost an eye. There is nothing in the description of the suit that suggests that the gun was "property of the government" and no surprise that one person sold a gun to another.[132]

Bellesiles claims that "the government reserved to itself the right to impress arms on any occasion, either as a defensive measure against possible insurrection or for use by the state. No gun ever belonged unqualifiedly to an individual."[133]

Yet there are a number of examples that directly contradict this claim. An October 13, 1675 statute of Massachusetts Bay provided for assessments on persons exempt from militia training of "so many fire armes, muskets, or carbines, with a proportionable stocke of [powder] & am[m]unition, as the said

committees respectively shall appoint…." It appears that this was an assessment in kind, not of money. Another part of the statute specified "all such persons as shall be assessed, and shall accordingly provide three fire armes, shall be freed from being sent abroad to the warrs, except in extreame & utmost necessity."[134]

Thus, the government believed that there were enough people who owned at least three guns that the government was prepared to exempt them from the onerous duty to fight overseas if they offered those guns to the government. As much as the government needed the guns, it did not believe that it had the authority to confiscate them. Instead, it needed to make a deal with the owners. Apparently the government did not believe that all guns were its property.

More evidence that militiamen possessed their *own* arms, and that the arms were not always issued from government magazines for militia service, is Massachusetts Governor William Shirley's 1755 order to the militia to appear for service. "To such of them as shall be provided with sufficient Arms at their first Muster, they shall be allowed a *Dollar* over and above their Wages, and full Recompence for such of their Arms as shall be inevitably lost or spoiled."[135]

Clearly, Governor Shirley believed that there were some members of the militia who, contrary to law, did not have firearms appropriate to military service. Just as clearly, Governor Shirley believed that some members would show up appropriately armed, and he was prepared to pay them extra to do so. Most importantly from the standpoint of private vs. public ownership, "full Recompence" shows that militiamen would be compensated for the loss of their privately owned guns; the guns were not "property of the government."

Maryland's Governor Sharpe similarly directed calling up of the militia, offering to provide government arms in 1759, but also "That for Every One of such Arms as any of Your men shall bring with them, and that may be Spoiled or Lost in actual Service, I will pay at the rate of Twenty five Shillings a Firelock."[136]

At the start of the Revolution, a number of colonies made arrangements for additional pay for those soldiers who showed up with their own guns. Connecticut, for example, provided

"that each inlisted inhabitant that shall provide arms for himself, well fixed with a good bayonet and cartouch box, shall be paid a premium of ten shillings…."[137] Later measures also suggest that militia men showing up with their own guns, and being paid extra, were the rule, not the exception.[138] Like Governor Shirley's "full Recompense," the Connecticut laws provided for compensation for those whose guns were lost in the war. While Connecticut impressed guns from the population for militiamen who did not have their own, the owners were to be paid four shillings for the use of impressed guns, and "the just value of the such gun" if lost.[139]

At the start of the Revolution, the Provincial Congress of Massachusetts purchased firearms from private parties,[140] and requested private citizens to sell their guns to the government: "[I]t is strongly recommended to such inhabitants…, that they supply the colony with same."[141] A request of June 15, 1775 for individuals to sell their arms is also phrased in terms that seem quite voluntary. "*Resolved*, that any person or persons, who may have such to sell, shall receive so much for them, as the selectmen of the town or district in which or they may dwell, shall appraise such arms at…."[142]

Other colonies also purchased guns from private parties—a strange behavior if guns remained "the property of the government." [143] Similarly, in November of 1775, with the war well under way, the Pennsylvania government issued a very odd statement, if guns were automatically "property of the government":

> The Committee of Safety are of opinion, that it is not improper for Mr. James Innes to purchase any second hand Arms which he may find in the hands of Individuals of this Province, and therefore have no objection to his buying them; But as they have employed, and are endeavouring to employ, all the Artificers that can be procured in making new arms for the public, they apprehend any application by Mr. Innes to such Artificers, will be attended with bad consequences to the general Cause by enhancing the Price of arms….[144]

At the start of the Revolution, the Maryland government confiscated guns from Tories and others suspected of disloyalty

to the Patriot cause. Yet even then, the owners received compensation for the value of their guns.[145] Even disloyalty was not just cause for confiscation without compensation.

Another piece of evidence that guns were not "property of the government" is a 1776 order of the Continental Congress:

> Whereas in the execution of the resolve of Congress of the 14th of March, respecting the disarming disaffected persons, many fire arms may be taken, which may not be fit for use to arm any of the troops mentioned therein: Therefore, Resolved, That all the fire arms so taken, being appraised according to said resolve, none of them shall be paid for, but those that are fit for the use of such troops, or that may conveniently be so made, and *the remainder shall be safely kept by the said assemblies, conventions, councils or committees of safety, for the owners, to be delivered to them when the Congress shall direct.*[146] [emphasis added]

The owners were to be paid for guns taken for military use. Government ownership of guns was not assumed. Quite the opposite, private ownership was assumed and respected, even for Tories.

In the days after Lexington and Concord, General Gage was understandably nervous about being attacked from the rear by armed rebels. General Gage consequently ordered the people of Boston to turn in their arms. Many Bostonians were also deeply interested in leaving town, both because of the increasing poverty caused by the Boston Port Act of 1774, and the likelihood that the revolutionary army would attack Boston.

As an incentive, General Gage offered passes to leave Boston to all who turned in their weapons. No weapons or ammunition were allowed to leave Boston. The arms were to be "marked with the names of the respective owners…that the arms aforesaid, at a suitable time, would be returned to the owners." The marking of the arms demonstrates that at least of some these were personally owned, not public arms. On April 27th, "the people delivered to the selectman 1778 fire-arms, 634 pistols, 973 bayonets, and 38 blunderbusses…."[147]

VII. RESTRICTIONS ON PRIVATE USE

There are restrictions on the use of firearms in the Colonial law, and most of these are unsurprising. They are safety and hunting regulations of the same general form, though less restrictive, than current laws.

A. Restrictions on Discharge

The need for such laws strongly suggests that the claim that guns were kept centrally stored is incorrect. A March 1655/6 Virginia statute, for example, prohibited shooting "any guns at drinkeing (marriages and funerals onely excepted)" because gunshots were the common alarm of Indian attack, "of which no certainty can be had in respect of the frequent shooting of gunns in drinking…."[148] Similarly, a 1642 Maryland statute also ordered that, "No man to discharge 3 guns within the space of ¼ hour… except to give or answer alarm."[149]

There are some regulations that appear to have been temporary measures designed to deal with a particular crisis, and we may only speculate as to the motivations. An example is a 1675 Plymouth statute that prohibited shooting except at an Indian or a wolf. Since this measure immediately followed one requiring everyone to come to church armed "during the time of publicke danger,"[150] it seems likely that the law was an attempt to prevent unnecessary alarm, for the same reasons as the Virginia and Maryland laws.

Shooting was apparently a common enough pastime in 1638 Massachusetts that when an Emanuell Downing had "brought over, at his great charges, all things fitting for takeing wild foule by way of [decoy]," the General Court felt it necessary to order "that it shall not bee lawfull for any person to shoote in any gun within halfe a mile of the pond where such [decoy] shalbee placed…."[151] The need for such a law suggests that guns were not kept locked in a central storehouse.

The laws were passed not only for the economic benefit of the community as a whole, but also because negligent misuse of firearms was not unknown. An incident from a history of Plymouth Colony described how:

> On 1 July 1684 Robert Trayes of Scituate, described as a 'negro,' was indicted for firing a gun at the door of Richard Standlake, thereby wounding and shattering the leg of Daniel Standlake, which occasioned his death. The jury found the death of Daniel Standlake by 'misadventure,' and the defendant, now called 'negro, John Trayes,' was cleared with admonition and fine of £5.[152]

A statute adopted at the Massachusetts 1713-14 legislative session complained, "Whereas by the indiscreet firing of guns laden with shot and ball within the town and harbour of Boston, the lives and limbs of many persons have been lost, and others have been in great danger, as well as other damage has been sustained…" the legislature prohibited firing of any "gun or pistol" in Boston ("the islands thereto belonging excepted").[153]

Perhaps for a similar reason—or just to allow the inhabitants to get some sleep—in 1759, Georgia made it unlawful to fire "any great gun or [small] arm in the town or harbour of Savannah after Sun Set without leave or permission from the Governor…."[154]

B. Restrictions on Hunting

Hunting with firearms was also sufficiently common for Colonial governments to adopt restrictions. A 1632 Virginia statute licensed hunting wild pigs, but "any man be permitted to kill deare or other wild beasts or fowle in the common woods, forests, or rivers…. That thereby the inhabitants may be trained in the use of theire armes, the Indians kept from our plantations, and the wolves and other vermine destroyed."[155] A March 1661/2 statute prohibited "hunting and shooting of diverse men" on land without the owner's permission "whereby many injuryes doe dayly happen to the owners of the said land…." The statute also provided that it was lawful to pursue game shot elsewhere onto private land without permission.[156] A 1699 statute, "prohibiting the unseasonable killing of Deer," complained about how the deer population "is very much destroyed and diminished" by killing "Does bigg with young…."[157]

Laws regulating hunting appear in at least two colonies by

mid-eighteenth century, and the language in both statutes suggests that hunting was common. A 1722 New Jersey "Act to prevent the Killing of Deer out of Season" prohibited deer hunting from January through June. That same law included a provision prohibiting "Persons carrying of Guns, and presuming to Hunt on other Peoples Land" explaining that it was required because "divers Abuses have been committed, and great Damages and Inconveniencies arisen…." The same act prohibited a slave from hunting or carrying a gun without permission of his master.[158]

A 1738 North Carolina "Act, to Prevent killing Deer, at Unseasonable Times" made it unlawful "to kill or destroy any Deer… by Gun, or other Ways and Means whatsoever" from February 15 to July 15."[159]

Virginia temporarily banned deer hunting in 1772, complaining that "many idle people making a practice, in severe frozen weather, and deep snows, to destroy deer, in great numbers, with dogs, so that the whole breed is likely to be destroyed, in the inhabited parts of the colony…." The government's concern was that, "numbers of disorderly persons… almost destroyed the breed, by which the inhabitants will… be deprived of that wholesome and agreeable food…." Therefore, deer hunting was completely prohibited until August 1, 1776.[160] It is not made explicit that the hunting was with guns, however.

Maryland had a few hunting restrictions as well. A 1648 law complained that because licenses previously issued for "killing of Wild Hoggs [e]mploying Indians to kill deere with Gunnes" both to residents and non-residents of Maryland "hath occasioned some inconvenience & hath given great offence to divers of the Inhabitants of this Province," all existing licenses were repealed. Unfortunately, the statute failed to explain in what manner this hunting had inconvenienced or offended the "Inhabitants."[161]

Two years later, another law prohibited foreigners "either English or Indian" from hunting "in any part of this Province or kill any Venison or other Game" without a license from the governor,[162] again with no explanation of the problem this law was intended to solve.

A 1654 Maryland law sought to prohibit shooting on Sundays: "Noe work shall be done on the Sabboth day but that which is of Necessity and Charity to be done no Inordinate

Recreations as fowling, fishing, hunting or other, no shooting of Gunns be used on that day Except in Case of Necessity[.]" Following immediately upon prohibitions on drunkenness, swearing and gossiping, the statute seems intended to improve morals of the population, and was not specifically directed at guns.[163] In 1678, the law was expanded to prohibit a larger list of amusements, and still prohibited fishing and hunting.[164]

C. Restrictions on Fire-hunting

One particularly destructive practice of Colonial America was "fire-hunting," well described by a 1760 account explaining why white pines in New York, New England, and New Jersey were protected for the use of the Royal Navy:

> This restriction is absolutely necessary, whether considered as securing a provision for the navy, or as a check upon that very destructive practice, taken from the Indians, of fire-hunting. It used to be the custom for large companies to go into the woods in the winter, and to set fire to the brush and underwood in a circle of several miles. This circle gradually contracting itself, the deer, and other wild animals inclosed, naturally retired from the flames, till at length they got herded together in a very small compass.
>
> Then, blinded and suffocated by the smoke, and scorched by the fire, which every moment came nearer to them, they forced their way, under the greatest trepidation and dismay, through the flames. As soon as they got into the open daylight again, they were shot by the hunters, who stood without and were in readiness to fire upon them.[165]

Fire-hunting was not confined to the Northeast colonies; there are a number of statutes of Colonial Virginia and Maryland that either directly prohibit fire-hunting with reference to guns,[166] or that license hunting on the frontier in an attempt to control fire-hunting.[167] Doubtless other restrictions on firearms use existed—but if so, those who argue that Colonial governments severely restricted firearms use have yet to produce

them.

CONCLUSION: COLONIAL FIREARMS REGULATIONS WERE NEITHER *LAISSEZ-FAIRE* NOR RESTRICTIVE

As should be clear from the preceding walk through these laws, the Colonial statutes were not *laissez-faire*; there were many obligations concerning the ownership and carrying of guns adopted for the public good. Neither were they restrictive, at least for whites (with the exception of Catholics in Maryland). There were, it is true, some severe restrictions on firearms ownership in Colonial America, but they applied only to people who were not trusted to be loyal members of the community, particularly Indians and blacks. For the vast majority of people, who were considered loyal members of the community, gun ownership was not only allowed, it was an obligation.

ENDNOTES

1. Michael A. Bellesiles, *Arming America: The Origins of a National Gun Culture* (New York: Alfred A. Knopf, 2000), 73. Similar text, with a subset of the same footnotes, appears at Michael Bellesiles, "Gun Laws in Early America: The Regulation of Firearms Ownership, 1607-1794," *Law & History Review*. 16:575 (1998).

Bellesiles also asserts government ownership of all guns at *Arming America*, pp. 79-80. Because individuals failed to take adequate care of guns in private hands, "The eventual solution to the lack of care devoted to firearms was to make all guns into the property of the state, subject to storage in central storehouses where they could be cleaned and repaired by paid government gunsmiths." Similarly, Bellesiles asserts that while "the colonies supported and subsidized the private ownership of firearms, the government reserved to itself the right to impress arms on any occasion, either as a defensive measure against possible insurrection or for use by the state. No gun ever belonged unqualifiedly to an individual."

2. *State v. Hirsch*, 177 Or. App. 441, 34 P.3d 1209 (Or. App. 2001).

3. Bellesiles, *Arming America,* 73.

4. *Code of 1650, Being a Compilation of the Earliest Laws and Orders of the General Court of Connecticut* (Hartford, Conn.: Silas Andrus, 1822), 72-73; J. Hammond Trumbull (vol. 1-3), Charles J. Hoadly (vol. 4-15), *The*

Public Records of the Colony of Connecticut, Prior to the Union with New Haven Colony (Hartford, Conn.: Brown & Parsons, 1850) (hereinafter *Public Records of Connecticut*), 1:542-543.

5. *Public Records of Connecticut*, 1:3-4, 15-16, 2:19-20, 217-18, 4:177, 8:379-80.

6. *Id.*, 2:217-18, 4:177, 8:379-80.

7. William Waller Hening, *The Statutes at Large; Being a Collection of all the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (New York: R. & W. & G. Bartow, 1823), 3:13.

8. *Id.*, 3:338.

9. *Id.*, 5:17, 21.

10. *Id.*, 6:116.

11. *Id.*, 6:118.

12. *Id.*, 6:537.

13. *The Colonial Laws of New York from the Year 1664 to the Revolution*… (Albany, New York: James B. Lyon, 1894), 1:49-50.

14. William Hand Browne, ed., *Archives of Maryland* (Baltimore: Maryland Historical Society, 1885) (hereinafter *Archives of Maryland*), 1:77.

15. *Id.*, 75:258.

16. *Id.*, 75:259.

17. *Id.*, 1:77.

18. *Id.*, 3:100-1.

19. *Id.*, 3:103.

20. *Id.*, 3:345.

21. *Id.*, 52:469.

22. *Id.*, 11:21. But see *id.,* 11:90 for a complaint that many had failed to conform to the law, though the complaint alleges that that the problem was "would not," not "could not."

23. Nathaniel B. Shurtleff, *Records of the Governor and Company of the Massachusetts Bay in New England* (Boston: William White, 1853), 1:84. In 1752, England switched from the Julian calendar (in which the new year begins on March 25, the date of the Annunciation) to the Gregorian calendar (in which the new year begins on January 1). For some older documents which were published between January 1 and March 25, historians supply both "years" of publication, under the old

calendar which was in effect at the time, and under the new calendar which we use today.

24. *Id.*, 2:134. This requirement is reiterated on November 11, 1647. *Id.*,2:222.

25. *Id.*, 3:84.

26. *Id.*, 2:99.

27. Charles J. Hoadly, ed., *Records Of The Colony And Plantation Of New Haven, From 1638 To 1649* (Hartford, Conn.: Case, Tiffany, 1857), 25-26, 96-97, 131, 202. Hoadly, 122-3, lists a number of men fined for failure to obey.

28. William Brigham, ed., *The Compact with the Charter and Laws of the Colony of New Plymouth*… (Boston: Dutton and Wentworth, 1836), 31, 44-45, 285-6.

29. *Acts and Laws, Passed by the General Court or Assembly of the Province of New-Hampshire in New-England*… (1716), 91-92, in Clifford K. Shipton, ed., *Early American Imprints, 1639-1800* (Worcester, Mass.: American Antiquarian Society, 1967), imprint 1985.

30. *The Laws and Acts of the General Assembly of Her Majesties Province of Nova Caesarea or New-Jersey* (W. Bradford, 1709), 12-13, in Clifford K. Shipton, ed., *Early American Imprints, 1639-1800* (Worcester, Mass.: American Antiquarian Society, 1967), imprint 1412.

31. *Laws of the Government of New-Castle, Kent and Sussex Upon Delaware* (Philadelphia: B. Franklin, 1741), 171-7. While the title page is clearly 1741, this must have been only for the first of annual series, since the law was passed in 1742. See also a 1740 statute, *Id.*, 151, imposing similar requirements on the town of Lewes, which was apparently considered especially exposed to naval attack.

32. John Russell Bartlett, ed., *Records of the Colony of Rhode Island and Providence Plantations, in New England* (Providence, R.I.: A. Crawford Greene and Brother, 1856), 1:94.

33. *Id.*, 1:79-80.

34. Alexander S. Salley, *Journal of the Grand Council of South Carolina* (Columbia, S.C.: Historical Commission of South Carolina, 1907), 1:10-11.

35. *Laws of North Carolina–1715*, ch. 25, in John D. Cushing, ed., *The Earliest Printed Laws of North Carolina, 1669-1751* (Wilmington, Del.: Michael Glazier, Inc., 1977), 2:29-31.

36. *A Collection of all the Public Acts of Assembly, of the Province of North-Carolina: Now in Force and Use...* (Newbern, N.C.: James Davis, 1751), 215-16.

37. John Hope Franklin, *The Free Negro in North Carolina, 1790-1860* (Chapel Hill, N.C.: University of North Carolina Press, 1995), 101-102.

38. Allen D. Candler, comp., *The Colonial Records of the State of Georgia* (Atlanta, Ga.: Chas. P. Byrd, 1911), 19(part 1):291. Nearly identical language appears in the 1755 militia statute. *Id.*, 18:7, 11-12.

39. *Id.*, 19(part 1):296.

40. *Id.*, 19(part 1):303. There are many pages of highly detailed fines and provisions to handle any imaginable contingency in this statute.

41. *Id.*, 19(part 1):324-25.

42. *Id.*, 19(part 1):297-8.

43. *Id.*, 19(part 1):299. See the similar obligation imposed in 1757 on members of the militia to keep and carry "one good Gun or Pistol in Order… and a Cartridge Box with at least Six Cartridges" when on patrol duty. *Id.*, 18:231.

44. A few scattered scraps that give some idea of the conflict between governor and legislature on passage of a mandatory militia law can be found at *Pennsylvania Archives*, 4th series, 1:706-8, 2:441, 548, 555.

45. *Archives of Maryland*, 75:264; Abbot Emerson Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607-1776* (Gloucester, Mass.: Peter Smith, 1965), 239.

46. *Laws of North Carolina*—1715, ch. 46, in John D. Cushing, ed., *The Earliest Printed Laws of North Carolina, 1669-1751* (Wilmington, Del.: Michael Glazier, Inc., 1977), 63; Farley Grubb, "The Statutory Regulation of Colonial Servitude: An Incomplete-Contract Approach," *Explorations in Economic History* 37 (January, 2000):69.

47. Public Records Office, Customs 16:85, 109, 171. In 1769: 229,545 pounds; 1770: 410,591; 1771: 390,558 pounds.

48. William J. Novak, "*Salus Populi*: The Roots of Regulation in America, 1787-1873" (Ph.D. diss., Brandeis University, 1992), 188.

49. This calculation is necessarily imprecise, but is based on statutes of the time that assumed four pounds of lead for every pound of gunpowder, and a 0.75 caliber Brown Bess: *Archives of Maryland*, 1:77; Matthew Page Andrews, *Tercentenary History of Maryland* (Chicago and Baltimore: S.J. Clarke Publishing Co., 1925), 1:150; Hening, 5:17, 21. Many firearms in Colonial America were smaller caliber, and consequently used less powder, increasing the number of shots that could have been fired. Concerning the claim of gun ownership, storage requirements, and hunting, see generally Bellesiles, *Arming America*.

50. *Public Records of Connecticut,* 1:95, 96.

51. Shurtleff, 1:190.

52. *Id.*, 1:210.

53. *Id.*, 2:38.

54. Bartlett, 1:94.

55. *Archives of Maryland*, 3:103.

56. Bartlett, 1:79.

57. Hoadly, 131-32. See *id.*, 122-23, for men fined for failure to bring their guns to church, and Hoadly, 500, for William Paine's request that he be exempted from this requirement, "he lives [far off] and hath three small children, and his wife is lame and cannot help to bring the children."

58. Brigham, 70.

59. *Id.*, 115.

60. *Id.*, 176.

61. August 2, 1619, "Proceedings of the Virginia Assembly, 1619," in Lyon Gardiner Tyler, *Narratives of Early Virginia, 1606-1625* (New York: Charles Scribner's Sons, 1907; reprinted New York: Barnes & Noble, 1959), 273.

62. Hening, 1:198.

63. *Id.*, 5:19.

64. David J. McCord, *Statutes at Large of South Carolina* (Columbia, S.C.: A. S. Johnson, 1840), 7:417-19.

65. Candler, *The Colonial Records of the State of Georgia*, 19(part 1):137-40.

66. Hening, 1:127, 198.

67. Shurtleff, 1:85.

68. *Id.*, 1:190.

69. Bartlett, 1:94.

70. *Archives of Maryland*, 3:103.

71. William Bradford, Samuel Eliot Morison, ed., *Of Plymouth Plantation, 1620-1647* (New York: Alfred A. Knopf, 2001), 70.

72. Sydney V. James, Jr., *Three Visitors to Early Plymouth* (Bedford, Mass.: Applewood Books, 1997), 16.

73. Francis Adams, Jr., ed., *New English Canaan of Thomas Morton* (Boston: The Prince Society, 1883; reprinted New York: Burt Franklin, 1967), 21-28.

74. Bradford, 204, 206-8, 232-3.

75. Joseph H. Smith, ed., *Colonial Justice in Western Massachusetts (1639-1702): The Pynchon Court Record, An Original Judges' Diary of the Administration of Justice in the Springfield Courts in the Massachusetts Bay Colony* (Cambridge: Harvard University Press, 1961), 208.

76. *Archives of Maryland*, 3:103.

77. Shurtleff, 1:196.

78. *Id.*, 2:24.

79. *Id.*, 3:268.

80. *Id.*, 3:397.

81. *Public Records of Connecticut*, 1:1, 2.

82. *Id.*, 1:49.

83. *Id.*, 1:182.

84. *Id.*, 1:79-80.

85. *Id.*, 1:113-14, 138, 145-6, 197-8.

86. *Id.*, 1:146-7, Richard Lord fined £7 and Thomas Stanton, £5. *Id.*, 1:167, Thomas Lord ordered to appear. *Id.*, 1:242, Captain Sebadoe fined £10.

87. Smith, 263.

88. Shurtleff, 4 (part 2):365.

89. John E. Soule, Milton E. Terry, and Robert S. Wakefield, comp., *George Soule of the Mayflower and His Descendants for Four Generations*, 3rd ed. (Plymouth, Mass.: General Society of Mayflower Descendants, 1999), 6.

90. *Public Records of Connecticut,* 1:351, 375.

91. Hening, 1:441.

92. *Id.*, 1:525.

93. *Id.*, 2:215.

94. *Id.*, 2:336-7.

95. *Archives of Maryland*, 1:71.

96. *Id.*, 1:250.

97. *Id.*, 58:420.

98. Hening, 2:481.

99. *Id.*, 4:131.

100. *Id.*, 5:17. Indians and blacks to appear unarmed for muster reiterated in 1757. *Id.*, 7:95.

101. *Archives of Maryland*, 75:268.

102. *Laws of the Government of New-Castle, Kent and Sussex Upon Delaware* (Philadelphia: B. Franklin, 1741), 178.

103. Candler, *The Colonial Records of the State of Georgia*, 19(part 1):76-78. Essentially identical language appears in the 1755 slave law, *Ibid.*, 18-117-18.

104. J. Franklin Jameson, ed., *Johnson's Wonder-Working Providence: 1628-1651* (New York: Barnes & Noble, Inc., 1959), 175. Shurtleff, 1:211-12, gives the disarming orders.

105. Hening, 2:403.

106. *Archives of Maryland,* 52:450-1 contains a 1756 militia law that exempts "Papists, the Persons commonly called Neutralls, Servants, and Slaves." See instructions at 52:598 ordering that no soldier be enlisted "Roman Catholic or Deserter, knowing them to be such…." Also discussed at 6:419-20, 9:315-6; 28:315

107. *Id.*, 52:451-2.

108. Joyce Lee Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, Mass.: Harvard University Press, 1994), 123. Britain and Ireland had different laws concerning the disarming of Catholics, with the Irish law somewhat more restrictive on the possession of arms for self-defense. Compare 1 W. & M., ch. 15 (1689) with the Irish law 7 Will III ch.5 (1695).

109. Joyce Lee Malcolm, "The Right of the People to Keep and Bear Arms: The Common Law Tradition," *Hastings Constitutional. Law Quarterly* 10:310 (1983).

110. *Archives of Maryland*, 25:288-9.

111. *Id.*, 28:315.

112. *Id.*, 52:454.

113. Candler, *The Colonial Records of the State of Georgia*, 18:190-1.

114. Bellesiles, *Arming America,* 73.

115. Shurtleff, 1:84.

116. *Id.*, 1:93.

117. *Code of 1650, Being a Compilation of the Earliest Laws and Orders of the General Court of Connecticut* (Hartford, Conn.: Silas Andrus, 1822), 72-73.

118. *Colonial Laws of New York*, 1:52.

119. *Acts and Laws, Passed by the General Court or Assembly of the Province of New-Hampshire in New-England…* (1716), 91-92, in Clifford K. Shipton,

ed., *Early American Imprints, 1639-1800* (Worcester, Mass.: American Antiquarian Society, 1967), imprint 1985, 94.

120. Hening, 2:304.

121. *Id.*, 6:118.

122. *Archives of Maryland*, 75:425.

123. *Id.*, 52:452.

124. Shurtleff, 2:31. Shurtleff, 3:187, includes a May 23, 1650 order that the public arms to be sold not include cannon. An October 14, 1651 order at Shurtleff, 3:248, provides for the gift of five publicly owned muskets to inhabitants of Salem and "our present honored Governor."

125. Hening, 8:125-6.

126. *Public Records of Connecticut,* 1:29.

127. *Id.*, 1:1, 2.

128. *Id.*, 1:49.

129. *Id.*, 1:182, Robert Slye fined £10 for "exchanging a gunn with an Indian" with George Hubberd, John West, and Peter Blatchford "for the same" all fined the same amount.

130. *Id.*, 1:33.

131. *Id.*, 1:50.

132. Hoadly, *Records Of The Colony And Plantation Of New Haven,* 176-77.

133. Bellesiles, *Arming America*, 79.

134. Shurtleff, 5:48-49.

135. Library of Congress, Printed Ephemera Collection; Portfolio 35, Folder 15b.

136. *Archives of Maryland*, 9:565. Similar offers appear at 31:404, in 1760, and at 56:404 in 1761.

137. *Public Records of Connecticut,* 14:417-18. See *id.*, 15:188, for a similar measure in December 1775.

138. *Id.*, 15:97.

139. *Id.*, 14:418-19.

140. Massachusetts Provincial Congress, *The Journals of Each Provincial Congress of Massachusetts in 1774 and 1775* (Boston: Dutton and Wentworth, 1838), 536-37, 584-93. *Id.*, 584 (107 "small arms"); 585 (13 "guns"); 591 (28 "guns, for the use of the colony, collected by order of Congress").

141. *Id.*, 210.

142. *Id.*, 336-37.

143. February 7, 1776, *Colonial Records of Pennsylvania* (Chicago: Library Resources, 1970), 10:478; February 9, 1776, 10:481; April 9, 1776. 10:537; April 10, 1776, 10:537; July 30, 1776, 10:471; July 24, 1776, 10:653; August 23, 1776, 10:698; November 29, 1775, *Minutes of the Supreme Executive Council of Pennsylvania* (Harrisburg, Penn.: Theo. Fenn & Co., 1852), 10:416-67, 10:550-51, 686-67, 700.

144. November 30, 1775, *Min.Sup.Penn.*, 418.

145. See March 8, 1776, *American Archives* 4th series, 5:1509 for Baltimore, Maryland's confiscation and compensation of guns.

146. Worthington C. Ford, *et al,*. ed., *Journals of the Continental Congress, 1774-1789* (Washington, D.C., 1904-37), 4:220-21.

147. Richard Frothingham, *History of the Siege of Boston, and of the Battles of Lexington, Concord, and Bunker Hill,* 6th ed. (Boston: 1903), 94-95.

148. Hening, 1:401-2.

149. *Archives of Maryland,* 3:103.

150. Brigham, 176.

151. September 6, 1638, Shurtleff, 1:236.

152. Eugene Aubrey Stratton, *Plymouth Colony: Its History & People, 1620-1691* (Salt Lake City: Ancestry Publishing, 1986), 188.

153. *Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay*… (Boston: Albert J. Wright, 1878), 3:305-6.

154. Candler, *The State Records of the Colony of Georgia,* 18:294-5.

155. Hening, 1:199.

156. *Id.*, 2:96-97. *Id.*, 3:328, contains a minor revision of this law in 1705.

157. *Id.*, 3:180.

158. *Laws and Acts of the General Assembly Of His Majesties Province of Nova Caesarea or New-Jersey*… (William Bradford, 1722), 143-45.

159. *Laws of North Carolina—1738*, ch. 10, in John D. Cushing, ed., *The Earliest Printed Laws of North Carolina, 1669-1751* (Wilmington, Del.: Michael Glazier, Inc., 1977), 2:128.

160. Hening, 8:592-3.

161. *Archives of Maryland,* 3:255.

162. *Id.*, 1:295-96. Also reiterated in 1654 at 1:351.

163. *Id.*, 1:343-44.

164. *Id.*, 7:51-52.

165. Andrew Burnaby, "In the Woods" in Albert Bushnell Hart and Mabel Hill, *Camps and Firesides of the Revolution* (New York: Macmillan Co., 1937), 51. See also J. Franklin Jameson, ed., *Johnson's Wonder-Working Providence: 1628-1651* (New York: Barnes & Noble, Inc., 1959), 85, for what *may* be a description of Indian fire-hunting of deer in seventeenth century New England.

166. Hening, 5:62 is a 1738 statute prohibiting fire-hunting by both colonists and Indians. "And if any Indian be found fire-hunting… it shall and may be lawful, for the owner of such land… to take away the gun of such Indian, and the same to keep to his own use." *Id.*, 5:431 again punishes fire-hunting.

Archives of Maryland, 28:348-9 is a 1745 statute that prohibits fire-hunting, although it is not explicit that the "hunters" were using guns. *Id.*, 44:21, 36, 39, 173, 180-1, trace the legislative history from the request earlier that year from the backwoods farmers to prohibit fire-hunting and hunting by non-residents to final passage. For reasons not explained, a similar law is debated in 1753 at 50:211 and 251, where it was "referred to the Consideration of next Assembly."

Connecticut's 1733 statute regulating "Firing the Woods" at *Public Records of Connecticut*, 7:456-7, is not explicitly about hunting, nor does it ever mention firearms, but may have been motivated by the same concerns.

167. Hening, 3:69.

EXHIBIT "3"



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ACTS AND LAWS,

Made and passed by the General Court or Assembly of the State of Connecticut, in America, holden at New-Haven, (in said State) on the second Thursday of October, Anno Dom. 1792.

An Act for forming and conducting the military force of this state, conformable to the act of Congress, passed the eight day of May, A. D. 1792, which is as follows:—"An Act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States."

"SECTION I. BE *it enacted by the Senate, and house of Representatives, of the United States of America, in Congress assembled*, That each and every free able bodied white male citizen, of the respective states, resident therein, who is, or shall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company, within whose bounds such citizen shall reside; and that within twelve months after the passing this act, it shall at all times hereafter be the duty of every such captain, or commanding officer of a company, to enrol every such citizen, as aforesaid; and also those who shall, from time to time, arrive at the age of eighteen years, and under the age of forty-five years (except as before excepted) shall come to reside within his bounds; and shall without delay, notify each citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every such citizen so enrolled and notified, shall within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints and knapsack, a pouch with a box therein to contain twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided, when called out to exercise, or into service, except that when called out on company days to exercise only, he may appear without a knapsack. That the commission officers shall severally be armed with a sword or hanger, and espontoon; and that from and after five years from the passing this act, all muskets for arming the militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound: And every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements, required as aforesaid, shall hold the same exempt from all suits, distresses, executions, or sales for debt, or for the payment of taxes."

Militia how & by whom to be enrolled.

How to be armed and accoutred.

"SEC. II. *And be it further enacted*, That the vice-president of the United States, the officers, judicial and executive, of the United States, the members of both houses of Congress, and the respective officers, all custom-house officers, with their clerks, all post-officers, and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States, all ferrymen employed at any ferry on the post-road, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who are, or may hereafter be exempted by the laws of the respective states, shall be, and are hereby exempted from military duty, notwithstanding their being above eighteen, and under the age of forty-five years."

Executive officers, &c. exempt.

Militia how to be arranged,

"SEC. III. *And be it further enacted*, That within one year after the passing this act, the militia of the respective states shall be arranged into divisions, brigades, regiments and companies, as the legislature of each state shall direct; and each division, brigade, and regiment, shall be numbered at the formation thereof, and a record made of such numbers in the adjutant general's office in the state; and when in the field, or in service of the state, each division, brigade and regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number highest in rank. That if the same be convenient, each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty-four privates. That the said militia shall be officered by the respective states, as follows, To each division one major-general, and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with one brigade inspector, to serve also as brigade-major, with the rank of a major; to each regiment one lieutenant-colonel-commandant; and to each battalion one major; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, one fifer or bugler. That there shall be a regimental staff, to consist of one adjutant, one quarter-master to rank as lieutenant, one pay-master, one surgeon and surgeon's-mate, one sergeant-major, one drum-major, and one fife-major."

by whom officered.

Each battalion to have 1 company of grenadiers, &c. and 1 company of artillery.

"SEC. IV. *And be it further enacted*, That out of the militia enrolled as is herein directed, there shall be formed for each battalion, at least one company of grenadiers, light-infantry, or riflemen; and that to each division, there shall be at least one company of artillery, and one troop of horse. There shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombadiers, one drummer, and one fifer; the officers to be armed with a sword or hanger, fusee, bayonet and belt, with a cartridge box, to contain twelve cartridges, and each private or matross, shall furnish himself with all equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses of at least fourteen hands and a half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps; each dragoon to furnish himself with a serviceable horse, at least fourteen hands and a half high, a good saddle, bridle, mail pillion and valeise, holsters, and a breastplate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartridge box to contain 12 cartridges for pistols. That each company of artillery and troop of horse, shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the state, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry; and shall be uniformly clothed in regimentals, to be furnished at their own expence, the colour and fashion to be determined by the brigadier commanding the brigade to which they belong."

Officers how to be armed.

Troops of horse how officered, &c.

Artillery and horse of whom to be formed; to be uniformly clad at their own expence.

What colours &c. and by whom to be furnished.

"SEC. V. *And be it further enacted*, That each battalion and regiment, shall be provided with a State and regimental colours by the field officers; and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the legislature of the state shall direct."

"SEC. VI. *And be it further enacted*, That there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander in Chief of the State, to the several corps; to attend all public reviews when the commander in chief of the state shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution, and perfecting the system of military discipline established by this Act; to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, respecting the actual situation of their arms, accoutrements, and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: All which the several officers of the division, of the brigades, regiments, and battalions, are hereby required to make in the usual manner, so that the said adjutant-general may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same annually before the commander in chief of the state."

Adjutant-general in each state, his duty.

Rules of discipline.

"SEC. VII. *And be it further enacted*, That the rules of discipline approved and established by Congress in their resolutions of the 29th of March 1779, shall be the rules of discipline, to be observed by the militia, throughout the United States, except such deviations from the said rules as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances. It shall be the duty of the Commanding Officer, at every muster, whether by battalion, regiment, or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline."

Officers how to take rank.

"SEC. VIII. *And be it further enacted*, That all the commissioned officers shall take rank according to the date of their commissions; and when two of the same grade

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grade bear an equal date, then their rank to be determined by lot, to be drawn by them, before the commanding officer of the brigade, regiment, battalion, company, or detachment."

"SEC. IX. *And be it further enacted*, That if any perſon, whether officer or ſoldier, belonging to the militia of any ſtate, and called out into ſervice of the United States, be wounded, or diſabled while in actual ſervice, he ſhall be taken care of and provided for at the public expence." Proviſion in caſe of wounds, &c.

"SEC. X. *And be it further enacted*, That it ſhall be the duty of the brigade-inſpector, to attend the regimental and battalion meeting of the militia, compoſing the ſeveral brigades during the time of their being under arms, to inſpect their arms, ammunition, and accoutrements; ſuperintend their exerciſe and manouvres, and introduce the ſyſtem of military diſcipline before deſcribed, throughout the brigade, agreeable to law; and ſuch orders as they ſhall from time to time receive from the commander in chief of the ſtate; to make returns to the adjutant-general of the ſtate, at leaſt once in every year, of the militia of the brigade to which he belongs; reporting therein the actual ſituation of the arms, accoutrements, and ammunition, of the ſeveral corps; and in every other thing which in his judgment relates to their government, and the general advancement of good order and military diſcipline. And the adjutant-general ſhall make a return of all the militia in the ſtate, to the commander in chief of the ſaid ſtate, and a duplicate of the ſame to the Preſident of the United States." Brigade inſpector's duty.

"And whereas ſundry corps of artillery, cavalry, and infantry, now exiſt in ſeveral of the ſaid ſtates, which by the laws, cuſtoms and uſages thereof, have not been incorporated with, or ſubject to the general regulations of the militia;" Artillery, &c. now exiſting.

"SEC. XI. *Be it further enacted*, That ſuch corps retain their accuſtomed privileges, ſubject nevertheleſs to all other duties required by this act, in like manner with the other militia." To retain their privileges.

JONATHAN TRUMBULL, *Speaker of the Houſe of Repreſentatives.*
RICHARD HENRY LEE, *Preſident pro tempore of the Senate.*

APPROVED MAY THE EIGHTH, 1792.

GEORGE WASHINGTON, *Preſident of the United States.*

In purſuance of which Act, and to carry the ſame into execution agreeably to the requirements thereof,

BE *it enacted by the Governor, Council, and Houſe of Repreſentatives, in General Court aſſembled*, That the governor of this ſtate, for the time being, ſhall be captain-general and commander in chief, of all the military force in this ſtate; and that the lieutenant governor ſhall be lieutenant-general of the ſame. Capt. General and Lieut. Gen.

And that all citizens in this ſtate, required by ſaid act of Congreſs, except members of the council, of the houſe of repreſentatives, for the time being; the ſtate treaſurer, and ſecretary; juſtices of the peace; field, commiſſioned, and ſtaff officers, honorably diſcharged; miniſters of the goſpel; the preſident, profeſſors, and tutors of college, and ſtudents, till the time of taking their ſecond degrees; phyſicians and ſurgeons; ſelect-men; conſtant ſchool maſters; one miller to each griſt-mill, being approved by the ſelect-men, and having a certificate thereof; ſheriffs and conſtables; conſtant ferrymen; non-commiſſioned officers, who have removed out of the limits of their command and are not re-appointed, or ſuch as have been honorably diſcharged; and ſuch non-commiſſioned officers and ſoldiers, as inliſted during the war, in the late war, and were honorably diſcharged; and all ſuch as are exempt by ſpecial act or reſolve of this aſſembly; ſhall be enrolled in companies as therein directed, and formed into regiments, brigades, and diviſions, in the following manner, viz. Perſons exempted from military duty.

Thoſe in the town of Hartford, (the governor's company of horſe guards, and company of cadets excepted, which ſhall be under the immediate command of the captain-general) thoſe in the town of Windſor (excluſive of what lies in the ſociety of Turkey-Hills, in ſaid Windſor,) and thoſe in that part of Farmington lying in the ſociety of Wintonbury, ſhall conſtitute the firſt regiment. 1ſt. Regiment.

Thoſe in the town of New-Haven, Eaſt-Haven, North-Haven, and Hamden, (except the governor's guard in New-Haven, who are under the immediate command of the captain-general) ſhall conſtitute the ſecond regiment. 2d. Regiment.

Thoſe in the towns of New-London and Montville, ſhall conſtitute the third regiment. 3d. Regiment.

Thoſe in the towns of Fairfield, Weſton, and Reading, ſhall conſtitute the fourth regiment. 4th Regiment.

Thoſe in the towns of Windham, Hampton, (excepting the former bounds of Canterbury) Mansfield and Aſhford, ſhall conſtitute the fifth Regiment. 5th Regiment.

Thoſe in the towns of Wethersfield and Glaſtenbury, and that part of Berlin formerly Wethersfield, ſhall conſtitute the ſixth Regiment. 6th Regiment.

Thoſe in the towns of Saybrook, Killingworth, and Haddam, ſhall conſtitute the ſeventh regiment. 7th Regiment.

Thoſe in the towns of Groton and Preſton, (except thoſe in that part of Preſton that was formerly part of Norwich) ſhall conſtitute the eighth regiment. 8th Regiment.

Thoſe

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9th Regiment. Thoſe in the towns of Greenwich and Stamford, (except thoſe in the ſocieties in Canaan, and Middleſex in Stamford) ſhall conſtitute the ninth regiment.

10th Regiment. Thoſe in the towns of Wallingford, Cheſhire, and Durham, ſhall conſtitute the tenth regiment.

11th Regiment. Thoſe in the towns of Pomfret, Woodſtock, Killingly, Thompſon, and Brooklin, (excepting the ſouth company and artillery men) ſhall conſtitute the eleventh regiment.

12th Regiment. Thoſe in the towns of Lebanon, Hebron, and the company in the ſociety of Marlborough in Colcheſter, and thoſe in the ſociety of Andover, in Coventry, ſhall conſtitute the twelfth regiment.

13th Regiment. Thoſe in the towns of Woodbury, Southbury, and Bethlehem, (except that part of Southbury included in Oxford company) ſhall conſtitute the thirteenth regiment.

14th Regiment. Thoſe in the towns of Saliſbury, Canaan, and Norfolk, ſhall conſtitute the fourteenth regiment.

15th Regiment. Thoſe in the towns of Farmington, Berlin, Briſtol, and Southington (except the former bounds of Wethersfield and Middletown, in Berlin) ſhall conſtitute the fifteenth regiment.

16th Regiment. Thoſe in the towns of Danbury, Brookfield, Newtown, New-Fairfield, (except that part which now forms the north company) and Ridgefield, (except that part which now forms the ſouth company) ſhall conſtitute the ſixteenth regiment.

17th Regiment. Thoſe in the towns of Litchfield, Harwinton, and Torrington, ſhall conſtitute the ſeventeenth Regiment.

18th Regiment. Thoſe in the towns of Symſbury and Granby, and that part of the town of Windſor lying in the ſociety of Turkey-Hills, and part of Suffield lying Weſt of the mountain, ſhall conſtitute the eighteenth regiment.

19th Regiment. Thoſe in the towns of Eaſt-Hartford, Bolton, Eaſt-Windſor, and that part of Ellington lying Weſt of a line running north from the North-weſt corner of Tolland to Somers, ſhall conſtitute the nineteenth regiment.

20th Regiment. Thoſe in the towns of Norwich, Bozrah, Franklin, Liſbon, and that part of Preſton that was formerly part of Norwich, and that part of Canterbury in Hanover ſociety, ſhall conſtitute the twentieth regiment.

21ſt Regiment. Thoſe in the towns of Plainfield, Canterbury, Voluntown, and South Company, with the artillery men in Brooklyn, and that part of Hampton formerly in Canterbury, and the ſouth company in Killingly, (except that part of Canterbury in Hanover ſociety) ſhall conſtitute the twenty-firſt regiment.

22d. Regiment. Thoſe in the towns of Tolland, Stafford, Willington, Union, and part of Ellington lying eaſt of a line running north from the north-weſt corner of Tolland to Somers, and Coventry (except Andover ſociety) ſhall conſtitute the twenty-ſecond regiment.

23d. Regiment. Thoſe in the towns of Middletown and Chatham, and part of Berlin, formerly Middletown, ſhall conſtitute the twenty-third Regiment.

24th Regiment. Thoſe in the towns of Colcheſter and Eaſt-Haddam, (except the ſociety of Marlborough in Colcheſter) ſhall conſtitute the twenty-fourth regiment.

25th Regiment. Thoſe in the towns of New-Hartford, Hartland, Wincheſter, Barkhempſtead and Colebrook, ſhall conſtitute the twenty-fifth Regiment.

26th Regiment. Thoſe in the towns of Watertown and Waterbury (except that part of Waterbury included in Oxford company) ſhall conſtitute the twenty-ſixth regiment.

27th Regiment. Thoſe in the towns of Guilford and Branford, ſhall conſtitute the twenty-ſeventh regiment.

28th Regiment. Thoſe in the towns of Stratford and Huntington, ſhall conſtitute the twenty-eighth regiment.

29th Regiment. Thoſe in the towns of Waſhington, New-Milford, Warren, Kent, and New-Fairfield north ſociety, ſhall conſtitute the twenty-ninth regiment.

30th Regiment. Thoſe in the town of Stonington ſhall conſtitute the thirtieth regiment.

31ſt Regiment. Thoſe in the towns of Suffield, Enfield and Somers, (except that part of Suffield lying weſt of the mountain) ſhall conſtitute the thirty-firſt regiment.

32d Regiment. Thoſe in the towns of Milford, Derby and Woodbridge, and that part of Southbury and Waterbury, in Oxford company, ſhall conſtitute the thirty-ſecond regiment.

33d Regiment. Thoſe in the town of Lyme, ſhall conſtitute the thirty-third regiment.

34th Regiment. Thoſe in the towns of Norwalk, and that part of Ridgefield that now includes the ſouth company, and thoſe in the ſocieties of Canaan, and Middleſex, in Stamford, ſhall conſtitute the thirty-fourth regiment.

35th Regiment. Thoſe in the towns of Sharon, Cornwall, Goſhen, and part of Litchfield, and Kent, now forming a company with Goſhen and Cornwall, ſhall conſtitute the thirty-fifth regiment.

Where companies are divided. And when by the diviſion of companies into regiments, which hath or ſhall be made, it ſhall ſo happen that a company ſhall be divided, and part put into one regiment and part into another; in ſuch caſe the minor part of ſuch company, ſhall belong to the regiment, to which the major part belongs: Any diſcriptions or diviſion herein before contained notwithſtanding.

That

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That the first, eighteenth, nineteenth, twenty-second, and thirty-first regiments, shall constitute the first brigade. — Bounds of the 1st brigade.

That the second, seventh, tenth, twenty-seventh, and thirty-second regiments, shall constitute the second brigade. — 2d. brigade.

That the third, eighth, twentieth, thirtieth, and thirty-third regiments, shall constitute the third brigade. — 3d. brigade.

That the fourth, ninth, twenty-eighth, and thirty-fourth regiments, shall constitute the fourth brigade. — 4th brigade.

That the fifth, eleventh, twelveth, and twenty-first regiments, shall constitute the fifth brigade. — 5th brigade.

That the fourteenth, seventeenth, twenty-fifth, and thirty-fifth regiments, shall constitute the sixth brigade. — 6th brigade.

That the sixth, fifteenth, twenty-third and twenty-fourth regiments, shall constitute the seventh brigade. — 7th brigade.

That the thirteenth, sixteenth, twenty-sixth and twenty-ninth regiments, shall constitute the eighth brigade. — 8th brigade.

That the first division shall be composed of the first and seventh brigades. — 1st division.

That the second division shall be composed of the second and fourth brigades. — 2d. division.

That the third division shall be composed of the third and fifth brigades. — 3d. division.

That the fourth division shall be composed of the sixth and eighth brigades. — 4th division.

And that all companies of artillery, grenadiers, and light infantry, that now or shall hereafter be raised, and troops of horse hereafter to be raised, shall be attached and annexed to the regiments, brigades and divisions, from which they were raised. And that the establishment of the companies of light dragoons, shall be forty, exclusive of commission officers; and that no officer of such company shall recruit his company of dragoons from any company of artillery, or troop of Horse —nor from any company of infantry, unless the same consist of more than sixty-four rank and file; but may enlist any exempts from military duty. — Artillery, grenadiers, light-infantry & troop of horse to be annexed to the regiments, &c. from which they were raised.

And be it further enacted, That each company of artillery shall consist of thirty matrosses, exclusive of commissioned and non commissioned officers; that each troop of horse shall consist of forty exclusive of commission officers; that each barrel of the fire lock, of the infantry shall be at least three feet and a half long, and furnished with a priming wire and brush; and each sergeant and corporal of the infantry, shall furnish himself with a screw driver and worm, more than is required by said act; and the sabres of the horsemen shall be four feet long. — Company of artillery to consist of 30 matrosses; and troop of horse of 40. — How furnished.

And be it further enacted, That the general, and field officers, shall be appointed by the legislature, and commissioned by the Governor—That the captains and subalterns, shall be nominated by their several companies, the commanding officer first giving three days notice to the individuals of their companies, that they are about to lead them to the choice of such commissioned officers; and if approved of by the legislature, shall be commissioned in like manner:—That the non-commissioned officers shall be nominated by their several companies, and shall have a warrant from the commanding officer of the regiment; which commanding officer of the regiment, has power to reduce to the ranks any non-commissioned officer, upon complaint made, and due notice given, if he finds him guilty of misconduct, or neglect of duty:—That all commissions granted by the governor, or appointments made by the legislature, of officers at one session of the legislature, bear date the same day, (except where two majors are appointed to one regiment) in which case the dates of their commissions shall be according to the priority of their appointments. — Officers by whom appointed & commission'd. — Commissions, & appointments, how regulated.

And be it further enacted, That the captain-general of the state, shall appoint the adjutant-general of the state, who shall have the rank of brigadier-general, and be commissioned accordingly:—That the captain-general shall appoint for himself two aids-de-camp, who shall have the rank of lieutenant-colonels; the lieutenant-general shall appoint for himself two aids-de-camp, who shall have the rank of major; each major-general shall appoint his two aids-de-camp; each brigadier-general shall appoint his brigade-inspector, and to serve as brigade-major; all which appointments, from time to time, as may be necessary of aids-de-camp, and brigade-majors and inspectors, shall be published in general orders:—That each commanding officer of a regiment, shall appoint his regimental staff, and a chaplain, whose appointment shall be published in brigade orders; and non-commission staff, whose appointments shall be made in regimental orders. — Capt. General to appoint adjutant-gen. & aids. — Lieut. gen. and maj. generals to appoint their aids. — Regimental staff.

And whereas, some regiments now constituted, have more companies than the formation directed by the act of Congress:

Be it further enacted, That the commanding officer of each regiment, constituted by this act, shall form the companies in their regiments as near as may be to an act of congress, for numbers of men and companies; and that where the field officers of any regiment shall judge best, they may take a company already formed to serve as a light infantry or grenadier company, to each battalion of their regiment; or enlist such companies from exempts, or others, not reducing any company, by such enlistment, under the number of sixty-four. — Officers commanding regiments to form the companies agreeably to act of Congress.

And be it further enacted, That each non-commissioned officer, horseman, matross, and private of the several companies of horse, artillery, and infantry of the militia — Non commission officers & pri-

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vates to furnish themselves with arms, &c. on penalty of 12s.

tia of this ſtate, ſhall furniſh himſelf with the arms, ammunition and accoutrements, required by the act of congreſs, and by this act, upon the penalty of forfeiting and paying a fine of *twelve ſhillings* lawful money, and the like penalty for every four weeks he ſhall be unprovided; to be levied and collected by warrant of diſtreſs, as hereafter directed; and that a horſeman, or dragoon, who ſhall not furniſh and provide himſelf with a horſe and furniture, as required by the ſaid act, ſhall be returned to, enrolled, and do duty in the infantry company in the limits of which he reſides:—That the field and commiſſioned officers in each regiment,

Officers to be uniformly clothed in regimentals.

ſhall be uniformly cloathed in regimentals, at their own expence, and to be agreed upon by ſuch officers; that the field officers of each regiment ſhall furniſh

Field officers to furniſh colours.

ſtate and regimental colours for their regiment and battalions, at the ſtate expence, not exceeding the ſum of four pounds ten ſhillings lawful money, to each regiment.

Companies to be out three days in each year, to be inſtructed, &c.

And be it further enacted, That every commanding officer of a company of militia, ſhall order out his company or troop, three days in each year, and inſtruct them in the uſe of arms and diſcipline of war; and the days appointed, ſhall be in the month of March, April, May, September, October or November, and that on the firſt Monday of May and October annually, ſuch commanding officer ſhall cauſe

Arms to be inſpected.

the arms, ammunition and accoutrements, of all under his command, to be reviewed and inſpected:—That the commanding officer of each regiment, ſhall order

Regiments to be reviwed once in each year.

out his regiment by battalion or regiment, once in each year for regimental exerciſe, inſpection and review. And if any of the privates belonging to any company of horſe, artillery or infantry, ſhall neglect to appear compleatly armed and

Privates who do not appear equipt to pay 9s.

equipped on the place of parade, appointed by the commanding officer of his company, being duly warned, he ſhall forfeit and pay a fine of *nine ſhillings* for each day: and if any non-commiſſioned officer, drummer, fifer, or trumpeter, ſhall neglect to appear as aforeſaid, he ſhall forfeit and pay the fine of *twelve ſhillings* for

and drummers, &c. 12s.

each day—unleſs any ſuch perſon ſhall appear before the commanding officer of ſuch company, within twelve days after ſuch day of exerciſe or review, and make ſatisfactory excuſe for his non appearance on ſaid day; and the commanding officer of each company, battalion or regiment, ſhall order the correcting and puniſhing diſorders and contempts, on days of company, battalion, or regimental exerciſe, inſpection or review; the puniſhment not being greater than riding a wooden horſe, for a time not exceeding one hour, or a fine not exceeding *forty ſhillings*

Puniſhment inflicted.

lawful money:—That each commanding officer of a company, battalion, regiment, brigade or diviſion, ſhall have power and authority, and full power is hereby given to aſcertain and fix certain neceſſary limits and bounds to their reſpective

Officers to fix limits & bounds to their parades.

parades, within which no ſpectator ſhall have right to enter, without liberty from ſaid commanding officer; and in caſe any perſon ſhall ſo intrude or offend, he ſhall be ſubjected to be confined in ſuch way and manner as the commanding officer ſhall direct, during the continuance of the exerciſe.

Warrants by whom granted & to whom directed.

And be it further enacted, That all warrants granted by the commanding officer, of any company, battalion or regiment, for any time or times incurred by virtue of this act, or any breach thereof, ſhall be directed by the officer commanding a company, to the orderly ſergeant of his company; which orderly ſergeant he ſhall from time to time appoint, from the ſerjeants of his company; and the officer commanding a battalion or regiment, to the adjutant or ſergeant-major; and to be by them levied on the goods or chattles of the reſpective delinquents, if upwards of twenty-one years of age—And for the want of ſuch goods or chattles, againſt the body of ſuch delinquent, and againſt the goods and chattles of the pa-

On whom & on what levied.

rents, maſter or guardians, of ſuch delinquents as have not arrived to the age of twenty-one years; and for want of ſuch goods and chattles, againſt the body of parent, maſter or guardian, and them commit and hold in goal, until ſuch fine or fines ſhall be paid and ſatisfied, together with lawful fees for ſervice, as in caſes of execution for debt; which fines and forfeitures ſhall be appropriated for the uſe of the companies to which ſuch delinquents reſpectively belong, for purchaſing and

Fines how appropriated.

maintaining colours, trumpets, drums and fifes; and ſhould there be any overplus of fines remaining in the hands of the commanding officers of companies, they ſhall pay it over to the commanding officer of their regiment to which they belong; which together with the fines collected by virtue of warrants iſſued by the field officers, ſhall be applied to keeping colours in repair, and for band-muſic for the regiment. That whenever any commanding officer of a company ſhall impoſe any

Officers impoſing fines, to give notice to the perſon fined, who ſhall have liberty within ten days to apply to, &c. for redreſs.

fine in any of the caſes before mentioned in this act, he ſhall give notice to the perſon fined, who ſhall have liberty within ten days to apply to the commanding officer of the regiment, who on giving notice, and hearing the parties, may abate ſuch fines, or any part thereof; and if ſuch commanding officer of the regiment, thinks not proper to abate ſuch fine, the officer impoſing the ſame may proceed to a collection thereof.

Soldiers unable to furniſh themſelves, &c.

Provided nevertheleſs, That if any ſoldier ſhall in the judgment of the ſelect-men of the town to which he belongs, be unable to arm and accoutre himſelf agreeable to the directions of this act, it ſhall be the duty of ſuch ſelect-men to certifiy the ſame to the commiſſioned officers of the company to which ſuch ſoldier belongs, in order

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order that execution may not iſſue againſt him for deficiency in ſuch arms and accoutrements; and alſo, at the expence of ſuch town to provide ſuch ſoldier with arms, and the whole or any part of ſuch accoutrements as may be neceſſary, within forty days from the time of granting ſuch certificate, under penalty of the value of ſuch arms and accoutrements, to be recovered of any, or all of ſaid ſelect-men, by warrant from an aſſiſtant or juſtice of the peace, upon proper information, and proof of ſuch neglect, by ſaid commiſſioned officers; which warrant ſhall be directed to any ſheriff or conſtable proper to ſerve the ſame, returnable in ſixty days, and the fine payable into the treaſury of ſuch town; and all arms and accoutrements thus provided, ſhall be the property of ſuch town, and ſhall by the commanding officer of the company, be depoſited in ſuch places as he ſhall think proper, to be ready for ſuch ſoldier, as occaſion ſhall require; and ſuch officer ſhall ſtand accountable for ſuch arms and accoutrements, and ſhall be liable to pay for the ſame, if loſt through his neglect or default.

Warrant to whom directed.

Fines to be paid into the town treaſury.

Arms, &c. to be depoſited in, &c.

Provided alſo, That any of the people called *Quakers*, who ſhall produce to the commanding officer of the company in which he reſides, a certificate from the clerk of the ſociety of Quakers to which he belongs, certifying that ſuch perſon is a Quaker, he ſhall be exempt from equipping himſelf or doing military duty as required by this act, on his paying the ſum of twenty ſhillings to ſuch officer, at the expiration of each year during ſuch exemption; and in caſe ſuch Quaker refuſe to pay ſaid ſum of twenty ſhillings, the ſame ſhall be collected and diſpoſed of in the ſame manner as is heretofore provided for fines incurred by a breach of this act.

Quakers exempt on paying 20s.

And be it further enacted, That each rank and grade of officers, ſhall furniſh themſelves with the rules of diſcipline approved and eſtabliſhed by Congreſs, in their reſolution of the 29th of March, 1779, and ſhall ſubmit themſelves to the orders and directions of their ſuperior officers, or their ſenior officers, of the ſame grade; and all officers in the ſtaff and orderly departments, ſhall be vigilant and active in executing and diſpatching orders in their reſpective ſtations.

Officers to furniſh themſelves with the rules of diſcipline.

That general, field, commiſſioned, and ſtaff officers, of all grades and ranks, ſhall be amenable to, and ſubject to trial by courts martial, according to the uſage and practice of war, for all neglects of duty, for contempts or diſreſpects to a ſuperior officer, for diſobedience of orders, and for all un-officer-like conduct; which court martial ſhall conſiſt of not leſs than nine, or more than thirteen members—the ſenior officer of the higheſt grade to preſide—that another officer of the line or ſtaff, to do the duty of judge advocate to the court—that the members compoſing the court, ſhall take the following oath, before they proceed on the trial of an officer, viz.

Officers to be tried by courts martial.

Who to preſide.

Judge advocate to be of the ſtaff.

You ſwear that you will well and truly try and determine according to evidence, the matter depending between the ſtate of Connecticut and the priſoner, or priſoners, now to be tried, that you will not divulge the ſentence of the court until the ſame ſhall be approved, or diſapproved, purſuant to law; neither will you upon any account at any time whatſoever, diſcloſe or diſcover, the vote or opinion of any particular member of the court martial, unleſs required by a due courſe of law. So help you GOD.

Form of oath.

The preſident of the ſaid court martial, is hereby authorized and required to adminiſter an oath to the officer acting as judge advocate, who is hereby required to take the ſame before he proceeds further on buſineſs, viz.—*You do ſwear that you will not on any account, at any time whatſoever, diſcloſe or diſcover the vote or opinion of any particular member of the court martial, unleſs required in a due courſe of law; and that you will not divulge the ſentence of this court, till the ſame ſhall be approved or diſapproved according to law; and that you will well and truly do the duty of judge advocate, in this court, impartially and uprightly, according to the beſt of your abilities.*——So help you GOD.

Preſident of c. martial to adminiſter an oath to the judge advocate. The form.

And no other perſon whatever, ſhall be admitted to ſolicit, proſecute or defend the officer arreſted; which officer arreſted, if under the grade or rank of a field officer, ſhall have twelve days notice of the articles of charge made againſt him, by leaving a true and atteſted copy of the original articles of arreſt, under the hand of a ſuperior officer arreſting him, and the names of the witneſſes to be uſed againſt him minuted thereon, lodged with him at his uſual place of abode by the officer arreſting, or the proper orderly officer; and of the grade and rank of a field officer twenty days notice; and of the rank of a general officer thirty days notice in like manner; which court martial, for the tryal of an officer under the rank and grade of a field officer, ſhall be appointed by the commanding officer of the brigade to which he belongs, and the ſentence approved or diſapproved by the captain-general of the ſtate—for the trial of an officer of the rank and grade of a field officer, by the commanding officer of the diviſion to which he belongs; and of a general officer by the captain-general of the ſtate, and their ſentence approved or diſapproved by the legiſlature of the ſtate. That no ſentence of a court martial ſhall inflict other puniſhment than a reprimand, ſuſpenſion from office for a certain term of time, caſhiering, and caſhiering with a diſability of holding any military office in this ſtate; two thirds of the members of any ſuch court agreeing in ſuch ſentence.

No perſon admitted to ſolicit &c. Officers under the grade of field officers to have 12 days notice, &c. Field officer to have 20, & gen. officer 30 days. Court martials by whom appointed.

What puniſhment may be inflicted.

And

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Capt. gen. to order out the military force when neceſſary.

And be it further enacted, That the captain-general, or in his abſence the next commanding officer of the ſtate, is hereby authorized and empowered, as he may judge neceſſary upon the occaſion, on an alarm, invaſion, or notice of the appearance of an enemy, either by ſea or land, to order the whole, or any part of the military force of this ſtate, to aſſemble and put the ſame in warlike order; and the ſame to lead, order or employ for the aſſiſtance, or relieving any of the inhabitants of this ſtate, attacked by an enemy, or in danger thereof; and generally to iſſue and publiſh by proper ſtaff or orderly officer, ſuch orders as he ſhall judge expedient to carry into execution the intent and deſign of this act. And all ſubordinate officers are hereby required to yield entire obedience thereto; and the officers ſeverally commanding diviſions, brigades, regiments, battalions and companies, are hereby veſted with the ſame power and authority within the limits of their reſpective commands; provided that when they or any of them find it neceſſary to order out the force under their command, they ſhall forthwith diſpatch intelligence, and the occaſion thereof, together with their movements and operations, to the captain-general of the ſtate, or any other their ſuperior officer, as may be judged moſt conducive to the public ſafety; and the officer receiving ſuch intelligence, ſhall obſerve the ſame line of conduct, in order that it may in the moſt expeditious way, arrive to the captain-general.

Other officers powers to order out thoſe under their command.

To inform the capt. general.

Diviſions, &c. to be ordered out for review, &c. By whom.

And be it further enacted, That the diviſions, brigades, and regiments, may be ordered out for inſpection or review, by their commanding officers, at ſuch times as ſhall be thought expedient and neceſſary; and whenever a diviſion is out, they ſhall be reviewed by the captain-general, when a brigade, by a major-general, and when a regiment, by a brigadier-general. And the captain-general ſhall direct a uniform and badges of office, for the general officers, their aids-de-camp, and brigade-major and inſpectors.

Capt. gen. to direct uniform, &c.

Surgeon to give certificate for inability to privates.

Captain, &c. by whom diſcharged. Gen. and field officers, by legiſlature.

And be it further enacted, That no private ſoldier, matroſs or horſeman, or non-commiſſioned officer, of either of the companies of horſe, artillery or infantry, ſhall be diſcharged from his company and regiment, for inability, after his inliſtment or enrollment in any of the companies, without a certificate from his ſurgeon; and for any other cauſe by applying to his captain, and the conſent of the commanding officer of his regiment. And that no captain or ſubaltern officer, ſhall reſign his commiſſion without permiſſion of the captain-general, or ſuch general officers as he may impower for that purpoſe. And that no field or general officer, ſhall reſign his commiſſion without the acceptance of the legiſlature; and no officer ſhall be allowed to reſign his commiſſion when under an arreſt.

Old commiſſions continued.

And be it further enacted, That any perſon now holding and ſuſtaining any commiſſion by virtue of any act heretofore made, within any of the brigades, regiments and companies, heretofore, and by this act formed and eſtabliſhed, ſhall continue to hold and exerciſe the ſame, with all the powers and authorities veſted in ſuch office, by virtue of this act, excepting the officers of ſuch companies as ſhall be reduced by virtue of this act.

Cavalry laws continued.

Be it further enacted, That the laws eſtabliſhing the cavalry in this ſtate, be, and continue in force until they ſhall be annexed to the infantry: and that his excellency the governor, be requeſted and empowered to annex them in ſuch proportion as he ſhall judge proper, to the ſeveral brigades within this ſtate, ſubject to the orders and command of the brigadier of that brigade to which they ſhall ſeverally be annexed; and thereafter to be ſubjected to the acts and regulations of Congreſs.

To be annexed to the ſeveral brigades, &c.

Laws repealed.

And be it further enacted, That all the laws heretofore made by this ſtate, for regulating and governing the military force thereof, be, and they are hereby repealed.

An Act for the ſupport of miſſionaries, to preach the goſpel, in the northern and weſtern parts of the United States.

Contributions.

BE *it enacted by the Governor, and Council, and houſe of Repreſentatives in General Court aſſembled, and by authority of the ſame*, That there be contributions in the ſeveral religious ſocieties and congregations in this ſtate, on the firſt ſabbath in the month of May, annually, for the term of three years; and the miniſter or clerk of ſuch ſocieties or congregations, ſhall receive and pay over ſuch contributions to the Reverend *Ezra Stiles*, *Nathan Williams* and *Jonathan Edwards*, who ſhall appropriate the ſame to the ſupport of ſuch miſſionaries as the general aſſociation of this ſtate ſhall, from time to time employ in preaching the goſpel, in thoſe ſettlements in the northern and weſtern parts of the United States, where the ordinances of the goſpel are not eſtabliſhed: and ſhall annually exhibit to this aſſembly, and ſaid aſſociation, an account of the receipts, and expenditures of ſuch contributions.

To whom paid.

How appropriated.

An

An Act in alteration of an Act, entitled, "An Act for the ſettlement of teſtate and inteſtate eſtates."

BE *it enacted by the Governor and Council and houſe of Repreſentatives, in General Court aſſembled*, That ſo much of ſaid act as is included under the exception, viz. "Except the eldeſt ſon then ſurviving, where there is no iſſue of the firſt born, or of any other elder ſon, who ſhall have two ſhares, or a double portion of the whole," be, and the ſame is hereby repealed. Act repealed,

Provided nevertheleſs, That in the ſettlement of the eſtate of any perſon heretofore deceaſed, or who ſhall deceaſe before the riſing of the preſent ſeſſion of aſſembly, the court of probate ſhall proceed, and the rights of the heirs of ſuch deceaſed perſon, ſhall veſt in the ſame manner as if this act had not been paſſed. after the preſent ſeſſion of aſſembly.

An Act in addition to, and alteration of an Act, entitled, "An Act for the puniſhment of perjury."

BE *it enacted by the Governor and Council, and houſe of Repreſentatives, in General Court aſſembled*, That it ſhall be the duty of all proper informing officers in this ſtate, to make preſent of all breaches of ſaid act, to any court proper to hear and determine the ſame. Informing officers to make preſentment.

And be it further enacted, That upon conviction for that offence, agreeable to the proviſions of this act, the whole ſum forfeited by ſaid act, ſhall be to the public treaſury of this ſtate. Sum forfeited how applied.

An Act, in addition to an Act, for regulating trials on writs of error, and for limiting the time for bringing the ſame.

BE *it enacted by the Governor, Council, and Houſe of Repreſentatives, in General Court aſſembled*, That the courts of this ſtate, having cognizance of writs of error, upon their affirmance of any judgment or decree, or upon any non-ſuit, or withdraw made by the plaintiff in error, may, according to their diſcretion, adjudge and decree to the defendant in error, beſides his coſt, the intereſt of the money delayed by ſuch writ of error, and grant execution therefor accordingly. Courts to have cognizance of writs of error.

And be it further enacted, That the authority ſigning any writ of error, ſhall take good and ſufficient bond, with ſurety, that the plaintiff in error ſhall proſecute his writ to effect, and anſwer all damages, if he fail to make his plea good. Surety to be taken on writs of error.

An Act in addition to an Act, entitled, "An Act for regulating proceedings in equity."

BE *it enacted by the Governor and Council, and houſe of Repreſentatives, in General Court aſſembled*, That the ſuperior court of this ſtate be, and they are hereby authoriſed as a court of equity, on petition brought before them, to authoriſe, and direct the taking of depoſitions to perpetuate the evidence of facts, where no ſuit is depending, agreeably to the rules and uſages in chancery proceedings; which depoſitions ſo taken, ſhall be available in any court of law, or equity in this ſtate, in the ſame manner as depoſitions taken during the pendancy of a ſuit. Superior court authorized as a court of equity. Depoſitions to be valid.

An Act to incorporate the New-Haven Bank.

BE *it enacted by the Governor, and Council, and Houſe of Repreſentatives, in General Court aſſembled*, That the ſubſcribers to the New-Haven bank, their ſucceſſors and aſſigns, ſhall be, and are hereby created and made a corporation, and body politick, by the name and ſtyle of The Preſident, Directors and Company, of the New-Haven Bank; and by that name ſhall be, and are hereby made capable in law to have, purchaſe, receive, poſſeſs and enjoy, to them and their ſucceſſors lands, rents, tenements, hereditaments, goods, chattles and effects of what kind or quality ſoever; and the ſame to ſell, grant and aline; to ſue and be ſued, plead and be impleaded, defend and be defended, in all courts of this ſtate, or other place whatſoever. And alſo, to have and uſe a common ſeal, and the ſame to break, and afterwards renew at their pleaſure. And alſo, to ordain and put in execution ſuch bye-laws and regulations, as ſhall be deemed neceſſary and convenient, for the well ordering and governing ſaid corporation, not being contrary to this charter, and the laws of this ſtate, or of the United ſtates; and to do and execute all and ſingular acts, matters and things, which to them ſhall or may appertain to do, ſubject to the rules, reſtrictions and proviſions, herein after preſcribed. N.Haven bank named. Privileges. To have a ſeal. To have by-laws

The capital ſtock of ſaid bank, ſhall conſiſt of one hundred thouſand dollars, to be divided into five hundred ſhares, of two hundred dollars each: That no perſon, copartnerſhip, or body politick, ſhall ſubſcribe, or at any time hold more than ſixty ſhares. Capital ſtock.

That

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Nine directors. That for the ordering the affairs of said corporation, there shall be nine directors, chosen on the first Thursday of July, annually (after the first election) by the greatest number of votes given by the stockholders of said bank, at a general meeting; and those who shall be duly chosen at any election, shall be capable of serving as directors, until the expiration of the first Thursday of July next ensuing such election; and the directors, at their first meeting after such election, shall choose one of their number for a president.

To choose a president.

Number of votes each stockholder shall be entitled to. The number of votes each stockholder shall be entitled to, in the choice of directors, or any other business respecting the constitution, shall be according to the number of shares he shall hold, in the following proportion, viz.—For one share and not more than two shares, one vote; for every two shares above two shares, and not exceeding ten shares, one vote; for every four shares above ten, and not exceeding thirty shares, one vote; and for every six shares above thirty, one vote; but no person, copartnership, or body politick, shall be entitled to a greater number than fifteen votes.

Stockholders how to vote. All stockholders shall be entitled to vote by themselves, or their agents duly appointed; none but stockholders shall be eligible as directors; and not less than two thirds of the directors shall be actually resident in the city of New-Haven; and public notice shall be given by order of the directors, twenty days previous to holding an election, or general meeting of the stockholders, in a newspaper published in said city, and in such other places as the directors shall judge necessary;

None but stockholders to be directors.

Three fourths eligible. not more than three fourths of the directors in office, exclusive of the president, shall be eligible as directors the next succeeding year; but the director who shall be president at any election, may always be elected a director.

Directors place may be filled. In case of the death or resignation of a director, his place may be filled by a new choice for the remainder of the year, provided a majority of the directors judge it necessary. All elections for directors, shall be by ballot, and the nine persons who shall have at any election, the greatest number of votes, shall be declared to be duly elected.

Directors to appoint officers, &c. The directors for the time being, shall have power to appoint such officers, clerks and servants, as they shall judge necessary, and shall be capable of executing such other powers for the well ordering and governing the affairs of the bank, as shall be determined by the regulations of the stockholders; but no director shall be entitled to any emolument, unless the same shall be ordered by the stockholders at a general meeting, except the president, who shall receive such compensation for his extra attendance at the bank, as the directors shall judge reasonable.

Not less than 3 directors to constitute a board, &c. Not less than three directors shall constitute a board for transacting the business of the bank, of whom the president shall always be one, except in case of sickness or necessary absence, in which case the directors present shall supply his place, by electing one of their number as president for the occasion.

To determine the manner of doing business. The directors, by a majority of votes, shall determine the manner of doing business, and the rules to be prescribed; shall dispose of, and manage the money and credit of the bank, for the interest of the proprietors; and shall at the end of the first year, and once in six months afterwards, make such dividends of the profits as they shall think proper, provided that they shall in no instance do any act contrary to the regulations of the stockholders; and the directors shall once in two years lay before the general meeting of the stockholders, for their information, a

Statement of debts, &c. statement of the debts which shall remain unpaid after the expiration of the original credits, and the surplus of profits, if any be after deducting losses and dividends.

Corporation how to trade. The corporation shall not trade in any thing except bills of exchange, gold or silver bullion, or in sale of goods pledged for money lent and not redeemed in due time, or in lands taken for debts previously contracted; nor shall the corporation take more than at the rate of six per cent per annum, for or upon its loans.

Stock to be assignable, &c. The stock of said corporation shall be assignable and transferable according to such rules as shall be instituted by the laws of the same.

Bills signed by the cashier, &c. binding on the corporation. The bills or notes issued by said corporation, signed by the president, and counter-signed by the cashier, or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to their bearer, shall be binding and obligatory on said corporation, and payable on demand; and all such bills and notes shall be assignable and negotiable according to the custom of merchants, and the laws relating to inland bills of exchange; and all notes in writing, which shall be made and signed after the first day of December next, by any

Bills assignable and negociable. person or persons, his, her, or their servants or agent, who is usually entrusted by him, her, or them to sign such promissory notes, for him, her, or them, said notes being given for the payment of money only, and made payable to any person or persons, his or their order, or to the bearer, and indorsed over to said corporation, shall be assignable or indorsable over in the same manner as inland bills of exchange are, or may be according to the custom of merchants; and said corporation to which the same may be indorsed, shall and may maintain their action thereupon, for the money promised in said notes, against the person, whose agent as aforesaid

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ſaid, ſhall ſign the ſame; or any of the perſons who ſhall indorſe the ſame in like manner as in caſe of inland bills of exchange.

Every caſhier, treaſurer or clerk, employed in ſaid bank, ſhall, before he enters on the duties of his office, give bond with two or more ſureties, to the ſatisfaction of the directors, in a ſum not leſs than five thouſand dollars for the caſhier, and not leſs than one thouſand for a clerk, conditioned for the faithful diſcharge of his truſt. Caſhier, treaſurer, & clerk to give bond.

David Auſtin, Iſaac Beers, and Elias Shipman, Eſquires, are authoriſed to open a ſubſcription for the capital of ſaid bank, at ſuch time and place as they ſhall think beſt, receive the firſt depoſits; and after ſaid ſubſcription to call a meeting of the ſtockholders to chuſe directors. Five per cent on the ſums ſubſcribed, ſhall be paid at the time of ſubſcribing; twenty per cent on each ſhare ſhall be paid ſixty days after ſaid ſubſcription; twenty-five per cent ſix months after the time of the ſecond payment; and the reſidue in ſix months after the time of the third payment. If there ſhall be a failure in the ſecond payment of any ſum ſubſcribed by any perſon, copartnerſhip, or body politick, the party failing, ſhall forfeit to the bank the ſum by him, her or them, previouſly paid; and if there ſhould be a failure in any ſubſequent payment, the party failing ſhall forfeit to the bank, his, her, or their ſhare of the dividend, during ſuch delay—Provided, that in caſe the directors ſhall judge it expedient, they are hereby authoriſed to ſuſpend the two laſt payments, or either of them for ſuch time as they may think proper, giving ſixty days notice previous to the time herein fixed for ſuch payment. And the ſubſcribers ſhall be held to make punctual payment, at ſuch period or periods, as ſhall be determined by the directors, having ſixty days notice of the time on which any ſuch payment ſhall be required, which notice ſhall be given in one of the newſpapers of ſaid city, and ſuch other places and manner, as the directors my judge neceſſary. Perſons authoriſed to open a ſubſcription. Money when paid in. Forfeiture for delay of payment. Proviſo.

That a general meeting of the ſtockholders ſhall be annually held on the firſt Thurſday of July, at ſuch place as the directors may appoint. That the firſt meeting of the ſtockholders, being called by the petitioners, and convened, the ſtockholders, or a majority of them, ſhall elect one of their number to preſide at the election, who ſhall be, and is hereby authoriſed to receive and count the votes for directors, and declare what perſons are duly elected according to the proviſions of this act. General meeting to be held annually on the 1ſt Thurſday of July.

An Act in addition to an Act, entitled, "An Act, for rebuilding Newgate Priſon in Granby, and for regulating and governing the ſame, and for the puniſhment of certain atrocious crimes."

BE *it enacted by the Governor, and Council, and Houſe of Repreſentatives, in General Court aſſembled*, That if any male perſon of the age of ſixteen years or more, ſhall wilfully and felonioufly barn, or attempt to burn, by ſetting on fire any dwelling houſe, barn, out-houſe, ſhop, ſtore, ſhip or other veſſel, and no prejudice or hazard to the life of any perſon happen thereby, ſuch perſon ſo offending, may at the diſcretion of the ſuperior court, on conviction thereof, be impriſoned in ſaid Newgate priſon, and there be kept to labour not exceeding ſeven years; and if any male perſon of the age of ſixteen years or more, who hath already been, or ſhall be hereafter convicted of ſaid offence, ſhall be a ſecond time convicted of an offence of the ſame kind, he ſhall at the diſcretion of the ſaid court, be impriſoned in ſaid priſon, and there be kept to labour for any limited period, or during his natural life, as the circumſtances of the caſe may require. Perſons to be confined in Newgate for burning houſes, &c.

And be it further enacted, That the impriſonment directed to be inflicted on perſons convicted of the crime of perjury, and ſubornation of perjury, in an act, entitled, "An Act for the puniſhment of perjury," ſhall be an impriſonment in ſaid Newgate, and keeping to labour, if the perſon ſo convicted be a male perſon. Perjury how puniſhed.

And be it further enacted, That if any perſon ſhall with force and arms, and actual violence, an aſſault make on the body of any female, with an intent to commit a rape, the perſon ſo offending, on conviction thereof, ſhall be impriſoned and kept to labour in ſaid Newgate priſon, during his natural life, or for ſuch other period as the ſuperior court ſhall determine. Rape how puniſhed.

An Act in addition to an Act, entitled, "An Act for encouraging and regulating fiſheries."

BE *it enacted by the Governor and Council, and houſe of Repreſentatives, in General Court aſſembled*, That no perſon or perſons, ſhall draw any ſein or other fiſhcraft, in Willimantic and Natchaug rivers, except between the ſetting of the ſun on Tueſday evening, and the ſuns riſing on Saturday morning in each week, in the months of April, May and June, annually, on penalty of forfeiting ten pounds, for the uſe of him who ſhall ſue for, and proſecute the ſame to effect. When ſeins may not be drawn, &c.

An

EXHIBIT 3
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An Act in alteration of an Act, entitled, "An Act in addition to an Act for encouraging and regulating fiſheries."

Act repealed.

BE *it enacted by the Governor and Council, and houſe of Repreſentatives, in General Court aſſembled,* That ſo much of the ſaid act as relates to the fiſhery in New-Haven Eaſt-River, be, and the ſame is hereby repealed.

Seins not to be drawn below Mansfield's bridge, during flood tide, on penalty of 4l.

Be it further enacted, That no perſon ſhall at any time during flood tide, ſtation or draw any ſein or other fiſh-craft, in ſaid river, below Mansfield's-bridge; and that no perſon ſhall ſet or draw any ſein or other fiſh-craft in ſaid river, below ſaid bridge, from the ſetting of the ſun on Wedneſday evening, until the ſetting of the ſun on Thurſday evening, in each week; and every perſon that ſhall be convicted of a breach of this act, ſhall pay a fine of four pounds, one half to the uſe of him who ſhall ſue for, and proſecute the ſame to effect, and the other half to the treaſury of the county where ſuch offence ſhall be committed; and ſhall alſo forfeit the ſein, ropes, and other implements uſed for catching fiſh contrary to this act, to be appropriated as aforeſaid.

EXHIBIT "4"

CHAP. XXXVI.

1793.

CHAP. XXXVI. c.

An ACT *for eſtabliſhing the militia in this ſtate. (a)*

Preamble.

WHEREAS a well regulated militia is the proper and natural defence of every free ſtate; And as the ſeveral laws enacted by the Legiſlature of this ſtate for the regulation of the militia thereof have been found to require material alterations; in order to which it has been thought more adviſeable to reviſe the whole ſyſtem, than to amend it by ſupplementary ſtatutes; therefore,

SECTION 1. *BE it enacted by the Senate and Houſe of Repreſentatives of the ſtate of Delaware in General Aſſembly met, and it is hereby enacted by the authority of the ſame,* That each and every free able bodied white male citizen of this ſtate, who is or ſhall be of the age of eighteen years, and under the age of forty-five years, except as herein after excepted, ſhall ſeverally and reſpectively be enrolled in the militia, by the Captain or Commanding Officer of the company within whoſe bounds ſuch citizens ſhall reſide, ſuch bounds to be limited and fixed agreeable to the ſubdiviſions which have been made by the Lieutenants and Sub-lieutenants of the different counties, and that within four months after the paſſing of this act; *(b)* and that it ſhall be at all times hereafter the duty of every ſuch Captain or Commanding Officer of a company to enrol every ſuch citizen as aforeſaid, and alſo thoſe who ſhall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, and not excepted by this act, ſhall come to reſide within his bounds, and ſhall without delay notify ſuch citizen of the ſaid enrolment, by a proper non-commiſſioned officer of the company by whom ſuch notice may be proved; and in all caſes of doubt reſpecting the age of any perſon enrolled, or intended to be enrolled, the party queſtioned

Who ſhall be enrolled, and by whom.

Notification of the enrolment.

(a) See a ſupplement hereto, chap. 95. c. Anno, 1796.

(b) See chap. 95. c. ſect. 1, proviſion made for dividing the counties into regimental and battalion diſtricts, and theſe into company diſtricts.

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tioned ſhall prove his age to the ſatisfaction of the officers of the company within whoſe bounds he may reſide, or a majority of them.

Perſons exempted from military duty.

SECT. 2. *And be it further enacted*, That the Vice-Preſident of the United States, officers judicial and executive of the government of the United States, the Members of both Houſes of Congreſs and their reſpective officers, all Cuſtomhouſe Officers and their Clerks, Judges of the Supreme Court and of the Court of Common Pleas, Chancellor, Attorney General, Secretary, and Treaſurer of the State, Sheriffs, Gaolers and keepers of workhouſes, all poſt-officers and ſtage-drivers who are employed in the care and conveyance of the mail of the Poſt-office of the United States, all ferrymen employed at any ferry on the poſt roads, all inſpectors of exports, all pilots, all mariners actually employed in the ſea ſervice of any citizen or merchant within the United States, miniſters of religion of every denomination, profeſſors and teachers in colleges, academies, Latin ſchools, and ſchoolmaſters having twenty Engliſh ſcholars, and no other perſon or perſons, ſhall be excepted from militia duty; but all young men under the age of twenty-one years, and all ſervants purchaſed *bona fide*, and for a valuable conſideration, though enrolled agreeable to the firſt ſection of this law, ſhall be exempted from furniſhing the neceſſary arms, ammunition and accoutrements as are required by the fourth ſection thereof, and ſhall be exempted from militia duties and fines during ſuch minority or ſervitude, except in caſes of rebellion, or an actual or threatened invaſion of this or any of the neighbouring ſtates.

From furniſhing arms, &c.

Arrangement of the militia.

SECT. 3. *And be it further enacted*, That the militia of this ſtate be arranged into diviſions, brigades, regiments, battalions and companies in manner and form following: The whole ſtate to make one diviſion, and each county to conſiſt of one brigade; each brigade to conſiſt of not leſs than two, or more than eight regiments; each regiment to conſiſt of two battalions, and each battalion to conſiſt of four companies, in ſuch manner that no company ſhall conſiſt of more than eighty, or leſs than forty privates, or as near as may be, having regard to their local ſituation; there

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there ſhall be to each regiment at leaſt one company of grenadiers, light infantry, or riflemen; and to each brigade there ſhall be at leaſt one company of artillery, and one troop of horſe, which ſhall be formed of volunteers from the reſpective regiments, at the diſcretion of the Governor. *(c)*

How the militia ſhall be armed.

SECT. 4. *And be it further enacted*, That in order that the militia may be properly armed, equipped and accoutred, every citizen enrolled, and notified of his enrolment in manner aforeſaid, except as herein before excepted, ſhall, within ſix months after receiving ſuch notice, provide himſelf with the arms, ammunition and accoutrements herein after mentioned, *viz.* every non-commiſſioned officer and private of the infantry (including grenadiers and light infantry, and of the artillery) ſhall have a good muſket or firelock, a ſufficient bayonet and belt, two ſpare flints and a knapſack, a pouch, with a box therein to contain not leſs than twenty-four cartridges ſuited to the bore of his gun, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapſack, ſhot pouch and powder horn, twenty balls ſuited to the bore of his rifle, and a quarter of a pound of powder; the commiſſioned officers of the infantry ſhall be armed with a ſword or hanger, and an eſpontoon, and thoſe of artillery with a ſword or hanger, a fuzee, bayonet and belt, and a cartridge box to contain twelve cartridges; the commiſſioned officers of the troops of horſe ſhall furniſh themſelves with good horſes of at leaſt fourteen hands and a half high, and ſhall be armed with a ſword and pair of piſtols, the holſters of which ſhall be covered with bear ſkin caps; each light-horſeman or dragoon ſhall furniſh himſelf with a ſerviceable horſe at leaſt fourteen hands and an half high, a good ſaddle, bridle, mail pillion and valiſe holſters, and a breaſt plate and crupper, a pair of boots and ſpurs, a pair of piſtols, a ſabre, and cartouch box to contain twelve cartridges for piſtols; the artillery and horſe ſhall be uniformly clothed in regimentals, to be furniſhed at their own expence, the colour

(c) See chap. 95. c. ſects. 2, 5, further and other arrangement of the militia.

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colour and fashion to be determined by the Brigadier commanding the brigade to which they shall belong; every militia-man shall appear so armed, accoutred and provided, when called out to exercise, or into service (except that when called out on company days, to exercise only, he may appear without a knapsack;) and every man so enrolled as aforesaid, and providing himself with the arms, accoutrements and ammunition required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, or payment of taxes; each battalion and regiment shall be provided with the state and regimental colours, by the fieldofficers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company; the expences of such colours, drums, fifes, or bugle horns to be repaid to the officers out of the fines incurred by this act: *(d) Provided always*, That whenever the field-officers of any regiment shall judge any person enrolled therein unable to equip himself as aforesaid, such person shall not be subject to any fine for not arming, any thing herein contained to the contrary notwithstanding.

Shall appear armed on days of exercise.

Arms exempted from distresses.

Who shall be exempted from fines for not arming.

SECT. 5. *And be it further enacted*, That the militia shall be officered as follows: To a division one Major General, and two Aids de Camp, with the rank of Major; to each brigade one Brigadier General, with one Brigade Inspector, to serve also as Brigade Major, with rank of Major; to each regiment one Lieutenant Colonel Commandant, and to each battalion one Major; to each company of infantry (including light infantry and grenadiers) one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Clerk, one Drummer, and one Fifer or Bugler; there shall be a regimental staff, to consist of one Adjutant and one Quarter Master, to rank as Lieutenants, one Paymaster, one Surgeon, and one Surgeon's Mate, one Sergeant Major, one Drum Major, and one Fife Major; there shall be to each company of artillery, one

How the militia shall be officered.

(d) As per sect. 18, hereafter—but see chap. 95. c. sect. 10, the appropriation of fines given to the Commissary of military stores provided for in sect. 9, of that chap.

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one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombardiers, one Drummer, and one Fifer; and to each troop of horſe there ſhall be, one Captain, two Lieutenants, one Cornet, four Sergeants, four Corporals, one Saddler, one Farrier, and one Trumpeter.

Officers, by whom to be appointed.

SECT. 6. *And be it further enacted*, That the Governor ſhall on or before the firſt day of September next, appoint and commiſſion the Major General, Brigadiers, Lieutenant Colonels, Majors, Captains, Lieutenants, Enſigns, and Cornets; that the Major General ſhall appoint their own Aids de Camp out of the line of Captains or Subalterns; that the Brigadiers ſhall appoint their Brigade Majors out of the line of Subalterns; *(e)* that the fieldofficers of each regiment ſhall appoint their reſpective regimental ſtaffs; and that each Captain ſhall appoint his Sergeants, one of which ſhall be appointed Clerk to the company, Corporals, Drummer and Fifer; that all commiſſioned officers ſhall be commiſſioned for ſeven years, and ſhall take rank according to the date of their commiſſions; and when two of the ſame grade bear equal date, then their rank ſhall be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Of their commiſſions and rank.

How the companies ſhall be claſſed.

SECT. 7. *And be it further enacted*, That on the firſt Tueſday in April next enſuing, the Captain or Commanding Officer of each company ſhall call the perſons belonging to the ſame together, giving due notice, and ſhall divide them into eight claſſes, as nearly equal in number to each other as conveniently may be, allotting a Sergeant or Corporal to each claſs; and eight ſlips of paper, numbered reſpectively from one to eight, being prepared, every private ſhall determine by drawing a ballot, what claſs he is to ſerve in; and in caſe any of the perſons belonging to any company ſhall neglect to attend, at the time and place appointed for claſſing the ſaid company, or if preſent, ſhall refuſe to draw as aforeſaid, then the ſaid

(e) Or "non-commiſſioned officers or privates," by ſect. 15, of chap. 95. c.

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ſaid Captain or Commanding Officer thereof ſhall appoint one diſintereſted freeholder to draw for the abſentees, or perſons ſo refuſing; and when the claſſes ſhall be ſo ſettled, the Captain or Commanding Officer of each company ſhall form a roll, conſiſting of the eight claſſes, and the names and ſurnames of the men in each claſs, numbered according to the order of ballotting, which he ſhall keep for his own uſe, *(f)* tranſmitting forthwith a copy thereof, with a liſt of his commiſſioned and non-commiſſioned officers prefixed, to the Colonel or Commanding Officer of the regiment, who ſhall enter the ſame in a book by him to be provided for that purpoſe; and the ſaid Captain or Commanding Officer ſhall, on the firſt Tueſday in April, in every ſucceeding year, add to the ſaid roll the names and ſurnames of all ſuch male white inhabitants between the ages aforeſaid, who, on the next preceding twelve months, have removed to and are then reſiding in that ſubdiviſion, or therein have attained the age of eighteen years, except as herein before are excepted, annexing them reſpectively to ſuch claſs or claſſes as may ſtill render all the claſſes of a company as nearly equal in number to each other as conveniently may be.

The Captain ſhall form a roll of the claſſes, and tranſmit a copy to the Colonel.

Sect. 8. *And be it further enacted*, That to the end the militia when called by claſſes ſhall be properly officered, the following order is hereby directed and enjoined, *That is to ſay*, For the firſt draft, the Captain of the firſt company, the Lieutenant of the ſecond, and the Enſign of the fourth; ſecond draft, the Captain of the ſecond company, the Lieutenant of the firſt, and the Enſign of the third; third draft, the Captain of the third company, the Lieutenant of the fourth, and the Enſign of the ſecond; fourth draft, the fourth Captain, the Lieutenant of the third company, and the Enſign of the firſt; fifth draft, the fifth Captain, the Lieutenant of the ſixth company, and the Enſign of the eighth; ſixth draft, the ſixth Captain, the Lieutenant of the fifth company, and

Drafts of the militia how officered, and called into ſervice by claſſes.

(f) See chap. 95. c. ſect. 3, further proviſion for claſſing of companies and declaring what ſhall be a ſufficient notification of enrolment in ſuch claſs lifts.

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the Enſign of the ſeventh; ſeventh draft, the Captain of the ſeventh company, the Lieutenant of the eighth, and the Enſign of the ſixth; the eighth draft, the Captain of the eighth company, the Lieutenant of the ſeventh, and the Enſign of the fifth; non-commiſſioned officers to take tour with the commiſſioned officers; and the fieldofficers of regiments, in every diviſion and brigade in the ſtate, ſhall be divided in like manner; and each claſs to be conſidered as a detachment from different corps, liable to ſerve two months, and no longer, and to be relieved by the claſs next in numerical order, the relief to arrive at leaſt two days before the expiration of the term of the claſs to be relieved; but nothing herein contained ſhall prevent the Governor from employing and calling out part of any claſs, or any company or companies, regiment or regiments, without reſpect to this rule, whenever the exigency is too ſudden to allow the aſſembling of the ſcattered militia, which compoſe the particular claſſes; and the ſervice of the perſons ſo called out ſhall be accounted as part of their tour of duty; and the pay of the militia in actual ſervice ſhall commence two days before marching, and they ſhall receive pay and rations at the rate of fifteen miles *per* day on their return home.

The rule not to be regarded in caſe of emergency.

When pay ſhall commence and end.

Pay of the militia.

SECT. 9. *And be it further enacted*, That when the militia, or any detachment thereof are called on duty, the pay of a Major General ſhall be Sixty Dollars *per* month; of each Brigadier General Fifty Dollars *per* month; of each Lieutenant Colonel Forty Dollars *per* month; of each Major Thirty Dollars *per* month; of each Captain Twenty-five Dollars; of each Lieutenant Twenty Dollars *per* month; of each Enſign Fifteen Dollars *per* month; of each Sergeant Eight Dollars *per* month; of each Corporal Seven Dollars *per* month; and of each private and muſician Six Dollars *per* month; and that every perſon refuſing or neglecting to perform his tour of duty, if a commiſſioned officer, ſhall pay the ſum of Twenty-five Dollars, and forfeit ſuch his commiſſion, and if a non commiſſioned officer or private, the ſum of Twelve Dollars for every ſuch neglect or refuſal.

Penalty for neglecting a tour of duty.

SECT. 10. *And be it further enacted*, That when any claſs

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class or classes of the militia shall be called to perform any tour of duty, the Brigade Major shall cause each and every such person so called to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person to be employed for that purpose, at least three days before the time of assembling the said militia, unless the Governor on a sudden exigency, shall think proper to order any part of the militia into immediate service, and then the notice shall be given for immediate attendance. *(g)*

How the militia called into service shall be notified.

SECT. 11. *And be it further enacted*, That every male white person within this state, between the ages of eighteen and forty-five, or who shall hereafter attain the age of eighteen years, except as before excepted, shall attend at the time and places appointed, in pursuance of this act, for the appearance of the company or regiment to which he belongs; and if any non-commissioned officer or private as aforesaid, required to be armed and accoutred with his firelock and accoutrements aforesaid in good order, or if any male white person between the ages aforesaid, although not required to be so armed and accoutred, shall neglect or refuse to appear on the parade, and answer to his name when the roll is called over, which the commanding officer is hereby directed to have done at the distance of one hour after the time appointed for meeting, not having a reasonable excuse, to be adjudged of by a Court Martial to be appointed by the commanding officer of the company, which shall consist of a Subaltern and four privates, the Subaltern to be President thereof, every such person shall forfeit and pay the sum of Fifty Cents. *(h)*

Penalty on privates for non-attendance on days of review and exercise;

As in sect. 4, Ante.

SECT. 12. *And be it further enacted*, That every person required to attend as aforesaid, at the time and place

and for neglect of duty.

(g) For further and more special provision relating to notification of tour of duty, called for to be performed by classes of the militia, and the penalties on privates and officers for non-performance thereof, see chap. 95. c. sects. 12, 13, 14.

(h) See chap. 95. c. sect. 6, alterations in the penalties above in sects. 11 and 13, distinguishing between non-attendance on days of exercise in company or battalion, and in regiments—and see sect. 18, there penalties for neglect of exercise or duty in the troops of horse—and see also sect. 20, for the penalty on persons enrolled in the militia who shall thereafter continue to meet in volunteer companies.

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place of exercise in company or in regiment, who shall then and there appear, and shall neglect or refuse to answer to his name when the roll is called over, or to obey the lawful commands of his commanding officer, or to perform his exercise with the care and attention requisite therein, being convicted of any of the said offences by a Court Martial, to be appointed as aforesaid, shall forfeit and pay for every such offence any sum not exceeding One Dollar and Forty Cents.

Penalty on officers for non-attendance on field days.

SECT. 13. *And be it further enacted*, That every commissioned officer who shall neglect or refuse to appear at the time and place appointed for exercise in battalion or regiment, having no reasonable excuse, to be adjudged of by such of the officers present, as any two of the fieldofficers shall appoint, and there do and perform his duty, according to his office and station, shall forfeit and pay, if a Lieutenant Colonel Commandant Four Dollars, if a Major Three Dollars, if a Captain Two Dollars, and if a Subaltern or Staff Officer One Dollar and Twenty-five Cents; and every commissioned officer, who shall refuse or neglect to appear at the time and place appointed for exercise or other muster days, having no reasonable excuse, to be adjudged of by the officers present, or a majority of them, shall forfeit and pay for every such neglect or refusal, if a Captain One Dollar and Twenty-five Cents, and if a Subaltern One Dollar. *(h)*

On other muster days.

A Clerk to be appointed for each company.

SECT. 14. *And be it further enacted*, That the commissioned officers of every company shall appoint such Sergeant thereof, as they shall judge best qualified, to be Clerk thereto, who shall keep in a book to be provided by him for that purpose, to be viewed and examined from time to time by the commanding officer thereof, a fair and exact account of all fines and forfeitures incurred by persons belonging to the same, noting therein, at the time and place appointed for meeting in company, battalion or regiment, the names of the persons belonging to his company, and then absent; a transcript of which entries of fines and forfeitures, the said Clerk shall deliver to the Treasurer of his regiment, once in every three months, *(i)* by whom

His duty.

And pay.

(i) In sect. 7, chap. 95. c. an account of all fines is to be signed by the Captain

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whom he shall be paid Four Dollars a year for his services as Clerk aforesaid.

Treasurer for each regiment, to be chosen annually.

SECT. 15. *And be it further enacted*, That it shall and may be lawful for the commissioned officers of each regiment, to meet on the first Tuesday in September annually, and chuse by ballot, to be taken under the inspection of the fieldofficers, or such of them as attend, one reputable freeholder to be Treasurer to such regiment for the year thence next ensuing.

To give bond.

SECT. 16. *And be it further enacted*, That the Treasurer of each regiment, before he enters on the duties by this act required of him, shall give bond to the Lieutenant Colonel Commandant of the same, in such sum and with such sureties as he shall approve of, conditioned for the faithful performance of the duties hereby enjoined him, and shall pay over all such sums of money as shall come to his hands, in pursuance of this act, in manner herein directed, and at the expiration of the year for which he was chosen, shall render an account *(k)* to the State Treasurer of all monies that have come into his hands as Treasurer of said regiment, and in what manner he hath disposed of the same; and the balance remaining in his hands, if any, shall be paid over to the State Treasurer, after deducting Twenty Cents in the Pound for his trouble.

Shall account with the State Treasurer.

His compensation.

Shall sue for all fines.

SECT. 17. *And be it further enacted*, That the Treasurer is hereby impowered and required to sue for and recover all fines and forfeitures incurred by this act, *(l)* and if he shall neglect or refuse to sue for and recover all fines and forfeitures incurred by this act, once in every six months, he shall forfeit and pay for the first

of Commanding Officer of each company or troop, and by him transmitted to the Treasurer of the regiment, and a duplicate thereof to the Commissary of military stores, once in three months at the least, under the penalty of Twenty Dollars for every neglect.

(k) And pay over to the Military Commissary of his county all sums collected, every four months, deducting twelve Per Cent. for collection, by sect. 8, of said chap. 95. c—and in sect. 11, the said Military Commissary is to account annually with the Auditor of Accounts, retaining four Per Cent.

(l) See sect. 7, of said chap. 95. c. a summary mode of collection prescribed, viz. distress and sale under a justices warrant, as in the case of county rates and levies. See also sect. 16, there.

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first offence the ſum of Eight Dollars, and for the ſecond, and every other offence, the ſum of Sixteen Dollars.

Appropriation of fines and forfeitures.

SECT. 18. *And be it further enacted*, That all fines and forfeitures, that ſhall be paid into the hands of any Treaſurer of a regiment in purſuance of this act, ſhall be applied for the purpoſe of purchaſing arms, accoutrements and ammunition for the uſe of the regiment, as the Governor ſhall order and direct, and for purchaſing ſuch drums, colours and fifes for the ſeveral companies, and alſo for paying adjutants, drummers and fifers, and in ſuch manner as the field-officers thereof ſhall from time to time direct. *(m)*

Who ſhall have power to call the militia into ſervice.

SECT. 19. *And be it further enacted*, That the Governor ſhall have full power and authority, in caſe of an invaſion, rebellion, or inſurrection within this ſtate, or any of the neighbouring ſtates, to call into ſervice ſuch part of the militia, by claſſes, as to him ſhall ſeem neceſſary; and in caſe of the abſence of the Governor of this ſtate on any inſurrection, rebellion, or invaſion, the commanding officer of each brigade is hereby authoriſed and directed to iſſue his orders, to call out ſuch part of the militia as he may judge immediately neceſſary.

Militia exempted from arreſts in civil actions.

SECT. 20. *And be it further enacted*, That no perſon or perſons by this act directed to meet and muſter, or perform any military duty, ſhall be liable to be arreſted or taken by any Sheriff, Conſtable, or other officer, in any civil actions whatſoever, on the day of ſuch meeting, in going to, or returning home from the place of ſuch meeting or muſter or other military duty; but every ſuch arreſt ſhall be void, and the officer making the ſame ſhall be liable to an action of treſpaſs for falſe impriſonment at the ſuit of the party ſo arreſted, and he ſhall be forthwith ſet at liberty and diſcharged from the cuſtody of ſuch officer, by order of any one Judge or Juſtice of the Peace of the county where ſuch arreſt is made, or of the Captain of the company to which ſuch perſon doth belong.

SECT.

(m) See alſo ſect. 10, of chap. 95. c. the power of appropriation of fines given to the Military Commiſſary, and the extention of them to a greater number of objects.

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SECT. 21. *And be it further enacted*, That the rules of diſcipline approved and eſtabliſhed by Congreſs, in their reſolution of the twenty-ninth of March, One Thouſand Seven Hundred and Seventy-nine, ſhall be the rules of diſcipline to be obſerved by the militia of this ſtate, except ſuch deviations from the ſaid rules as may be rendered neceſſary by the requiſitions of an act of Congreſs, intitled, *An act more effectually to provide for the national defence, by eſtabliſhing an uniform militia throughout the United States*, or by ſome other unavoidable circumſtances: It ſhall be the duty of the commanding officer at every muſter, whether by regiment, battalion, or ſingle company, to cauſe the militia to be exerciſed and trained agreeable to the ſaid rules of diſcipline.

What rules of diſcipline ſhall be obſerved by the militia.

SECT. 22. *And be it further enacted*, That if any perſon, whether officer or ſoldier, belonging to the militia, and called out into ſervice, be wounded or diſabled while in ſervice, he ſhall be taken care of, and provided for, at the public expenſe: That the Brigade Inſpector, and two reputable freeholders, ſhall appraiſe the horſe of each perſon ſerving as light-horſemen, immediately before the time of going into actual ſervice, and enter the ſame in a book; and in caſe ſuch horſe ſhall be killed, die, or taken by the enemy, otherwiſe than by neglect, he ſhall be paid the full value of his horſe.

Perſons diſabled ſhall be ſupported at the public expenſe.

Horſes of light-horſemen to be appraiſed,

and if killed, the value to be paid.

SECT. 23. *And be it further enacted*, That the militia of this ſtate ſhall be ſubject to ſuch articles of war, as may be eſtabliſhed by the General Aſſembly; and that they ſhall be tried by their own officers only.

Of articles of war, and trial of the militia.

SECT. 24. *And be it further enacted*, That the militia in this ſtate ſhall be exerciſed and inſtructed in companies, in the months of April, June and September annually, at ſuch time and place as the Captain or Commanding Officer ſhall direct, he giving notice thereof by advertiſements at three of the moſt public places in his diſtrict, at leaſt five days before the day of muſter; and in regiments as follows: The firſt regiment on the ſecond Monday in October in every year, the ſecond regiment on the Tueſday following, and the third regiment on the Wedneſday, and ſo on, according to their numerical rank, on every

When to be exerciſed in companies,

and in regiments.

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every day in the week, Saturdays and Sundays excepted, until the whole number of regiments ſhall have muſtered and exerciſed in the aforeſaid manner. *(n)*

Monies paid into the treaſury by virtue of this act, how appropriated.

SECT. 25. *And be it further enacted*, That all monies paſſing into the treaſury, by virtue of the directions of this act, ſhall be appropriated as a fund for the purpoſe of ſupporting the neceſſary officers for carrying this law into effect, and of equipping and furniſhing the militia with every neceſſary apparatus for the defence and ſecurity of the ſtate, the ſurplus, if any, to be appropriated in ſuch manner, and to ſuch uſes, as the General Aſſembly ſhall from time to time direct and appoint; and the State Treaſurer ſhall keep all the monies ariſing from fines by the militia law, ſeparate from all other monies, and keep a ſeparate book of the ſame, and the expenditures thereof purſuant to the directions of this act. *(o)*

The Governor ſhall appoint an Adjutant General.

SECT. 26. *And be it further enacted*, That the Governor ſhall appoint an Adjutant General in the ſtate, whoſe duty it ſhall be to diſtribute all orders from the Commander in Chief of the ſtate to the ſeveral corps, to attend all public reviews, when the Commander in Chief ſhall review the militia, or any part thereof,

His duty.

to obey all orders from him relative to carrying into execution and perfecting the ſyſtems of military diſcipline eſtabliſhed by this act, to furniſh blank forms of different returns that may be required, and to explain the principles on which they ſhould be made, to receive from the ſeveral officers of the different corps throughout the ſtate returns of the militia under their command, reporting the actual ſituation of their arms, accoutrements and ammunition, and every other thing which relates to the general advancement of good order and diſcipline; all which the ſeveral officers of brigades, regiments and battalions are hereby required and directed to make in the uſual

(n) See ſect. 5, of chap. 95. c. the foregoing times altered, to wit, of exerciſe in companies once in the months of April, Auguſt and November—in battalions in the month of May—and in regiments in the month of June annually.

(o) See alſo ſects. 10, 11, of chap. 95. c. ſome alterations herein with more ſpecific appropriations.

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usual manner, so that the Adjutant General may be duly furnished therewith; from all which returns he shall make proper extracts, and lay the same annually before the Governor or Commander in Chief of the state, and transmit a duplicate of the same to the President of the United States. *(p)*

Passed June 18, 1793.

CHAP. XXXVII. c.

An ACT *to enable Anna Adams and John Brown of Kent county, to bring from the state of Maryland into this state, two Negro slaves.* 1793.

Passed June 18, 1793.—Private act.

CHAP. XXXVIII. c.

An ACT *to vest the title of a tract of land in Phebe Snow, Jane Wilson, and Robert Rees.* 1793.

Passed June 18, 1793.—Private act.

CHAP. XXXIX. c.

An ACT *for the better regulation of distresses for rent, and for other purposes therein mentioned.* 1793.

WHEREAS for want of due regulation of distresses for rent much injury hath been suffered, Preamble.

SECTION 1. *BE it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met*, That from and after the publication

(p) See sect. 21, of chap. 95, c. a repeal of so much of this act as is there altered and amended, or otherways provided.

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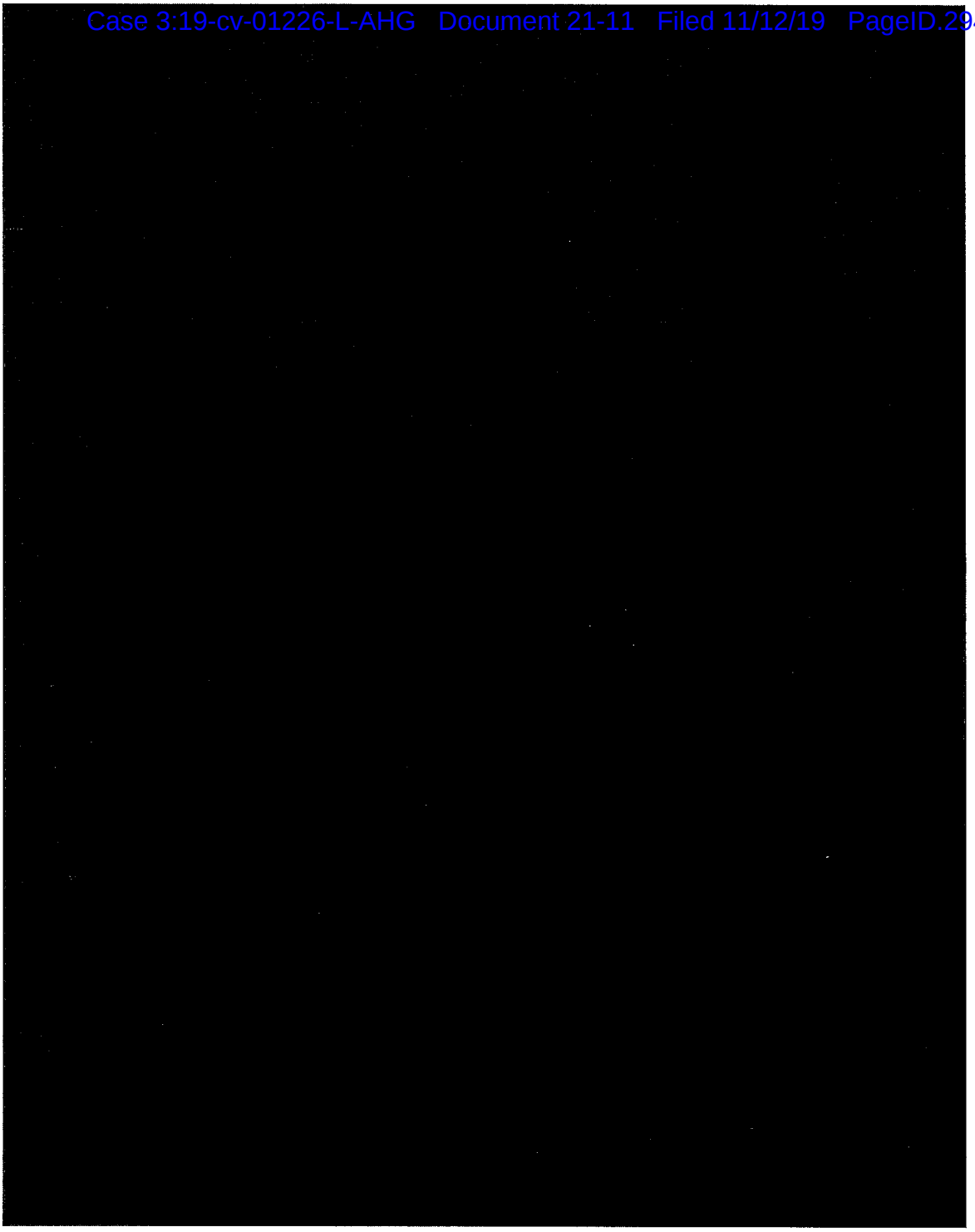

This edition contains the rare
"Yazoo laws" to be found on
p.304 no. 296
p.387 no. 418
p.557 no. 530
p.577 no. 543

ROBERT WATKINS.

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A

DIGEST

OF THE

L A W S

OF THE

State of Georgia.

FROM ITS FIRST ESTABLISHMENT AS A BRITISH PROVINCE DOWN TO THE YEAR 1798, INCLUSIVE,

AND THE

PRINCIPAL ACTS OF 1799:

IN WHICH

Is comprehended the declaration of Independence; the State Conſtitutions of 1777 and 1789, with the alterations and amendments in 1794.

ALSO THE

Conſtitution of 1798.

IT CONTAINS

As well all the Laws in force, as thoſe which are deemed uſeful and neceſſary, or which are explanatory of exiſting Laws; together, with the

TITLES OF ALL THE OBSOLETE AND OTHER ACTS.

AND CONCLUDES

WITH AN APPENDIX containing the original Charters and other Documents, aſcertaining and defining the Limits and Boundary of the State; all the Treaties with the ſouthern tribes of Indians; the articles of Confederation and perpetual union; the Conſtitution of the United States, and a few Acts of Congreſs.

Together with a copious Index to the whole.

BY

ROBERT & GEORGE WATKINS.

Philadelphia:

PRINTED BY *R. AITKEN*, N°. 22, MARKET STREET.

1800.

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ADDRESS

TO THE PUBLIC.

THE following work is offered to the public under a conviction of its utility. Not incited to the arduous undertaking, by ambition for literary fame, or with a view of having their names enrolled in the catalogue of contemporary authors, the compilers claim no merit but from their zealous assiduity and labor in the compilation. Having witnessed the numerous advantages resulting from the success of similar exertions, in other States, they determined to pursue the example and collect the whole of the State laws into one view. Such a work had been long called for by the public, and had been contemplated by others at an earlier period; but, either from the difficulty of the undertaking, or the want of legislative sanction, every attempt, in this State, has hitherto failed of success. Notwithstanding these difficulties, the present compilers observing with much concern the great uncertainty in the municipal regulations of the State, and the embarrassments thereby introduced into every department of the government, but particularly in the courts of justice, whither one of them was led by professional duty, they determined though, strange to relate, not without opposition, to encounter the task upon the credit of their own fortunes, and hazard its success on their own individual reputations.

In a State whose government has been the theatre of political agitations, in which the reciprocal struggles of jarring and opposing interests, have produced the alternate adoption and abrogation of opposite

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opposite measures, the civil polity cannot but be subject to frequent and variagated changes: This unfortunately has been too much the case with the State whose legislative acts are here presented to the public; and this too, has added much to the labor and perplexity of the undertaking. Many of the laws have never been published, some are entirely lost or destroyed, others in a tattered and mutilated condition; and, the mass from whence this collection is made, has hitherto been, almost, as much out of the public reach as the laws of Caligula. The compilers, however, have exercised their utmost assiduity, in collecting all the laws in force, passed since the first settlement of the State as a British province, together with such of the repealed or obsolete acts as were deemed useful and necessary, as governing the transactions under them, while in force: These they have arranged with the titles of all the other laws to be found, in the order of time in which they were passed, with such marginal notes and references as were deemed necessary to elucidate the objects of succeeding legislatures. To which is subjoined the fundamental regulations under which they were enacted. The constitution of the State as revised and amended at different periods, the articles of confederation and perpetual union, and the constitution of the United States. They have also added, the original charters and other documents, ascertaining and defining the limits and boundary of the State; all the treaties with the southern tribes of Indians, and a few acts of congress.

Whilst the compilers have zealously endeavoured to fulfil their engagements, they have to regret the unexpected delay of the publication. It is, however, to be hoped the causes will not be overlooked. Soon after their commencement, measures were taken and pursued for a change in the constitution. This was too important not

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not to wait the issue and incorporate the result. They have not only done this, but the delay has enabled them to add the laws of several years more than originally intended; and the whole code has recently undergone a thorough revision. In strict conformity with those engagements, a guide for justices of the peace should likewise have been annexed: but the new matter already added, it is presumed, will be deemed more than adequate. Indeed it has been considered that the guide will be more useful, by being published in a small portable volume. This will be done as soon as possible. The manuscript has been long prepared, but the many alterations in the constitution and laws have rendered a revision of that too, indispensably necessary. Such of the subscribers, however, as may not have occasion for the present work, without the guide, will be at liberty to withdraw their names.

*Another cause of delay may justly be ascribed to the agitation of the public mind, during its progress, and to an opposition, which sought to destroy the effects and enjoy the fruits of their labor, by an indelicate interference, and an illiberal competition.**

Although

* During the first session of the legislature of 1799, when the digest was in the press, a candid representation was made to them respecting its progress. They took up the subject and referred it to a large and respectable joint committee from the two branches. This committee reported specially, and unanimously recommended an appropriation of fifteen hundred dollars, and added that they were the more induced to recommend the adoption of the measure "from a conviction that the said digest is a work of great labor and merit and will be "of importance in forming a complete digest, agreeably to the 8th sect. of the 3d art. of the constitution; and "that the said Robert and George Watkins are entitled to a generous retribution for their labor and exertions." It was thereupon resolved *unanimously* in the house of representatives, "that the sum of fifteen hundred dollars, "be appropriated" accordingly, to their use. The senate concurred by a large majority. During its progress, however, some opposition arose in the senate. This was at length explained by one of the governor's particular friends, who had the *modesty*, openly, to move that an addition be made to the appropriation act, in the words following: "The sum of two thousand dollars, subject to the order of the governor, for the purpose of enabling "the executive to promulgate the laws of the State, agreeably to the 8th sect. of the 3d art. of the constitution." This was negatived—yeas 4, nays 11. And his excellency was directed, by a second resolution, to pay the first mentioned sum on demand "out of the contingent fund." Still unwilling to submit to the will of the legislature, his excellency has not only been pleased, in the recess of that body, to disapprove of the appropriation, but has also charged the legislature with violating the constitution in making what he calls a "gratuity" of the public money, and withholds the amount.
On these facts, the compilers forbear to comment.

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Although the authors of this work cannot boast of the patronage of ALL *their rulers, they have the consolation to believe, that in offering it to the public, they are sanctioned by the approving voice of the best informed and most impartial characters in the community. To the indulgent eye of a generous public it is, therefore, cheerfully submitted.*

The want of age and experience in the compilers, engaged in an arduous profession, added to the circumstances already stated, forbid the hope of perfect correctness. Conscious, however, of the best intentions, they venture to flatter themselves that the errors will be found neither numerous or important.

Should a greater number of copies be wanted than are now printed, a second edition will be published in octavo, in which all intermediate alterations in the laws, will be duly noticed, and the utmost care taken to correct and improve the former.

In a representative government, it is of the utmost consequence to the body of the nation, to be rightly informed of those laws and regulations by which their duties are defined and their rights secured. To promote this desirable object, as far as was in their power, has been the leading motive of the compilers. That it may answer the ends proposed, and advance the public good, is their ardent wish.

AUGUSTA, 1 JULY, 1799.

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HAVING been frequently consulted by Mess. ROBERT and GEORGE WATKINS, during the progress of the following work, we do certify, that in our opinion, it is correct, will be of great utility, and merits the public attention.

GEORGE WALTON,
WILLIAM STITH, Jun.
SEABORN JONES,
GEORGE WALKER.

Augusta, Nov. 15, 1798.

Entered,

IN conformity to the act of the Congress of the UNITED STATES, intitled "An Act for the encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such copies during the times therein mentioned."

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A. D. 1792. No. 468.

An Act to reviſe and amend the militia law of this State, and to adapt the ſame to the act of the congreſs of the United States, paſſed the eighth day of May, one thouſand ſeven hundred and ninety-two, entitled "An act more effectually to provide for the national defence by eſtabliſhing an uniform militia throughout the United States."

In conformity to act of congreſs, the militia laid off into diviſions, &c.

I. BE *it enacted by the ſenate and houſe of repreſentatives of the State of Georgia, in general aſſembly met*, That in order to comply as nearly as may be convenient with the act of congreſs of the United States, paſſed at Philadelphia, on the eighth day of May, in the year of our Lord, one thouſand ſeven hundred and ninety-two, entitled "An act more effectually to provide for the national defence, by eſtabliſhing an uniform militia throughout the United States;"—the militia of this State ſhall be laid off and apportioned into diviſions, brigades, regiments, battalions and companies, in the manner herein after particularly expreſſed.

Brigades and diviſions defined.

II. *And be it further enacted*, That the counties of Camden, Glynn, Liberty and Chatham* ſhall compoſe a brigade, to be known as the firſt brigade of the firſt diviſion; and the counties of Effingham and Burke† as the ſecond brigade of the ſaid diviſion; and the ſaid two ſeveral brigades ſhall compoſe the firſt diviſion of the militia of this State; and the counties of Richmond and Columbia ſhall compoſe a brigade, to be known as the firſt brigade of the ſecond diviſion; and the counties of Waſhington and Greene as the ſecond brigade of the ſaid diviſion; and the ſaid two ſeveral brigades ſhall compoſe the ſecond diviſion of the ſaid militia; and the county of Wilkes‡ ſhall compoſe a brigade, to be known as the firſt brigade of the third diviſion; and the counties of Franklin and Elbert§ as the ſecond brigade of the third diviſion, and the ſaid two ſeveral brigades ſhall compoſe the third diviſion of the ſaid militia.

A major general to command each diviſion. A brigadier general, each brigade. Adjutant general, rank of lieut. col.

III. *And be it further enacted*, That each diviſion of the ſaid militia ſhall be under the direction of, and be commanded by a major general, and each brigade ſhall be under the direction of, and be commanded by a brigadier general; and there likewiſe ſhall be appointed an adjutant general, to have the rank of lieutenant-colonel: All which ſaid officers ſhall be appointed and commiſſioned by the commander in chief of this State, under the regulations and reſtrictions herein after pointed out.

Brigades to be ſubdivided in regiments, battalions and companies. Proviſo.

IV. *And be it further enacted*, That within two months after the paſſing of this act the ſaid ſeveral brigades ſhall be ſub-divided into regiments, battalions and companies as nearly as may be, in conformity to the aforementioned act of the congreſs of the United States, by the executive department of this State. *Provided*, That the reſpective counties be kept diſtinct from, and unblended with any other county in ſuch ſub-diviſion, unleſs alterations in ſuch counties ſhould hereafter by law take place.

V.

* Effingham, M'Intoſh, and Bryan, added.
† Montgomery, Scriven, Bullock, and Jefferſon, added.
‡ Warren and Lincoln, added.
§ Oglethorpe and Jackſon, added.

} See acts of 1795, No. 534, and 1796, No. 562.

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A. D. 1792. No. 468. Company officers, how appointed.

V. *And be it further enacted*, That the officers of companies ſhall be nominated by election of the citizens liable to bear arms in each company diſtrict, and be appointed agreeably to the conſtitution by the governor of this State, under the following rules and reſtrictions, that is to ſay, the free white inhabitants ſo liable to do militia duty ſhall, within ten days after ſuch company diſtrict ſhall have been defined by the executive, aſſemble at a place to be appointed therein by any two or more magiſtrates within ſuch company diſtrict, or if there ſhould not be two reſiding magiſtrates within ſuch diſtrict, by any two or more magiſtrates of the county ſuch company may be in, ten days public notice being firſt given by ſuch magiſtrates of ſuch meeting and the intention thereof; and the free white inhabitants liable to do duty therein, and ſo convened, ſhall proceed to nominate, by ballot, one fit and proper perſon to fill each reſpective commiſſion of captain, lieutenant and enſign of ſuch company; the election ſo held, and the names of the perſons ſo nominated for each commiſſion as aforeſaid, ſhall be certified* under the hands and ſeals of the ſaid magiſtrates, and be by them ſent, within fifteen days ſo certified, to his excellency the governor, who ſhall within five days after the receipt thereof, appoint and commiſſion the perſons ſo nominated for the reſpective commiſſions of captain, lieutenant or enſign, as the caſe may be, and in caſe of the neglect or refuſal of the inhabitants of any company diſtrict to meet, and by ballot to nominate the perſons aforeſaid within the time herein before pointed out for ſuch meeting; the executive department ſhall proceed to appoint the officers of ſuch company diſtrict without any ſuch nomination.

Lieut. cols and majors to be appointed by the company officers.

VI. *And be it further enacted*, That the captains and ſubalterns of companies ſo nominated and appointed ſhall, within twenty days after the notification of their appointments by his excellency the governor has taken place, meet and aſſemble at ſome convenient place within the battalion or regimental diſtrict, as the caſe may be, to which ſuch officers belong, under the direction of any two or more of the captains ſo appointed, not being candidates, ten days notice being given of the meeting and its intention by them; and when ſo met, the ſaid officers ſhall proceed to nominate, by ballot, one fit and proper perſon for each commiſſion of lieutenant colonel of the regiment or major commandant of the battalion, as the caſe may be. *Provided*, That where the lieutenant colonel, when appointed, will command a regiment, conſiſting of two battalions, the officers of companies of both battalions ſhall aſſemble together in like manner at a conevnient place for each battalion, under the direction of two or more captains, one of which at leaſt belonging to each reſpective battalion; and the captains ſo aſſembling, the ſaid officers ſhall, within ten days after ſuch nomination, certify the ſame, and the names of the perſons ſo nominated, and ſend ſuch certificate to the executive department, which ſhall within five days thereafter, appoint and commiſſion the perſons ſo nominated to fill ſuch appointments of lieutenant colonel or major, as the caſe may be.

Proviſo.

Counties not containing two battalions, how to be commanded.

VII. *And be it alſo enacted*, That where a country will not permit its being formed into two battalions, the ſame ſhall compoſe a regiment to be commanded by a lieutenant colonel commandant.† VIII.

* See act of 1793, No. 494, ſect. 8, pointing out the manner of certifying and returning ſuch elections.

† To be commanded by a major if a county has not more than 4 companies. See act of 1795, No. 534.

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A. D. 1792. No. 468. Officers, how to take rank.

VIII. *And be it further enacted*, That where any officer now in commiſſion ſhall be nominated and appointed to fill the ſame commiſſion he before held, he ſhall take rank† from the date of the commiſſion he ſo before held, any thing herein contained to the contrary notwithſtanding, and the officers in commiſſion at the time of paſſing this act ſhall continue to act until the nomination or appointment of ſome other perſon to fill the ſame.

Enrolments, how to be made. Perſons liable to duty.

IX. *And be it enacted*, That the commanding officer of each company of militia ſhall enroll the names of all the male inhabitants (ſlaves excepted) above the age of eighteen and under the age of forty-five years, who ſhall have reſided therein for the ſpace of ten days, and ſhall cauſe the perſons ſo enroled to be ſummoned and duly noticed by a proper non-commiſſioned officer, to appear at ſuch times and places as he ſhall appoint for company muſters; and the perſons ſo enrolled, ſhall be from thenceforth deemed and held to belong to ſuch company, and liable to appear at all its muſters, whether battalion or company, and on all other neceſſary occaſions, and to perform the whole duty of a militia man without any further notice whatſoever.

Accoutrements.

X. *And be it further enacted*, That every perſon ſo enrolled ſhall provide himſelf, agreeably to the act of congreſs, with a muſket or firelock, a ſufficient bayonet and belt, two ſpare flints, and a knapſack, a pouch with a box therein, to contain not leſs than twenty-four cartridges, ſuited to the bore of his muſket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapſack, ſhot pouch and powder horn, twenty balls ſuited to the bore of his rifle, and a quarter of a pound of powder, and ſhall appear ſo armed, accoutred and provided, when called out to exerciſe or into ſervice; except that when called out to exerciſe only on company days, he may appear without a knapſack. And if any perſon ſo enrolled ſhall neglect to provide himſelf, or ſhall appear at muſters not properly accoutred as before expreſſed, or ſhall neglect or refuſe to appear at ſuch battalion or company muſters, or on any other neceſſary occaſion, at any time within nine months after the paſſing of this act, ſhall be fined in a ſum not exceeding two dollars for every ſuch offence; and for every ſuch neglect after that time, the ſum not exceeding ſix dollars if a battalion muſter, and four dollars if a company muſter.

Fines of privates for deficiencies and non-attendance.

Field and company officers uniform, ſubject to fine for deficiencies & non-attendance.

XI. *And be it further enacted*, That every commiſſioned officer of the rank of captain and under, ſhall provide himſelf with a ſword or hanger, an eſpontoon, and a complete ſuit of uniform, to be determined on by the officer commanding the brigade he belongs to, and in caſe of any ſuch officer appearing at muſters, or on other neceſſary occaſions, not ſo provided, at any time within nine months after his appointment, every ſuch officer ſo offending, or who ſhall neglect or refuſe to appear at ſuch muſters ſhall be fined, if a captain, in a ſum not exceeding thirty dollars; if a lieutenant, not exceeding twenty dollars; and if an enſign, not exceeding fifteen dollars. And every general and field officer ſhall in like manner appear, when on duty, in a complete uniform, and armed with a ſword or hanger;—the uniform of the general officers to be determined by the commander in chief, and the uniform of

† See act of 1793, No. 494, ſect. 6, reſpecting the rank of lieutenant-colonels.

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of the field officers, by the officer commanding the brigade; and in case of their appearing at muster, or on other necessary occasions, not so provided, every such officer shall forfeit and pay, if a major-general, a sum not exceeding two hundred and fifty dollars; if a brigadier, a sum not exceeding two hundred dollars; and if a field officer, a sum not exceeding one hundred dollars.

Battalion or regimental musters.

XII. *And be it further enacted*, That the said militia shall exercise in battalion twice in each year, and in companies four times in every year; and in case of neglect thereof, if a battalion or regimental muster, the commanding officer of such regiment or battalion shall be fined in a sum not exceeding one hundred dollars, to be imposed by a court martial, to be ordered by the officer commanding the brigade; and if a company muster, the officer commanding and so neglecting shall be fined for every such neglect in a sum not exceeding thirty dollars, to be imposed by a court martial, to be ordered by the officer commanding the regiment or battalion to which such company shall belong, and due notice shall be given of such regimental, battalion or company musters, by the officers commanding the same.

Company musters.

XIII. *And be it further enacted*, That every officer commanding a company shall, on the days appointed to exercise his men by company, have the same formed under arms by eleven o'clock in the forenoon, by which hour every person liable to militia duty in such company shall attend, and the said officer shall then have his roll called over, and mark all defaulters, and shall proceed to instruct and exercise his men in the evolutions and manual exercise pointed out and required by the before mentioned act of congress, and in case of neglect of such instructing and exercising, the officer so commanding shall be liable to a penalty not exceeding thirty dollars for every such neglect.

Officers and privates to be fined or cashiered by court martial, for misbehavior or disobedience of orders.

XIV. *And be it further enacted*, That if any person liable to bear arms, at any exercise or training, hereby appointed, shall behave in a contemptuous or unsoldier-like manner, at either battalion or company musters whilst under arms, or shall insult or threaten his field, company or other officer commanding, after his discharge, for or on account of such officer's performing the duty hereby required of him whilst such person was under arms, every such person shall for every such offence forfeit and pay a sum not exceeding four dollars: And if such offender shall be a commissioned officer, and shall be guilty of contemptuous or unsoldierlike behavior whilst on duty, or shall, after his discharge from such duty, threaten or insult his superior officer for or on account of the duty required of such officer by this act, every such commissioned officer so offending shall for every such offence forfeit and pay a sum not exceeding twenty dollars or be cashiered, at the option of a court martial.

Persons interrupting military exercise may be committed to gaol.

XV. *And be it further enacted*, That any person interrupting the military exercises required by this act, may be committed by the officer commanding the body of militia so interrupted, to the nearest common gaol, for a space of time not exceeding five days for every such offence.

Masters of indented servants to equip them, &c. and subject to fine for neglect.

XVI. *And be it further enacted*, That every master or other person who hath the command, government or power over any indented man servant, liable to do militia duty by this act, shall, at his or her own proper costs and charge furnish and provide every

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A. D. 1792. No. 468.

every such indented man servant during his servitude, with the arms, ammunition and accoutrements directed by this act, and every such master or other person shall send such indented servant completely armed and furnished as is herein required, to all battalion, regimental or company musters, and on all other necessary occasions, which such indented servant would have been liable to attend were he not a bondsman; and in case such indented servant shall not appear thereat, or on appearance shall be defective in arms or accoutrements hereby required, such master or other person shall be liable to all the fines, penalties and forfeitures imposed in like cases on other persons liable to bear arms by this act.

Fines and forfeitures, how to be imposed by courts martial.

XVII. *And be it further enacted*, That the several fines, penalties and forfeitures to be inflicted by this act on persons liable to attend at company musters, may be imposed by a court consisting of a majority of the commissioned officers of such company; or in case of vacancies of two commissioned officers of the regiment or battalion such companies belong to. *Provided*, one of the said officers be an officer of such company. And the several fines, penalties and forfeitures to be inflicted on persons liable to attend battalion or regimental musters, shall be imposed by a court, to consist of at least seven commissioned officers of such battalion or regiment; and it is hereby made the duty of the officers appointed members of such courts martial, on being duly notified thereof, to attend the same; and in case of neglect or refusal of any such commissioned officer to attend, he shall be liable to the penalties herein pointed out for non-appearance at regimental or battalion orders; and ten days notice at least, in writing, shall be given defaulters and offenders to be tried at such company, battalion or regimental courts martial, under the hand of the commanding officer of the company such offender or defaulter belongs to, who shall be served with the same personally, or be otherwise notified by a non-commissioned officer thereof, by such non-commissioned officer's leaving the same at such defaulter's or offender's usual place of abode, and proof of such service shall be made to such court, on oath, previous to its proceeding to the trial of such offender or defaulter.

Warrants therefor, how to be drawn & served

XVIII. *And be it further enacted*, That all warrants for fines, penalties or forfeitures inflicted by this act shall, if in consequence of the sentence of a company court martial, be under the hand and seal of the commanding officer of the company; and if in consequence of the sentence of a regimental or battalion court martial, under the hand and seal of the commanding officer of such regiment or battalion; and every such warrant shall clearly express the offence, and recite the sentence of the court, and shall be directed to, and executed by a serjeant of the company the offender belongs to, or be directed to, and executed by any lawful constable of such district; and such non-commissioned officer or constable shall make return of such warrant within thirty days after his receiving the same; and if on such return it shall happen that such offender or defaulter has not wherewithal to be levied to satisfy the forfeiture or fine imposed by such court, it shall be the duty of such officer commanding, to renew the warrant, and thereby to commit the offender or defaulter to the common gaol of the county, or the nearest gaol thereto, if there shall be no such county gaol, for the space of one day for each dollar contained in such

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such fine or forfeiture; and it is hereby made the duty of the keeper of such gaol to receive such offender or defaulter, and to keep him in close custody for the term in such warrant expressed, without bail or mainprize, and until such offender or defaulter shall have satisfied such keeper for his fees on such confinement. *Provided*, That no gaoler shall detain such person or persons more than three days for his fees: *And provided*, That where this act admits of persons being committed to gaol in the first instance, no return or renewal of such warrant shall be necessary. A. D. 1792. No. 468.

XIX. *And be it further enacted*, That the non-commissioned officers of the respective companies shall be appointed in the following manner, that is to say, the names of all persons liable to bear arms in each company district shall be placed in a box to be kept in the custody of the commanding officer of such company and have two partitions, to be known by the numbers one and two, and the names in the first instance shall be put in the petition number one, and within one month after the respective companies shall be organized, it shall be the duty of the commissioned officers thereof to assemble and draw from the said partition number one, the names of eight persons which shall be thrown into the partition number two, and the eight persons so drawn shall be the non-commissioned officers of the company and are hereby declared liable to execute and perform all the duties of such station, and they shall serve as such for the space of twelve months, and shall not be liable to serve again in that capacity until all the names shall be drawn from the partition number one; and in case of refusal to act in such appointment, or to procure some fit and proper person, to be approved of by the officer commanding the company, to do the duty of a non-commissioned officer in his stead, such person so drawn and refusing to act or to procure such fit and proper person, shall forfeit and pay the sum of ten dollars, to be recovered by warrant of the officer commanding the company such person shall belong to, and the said commissioned officers shall proceed to draw another person to fill the office of such person so refusing until the number of non-commissioned officers shall be completed; and the four first persons so drawn as aforesaid, shall be the serjeants, and the last four so drawn, the corporals of such company. *Provided nevertheless*, That if fit and proper persons for non-commissioned officers should be procured by the commissioned officers of such company, the mode of drawing in this clause contained may be dispensed with; but after such fit and proper persons have accepted such offices, they shall be liable to serve in such station, at least for the term of twelve months, as is herein before expressed for persons drawn to serve in the same; and in consideration of the duties in this act assigned to them, one half of the fines of such company shall be set apart as a fund for defraying the expence of executing such duty, and be divided to and among such non-commissioned officers; but if any non-commissioned officer after accepting such office, shall neglect or refuse to do the duty required by this act, he shall for every such offence, forfeit and pay a sum not exceeding five dollars.

Non-commissioned officers, in what manner to be appointed—to act twelve months.

Subject to fine in case of refusal to act.

Proviso.

XX. *And be it further enacted*, That it shall be the particular duty of the officers commanding companies, to pay a due attention that the law for establishing and regulating patrols in force in this State, passed the eighteenth day of November, in the year

The patrol law, how to be enforced by the militia.

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year of our Lord, one thouſand ſeven hundred and ſixty five, under the then province of Georgia, be ſtrictly executed, and in caſe of neglect or default of ſuch execution, every officer commanding the company defaulting, and not puniſhing the defaulters agreeable to the ſaid act, ſhall be ſubject to a fine not exceeding fifty dollars or be caſhiered, at the option of a court martial.

Returns, to whom and when to be made.

XXI. *And be it further enacted*, That the officers commanding regiments or battalions, ſhall once in every year, make proper and complete returns of their regiment or battalion as the caſe may be, to the officer commanding the brigade to which they reſpectively belong, and the officers commanding brigades, ſhall in like manner, make proper and complete returns of their brigades, to the officers commanding the diviſion to which they reſpectively belong, and the officers commanding diviſions, ſhall receive and diſtribute all ſuch orders to the brigades of their diviſions as may from time to time be iſſued from the commander in chief, or by his direction, from the adjutant general; and the officers commanding brigades, ſhall in like manner, receive and diſtribute to and among the reſpective regiments and battalions of their reſpective brigades, all ſuch orders as may from time to time be iſſued to them by the officers commanding diviſions, by the commander in chief, or from his directions by the adjutant general, and the officers commanding regiments or battalions ſhall cauſe to be diſtributed to, and executed by the reſpective companies under their command all ſuch orders as they may from time to time receive from officers commanding diviſions and brigades, or from the commander in chief, or the adjutant general; and in caſe of neglect or refuſal to perform ſuch duty, every officer ſo offending ſhall, if a major general, be fined in a ſum not exceeding five hundred dollars, if a brigadier, in a ſum not exceeding three hundred dollars, and if a field officer, in a ſum not exceeding two hundred dollars or be caſhiered at the option of a court martial to be ordered, if on a major general by the commander in chief, if on a brigadier by the officer commanding the diviſion, and if a field officer by the officer commanding the brigade. *Provided*, That nothing in this clauſe contained, ſhall be conſtrued to debar the commander in chief from arreſting and ordering courts martial for the trial of any officer of the militia of this State, or to debar any officer commanding a diviſion, brigade, regiment or battalion from arreſting and ordering courts martial for the trial of any officer belonging to his diviſion, brigade, regiment or battalion.

Orders how to be diſtributed by the officers.

Subject to fine or may be caſhiered, at diſcretion of court martial.

Courts martial for the trial of officers, how conſtituted.

XXII. *And be it further enacted*, That a court* martial for the trial of a major-general ſhall conſiſt of at leaſt one major-general, three brigadier generals and five field officers; and for the trial of a brigadier general the court ſhall conſiſt of at leaſt two brigadier generals and ſeven field officers; and for the trial of a field officer it ſhall conſiſt of at leaſt one brigadier, three field officers, and five captains, or of four field officers, and five captains; and a court martial for the trial of a captain or ſubaltern ſhall conſiſt of at leaſt ſeven commiſſioned officers, the preſident thereof to be of ſuperior rank to the officer tried; and every ſentence of a court martial, where the officer ſhall be caſhiered, ſhall be tranſmitted by the preſident of the court through the adjutant-general to the commander in chief, who may approve of, mitigate the ſentence or pardon the offender as he may ſee fit: and in caſe of ſentences

Their ſentence ſubject to the pleaſure of the commander in chief.

* See act of 1793, No. 494, ſect. 3, preſcribing the manner of appointing courts martial.

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tences merely pecuniary, the officer ordering the court may approve, disapprove or mitigate the same. A. D. 1792. No. 468.

XXIII. *And be it further enacted*, That from and after the organization of the militia as before pointed out, whenever any vacancy shall happen in any captain's district, battalion, regiment, brigade or division, by death, resignation or otherwise, the vacancies shall be filled up by nominating a person or persons to fill such vacancy or vacancies in the same manner as before pointed out by this act. Vacancies, how to be filled.

XXIV. *And be it further enacted*, That his excellency the governor be, and he is hereby empowered to assemble and embody such part of the militia of the State as he may from time to time think necessary, to repel any invasion, insurrection or rebellion which may happen within the same, and to order such officers to command the said militia as he shall see fit. *Provided*, That the officers of one company shall not be placed to command another company, unless where the death, resignation or inability of such officer shall make it necessary. *And provided*, That nothing in this clause contained shall prevent part of such company from being detached, or piquet or otherwise under any officer. The governor may embody the militia.

XXV. *And be it further enacted*, That where volunteer corps of artillery, horse or infantry shall be formed in pursuance of the aforementioned act of congress; the volunteers composing the same shall not be permitted to leave such corps until he or they shall have given two weeks notice of such intention, and shall have produced a certificate from under the hand of the commanding officer of the company district he belongs to, that his name is enrolled therein; and until the expiration of such notice such person shall be liable to continue to do duty in such volunteer corps; and in case of removal of residence of any person liable to do militia duty from one district to another, five days notice shall be given to the officer of the company such person intends to remove from, and shall produce a certificate from the officer of the company he intends to remove to, that his name is therein enrolled; and until such notice and certificate, such person shall be liable to do militia duty in such company from which he so intends to remove. Members of volunteer corps of artillery, horse &c. infantry, not to leave the same without notice and certificate. Militia men not to remove out of any district without notice and like certificate.

XXVI. *And be it further enacted*, That any officer acting in an infamous or scandalous manner unbecoming the officer, and which is likely to bring the militia service into disrepute, may be arrested by order of the commander in chief, or the commanding officer of a division or brigade, on sufficient grounds appearing to them of such conduct, and on conviction thereof by a court martial, such officer may be cashiered: And all disorders and neglects whilst on duty, or under orders which officers or privates may be guilty of to the prejudice of good order and discipline, though not herein particularly provided for, may be noticed by a general, regimental or battalion court martial, and be punished by fine or forfeiture, not exceeding the penalties herein apportioned for other offences according to the rank of the offender. All improper conduct of officers, disorders and neglect of duty, to be noticed by courts-martial.

XXVII. *And be it further enacted*, That all fines* and forfeitures accruing by virtue of this act shall, if arising from default at regimental or battalion musters, be paid into the hands of the major of such regiment or battalion for the express purpose of procuring, Fines and forfeitures, how applied.

* See act of 1793, No. 494, sect. 2, respecting other fines.

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procuring regimental and company colours: and all fines and forfeitures arising from defaults at company musters (except as herein excepted) shall be lodged in the hands of the captain thereof, to be applied in the purchase of drums and fifes; and such captain, after such purpose is attained, shall yearly account with, and pay to the major of such regiment or battalion, the overplus of such fines and forfeitures, who shall, after the expence of colours is deducted therefrom, pay the overplus of such regimental, battalion or company forfeitures into the public treasury, where all fines on general officers shall also be paid.

Commanding officers of regiments have the sole appointment of the regimental staff.

XXVIII. *And be it further enacted*, That the commanding officer of regiments shall have the sole appointment of the regimental staff as pointed out by the aforesaid act of congress, and that for the better understanding of this law as it has reference to the said act, the executive be empowered to direct a sufficient number of copies of that act to be struck off with this law, to be distributed one to each company of militia within this State, and one to each field and general officer within the same: And it is declared to be the duty of each company officer to have the said act, together with this law, publicly read over at least twice in each year to his company whilst under arms; and it shall be the duty of the field officers to have the same once in every year, read to the respective regiments or battalions whilst under arms, to which they may respectively belong: And the executive department is also further empowered and required to have a like number of copies of the rules and articles of war, in force with the troops of the United States, to be distributed in like manner, that the militia be not ignorant thereof when called into actual service.

The militia laws to be publicly read to companies, regiments or battalions.

Major generals, brigadiers and adjutant general, how appointed.

XXIX. *And be it further enacted*, That the major generals, brigadier generals, and adjutant general created by this act, shall be nominated in the following manner: The senate and house of representatives shall concur in the nomination of one person as major general for the first division; one other person as major general for the second division; and one other person for the major general for the third division of the militia of this State; and shall also concur in the nomination of one other person for the brigadier general of the first brigade of the first division; one other person for the brigadier general for the second brigade of the said division; one other person for the brigadier general of the first brigade of the second division; one other person for the brigadier general for the second brigade of the said last mentioned division; one other person for the brigadier general for the first brigade of the third division; and one other person as a brigadier general for the second brigade for the third and last division; and shall also concur in the nomination of one other fit and proper person as adjutant general; and a list of the names of such persons as shall be nominated as aforesaid, shall be signed by the president of the senate and speaker of the house of representatives, and transmitted to the governor within two days after such nomination, for the purpose of appointing and commissioning each and every of such nominated persons within ten days after he shall receive such lists of names as aforesaid.

Vacancies by removal.

XXX. *And be it further enacted*, That in case any officer shall remove out of the district, battalion or regiment for which he shall be appointed, then and in that case his commission shall be void; and all officers of divisions, brigades, regiments, battalions and companies shall be residents of the divisions, brigades, regiments, battalions and companies to which they severally belong. XXXI.

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A D. 1792. No. 468.

XXXI. *And be it further enacted*, That the people called quakers, on producing a certificate from a quaker meeting of their being *bona fide* quakers, ſhall be exempt from all militia duty required by this act, and ſhall pay an extra tax of twenty-five *per centum* in addition to their general tax. *Provided*, That this act ſhall not extend to affect perſons nor their eſtates who are herein exempt either from years, appointments or imbecility.

Quakers exempt from militia duty, on payment of additional tax.

Proviſo.

XXXII. **And be it further enacted*, That the members of the legiſlature for the time being, and their officers, all judicial and executive officers, all miniſters in orders, practitioners of phyſic, all public printers, all ferrymen, millers, all tutors and ſtudents, all juſtices of the peace, regiſters of probates, the treaſurers, the ſurveyor general and county ſurveyors, the ſecretary of the State, invalids, poſt riders, madmen and ideots,† ſhall be and they are exempted from any of the duties required by this act, in addition to thoſe exempted therefrom by the act of the United States.

Certain other exemptions in addition to thoſe mentioned in the act of the United States.

WILLIAM GIBBONS, *Speaker of the Houſe of Repreſentatives.*
BENJAMIN TALIAFERRO, *Preſident of the Senate.*
EDWARD TELFAIR, GOVERNOR.
December 14, 1792.

* So much of this ſect. as exempts the "ſeveral officers" named, and all militia laws prior to this act, repealed by act of 1793, No. 494, ſect. 15.

† See other exemptions by acts of 1794, No. 522, and 1795, No. 534.

An Act for the more effectually preventing and puniſhing forgery.

No 469.

I. BE *it enacted by the ſenate and houſe of repreſentatives of the State of Georgia in general aſſembly met*, That from and after the paſſing of this act, if any perſon or perſons ſhall falſely make, forge, alter or counterfeit, or cauſe or procure to be falſely made, forged, altered or counterfeited, or willingly act or aſſiſt in the falſely making, forging, altering or counterfeiting any audited certificate, iſſued by the auditor general, or any order or warrant iſſued by his excellency the governor, or the honorable the preſident of the ſenate, or ſpeaker of the houſe of repreſentatives of this State, on the treaſurer thereof, for any money or other thing, or any warrant for land iſſued by the juſtices of any land court within this State, or any certificate, draft, warrant or order from any of the public officers of this State, iſſued under or by virtue of any act or reſolve of the general aſſembly, any deed, will, teſtament, bond, writing obligatory, bill of exchange, promiſſory note, or order for money or goods, or acquittance, or receipt for money or goods, or any endorſement or aſſignment of any bond, writing obligatory, bill of exchange, promiſſory note, or order for money or goods, with intent to defraud any perſon or perſons whatſoever, or ſhall utter or publiſh as true, any falſe, forged, altered or counterfeited audited certificate, governors, preſidents, ſpeakers or other public officer's certificate, draft, warrant or order, ſo as aforeſaid iſſued under or by virtue of any act, or reſolve of the general aſſembly of this State, or any deed, will, teſtament bond, writing obligatory, bill of exchange,

To forge audited certificates, governors, preſidents or ſpeakers warrants, &c. &c.

Or to utter or publiſh the ſame as true.

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ascertainment of such valuation or damages, and before they shall proceed to affect the lands and tenements of the person or persons concerned; provided, that the said road shall not go through any houses, gardens, meadows or orchards, unless with the consent of the owner thereof. CHAP. XLVIII.

CHAP. XLIX.

An ACT to authorise the register of the land-office to issue a patent to Salathiel Fitchett for lot number six in Nanticoke manor. Lib. JG. No. 2. fol. 55. A Private Act. Passed 28th of Dec. 1793.

CHAP. L.

An ACT to settle and pay the civil list and other expences of civil government. Lib. JG. No. 2. fol. 55.

CHAP. LI.

An ACT for the support of Rebecca Fowler. Lib. JG. No. 2. fol. 56.

WHEREAS Juliana Fowler, of Queen-Anne's county, by her petition to this general assembly hath set forth, that she has, amongst other children, a daughter, who is now a young woman, who is blind, and also much afflicted with convulsion fits, which has in a great measure deprived her of her senses, and that she, the said Juliana Fowler, mother of the said Rebecca, is not able to maintain her, and prays that an act may pass to provide for the support of her said daughter, out of the poor-house; and the facts stated in the said petition appearing true, Preamble.

II. BE IT ENACTED, *by the General Assembly of Maryland*, That the justices of Queen-Anne's county shall and they are hereby empowered, at their levy courts annually, so long as they may see cause, to assess and levy on said county a sum of money, not exceeding twenty pounds, for the support and maintenance of the said Rebecca Fowler. Justices to levy money, &c.

CHAP. LII.

A Supplement to an act,* entitled, An act to prevent the exportation of flour, staves and shingles, not merchantable, from the town of Baltimore, in Baltimore county, and to regulate the weight of hay and measure of grain, salt, flax-seed and firewood, within the said town, and to prevent the exportation of flour, not merchantable, from Fell's Point, in the said county. Lib. JG. No. 2. fol. 57. * 1771, ch. 20.

See the note under the original act.

CHAP. LIII.

An ACT to regulate and discipline the militia of this state. Lib. JG. No. 2. fol. 57.

A Supplement 1798, ch. 100.

WHEREAS the congress of the United States, by their act, entitled, An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States, have enacted as follows, to wit: "Be it enacted, by the senate and house of representatives of the United States of America in congress assembled, That each and every free able bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years, (except as is herein after excepted,) shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years, (except as before excepted,) shall come to reside within his bounds; and shall, without delay, notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack; a pouch with a box therein, to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder, and shall appear so armed, accoutred and provided, when called out to exercise or into service, except that when called out on company days to exercise only, he may appear without a knapsack. That the commissioned officers shall severally Preamble.

CHAP. LIII.

rally be armed with a ſword or hanger, and eſpontoon; and that from and after five years from the paſſing of this act, all muſkets for arming the militia as herein required, ſhall be of bores ſufficient for balls of the eighteenth part of a pound; and every citizen ſo enrolled, and providing himſelf with the arms, ammunition and accoutrements, required as aforeſaid, ſhall hold the ſame exempted from all ſuits, diſtreſſes, executions or ſales, for debt, or for the payment of taxes. And be it further enacted, That the vice-preſident of the United States, the officers, judicial and executive, of the government of the United States, the members of both houſes of congreſs, and their reſpective officers, all cuſtom-houſe officers, with their clerks, all poſt-officers, and ſtage drivers who are employed in the care and conveyance of the mail of the poſt-office of the United States, all ferrymen employed at any ferry on the poſt-road, all inſpectors of exports, all pilots, all mariners actually employed in the ſea ſervice of any citizen or merchant within the United States, and all perſons who now are or may hereafter be exempted by the laws of the reſpective ſtates, ſhall be and are hereby exempted from militia duty, notwithſtanding their being above the age of eighteen, and under the age of forty-five years. And be it further enacted, That within one year after the paſſing of this act, the militia of the reſpective ſtates ſhall be arranged into diviſions, brigades, regiments, battalions and companies, as the legiſlature of each ſtate ſhall direct; and each diviſion, brigade and regiment, ſhall be numbered at the formation thereof, and a record made of ſuch numbers in the adjutant-general's office in the ſtate, and when in the field, or in ſervice in the ſtate, each diviſion, brigade and regiment, ſhall reſpectively take rank according to their numbers, reckoning the firſt or loweſt number higheſt in rank. That if the ſame be convenient, each brigade ſhall conſiſt of four regiments, each regiment of two battalions, each battalion of five companies, each company of ſixty-four privates. That the ſaid militia ſhall be officered by the reſpective ſtates as follows: To each diviſion, one major-general, and two aids-de-camp with the rank of major; to each brigade, one brigadier-general, with one brigade inſpector, to ſerve alſo as brigade-major, with the rank of a major; to each regiment, one lieutenant-colonel commandant; and to each battalion, one major; to each company, one captain, one lieutenant, one enſign, four ſergeants, four corporals, one drummer, and one fifer or bugler. That there ſhall be a regimental ſtaff, to conſiſt of one adjutant and one quarter-maſter, to rank as lieutenants; one paymaſter, one ſurgeon, and one ſurgeon's mate; one ſergeant-major, one drum-major, and one fife-major. And be it further enacted, That out of the militia enrolled as is herein directed, there ſhall be formed for each battalion at leaſt one company of grenadiers, light infantry or riflemen; and that to each diviſion there ſhall be, at leaſt, one company of artillery, and one troop of horſe: There ſhall be to each company of artillery one captain, two lieutenants, four ſergeants, four corporals, ſix gunners, ſix bombardiers, one drummer, and one fifer. The officers to be armed with a ſword or hanger, a fuſee, bayonet and belt, with a cartridge box to contain twelve cartridges; and each private or matroſs ſhall furniſh himſelf with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There ſhall be to each troop of horſe, one captain, two lieutenants, one cornet, four ſergeants, four corporals, one ſaddler, one farrier, and one trumpeter. The commiſſioned officers to furniſh themſelves with good horſes, of at leaſt fourteen hands and an half high, and to be armed with a ſword and pair of piſtols, the holſters of which to be covered with bearſkin caps. Each dragoon to furniſh himſelf with a ſerviceable horſe, at leaſt fourteen hands and an half high, a good ſaddle, bridle, mail pillion and valiſe, holſters, and a breaſtplate and crupper, a pair of boots and ſpurs, a pair of piſtols, a ſabre, and a cartouch box to contain twelve cartridges for piſtols. That each company of artillery and troop of horſe ſhall be formed of volunteers from the brigade, at the diſcretion of the commander in chief of the ſtate, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and ſhall be uniformly cloathed in regimentals, to be furniſhed at their own expence; the colour and faſhion to be determined by the brigadier commanding the brigade to which they belong. And be it further enacted, That each battalion and regiment ſhall be provided with the ſtate and regimental colours by the field-officers, and each company with a drum and fife or bugle-horn, by the commiſſioned officers of the company, in ſuch manner as the legiſlature of the reſpective ſtates ſhall direct. And be it further enacted, That there ſhall be an adjutant-general appointed in each ſtate, whoſe duty it ſhall be to diſtribute all orders from the commander in chief of the ſtate to the ſeveral corps; to attend all public reviews, when the commander in chief of the ſtate ſhall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the ſyſtem of military diſcipline eſtabliſhed by this act; to furniſh blank forms of different returns that may be required, and to explain the principles on which they ſhould be made; to receive from the ſeveral officers of the different corps throughout the ſtate, returns of the militia under their command, reporting the actual ſituation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and diſcipline; all which the ſeveral officers of the diviſions, brigades, regiments and battalions are hereby required to make in the uſual manner, ſo that the ſaid adjutant-general may be duly

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duly furniſhed therewith; from all which returns he ſhall make proper abſtracts, and lay the ſame annually before the commander in chief of the ſtate. And be it further enacted, That the rules of diſcipline approved and eſtabliſhed by congreſs in the reſolution of the twenty-ninth of March, one thouſand ſeven hundred and ſeventy-nine, ſhall be the rules of diſcipline to be obſerved by the militia throughout the United States, except ſuch deviations from the ſaid rules as may be rendered neceſſary by the requiſitions of this act, or by ſome other unavoidable circumſtances. It ſhall be the duty of the commanding officer at every muſter, whether by battalion, regiment or ſingle company, to cauſe the militia to be exerciſed and trained agreeably to the ſaid rules of diſcipline. And be it further enacted, That all commiſſioned officers ſhall take rank according to the date of their commiſſions; and when two of the ſame grade bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment. And be it further enacted, That if any perſon, whether officer or ſoldier, belonging to the militia of any ſtate, and called out into the ſervice of the United States, be wounded or diſabled while in actual ſervice, he ſhall be taken care of and provided for at the public expence. And be it further enacted, That it ſhall be the duty of the brigade inſpector to attend the regimental and battalion meeting of the militia compoſing their ſeveral brigades, during the time of their being under arms, to inſpect their arms, ammunition and accoutrements, ſuperintend their exerciſe and manœuvres, and introduce the ſyſtem of military diſcipline before deſcribed throughout the brigade, agreeable to law and ſuch orders as they ſhall, from time to time, receive from the commander in chief of the ſtate; to make returns to the adjutant-general of the ſtate, at leaſt once in every year, of the militia of the brigade to which he belongs, reporting therein the actual ſituation of the arms, accoutrements and ammunition, of the ſeveral corps, and every other thing which, in his judgment, may relate to their government and the general advancement of good order and military diſcipline; and the adjutant-general ſhall make a return of all the militia of the ſtate to the commander in chief of the ſaid ſtate, and a duplicate of the ſame to the preſident of the United States. And, whereas ſundry corps of artillery, cavalry and infantry, now exiſt in ſeveral of the ſaid ſtates, which, by the laws, cuſtoms, or uſages thereof, have not been incorporated with or ſubject to the general regulations of the militia, Be it further enacted, That ſuch corps retain their accuſtomed privileges, ſubject, nevertheleſs, to all other duties required by this act, in like manner with the other militia." Wherefore, and to carry the ſaid act into effect,

Perſons to be appointed, &c.

II. BE IT ENACTED, *by the General Aſſembly of Maryland*, That fit and proper perſons in each county of this ſtate be appointed by the governor and council to make true and exact liſts of the names of all able bodied white male citizens between eighteen and forty-five years of age, (except as in the before recited act and as herein after excepted,) diſtinguiſhing in the ſaid liſts the quakers, menoniſts and tunkers, and perſons conſcientiouſly ſcrupulous of bearing arms, and the apprentices and their trade, and the name of the maſter to whom they are apprenticed, and cauſe the ſaid liſts to be completed on or before the tenth day of April next, and ſhall return the ſame to the commiſſioners of the tax of the ſeveral and reſpective counties of this ſtate, on or before the ſaid tenth day of April next.

Who ſhall be allowed, &c.

III. AND BE IT ENACTED, That every perſon, ſo appointed to take the liſts of names in the ſeveral counties aforeſaid, ſhall be allowed for his trouble at the rate of two dollars and two thirds of a dollar for every hundred perſons ſo liſted, which ſums ſhall be paid by the treaſurer of the ſhore where they reſide, and the governor and the council may, in their diſcretion, add to the ſum to be allowed to the perſons to be appointed in Allegany county, and diminiſh it in caſes of appointments in Baltimore-town, as they may think juſt and neceſſary, ſo as to make the compenſation equal to the ſervice performed as nearly as may be.

Penalty for not giving in names, &c.

IV. AND BE IT ENACTED, That if any free male white citizen, of the age of eighteen years and under the age of forty-five years, when called on by any of the perſons ſo to be appointed by the governor and the council, ſhall not give in his name to be liſted, if unknown to the perſon requiring it, he ſhall forfeit and pay the ſum of ten dollars for every ſuch offence.

And for not informing, &c.

V. AND BE IT ENACTED, That if any ſuch perſon, of the age of eighteen years and upwards, when called on as aforeſaid, ſhall not inform the perſon ſo to be appointed, that he is of the age of eighteen years and upwards, and if any ſuch perſon, under the age of forty-five years, when called on as aforeſaid, ſhall inform the perſon ſo to be appointed, that he is of the age of forty-five years or upwards, every ſuch perſon, ſo offending, ſhall forfeit and pay the ſum of ten dollars for every ſuch offence.

EXHIBIT 6
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CHAP. LIII.

No free citizen to be excuſed, &c.

VI. AND BE IT ENACTED, That no free white male citizen, of the age of eighteen and under the age of forty-five years, ſhall be excuſed from militia duty on account of inability, unleſs he ſhall obtain from the ſurgeon of the regiment to which he ſhall belong, or ſome reputable phyſician in his neighbourhood, a certificate that he is not of ſufficient ability to perform militia duty.

Perſons appointed, to make returns, &c.

VII. AND BE IT ENACTED, That as ſoon as may be, and within fifteen days after the aforeſaid tenth day of April next, all the perſons ſo to be appointed by the governor and council in each and every county of this ſtate, who ſhall accept ſuch appointment, ſhall make true and exact returns of all the free white male citizens by them reſpectively liſted as aforeſaid to the governor and council, under the penalty of forty dollars for every neglect; and the governor and council ſhall forthwith proceed to appoint the proper officers thereto, agreeably to the proviſions of the before recited act; that thereupon each and every free white male citizen, who ſhall be of the age of eighteen years and under the age of forty-five years, (except as before excepted,) ſhall ſeverally and reſpectively be enrolled in the militia by the captain or commanding officer of the company within whoſe bounds ſuch citizen ſhall reſide, under the direction of the brigadier-general of the brigade, and that on or before the twentieth day of June next; and it ſhall at all times hereafter be the duty of every ſuch captain or commanding officer of a company, to enrol every ſuch citizen as aforeſaid, and alſo thoſe who ſhall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years, (except as before excepted,) ſhall come to reſide within his bounds, and ſhall, without delay, notify ſuch citizen of the ſaid enrolment, by a proper non-commiſſioned officer of the company, by whom ſuch notice may be proved.

Governor, &c. to arrange the militia, &c.

VIII. AND BE IT ENACTED, That on or before the twentieth day of June next, the governor and council ſhall arrange the militia of the ſtate into diviſions, brigades, regiments, battalions and companies, and ſhall number each diviſion, brigade and regiment, at the formation thereof, and a record ſhall be made of ſuch numbers in the adjutant-general's office; that if the ſame be convenient, each brigade ſhall conſiſt of four regiments, each regiment of two battalions, each battalion of five companies, each company of ſixty-four privates, four ſergeants, four corporals, one drummer and one fifer or bugler.

Grenadiers to be formed, &c.

IX. AND BE IT ENACTED, That out of the militia enrolled as aforeſaid, there ſhall be formed for each battalion at leaſt one company of grenadiers, light infantry or riflemen; that to each diviſion there ſhall be a company of artillery and one troop of horſe, formed and officered according to the directions of the before recited act.

Officers to arm themſelves, &c.

X. AND BE IT ENACTED, That all commiſſioned officers, who ſhall be appointed as aforeſaid by the governor and council, and who ſhall accept ſuch appointment, ſhall, on or before the tenth day of July next, arm, accoutre and provide themſelves, in the manner by the ſaid before recited act directed, under the penalty of twenty dollars for ſuch neglect; and each non-commiſſioned (a) officer and matroſs in the artillery, and each non-commiſſioned officer and dragoon in the companies of horſe, ſhall, on or before the firſt day of Auguſt next, arm, accoutre and provide himſelf, in like manner, under the penalty of ſix dollars current money for ſuch neglect.

(a) By 1798, ch. 100, the captains or commanding officers of companies are to appoint the non-commiſſioned officers.

Miniſters exempt.

XI. AND BE IT ENACTED, That all miniſters of the goſpel, regularly ordained or licenſed by any religious ſociety, ſhall be and are hereby exempted from militia duty.

Officers to take an oath.

XII. AND BE IT ENACTED, That each and every officer, appointed and commiſſioned by virtue of this act, ſhall, previous to their entering on the execution of their reſpective offices, take the following oath, or affirmation: "I, ——— ———, do ſwear, or affirm, (as the caſe may be,) that I will "be true and faithful to the ſtate of Maryland."

Colours, &c. to be provided, &c.

XIII. AND BE IT ENACTED, That the ſtate and regimental colours ſhall be provided by the field-officers, and the drums and fifes, or bugle-horns, by the commiſſioned officers of companies, who ſhall contribute to the ſame in proportion to the pay they would reſpectively be entitled to receive if now called into actual ſervice; and if the ſaid colours, drums, fifes or bugle-horns, ſhall not be provided on or before the firſt day of Auguſt next, in the manner herein directed, every officer who ſhall have neglected to contribute his proportion ſhall forfeit and pay one third of a month's pay to which ſuch officers reſpectively are entitled when called into actual ſervice.

XIV. AND

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Militia to be exercised, &c.

XIV. AND BE IT ENACTED, That the whole of the militia, so enrolled as aforesaid, shall, after the first day of June next, be exercised under their respective officers, as followeth; that is to say, in companies on some day in August and November, and in battalion on some day in October, after the tenth day thereof; and after the year seventeen hundred and ninety-four, the said militia shall be exercised as aforesaid, in companies on some day in the months of April and November, in battalion on some day in August, and in regiment on some day in October, after the tenth day thereof; that the captains (a) of companies shall appoint the days and places of meeting in companies, the majors (b) shall appoint the days and places of meeting in battalion, and the lieutenant-colonels shall appoint the days and places of meeting in regiment; on each of which days every militia-man so enrolled shall duly attend with his arms and accoutrements in good order, (c) and the captain or commanding officer of each company is required to appoint a fit and proper person, who shall, at the end of one hour after the time appointed for the meeting of the company, battalion or regiment, call over the muster-roll of the company, noting those who are absent, and on that day shall make return in writing to the captain or commanding officer then present, of such absentees; and all the persons so absent at the time of calling over the roll, or who shall depart from the parade before duly discharged, shall be liable to the fines hereafter mentioned.

(a) By 1798, ch. 100, the captains, &c. are to give notice of every muster day to the non-commissioned officers, who are to give notice to the privates.

(b) By 1798, ch. 100, the brigadier-general is to appoint the days of meeting of each regiment, battalion and extra battalion.

(c) By 1798, ch. 100, non-commissioned officers or privates, who have muskets or guns, and appear without them, are subject to be fined.

Penalty on officers, &c. for not attending, &c.

XV. AND BE IT ENACTED, That if any commissioned officer shall refuse or neglect to attend on any of the days which shall be appointed for exercise, accoutred and equipped as aforesaid, (unless prevented by sickness, or some other unavoidable accident,) such commissioned officer shall forfeit and pay a sum not exceeding six dollars per day; (d) and any non-commissioned officer or matross in the artillery, and any non-commissioned officer or dragoon, who shall so refuse or neglect to attend on any of the said days, armed and accoutred as aforesaid, (except as before excepted,) shall forfeit a sum not exceeding two thirds of a dollar per day; and all other non-commissioned officers and privates, who shall so refuse or neglect to attend, armed and accoutred as herein before directed, (except as before excepted,) shall forfeit and pay one cent per day, unless excused for appearing without arms and accoutrements by the commanding officer of their respective companies for the day; and if they shall not attend on the several days of meeting, to be appointed as aforesaid, each and every person so neglecting shall forfeit and pay half a dollar per day, unless prevented by sickness, or other unavoidable accident; the names and surnames of all which persons, so incurring the said fines and penalties, (except such as may have paid the same into the hands of the captain or commanding officer of the company,) shall be duly and forthwith returned by the captain or commanding officer of each company, under his hand, together with such fines as he has received, to the lieutenant-colonel of the regiment to which he shall belong, who shall, immediately after the said returns are made to him, cause the same to be respectively recovered before some justice of the peace living near the place where the delinquents respectively reside, as in the case of small debts; and the said lieutenant-colonel shall, twice in every year, account with the treasurer of his shore for all monies so received, and pay the same over to such treasurer, to be subject to the future application of the general assembly.

(d) By 1798, ch. 100, officers, non-commissioned officers and privates, may be fined for non-attendance by courts martial, as therein directed.

A duplicate to be lodged, &c.

XVI. AND BE IT ENACTED, That a duplicate of all returns made to the lieutenant-colonels as aforesaid, and an account of all money paid to them, shall be annually lodged by the respective persons making such returns or payments with the treasurer of their respective shores.

Militia on K. Island not compelled to meet, &c.

XVII. AND, whereas the remote and detached situation of that part of the militia of Queen-Anne's county who reside on Kent Island, renders it impracticable for them to meet in battalion or regiment off the said island; therefore, BE IT ENACTED, That the militia residing on Kent island shall not be compelled to meet in battalion or regiment, but that the companies composed of the militia on said island shall nevertheless be subject to be called together to exercise twice a year on said island exclusive of company meetings, at such times and at such place as the commanding officer of the battalion to which they belong shall direct, and shall be subject to the same fines for not appearing at said meetings as others are for not meeting in battalion or regiment, any thing in this act to the contrary notwithstanding.

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CHAP. LIII.

Quakers, &c. excuſed, &c.

XVIII. AND BE IT ENACTED, That all thoſe perſons called Quakers, Menoniſts and Tunkers, and all other perſons conſcientiouſly ſcrupulous of bearing arms, ſhall be excuſed from militia duty, (except when called into actual ſervice,) on the payment of two dollars each on the firſt day of September annually, to the lieutenant-colonel of the regiment to which they ſhall reſpectively belong; which ſaid ſums ſhall be collected in manner aforeſaid, and be accounted for annually, on or before the firſt day of December, and paid to the treaſurer of the eaſtern and weſtern ſhores reſpectively, ſubject to the future diſpoſition of the general aſſembly.

This ſection is repealed by 1798, ch. 100, which provides that ſuch perſons ſo refuſing ſhall pay three dollars annually.

Maſters, &c. accountable, &c.

XIX. AND BE IT ENACTED, That the maſter or miſtreſs of any apprentice, and the father, or mother or guardian of any minor, not a matroſs or dragoon, who ſhall refuſe or neglect to attend as aforeſaid, being in the ſervice of his father, or mother or guardian, maſter or miſtreſs, ſhall be accountable for the fine or fines ſo incurred by ſuch minor or apprentice.

Any perſon draughted may find a ſubſtitute, &c.

XX. AND BE IT ENACTED, That when any part or parts of the militia ſhall be draughted, or called out of the ſtate into actual ſervice, every perſon enrolled as aforeſaid, who is not a commiſſioned officer, ſhall have it in his choice, either to ſerve in perſon, or to find a ſufficient perſon for a ſubſtitute, which ſaid ſubſtitute ſhall be approved of by the lieutenant-colonel, or commanding officer of the battalion to which he ſhall belong; but if any perſon, not being diſabled by ſickneſs, ſhall neglect or refuſe to ſerve, or find ſuch ſufficient ſubſtitute in his place within ten days after notice given to him, the lieutenant-colonel, or commanding officer of the battalion to which ſuch delinquent belongs, ſhall, and he is hereby required to provide, hire or procure, on as reaſonable terms as may be, a ſubſtitute for ſuch perſon ſo refuſing or neglecting, and to charge ſuch ſum or ſums, together with reaſonable expences for procuring the ſame, to ſuch delinquent, to be recovered by diſtreſs, and ſale of his goods and chattels, lands or tenements, by warrant under the hands and ſeals of any two juſtices of the peace of the county where ſuch perſon reſides; and in all caſes where it ſhall be neceſſary to recover any fine or forfeiture, or other money wherewith any perſon or perſons may become chargeable under and by virtue of this act, by diſtreſs and ſale, or execution, of the property of ſuch perſon or perſons, it is hereby declared to be the duty of the ſheriff, or perſon executing for the ſame, to take ſuch property as ſhall be offered or ſhewn to ſuch ſheriff, or perſon executing, amounting to ſuch debt and coſt, and if no property ſhall be ſhewn or offered, ſuch ſheriff, or perſon executing, ſhall not take in execution any negro, or other valuable property, to ſatisfy a ſmall or trifling fine or ſum, if property of ſmall value can be found, but he ſhall take ſuch property, if any ſuch can be found, as will pay the ſum due, with the coſt of levying the ſame, and no more, as nearly as may be; and any perſon offending herein ſhall forfeit and pay treble the ſum ſo levied, to be recovered by the party grieved by indictment or action of debt in the county where the offence ſhall happen; provided, that no lieutenant-colonel, or commanding officer of a battalion, ſhall be obliged to provide a ſubſtitute for any delinquent, unleſs he is of opinion that ſuch delinquent has ſufficient property to pay the expences of procuring a ſubſtitute; and if ſuch lieutenant-colonel or commanding officer ſhall be of opinion, that any delinquent has not ſufficient property to pay the expences of procuring a ſubſtitute, he ſhall make application to a juſtice of the peace of the county where ſuch delinquent reſides, who, upon ſuch application, ſhall iſſue his warrant to the ſheriff of the county to arreſt the delinquent, and impriſon him in the common gaol, there to remain for a certain time, to be ſpecified in the warrant, not exceeding twenty days, and the ſheriff ſhall be obliged to keep ſuch delinquent in the common gaol, agreeable to the command of the ſaid warrant, unleſs he ſhall agree to ſerve, or find a ſufficient ſubſtitute in his place; provided alſo, that no militia-man, having perſonally or by ſubſtitute ſerved in the militia, ſhall be obliged to ſerve again until by rotation it comes to his turn.

Perſons aggrieved may appeal, &c.

XXI. AND BE IT ENACTED, That if any perſon or perſons ſhall think him, her or themſelves aggrieved in the ſeizure of his, her or their goods and chattels, lands or tenements, or by the executing his, her or their perſon or perſons, he, ſhe or they, may enter an appeal before the juſtices of the next county court, and on the party's giving ſufficient ſecurity within ſix days next after any goods or chattels, lands or tenements, ſhall be ſeized or diſtrained as aforeſaid, or his, her or their perſon or perſons executed as aforeſaid, to proſecute ſuch appeal with effect, the juſtices ſhall receive the ſame, and ſtay further proceſs; and the ſaid juſtices ſhall return every ſuch appeal on the ſecond day of the next term, and the court ſhall direct a trial by jury of the county, as in other caſes of debt, whoſe verdict ſhall be final and concluſive, and, except in extraordinary caſes, of which the court ſhall be judge, all ſuch appeals ſhall be tried at the term to which ſuch returns ſhall be made, any law, cuſtom or uſage, to the contrary notwithſtanding.

XXII. AND

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XXII. AND BE IT ENACTED, That no militia-man shall leave the company to which he belongs, and join any other, under the penalty of ten dollars, unless by consent of the captain, or commanding officer of the company, or in case of removing to some other district within this or any other state, and in such case he shall apply to the commander of such company, who shall give him a certificate of his being discharged, under the penalty of ten dollars, and if the said militia-man had been in actual service, shall also certify the time thereof, and how long he had continued therein, under the like penalty. No militia-man to leave his company, &c.

XXIII. AND BE IT ENACTED, That no person, serving as a substitute for another, shall thereby be excused from serving in his turn. Substitutes not excused, &c.

XXIV. AND BE IT ENACTED, That no officer or private of the militia shall be subject to any arrest, either on mesne process or execution, or in any other manner, for any civil matter, in his attendance at, going to, or returning from, muster. Officers, &c. not subject to arrest, &c.

XXV. AND BE IT ENACTED, That if any suit or suits shall be brought or commenced against any person or persons for any thing done in pursuance of this act, the action shall be laid in the county where the cause or causes of such action did arise, and not elsewhere, and the defendant or defendants may plead the general issue, and give this act and the special matter in evidence; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs by law. Action to be laid in the county, &c.

XXVI. AND, whereas sundry companies of artillery, cavalry and infantry, now exist, or may exist, in the town of Baltimore, previous to the twentieth day of May next, BE IT ENACTED, That all such companies now formed, or that may be formed previous to the said twentieth day of May next, shall be and are hereby continued and confirmed, subject nevertheless to all duties, fines and penalties, to which the rest of the militia are subjected by this act; provided, that the governor, with the advice and consent of the council, shall have the appointment and commissioning of the officers of the said companies. Companies continued, &c.

XXVII. AND BE IT ENACTED, That this act shall continue and be in force for and during the continuance of the before recited act of congress. Duration.

The act of congress is not limited in its duration.

CHAP. LIV.

An ACT to open and lay out roads from Denton, the seat of justice in Caroline county, to different parts of said county, and the same, when opened and laid out, to be the public roads of said county. Lib. JG. No. 2. fol. 67.

Passed 28th of Dec. 1793.

WHEREAS the inhabitants of Caroline county experience considerable inconvenience for the want of public roads leading from Denton, their seat of justice, to different parts of said county, and as it is right and proper they should have the same for their ease and convenience; therefore, Preamble.

II. BE IT ENACTED, *by the General Assembly of Maryland*, That Henry Downes, Joseph Richardson, Christopher Driver, William Robinson and Robert Hardcastle, be and they are hereby appointed commissioners to open and lay out the following roads in Caroline county aforesaid, to wit: A road from the west side of Choptank river, opposite to Denton, to intersect the road from Tuckahoe Bridge to Price's Landing; another road from the west side of Choptank river, opposite to Denton, to Tuckahoe Bridge; another road from the west side of Choptank river, opposite to Denton, to intersect the road from Greensborough to Tuckahoe Bridge at or near the Deep Branches; a road from Denton, down Choptank river, to intersect the road leading from Greensborough to Dover ferry between Rhodes's plantation and the mill commonly called and known by the name of Potter's Mill; another road from Denton to intersect the road from Greensborough to Dover ferry between the Old Chapel and the Three Bridges; and one other road from Denton, up Choptank river, to intersect the road from Greensborough to Dover ferry at or near Matthew Driver's saw mill; and the said commissioners, Commissioners appointed, &c.

EXHIBIT "7"



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Acts *and* Laws,

Paſſed by the GENERAL COURT of *Maſſachuſetts:*

Begun and held at BOSTON, in the County of SUFFOLK, on Wedneſday the Twenty-ninth Day of MAY, ANNO DOMINI, 1793.

CHAP. I.

An Act for regulating and governing the Militia of the Commonwealth of Maſſachuſetts, and for repealing all Laws heretofore made for that Purpoſe; excepting an Act, intitled "An Act for eſtabliſhing Rules and Articles for governing the Troops ſtationed in Forts and Garriſons, within this Commonwealth, and alſo the Militia, when called into actual Service."

WHEREAS the Laws for regulating and governing the Militia of this Commonwealth, have become too complicated for practical uſe, by reaſon of the ſeveral alterations which have from time to time been made therein: Therefore, Preamble.

I. *BE it enacted by the* SENATE *and* HOUSE *of* REPRESENTATIVES *in General Court aſſembled, and by the authority of the ſame,* That the ſeveral Laws heretofore made for governing and regulating Laws repealed.

regulating the Militia, be, and hereby are repealed, except an Act, intitled "An Act for eſtabliſhing Rules and Articles for governing the Troops ſtationed in Forts and Garriſons within this Commonwealth, and alſo the Militia when called into actual ſervice."

Proviſo. *Provided nevertheleſs*, That all officers actually in commiſſion, agreeably to the laws which are hereby repealed, and in grades which are eſtabliſhed by this Act, ſhall continue in commiſſion in the ſame manner, and in the ſame authority they would, in caſe the ſaid laws were ſtill in force; and all actions depending in any Court by force of ſaid laws, ſhall, and may be proſecuted to final judgment and execution.

Perſons to be enrolled in the Militia. II. *And be it enacted by the authority aforeſaid*, That each and every free, able-bodied white male citizen, of this, or any other of the United States, reſiding within this Commonwealth, who is, or ſhall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) ſhall ſeverally and reſpectively be ſubject to the requiſitions of this Act, and ſhall be enrolled in the Militia, by the Captain or Commanding Officer of the company, within whoſe bounds ſuch citizens ſhall reſide, within three months from and after the paſſing this Act: And it ſhall be at all times hereafter the duty of the Commanding Officer of every ſuch company, to enroll every ſuch citizen as aforeſaid; and alſo thoſe, who ſhall from time to time arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, and not herein after excepted, ſhall come to reſide within his bounds; and ſhall without delay notify ſuch citi-

To be notified. zen of the enrollment, by a non-commiſſioned officer or other perſon, duly authorized for that purpoſe, by whom ſuch notice may be proved; and in all caſes of doubt reſpecting the age of any perſon enrolled, or intended to be enrolled, the party queſtioned, ſhall prove his age to the ſatisfaction of the Commanding Officer of the company within whoſe bounds he may reſide.

Perſons exempted from training. III. *And be it further enacted by the authority aforeſaid*, That the Vice-Preſident of the United States; Members of Congreſs, of both Houſes, with their reſpective Officers; Lieutenant-Governor; Members of the Council, Senate and Houſe of Repreſentatives, with their Officers; Secretary and Treaſurer of the Commonwealth; Officers, Judicial and Executive, of the Government of the United States; Juſtices of the Supreme Judicial Court; Juſtices of the Courts of Common Pleas; Judges of Probate; Regiſters of Probate; County Regiſters; Juſtices of the Peace; Sheriffs; Deputy-Sheriffs; Coroners; Conſtables; Selectmen; Miniſters of the Goſpel; Elders and Deacons of Churches; Church Wardens, and thoſe of the religious denominations of Quakers and Shakers; Maſters of Arts; Officers and Students at any College; alſo ſuch Phyſicians, Surgeons, ſtated School-Maſters, Ferrymen and Millers, as the Selectmen of the towns to which they ſhall ſeverally belong, ſhall by a writing under their hands, ſignify the expediency of

of exempting; perſons who have by commiſſion under any government or Congreſs, or by election in purſuance of the orders of any Congreſs of the United States, or either of them, held the office of a Subaltern or office of higher rank; and all Mariners actually employed in any ſea-ſervice of any citizen within the United States, in any veſſel of more than thirty tons burthen; Cuſtom-Houſe-Officers; all Poſt-Officers, Stage-Drivers, actually employed in the care and conveyance of the Mail; and ſuch perſons as did attain to the age of forty years before the eighth day of *May*, one thouſand ſeven hundred and ninety-three; and alſo all ſuch Manufacturers as are by any ſpecial law of the Commonwealth now exempted, ſhall be, and hereby are exempted from the ſaid enrollment.

Arrangement of the Militia.

IV. *And be it further enacted by the authority aforeſaid*, That the Governor, by and with the advice of the Council, be, and hereby is authorized and empowered to form and arrange the Militia into diviſions, brigades, regiments and companies; and from time to time to make ſuch alterations therein as ſhall be neceſſary; and if the ſame be convenient, each brigade ſhall conſiſt of four regiments, each regiment of ten companies, and each company of ſixty-four effective privates: *Provided notwithſtanding*, That the preſent arrangement of the Militia ſhall continue as it now is, until the Governor, with the advice of Council, ſhall otherwiſe order; and each new diviſion, brigade and regiment ſhall be numbered at the formation thereof, and a record made of ſuch number in the Adjutant-General's office, and when in the field or in ſervice, each diviſion, brigade and regiment ſhall reſpectively take rank according to its number.

Proviſo.

Manner of officering the Militia.

V. *And be it further enacted by the authority aforeſaid*, That the Militia ſhall be officered, as follows: To each diviſion, one Major-General and two Aids-de-Camp, with the rank of Major: To each brigade, one Brigadier-General, with one Brigade-Inſpector, to ſerve alſo as Brigade-Major, with the rank of Major: To each regiment, one Colonel, one Lieutenant-Colonel, one Major. *Provided nevertheleſs*, where any vacancy of Colonel now is, or ſhall hereafter happen, then the field-officers of each regiment to conſiſt of a Lieutenant-Colonel-Commandant, and two Majors: To each company of infantry, one Captain, one Lieutenant, and one Enſign, four Serjeants, four Corporals, one Drummer, one Fifer or Bugler: That there ſhall be a Regimental Staff, to conſiſt of one Adjutant, one Quarter-Maſter, to rank as Lieutenants, one Surgeon, and one Surgeon's Mate, to be appointed by the Commanding-Officer of the regiment, and commiſſioned by the Governor, one Serjeant-Major one Quarter-Maſter-Serjeant, one Drum-Major, and one Fife-Major: That each company of artillery ſhall conſiſt of one Captain, two Lieutenants, four Serjeants, four Corporals, ſix Gunners, ſix Bombadiers, one Drummer, one Fifer, and

and thirty-two Privates or Matroſſes: And each troop of cavalry ſhall conſiſt of one Captain, two Lieutenants, and one Cornet, four Serjeants, four Corporals, one Saddler, one Farrier, one Trumpeter, and thirty-two Privates: And there ſhall be one Adjutant-General and one Quarter-Maſter-General for the whole Militia, to be appointed by the Governor.

Major-General empowered in election of Officers.

VI. *And be it further enacted by the authority aforeſaid*, That each and every Major-General be, and hereby is empowered, and it ſhall be his duty, to give all ſuch orders, as ſhall from time to time be neceſſary, conſiſtent with the law for electing Brigadier-Generals, Field-Officers, Captains and Subalterns, in brigades, regiments and companies, within his reſpective diviſion, which have not been already commiſſioned, and for filling up vacancies of ſuch officers or any of them, where they now are or may hereafter happen. *Provided always*, That whenever a time ſhall be appointed for the election of any Officer or Officers, the electors ſhall have ten days notice thereof, at leaſt; and all returns of elections, and neglects, or refuſals to make choice of Officers, ſhall be made to the Governor by the Major-General, in whoſe diviſion the election ſhall be ordered; and all commiſſions ſhall paſs through the hands of the Major-Generals to the officers in their reſpective diviſions, for whom they ſhall be made out; and every perſon who ſhall be elected to any office in the ſaid Militia, and ſhall not within ten days after he ſhall have been notified of his election, (excepting a Major-General, who ſhall be allowed thirty days after he ſhall be notified by the Secretary of the Commonwealth) ſignify his acceptance thereof, ſhall be conſidered as declining to ſerve in ſuch office; and orders ſhall be forthwith iſſued for a new choice.

Proviſo.

All Officers to ſubſcribe the oath.

VII. *And be it further enacted by the authority aforeſaid*, That every perſon who ſhall be lawfully intitled to be commiſſioned to any office in the Militia of this Commonwealth, ſhall at the time of receiving his commiſſion, take and ſubſcribe the oaths and declaration required by the Conſtitution, before ſome Juſtice of the Peace, or ſome General or Field-Officer, who ſhall have previouſly taken and ſubſcribed them himſelf, and who are hereby authorized to adminiſter the ſame; and a certificate thereof ſhall be made on the back of every commiſſion, by the Juſtice of the Peace, or General or Field-Officer, before whom the ſaid oaths and declaration ſhall have been taken and ſubſcribed.

Non-commiſſioned Officers by whom appointed.

VIII. *And be it further enacted by the authority aforeſaid*, That the Commanding Officer of regiments, ſhall appoint the non-commiſſioned Staff-Officers of their reſpective regiments: The Commanding Officers of Companies ſhall appoint the non-commiſſioned Officers, including the Clerks, of the reſpective companies: All non-commiſſioned Staff-Officers and Sergeants ſhall receive warrants under the hand of the Commanding Officer of their reſpective regiments or corps:—And the Adjutant ſhall keep a record in a ſuitable

able book, to be kept for that purpoſe, of all warrants which ſhall be iſſued :—And no non-commiſſioned Officer ſhall be deemed to have reſigned his office, until he ſhall have done it in writing to the Commanding Officer of the regiment or corps to which he belonged; and ſhall have obtained his diſcharge alſo in writing, from ſuch Commanding Officer :—And no non-commiſſioned Officer or Private, ſhall be diſenrolled from the Militia for diſability, without a certificate from the regimental Surgeon and Mate

Reſignations to be given in writing.

IX. *And be it further enacted by the authority aforeſaid*, That every company ſhall have a Clerk, who ſhall be alſo one of the Sergeants, and he ſhall be ſworn to the faithful diſcharge of his truſt; and it ſhall be his duty always to keep a fair and exact roll of the company, together with the ſtate of the arms and equipments belonging to each man, which roll he ſhall annually reviſe and correct in the month of *May*, as is herein after directed; to regiſter all orders and proceedings of the company in an orderly book, which ſhall never be alienated from the company; to keep exact details of all detachments; to call the roll whenever the company is aſſembled; to examine the equipments when thereto required, and to note all delinquencies; to ſue for, recover and receive all fines and forfeitures which are required by this Act to be recovered, one half to his own uſe for his trouble, and the other half to be paid to the Commanding Officer of the company, in truſt, for the uſe of the company to which he belongs, excepting ſuch caſes wherein other proviſion is made by this Act, for the recovery and appropriation of fines and forfeitures.

Clerks to be appointed. — Their duty. — empowered to ſue. Appropriations.

Provided nevertheleſs, That all commiſſioned Officers now in command in the Militia, in any grade not eſtabliſhed by this Act, ſhall be continued in their command; and the Clerks of companies, now in office, ſhall be continued in ſuch office.

Proviſo.

X. *And be it further enacted by the authority aforeſaid*, That whenever a company ſhall have neither commiſſioned Officers nor non-commiſſioned Officers, the Commanding Officer of the regiment or battalion to which ſuch company belongs, ſhall appoint ſuitable perſons within ſaid company to be non-commiſſioned Officers and Clerk of the ſame; and ſuch non-commiſſioned Officers and Clerk, ſo appointed, ſhall be authorized in the ſame manner, and have the ſame power, and authority, as if they had been appointed by a Captain duly qualified to command ſaid company.

Non-commiſſioned Officers appointed in caſe.

XI. *And be it further enacted by the authority aforeſaid*, That no Officer of the Militia ſhall be diſcharged excepting by the Commander in Chief, on the requeſt of ſuch Officer, in writing, or by the Commander in Chief on the addreſs of both Houſes of the Legiſlature; or by being diſbanded by a law of the Commonwealth, or by a judgment of a Court-Martial, or by actual removal, (the Major-General to be judge whether the diſtance is ſo great that he cannot conveniently diſcharge the duties of his office) or by twelve

Prohibition.

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months abſence, without leave of ſuch Officer, from the diſtrict of his command: And no Officer ſhall conſider himſelf exempted from the duties of his ſtation, until he ſhall have been diſcharged in one or other of the methods aforeſaid: And if by the Commander in Chief, not until he ſhall have received a certificate of ſuch diſcharge: No Officer ſhall be allowed to reſign his commiſſion when under arreſt; and no General or Field-Officer ſhall approve the reſignation of any other Officer, until ſuch Officer ſhall have lodged in his hands all ſuch Militia laws and orderly books as he ſhall have been furniſhed with by the Government; and ſuch General or Field-Officer ſhall deliver the laws and orderly books which he ſhall thus have received, to the next ſucceeding Officer who ſhall be commiſſioned in the place of him who ſhall have reſigned.

Cavalry organized.

XII. *And be it further enacted by the authority aforeſaid*, That the Governor, with the advice of Council, be and hereby is authorized to complete the cavalry in each brigade of the Militia, to two full companies or troops; and the cavalry in each brigade, when completed, ſhall be formed into battalions or ſquadrons; in thoſe brigades where there are or may be two or three troops, they ſhall form ſquadrons, and each ſquadron ſhall be commanded by a Major; in thoſe brigades where there are already more than three troops, they ſhall form battalions, and each battalion ſhall be entitled to a Lieutenant-Colonel, Major, Adjutant and Quarter-Maſter: *Provided always*, That in thoſe brigades where there are already two troops raiſed, they ſhall not be augmented; and in thoſe brigades where there are already more than two troops, they ſhall not be reduced. *Provided alſo*, That the companies of cavalry which are by any former Act, annexed to any regiment, ſhall continue to be ſo attached to ſuch regiment in which it is raiſed. The Officers of cavalry ſhall furniſh themſelves with good horſes, at leaſt fourteen hands and a half high; and ſhall be armed with a pair of piſtols, and a good ſword, the holſters of which ſhall be covered with bearſkin caps: Each horſeman ſhall furniſh himſelf with a ſerviceable horſe, of at leaſt fourteen hands and a half high; a good ſaddle, bridle, mailpillion and valiſe; holſters, a breaſtplate, and crupper; a pair of boots and ſpurs, a pair of piſtols; a ſabre, and cartridge-box, to contain twelve cartridges for piſtols. No man ſhall be enliſted into any troop of cavalry, unleſs he ſhall own and conſtantly keep a ſuitable horſe, and furniture, for that ſervice; and if any man who ſhall belong to any troop of cavalry, ſhall be deſtitute of a ſuitable horſe and furniture, for more than three months at one time, he ſhall be diſcharged from ſuch corps, and enrolled in the ſtanding company in which he reſides. And whenever any draft or detachment ſhall be made from a troop of cavalry, for actual ſervice, the men thus drafted or detached, ſhall march with their own horſes; and before they march, the horſes ſhall

Proviſo's.

Officers and men to furniſh themſelves complete with horſes and every other equipment.

ſhall be appraiſed, by three indifferent men, to be appointed by the Brigadier of the brigade, from which ſuch detachment ſhall be made.

XIII. *And be it further enacted by the authority aforeſaid*, That the Governor with the advice of Council, be, and hereby is authorized to compleat the artillery in each brigade of the Militia, to two full companies; and when thus compleated, ſhall form a battalion in each brigade, and be entitled to a Major, Adjutant and Quarter-Maſter. *Provided nevertheleſs*, That in thoſe brigades, where there are already two companies raiſed, they ſhall not be augmented; and in thoſe brigades where there are already more than two companies, they ſhall not be reduced. And each company of artillery, ſhall be provided with two good field-pieces, with carriages and apparatus compleat; an ammunition cart; forty round ſhot, and forty rounds of canniſter ſhot.—The Governor ſhall order to be iſſued to each company of artillery, annually, a quantity of powder, not exceeding one hundred pounds, which ſhall be expended on general muſter days, and in experimental gunnery. And the Quarter-Maſter-General ſhall provide for, and ſupply the artillery companies with all the carriages, tumbrils, harneſs apparatus, implements, larboratory and ordnance ſtores, which may, from time to time be neceſſary for their equipment. The Officers of artillery ſhall be armed with a ſword or hanger; a fuſee, bayonet and belt, with a cartridge-box to contain twelve cartridges: And each non-commiſſioned Officer and Private or Matroſs, of thoſe companies which are unprovided with field-pieces, ſhall furniſh himſelf with all the equipments of a Private in the infantry, until proper ordnance and field artillery is provided. And the Commanding Officer of each company of artillery, ſhall be accountable for the careful preſervation of the pieces and apparatus, and the proper expenditure of the ammunition ſupplied by government. Each company of artillery, and troop of cavalry, ſhall be formed of volunteers from the brigade; and together, they ſhall not exceed in number one eleventh part of the infantry of ſuch brigade; and they ſhall be uniformly cloathed in regimentals, to be furniſhed at their own expence.

Artillery organized.

Proviſo.

— to be provided with compleat apparatus.

Quarter-Maſter to furniſh.

Commanding Officer to be accountable.

Artillery and cavalry to be formed of volunteers.

XIV. *And be it further enacted by the authority aforeſaid*, That at all regimental muſters, the companies commanded by the two eldeſt Captains, ſhall act as light-infantry companies, except where light-infantry companies have already been raiſed by voluntary enliſtment, and one or more ſhall be attached to ſuch regiment.

Light-infantry companies.

XV. *And be it further enacted by the authority aforeſaid*, That if any non-commiſſioned Officer or Private of cavalry, artillery, light-infantry, or other corps raiſed at large, ſhall neglect for the term of three months, to keep himſelf provided with an uniform of the company to which he belongs, as is directed by this

Penalty.

this Act, he shall be discharged from such corps, by the Brigadier commanding the brigade, and enrolled in the standing company in which he resides. And no company of cavalry, artillery, light-infantry, or other corps which it may be lawful to raise at large, shall be raised within this Commonwealth, when any of the standing companies shall be reduced thereby, to a less number than sixty-four effective Privates; and no Officer of any such corps, shall enlist any men belonging to a standing company, for the purpose of forming or recruiting such corps raised at large, when by means thereof, such standing company would be reduced to a less number than sixty-four effective Privates. And if any such corps, raised at large, shall at any time be destitute of commissioned Officers, and shall neglect to fill up such vacancies, for one whole year after being ordered to elect them, or if any such corps shall be reduced under twenty privates, and remain in that situation for one whole year without doing duty as the law directs; then in either case as aforesaid, such corps raised at large shall be deemed disbanded, and the men which belonged to such delinquent corps, shall be enrolled in the standing company in which the individuals thereof shall respectively reside: And no such corps raised at large, shall at any time bear a greater number of men on their rolls, than the law allows necessary to constitute them; and the Commanding Officer of every such corps shall annually, in the month of *April*, make out a list of all the men's names belonging to his corps, and deliver the same to the Commanding Officer of the regiment or battalion, in whose district such corps is or may be raised; and all such corps raised at large, not annexed to any particular regiment, shall be subject to the orders of the Commanding Officer of the brigade in which they shall respectively be raised, and shall make their elections and returns in the same manner as other corps of the Militia.

No corps to be raised at large which will reduce standing companies to a limited number.

—— to be deemed disbanded in case.

—— not to consist of a greater number than legal.

And whereas the military company in *Boston*, commonly called the "*Ancient and Honorable Artillery Company*," being by ancient charter, custom and usage, exempted from the general regulations of the Militia: Therefore,

Ancient and Honorable Artillery Company

XVI. *Be it further enacted by the authority aforesaid*, That the said company, called the "*Ancient and Honorable Artillery Company*," shall retain its accustomed privileges, not being incompatible with the Constitution, but shall be subject to all other duties required by this Act, in like manner as other companies of Militia.

—— to retain privileges.

XVII. *And be it further enacted by the authority aforesaid*, That every commissioned Officer of infantry, whose duty shall require him to serve on foot, shall be armed with a sword and an espontoon; and every Officer whose duty requires him to be mounted, shall be armed with a sword and pair of pistols: And the uniform in every instance required by this Act, shall be a dark blue cloth coat, of such fashion, and with such facings, and underclothes, as the Major-Generals or Brigadiers shall direct within their several commands. *And*

Officers, how to be armed and uniformed.

XVIII. *And be it further enacted by the authority aforesaid*, That every non-commissioned Officer and Private of the infantry shall constantly keep himself provided with a good musket, with an iron or steel rod, a sufficient bayonet and belt, two spare flints, a priming wire and brush, and a knapsack; a cartridge-box, or pouch with a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket; each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch, powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder: And shall appear so armed, accoutred and provided, whenever called out, except that when called out to exercise only, he may appear without a knapsack, and without cartridges loaded with ball. *Provided always*, that whenever a man appears armed with a musket, all his equipments shall be suited to his musket; and whenever a man appears armed with a rifle, all his equipments shall be suited to his rifle: And that from and after five years from the passing of this Act, all muskets for arming the Militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound: And every citizen enrolled and providing himself with arms ammunition and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt, or for payment of taxes.

Necessary articles of equipments.

Proviso.

Arms &c. to be exempted from suits.

XIX. *And be it further enacted by the authority aforesaid*, That every non-commissioned Officer or Private of the infantry, who shall neglect to keep himself armed and equipped as aforesaid, or who shall on a muster-day, or at any other time of examination, be destitute of, or appear unprovided with the arms and equipments herein directed (except as before excepted) shall pay a fine not exceeding *twenty shillings*, in proportion to the articles of which he shall be deficient, at the discretion of the Justice of the Peace, before whom trial shall be had: And all parents, masters and guardians shall furnish those of the said Militia who shall be under their care and command, with the arms and equipments aforementioned, under the like penalties for any neglect: And whenever the Selectmen of any town shall judge any inhabitant thereof, belonging to the Militia, unable to arm and equip himself in manner as aforesaid, they shall at the expence of the town provide for and furnish such inhabitant with the aforesaid arms and equipments, which shall remain the property of the town at the expence of which they shall be provided; and if any soldier shall embezzle or destroy the arms and equipments with which he shall be furnished, he shall, upon conviction before some Justice of the Peace, be adjudged to replace the article or articles, which shall by him be so embezzled or destroyed, and to pay the cost arising from the process against him: And if he shall not perform the same within fourteen days after such adjudication, it shall be in the power of

Fine for neglect.

Parents and masters to equip their children & servants.

Persons unable, to be furnished by the town.

Penalty, in case.

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the Selectmen of the town to which he shall belong, to bind him out to service or labour, for such term of time as shall, at the discretion of the said Justice, be sufficient to procure a sum of money equal to the value of the article or articles so embezzled or destroyed, and pay cost arising as aforesaid.

Penalty for not appearing on muster days.

XX. *And be it further enacted by the authority aforesaid*, That every person liable to do military duty, who being duly warned shall refuse or neglect to appear at the time and place appointed, armed and equipped as by this act is directed, for any muster, training, view of arms, or other military duty, shall pay as a fine for such default, the sum of *ten shillings*: And every person who shall appear at any muster with his arms in an unfit condition, shall pay a fine of *three shillings* for each and every such default: *Provided nevertheless*, It shall be lawful for the Commanding Officer of a company, at any time within eight days after any muster, training, view of arms or other duty, to excuse any person for non-appearance, on the delinquent's producing to him satisfactory evidence of his inability to appear as aforesaid; and the Commanding Officer of the company shall certify the same to the Clerk within the time abovementioned, and the Clerk shall not thereafter commence any prosecution against such delinquent for his fine for non-appearance, as aforesaid.

Proviso.

Clerk to notify.

XXI. *And be it further enacted by the authority aforesaid*, That whenever the Commanding Officer shall think proper to call his company together, or shall be ordered by his superior Officer to do it, he shall issue his orders therefor, to one or more of the non-commissioned Officers, if there be any, if not to one or more of the privates belonging to his company, directing him or them to notify and warn the said company to appear at such time and place as shall be appointed; and every such person or persons, who shall receive such orders, shall give notice of the time and place appointed for assembling said company, to each and every person he or they shall be so ordered to warn, either by verbal information, or by leaving a written or printed notification thereof, at the usual place of abode of the person thus to be notified and warned; and no notice shall be deemed legal for musters for the purpose of common and ordinary trainings, unless it shall be given four days at least, previous to the time appointed therefor; but in case of invasion, insurrection or other emergency, any time specified in the orders shall be considered as legal; and every non-commissioned Officer, or other person, who shall neglect to give the said notice and warning, when ordered thereto by the Commanding Officer of the company to which he belongs, shall for such offence forfeit and pay as a fine, a sum not exceeding *forty shillings*, nor less than *twelve shillings*, at the discretion of the Justice of the Peace before whom trial shall be had; and the testimony of any person under oath, who shall have received orders agreeable to law, for notifying

Manner of notification.

Penalty.

notifying and warning any company, or part thereof, to appear at a time and place appointed for any muſter, view of arms, or other military duty, ſhall be ſufficient to prove due notice was given to the party againſt whom complaint may be made, unleſs ſuch teſtimony ſhall be invalidated by other ſufficient evidence: And whenever a company ſhall be deſtitute of commiſſioned Officers, and the Commanding Officer of the regiment or battalion to which ſuch company belongs, ſhall think proper to call out ſuch company, he ſhall direct his orders to one or more of the non-commiſſioned Officers of ſaid company, who ſhall have full power and authority to warn, aſſemble, lead, order, exerciſe and govern ſaid company, conformably to the orders which he or they ſhall thus receive from their ſuperior Officers for that purpoſe: *Provided always*, When in regiment or battalion, it ſhall be lawful for the Commanding Officer preſent, to order a commiſſioned Officer to command ſuch company, while acting in conjunction with other corps.

Companies deſtitute of commiſſioned Officers, how warned.

Proviſo.

XXII. *And be it further enacted by the authority aforeſaid*, That every non-commiſſioned Officer and Private of the Militia, who ſhall be diſorderly or diſobedient, or guilty of unmilitary conduct on a muſter or training day, or at any other time when on duty, ſhall be confined during the time of the ſaid muſter or training, at the diſcretion of his Officers, and ſhall pay a fine not exceeding *forty ſhillings*, nor leſs than *twelve ſhillings*, at the diſcretion of the Juſtice of the Peace to whom complaint ſhall be made.

Penalty for diſorderly behaviour.

XXIII. *And be it further enacted by the authority aforeſaid*, That whenever any non-commiſſioned Officer or Private in the Militia, ſhall forfeit any ſum of money, ſet and affixed to any default, or offence, by this Act, of the ſum of *four pounds*, or under, the ſame ſhall be recovered in the manner following; that is to ſay: The Clerk of the company to which the offender belongs, ſhall, after the expiration of eight days, and within ſixty days after the offence ſhall have been committed, make complaint thereof, and of all matters of ſubſtance, and material circumſtances attending the ſame, to ſome Juſtice of the Peace, in the county where ſuch offender ſhall live, who ſhall make record thereof, and ſhall iſſue a ſummons to the party complained of, to be ſerved ſeven days at leaſt, before the time appointed for the trial, in the form following, *mutatis mutandis*.

Fines, how recovered.

——— *ſs.*

L. S. *TO the Sheriff of the ſaid county, or his Deputy, or either of the Conſtables of the town of within the ſame county,* GREETING.

Form of the ſummons.

In the name of the Commonwealth of Maſſachuſetts, you are hereby required to ſummon C. D. *of in the county of to appear before me* E. F. *one of the Juſtices of the Peace for the county*

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county aforesaid, at in on the day of at of the clock, in the noon, then and there to shew cause, if any he has, why a warrant of distress shall not issue against him. [Here insert the complaint.] *Hereof fail not, and make due return of this writ, and of your doings therein, unto myself, at, or before the said day of .*

Dated at aforesaid, the day of in the year of our LORD

E. F. *Justice of the Peace.*

And when the said party shall by himself, or his Attorney appear accordingly, he may plead the general issue and give any special matter in evidence; and if the said party shall make default, or if judgment shall be given against him, and he shall neglect for four days thereafter, to satisfy the same with legal costs, then the Justice of the Peace, before whom trial shall be had, shall issue his warrant of distress, under his hand and seal, in the form following:

Form of the warrant of distress.

——— *ss.*

Seal. *TO the Sheriff of the said county, or his Deputy, or any or either of the Constables of the town of within the same county,* GREETING.

Whereas C. D. *of upon the day of being a private Soldier in the Train-Band, (as the case may be) of the company of foot, commanded by in the regiment of Militia, in the said county of commanded by was duly notified to appear upon the day of in the town of in the county aforesaid, with his arms and equipments, as the law of this Commonwealth directs; and the said* C. D. *in violation of the said Law, did unnecessarily neglect to appear, (or did not appear armed and equipped, as the case may be) whereby he hath forfeited, and ought to pay the sum of shillings, to the uses directed by law; and the said* C. D. *having been duly summoned to appear before me* E. F. *one of the Justices of the Peace, for the county aforesaid, to shew cause, if any he had, why a warrant of distress should not be issued for the same sum, did not appear, (or appearing, did not shew sufficient cause, why the same warrant should not be issued, as the case may be;) In the name of the Commonwealth of Massachusetts, you are therefore commanded forthwith, of the goods or chattles of the said* C. D. *within your precinct, to levy by distress and sale thereof, the aforesaid sum of shillings, with for charges of suit, being in the whole, the sum of and to pay the same to Clerk of the aforesaid company; and also of the goods or chattles of the said* C. D. *to levy for this writ, together with your own fees; and for want of such goods or chattels of the said* C. D. *to be by him shewn to you, or found within your precinct, you are commanded to take the*

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the body of the ſaid C. D. *and him commit to the common Gaol in in the county aforeſaid; and the Keeper thereof is hereby commanded to receive the ſaid* C. D. *into the ſaid Gaol, and him ſafely keep, until he ſhall pay the ſum aforeſaid, together with legal fees and coſts, or until he ſhall be otherwiſe diſcharged by order of law; and you are to make return of this warrant with your doings thereon, unto myſelf, within twenty days next coming, for which this ſhall be your ſufficient warrant; hereof fail not.*

Given under my hand and ſeal, the day of in the year of our LORD

E. F. *Juſtice of the Peace.*

XXIV. *And be it further enacted by the authority aforeſaid* That every Captain or Commanding Officer of a company, ſhall call his company together three days in each year for company diſcipline; and once on the firſt Tueſday of *May*, annually, for the expreſs purpoſe of examining and taking an exact account of every man's arms and equipments; at which time every article required by this act, ſhall be brought to the place of examination; and it ſhall be the duty of the Clerk, or in his abſence, of ſome other perſon to be appointed on the occaſion, for the time only, by the Commanding Officer, for that purpoſe, to make out an exact roll of the company, and ſet againſt every man's name, the arms and equipments which ſhall belong to him: And every Commanding Officer of a company, ſhall conſtantly keep by him a roll, with the arms and equipments of every man annexed to his name, as aforeſaid, from which all detachments ſhall be regularly detailed, and the annual return of the company made: And the ſaid roll ſhall be annually reviſed, corrected, and completed, on the firſt Tueſday in *May* as aforeſaid: And every perſon liable to do duty in the Militia, who ſhall be abſent at the examination or review of arms, in the month of *May*, as aforeſaid, and ſhall not ſend his arms and equipments to be examined, at the time and place appointed, he ſhall be fined for every article required in this act, not ſo brought or ſent to be examined, as is herein before directed, beſides the ſum of *ten ſhillings*, for non-appearance, as aforeſaid.

Companies to be muſtered at ſtated times for examination.

Commanding Officers to keep a roll.

Fines in caſe of neglect.

XXV. *And be it further enacted by the authority aforeſaid*, That every Captain or Commanding Officer of a company, ſhall make a return of the ſtate of his company, comprehending every man belonging to ſaid company, with all the arms and equipments belonging to them, to the Commanding Officer of the regiment, in the month of *May*, annually: Every Commanding Officer of a regiment ſhall make a return of the ſtate of his regiment, to the Brigadier, in the month of *June*, annually: And every Commanding Officer of a brigade ſhall make out duplicate returns of his brigade, one of which he ſhall tranſmit to the Major-General of the diviſion to which he belongs, and the other to the Adjutant-General of the Commonwealth, in the month of *July*, annually.

Commanding Officers to make regular returns annually.

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Rank and duty of Adj General.

XXVI. *And be it further enacted by the authority aforesaid,* That the Adjutant-General shall be commissioned with the rank of Brigadier-General; and it shall be his duty to distribute all orders from the Commander in Chief of the Militia, to the several corps; to attend all public reviews when the Commander in Chief shall review the Militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of Military Discipline, established by this Act; to superintend the annual inspection of the Militia; to furnish blank forms of the different returns that may be required, and to explain the principles on which they should be made; to keep such rosters and records as are proper to be kept in his office; to receive from the several Officers of the different corps throughout the State, returns of the Militia under their command, reporting the actual situation of their corps, their arms, ammunition and accoutrements, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: All which the several Officers of the divisions, brigades, regiments, battalions and companies are hereby required to make in the usual manner, or as the Commander in Chief shall direct, so that the Adjutant-General may be duly furnished therewith: From all which returns, he shall make proper abstracts, and a general return of the whole Militia of the Commonwealth, and lay the same before the Governor or Commander in Chief and to forward a duplicate thereof to the President of the United States.

Duty of Brigade Inspector.

XXVII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Brigade-Inspector to attend the regimental and battalion meetings of the Militia, composing the several brigades, to which they belong, during the time of their being under arms; to inspect their arms and equipments; to superintend their exercise and manœuvres, and introduce the system of discipline, established by this Act; to obey all orders they may from time to time receive from the Commander in Chief, or others, their superior Officers; to make returns to the Adjutant-General, at least, once in a year, and at such other times as shall be required, of the Militia of the brigades to which they severally belong, reporting therein the actual situation of the corps, their arms, ammunition and accoutrements, and every other thing which they may be required to report; or which in their judgment may relate to their government, and the general advancement of good order and military discipline.

Rules and regulations of discipline for the Militia.

XXVIII. *And be it further enacted by the authority aforesaid,* That the rules of discipline approved and established by Congress, in the resolutions of the twenty-ninth day of *March*, one thousand seven hundred and seventy-nine, shall be the rules and regulations of discipline, to be observed by the Militia of this Commonwealth; except such deviations from said rules, as may be necessary by the requisitions

requiſitions of this Act, or ſome other unavoidable circumſtances; and every Officer receiving a commiſſion in the Militia, ſhall immediately provide himſelf with a book containing thoſe rules.

XXIX. *And be it further enacted by the authority aforeſaid*, That every regiment of Militia of this Commonwealth, ſhall be aſſembled in regiment, once in two years, for review, inſpection and diſcipline, on ſuch days as the Commanding Officers of the ſeveral diviſions or brigades ſhall order; (the Commanding Officers of regiments to point out the place.) And the Militia of every town ſhall be aſſembled together once in two years, (the year it is not muſtered in regiment) at ſuch time and place as the Commanding Officer ſhall order, and ſhall be inſtructed and diſciplined under the direction of a Field-Officer. *Provided nevertheleſs*, in new ſettlements, where the diſperſed ſituation of a regiment may oblige men to march twenty miles or more, to the place of parade, it ſhall be at the diſcretion of the Commanding Officer of the regiment, to muſter the Militia in ſuch ſettlements, either by regiment, by towns, or other convenient bodies. And every non-commiſſioned Officer and Private ſhall come to the place of parade, with neceſſary refreſhment for ſaid day, at his own expence. The cavalry and artillery, and other corps raiſed at large, ſhall alſo be reviewed and inſpected, once in every year, either with the regiments and battalions, or by themſelves, as the Major-Generals, or the Brigadiers ſhall order, and at ſuch times and places as they ſhall direct. And each Commanding Officer of a Corps, when on duty, ſhall have full power and authority, to aſcertain and fix certain neceſſary limits and bounds, to their reſpective parades, (no road in which people uſually travel, to be included) within which no ſpectator ſhall have right to enter without liberty from ſaid Commanding Officer; and in caſe any perſon ſhall ſo intrude within the lines of the parade, after being once forbidden, he ſhall be ſubject to be confined under guard, during the time of exerciſe, at the diſcretion of the Commanding Officer. And whenever different corps ſhall be aſſembled together, the ſenior Officer preſent, ſhall command without any regard to corps whatever. And all Officers when on duty, ſhall take rank according to the dates of their commiſſions; and when two of the ſame grade bear an equal date, and former pretenſions of ſome commiſſion do not decide, then their rank ſhall be determined by lot, to be drawn by them, before the Commanding Officer preſent; and when on Court-Martial before the Preſident thereof.

Time and manner of muſtering Militia.

Proviſo.

Reviews of cavalry and artillery.

Parades to be limited and cleared of ſpectators.

Senior Officer to command, in caſe—

Officers to rank from date of commiſſions.

XXX. *And be it further enacted by the authority aforeſaid*, That every Captain or Commanding Officer of a company, who ſhall neglect or refuſe to call out his company, as often as the law requires, for diſcipline, and on the firſt Tueſday of *May*, for a view of arms, as directed by this Act, or at any other time, when thereto required, by his ſuperior Officer; or who ſhall at any time excuſe his

his men, for unneceſſary abſence, or deficiency, ſhall be tried by a Court-Martial, and if thereof convicted, he ſhall be reprimanded in orders, or removed from office, at the diſcretion of ſaid Court.

Companies how to rank.

XXXI. *And be it further enacted by the authority aforeſaid,* That at any regimental muſter, the ſeveral companies ſhall form in regiment, according to the rank of the Officers, commanding them; and the ſame rule ſhall apply whenever different corps are aſſembled together; excepting ſo far as by cuſtom, uſage and neceſſity, cavalry, artillery and light-troops, may be detached from the battalions.

Penalty for not marching with detachments, when ordered.

XXXII. *And be it further enacted by the authority aforeſaid,* That whenever in caſe of threatened or actually invaſion, inſurrection, or other public danger or emergency, the Militia, or any part thereof, ſhall be ordered out or detached, if any perſon who ſhall be ordered out or detached, in obedience to ſuch orders, being duly notified thereof, and ordered to march to the place of rendezvous, ſhall neglect or refuſe to obey ſuch orders, or ſhall not within twenty-four hours, after he ſhall have been notified as aforeſaid, pay a fine of *ten pounds*, to the Commanding Officer of the company to which he belongs, or procure an able bodied man, in his ſtead, ſuch perſon ſhall be conſidered as a ſoldier in ſuch detachment, and be dealt with accordingly. *Provided always*, That whenever a detachment is made, the Officers, non-commiſſioned Officers and Privates, being able of body, ſhall be detailed from the roſters or rolls which ſhall be kept for that purpoſe; and any perſon who by abſconding after being detached, as aforeſaid, or by deſerting from ſuch detachment, ſhall attempt to evade the puniſhment by law provided for deſertion, he ſhall pay a fine of *twelve pounds*, to be ſued for and recovered by the Clerk of the company, to which ſuch perſon belongs, any time within twelve months after the diſcharge of ſuch detachment; ſaid fine to be diſpoſed of for the purpoſe of paying ſuch men as ſhall be hired or drafted into ſervice: And any Officer holding a commiſſion in the Militia, who ſhall neglect or refuſe to execute any orders he may receive from his ſuperior Officer, to make a detachment of the corps under his command, it ſhall be the duty of the Officer who iſſued ſuch orders, immediately to arreſt ſuch delinquent Officer, bring him to trial therefor, before a Court-Martial, and forthwith give information thereof to the Commander in Chief; and the Officer who iſſued the order which ſhall not have been executed, as aforeſaid, ſhall immediately after arreſting the delinquent Officer, proceed by himſelf or ſome other Officer, under his command, to make and complete the detachment, ordered as aforeſaid. And when any regiment or company ſhall not be organized, the Officer iſſuing the orders for ſuch detachment, ſhall by himſelf, or ſome other Officer under him, proceed to make and complete the detachment from any part of the Militia, of ſuch unorganized corps.

Proviſo.

Puniſhment for abſconding.

Delinquent officers, how puniſhed.

And

XXXIII. *And be it further enacted by the authority aforeſaid*, That whenever the Militia, or any part thereof, of any town, ſhall be ordered to march for the immediate defence of this State, each Officer and Soldier ſhall provide and take with him three days proviſion, unleſs otherwiſe ordered; and the Selectmen of ſuch town ſhall cauſe carriages to attend them with farther ſupplies of proviſion and camp utenſils, until notice ſhall be given them to deſiſt, by the Commanding Officer of the Militia detached: And the Selectmen ſhall prefer their accounts for ſuch ſupplies to the General Court for allowance and payment: And whenever the Selectmen of any town or diſtrict, from which a detachment ſhall be ordered, ſhall be notified by any Officer duly authorized thereto, and ſhall neglect or refuſe to furniſh ſuch ſupplies and utenſils, the town or diſtricts to which ſuch Selectmen belong, ſhall pay a fine not exceeding *fifty pounds*, to be ſued for and recovered by any perſon who ſhall proſecute for the ſame; one moiety to the proſecutor, and the other to the uſe of the Commonwealth; and the Officer to whom ſuch camp utenſils ſhall be delivered, ſhall be accountable for the ſame, unleſs broken or loſt by ſome unavoidable accident, not in his power to prevent.

Militia to provide proviſions when called out.

Selectmen to furniſh carriages, &c.

Penalty in caſe.

XXXIV. *Be it further enacted by the authority aforeſaid*, That if any Officer, non-commiſſioned Officer or Private of the Militia, ſhall be killed or die of his wounds received in the ſervice of this Commonwealth, his widow, child or children, ſhall be entitled to ſimilar relief, and under the ſame regulations and reſtrictions as is provided by law in ſuch caſes for the relief of widows and orphans of perſons killed or dying of wounds received in the ſervice of the United States; And if any Officer, non-commiſſioned Officer or Private of the Militia, ſhall be wounded or otherwiſe diſabled in the ſervice of this Commonwealth, he ſhall be entitled to ſimilar relief, and under the ſame regulations and reſtrictions, as is provided by law in ſuch caſes for the relief of perſons wounded or diſabled in the ſervice of the United States.

Widows and children of perſons who may be killed or wounded in actual ſervice to receive a penſion.

XXXV. *And be it further enacted by the authority aforeſaid*, That the Governor or Commander in Chief, ſhall appoint Courts-Martial for the trial of all Officers above the rank of Captain: That the Major-Generals or Commanding-Officers of diviſions, each within his own diviſion, ſhall appoint Courts-Martial for the trial of Captains and all Officers under that rank: And it ſhall be the duty of every Officer who ſhall appoint a Court-Martial, as aforeſaid, to approve or diſapprove of every ſentence of ſuch Court-Martial by them appointed: And no Officer who ſhall appoint a Court-Martial, ſhall be Preſident thereof, nor ſhall any ſentence be put in execution until it ſhall have been approved of as aforeſaid: No Court-Martial ſhall conſiſt of a leſs number than thirteen commiſſioned Officers, the Preſident of which ſhall not be under the rank of a Field Officer; and no Field Officer

Court-Martial how appointed, and by whom.

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ficer ſhall be tried by any perſon under the degree of a Captain; and all Officers ſhall take rank by ſeniority of commiſſion, without regard to corps: And the Officer who ſhall appoint a Court-Martial, ſhall at the ſame time appoint a ſuitable perſon for a Judge-Advocate, whoſe duty it ſhall be impartially to ſtate the evidence, both for and againſt the Officer under trial; to take accurate minutes of the evidence, and all the proceedings of the Court; all of which he ſhall tranſmit, with the judgment of the Court thereon, under ſeal, to the Officer whoſe duty it is to approve or diſapprove of ſuch judgment. Every Officer to be tried ſhall have ten days notice given him of the time and place appointed for trial: And every Officer to be tried ſhall be put in arreſt, ſo as to be ſuſpended from the exerciſe of his office, and ſhall have a copy of the charges exhibited againſt him ten days before the ſitting of ſaid Court; and in caſe any Officer, for the trial of whom a Court-Martial ſhall be appointed, ſhall neglect to appear and make defence, he ſhall be deemed by ſaid Court guilty of the charge, and ſhall be ſentenced accordingly: In every Court-Martial held for the trial of an Officer, not leſs than two-thirds of the members muſt agree in the ſentence or judgment of ſaid Court, otherwiſe the perſon charged ſhall be acquitted: All proceedings and trials by Court-Martial ſhall be carried on in the day time; and when the members ſhall be required to give their votes on a queſtion or deciſion, they ſhall begin with the youngeſt in commiſſion, firſt: All perſons ſhall be holden to appear and give evidence before any Court-Martial, under the ſame penalties for neglect, as are by law provided for witneſſes in other caſes, when thereunto ſummoned by a Juſtice of the Peace for ſuch ſervice: And all witneſſes ſhall be ſworn by the Judge-Advocate before they give their evidence to the Court. Before any Court-Martial ſhall proceed to the trial of any Officer, the Judge-Advocate ſhall adminiſter to the Preſident and each of the members, the following oath, viz.

Judge Advocate to be appointed — his duty.

Officers to be tried, to have due notice,

— to be arreſted.

Judgment of Court-Martial, — how determined.

Perſons to give evidence under penalties.

Judge Advocate to adminiſter the Oath.

YOU A. B. *do ſwear, that you will well and truly try the cauſe now before you between this Commonwealth, and the perſon to be tried; and you do further ſwear that you will not divulge the ſentence of this Court-Martial, until it ſhall be approved or diſapproved of; and that you will not on any account, at any time whatever, diſcover the vote or opinion of any member, unleſs required to give evidence thereof, as a witneſs by a Court of Juſtice, in a due courſe of law.* *So help you* GOD!

And the Preſident ſhall adminiſter to the Judge-Advocate the following oath, viz.

Oath adminiſtered to the Judge-Advocate.

YOU A. B. *do ſwear, that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this Court-Martial, unleſs required to give evidence thereof, as a witneſs, by a Court of Juſtice, in a due courſe of law.*

So help you GOD!

And

XXXVI. *And be it further enacted by the authority aforesaid,* That every Officer holding a commission in the Militia, who shall be accused of any unmilitary conduct, neglect of duty or disobedience of orders; or who shall when on duty, appear, or behave himself in an un-officer-like manner, or shall wilfully injure those who are under his command, he shall be liable to be tried by a Court-Martial, and if found guilty, to be sentenced by said Court, to be reprimanded in orders, or to be removed from Office: And whenever a Court-Martial shall sentence any Officer to be removed from office, the Court shall therein adjudge such Officer incapable of holding any military commission under this Commonwealth for life, or for years, according to the nature and aggravation of his offence; and such sentence being duly approved of by the Officer appointing such Court-Martial, shall be published and remain in full force, unless reversed, so far as respects disqualification, by the General Court.

Officers guilty of unmilitary conduct, to be tried by a Court-Martial;

—and removed from office.

XXXVII. *And be it further enacted by the authority aforesaid,* That every town within this Commonwealth, shall be constantly provided with sixty-four pounds of good gun-powder, one hundred pounds of musket-balls, one hundred flints, and three tin or iron camp-kettles, for every sixty-four soldiers in the Militia of such town, enrolled as aforesaid; and the same proportion of each of the aforesaid articles for a greater or lesser number: And every town which shall neglect to keep constantly provided with the said articles, shall forfeit and pay, for the use of the Commonwealth, for every sixty-four men in such town which shall be unprovided with the said articles, the sum of *six pounds*, to be recovered by presentment in the Court of General Sessions of the Peace, in the county to which such town shall belong: And it shall be the duty of the Brigade-Inspector annually to inspect the magazines of each town, within the brigade to which he belongs, and to make complaint to the Grand Jury of the county against all towns, which shall neglect to keep constantly provided as aforesaid.

Town be provided with military articles.

Penalty in case of neglect—

how recovered.

Brigade Inspector to inspect, &c.

And whereas the good citizens of this Commonwealth are often injured by the discharge of single guns on a muster-day, Therefore,

XXXVIII. *Be it further enacted by the authority aforesaid,* That no non-commissioned Officer or Private, shall unnecessarily fire a musket or single gun, in any public road, or near any house or near the place of parade, on any day, or evening succeeding the same, on which any troop or company shall be ordered to assemble for military duty, unless embodied under the command of some Officer; and if any non-commissioned Officer or Private shall fire a musket or gun, except as aforesaid, on the said day or evening succeeding, without being embodied as aforesaid, he shall forfeit and pay a fine of *five shillings*, for each and every offence aforesaid, to be sued for, recovered and disposed of in the same manner as fines for non-appearance on a muster-day, are recovered and disposed of.

Penalty for firing on a muster day, without orders,

how recovered and disposed of.

And

Certain officers to receive pay

XXXIX. *And be it further enacted by the authority aforeſaid*, That the Adjutant-General, the Quarter-Maſter-General, Brigade-Inſpectors, and Adjutants of regiments, ſhall receive a reaſonable conſideration for their ſervices; to be allowed by the General Court. And all Officers ſerving onMilitary Boards, Courts of Inquiry, and Courts-Martial, ſhall receive pay, while neceſſarily employed therein, at the ſame rate as when in actual ſervice: And the Adjutant-General, or Brigade-Majors, as the caſe may be, ſhall make up pay-rolls, of ſuch Military Boards, Courts of Inquiry, andCourts-Martial, and lay the ſame before the General Court, for allowance; and they ſhall receive payment at the Treaſury, of the ſums ſo allowed, and pay the ſame over to the Officers who performed the ſervice.

Pay rolls to be laid before the General Court.

[This Act paſſed *June* 22, 1793.]

C H A P. II.

An Act for repealing one Clauſe, and altering a dividing Line, deſcribed in an Act, intitled, "An Act for dividing the Town of *Saliſbury*, in the County of *Eſſex*, into two Pariſhes."

BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That the following clauſe, viz. "Excepting only that the contract made by the town, with the Miniſter of that part thereof, which now conſtitutes the Weſt-Pariſh, ſhall, ſo far as it relates to his future ſupport, be conſidered as devolving and binding upon the Weſt-Pariſh only, and not upon the town," contained in an Act paſſed the laſt ſeſſion of the laſt General Court, intitled, "An Act for dividing the town of *Saliſbury*, in the county of *Eſſex*, into two pariſhes," be, and the ſame hereby is repealed.

Clauſe in a former act repealed.

And be it further enacted, That the firſt dividing line mentioned in ſaid Act, beginning at the oak ſtump therein mentioned, "and thence running ſoutherly by the weſtern border of ſaid *Titcomb's* land to *Merrimack River*," be, and hereby is altered, and that ſaid line ſhall run from ſaid ſtump ſoutherly by the eaſtern, inſtead of the weſtern border of ſaid *Titcomb's* land, to ſaid *Merrimack-River*, ſo as to include the lands of ſaid *Enoch*, *Joſhua* and *Richard Titcomb*, within the bounds of ſaid Weſtern Pariſh, any thing in ſaid Act to the contrary notwithſtanding.

Dividing line altered.

[This Act paſſed *June* 6, 1793.]

C H A P.

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants

Case No.: 19-cv-01226-L-AHG

Hon. Judge M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DAVID T. HARDY IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 2 of 4)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

EXHIBIT "8"

AN ACT for forming and regulating the militia within this State, and for repealing all the laws heretofore made for that purpoſe. Paſſed Dec. 28, 1792.

BE *it enacted by the Senate and Houſe of Repreſentatives in General-Court convened*, That the ſeveral laws heretofore made for regulating the militia, be, and hereby are repealed. Repealing clauſe.

And be it further enacted, That each and every free able-bodied white male citizen of this State, reſident therein, who is, or ſhall be of the age of eighteen years, and under the age of forty years, except as herein after excepted, ſhall ſeverally and reſpectively be enrolled in the militia by the captain or commanding officer of the company, within whoſe bounds ſuch citizen ſhall reſide, within ſix months after the paſſing this act. And it ſhall, at all times hereafter, be the duty of ſuch captain or commanding officer of the company to enrol every ſuch citizen, as aforeſaid; and alſo thoſe who ſhall from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty years (except as hereafter excepted) ſhall come to reſide within his bounds; and ſhall without delay, notify ſuch citizen of ſaid enrolment by a proper non-commiſſioned officer of the company, by whom ſuch notice may be proved. Militia how and by whom to be enrolled.

And be it further enacted, That the vice-preſident of the United States; the officers, judicial and executive of the government of the United States; the members of both houſes of congreſs, and their reſpective officers; all cuſtom houſe officers, with their clerks; all poſt officers, and ſtage drivers, who are employed in the care and conveyance of the mail of the poſt office of the United States, and of this State; all ferrymen employed at any ferry on the poſt road; all inſpectors of exports; all pilots; all mariners actually employed in the ſea-ſervice of any citizen or merchant within the United States; members of the ſenate and houſe of repreſentatives for the time being; ſecretary and deputy ſecretary of the State; State and county treaſurers, recorders of deeds; all civil officers, ſtudents of colleges and academies; miniſters of the goſpel; elders and deacons of churches; church wardens; grammar ſchool-maſters for the time being; maſters of Executive officers, &c. exempted.

arts

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arts ; people denominated quakers ; ſelectmen for the time being ; tutors or preceptors of any college or academy ; all perſons who may have ſuſtained commiſſions of the peace ; all who have, either under the commiſſion of the State, or the United States, or any particular State, held the office of a ſubaltern or officer of higher rank ; all phyſicians and ſurgeons, who have certificates from the medical ſociety or ſelectmen of the town or place wherein they reſide ; one miller to each corn-mill, and one toll-gather to each toll-bridge, ſhall be, and they are hereby excuſed from militia duty, and alſo one ferryman to each ferry.

Each company exclusively, to be muſtered twice, and each battalion once a year.

And be it further enacted, That it ſhall be the duty of the captain or commanding officer of each company, twice in every year, excluſively of the battalion meeting, to call forth his company for inſpection of arms, and inſtruction in military diſcipline, viz.—in the months of June and September, annually, and at ſuch other times as he ſhall think beſt ; and that each commanding officer of a battalion, ſhall call his battalion together once in every year.

Each diviſion, brigade and regiment by whom commanded.

And be it further enacted, That each diviſion within this State, ſhall be commanded by one major-general, who ſhall have two aids-de-camp, with the rank of major ; each brigade by one brigadier-general, who ſhall have one brigade-inſpector, who is alſo to perform the duty of brigade-major, with the rank of major. To each regiment, one lieutenant colonel commandant ; and to each battalion one major ; to each company one captain, one lieutenant, one enſign, four ſergeants, four corporals, one drummer and one fifer. That the regimental ſtaff, ſhall conſiſt of one adjutant, one quarter-maſter, to rank as lieutenants ; one paymaſter ; one ſurgeon ; one ſurgeon's mate ; one ſergeant-major ; one drum-major and one fife-major.

What colours and at whoſe expence to be furniſhed.

And be it further enacted, That there ſhall be provided at the expenſe of this State for each regiment, one ſtandard and one ſuit of regimental colours—the ſtandard to bear the device, " the arms of the United States ;" the regimental colours, " the arms of this State ;" that the drums and fifes be furniſhed by the commanding officers of the companies, at the expenſe of the State.

And

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And be it further enacted, That the ſeveral commanding officers of companies, ſhall cauſe accurate returns to be made of their companies to the commanding officer of the regiment to which they belong, before the firſt day of February annually; and the commanding officer of each regiment, ſhall cauſe to be made to the brigade major, a proper return of his regiment, before the firſt day of March annually; and the reſpective brigade majors, ſhall make out to the adjutant general, returns of their reſpective brigades, before the firſt day of April annually, agreeable to the forms that may be eſtabliſhed by the adjutant general, which the adjutant general ſhall cauſe atteſted copies of, to be lodged in the ſecretary's office, by the firſt day of May annually.

By whom returns are to be made.

And be it further enacted, That each commanding officer of a company, who ſhall neglect to call his company together, as before provided, ſhall forfeit and pay for each neglect the ſum of ſix pounds; and each commanding officer of a battalion who ſhall neglect to call his battalion, as before directed, ſhall pay a fine of nine pounds.

Penalty for not calling companies or battalions together.

And be it further enacted, That it ſhall be accounted ſufficient notice to any non-commiſſioned officer or privates, for appearance on muſter days, to be notified of ſuch muſter by a non-commiſſioned officer in perſon, or by a writing by him ſigned, to be left at his laſt, and uſual place of abode, four days prior to ſuch day of muſter; and if any non-commiſſioned officer or private, after ſuch notification, ſhall unneceſſarily neglect to appear equipped, as the law directs, he ſhall pay a fine of nine ſhillings, which ſhall be levied by diſtreſs, and ſale of the offenders goods and chattels, by warrant under the hand and ſeal of the captain, or commanding officer of ſaid company, to be directed to the firſt ſergeant of the company, who is to levy the ſame, by the ſame rules and regulations, as the laws have pointed out for collecting rates and taxes, and ſhall have one quarter part thereof for his trouble, and the ſame fees that are allowed to collectors, on diſtraining for taxes—and if no goods and chattels of the delinquent are to be found, then to levy the ſame on the body of ſuch delinquent: *Provi-*

Notice.

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ded nevertheleſs, That no ſuch warrant ſhall be iſſued until fifteen days after ſaid muſter days, that the delinquent may have time to make excuſe (if any he has) for his non-appearance, which is to be made to the commanding officer of the company.

Diſobedience puniſhed.

And be it further enacted, That if any non-commiſſioned officer or ſoldier, ſhall prove refractory or diſobedient on a muſter day, or ſhall inſult or abuſe his officers, or either of them, or treat them with diſreſpect or contempt, the commanding officer preſent, may order the offender to be immediately tried by five commiſſioned officers, if ſo many ſhould be preſent; and if not ſo many preſent, as many as there are in the field, who are empowered to puniſh the offender, by ordering him to pay a fine not exceeding forty ſhillings, at the diſcretion of the officers, or ride a wooden horſe.

Officers to yield obedience.

And be it further enacted, That on all muſter days, every officer ſhall yield due obedience to his ſuperior officer; and every non-commiſſioned officer and ſoldier ſhall yield entire and due obedience to the commands of their ſuperior officers. And if any officer ſhall, on ſuch days (or at any other time) refuſe and neglect to obey the orders he may receive from his ſuperior officers reſpecting any matter relating to the government of militia, he ſhall be tried by a court-martial, and if convicted thereof, ſhall be caſhiered. And the ſuperior officer may immediately put ſuch offender in arreſt, and report him and his offence to the officer commanding the brigade (if the offender is under the rank of a field officer) and the commanding officer of the brigade is hereby impowered to appoint a court-martial for ſuch trial, and to approve the ſentence; and if ſaid offender ſhall by ſaid court be caſhiered, and the ſentence thereof approved, the ſaid officer ſhall be deemed incapable of holding any military office again in this State; and in caſe the offender is of the rank of a field officer, or of higher rank, his offence ſhall be reported to the major-general, or officer commanding the diviſion, who is hereby impowered to appoint a court-martial for the trial of ſuch offender, to approve the ſentence of ſaid court; and if the offender be found guilty and the ſentence ſhall be approved, he ſhall be diſqualified as aforeſaid.

Superior officer to arreſt and report.

The

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The commander in chief ſhall at all times, have the right of appointing courts-martial, when he ſhall think it neceſſary. Commander in chief may appoint courts martial.

All courts-martial, when apppointed by the commander in chief, ſhall conſiſt of thirteen members, the preſident of which ſhall be of the rank of major-general. Number of members.

All courts-martial, when appointed by a major-general, ſhall conſiſt of thirteen members, and the preſident ſhall be a lieutenant-colonel or officer of higher rank.

All courts-martial, appointed by a brigadier, ſhall conſiſt of thirteen members, the preſident of which ſhall at leaſt, be of the rank of a field officer.

The members of the courts-martial are to be ſworn by the preſident, and the preſident ſhall be ſworn by the next higheſt in rank of the members compoſing the ſame, and the preſident of every court-martial, ſhall have power to adminiſter the oath to every witneſs. Members, by whom to be ſworn.

In order to the trial of offenders, the oath of the preſident and members, ſhall be in the words following, viz.

YOU ſwear, that you will well and truly try, and impartially determine the charge againſt the perſon now to be tried, according to the rules for regulating the militia of this State. So help you GOD. Oath.

The oath to be adminiſtered to witneſſes in courts martial, ſhall be in the form following, viz.

YOU ſwear, the evidence you ſhall give relative to the charge now in hearing, ſhall be the truth, the whole truth, and nothing but the truth. So help you GOD. Oath of witneſſes.

And be it further enacted, That all military officers ſhall be amenable to a court-martial for any un-officer, or un-gentleman-like conduct or behaviour while on duty, and at all other times, and to be tried, and ſentence approved in the ſame way and manner as before provided for diſobedience of orders. Officers amenable for illiberal behaviour.

And be it further enacted, That all perſons called by ſummons from the preſident of any court-martial to give evidence, who ſhall unreaſonably refuſe or neglect to appear, or appearing, ſhall refuſe to give evidence, ſhall be committed to the common gaol of the Witneſſes refuſing, &c. to be committed to gaol.

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county where ſuch court is ſitting, there to remain three months, unleſs ſooner diſcharged therefrom by the juſtices of the ſuperior court: And the preſident of the court is to lodge the accuſation againſt him with the priſon-keeper.

Judge advocate to be appointed.

And be it further enacted, That every perſon appointing a court-martial, ſhall appoint ſome ſuitable perſon to act as judge advocate, who ſhall make a fair record of the whole proceedings and deliver them to the officer appointing ſaid court-martial, who ſhall cauſe the ſame, or a copy thereof, to be lodged in the ſecretary's office, within three months after ſuch trial.

Each battalion to have one company of grenadiers &c. and one company of artillery.

And be it further enacted, That out of the militia enrolled as herein directed, there ſhall be formed for each battalion, at leaſt one company of grenadiers or light infantry; and to each diviſion there ſhall be at leaſt one company of artillery, and one troop of horſe. There ſhall be to each company of artillery, one captain, two lieutenants, four ſergeants, four corporals, ſix gunners, ſix bombardiers, one drummer and one fifer. The officers to be armed with a ſword or hanger, a fuſee, bayonet and belt, with a cartouch box, to contain twelve cartridges; and each private matroſs ſhall be furniſhed with the ſame equipments as privates in the infantry. There ſhall be to each troop of horſe, one captain, two lieutenants, one cornet, four ſergeants, four corporals, one ſadler, one farrier and one trumpeter. The commiſſioned officers to furniſh themſelves with good horſes of at leaſt fourteen hands and an half high, and to be armed with a ſword, and pair of piſtols, the holſters of which to be covered with bear-ſkin caps. Each dragoon to furniſh himſelf with a ſerviceable horſe of at leaſt fourteen hands and an half high, a good ſaddle, bridle, mail-pillion and valiſe, holſters, a breaſt-plate and crupper, a pair of boots and ſpurs, a pair of piſtols, a ſabre, and cartouch box, to contain twelve cartridges for piſtols. That each company of artillery and troop of horſe, ſhall be formed of volunteers from the brigade, at the diſcretion of the commander in chief of the State, not exceeding one company of each to a regiment, and ſhall uniformly be cloathed in regimentals, to be furniſhed at their own expence; the colour and faſhion to be determined by the brigadier commanding the brigade to which they belong.

Officers how to be armed.

Troops of horſe how officered, &c.

Artillery and horſe of whom to be formed, and uniformly clad.

And

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And be it further enacted, That each non-commiſſioned officer and ſoldier belonging to the regiments of foot, ſhall within one year from and after the paſſing this act, furniſh himſelf with a good fire-lock, bayonet and belt, a cartouch box that will contain twenty-four cartridges, two good flints, a knapſack and canteen—and that the commiſſioned belonging to companies of foot, ſhall be ſeverally armed with a ſword or hanger, and an eſpontoon, and that the field officers be armed with a ſword or hanger. How to be armed and accoutred.

And be it further enacted, That ſuch of the infantry as are under the care of parents, maſters or guardians, ſhall be furniſhed by them with ſuch arms and accoutrements. And ſuch as are unable to furniſh themſelves, ſhall make application to the ſelectmen of the town, who are to certify to their captain or commanding officer, that they are unable to equip themſelves, and the ſaid ſelectmen ſhall, at the expence of the town, provide for, and furniſh ſuch perſons with arms and equipments; which arms and equipments ſhall be the property of the town, at whoſe expence they were provided: And if any perſon ſo furniſhed, ſhall embezzle or wilfully deſtroy the ſame, he ſhall be puniſhed by any court proper to try the ſame, upon complaint made by the ſelectmen of ſaid town, by being publicly whipped not exceeding twenty ſtripes, or fined not exceeding forty ſhillings. And that all fines recovered for embezzling or deſtroying of arms and accoutrements as provided in this act, ſhall be paid into the hands of the ſelectmen to be appropriated in purchaſing arms and accoutrements for ſuch ſoldiers as are unable to purchaſe for themſelves. Thoſe unable &c. to be equipped at the expence of the town. Fines how to be appropriated.

And be it further enacted, That parents, maſters and guardians ſhall be liable for the neglect and non-appearance of ſuch perſons as are under their care (and are liable by law to train) and are to be proceeded againſt for the penalty in the ſame manner, as by this act is provided againſt other delinquents. Parents, &c. liable to a penalty.

And be it further enacted, That the commander in chief, the officers commanding diviſions, brigades or regiments, may appoint military watches or guards when an invaſion of the State is apprehended, in ſuch place and under ſuch regulations as they may judge neceſſary; and all officers and ſoldiers under their command Military watches, by whom to be appointed.

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mand are to yield ſtrict obedience to their orders and directions.

Signals to be fixed.

And be it further enacted, That the ſignals for an alarm are to be fixed by the captain general, and may by him be altered, from time to time, and proper notice thereof is to be by him given to the ſeveral officers; and if any non-commiſſioned officer or ſoldier, ſhall upon the alarm being given, unneceſſarily neglect to appear properly armed and equipped, at ſuch time and place as the commanding officer ſhall appoint, he ſhall pay a fine of twenty ſhillings; and all perſons ſerving on any military guards, or watches, ſhall be puniſhable for miſconduct while in ſuch ſervice, by a court-martial to be appointed by the commanding officer of ſuch guard or watch, provided he be a field officer, and in caſe he is not, then by the commanding officer of the regiment to which the offender belongs.

Penalty for refuſing to warn, &c.

And be it further enacted, That when any non-commiſſioned officer ſhall refuſe or neglect to notify or warn any of the non-commiſſioned officers or private ſoldiers of the company to which he belongs (being thereto ordered by his ſuperior officer) he ſhall pay a fine of twelve ſhillings, for each non-commiſſioned officer or ſoldier he ſhall neglect to warn, to be recovered in the ſame way and manner as is before provided.

Mode of recovering fines, and

And be it further enacted, That every fine ariſing by any breach of this act, for which no ſpecial mode of recovery has been pointed out, may be recovered by action, bill, plaint or information, in any court proper to try the ſame.

how to be appropriated

And be it further enacted, That all fines recovered of any non-commiſſioned officer or ſoldier for neglect of duty, ſhall be paid into the hands of the commanding officer of the company, to which ſuch non-commiſſioned officer or ſoldier may belong, to be expended in defraying the neceſſary expences of ſuch company, as the commiſſioned officers of the ſame may direct. That all fines recovered of the commanding officer of any company, ſhall be paid into the hands of the commanding officer of the battalion, to which ſuch commanding officer of a company may belong; to be appropriated in inſtructing the muſic in ſuch battalion.

That all fines recovered of the commanding officer of any battalion, ſhall be paid into the hands of the commanding

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commanding officer of the regiment to which such battalion may belong, to be disposed of in defraying the necessary expences in forming and arranging the companies in such regiment, as the field officers of the same may direct.

Officers, how to rank.

And be it further enacted, That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade, bear equal date, then the rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Rules of discipline.

And be it further enacted, That the rules of discipline approved and established by Congress, in their resolution of the twenty-ninth of March, one thousand, seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia in this State.

Brigade inspector's duty

And be it further enacted, That it shall be the duty of the brigade inspector, to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercise and manœvres, and introduce the system of military discipline before described.

Cavalry and artillery liable to the same fines.

And be it further enacted, That the cavalry and artillery be subject to fine or punishment in the same manner as those who belong to the infantry.

Courts martial of whom to consist.

And be it further enacted, That all courts-martial may consist of officers of any corps within the limits of the brigade where the person accused may reside.

Legal notice, what considered as such.

And be it further enacted, That a captain or commanding officer at the head of his company, may direct his non-commissioned officers and soldiers to meet at any future day, which shall be legal notice.

Non-comm. officers liable to be reduced, &c.

And be it further enacted, That non-commissioned officers be reduced to the ranks, for any misdemeanor, which in the opinion of all the commissioned officers of the company shall deserve such punishment.

Commissioned officers to reside.

And be it further enacted, That all commissioned officers belonging to any company of infantry shall reside within the limits of such company.

And be it further enacted, That when it shall so happen,

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Different corps—first in rank to command.

pen, that officers of the different corps, shall be on duty together, the first officer in rank shall command, whether of the infantry, cavalry or artillery.

Arms, &c. free from distress, &c.

And be it further enacted, That every citizen enrolled as directed in this act, and provided with arms and accoutrements, shall hold the same exempted from all suits, distresses, executions, or sales for debt, or for the payment of taxes.

Militia to be divided.

And be it further enacted, That the militia of this State, shall be divided into three divisions, and if convenient, each division shall consist of two brigades, each brigade of four regiments, each regiment of two battalions, each battalion of five companies, and each company of sixty-four privates.

Cavalry and artillery of whom to be formed.

And be it further enacted, That in forming the cavalry and artillery, not more than one eleventh part shall inlist out of any one company of infantry into such corps.

Field Officers to arrange companies.

And be it further enacted, That the field officers of each and every regiment, shall form and arrange the companies in their several regiments, from time to time, as they shall think the public good may require.

Adjutant-General, his duty.

And be it further enacted, That there shall be an adjutant general, whose duty it shall be to distribute all orders from the commander in chief of this State, to the several corps; to attend all public reviews, when the commander in chief of this State shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by law; to furnish blank forms of different returns that may be required, and to explain the principles on which they shall be made; to receive from the several officers of the different corps throughout the State, returns of the militia, under their command, reporting the actual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline.

Compensation to Adj. and Brigade inspectors.

And be it further enacted, That compensation shall be made to the adjutant general, and the brigade inspectors for their services, from time to time, by the legislature, as they shall think just.

And be it further enacted, That the colour of the uniform

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uniform of the infantry be determined on by the commander in chief. Colour of uniform, by whom determined.

And be it further enacted, That each and every non-commiſſioned officer or ſoldier, who ſhall inliſt into any corps of horſe or artillery, ſhall within ſix months from and after ſuch inliſtment, equip himſelf as the law directs, and at the expiration of the ſaid ſix months, ſhould he not be equipped as aforeſaid, then to return to the company from which he inliſted, and the commanding officer thereof, is hereby directed to enrol him accordingly. Cavalry and artillery, if not equipped within ſix months to be returned.

And be it further enacted, That the ſeveral companies, which compoſe the regiments of cavalry, be annexed to the regiments of infantry in manner following: Cavalry to be annexed to infantry.

To each regiment of infantry there ſhall be, as far as the number of companies of cavalry will admit of it, one troop of horſe, or company of cavalry, with the preſent officers (if they ſee fit) and men of ſaid companies, who are now uniformly cloathed and equipped, or ſhall be within four months, ſaid troops of horſe ſhall be under the command of the field officers of the regiments of infantry, and ſhall be joined to ſuch regiments as ſhall be the moſt contiguous and convenient to ſaid companies. Privilege ſhall be allowed to the non-commiſſioned officers and privates of cavalry at any time hereafter, of being enrolled as infantry, provided they decline ſerving as cavalry, and ſaid companies of cavalry may be completed by inliſtments, from time to time, from the infantry, as vacancies may be in ſaid companies. Cavalry to be under command of field officers of infantry.

And be it further enacted, That this act ſhall be read at the head of each company in the ſeveral regiments in this State, at leaſt once every year. Act to be read, &c.

This act paſſed December 28, 1792.

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0149

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which Sum or Sums of Money, ſo aſſeſſed and collected, ſhall be paid into the Hands of the County Collector, who is hereby required to pay out the ſame, when received for the Purpoſe aforeſaid, in ſuch Manner as the Juſtices and a Majority of the choſen Freeholders ſhall direct; and if any Aſſeſſor or Collector ſhall neglect or refuſe to perform any Duty, Matter or Thing required of him in this Act, he ſhall be liable to the ſame Fines and Penalties as is directed in and by an Act, intitled, 'An Act to aſcertain the Time and Mode of levying Taxes, and the better to enforce the Collection of the ſame,' paſſed at Burlington the fifth Day of June, Seventeen Hundred and Eighty-ſeven, and in a Supplement to the ſame, paſſed at Perth-Amboy, June the eleventh, Seventeen Hundred and Ninety; and the ſeveral Officers in the ſaid Act mentioned are hereby required to perform the ſeveral Duties on them enjoined under the ſame Penalties as in the ſaid recited Act and Supplement are impoſed, and ſhall be allowed ſuch Rewards and Fees as they are entitled to for aſſeſſing and collecting Taxes raiſed for the Uſe of the County.

Juſtices and Freeholders, their Authority.

4. *And be it further Enacted by the Authority aforeſaid*, That the Juſtices and a Majority of the choſen Freeholders ſhall be and they are hereby authorized to purchaſe a Lot or Lots on which to build, and to appoint Managers for conducting the Building of ſaid Court-Houſe and Gaol at the Place appointed, and to take all ſuch Meaſures for completing the ſame, in the beſt Manner for the Good of ſaid County, as to them ſhall appear moſt eligible; and that all Perſons, by their Order entruſted with any publick Money of the County, ſhall be accountable to them for the Expenditure thereof, in ſuch Manner and at ſuch Time or Times as they ſhall direct.

Courts when to meet at the new Court-Houſe.

5. *And be it further Enacted by the Authority aforeſaid*, That the Judges of the Inferior Court of Common Pleas, and Juſtices of the General Quarter Seſſions of the Peace, in and for the ſaid County, ſhall hold their reſpective Courts in the ſaid Court-Houſe, ſo ſoon as the ſame ſhall be ready and fit; and all Writs, Proceſs and other Proceedings, depending or made returnable thereto, ſhall be valid in all Reſpects, any Law or Cuſtom to the contrary notwithſtanding.

A Paſſed at Trenton, November 30, 1792.

CHAP. CCCCXIII.

An ACT for organizing and training the Militia of this State.

Infantry and other Companies may be formed.

Sect. 1. BE IT ENACTED *by the Council and General Aſſembly of this State, and it is hereby Enacted by the Authority of the ſame*, That all ſuch of the Militia in the reſpective Counties of this State as incline to form themſelves into Companies of Light Infantry, Grenadiers, Horſe and Artillery, and to dreſs themſelves in uniform Regimentals, ſhall have full Power to form Companies of Light Infantry and Grenadiers of ſixty-four Men each, and of Horſe and Artillery of forty-eight Men each, and when ſo formed to give Notice to

to the Commiſſioner herein after directed to be appointed for each County to attend, and in his Preſence to chooſe one Captain, one Lieutenant and one Enſign for each Company of Infantry and Grenadiers; one Captain, one Lieutenant and one Cornet for each Troop of Horſe; and one Captain and two Lieutenants for each Company of Artillery; upon which Choice being ſo made, the ſaid Commiſſioner in each County ſhall give his Certificate, certifying the Completion of ſuch Company, and the Names of the Officers choſen for the ſame directed to the Commander in Chief of this State, who ſhall thereupon commiſſion the ſaid Officers accordingly. *Provided always*, That all ſuch Companies ſhall be completed on or before the firſt Day of January next; *and provided alſo*, that not more than two Companies of Infantry or Grenadiers be formed in one of the preſent Regiments, nor more than one Troop of Horſe in one of the preſent Regiments, nor more than eight Companies of Artillery in this State. Proviſo.

2. *And be it further Enacted by the Authority aforeſaid*, That the ſaid Companies ſo formed ſhall be furniſhed and equipped as is directed by the Act of Congreſs for regulating the Militia of the United States; and, beſides their voluntary Trainings for Improvement in the military Art, ſhall be ſubject to the ſame Duties preſcribed by Law for the other Militia of the State. How to be equipped.

3. *Be it Enacted by the Authority aforeſaid*, That, in Order to organize the Remainder of the Militia, the following Perſons be, and they are hereby appointed Commiſſioners, that is to ſay, Commiſſioners appointe

John Outwater, Eſquire, for the County of Bergen.
Benjamin Williamſon, Eſquire, for the County of Eſſex.
Ellis Cook, Eſquire, for the County of Morris.
Anthony-Walton White, Eſquire, for the County of Middleſex.
John Hardenbergh, Eſquire, for the County of Somerſet.
Aſher Holmes, Eſquire, for the County of Monmouth.
Thomas Reading, Eſquire, for the County of Hunterdon.
John Armſtrong, Eſquire, for the County of Suſſex.
Richard Cox, Eſquire, for the County of Burlington.
Samuel Flanigan, Eſquire, for the County of Glouceſter.
Bateman Loyd, Eſquire, for the County of Salem.
Joſeph Buck, Eſquire, for the County of Cumberland; and
Eli Townſend, Eſquire, for the County of Cape-May.

And in Caſe of Death, Neglect or Refuſal, of ſuch Commiſſioner or Commiſſioners, the Governor for the Time being ſhall fill up ſuch Vacancy or Vacancies by Appointment under his Hand and Seal.

4. *And be it further Enacted*, That the ſaid Commiſſioners ſhall ſeverally appoint one Deputy in each Townſhip in the County in which they are appointed, to take a Liſt of all and every free and able-bodied white Male Citizen, between the Ages of eighteen and forty-five Years, reſident within their reſpective Townſhips, and not before formed into the Companies before mentioned, on or before the twentieth Day of January next; and in all Caſes of Doubt reſpecting the Age of any Perſon, the ſaid Perſon ſhall prove his Age to the Satisfaction of the ſaid Commiſſioner or Deputy, or be entered on the ſaid Liſt. to appoint Deputies:

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0152

Their Duty.

5. *And be it further Enacted*, That all ſuch Citizens ſo enrolled as aforeſaid, who ſhall deſire to be exempt from military Duty, may at the Time of taking the Liſts aforeſaid by the ſaid Deputies, or before the twenty-fifth Day of January next, give Notice thereof to the ſaid Deputy of the Townſhip to which they belong, who ſhall mark and diſtinguiſh the ſame on the ſaid Liſt, and all others on the ſaid Liſts ſhall be enrolled, deemed and eſteemed a Part of the Militia of this State, and the ſaid Deputies ſhall make Returns thereof to the Commiſſioner of the County before the firſt Day of February next. *Provided always*, That ſaid Deputies ſhall in Perſon call at the uſual Dwelling-Houſe of each Citizen within the Ages aforeſaid in their reſpective Townſhips, and if any ſuch Citizen ſhall be abſent from Home, ſo that his Election cannot at that Time be known, ſuch Deputy ſhall leave at the Dwelling-Houſe of ſuch Citizen a written Notice, ſignifying that unleſs he ſhall inform ſaid Deputy of his Election on or before the aforeſaid twenty-fifth Day of January next, he ſhall be enrolled and conſidered as one of the Militia of this State.

Books to be procured, and Returns to be entered, &c.

6. *And be it further Enacted*, That the ſaid Commiſſioners ſhall procure Books, and ſhall cauſe the Returns of the ſaid Deputies to be entered therein, and ſhall make out Copies of the Liſts of the Names of all Exempts within their County, and ſhall tranſmit one of the ſaid Copies to the County Collector, and the other to the Treaſurer of this State, and ſhall alſo make and tranſmit a Liſt of the Exempts of each Townſhip to the Townſhip Collectors within the ſaid County, and a Liſt of all the Militia enrolled within their County to the Governor of this State, at or before the firſt Day of the next Sitting of the Legiſlature.

Perſons exempted, except, &c.

7. *And be it further Enacted*, That every Perſon exempted as aforeſaid from perſonal Service in the Militia (except Miniſters of the Goſpel, the Vice-Preſident of the United States, the Officers Judicial and Executive of the Government of the United States, the Members of both Houſes of Congreſs and their reſpective Officers, all Cuſtom-Houſe Officers with their Clerks, all Poſt Officers and Stage Drivers who are employed in the Care and Conveyance of the Mail of the Poſt-Office of the United States, all Ferrymen employed at any Ferry on the Poſt-Road, all Inſpectors of Exports, all Pilots, all Mariners actually employed in the Sea Service of any Citizen or Merchant within the United States) ſhall pay an annual Tax of Three Dollars: And the ſaid Townſhip Collectors ſhall collect the ſame at the ſame Time, and in the ſame Manner as the Taxes of the ſame Year; and ſhall alſo in like Manner pay the ſame when collected to the County Collector, to be by him paid to the Treaſurer of the State: And the ſaid Townſhip and County Collectors and Conſtables ſhall receive the ſame Fees, and be ſubject to the ſame Pains and Penalties, as they are or ſhall be entitled unto or ſubjected to by the Tax-Laws of this State; and the Treaſurer of the State ſhall cauſe an annual Return of all the Monies received on the ſaid Tax to be laid before the Legiſlature at their firſt Sitting in every Year.

what to pay.

Treaſurer's Duty.

Militia, how to be divided.

8. *And be it further Enacted*, That all Citizens enrolled as aforeſaid, for military Duty, ſhall be divided into Companies of, as near as may be, ſixty-four Men each, and into Battalions and Regiments, by the ſaid

ſaid Commiſſioners, each Battalion to conſiſt, as near as may be, of five Companies of Foot, of which Battalions and Regiments the ſaid Commiſſioners ſhall make accurate Returns to the Commander in Chief of this State, on or before the ſecond Week of the next Sitting of the Legiſlature, to be by him laid before the ſaid Legiſlature; and the ſaid Commiſſioner, or the Deputy of the Townſhip if required by the ſaid Commiſſioner, having given due Notice by Advertiſements in three of the moſt publick Places within the Limits of ſuch Company, ſhall attend and preſide at the Election for the Choice of Officers; and the ſaid Company, or ſuch of them as ſhall attend, ſhall proceed by Plurality of Votes to chooſe one Captain, one Lieutenant and one Enſign; and the ſaid Commiſſioner ſhall certify in Writing the Names and Rank of each Officer ſo choſen or elected to the Governor of the State, and the Governor of the State ſhall commiſſion the ſaid Officers accordingly under the Seal of the State; and the ſaid Captains and Subalterns ſhall chooſe or appoint their Sergeants, Corporals, Drummers, Fifers or Buglers.

Officers, how to be appointed.

9. *And be it further Enacted*, That the commiſſioned Officers of each Company ſhall procure Fifes or Bugle-Horns and Drums for their reſpective Companies, to be paid for by the County Collector out of any publick Monies in his Hands, upon Orders of the Commiſſioner of the County.

Muſick, how procured.

10. *And be it further Enacted*, That, after the Formation of the Militia ſhall have taken Place in Purſuance of this Law, the Militia of this State ſhall aſſemble three Times in every Year at leaſt, in ſuch Manner, Time and Place as their reſpective Captains ſhall order, until otherwiſe directed by Law.

Militia, when to aſſemble.

11. *And be it further Enacted*, That every Perſon enrolled in the Militia of this State ſhall attend the Company and other Trainings ordered by Law; and if any ſuch Perſon ſhall neglect or refuſe to attend with a Muſquet, Rifle or Firelock, and no ſufficient Excuſe be made to the Officers of the Company for ſuch Neglect or Refuſal within ten Days after ſuch Default, then the Captain or commanding Officer of ſuch Company ſhall make a Return of all ſuch Defaulters to one of the Juſtices of the Peace within the County, who ſhall iſſue an Execution to the Conſtable againſt ſuch Defaulters for the Sum of Seven Shillings and Six-pence each, together with the Coſts of ſuch Execution; and the ſaid Conſtable is hereby directed to pay the ſaid Money when collected to the ſaid Juſtice, who is to pay the ſame to the County Collector and by him to be paid to the Treaſurer of the State.

Penalty for not attending Duty.

12. *And be it further Enacted by the Authority aforeſaid*, That the ſaid Commiſſioners ſhall ſeverally be allowed, while employed in performing the Services required by this Act, Twelve Shillings per Day; and the ſaid Deputies ſeverally Four-pence per Name for every Name entered on their ſaid Liſt, to be paid to them by the Collectors of the ſeveral Counties, or Treaſurer of the State, on Accounts regularly made out and ſworn to by the ſaid Commiſſioners or Deputies; and the ſaid Accounts and Receipts of ſuch Commiſſioners and Deputies ſhall be ſufficient Vouchers to ſuch Collectors and Treaſurer for ſo much of the publick Money as ſhall be paid by them for the Pay

Commiſſioners Fees.

Appeal allowed.

13. *And be it further Enacted*, That every Perſon taxed by Virtue of this Act may appeal to the Commiſſioners of Appeal of the Townſhip in which they reſide, in Caſes where Doubts ariſe reſpecting the Age or Ability of Body of ſuch Perſon to do military Duty; and the ſaid Commiſſioners of Appeals are hereby authorized to iſſue Subpœnas, adminiſter Oaths or Affirmations, and to hear and determine ſuch Appeals; and the ſaid Commiſſioners ſhall give a Copy of their Judgment to the Appellant if in his Favour, and the Collector of ſuch Townſhip ſhall govern himſelf accordingly; but in Caſe ſuch Appeal ſhould be determined againſt the Appellant, then the Coſts thereof ſhall be paid by the ſaid Appellant.

Penalty on the Commiſſioners and Deputies for Neglect.

14. *And be it further Enacted*, That the ſaid Commiſſioners and Deputies, who ſhall be appointed by Virtue of this Act, and accept thereof, who ſhall neglect or refuſe to perform the Services and Duties required hereby, ſhall forfeit and pay the Sum of Twelve Pounds, to be proſecuted for and recovered in an Action of Debt, with Coſts of Suit, by the Collector of the County in which ſuch Commiſſioner or Deputy ſhall reſide, to and for the Uſe of the State.

Former Law repealed.

15. *And be it further Enacted*, That from and after the paſſing of this Act, the Militia Laws now in Force in this State be, and they are hereby repealed; and all military Commiſſions heretofore granted by Virtue of the ſame ſhall be, and they are hereby declared null and void.

A Paſſed at Trenton, November 30, 1792.

CHAP. CCCCXIV.

An ACT for defraying Incidental Charges.

Enacting Clauſe.

BE IT ENACTED *by the Council and General Aſſembly of this State, and it is hereby Enacted by the Authority of the ſame*, That it ſhall and may be lawful for the Treaſurer of this State, and he is hereby required to pay to the ſeveral Perſons herein after named the following Sums, to wit,

To Abraham Blauvelt, for advertiſing Court of Errors, publiſhing a Liſt of Candidates for Repreſentatives in Congreſs, and publiſhing a Proclamation, Two Pounds Six Shillings.

To William Harriman, for keeping a Man and Horſe for Expreſs ſix Weeks and four Days, Three Pounds Twelve Shillings.

To his Excellency William Paterſon, for Caſh paid John Dunham and Peter Nafew for going Expreſs with the Liſt of the Names of Candidates, propoſed to be voted for as Repreſentatives in Congreſs, to the ſeveral Sheriffs in this State, Twelve Pounds.

To James Mott, Eſquire, for Caſh paid for Wrapping Paper, Poſtage of [illegible], and Sundries, as per Account, Eight Pounds Fourteen Shillings.

To

EXHIBIT "10"



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CHAP. 45.

AN ACT to organize the militia of this State.

PASSED the 9th of March, 1793.

Preamble. WHEREAS, by the constitution of the United States, the Congress has power to provide for organizing, arming and disciplining the militia, and for governing such part of them, as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress.

Act of Congress. *And whereas*, the Congress did on the eighth day of May one thousand seven hundred and ninety two, pass an act entitled "An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States, which act is in the words following, vizt. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That each and every free, able bodied white male, citizen of the respective States, resident therein, who is or shall be, of the age of eighteen years, and under the age of forty five years (except as is herein after excepted), shall severally and respectively be enrolled, in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty, of every such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty five years, (except as before excepted) shall come to reside within his bounds; and shall without delay, notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall within six months thereafter, provide himself with a good musket or firelock a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein, to contain not less than twenty four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball: Or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder, and shall appear so armed, accoutred and provided, when called out to exercise, or into service, except that, when called out on company days to exercise only, he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword, or hanger and espontoon, and that from and after five years from the passing of this act, all muskets for arming the militia as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition and accoutraments required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or for the payment of taxes. *And be it further enacted*, That the vice president of the United State, the officers judicial and executive of the government of the United States; the members of both houses of Congress, and their respective officers; all custom house officers, with their clerks; all post officers and stage drivers, who are employed in the care and conveyance of the mail of the post office of the United States; all ferrymen employed at any ferry on the post road, all inspec-

tors of exports, all pilots, all mariners, actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective States, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty five years. *And be it further enacted*, That within one year after the passing of this act, the militia of the respective States shall be arranged into divisions, brigades, regiments, battallions, and companies, as the legislature of each State shall direct, and each division, brigade and regiment, shall be numbered, at the formation thereof, and a record made of such numbers, in the adjutant general's office in the State, and when in the field or in service in the State, each division, brigade and regiment shall respectively take rank, according to their numbers, reckoning the first or lowest number, highest in rank. That if the same be convenient, each brigade shall consist of four regiments, each regiment of two battalion, each battalion, of five companies, each company of sixty four privates; that the said militia shall be officered by the respective States, as follows; to each division, one major general and two aids-de-camps, with the rank of major; to each brigade, one brigadier general with one brigade inspector, to serve also as a brigade major, with the rank of a major; to each regiment, one lieutenant colonel commandant, and to each battallion one major, to each company one captain, one lieutenant, one ensign, four serjeants, four corporals, one drummer and one fifer or bugler; that there shall be a regimental staff to consist of one adjutant and one quarter master to rank as lieutenants, one pay master, one surgeon and one surgeon's mate, one sergeant major, one drum-major, and one fife major. *And be it further enacted*, That out of the militia enrolled, as is herein directed, there shall be formed for each battallion, at least one company of grenadiers, light infantry or riflemen, and that to each division, there shall be at least one company of artillery, and one troop of horse; there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals six gunners, six boumbardiers, one drummer and one fifer. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box to contain twelve cartridges, and each private or matross shall furnish himself, with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horses; one captain, two lieutenants, one cornet, four sergeants, four corporals, one sadler, one farrier, and one trumpeter; the commissioned officers to furnish themselves with good horses, of at least fourteen hands and a half high, and to be armed with a sword and a pair of pistols, the holsters of which to be covered with bearskin caps, each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mailpillion and valise, holsters and a breastplate and crupper, a pair of boots and spurs, a pair of pistols, a saber and a cartouch box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse, shall be formed of voluntiers from the brigade, at the discretion of the commander in chief of the State, not exceeding one company of each to a regiment, nor more in number, than one eleventh part of the infantry, and shall be uniformly cloathed in regimentals, to be furnished at their own expence, the colour and fashion to be determined by the brigadier commanding the brigade to which they belong. *And be it further enacted*, That each battallion and regiment shall be provided with the State and regimental colours by the field officers, and each company with a drum and fife or bugle horn by

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the commissioned officers of the company, in such manner, as the legislature of the respective States shall direct. *And be it further enacted*, That there shall be an adjutant general appointed in each State, whose duty it shall be to distribute all orders from the commander in chief of the State, to the several corps, to attend all public reviews, when the commander in chief of the State shall review the militia or any part thereof, to obey all orders from him, relative to carrying into execution and perfecting the system of military discipline established by this act, to furnish blank forms of different returns, that may be required, and to explain the principles on which they should be made, to receive from the several officers of the different corps throughout the State, returns of the militia under their command, reporting the actual situation of their arms, accoutraments and ammunition, their delinquencies, and every other thing, which relates to the general advancement of good order and discipline: All which the several officers of the divisions, brigades, regiments and battalions are hereby required to make in the usual manner, so that the said adjutant general, may be duly furnished therewith; from all which returns, he shall make proper abstracts, and lay the same annually before the commander in chief of the State. *And be it further enacted*, That the rules of discipline approved and established by Congress, in their resolution of the twenty ninth of March one thousand seven hundred and seventy nine, shall be the rules of discipline, to be observed by the militia throughout the United States, except such deviations from the said rules, as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances; it shall be the duty of the commanding officer of every muster, whether by battallion, regiment or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline. *And be it further enacted*, That all commissioned officers shall take rank, according to the date of their commissions, and when two of the same grade, bear an equal date, then their rank to be determined by lot, to be drawn by them, before the commanding officer of the brigade, regiment, batallion, company or detachment. *And be it further enacted*, That if any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States, be wounded or disabled while in actual service he shall be taken care of, and provided for at the public expence. *And be it further enacted*, That it shall be the duty of the brigade inspector to attend the regimental and battallion meetings of the militia, composing their several brigades during the time of their being under arms to inspect their arms, ammunition and accoutraments, superintend their exercise and manœuvre, and introduce the system of military discipline before described throughout the brigage, agreeable to law, and such orders as they shall from time to time receive, from the commander in chief of the State, to make returns to the adjutant general of the State, at least once in every year, of the militia, of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutraments and ammunition of the several corps, and ev y other thing, which in his judgment, may relate to their government and the general advancement of good order and military discipline, and the adjutant general shall make a return of all the militia of the State, to the commander in chief of the said State and a duplicate of the same, to the President of the United States. *And whereas*, sundry corps of artillery, cavalry and infantry, now exist in several of the said States which, by the laws, customs or usages thereof, have not been incorporated with, or subjected to the general regulations of the militia. *Be it further enacted*, That such corps retain their accustomed

privileges, subject nevertheless, to all other duties required by this act, in like manner with the other militia."

And whereas, the reservations contained in the said constitution, relative to the militia of the States respectively, render it neeessary, that provision should be made in the premises by the legislature of this State, Therefore,

Arrangement of the State militia.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the militia of this State, shall be arranged into four divisions, and that each division shall comprehend one of the great districts of this State, in each of which districts, a major general shall be appointed, and each division shall be formed into as many brigades, and each brigade into as many regiments, and each regiment, into as many companies, as the commander in chief of the militia of this State for the time being, shall in his discretion, from time to time deem meet and proper, and shall also order, that at least one company of artillery, and one troop of horse, be formed from every brigade, or from such of them, as he shall direct and require; and all returns from the militia corps respectively, shall be made out and transmitted, in such manner, and at such time, as the said commander in chief, shall from time to time direct and require.

Rendezvous.

And be it further enacted, That the militia of this State, shall randezvous three times in every year, for the purpose of training, disciplining and improving in martial exercise, twice by companies within their respective beats, and once by regiments, except as is herein after excepted. And that each brigadier general shall appoint the regimental parades, at such time and place as he may think proper, as nearly central as may be, within each of the respective regiments; that the time and place of the rendezvous for the companies shall be appointed by the colonel or commanding officer of the regiment, and arranged on different days, that the field and staff officers may have an opportunity of attending the several companies exercised in detail, in order to introduce uniformity in the manœuvres and discipline of the regiment. That the artillery company and troop of horse, belonging to each division or brigade, shall meet at such times and places as shall be appointed for that purpose by the major general or commanding officer of the division.

Courts-martial.

And be it further enacted, That a court martial shall consist of thirteen commissioned officers, who shall appoint their own judge advocate, which judge advocate shall tender to each member, and each member is hereby required to take the following oath; "You do swear, that you will well and truly, try and determine, according to evidence, the matter now depending between the people of the State of New York and the person and persons to be tried, and you do further swear that you will not divulge the sentence of the court, until the same shall be approved or disapproved, pursuant to the act entitled "An act to organize the militia of this State, neither will you upon any account, at any time whatsoever, disclose or discover, the vote or opinion of any particular member of the court martial, unless required to give evidence thereof, by a court of justice in a due course of law, so help you *God*." And the president is hereby authorized to tender to the judge advocate, who is hereby enjoined to take the following oath. You do swear swear, that you will not upon any account, or at any time whatsoever, disclose or discover, the vote or opinion of any particular member of the court martial, unless required to give evidence thereof, as a witness by a court of justice in a due course of law, and that you will not divulge the sentence of this court until the same shall be approved or

disapproved, pursuant to the act entitled "An act to organize the militia of this State" so help you *God;* and it shall and may be lawful, for the president of any such court, after he shall have received notice of his appointment, and he is hereby required on application to issue his precept directed to any witness or witnesses to be summoned, commanding his, her or their attendance, at the time and place appointed for such court to set, to give evidence in behalf of the people of this State or for the person or persons to be tried (as the case may be) and such witness or witnesses being summoned, and making default shall incur the like fines and forfeitures as are inflicted on witnesses for their default, by the ninth section of the act for the more speedy recovery of debts to the value of ten pounds, passed the seventeenth day of April one thousand thousand seven hundred and eighty seven; and the president of any such court martial shall be, and he is hereby impowered to administer the usual oath to such witnesses as shall come to give evidence to such court, during the time he shall be president thereof, and that if any officer shall be arrested by virtue of this act, the charge shall particularly be set forth in writing and signed by the arresting officer, a copy whereof shall be delivered to such officer, so arrested or left at his usual place of abode within three days after such arrest, and the person so arrested shall not be held to answer to any matter whatever, not set forth in such charge, that every commissioned officer who shall be convicted by a general court martial, of having refused or neglected to perform any of the duties of his office, shall be punished according to the nature and degree of his offence, at the discretion of the said court, either by fine or removal from office.

Proviso as to fines.

Provided, no fine shall exceed ten pounds for the first offence or fifty pounds for any subsequent offence, and every such fine shall be levied and collected by warrant under the hand and seal of the officer having instituted the court martial or in his absence by the commanding officer of the division, if such court martial was formed from the division or by the commanding officer of the brigade, if such court martial was formed from the brigade, directed to any one adjutant of the brigade or person acting as such to which such officer, on whom such fine is imposed may belong, in like manner, as the fines hereinafter mentioned, to be recovered of the non commissioned officers and privates for neglect or refusal of duty. That the proceedings and sentence of every court martial, by which any officer shall be removed from office, shall be in writing, signed by the president thereof, and shall by him be delivered to the commanding officer of the division or brigade, as the one or the other may have instituted the court martial, to be by him transmitted to the commander in chief of this State, who shall approve or disapprove of the same in orders, and that all other proceedings and sentences of courts martial, shall also be in writing signed by the president thereof, and by him be delivered to the commanding officer of the division or brigade, (as the case may be) who shall approve or disapprove of the same in orders;

Proviso as to general officers.

Provided, That no sentence of a court martial on a general officer, shall go farther than removal from office. That all sentences of courts martial by which any officer shall be removed, and which shall be approved by the commander in chief of this State, shall by him from time to time be laid before the council of appointment, to the end, that the person administering the government of this State for the time being, by and with their advice and consent may appoint others instead of the officers so removed from office.

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Courts-martial, how ordered.

And be it further enacted, That courts martial for the trial of general officers, shall be ordered by the commander in chief of this State, and shall consist of general and field officers taken from a roaster to be kept by the adjutant general for that purpose; that courts marshal for the trial of field officers shall be ordered by the commanding officer of the division, and shall consist of commanding officers of brigades, field officers, and if requisite of captains. That courts martial for the trial of officers below the rank of field officers, shall be ordered by the commanding officer of the brigade, and shall consist of field officers and others of inferior rank. That courts martial for the trial of non commissioned officers and privates, shall be ordered by the commanding officer of the regiment, and shall consist of officers not of the rank of field officers. That roasters shall be kept by the proper officers from which such courts martial shall be formed. That the sentence of every court martial shall be approved or disapproved by the officer having instituted the same, saving to the party tried, an appeal to the commander in chief to whom the sentence of every general court martial shall be reported without delay.

Penalties for failure to appear when warned.

And be it further enacted, That every non commissioned officer, who shall neglect to warn the men to appear at any rendezvous mentioned in this act, when thereunto required by his captain or commanding officer without sufficient excuse, shall forfeit the sum of two pounds. That every non commissioned officer or private, who shall neglect to appear when warned, in pursuance of this act without sufficient excuse, shall for every day he neglects to appear at the regimental or battalion rendezvous, forfeit the sum of sixteen shillings; and for every day he neglects to appear at the company parade, forfeit the sum of eight shillings, and if he shall not be armed and equipped according to the directions of this act, when so appearing, without sufficient excuse, he shall for every deficiency, forfeit the sum of one shilling and appearing without a musket the sum of four shillings.

Proviso as to collection of penalties.

Provided always, That none of the fines aforesaid, or any other other* arising from offences in a regiment or company thereof, any company of artillery or troop of horse, other than for disobedience of orders under arms, shall be levied on any delinquent, until he shall have been summoned to appear before a board of officers, to be instituted as herein after directed, that he may shew cause why such fine should not be levied, and all fines which such board shall determine as proper to be exacted, shall be levied by warrant from the president of such board, to one or more sergeants or corporals of the regiment or company, to which the offender belongs, whose duty it is hereby made to collect the same, by distress and sale of the goods and chattels of the offenders respectively. And in case any such defaulter shall live with his father or mother, or shall be then an apprentice or indented servant, the master or mistress, or father or mother, (as the case may be) shall be liable to pay the said fine, with costs, and in default of payment the said sergeant or corporal shall levy the same upon the goods and chattels of such father or mother, or master or mistress, and all fines arising from any offences within any brigade, shall when recovered be paid to such person, as the commanding officer of the brigade shall appoint for the purpose, and as much thereof shall be appropriated by the order of the said commanding officer, as he shall think proper for the purchase of such colours, drums and fifes, for the different corps in the brigade, as may be requisite, and the residue, if any there be, for the purpose

* So in original.

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of purchasing such arms, as are designated in the first section of the act herein before recited, to be deposited as the said commanding officer shall direct, to be delivered in case of invasion or insurrection, to such of the militia of the brigade, as may be destitude of arms, to be returned whenever thereupon required, by the commanding officer of the brigade, regiment or company, and in case any or either of the said sergeants or corporals to whom such warrants shall be directed as aforesaid, shall neglect his duty in the premises, he shall for every such neglect, forfeit the sum of twenty four shillings, to be levied and collected in manner aforesaid, by a like warrant, which monies, when collected, shall be paid and apropriated in manner aforesaid, and that it shall be the duty of the person receiving such fines, once in every year to render an account to the brigadier or officer commanding the brigade, of all his receipts and expenditures in pursuance of this act.

Boards to levy fines on delinquents.

And be it further enacted, That the commanding officer of a brigade shall institute, as many boards of officers, each to consist of not less than three, nor more than five, as there are rigiments in his brigade, who shall, from time to time, convene at such place, and at such times as the commanding officer of the brigade shall direct. To the president of each of which boards, all returns of delinquents from the corps designated in the brigade orders shall be made, which president shall direct the delinquents on a day, and at a place certain, to be summoned to appear before the said board, and to shew cause why the fines incurred by them should not be levied, and it shall be in the discretion of such board, to cause the fines to be levied in manner aforesaid, either in the whole or mitigated in their discretion or remitted, and for such as the board shall direct to be levied, warrants shall issue in manner herein before directed.

Commander-in-chief may order out militia in case of invasion, etc.

And be it further enacted, That the commander in chief of this State for the time being, may in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this State, to march to any part thereof, and continue as long as he may think necessary, and likewise may, in consequence of an application from the executive of any of the United States, on an invasion or insurrection, or an apprehension of an invasion of such State at his discretion, order any number of the militia not exceeding one third part thereof to such State.

Provided, That they be not compelled to continue on duty out of this State, more than forty days at any one time; that while in actual service in consequence of being so called out, they shall receive the same pay and rations, and be subject to the same rules and regulations, as the troops of the United States of America.

Exemptions from militia duty.

And be it further enacted, That in addition to persons exempted from militia duty by the law of the United States herein before recited, there shall be and hereby are exempted by this act from such duty as aforesaid, the following persons vizt. the lieutenant governor of this State, members of both houses of the legislature of this State, and their respective officers, the chancellor, the chief justice, and other justices of the supreme court, judge of the court of probates and all other judicial officers of this State, secretary, treasurer, attorney general and auditor for this State, surveyor general, register and clerks of courts sheriffs, coroners, constables and gaolars, two ferry men employed to each boat, the surrogates in the several counties, all ministers and preachers of the gospel, physicians and surgeons, except in their several professions and callings, the professors, teachers and students in all colleges and academies within this State, all schoolmasters engaged fo

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at least three months, all post riders, the actual attendant of every grist mill, and all firemen belonging to companies now established, or which hereafter may be established by law within this State, and also all persons actually employed as overseers, manufacturers and labourers at any furnace, forge, or bloomery for making iron, all such persons so employed at any furnace for making iron castings; all such persons so employed at any glass house, for making glass, during the time they are so actually employed notwithstanding their being above eighteen and under forty five years of age.

Quakers.

And be it further enacted, That all persons being of the people called Quakers, who would otherwise be subject to military duty, by virtue of this act, and who shall refuse personal military service, shall be exempted therefrom, on paying annually the sum of twenty four shillings each, for such exemption, such sum to be assessed on each of them respectively, by the assessors, and collected by the collectors of the districts wherein they respectively reside, with the contingent charges of the county, and paid to the county treasurer, who shall pay the same into the treasury of this State, to be applied towards the support of the government; and it is hereby made the duty of every captain of infantry, within three months, after he shall have received his commission, and yearly and every year thereafter on the first Tuesday in May in every year, to make a list of the names of all and every person and persons within his beat, who being of the people called Quakers, shall neglect or refuse personally to perform military service, and deliver such list in the city of New York to the clerk of the said city, and in each of the other counties of this State, to the supervisors of the town, where such person or persons so neglecting or refusing to perform military service shall respectively reside; and the clerk of the said city of New York shall forthwith after receiving such lists, deliver the same to the mayor, aldermen and commonalty of the said city, in common council convened; and the mayor, recorder and aldermen of the city of New York, or any three of them, in the said city, and the supervisors or a major part of them, of each of the other counties of the State respectively, shall at their first meeting, after the delivery of such lists, cause tax lists to be made out, according to such lists so delivered, with warrants thereon, under their hands and seals, directed to the collector of the ward or town in which such persons named in such lists, respectively reside, for levying the sum of twenty four shillings of the goods and chattels of each of the persons named in the same lists, and the said collectors are hereby respectively authorized and required, to demand and receive of each of the persons named in such tax list; the said sum of twenty four shillings, and in default of payment, such collector shall levy the said sum of twenty four shillings, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, and in case any person named in such tax list, shall be under age and live with his father or mother, shall be then an apprentice or servant, the master or mistress, or father or mother, as the case may be, shall be liable to pay the said sum of twenty four shillings, for such person so under age; and in default of payment, the collector shall levy the same by distress, and the sale of the goods and chattels of such father or mother, master or mistress, and the said respective collectors, shall respectively pay the said monies, to the city or county treasurer, deducting their fees for collecting, on or before the first Monday in January in every year; and the county treasurers shall respectively pay the same to the treasurer of this State, deducting his fees for receiving the same, on or before the first Monday in March in every year. And

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the collectors and county treasurers, shall have the like fees for collecting and receiving the said monies, as they are respectively entitled to, for collecting and receiving the monies, raised for defraying the necessary and contingent charges of the said city or counties.

And whereas, from the dispersed situation of the inhabitants residing within the counties of Otsego, Tioga, Herkemer, Ontario and Clinton they would be subject to great expence and difficulty, if they were obliged to attend regimental parades. Therefore,

Militia of certain counties, rendezvous of.

Be it further enacted, That it shall and may be lawful for the militia of the said counties of Otsego, Tioga, Herkemer, Ontario and Clinton to rendezvous by regiments or battalions, as the major general or commanding officer of the division may direct.

Ordering out of militia by commanding officers

And be it further enacted, That it shall and may be lawful to and for any major general of a division or commanding officer of a brigade, or commanding officer of a regiment, when and as often as, any invasion may happen, to order out the militia or any part thereof, under their respective commands for the defence of this State, giving notice of such invasion and every circumstance attending the same, as early as possible to their immediate commanding officer, by whom such information shall be transmitted with the utmost expedition to the commander in chief of this State. And that in cases of insurrections, the commanding officer of the regiment within the limits of which any such insurrection may happen, shall immediately assemble his regiment under arms, and having transmitted information thereof, to the commanding officer of the brigade, and to the commander in chief of this State, shall proceed to take such measures to suppress such insurrection, as to any three of the judges or justices of the county, in which such insurrection shall happen, shall appear most proper and effectual. And if any person be wounded or disabled while in actual service of this State, in opposing any invasion or insurrection or in suppressing the same, he shall be taken care of and provided for at the expence of this State.

Provided always, that if such judges or justices, shall deem a greater number of militia requisite to quell such insurrection, they shall and are hereby required to apply for the same, to the commanding officer of the division or any brigade thereof, who are hereby severally required to obey such requisition.

Penalties for certain neglects; collection of.

And be it further enacted, That every non commissioned officer and private, who shall neglect or refuse to obey the orders of his superior officer while under arms, shall forfeit twenty shillings for every such offence, and if any such non commissioned officer or private, enrolled to serve in either of the companies mentioned in this act, shall refuse or neglect to perform such military duty or exercise, as he shall be required to perform, or shall depart from his colours or guard, without the permission of his superior officer as aforesaid, he shall forfeit the sum of twenty shillings, and for the non payment thereof the offender shall be committed to gaol, by warrant from the captain or commanding officer to the troop or company then present, to which such offender doth belong, there to be confined until the fines as aforesaid, together with the gaolers fees are paid; and the respective sheriffs of the respective cities and counties of the State, are hereby empowered and required to receive the body or bodies of any offender or offenders, as shall be brought to them by virtue of a warrant or warrants under the hand and seal of any officer by virtue of this act, and him or them to keep in safe custody, until such fines as are mentioned in such warrant, together with the gaolers fees as aforesaid, shall be paid or until the said offender or offenders shall be discharged by due course of law; and the sheriffs

and gaolers respectively shall be allowed the same fees as are allowed in other cases.

Provided, that in case of a military guard, where a captain doth not command in person a warrant granted by an inferior officer, who shall have the command of such guard, shall be of the same authority against all offenders, as if such warrant had been issued by such captain.

Uniforms, of what to consist.

And be it further enacted, That from and after the first day of January next, the military uniforms of this State shall be as follows, that is to say, general officers; dark blue coats, with buff facings, linings, collars and cuffs and yellow buttons, with buff under cloaths. Regimental and staff officers; dark blue coats, with white linings, scarlet facings, collars and cuffs, and yellow buttons with white under cloaths. Non commissioned officers and privates of the granadier and light infantry companies; dark blue coats, with white linings, scarlet facings, collars and cuffs, yellow buttons and white under cloaths.

Id., in certain counties.

And be it further enacted, That it shall and may be lawful, to and for the major general or commanding officer of any division respectively, in the counties of Montgomery, Otsego, Tioga, Herkemer, Ontario and Clinton, if he shall deem it expedient, to direct the light infantry and riflemen of such division, to uniform themselves in rifle frocks and over alls.

Acceptance of commissions.

And be it further enacted, That every commissioned officer, who shall from time to time be appointed, shall report his acceptance of the office within ten days after having received notice thereof, to such officer or officers, as the commander in chief shall from time to time direct.

Certain former officers, exemptions of.

And be it further enacted, That all persons who have heretofore been commissioned officers in the line of the army of the United States, and all officers who have served in the militia of levies of this State, or in the militia or levies of any of the United States, or in the militia or levies of the late colony of New York, shall be, and hereby are exempted from serving in the militia of this State, any thing in this act to the contrary notwithstanding.

Provided nevertheless, That if any such officer shall be commissioned in the militia, to a rank equal to that which he held in the said army, militia or levies, and shall refuse to accept such commission, such officer so refusing, without giving satisfactory reasons to the council of appointment for such refusal, shall be liable to serve in the militia.

And provided also, that this exception shall not extend to any such persons being officers, who have gone over to, and joined the enemy in the late war.

Proviso as to resignations.

Provided also, that no commissioned officer shall resign his commission without first making application to the major general or commanding officer of the division to which he belongs, and stating his reasons in writing for the same, which resignation and reasons shall be transmitted by the said commanding officer, to the commander in chief of the militia of this State, together with his opinion thereon, and in case any officer sends in his resignation to the commander in chief, and the same be accepted by the council of appointment, without having pursued the mode herein prescribed, such officer shall be liable to do duty in the militia as a private.

Present officers continued.

And be it further enacted, That the officers of the militia under the existing militia laws of this State, shall be, and hereby are continued in their respective offices under this act, until the person administering the government of this State for the time being, and council of appointment shall otherwise determine.

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Acts repealed.

And be it further enacted, That from and after the seventh day of October next, the act entitled "An act to regulate the militia" passed the fourth day of April one thousand seven hundred and eighty six, and the act entitled "An act to amend an act entitled "An act to regulate the militia" passed the eighteenth day of April one thousand seven hundred and eighty seven, and the thirty first section of an act entitled "An act directing the settlement of public accounts, and for other purposes therein mentioned" passed the twenty second day of March one thousand seven hundred and eighty eight, be and hereby are repealed.

CHAP. 46.

AN ACT concerning the settlement of lands, and for prolonging the time for payment of quit rents.

PASSED the 9th of March, 1793.

Inquisitions to determine what patented lands are forfeited to the State by non-compliance of conditions of settlement.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the secretary of this State for the time being, shall, and he is hereby enjoined, as soon as conveniently may be, after the first day of January one thousand eight hundred and one, to make out an abstract of all lands granted by letters patent under the great seal of this State, which contains a condition of actual settlement specifying the time limited, in and by such letters patent for such actual settlement, and shall deliver such abstract to the surveyor general for the time being, who shall, and he is hereby enjoined without delay, after the day above mentioned, to make enquiry, and if he shall find that any such lands granted on the condition aforesaid, shall not then be so actually settled, he shall give notice thereof to the attorney general of this State for the time being, who shall without delay cause a writ to be issued out of the court of chancery and directed to the sheriff of the county in which the same land shall be situated, in the form following, The people of the State of New York, to the sheriff of greeting; whereas by our letters patent under our great seal bearing date (reciting the same letters patent) and because we are informed that such settlement (or settlements as the case may be) as the law requires hath not (or have not, as the case may be) been made thereon by reason whereof the same lands ought to revert to us; therefore we command you, that by the oath of twelve, good and lawful men of your bailiwic, you diligently enquire whether such settlement (or settlements as the case may be) hath (or have as the case may be) been made on the said lands or on any and what part thereof as the law requires, and the inquisition which you shall take thereof, do you send under your seal and the seals of those by whose oath you take the same inquisition before us in our court of chancery without delay, wheresoever the said court shall then be, together with this writ; and the sheriff shall upon receiving such writ, affix a copy thereof upon the front door of the court house or place where the courts of common pleas and sessions of the peace in his county were then last held, with a notice of the time when, and place where, the same writ is to be executed, which time shall not be less than sixty days from the time of fixing the same notice in the manner aforesaid, and upon the return of the same writ any person aggrieved by the inquisition thereupon taken may traverse the same; and when any issue shall be joined thereupon, the record thereof shall be sent into the supreme court of judicature of this State, there to be tried and determined

EXHIBIT "11"

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LAWS OF NORTH CAROLINA, 1786.

At a General Assembly, begun and held at Fayetteville on the eighteenth day of November, in the year of our Lord One Thousand Seven Hundred and Eighty-Six, and in the Eleventh Year of the Independence of the said State, being the first session of the said Assembly. *Richard Caswell, Esq.,* Governor.

CHAPTER I.
An Act for Raising Troops for the Protection of the Inhabitants of Davidson County.

Whereas the frequent acts of hostility committed by the Indians on the inhabitants of Davidson county for a considerable time past, renders it necessary that some measures should be taken for their protection:

I. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the authority of the same, That two hundred and one men shall be enlisted and formed into a military body, for the protection of the inhabitants of Davidson county, in such manner and form, and under such regulations and rules as are herein after mentioned; whose time of service shall continue for two years, commencing from the day of their first general rendezvous at the lower end of Clinch mountain, unless sooner disbanded by the General Assembly.

II. And be it further Enacted, That the said troops, when raised and embodied, shall be formed into three companies, each company consisting of sixty-seven men, and officered by one captain, one lieutenant, one ensign and four serjeants; the whole to be under the immediate command of one major: The major, captains, lieutenants and ensigns to be elected by joint ballot of both Houses of the General Assembly, and commissioned by his Excellency the Governor for the time being: The serjeants to be chosen and appointed by the commissioned officers, or a majority of them, being assembled for that purpose by the commanding officer.

III. And be it further Enacted, That each captain, lieutenant and ensign to be commissioned by virtue of this Act, shall upon the receipt of his commission, without delay, repair to such place as shall be directed by his commanding officer for the purpose of enlisting troops, and use his utmost diligence in so doing; and shall from time to time, and as often as possible, give information to his said commanding officer of the progress he shall have made in that business; and the said commanding officer, so soon as he shall discover that a sufficient number of troops have been raised, shall give intelligence thereof to his Excellency the Governor for the time being, who with the advice of the council of State, shall give orders for the marching the said troops from time to time, into the Cumberland settlements; and the present field officers of Davidson county are hereby authorised and required to give directions for the disposition of the said troops, into such proportions and at such places, as may be deemed most likely to intimidate the Indians, and prevent their incursions into the Cumberland settlements: But nevertheless the commanding officer of the said troops in cases of emergency, or when the situation of affairs or alteration of circumstances shall make it immediately necessary, may take such other measures, and make such other dispositions of the said troops, although not directed thereto

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as aforesaid, as may be deemed most conducive to the safety of the inhabitants aforesaid.

IV. And be it further Enacted, That the said troops, when raised and entered upon service, shall be trained and disciplined according to such modes as the commanding officer shall judge most proper, to enable them to oppose the Indians in their manner of fighting with success; but shall be subject to the same rules with respect to their government, as were established in the time of the late war by the Congress of the United States, for the government of the continental army.

V. And be it further Enacted, That every able bodied man who shall be enlisted into the said service, and shall furnish himself with one good rifled or smooth bored gun fit for service, one good picker, shot-bag and powder horn, twelve good flints, one pound of good powder, and two pounds of good leaden bullets or buck-shot, suitable to his gun, shall be entitled to receive from this State on the first day of October, in each year of his service, one blanket, two pair of stockings, two pair of shoes, two shirts, two leather stocks, one good hunting shirt, one good woollen or fur hat of a middle size, one pair of buckskin breeches, and one waistcoat lined, to be provided and furnished by a clothier to be appointed by his Excellency the Governor for the time being; who shall be furnished in convenient time by the commanding officer of the said troops, with a certificate sworn to before some three or more justices of some county within this State, with the amount of the number of troops under his command, entitled to draw clothes according to this Act; which the said clothier shall present to the Governor for the time being, together with the whole amount of each article wanted for the troops, and thereupon his Excellency shall grant him a warrant on the treasury for a sum sufficient to purchase the said articles at a moderate rate, and to defray the expence of making them into suits, and removing them to the troops: And the said clothier shall purchase the said articles and cause them to be made up into suits, and delivered to the troops at the times aforesaid, taking a receipt from each soldier, attested by the captain of the company to which he may belong; for all which services, the said clothier shall be allowed by the General Assembly, on the settlement of his accounts, a sum not less than the amount of the yearly pay hereby appointed for a captain in the said troops.

VI. And be it further Enacted by the authority aforesaid, That the justices of the peace for the county of Davidson, or the major part of them, for that purpose assembled, shall be, and they are hereby authorised and required from time to time, so long as the said troops shall continue in service, to impose a tax on the inhabitants of Davidson, leviable in corn, pork, beef or other species of provision for the support of the said troops, to be collected at such times and places, by such ways and means, under such regulations, by such persons, and in such proportions as the said justices, or the major part of them, shall appoint and direct: And also, the said justices, or the major part of them, shall be empowered to appropriate the public money tax, leviable on the inhabitants aforesaid, (if need should be) to the purpose of defraying the expence of removing the provisions from the place or places of collection to the several stations of the troops; and the said justices, or the major part of them, shall appoint an officer to superintend the collection and removal of the provisions to the troops, who shall be entirely subject to the directions of the commanding officer, with respect to the place, time and quantity of provisions to be delivered, but to be accountable for his receipts to, and to be paid by the said justices, or the majority of them, out of the money tax aforesaid, and to be removable by

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them at pleasure. And the collector or collectors of the several species of provisions before mentioned, shall give receipts to the several persons of whom they shall receive any of the before mentioned provisions, which receipts shall be received by the collectors of the public taxes, at such rates as shall be settled by the justices of the said county of Davidson or a majority of them, and they shall be proper vouchers for the said collector in the settlement of his accounts with the county treasurer, and also for the said county treasurer in the settlement of his accounts with the public treasurer, any law to the contrary notwithstanding.

VII. And be it further Enacted, That the officers of the said troops shall be allowed the same cloathing herein before allowed to the soldiery, to be furnished by the cloathier of the troops, for which he shall be entitled to a warrant on the treasury.

VIII. And be it further Enacted, That the officers and privates of the said troops shall be allowed the same pay and rations (spiritous liquors excepted) as are allowed to the militia officers and privates (regard being had to the ranks of officers) when in the actual service of this State: The payments to be made on the last day of each year's service, or within sixty days after their being disbanded.

IX. And be it further Enacted, That the same person who shall be appointed cloathier to the said troops, shall also act as paymaster to them, and shall at a convenient distance before each day of payment exhibit to his Excellency the Governor, a list signed by the commanding officer, countersigned by the captain or commanding officer of each company, and sworn to before some justice of the peace, specifying the number of troops then in service entitled to draw pay, and the day from which each man's pay commenced, and all such as shall have died in the service, with the amount of the sums due at their death, and the total sum due the troops. And the said paymaster shall thereupon obtain a draft on the treasury for such total sum, and shall proceed to the distribution thereof, taking a receipt from each man of the sum paid, attested by the captain of the company.

X. And be it further Enacted, That the captain or commanding officer of each company shall monthly make out a pay-roll of his company, which he shall swear to and sign, and the same be countersigned by the commanding officer of the troops, which shall be transmitted to the treasurer of this State in order to make settlement with the paymaster of the said troops.

XI. And be it further Enacted, That the said cloathier and paymaster, before entering on the exercise of his office, shall give bond with sufficient security, in such sum as his Excellency the Governor for the time being shall direct, for the due application of all monies to be received by him according to the directions of this Act, and for the faithful accounting for the same before each General Assembly that shall happen in this State during the continuance of the said troops in service, and also before the General Assembly that shall happen next after the determination of the said service, unless his accounts should be then fully settled and balanced.

XII. And be it further Enacted, That the person to be appointed cloathier and paymaster by virtue of this Act, shall provide and furnish the said troops from time to time with such quantities of lead and gun-powder, as shall be required by the commanding officer of the troops; and to that end shall be enabled to draw on the sheriff of Davidson county for all such sums of money belonging to the public that shall happen to be in his hands, as shall be necessary for that purpose.

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XIII. And be it further Enacted, That every private to be raised by virtue of this Act, shall be allowed four hundred acres of land to be laid off and allotted in some part of this State west of the Cumberland mountain, in full satisfaction of the half of the first year's pay that shall be due; and in the same proportion for the time that he shall serve over and above one year, in full satisfaction of one half of the pay that shall be due him for such further service. And also the commanding officer of the troops shall be allowed two thousand acres of land, to be allotted as aforesaid, in full satisfaction of half the pay that shall be due him for the first year's service, and in the same proportion for any service over and above the term of one year that he shall perform; and the other officers belonging to the said troops, in like manner shall receive satisfaction for the one half of the pay that shall be due them, in lands in proportion to the quantum of pay that each officer shall be entitled to for the first half year's pay, whenever a proper board shall be appointed for the adjustment of their accounts.

XIV. And be it further Enacted, That if any twenty-five of the said troops shall furnish themselves, each man with a good horse fit for service, four feet eight inches high at the least, and not exceeding nine years of age, with a good saddle and bridle, and one good rifled or smooth bored gun, they shall be formed into a company of cavalry, to be commanded by such officers as a majority of the commissioned officers belonging to the said troops assembled for that purpose shall direct and appoint, and be allowed the same pay and rations (spiritous liquors excepted) as other militia light-horse when in actual service.

XV. And be it further Enacted, That the said troops, when assembled at the lower end of Clinch mountain as aforesaid, shall cut and clear a road from thence the nearest, most direct and convenient way to the town of Nashville on Cumberland river, making the same ten feet wide at the least, and fit for the passage of waggons and carts.

XVI. And be it further Enacted, That his Excellency the Governor shall appoint a commissary or contractor, whose duty it shall be to furnish the troops with the necessary rations on their march to the Cumberland settlement, and with fifteen axes for each company, and grant him a warrant on the treasury for such a sum of money as will enable him to comply with the same; who before he enters on the execution of his appointment shall enter into bond with sufficient security to the Governor for the time being, for the faithful accounting for all such money as he may have received.

IV. And be it further Enacted, That all offences committed or done against the purview of the aforesaid recited Act, shall hereafter be prosecuted by indictment in any court having cognizance thereof; and all forfeitures shall be recovered by action of debt, bill, plaint or information; one half to the use of the prosecutor, the other half to the use of the State, unless the same have been otherwise provided for by the said Act.

V. And be it further Enacted by the authority aforesaid, That when any person appointed as an overseer of the roads in any county in this State, he shall be deemed and held liable for any neglect in working on the roads, until he shall have made return to the court of his county, and shall make it appear to their satisfaction he has done the duties of an overseer by law directed. (Passed Jan. 6, 1787.)

CHAPTER XIX.

An Act to Empower the Several County Courts Therein Mentioned to Lay a Tax Annually, Not Exceeding Three Years, for the Purpose of Erecting or Repairing the Court House, Prison and Stocks in Each County When Necessary, and for Defraying the Contingent Charges of the County.

Whereas the taxes heretofore levied in the counties of Sampson, Richmond, Johnston, Randolph, Hyde, Anson, Wayne, Martin Cambden, Guilford, Cumberland, Moore, Bladen, Davidson, Surry, Sullivan and Greene for the purposes above mentioned, have been found insufficient for the same: For remedy whereof,

I. Be it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the authority of the same, That the courts of the several counties herein before named, shall, and they are hereby authorised and empowered from and after the passing of this Act, to lay a tax annually,

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not exceeding the sum of three shillings current money on every poll, and one shilling on every hundred acres of land, and on each hundred pounds value of town lots with their improvements in their counties respectively, for the purpose of erecting, finishing or repairing such court house, prison or stocks, in any of the counties aforesaid, when the same may be found by the said court to be absolutely necessary, and for the purpose of defraying the contingent charges; which said tax shall be collected and accounted for in the same manner, at the same time, and by the same persons who are appointed to collect the public tax in each county, and the same so collected, shall be paid into the hands of such person or persons for the purposes aforesaid, as the several county courts shall from time to time direct; which person or persons so nominated and appointed, shall be accountable to the courts of their respective counties for all such monies as he or they may receive in virtue of this Act.

II. And be it further Enacted by the authority aforesaid, That all and every Act and Acts, so far as they come within the purview or meaning of this Act, be, and they are hereby repealed and made void.

CHAPTER XX.

An Act to Prevent the Obtaining of Grants for Lands Lying in the Western Parts of this State to the Prejudice of the First Enterers, and Entered in the Office Lately Established for Receiving Entries of Claims of Such Lands, by an Act, Entitled, "An Act for Opening the Land Office for the Redemption of Specie and Other Certificates, and Dicharging the Arrears Due to the Army."

Whereas it is the intent and meaning of the said Act and of the Act, hereby revived and put in force, that the first enterers of the vacant and unappropriated lands, if specially located, therein described, shall have preference to all others in surveying and obtaining grants for the same, when such entries have been made: And whereas divers persons have repaired to the lands lying out of the inhabited part of this State, and have caused the same to be surveyed in virtue of entries made subsequent to the entries for the same lands and plats of such surveys to be returned to the secretary's office, have or are about to obtain grants for the same, to the prejudice of the first enterers: For remedy whereof,

I. Be it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the authority of the same, That every first enterer of any tract of land specially located, lying in the western parts of this State, out of the inhabited parts thereof, shall be allowed the term of two years from the last day of the present session of Assembly to cause the same to be surveyed and to obtain grants thereon; and that all grants and surveys of land lying in the parts aforesaid heretofore or hereafter to be made or obtained within the said two years by any person upon lands previously or first entered by any other person, shall be, and the same are hereby declared to be void and utterly of no effect. And whereas it hath been found impracticable for the surveyors in the different districts and counties west of the Apalachian mountain, to make their surveys within the time limited by law:

II. Be it Enacted, and it is Enacted by the authority of the same, That a further time of two years from and after the expiration of the limitation by law now existing be allowed, in order that the surveyors may complete the surveys as by warrant to them directed.

III. And be it further Enacted, That it shall not be lawful for the secretary

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of State, and lie is hereby directed, not to issue any grants for lands lying west of the Cumberland mountain until the end of the next session of Assembly, grants allowed for military services, pre-emption and guard rights excepted.

IV. And be it further Enacted by the authority aforesaid, That the farther time of twelve months shall be allowed to the officers and soldiers of the late continental line of this State, to locate and survey the lands allowed them by law.

V. And be it further Enacted by the authority aforesaid, That the further time of two years shall be given for the registering military grants in this State.

VI. And be it further Enacted, That all deeds, grants and mesne conveyances not issued from the late Lord Granville's office, shall be allowed a further time of two years for probate and registration; all which deeds, grants and mesne conveyances not issued from the Lord Granville's office, although the time in which they ought to have been proved and registered may have elapsed, shall be as valid when proved and registered in pursuance hereof, as if the same had been done in due time according to any former law.

VII. And be it further Enacted, That all surveys already made for removed warrants for lands actually entered in the land office at Hillsborough, and removed on account of the lands entered being previously entered as the law directs, shall be good in law, provided such lands were at the time of such survey actually vacant, and that such survey on removed warrants shall not effect or injure the right of any lands entered and specially located in the office aforesaid, previous to such survey.

CHAPTER XXI.

An Act to Amend an Act, Entitled, "An Act for Emitting One Hundred Thousand Pounds Paper Currency for the Purposes Therein Mentioned," for Appropriating the Tobacco Lately Purchased by Virtue of Said Act Towards Discharging the Interest of the Foreign Debt Due by the United States, and for Making Provision for the Future Discharge of the Principal and Interest of the Said Debt.

Whereas the provision made by the Act, entitled, "An Act for emitting one hundred thousand pounds paper currency for the purposes therein mentioned," was intended to discharge the proportion of this State of the interest of the foreign debt due by the United States, but the said Act is expressed in terms altogether uncertain and insufficient to answer the purpose thereby intended: For remedy whereof,

I. Be it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the authority of the same, That the delegates from this State in Congress, be and they are hereby authorised to sell and dispose of the said tobacco purchased by the State under the said Act, for the highest price that can be had for the same, and the proceeds of such sale shall be subject to the orders of the board of treasury of the United States, and shall be carried to the credit of this State in account with the United States, in discharge of so much of the interest of the foreign debt due by the United States for which this State is or may be liable; and on such sale being made as aforesaid, they shall without delay advise the Governor thereof, who shall be and is hereby directed and authorised to give the necessary orders to the several commissioners to have the said tobacco respectively by them purchased, carefully reviewed and put in good order and readiness

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to be delivered, at the usual place of lading at or near Edenton, Washington or Wilmington, to such person or persons to whom the same may have been sold as aforesaid.

II. And be it further Enacted, That proper persons shall be chosen by joint ballot of both Houses of the General Assembly, for the purpose of purchasing tobacco deliverable at the towns of Halifax, Tarborough and Fayetteville, to whom the treasurer shall pay the monies arising from the revenues and sources of revenues appropriated to the discharge of this State's estimated quota of the interest and principal of the foreign loans, by an Act, entitled, "An Act for the support of government, and for appropriating the revenues of the State;" whereof the monies arising and collected from such revenues in the district of Edenton, Halifax and New Bern, shall be paid as aforesaid to the commissioners of Halifax and Tarborough, that is to say, the one half to each commissioner; and the monies arising from such revenues in the remaining districts in the State, shall be paid to the commissioner purchasing at Fayetteville for the purposes aforesaid; and the commissioners so appointed shall be entitled to the same commissions for such service, take the same oath and give the same security for the faithful performance of the trust reposed in them, which was required of the commissioners appointed for similar purposes under an Act passed at New Bern in 1785, entitled, "An Act for emitting one hundred thousand pounds paper currency for the purposes therein expressed."

III. And be it further Enacted, That the said commissioners shall not on any pretence give more than the current cash price of the day for each hundred weight of merchantable tobacco, which tobacco shall be disposed of for the purposes aforesaid, as the next General Assembly shall direct, and the said commissioners shall settle their accounts with the comptroller of this State on or before the first day of March, 1788. (Passed Jan. 6, 1787.)

CHAPTER XXII.

An Act for Establishing a Militia in this State.

Whereas in all republican governments a well regulated militia is highly necessary for the defence and safety thereof:

I. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the authority of the same, That all freemen and indented servants within this State, from eighteen to fifty years of age, shall compose the militia thereof; judges of the superior court of law, delegates, secretary, councillor of State, treasurer, attorney general, ministers of the gospel of every denomination having the cure of souls, ferrymen, branch pilots, inspectors of public warehouses, justices of the peace, and continental officers who have served with reputation three years or to the end of the war, unless sooner deranged by a reform of the army, excepted. Provided, That nothing herein contained shall be construed so as to exempt any person from performing duty in case of insurrection or invasion in this State: organized in the following manner, to wit: The militia of each district shall compose a brigade, the infantry of each county shall form a regiment consisting of one or more battalions, with eight regiments of cavalry and two battalions of artillery, formed as hereinafter directed. Provided, That no person shall be enrolled in any troop of horse until approved of by the field officers of the regiment of his county, but shall until then do his duty in the infantry.

II. And be it further Enacted by the authority aforesaid, That each and

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every company of infantry shall consist of one captain, one lieutenant, one ensign, three serjeants, three corporals, one drummer, one fifer and not less than fifty privates; all of whom shall reside in the district: And one troop of horse shall be formed in each county, consisting of one captain, one lieutenant, one cornet, three serjeants, three corporals, one trumpeter and thirty-two privates, and the cavalry in each district shall compose one regiment: And there shall also be one company of artillery in each borough town in this State, consisting of one captain, one captain-lieutenant, and one lieutenant, three serjeants, three corporals, two drummers, two fifers and fifty-two privates, which shall be formed into two battalions, composing one regiment.

III. And be it further Enacted by the authority aforesaid, That each brigade shall be commanded by a brigadier-general, each regiment of infantry by a lieutenant-colonel Commandant, a lieutenant-colonel and two majors, except where there may be two or more battalions in one county, then in that case by a lieutenant-colonel commandant of the regiment, and one lieutenant-colonel and one major to each battalion; and each regiment of cavalry by one lieutenant-colonel commandant and two majors; and the regiment of artillery by a lieutenant-colonel commandant and two majors, one to each battalion; who shall be chosen by a joint ballot of both houses of the General Assembly in all cases of vacancy: And the brigadier-general of each district is hereby authorised to appoint the brigade-major, aid-de-camp and inspector to the brigade; the adjutant, the surgeon, and the drum and fife-major shall be appointed by the commanding officer of each regiment; and the non-commissioned officers, drummers, fifers and trumpeters shall depend on the appointment of the captain

EXHIBIT 11
0171

EXHIBIT "12"

The statutes at large of Pennsylvania from 1682-1801. ... Compiled under the authority of the act of May 19, 1887 by James T. Mitchell and Henry Flanders, commissioners. ...

Pennsylvania.
Harrisburg, Pa., State Printer, 1896 - 1909

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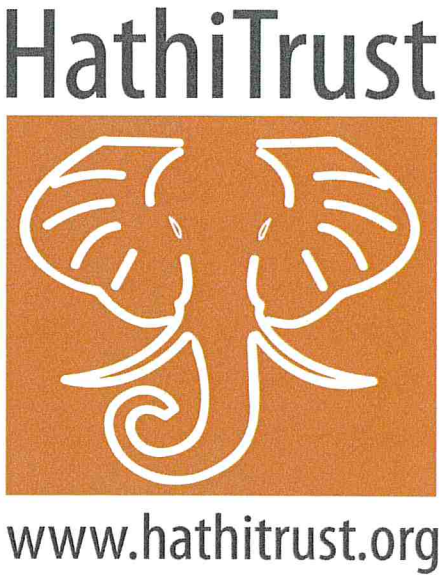

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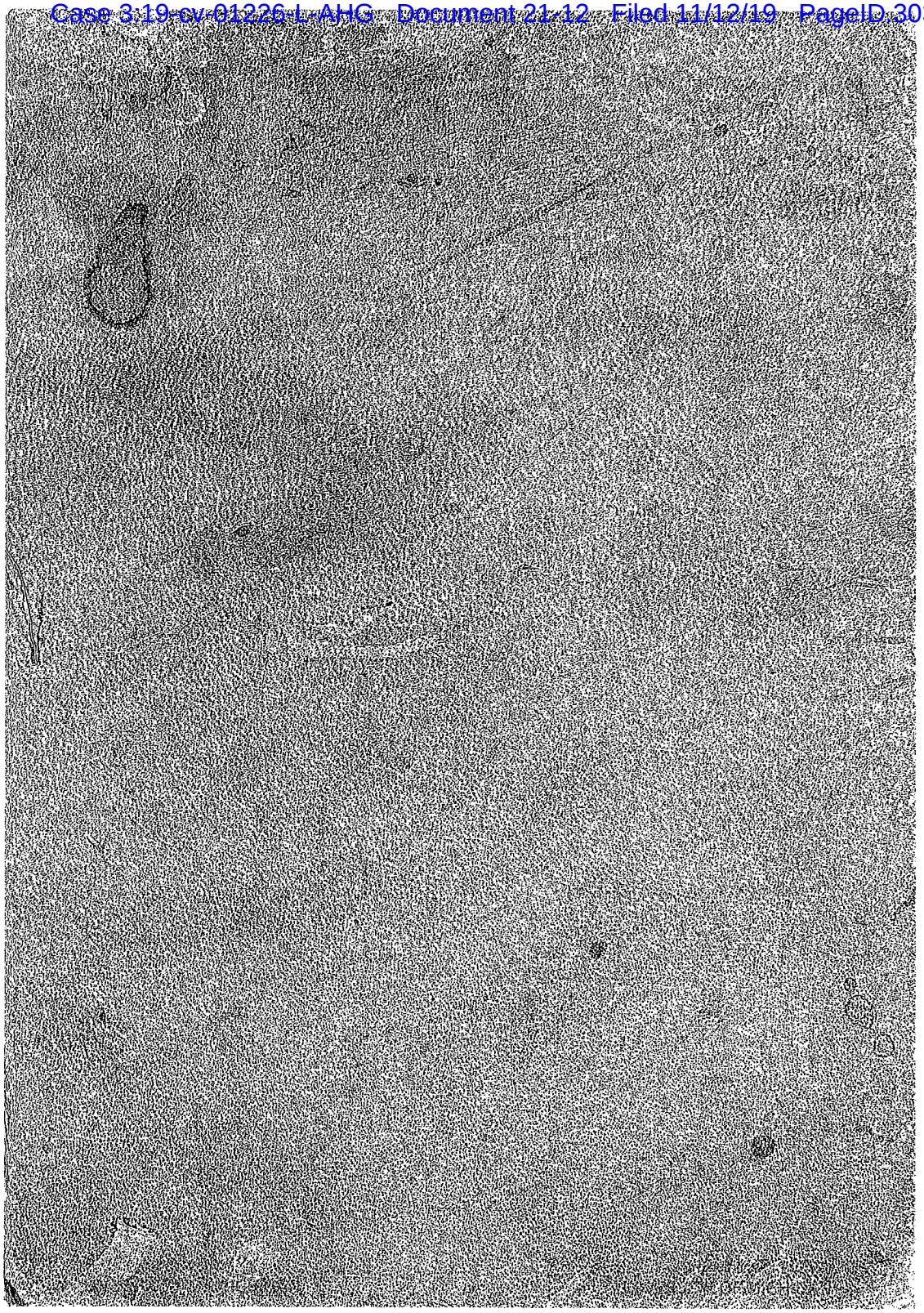

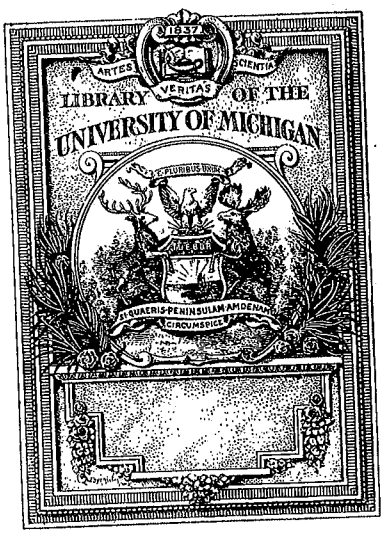



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THE

Statutes at Large

OF

PENNSYLVANIA

FROM

1682 to 1801

COMPILED UNDER THE
AUTHORITY OF THE ACT OF MAY 19, 1887, BY
JAMES T. MITCHELL AND HENRY FLANDERS
COMMISSIONERS

VOLUME XIV
1791–1793

HARRISBURG, PA.:
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of their capital expended in the prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said bridge in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known, and if at the end of two years after the said bridge shall be completed, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the president, managers and company to increase the tolls hereinabove allowed, so much upon each and every allowance thereof as will raise the dividends to six per centum per annum, and at the end of every ten years after the said bridge shall be completed, they shall render to the general assembly a like abstract of their accounts for three preceding years, and if at the end of any such decennial period, it shall appear from such abstract that the clear profits and income of the said company will bear a dividend of more than twenty-five per centum per annum, then the said tolls shall be so reduced, as will reduce the said dividend to twenty-five per centum per annum.

Passed April 11, 1793. Recorded L. B. —, p. —. (not given.)

CHAPTER MDCXCVI.

AN ACT FOR THE REGULATION OF THE MILITIA OF THE COMMONWEALTH OF PENNSYLVANIA.

Whereas a well regulated militia is the only safe and constitutional method of defending a free state, and whereas, the

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several laws enacted by the legislature of this commonwealth for the regulation of the militia thereof, have been found to require material alterations, in order to which it has been thought more advisable to revise the whole system, than to amend it by supplementary statutes: Therefore:

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That each and every free, able-bodied, white, male citizen of this or any other of the United States, residing in this commonwealth, who is or shall be of the age of eighteen years and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively be enrolled in the militia, by the captain or commanding officer of the company within whose bounds such citizen shall reside, within three months after the passing of this act, and that it shall be at all times hereafter the duty of every such captain or commanding officer of a company, to enroll every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years, and not excepted by this act, shall come to reside within his bounds, and shall without delay notify such citizen of the said enrollment by a proper non-commissioned officer of the company, by whom such notice may be proved; and all cases of doubt respecting the age of any person enrolled or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That the vice president of the United States, officers, judicial and executive, of the government of the United States, the members of both houses of congress and their respective officers, judges of the supreme court, judges of the court of common pleas, attorney general, secretary and treasurer of the state, sheriffs, gaolers and keepers of workhouses, all post-officers and stage-drivers who are employed in the care and conveyance of the mail of the post

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office of the United States, all ferrymen employed at any ferry on the post roads, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, ministers of religion of every denomination, professors and teachers in the university, colleges, academies and schools, the librarian of the library company of Philadelphia and of the Loganian library, and menial servants of ambassadors or ministers and consuls from foreign states, and no other person or persons, shall be, and are hereby, excepted from military duty, notwithstanding their being above the age of eighteen and under the age of forty-five years. And also all young men under the age of twenty-one years, and all servants purchased bona fide and for a valuable consideration, though enrolled agreeably to the first section of this law, shall be exempted from furnishing the necessary arms, ammunition and accoutrements, as are required by the fifth section thereof, and shall be excepted from militia duties and fines during such minority or servitude, except in cases of rebellion, or an actual or threatened invasion of this or any of the neighboring states.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the militia of this commonwealth shall, within the respective bounds hereinafter mentioned, be arranged into divisions, brigades, regiments, battalions and companies; that each brigade so to be formed shall consist of not less than two nor more than eight regiments; each regiment into two battalions; and each battalion into four companies, in such manner that no company shall consist of more than eighty or less than forty individuals, or as near as may be, having regard to their local situations; there shall be to each battalion at least one company of grenadiers, light infantry or riflemen, and to each division there shall be at least one company of artillery and one troop of horse, which shall be formed of volunteers from the respective brigades at the discretion of the governor, not exceeding one company of each to a regiment, nor more in number than one-eleventh part of the infantry.

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Provided always, That the several volunteer corps of artillery, cavalry and infantry, which have hitherto existed in this commonwealth and have not been included in the general formation of the militia, shall continue to exist as heretofore, and retain the privileges which they have hitherto enjoyed.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the territory of this commonwealth, for the purpose of making the arrangement in the preceding section mentioned, be and is hereby divided into division bounds as follows, to wit.: The city and county of Philadelphia shall form one division; the counties of Bucks and Montgomery one other division; the counties of Chester and Delaware one other division; the counties of Lancaster and York one other division; the counties of Berks and Dauphin one other division; the counties of Cumberland and Franklin one other division; the counties of Northampton, Northumberland and Luzerne one other division; the counties of Bedford, Huntingdon and Mifflin one other division, and the counties of Westmoreland, Washington, Fayette and Allegheny one other division. The city of Philadelphia shall form a brigade, and each county shall form a brigade; provided that it shall be lawful for the governor to divide any county into two brigades, when the number of men enrolled in the militia of such county shall exceed four thousand.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That in order that the militia may be properly armed, equipped and accoutred, every citizen enrolled and notified of this enrollment in manner aforesaid, except as is hereinbefore excepted, shall, within six months after receiving such notice, provide himself with the arms, ammunition and accoutrement hereinafter mentioned, viz.: Every non-commissioned officer and private of the infantry (including grenadiers and light infantry and of the artillery) shall have a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein, to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapsack,

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shot-pouch and powder horn, twenty balls suited to the bore of his rifle and a quarter of a pound of powder; the commissioned officers of infantry shall be armed with a sword or hanger and an espontoon, and those of artillery with a sword or hanger, a fuzee, bayonet and belt, and a cartridge box to contain twelve cartridges. The commissioned officers of the several troops of horse shall furnish themselves with good horses, of at least fourteen hands and an half high, and shall be armed with a sword and a pair of pistols, the holsters of which shall be covered with bearskin caps; each light-horseman or dragoon shall furnish himself with a serviceable horse, of at least fourteen hands and an half high, a good saddle, bridle, mail pillion and valise holsters, and a breast plate and cupper, a pair of boots and spurs, a pair of pistols, a sabre and a cartouch box, to contain twelve cartridges for pistols; the artillery and horse shall be uniformly clothed in regimentals, to be furnished at their own expense, the color and fashion to be determined by the brigadier commanding the brigade to which they belong; every militiaman shall appear so armed, accoutred and provided when called out to exercise or into service (except that when called out on company days to exercise only he may appear without a knapsack) and every man so enrolled as aforesaid, and providing himself with the arms, ammunition and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions, or sales for debt or the payment of taxes. Each battalion and regiment shall be provided with the state and regimental colors by the field officers, and each company with a drum and fife or bugle horn by the commissioned officers of the company; the expenses of such colors, drums, fifes or bugle horns to be repaid to the officers out of the fines incurred by this act.

Provided always, That whenever the field officers of any regiment shall judge any person enrolled therein, unable to arm and equip himself as aforesaid, such person shall not be subject to any fine for not arming, anything herein contained to the contrary notwithstanding.

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[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the militia shall be officered as follows: To each division one major-general and two aides-de-camp, with rank of major; to each brigade one brigadier general, with one brigade inspector to serve also as brigade-major, with rank of major; to each regiment one lieutenant-colonel commandant; and to each battalion one major; to each company of infantry, (including light infantry and grenadiers) one captain, one lieutenant, one ensign, four sergeants, four corporals, one clerk, one drummer and one fifer or bugler; that their shall be a regimental staff, to consist of one adjutant and one quarter-master, to rank as lieutenants; one paymaster, one surgeon and one surgeon's mate, one sergeant major, one drum major and one fife major; there shall be to each company of artillery one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer; and to each troop of horse there shall be one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier and one trumpeter; there shall be an adjutant-general appointed for the whole militia.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the adjutant-general, major-general, brigadier-general and brigade inspectors, shall be appointed and commissioned by the governor; the division and brigade officers to be residing within their respective divisions and brigade bounds; that the majors-general shall apoint their own aides-de-camp out of the line of captains or subalterns; that the field officers of each regiment shall appoint their respective regimental staffs; that the lieutenant-colonels, majors, captains, lieutenants and ensigns, shall be elected in form and manner hereinafter mentioned and provided for; that all commissioned officers shall be commissioned for seven years, and shall take rank according to the date of their commissions, and when two of the same grade bear an equal date, then their rank shall be determined by lot to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

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[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the duty of the adjutant-general shall be to distribute all orders from the governor, as commander-in-chief of the militia of the state, to the several corps; to attend all public reviews when the governor shall review the militia; to obey all orders from him relating to the carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of the different returns that may be required, and to explain the principles on which they should be made; to receive may be furnished therewith; from all which returns he shall make a general return of all the militia of the state, and lay the same before the governor and a duplicate thereof before the president of the United States; that the said adjutant-general, before he enters upon the exercise of the duties of his office, shall give bond with two or more sufficient sureties in the penalty of five thousand dollars, conditioned for the due and faithful performance of the said duties, and shall in full compensation for his services receive a yearly salary of eight hundred dollars.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the brigade inspectors to attend the regimental and battalion meetings of the militia composing their several brigades during the time of their being under arms; to inspect their arms, ammunition and accoutrements, superintend their exercise and manoeuvres, and introduce throughout the state the system of military discipline established by this act, as well as such orders as they shall from time to time receive from the governor, as commander-in-chief of the militia, to make returns to the adjutant-general at least once in every year, and at such stated time or times as the governor shall direct, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition of the several corps and every other thing which in his judgment may relate to their government and the general advancement of good order and military discipline; that it shall

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moreover be the duty of the said brigade inspectors to superintend the elections of the field officers, to procure and furnish arms, accoutrements, ammunition, drums, fifes, bugle horns, carriages for the transportation of baggage and other articles that may be wanted for the use of their respective brigades, and to do all and every such other duties as are enjoined upon them by this act, in form and manner therein prescribed; and in full compensation for all their services each of the said brigade inspectors shall receive the yearly salary of two hundred dollars; and each of the said inspectors before he enters upon the duties of his office shall give bond with one or more sufficient sureties in the penal sum of one thousand dollars, conditioned for the due and faithful performance of the said duties and for the faithful accounting for, according to law, and paying of all the moneys which shall come to his hands by virtue of this act, when thereunto lawfully required; and each of the said inspectors shall, once in every twelve months, make out complete accounts of all the moneys received by him, and of his expenditures, and return the same to the adjutant-general, and on failure of accounting as aforesaid, each inspector shall forfeit and pay for every such neglect the sum of fifty dollars, to be applied as other fines are directed to be applied by this act; and on the death, removal, or resignation of any of the said inspectors, such inspector, his executors or administrators, shall, on the reasonable demand in writing of his successor in office, or of any other person who shall be appointed by the governor to receive the same, deliver up to the said successor, or other person as aforesaid, all and singular the books, duplicates, returns and other papers belonging to or in use in the said office, and on refusal thereof, he or they so offending, shall forfeit the sum of one thousand dollars and the necessary cost of prosecution, to be recovered by the said successor in office, or other person duly authorized as aforesaid, upon indictment, bill, plaint or information, or by action of debt, in any court of record within this state, to be applied as other militia fines are directed to be applied by this act, and in case of a second refusal, such person or persons so refusing

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shall suffer as well the said penalty as the further punishment of six months' imprisonment, without bail or mainprise, and the judges of the court where such penalty shall be recovered shall order the said commitment accordingly.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That each of the said inspectors shall, on or before the first Monday in May next, and some time between the first day and last day of March in every succeeding year, issue his warrant, directed to the captain or commanding officer for the time being of each company of the several battalions, or some other fit person in his brigade, commanding him in the name of the commonwealth to deliver to him, the said inspector, within ten days from and after the date of the said warrant (on oath or affirmation, which the said inspectors are hereby severally empowered to administer), a true and exact list of the names and surnames of each and every free, able-bodied, white, male citizen of this or any other of the United States, residing within the bounds of his company, between the ages of eighteen and forty-five years, not being such as are above declared excepted from militia duty, and lay such lists, within three days after he shall have received the same, before the brigadier general of his brigade, who shall thereupon divide his said brigade into regimental battalions and companies, in manner hereinbefore directed, to each of which he shall appoint proper districts or local subdivisions, paying due regard to the conveniency of the inhabitants, and taking care that each person be annexed to the numercial class to which he formerly belonged.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the elections of such officers as are by this act declared to be elective, shall be made as follows: The several brigade inspectors shall, on or before the first Tuesday of June next, give notice, by advertisement at eight or more of the most public places of each regiment bounds or district, appointing a certain day for each district, not less than ten days after the said notice, and requiring all the citizens enrolled in the said regiment and residing within the bounds thereof, except as is hereinbefore excepted, to meet at a cer-

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tain place as near the centre of the said district as may be, and then and there, between the hours of ten in the morning and six in the afternoon of the said day, to elect by ballot one lieutenant colonel; and the enrolled inhabitants of each battalion bounds, respectively, shall elect by ballot as aforesaid, on the same or some other day and at such place or places as shall be most convenient, but with the least possible delay, one major; and the enrolled inhabitants of each company bounds, respectively, shall elect by ballot as aforesaid, on the same or some other day and at such place or places as shall be most convenient, but with the least possible delay, one captain, one lieutenant and one ensign; previous to which said election or elections, respectively, the said enrolled inhabitants shall elect two respectable citizens to preside as judges thereof, who shall certify to the inspector the names of the persons so elected, and each captain shall appoint a suitable person for a clerk in his company, and the said inspector shall attend and superintend each and every of the said battalion elections, and after the officers are elected shall give notice thereof to the brigadier, who shall cause the lieutenant colonels of his brigade to assemble together, as soon as may be, to cast lots for rank of the regiments, and the said lieutenant colonels shall afterwards call together the majors and captains of their respective regiments, to cast lots in like manner for their respective ranks, and the ranks of the lieutenants and ensigns shall be determined by the ranks of the captains, respectively, and the said inspectors shall, as soon as may be after the officers shall have been elected and their ranks ascertained, transmit proper certificates to the governor, of the names of the persons so as aforesaid elected and their ranks, in order that commissions may be granted to them according to the said certificates; and elections for officers in the light-horse shall be made in like manner as elections for officers in the infantry and artillery, and in every case of future vacancy, whether by death, resignation or absence, as hereinafter provided, the brigadier, in whose brigade such vacancy or vacancies shall happen, shall immediately, upon receiving notice thereof, cause one or more regiment, battalion or com-

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pany elections to be held in manner and form aforesaid, in order to supply the same, and shall, when there shall be occasion, cause the ranks to be ascertained, and make return to the governor in manner hereinbefore provided; and whenever any vacancy or vacancies shall happen, as aforesaid, in any regiment, battalion or company, the commanding officer of such regiment, battalion or company, for the time being, shall give immediate notice thereof to the inspector of his brigade, that the same may be filled up without loss of time; and if any regiment, battalion, troop or company, being duly noticed and required as aforesaid, shall neglect or refuse to elect their officers as aforesaid, then it shall and may be lawful for the inspector of the brigade to which such regiment, battalion, troop or company shall belong, to nominate, with the approbation of the brigadier-general, one suitable person to the governor, in the room of each officer so neglected to be chosen, and the said governor, approving thereof, shall commission the said person, which shall be as effectual to all intents and purposes as if the said officers had been elected as before directed; and the said inspector shall, as soon as may be, acquaint the parties so neglecting or refusing with the appointments that shall have been made as aforesaid.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, battalion or company, except within the city of Philadelphia (as the case may be), or shall be absent therefrom (otherwise than on militia duty) for more than six months, his office shall be thereby vacated; and if a light-horseman shall remove or be absent in like manner from the bounds of his troop, or be appointed or elected a commissioned officer in any other part of the militia, his place in the said light-horse shall likewise be vacated.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That every militia-man migrating or removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a

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discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service, which certificate the said militia-man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enroll him in the class specified in the said certificate.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the whole of the militia of this state shall be subject to be mustered and exercised in regiments and in companies, by their respective officers, in the autumn or fall season of every year, on the days hereinafter stated, to wit: In regiments, as follow: the first regiments of each and every brigade in the commonwealth, shall be exercised on the third Monday in the month of October; the second regiments, on the Tuesday following; the third regiments, on the Wednesday; and so on, according to their numerical rank, on every day in the week (Saturdays and Sundays excepted) until the whole number of regiments shall have mustered and exercised in the aforesaid manner; and the several regiments shall meet and exercise in companies on the first Monday in the month of October; and the militia shall be and is hereby indemnified and excused from mustering and exercising on any other days than those enumerated in this act.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any commissioned officer shall, without a lawful excuse, neglect or refuse to attend on any of the days hereinbefore appointed for exercise, if a field officer, he shall forfeit and pay the sum of four dollars; and every other commissioned officer shall forfeit and pay the sum of two dollars; and every non-commissioned officer or private, so neglecting or refusing to attend, shall forfeit and pay the sum of one dollar for every such neglect or refusal; except such commissioned officer, non-commissioned officer and privates, who shall be summoned and actually attending, on any of the days of exercise, aforesaid, as a juror or witness in

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any court within this commonwealth, and the same fines shall be respectively paid by every officer, non-commissioned officer or private who shall leave the parade on a day of exercise before the regiment or company is discharged, without leave first had and obtained of the officer commanding.

[Section XVI.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, In order to ascertain those persons who by their absence on the days of exercise shall have incurred the fines above mentioned, a sergeant or the clerk of each company shall, on every such day, in the presence of the captain or commanding officer of the company, at the end of one hour after the time appointed for the meeting of the company or regiment, and also after the exercise is over and before the men are discharged, call over a muster-roll of the company, noting those who are absent, and a return shall be made on the same or following day of such absentees, which shall be signed by the sergeant or clerk and by the captain or commanding officer of the company, and shall, within ten days thereafter if a regimental meeting, or if a company meeting, within ten days after the next regimental meeting, be returned by the said captain or commanding officer of the company, upon his oath or affirmation, to the inspector of the brigade, under the penalty of fifty dollars for every time he shall refuse or neglect to make such return, and if any of the said absentees shall have been unable to attend from sickness or unavoidable necessity, and shall within the space of eight days next after the day of exercise, state his case by himself or his friend to the said captain or commanding officer of the company, and satisfy him of the truth thereof, then the said captain or commanding officer of the company, shall mention in his said return the particular reasons of excuse which each absentee shall have made appear to his satisfaction, and the inspector, on sight of the said return, shall admit every such excuse as shall appear to him reasonable, without favor or partiality, and remit the fines accordingly, but no excuse shall be received at any other time or in any other manner, than as is above prescribed.

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[Section XVII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That whenever it may be necessary to call into actual service any part of the militia in case of rebellion, or of an actual or threatened invasion of this or any of the neighboring states, then it shall and may be lawful for the governor to order into actual service, such part of the militia, by classes, as the exigency may require;

Provided, That the part so called doth not exceed four classes of the militia of the brigade or brigades so called out.

And provided also, That such brigade or brigades shall not be again called out to furnish any more militia, until an equal number of classes of the militia of the other brigade or brigades, respectively, be first called, unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such brigade or brigades for their own immediate defence.

[Section XVIII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That to the end that the militia, when called by classes, shall be properly officered, the following order is hereby directed and enjoined; that is to say, for the first draft, the captain of the first company, the lieutenant of the second and the ensign of the fourth; second draft, the captain of the second company, the lieutenant of the first and the ensign of the third; third draft, the captain of the third company, the lieutenant of the fourth and the ensign of the second; fourth draft, the fourth captain, the lieutenant of the third company and the ensign of the first; fifth draft, the fifth captain, the lieutenant of the sixth company and the ensign of the eighth; sixth draft, the sixth captain, the lieutenant of the fifth company and the ensign of the seventh; seventh draft, the captain of the seventh company, the lieutenant of the eighth and the ensign of the sixth; eighth draft, the captain of the eighth company, the lieutenant of the seventh and the ensign of the fifth; non-commissioned officers to take tour of duty with the commissioned officers, and the field officers of regiments, in every division and brigade in the state, shall be divided in like manner, and each class to be considered as a detachment from different corps liable to serve two months and no longer, and to

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be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved, but nothing herein contained shall prevent the governor from employing and calling out part of any class, or any company or companies, regiment or regiments, without respect to this rule, whenever the exigency is too sudden to allow the assemblying of the scattered militia which compose the particular classes, and the services of the persons so called out shall be accounted as part of their tour of duty, and the pay of the militia in actual service shall commence two days before marching, and they shall receive pay and rations at the rate of fifteen miles per day on their return home.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person called to do a tour of duty to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company which he shall be offered to serve in.

Provided always, That persons serving by substitute as aforesaid, if said substitute shall be called in his own turn into actual service before the term expires which he was to serve for his employer, that then the person procuring such substitute shall march in his said substitutes' turn, or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act directed to be recovered, and that sons who are not subject to the militia law may be admitted as substitutes for their fathers.

[Section XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That when the militia, or any detachment thereof, are called out on duty, the pay of each major-general shall be sixty dollars per month; of each brigadier-general, fifty dollars per month; of each lieutenant-colonel, forty dollars per month; of each major, thirty dollars per month; of each captain, twenty-five dollars per month; of each lieutenant, twenty dollars per month; of each ensign, fifteen dollars per month; of each sergeant, eight dollars per month; of each corporal, seven dollars per month; and of each private and musician, six dollars per month; and that every person

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refusing or neglecting to perform his tour of duty, in person or by substitute, shall pay the sum of twelve dollars for every such neglect or refusal, if the tour was to be for a term not exceeding one month and in proportion if the tour was to be for any longer term.

[Section XXI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That when any class or classes of the militia shall be called to perform any tour of duty, the brigade inspector shall cause each and every person so called to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person employed for that purpose by the commanding officer of said company, at least three days before the time of assemblying the said militia, unless the governor, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, and then the notice mentioning such special order shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, shall pay a fine of sixteen dollars per month for every such offence.

[Section XXII.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the inspector shall, forthwith after the marching of any part of the militia, call to his assistance two reputable citizens, one of whom shall be a justice of the peace, to sit at the most convenient place for the inhabitants of their respective districts, notice having been given of such place in the written or printed summons of every militia-man so called out, and shall there hear and determine all appeals that may be made by the persons thinking themselves aggrieved by anything done in pursuance of this act; and they are hereby authorized and required to grant such relief to such appellant as to them shall appear just and reasonable (in consideration of such inability of body as in the opinion of the court renders him incapable of performing military duty) or of unavoidable absence from the brigade in which he shall reside; and each of the said reputable citizens, before they shall sit on the said appeal, shall take the following oath or affirmation, viz.: That he will hear and impartially deter-

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mine on the cases of appeal that may be laid before him, agreeably to law and according to the best of his knowledge; which oath or affirmation the inspector is hereby empowered to administer, and the said justice and citizen shall have and receive from the said inspector the sum of one dollar each, for every day they sit on the appeals; and the said inspector and justice of the peace shall keep a separate record of the proceedings of such court of appeals, and if any delinquent, whose appeal shall have been determined against him, shall not pay his fine within five days after such determination, the inspector shall and may proceed to levy the said fine in manner hereinafter mentioned.

[Section XXIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the commanding officers of the several regiments shall attend at the place of rendezvous of the marching class or classes, and the commanding officers of the marching class or classes are hereby required, then and there to deliver, to the commanding officer of the regiment, a muster-role of all those who attend and proceed to perform their then required tour of duty, under the penalty of fifty dollars, which return or muster-roll shall be transmitted by the said commanding officer of the regiment, within five days after marching, under the penalty of fifty dollars, to the inspector of the brigade to which they respectively belong.

[Section XXIV.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That the following articles, rules and regulations shall be those by which the militia shall be governed.

Article 1. If any field or other commissioned officer at any regimental review, or on any other occasion when the regiment or company to which he may belong, or in which he holds a command, is paraded in arms, shall appear, misbehave or demean himself in an unofficerlike manner, he shall, for such offence, be cashiered or punished by fine at the discretion of a general court martial, as the case may require, in any sum not exceeding sixty dollars, and if any non-commissioned

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officer or private shall, on any ocasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be drunk, or shall disobey orders, or use any reproachful or abusive language to his officers, or any of them, or shall quarrel himself or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined, at the discretion of a regimental court martial, in any sum not exceeding four dollars, nor less than one dollar.

Article 2. If the lieutenant colonel or commanding officer of any regiment shall neglect or refuse to give orders for assemblying his regiment at the times appointed by this law, or at the direction of the inspector of the brigade to which he belongs, when the said inspector is thereto commanded by the governor, or in case of an invasion of the city or county to which such regiment belongs, he shall be cashiered and punished by fine not exceeding two hundred dollars, at the discretion of a general court martial; and if a commissioned officer of any company shall, on any occasion, neglect or refuse to give orders for assemblying the company to which he belongs, or any part thereof, at the direction of the lieutenant colonel or commanding officer of the regiment to which such company belongs, he shall be cashiered and punished by fine not exceeding sixty dollars, at the discretion of a regimental court martial, and a non-commissioned officer offending in such case shall be fined, at the discretion of a regimental court martial, in any sum not exceeding twenty dollars.

Article 3. If any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant-colonel or commanding officer of the regiment to which such company may belong, for such neglect or refusal he shall be cashiered or fined, at the discretion of a regimental court martial, in any sum not exceeding forty dollars.

Article 4. If any militia-man shall desert while he is on a tour of duty, he shall be fined twenty-four dollars for every such

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offence; if a non-commissioned officer, he shall be degraded and placed in the ranks.

Article 5. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers and of such rank as the case may require, and these thirteen shall choose a president out of their number, who shall be a field officer.

Article 6. Every regimental court martial shall be composed of five members, all commissioned officers, who are to choose one of their members a president, not under the rank of captain.

Article 7. In any court martial, not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

Article 8. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation that the evidence they shall give is the truth, the whole truth and nothing but the truth, and the members of all such courts shall take an oath or affirmation, which the president is required to administer to them, that they will give judgment with impartiality.

Article 9. All members of any militia called as witnesses in any case before a court martial, who shall refuse to attend and give evidence, shall be censured or fined, at the discretion of the court.

Article 10. No officer or private man being charged with transgressing these rules, shall be suffered to do duty in the regiment, company or troop to which he belongs, until he has his trial by a court martial, and every person so charged shall be tried as soon as a court martial can conveniently be assembled.

Article 11. If any officer or private man shall think himself injured by his lieutenant colonel or the commanding officer of the regiment, and shall, upon due application made to him, be refused redress, he may complain to the brigadier general, who shall direct the inspector of the brigade to summon a general court martial, that justice may be done.

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Article 12. If any inferior officer or private man shall think himself injured by his captain or other superior in the regiment, troop or company to which he belongs, he may complain to the commanding officer of the regiment, who shall summon a regimental court martial, for doing justice, according to the uature of the case.

Article 13. No penalty shall be inflicted at the discretion of court martial other than degrading, cashiering or fining.

Article 15.* The commanding officer of the militia, for the time being, shall have full power of pardoning or mitigating anycensures or penalties ordered to be inflicted on any private or non-commissioned officer, for the breach of any of these articles, by a general court martial; and every offender convicted, as aforesaid, by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel or commanding officer of the regiment, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another; but in case of officers, such sentence to be approved by the commander-in-chief, or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence, or disapprove of the same.

Article 16. The militia, on the days of exercise, may be detained under arms on duty in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Article 17. No company or regiment shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged, and any person who shall bring any kind of spirituous liquors to such place of training, shall forfeit such liquors, so brought, for the use of the poor belonging to the ward, district or township where such offender lives.

Article 18. All fines that shall be incurred by any breach of these rules, shall be paid into the hands of the inspectors of the brigades to which the offenders belong, or to such person

*This mistake in numbering occurs in the original.

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or persons as he shall appoint and make known in general or brigade orders as his agents or attorneys to receive the same, within three weeks after they become due, but in case of neglect or refusal to pay any of the said fines, the said inspector shall cause the same to be collected and levied in manner hereinafter mentioned.

Article 19. The rules of discipline approved and established by congress in their resolution of the 29th of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout this state, except such deviations from said rules as may be rendered necessary by the requisitions of this act or some other unavoidable circumstances. It shall be the duty of the commanding officer at every muster, whether by regiment or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline.

Article 20. The militia of this state, whilst in the actual service of the United States, shall be subject to the same rules and regulations as the federal army; provided that upon any transgression or offence of a militia-man, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this state, and that it shall be in the power of the governor, or in case of his absence, of the commanding officer of the militia, to mitigate, suspend, or pardon any punishment to which any militia-man may be sentenced by a general court martial.

[Section XXV.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That no civil process shall be served on any commissioned, non-commissioned officer or private, at any regimental review or training of any company, or while going to or returning from the place of such review or training.

[Section XXVI.] (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That for the purpose of collecting and levying the fines that shall be incurred, as well for non-attendance on days of exercise as for neglect of performing tours of duty, and also all such fines as shall be im-

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posed by court martial on persons belonging to their respective brigades, it shall and may be lawful for the several brigade inspectors to appoint one or more proper persons, by warrant under their respective hands and seals, to be collectors of the said fines; and the said collectors, by virtue of the said warrants, shall be authorized and empowered to call on every delinquent that shall be named in the lists to be furnished to them by the said inspectors, and demand payment of the said fines, and of five per centum on the amount thereof for their trouble in collecting the same, and on neglect or refusal of such payment, then the said collectors shall proceed to levy the said fines, with costs equal to those received by constables or sheriffs in similar cases, by distress, irreplevisable and sale of the offender's goods and chattels, lands and tenements, in like manner and with like effect as the collectors of taxes may or can do by virtue of any law or laws of this commonwealth.

Provided, That in the case of seizure of lands or tenements, the same notice shall be given previous to the sale thereof as is required in case of land sold by a sheriff, by virtue of a writ of venditioni exponas, and no process shall issue to stay the execution of such warrant, unless in the case of the seizure of real estate.

Provided always, That if any person shall think himself aggrieved in the seizure of his lands and tenements, he may enter an appeal before the judges of the next court of common pleas for the proper county, and on the parties giving sufficient security, within fifteen days next after any lands or tenements shall be seized or distrained, as aforesaid, to prosecute such appeal with effect, the judges shall receive the same and stay further process, and the said judges shall return every such appeal on the first day of the next term, and the court shall direct a trial by jury of the county, as in cases of debt, whose verdict shall be final and conclusive, and except in extraordinary cases, of which the court shall judge, all such appeals shall be tried at the term to which such returns shall be made.

Provided also, That in case real estates be sold as aforesaid, such sale shall be made by the sheriff of the county, who shall make a sufficient deed for the same, and if any collector, ap-

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pointed by any brigade inspector, as aforesaid, and having accepted of his appointment, shall refuse or neglect to perform his duty, he shall, for every such offence, forfeit and pay, at the discretion of the courts of quarter sessions of the peace within this commonwealth, any sum not exceeding forty dollars.

[Section XXVII.] (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That any person who shall or may be appointed by any brigade inspector within this state to collect the militia fines, shall be bound to account with and pay over to the inspector of the brigade, by whom he shall have been so appointed, all the moneys received by him for fines, within ten days after demand thereof shall be made; and all and every such persons refusing to render or settle his account in manner aforesaid, shall be liable to have his goods, chattels, lands and tenements within this state seized and secured by warrant, under the hand and seal of the inspector of the brigade in which such delinquent collector hath or may have acted, directed to the sheriff or coroner of the proper county, who shall make report of his proceedings to the said inspectors, and if there are no such goods, chattels, lands or tenements, or they being seized, he shall continue to withhold or refuse to settle his account of fines received, then, and in that case, the said inspector shall issue his warrant, under his hand and seal, directing the sheriff or the coroner of the county in which the delinquent may be, to seize and take his body and commit the same to the common gaol of the county, there to continue without bail or mainprise until he shall exhibit and settle his account, as aforesaid, and discharge the costs of prosecution, and all and every collector appointed as aforesaid, who hath or shall upon settlement of his account, be found to have a balance due by him of the fines collected, and shall not, within ten days after demand made by the inspector, discharge and pay the full amount thereof, then and in such case it shall and may be lawful for the said inspector immediately to issue his warrant to the sheriff or coroner, to levy the sum due by such delinquent collector, by distress and sale of the offender's goods and chattels, lands and tenements, together with costs and charges, which distress and sale shall be made in manner be-

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fore directed for tour and muster fines and fines imposed by courts martial, but if no such goods and chattels, lands or tenements can be found, then to seize and take the body of such offender and commit him to the common gaol, there to remain for the space of six months, unless he shall sooner discharge the debt, or procure such security that the same shall be discharged within a reasonable time, as may secure and satisfy the said inspector.

[Section XXVIII.] (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That all and every of the fines and forfeitures by this act made payable, and the mode of recovery not hereinbefore particularly pointed out, shall be recovered by the inspectors of the several brigades in the name and for the use of the commonwealth, by action of debt before a justice of the peace, or in any court of record within this commonwealth, as from the amount thereof they shall be more properly cognizable, and the said inspector shall account for and pay yearly to the treasurer of the commonwealth all such fines as he shall receive by virtue of this act.

[Section XXIX.] (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That all moneys passing into the treasury by virtue of the directions of this act, shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state, the surplus, if any, to be appropriated in such manner and to such uses as the general assembly shall from time to time direct and appoint; and the treasurer of the commonwealth shall keep all the moneys arising from fines by the militia law separate from all other moneys, and keep separate books of the same, and the expenditures thereof, pursuant to the directions of this act.

[Section XXX.] (Section XXX, P. L.) And be it enacted by the authority aforesaid, That the brigade inspector and two reputable citizens, shall appraise the horse of each person serving as a light-horseman, immediately before every time of going into actual service, and enter the same in a book, and in case such horse shall be killed or die in actual service, or be taken

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by the enemy otherwise than by neglect, he shall be paid the full value of his horse, according to the said appraisement, by an order to be drawn by the inspector on the militia fund in the hands of the treasurer for that purpose.

[Section XXXI]. (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That if any officer, non-commissioned officer, or private militia-man, or volunteer acting with the militia, residing in this state, having a family, shall be killed or shall die of his wounds received in the service of this state, his widow, child or children shall be entitled to similar relief, and under the same regulations and restrictions as were provided by the act, entitled "An act to provide for the more effectual relief of the widows and children of the officers and privates of the militia who have lost their lives in the service of their country,"[1] passed on the twenty-seventh day of March, one thousand seven hundred and ninety, and if any officer, non-commissioned officer, or private militia-man, or volunteer acting with the militia, residing in this state, shall be wounded or otherwise disabled in the service of this state, he shall be entitled to similar relief, and under the same regulations and restrictions as had been provided by an act, entitled "An act to alter and amend the act, entitled 'An act for the relief of officers, soldiers and seamen, who in the course of the late war have been wounded or otherwise disabled in the service of this state or of the United States,' "[2] passed the tenth day of March, one thousand seven hundred and eighty-seven.

[Section XXXII.] (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall knowingly sell, buy, take or exchange, conceal or otherwise fraudulently receive any arms, accoutrements, colors or drums belonging to this state or the United States, or on any account or pretence whatsoever, the person so offending, being convicted thereof before one or more justice or justices of the peace of the city or county where such offence shall be committed, shall forfeit and pay for every such offence treble

[1] Chapter 1493.
[2] Chapter 1271.

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the value of such arms or accoutrements, to be ascertained by the said justice or justices, and levied by distress and sale of the offenders' goods and chattels, by the justice or justices before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender, and for want of such distress, shall commit such offender to the common gaol of the county, there to remain without bail or mainprise, for any term not exceeding three months, unless such money shall be sooner paid, and in every such case the proof of the [property] shall be made by the possessor of such arms and accoutrements.

[Section XXXIII.] (Section XXXIII, P. L.) And be it further enacted by the authority aforesaid, That if any suit or suits shall be brought or commenced against any person or persons for anything done in pursuance of this act, the action shall be laid in the county where the cause of such action did arise, and not elsewhere, and the defendant or defendants in such action or actions to be brought, may plead the general issue, and give this act and the special matter in evidence, and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be nonsuited or discontinue his or her action or actions after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendants shall have treble costs, and have the like remedy for the same, as any defendant or defendants hath or have in other cases to recover costs by law.

[Section XXXIV.] (Section XXXIV, P. L.) And be it further enacted by the authority aforesaid, That an act, entitled "An act for the regulation of the militia of the commonwealth of Pennsylvania,"[3] passed on the twentieth day of March, in the year of our Lord one thousand seven hundred and eighty, also a supplement to the said act passed the twenty-second day of September one thousand seven hundred and eighty,[4] also the supplement to the said act passed on the twenty-first day of March, in the year of our Lord one thousand

[3] Chapter 902.
[4] Chapter 916.

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seven hundred and eighty-three,[5] also a further supplement thereto passed on the twenty-second day of September, in the year of our Lord one thousand seven hundred and eighty-three,[6] also so much of an act passed on the ninth day of December, in the year of our Lord one thousand seven hundred and eighty-three, entitled "An act for the more effectually securing and recovering for the uses of the commonwealth the moneys due for excise and militia fines and for other purposes therein mentioned"[7] as comes within the intent, meaning and purview of this act, also a further supplement to the said recited acts passed on the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-eight,[8] be, and the same are hereby, repealed and made null and void.

Provided always, That nothing herein contained shall be construed so as to revive any former law or part of a law which in and by any of the said recited acts is repealed and made void.

Provided also, That nothing in this act contained shall be deemed to repeal, alter and dispense with the powers, authorities or duties of the [present] lieutenants of the city of Philadelphia and of the several counties in this commonwealth, or of any other officer or person under the militia laws that have been enforced in this state immediately before the passing of this act, until by new appointments under this act their respective functions and duties shall have devolved on other persons, and that the said present lieutenants and other proper officers are hereby authorized, required and enjoined to collect, or cause to be collected, all such fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions, and pay in the same agreeably to this law, or the late laws aforesaid, on or before the first day of January next.

[Section XXXV.] (Section XXXV, P. L.) And be it further enacted by the authority aforesaid, That the governor shall

[5] Chapter 1022.
[6] Chapter 1038.
[7] Chapter 1061.
[8] Chapter 1339.

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cause a sufficient number of copies of this law, and of the rules of discipline approved and established by congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, to be printed in the English and German languages and distributed throughout the state, so that every general and field officer, every brigade inspector and every captain be furnished with one copy, and it shall be the duty of every captain at every company meeting to read, or cause to be read, to the company, the same, or such part thereof as he may think necessary.

Passed April 11, 1793. Recorded L. B. No. —, p. —. (not given).
Repealed by act of April 9, 1799; Chapter 2068.

CHAPTER MDCXCVII.

AN ACT FOR ERECTING A LOAN-OFFICE FOR THE SUM OF FIVE HUNDRED THOUSAND DOLLARS.

Whereas the institution of a loan office, upon just and proper principles, will be greatly beneficial to agriculture and promote in general the welfare of the people of this commonwealth. And whereas the legislature in and by the act, entitled "An act to incorporate the subscribers to the Bank of Pennsylvania,"[1] did reserve, for the purpose of instituting such loan office, a power to borrow from the said bank an adequate sum of money. In order, therefore, to carry the same into effect:

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That a sum not exceeding five hundred thousand dollars, shall be borrowed of the Bank of Pennsylvania, and appropriated for the sole and exclusive purpose of being lent to the citizens of this state, upon mortgages upon real estate, under restrictions, limitations and regulations, and in the respective proportions hereinafter directed.

[1] Passed March 30, 1793; Chapter 1667.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants

Case No.: 19-cv-01226-L-AHG

Hon. Judge M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DAVID T. HARDY IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 3 of 4)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

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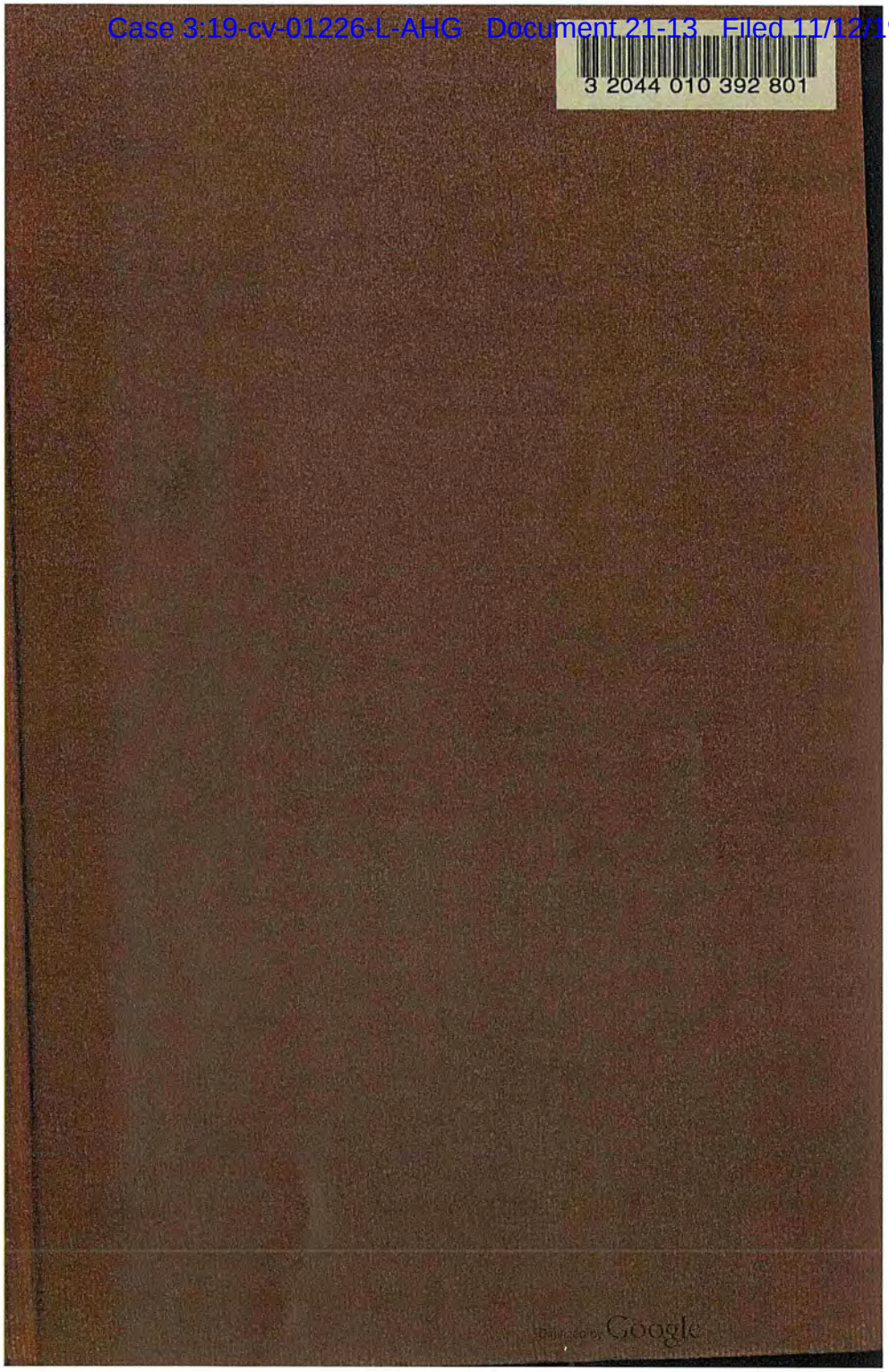
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THE

STATUTES AT LARGE

OF

SOUTH CAROLINA;

EDITED, UNDER AUTHORITY OF THE LEGISLATURE,

BY

DAVID J. McCORD.

VOLUME EIGHTH,

CONTAINING THE ACTS RELATING TO CORPORATIONS AND THE MILITIA.

COLUMBIA, S. C.
PRINTED BY A. S. JOHNSTON.
1840.

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ACTS RELATING TO THE MILITIA.

AN ACT TO ORGANIZE THE MILITIA THROUGHOUT THE STATE OF SOUTH CAROLINA, IN CONFORMITY WITH THE ACT OF CONGRESS. No. 1582.

WHEREAS, it is necessary to organize the militia of this State, in conformity with the Act of Congress, in that case made and provided:

State divided into divisions and brigades.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, the whole of this State shall be divided into two divisions, and to each division there shall be a major-general; one of which divisions shall comprehend the districts of Charleston, Georgetown, Beaufort, Cheraw, Camden, and Orangeburg, except the Dutch Fork, between Saluda and Broad rivers; and the other shall comprehend and include the districts of Ninety-six, including the Dutch Fork between Saluda and Broad rivers, Washington and Pinckney; and in the first division there shall be five brigades; one for Charleston district, except Colleton county regiment; one for Beaufort and Orangeburg, including Colleton county regiment; one for Georgetown; and one for Cheraws, and one for Camden district. In the second division there shall be four brigades, one for Abbeville and Edgefield counties, one for Laurens and Newberry counties, including the Dutch Fork, one for Washington district, and one for Pinckney district. And that as soon as the Governor or Commander-in-chief of this State shall be informed of the organization and arrangement of the militia regiments of this State, agreeable to the provisions made by this Act, he be, and is hereby, authorized and required to issue his proclamation, notifying the same, from and immediately after which the militia commissions of all such persons as shall not be re-elected and confirmed in the rank and grade they may hold under the laws of this State, shall be vacated; but that every person who shall be re-elected and confirmed in such commission as he holds in the militia of this State, shall retain such commission, and take rank from the date thereof.

Major-generals, &c.

II. *And be it further enacted* by the authority aforesaid, That the Legislature, on the first organization of the militia of this State, under this Act, shall choose, by ballot, the major-generals, brigadier generals, and adjutant-general; which adjutant-general shall be of the rank of lieutenant-colonel.

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Brigades to be divided into regiments, battalions and companies.

III. *And be it further enacted* by the authority aforesaid, That as soon as the several brigadier-generals are notified by the Governor of their election, they shall proceed to divide their respective brigades into regiments; and that after they have made such division, they shall appoint five fit and proper persons in each regiment, whose duty it shall be to divide the respective regiments into battalions and companies, as nearly as conveniently may be, conformably to the Act of Congress.

Lieutenant-colonel and two majors to be elected.

IV. *And be it further enacted* by the authority aforesaid, That as soon as the respective regiments, battalions and companies, are marked off and designated, the brigadier-general of each district, respectively, shall direct a regimental muster, as well of those men liable to do duty in time of alarm as at common musters, to be held (giving at least fifteen days notice thereof,) at the most central part of the regimental district, for the election of a lieutenant-colonel and two majors, and shall appoint proper persons to open and hold a poll from the hours of nine o'clock in the morning to five o'clock in the afternoon, for the election of the said officers, respectively; and that the persons having the greatest number of votes for lieutenant-colonel shall be commissioned as lieutenant-colonels, and the persons having the greatest number of votes as majors shall be commissioned as majors, of the respective regiments and battallions; and that the said brigadier-general shall appoint proper persons in each company, who shall, within five days after the said election of field officers, hold an election for a captain, lieutenant and ensign, in each company, in manner aforesaid; and the persons having the greatest number of votes in each company, shall be commissioned as officers thereof, or retain their former commissions, as the case may be, according to the grade to which they shall be severally elected. *Provided, always, nevertheless*, that wherever there shall be any company of artillery, cavalry or infantry, associated, uniformed and in commission, which, on the twentieth day of June next, shall consist of at least forty effective rank and file, it shall be lawful for such company to meet and vote for their officers; and the persons duly elected by a majority of votes, shall retain their commissions, or be commissioned by the Governor, as the case may be, to such grades as they shall be, respectively, elected to. And that all other officers of the Charleston regiment, as well field as battalion officers, shall be elected by the regiment at large; and no person shall be considered as elected, who shall not have a majority of the votes of the persons voting. *Provided, also*, that the men composing the uniform companies shall not be entitled to vote for the captains, lieutenants and ensigns of the other companies, to be elected by virtue of this Act.

Contested elections.

V. *And be it further enacted* by the authority aforesaid, That in case of any contested election, the validity of the same, (in the election of field officers,) shall be referred to the brigadier-general of the brigade, who shall call to his assistance two field officers of some other regiments of his brigade; and in the election of captains, lieutenants and ensigns, shall be referred to the field officers of the regiment to which they belong; and all elections of officers, made in pursuance of this Act, shall be returned, on oath, by the managers, to the Governor.

How to proceed where the brigadier-general resides out of the State.

VI. *And be it further enacted* by the authority aforesaid, That if any person who shall be elected a brigadier-general, by virtue of this Act, shall be without the limits of the State, it shall be the duty of the major-general of the division to do and perform the duties enjoined on the said brigadier-general; and in case of his sickness or inability to attend, it shall be lawful for the Governor or Commander-in-chief for the time being to commission,

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under his hand and seal, some fit and proper person to execute the duties imposed by this Act, so far as regards the division of the brigades and election of officers.

VII. *And be it further enacted* by the authority aforesaid, That all the officers who shall be appointed by virtue of this Act, shall reside within their respective commands, and on their removal therefrom their commissions shall be vacated; *provided*, that the restrictions, as to residence, shall not extend to the officers of the Charleston regiment or regiments, but that a residence within the city shall be sufficient. That the major-generals shall have the right to appoint their respective aids-de-camp, and that the brigadier-generals shall have the right to appoint their respective aids-de-camp, who shall have the rank of captain; and they shall also have the right to appoint their respective brigade-inspectors, who shall be approved of by the major-general of the division; that the regimental staff shall be appointed by the lieutenant-colonels, respectively, and be approved of by the brigadier; and that all officers so to be nominated and appointed, as aforesaid, shall be commissioned by the Governor, who shall be authorized to appoint all other officers; and that in case of vacancy by death, resignation, or otherwise, the brigadiers shall rise in their respective divisions, the lieutenant-colonels commandant in their respective brigades, the majors in their respective regiments, the captains in their respective battalions, and the subalterns in their respective companies, by seniority of commission. All officers to reside within their commands.

VIII. *And be it further enacted* by the authority aforesaid, That each brigade-inspector shall receive for his pay fifty pounds per annum, exclusive of the pay he may be entitled to receive when called into actual service.

IX. *And be it further enacted* by the authority aforesaid, That all sergeants and corporals shall be appointed by the captains of the different companies; and that each and every company, created by virtue of this Act, shall have a place of rendezvous, at which they shall, respectively, assemble once in every two months, except in Charleston, Georgetown and Camden, where they shall assemble once a month, by companies, for the purpose of training, disciplining and improving in martial exercise, and shall not be kept at the place of exercise more than one day at a time; and that each battalion shall be obliged to rendezvous in like manner for the same purpose, not oftener than twice a year, either in battalion or regiment, in such place as the brigadier shall think proper, and shall not be kept at the place of exercise more than one day at a time. Companies, places of rendezvous &c.

X. *And be it further enacted* by the authority aforesaid, That every captain or commanding officer of a company shall also enrol every citizen who shall, from time to time, arrive at the age of eighteen years, or come to reside within his beat, and without delay notify such enrolment to such citizen so enrolled, by some non-commissioned officer of the company, who shall be a competent witness to prove such notice; that all disputes that may happen with respect to the age or ability of any person to bear arms, shall be determined by the captain or commanding officer of the company, with a right of appeal by the person who may conceive himself aggrieved, or by any other person belonging to the company, to the lieutenant-colonel or commanding officer of the regiment. Persons to be enrolled at the age of 18.

XI. *And be it further enacted* by the authority aforesaid, That the Commander-in-chief for the time being may, in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of the State, to march to any part thereof, and continue as long as

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Marching out of the State in cases of emergency.

he may think it necessary; and likewise may, in consequence of an application from the executive of any of the United States, on an invasion, or an apprehension of an invasion, of such State, at his discretion, order any number of the militia, not exceeding one third part thereof, to such State; *provided*, that they be not compelled to continue on duty out of this State more than two months at any one time; that whilst in actual service, in consequence of being so called out, they shall receive the same pay and rations, and be subject to the same rules and regulations, as the troops of the United States of America. *Provided*, that upon any transgression or offence of a militia man, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this State; and that it shall be in the power of the Governor, or, in case of his absence, of the commanding officer of the militia of this State, to mitigate, suspend or pardon, any punishment to which any militia man be sentenced by a general court martial.

In cases of invasion.

XII. *And be it further enacted* by the authority aforesaid, That it shall and may be lawful to and for any major-general, or brigadier-general, or commanding officer of a brigade, or lieutenant-colonel commandant, or commanding officer of a regiment, when and as often as any invasion may happen, to order out the militia under their respective commands, for the defence of this State, giving notice of such invasion, and every circumstance attending the same, as early as possible, to their immediate commanding officer, by whom such information shall be transmitted to the Governor or Commander-in-chief, by express, the expense of which shall be immediately paid. And that in cases of insurrection, the commanding officer of the regiment or battalion within the limits of which any such insurrection may happen, shall immediately assemble his regiment or battalion under arms, and having transmitted information thereof to the commanding officer of the brigade, and to the major-general of the division, and to the Governor or Commander-in-chief, shall proceed to take such measures to suppress such insurrection as to any three of the judges or justices of the county or district in which such insurrection shall happen, shall appear most proper and effectual; and if any person be wounded or disabled while in actual service in opposing any invasion or insurrection, or in suppressing the same, he shall be taken care of and provided for at the public expense, without regard to the rank such person may hold.

Pay of militia.

XIII. And *whereas*, it is proper to ascertain the compensation which shall be allowed to the militia when they may hereafter be called out into actual service, by order of the executive authority of this State. *Be it further enacted* by the authority aforesaid, That in future, when the militia of this State, or any part thereof, shall be called out into service within this State, by the authority of the laws thereof, each commissioned officer shall be entitled to and shall receive the same pay and rations as are allowed to the officers of the same rank of the federal army by the laws of the United States; that the pay of a sergeant, drum-major, and fife-major, in lieu of all other demands, shall be eight dollars per month; and the pay of a corporal, bugler, trumpeter, drummer and fifer, in lieu of all other demands, shall be seven dollars per month; and the pay of a private, in lieu of all other demands, shall be six dollars and a half per month, besides rations; to be provided for in the tax bill of the year in which the service shall be performed.

XIV. *And be it further enacted* by the authority aforesaid, That the

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brigade inspectors, whenever required by the brigadier-general of the brigade, shall make a return of the militia to which he belongs, to the said brigadier-general; and the brigadier-general shall, whenever required by the major-general of the division to which he belongs, make a return of the militia of their respective brigades, to the said major-general; and the major-generals shall, whenever required by the Governor or Commander-in-chief, make a return of the militia of their respective divisions, to the said Governor or Commander-in-chief. Returns to be made.

XV. *And be it further enacted* by the authority aforesaid, That every master or other person who hath the power over, government or command of, any white apprentice or man servant, shall, at his or their own proper costs and charges, furnish and provide every such apprentice or man servant liable to do militia duty, during his servitude, with the arms and accoutrements directed by the aforesaid Act of Congress; and every master or other person, as aforesaid, shall constantly keep such arms and accoutrements, as aforesaid, for every such apprentice or servant, and shall compel him or them, so completely armed and accoutred as aforesaid, to attend all musters, trainings and exercises directed by this Act; and in case such apprentice or servant shall not appear, or his arms and accoutrements shall be found deficient, the master or other person, as aforesaid, having the government of such apprentice or servant, shall, on default made in any of the premises, be subject to the same forfeitures and penalties as are inflicted on other persons made liable by this Act to appear and bear arms at exercises, musters and trainings. *Provided, always*, that if any such servant, as aforesaid, who shall be duly furnished and provided as is before directed, and shall be sent to muster, by the master or other person under whose government such servant shall be, shall, of his own accord, and contrary to the will, and without the consent of the master, or such other person as aforesaid, neglect to appear at any muster, training or exercise appointed by this Act, the master or other person under whose government such servant may be, shall be liable to the penalties by this Act inflicted for the default of such servant; and every such servant so offending shall be obliged to serve his master two weeks for every penalty so paid by his said master or other person; and if any person shall embezzle, sell or make away with the arms so to be provided for him, he shall be liable to make his master, or other person under whose government he may be, full satisfaction. White apprentices to attend musters.

XVI. *And be it further enacted* by the authority aforesaid, That no civil officer whatsoever shall, on any pretence, execute any process, (unless for treason, felony or breach of the peace,) on any person whatsoever, at any muster, or other time when such person shall be obliged to bear arms, in pursuance of the directions of this Act, nor in going to or returning from any muster or place of rendezvous, or within twenty-four hours after such person shall be discharged from appearing in the regiment, company or troop, to which he shall belong, under the penalty of five pounds sterling; and the service of any such process shall be void, to all intents and purposes whatsoever; and all arms and accoutrements which, by this Act, are required to be provided, also the troop horse of each trooper, duly entered and registered with the captain of the troop, so long as said trooper shall continue in the troop, shall not be liable to be seized, destrained or taken in execution for any cause, matter or thing whatsoever. And in case any person shall seize, levy or destrain upon any such arms, accoutrements or horse, every such person shall forfeit the sum of ten pounds, sterling money, to be recovered in any court of record in this State. No civil process to be executed on any person attending musters.

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Fine for not attending musters.

XVII. *And be it further enacted* by the authority aforesaid, That every lieutenant-colonel who shall wilfully neglect to turn out at a regimental muster, shall be fined in a sum not exceeding ten pounds, and also a sum not exceeding five per cent. on the amount of his last general tax; and that every major who shall wilfully neglect to turn out at a regimental or battalion muster, shall be fined in a sum not exceeding eight pounds, and also a sum not exceeding five per cent. on the amount of his last general tax; that every captain who shall wilfully neglect to turn out at a regimental or battalion muster, shall be fined in a sum not exceeding six pounds, and also a sum not exceeding five per cent. on the amount of his last general tax; that every subaltern officer who shall wilfully neglect to turn out at a regimental or battalion muster, shall be fined in a sum not exceeding four pounds, and also a sum not exceeding five per cent. on the amount of his last general tax; and that every non-commissioned officer and private, who shall wilfully neglect to turn out at a regimental or battalion muster, shall be fined in a sum not exceeding fourteen shillings, and also a sum not exceeding five per cent. on the amount of his last general tax; that every captain who shall wilfully neglect to turn out at an ordinary muster, shall be fined in a sum not exceeding thirty shillings, and also a sum not exceeding two and one half per cent. on the amount of his last general tax; that every subaltern officer who shall wilfully neglect to turn out at an ordinary muster, shall be fined in any sum not exceeding one pound, and also a sum not exceeding two and one half per cent. on the amount of his last general tax; and that every non-commissioned officer and private, who shall wilfully neglect to turn out at an ordinary muster, shall be fined in any sum not exceeding seven shillings, and also a sum not exceeding two and one half per cent. on the amount of his last general tax.

Fines for disobedience.

XVIII. *And be it further enacted* by the authority aforesaid, That every non-commissioned officer and private, who shall neglect or refuse to obey the order of his superior officer, while under arms, shall forfeit a sum not exceeding one pound for every such offence; and if any such non-commissioned officer or private, enrolled to serve in either of the companies of artillery, infantry or cavalry, shall refuse or neglect to perform such military duty or exercise as he shall be required to perform, or shall depart from his colors or guard, without the permission of his superior officer, as aforesaid, he shall forfeit a sum not exceeding one pound; and for the non-payment thereof the offender shall be committed, by warrant from the captain or commanding officer of the troop or company then present, to which such offender doth belong, or under whose command he may be, to the next gaol, there to be confined until the fines as aforesaid, together with the gaoler's fees, are paid; and the respective sheriffs of the city and respective districts and counties of this State, are hereby empowered and required to receive the body or bodies of such offender or offenders as shall be brought to them by virtue of a warrant or warrants under the hand and seal of such officer, as aforesaid, and him or them to keep in safe custody until such fines as are mentioned in such warrant, together with the gaoler's fees, as aforesaid, shall be paid; and the sheriffs and gaolers, respectively, shall be allowed the same fees as are allowed in other cases. *Provided, always*, that the persons so confined shall, at the end of five days, or any shorter time for which they may have been committed, be released, on their swearing that they are unable to pay the fines and fees hereinbefore directed to be paid.

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Military uniform.

XIX. *And be it further enacted* by the authority aforesaid, That the military uniform of this State shall be as follows, that is to say: general officers, dark blue coats with buff colored facings, linings, collars and cuffs, gold epaulets and yellow buttons, with buff colored under-clothes; regimental officers of infantry, dark blue coats, with such colored linings, facings, collars and cuffs, epaulets and buttons, as shall be determined on by the major-general of each division.

Appropriation of fines.

XX. *And be it further enacted* by the authority aforesaid, That all fines which shall be imposed in any regiment, corps, company or troop, shall be paid into the hands of the pay-master, or person acting as such, of such regiment, corps, company or troop, and be paid and appropriated, by warrant under the hands of a major part of the field officers, or commanding officer of the corps, or captain or commanding officer of the company or troop, as the case may be, for the purposes of providing colors, drums, bugles, fifes and trumpets, for their respective battalions, corps, companies and troops, and carrying expresses relative to military matters, and for the purchasing and providing arms and accoutrements for such of the men of the respective battalions, corps, companies and troops, as are or shall be unable to furnish and provide themselves therewith; and that it shall be the duty of the pay-master, or person acting as such, of each respective battalion, corps, company or troop, once in every year, to render an account to the brigadier, or the officer commanding the brigade, of all his receipts and expenditures in pursuance of this Act.

Arms and accoutrements.

XXI. *And be it further enacted* by the authority aforesaid, That every free white man of this State, liable to bear arms in any of the regiments, corps, companies or troops in this State, who shall appear at any regimental or battalion musters, or at any company muster, ordered in pursuance of this Act, not provided, accoutred and armed, according to the Act of Congress, entitled "An Act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," passed the 24th October, 1791, shall forfeit and pay, for each and every such offence, a sum not exceeding five shillings, or the sum of two shillings and four pence, for each article of arms or accoutrements required by the last mentioned Act; that all fines shall be inflicted on non-commissioned officers and privates by the judgment of the majority of the commissioned officers of the company in which the offender is enrolled; that a major-general shall be tried by a major-general to preside, and four brigadier-generals; but if the attendance of a major-general cannot conveniently be procured, then by five brigadier-generals; and, in such case, the eldest of such brigadiers to preside; that a brigadier-general shall be tried by one or more brigadier-generals, and four field officers; that a lieutenant-colonel shall be tried by an officer not under the rank of a lieutenant-colonel, and four field officers; that a major shall be tried by an officer not under the rank of a field officer, and four officers not under the rank of captain; that a captain shall be tried by an officer not under the rank of a field officer, and by four officers not under the rank of captain; and a lieutenant or ensign shall be tried by an officer not under the rank of a field officer, and four other commssioned officers; that all non-commissioned officers and privates be tried by not less than three commissioned officers. Each member of a court martial is hereby enjoined to take the following oath or affirmation: Courts martial.

"I do swear, (or affirm, as the case may be,) that I will not divulge the

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Oath, sentence of the court, until the same shall be approved of or disapproved; neither will I, upon any account, or at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof by a court of justice, in a due course of law. So help me God."

And any member of the court is authorized to tender the above oath to the other members. The Governor or Commander-in-chief shall appoint courts martial on general officers; the major-generals shall appoint division courts martial in their respective divisions; the brigadier-generals shall appoint brigade courts martial in their respective brigades; the lieutenant-colonels shall appoint regimental courts martial in their respective regiments; and the majors battalion courts martial in their respective battalions; and no sentence of a court martial shall be put in force without the same be approved by the officers appointing the same, or by the commanding officers, respectively, for the time being.

Court of enquiry. XXII. *And be it further enacted* by the authority aforesaid, That if the conduct of any officer shall be represented to the Governor or Commander-in-chief, or to either the major-general of the division, brigadier-general of the brigade, or commanding officer of the detachment, to be so unmilitary and unbecoming an officer, as to deserve being cashiered, it shall be lawful for the Governor or Commander-in-chief, major-general of the division, brigadier-general of the brigade, or commanding officer of the detachment, as the case may be, to order a court of enquiry; and if, on such court of enquiry, it shall appear that there is foundation for the charge, to have a court martial held, who shall make such order in the business as they shall think consistent with military rule. *Provided, nevertheless*, that such court of enquiry shall never consist of less than three officers, one of whom, at least, to be of the rank of the person accused.

Persons exempt. XXIII. *And be it further enacted* by the authority aforesaid, That persons of the following professions and descriptions shall be excused from militia duty, except in times of invasion or alarm, to wit; the lieutenant-governor for the time being; the members of both branches of the Legislature, and their officers; the judges, commissioners, registers and clerks of the several superior courts of law and equity, and county courts; the commissioners of the treasury and their clerks; the secretary of this State, and his deputies; the attorney-general; the three circuit solicitors; the surveyor-general and his deputy, residing either in Charleston or Columbia; the ordinaries and registers of the several districts; the sheriffs and gaol-keepers in the several counties and districts; all continental officers who were deranged, or who served to the end of the war; all regular clergymen of any sect or denomination; all persons holding any office or commission under the United States; all acting magistrates; all regular bred practising physicians and surgeons; all school-masters who shall have under their tuition not less than fifteen scholars; all students at school or at college; the intendant and wardens of Charleston and Camden, their treasurers and the officers of their courts; all branch pilots for the several ports; one white man to each established ferry or toll-bridge; one white man to each water grist-mill, wind-mill, fulling-mill or oil-mill; three white men to each forge, and five to each furnace erected or to be erected at any iron mine or mines in this State, who shall constantly work and reside at the same; and all persons under the age of eighteen, and above the age of forty-five years; and all militia officers who have held their commissions for seven years.

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Aliens or transient persons liable to do duty.

XXIV. *Whereas*, a doubt has arisen, whether aliens and other transient persons who have resided, or may reside, in this State for a considerable length of time, and enjoy the benefit and advantage resulting from the organization of the militia of this State, are liable to perform militia duty. And *whereas*, it is but just and reasonable that those whose property is secured by the care and watchfulness of the community in which they reside, should contribute to its protection: *Be it enacted* by the authority aforesaid, That all free white aliens or transient persons, above the age of eighteen and under the age of forty-five years, who have resided, or hereafter shall or may reside, in this State, for the term of six months, shall immediately thereafter be, and are hereby declared to be, subject and liable to do and perform all patrol and militia duty which shall or may be required by the commanding officer of the beat or district in which such alien or transient person shall reside, and be subject to all pains and penalties inflicted by this Act; any law, usage or custom to the contrary thereof, in any wise, notwithstanding. *Provided, always*, That nothing contained in this Act shall be construed to extend or effect in any way or manner the natural born citizen of any State or potentate who shall be actually engaged in war with the United States, or to compel such alien or transient person to serve on patrol or militia duty out of the particular district of the regiment to which he shall or may be attached, nor to natural born and bona fide French citizens, (not being citizens of the United States,) who are, by treaty, exempt from all personal service.

Militia to be called out in case of invasion.

XXV. *And be it further enacted* by the authority aforesaid, That if the Governor or Commander-in-chief for the time being, receive advice from any person or persons in authority in this State, or other credible person or persons in foreign parts, or if he shall receive any information, upon oath, from any credible person or persons within this State, that any foreign enemy or armed force, intend suddenly to invade the State, or if any dangerous insurrection or rebellion be actually raised within this State, which cannot be suppressed by one single company, the Governor or Commander-in-chief for the time being may raise and assemble such and as many of the divisions, brigades, battallions, regiments, troops and companies, by this Act directed to be formed, as he shall think sufficient and able to suppress and repel such invasion, rebellion or insurrection, as may happen; and for the more effectual execution thereof, he may make and publish, or cause to be made and published, an alarm, throughout the whole State, by firing six guns, two at a time, at three minutes distance; or by sending orders and expresses to the general officers, field officers, and other officers of the militia, to raise their several and respective divisions, brigades, regiments, troops and companies, or such part of them as shall be ordered and directed to march and rendezvous at such proper times and places within the State, as the Governor or Commander-in-chief for the time being, shall think fit; and the said alarms shall be carried on throughout the whole State, by all the commissioned officers of the militia, by firing three small arms at convenient intervals, from place to place, and by speedily raising their several corps, and taking all other proper and effectual measures to give notice of the motion of the enemy, and forwarding with the utmost expedition all necessary information to the Governor or Commander-in-chief, and by putting in execution all such orders as they shall receive from their superior officers.

XXVI. *And be it further enacted* by the authority aforesaid, That on

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Alarm to be made with small arms.

sight of an enemy, or on information of an enemy appearing, or mischief done by an enemy, from any white man of credit, who hath seen the same, of the credit of which informer, the officer to which information is given, shall be a judge, an alarm shall be made by any commissioned officer, by firing three small arms; and every alarm shall be carried on by all persons hearing or having knowledge of the same, by firing the small arms distinctly, as usual; and the said officer who fired the alarm shall assemble the corps of which he is an officer, by beat of drum, or by ordering them to warn their next neighbors, or otherwise, till the corps can be got together; and the commanding officer of said corps shall, with all convenient speed, despatch two expresses, one to the Governor or Commander-in-chief, and the other to the next field officer of the regiment to which the said corps belongs, with an account of the cause of the alarm so made; upon which notice, the said field officer shall despatch two expresses with an account of the same, one to the Brigadier of the brigade, and the other to the Major-general of the division; the field officer who shall receive the information as aforesaid, shall have power to assemble any number of men of the battalion or regiment, as the case may be, to which he belongs, to march to the assistance of any of the inhabitants of the State who are in danger.

Penalty for neglecting to give information of the approach of an enemy.

XXVII. *And be it further enacted* by the authority aforesaid, That if any person liable to bear arms shall, in time of such alarm, neglect or refuse to use his utmost endeavors to convey and communicate the said alarm or notice of the enemy's approach, every such person shall forfeit and pay a sum not exceeding fifty pounds sterling; and in case any such person, after he hath notice of an alarm, does not forthwith repair, completely armed and accoutred as aforesaid, with all convenient speed, to the place where the regiment, troop or company, to which he shall belong, shall be appointed to rendezvous, every such person shall forfeit a sum not exceeding twenty pounds sterling money; and in case the company or troop to which such person shall belong, shall actually engage and fight with the enemy, before such person shall appear in the said regiment, troop or company, in every such case, the person not appearing as aforesaid, shall forfeit a sum not exceeding forty pounds sterling money.

Officers to assemble any number of their corps.

XXVIII. *And be it further enacted* by the authority aforesaid, That every commissioned officer in the militia has power, when occasion shall require, to assemble, arm and raise, any number of men belonging to their respective corps; and if need be, to give notice and call to their aid the officers and men of any adjacent corps, to disperse, suppress, kill, destroy, apprehend, take or subdue, any pirate, sea rover, Indian, or other enemy, who shall, in a hostile manner, hurt, or attempt to hurt, any of the inhabitants of this State, in their person or persons; or any number of slaves who shall be met together, or who shall be lurking in any suspected place where they may do mischief; or who shall have absented themselves from the service of their owners; and in case any person liable to bear arms, shall, on such occasion, neglect or refuse to appear, upon notice given, by any commissioned officer of the troop or corps to which such person belongs, or appearing, shall not attend and obey the said officer, he shall, for every such neglect or refusal, forfeit the sum of two pounds sterling.

XXIX. *And be it further enacted* by the authority aforesaid, That in times of invasion or insurrection, when it shall be found necessary to march the several regiments, troops or companies, or any of them, out of

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their proper parishes, counties or districts, one fourth part at least, of every company in this State, shall stay and remain in the respective parishes and divisions to which they belong, and shall be formed into patrols, under the command of such officer as the commissioned officers of the companies shall direct and appoint, under whose command, respectively, they shall continue, until the rest of the company shall return to their habitations, and shall be discharged from bearing arms; and the patrol so formed shall be obliged to be on constant duty, and to ride and patrol, and guard the plantations, and keep the slaves within their several parishes and divisions in good order, and shall place proper guards, watches and centinels, at proper and convenient places, to give notice of danger, or for the more speedy conveying advice and intelligence to the Governor or Commander-in-chief, or any army raised and assembled by his command; and in case any person or persons obliged to serve in such patrols, shall refuse or neglect to ride patrol, or to watch, stand centinel, or to keep guard, or shall refuse to obey the lawful commands of any person appointed to command such patrol, every person so offending shall forfeit any sum not exceeding fifteen pounds sterling money.

In times of invasion, part of the militia to remain on guard at home.

XXX. *And be it further enacted* by the authority aforesaid, That in times of invasion, rebellion, or insurrection, when any person shall receive orders to march out of their parish, county, district or division, the captain, or other commanding officer, who shall be present, shall cause the names of all the persons who are entered, enlisted and enrolled in the muster roll of such company, officers excepted, to be written down on small scrolls of paper, which shall be folded up and put into a hat, and shall be shaken together, and the clerk or sergeant of the said company shall draw out of the hat the names of so many persons as will not exceed three fourth parts of the said company; and the persons whose names shall be so drawn, shall be obliged to march according to such orders as shall be given by the Governor or Commander-in-chief, and the rest whose names shall be left in the hat, shall stay in their respective parishes and divisions, and shall do the duty of the patrol, as before directed; but no officer of any company shall be excused from marching with the company for which he is appointed, unless by particular orders from the Governor or Commander-in-chief; and, in that case, such officer so directed to stay shall be commanding officer of that part of the company left for the patrol duty. If any person whose name is drawn, as aforesaid, and is thereby obliged to march out of his parish or division, can provide an able bodied man, (to be approved by the majority of the officers of the company to which such person belongs,) completely armed and furnished, according to the directions of this Act, every such person shall be permitted and at liberty so to do; and upon producing and sending out such able bodied man in his stead, he shall be excused from going out or marching in person; but, nevertheless, he shall be obliged to do patrol duty in his district; and in case of disobedience, neglect or refusal to ride in such patrol, he shall be liable to all the pains, penalties and forfeitures inflicted by this Act.

Manner of ascertaining those men who shall leave their parishes.

XXXI. *And be it enacted* by the authority aforesaid, That in time of an alarm, occasioned by any insurrection, rebellion or invasion, all field officers, and captains of every company, are empowered, by themselves or their warrants to any inferior officer or soldier, to impress any arms, ammunition, provisions, horses, wagons, carts, boats, canoes, pettiaugers and vessels, with their furniture, or whatever other thing they shall want or have need of, for the service of this State. *Provided*, all such things

Arms, &c., to be impressed.

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so impressed be by the said officers brought before three or more indifferent persons, being freeholders, to be appraised and valued, before they be disposed of for the public service; and such valuation and appraisement being made, the officer shall give a receipt for the same, if he conveniently can; and the officer is to cause his clerk to enter the same in a book, to be kept for that purpose; and the said appraisers shall ascertain any loss or damage that may happen to the things so impressed, or allow a competent hire for the same when returned to the owner, as the case shall require, and shall give such appraisement, under their hands, to the owner, directed to the public treasurers, who are to lay the same before the Legislature. And the commanding officer or captain of each company, after such alarm shall be over, and before such company shall be discharged, is to order so many men as he shall think fit, to carry the several things by him impressed to the several owners, who, upon re-delivery of the same, shall give a receipt. The officer is likewise empowered to draw on the public treasury for so much money as he shall think the carriage of the said several things deserves.

Things impressed to be kept an account of.

XXXII. *And be it further enacted* by the authority aforesaid, That the commanding officer or commander of each company, shall lodge in some convenient and secure place, for the public use, all the provisions and ammunition impressed by him, or by virtue of his warrant, that shall remain unexpended after an alarm, and must keep a particular account thereof.

Free persons of color, &c.

XXXIII. *And be it further enacted* by the authority aforesaid, That all free negroes and Indians, (nations of Indians in amity with the State excepted,) Moors, mulattoes and mestizoes, between the ages of eighteen and forty-five, shall be obliged to serve in the said militia as fatigue-men and pioneers, in the several regimental beats in which they reside; and upon neglect or refusal to attend when summoned on duty, they, and every one of them, shall be liable to the like penalties and forfeitures as privates in the same regiment or company are made liable by law.

Members of uniform companies.

XXXIV. *And be it further enacted* by the authority aforesaid, That the officers and privates in any company of artillery, infantry or cavalry, raised and uniformed in any militia regiment of this State, by permission of his Excellency the Governor, or any lieutenant-colonel or commanding officer of any regiment, or to be hereafter raised, shall be, respectively, liable to all the fines and forfeitures imposed by law on the officers or privates in any regimental or company beat; and that when any person now actually enrolled, or that shall hereafter be enrolled, in any such company, shall be desirous to quit the same, he shall be obliged to give at least thirty days notice of such intention; and shall be obliged, also, to enrol himself in the company beat in which he resides, or in some other company of artillery, infantry or cavalry, of the regiment to which he belongs, and produce a certificate thereof from the captain or officer commanding such beat or company, before he shall be permitted to leave the uniform company or corps to which he belonged, or be excused from duty therein.

Companies may be summoned to mount guard in Charleston.

XXXV. And *whereas*, the safety of the city of Charleston requires the calling forth, at certain times and seasons, one or more companies of the militia of the said city: *Be it therefore enacted* by the authority aforesaid, That it shall and may be lawful for the Governor or Commander-in-chief for the time being, or the major-general of the division, or brigadier of the brigade, in which Charleston is comprehended, or the commanding officer of the Charleston regiment for the time being, to call forth, when necessary, such and so many companies, or detachments of companies, to mount

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guard in the said city, as to them shall, respectively, appear necessary and proper. *Provided*, that no guard shall be obliged to continue on duty, at any one time, except in case of actual alarm, more than twenty-four hours on one guard; and every person duly summoned to turn out on any such guard, who shall not obey, or who shall leave his guard, or otherwise misbehave, shall be liable to pay the same fines and forfeitures as such person would be obliged to pay for default of duty by non-attendance or misbehaviour at any battalion or regimental muster, by virtue of this Act.

Officers to be furnished with this Act.

XXXVI. *And be it further enacted* by the authority aforesaid, That every commissioned officer who, at the original organization of the militia, agreeable to this Act, shall be appointed in pursuance of the same, and accepts his commission, shall be furnished, at the expense of this State, with a copy of this law, the Act of Congress to provide for the national defence and establishing an uniform militia throughout the United States, Baron Steuben's military discipline, and the articles of war, all bound together in a small and convenient pocket volume; and that the senior major-general, elected in pursuance of this Act, is hereby authorized and empowered to contract for procuring the same on the best and cheapest terms.

Persons sued may plead this Act.

XXXVII. *And be it further enacted* by the authority aforesaid, That if any person or persons whosoever shall be sued, impleaded, molested or prosecuted, for any matter, cause or thing done or executed, or caused to be done or executed, by virtue of or in pursuance of this Act, and all and every person or persons who shall or may, by the command, or in aid or assistance, of any person who shall do or execute, or cause to be done or executed, any matter or thing by virtue of or in pursuance of the direction of this Act, shall and may plead the general issue, and give this Act and the special matter in evidence; and in case the plaintiff shall suffer a discontinuance, enter a *noli prosequi*, suffer a non-suit, or if a verdict or judgment shall pass against him, he shall pay to every defendant that shall be acquitted, or for whom judgment shall pass, his full double costs of suit.

Former militia laws repealed.

XXXVIII. *And be it further enacted* by the authority aforesaid, That all laws heretofore enacted in this State, respecting the militia, shall be, and the same are hereby, repealed, except such laws or parts of laws as respect the Charleston battalion of artillery.

In the Senate House, this tenth day of May, in the year of our Lord one thousand seven hundred and ninety-four, and in the eighteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*
JACOB READ, *Speaker of the House of Representatives.*

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No. 1602. AN ADDITIONAL ACT TO THE ACT ENTITLED "AN ACT TO ORGANIZE THE MILITIA THROUGHOUT THE STATE OF SOUTH CAROLINA, IN CONFORMITY WITH THE ACT OF CONGRESS."

Preamble. WHEREAS, the law of Congress, entitled "An Act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," directs that each division, brigade and regiment, in each State, shall be numbered at the formation thereof, and a record made of such numbers, in the adjutant-general's office, in the State; and when in the field, or in service in the State, each division, brigade and regiment shall, respectively, take rank according to their numbers, reckoning the first or lowest number highest in rank. And *whereas*, it is necessary to fix the rank of officers who were elected to the same grade by the Legislature at their last session, or by the people since that period:

Rank of divisions and brigades to be ascertained by lot. I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the rank of the divisions, brigades and regiments, shall be determined by lot, in the following manner, that is to say: that a joint committee of both houses shall forthwith cause the words Eastern Division, and the words Western Division, to be, respectively, written on two pieces of paper, which shall be folded up and put into a hat, and they shall then cause a child, under ten years of age, to draw out, in their presence, one of the said lots, and that which shall be so drawn shall be the first division of this State, and the remaining lot shall be the second division; and if the eastern division shall be the first drawn, then the brigades and regiments in that division shall have the lowest numbers and highest rank, and the brigades and regiments in the western division the highest numbers and lowest rank; and if the western division be first drawn, then the brigades and regiments in that division shall have the lowest numbers and highest rank, and the brigades and regiments in the eastern division, the highest numbers and lowest rank. That then the committee shall cause the numbers of the brigades in each division to be determined in a similar manner, by lot, that is to say: if the eastern division shall be the first drawn, they shall cause the words Charleston brigade, Georgetown brigade, Cheraw brigade, Camden Brigade, and Beaufort and Orangeburg brigade, to be written on five lots, and to be folded up and put into a hat, and they shall then cause a child, under ten years of age, to draw, in their presence, the said lots, one by one, from the hat, and the brigade first drawn shall be numbered the first brigade, the brigade second drawn shall be numbered the second brigade, the brigade third drawn shall be numbered the third brigade, the brigade fourth drawn shall be numbered the fourth brigade, and the brigade fifth drawn shall be numbered the fifth brigade; and then they shall cause the words Edgefield and Abbeville brigade, Laurens and Newberry brigade, Washington brigade, and Pinckney brigade, to be written on four lots, and the same shall be folded up and put into a hat, and they shall then cause a child, under ten years of age, to draw, in their presence, the lots, one by one, from the hat, and the brigade first drawn shall be numbered the sixth brigade, the brigade second drawn shall be numbered the seventh brigade, the brigade third drawn shall be numbered the eighth brigade, and the brigade fourth drawn shall be numbered the ninth brigade. And if the western division shall be first drawn, they shall cause the words Edgefield and Abbeville brigade, Laurens and Newberry brigade,

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Washington brigade, and Pinckney brigade, to be written upon four lots, which shall be folded up and put into a hat, and they shall then cause a child, under ten years of age, to draw, in their presence, the lots, one by one, from the hat; and the brigade first drawn shall be numbered the first brigade, the brigade second drawn shall be numbered the second brigade, the brigade third drawn shall be numbered the third brigade, and the brigade fourth drawn shall be numbered the fourth brigade; and then they shall cause the words Charleston brigade, Georgetown brigade, Cheraw brigade, Camden brigade, and Beaufort and Orangeburg brigade, to be written on five lots, and the same shall be folded up and put into a hat, and they shall then cause a child, under ten years of age, to draw, in their presence, the lots, one by one, from the hat, and the brigade first drawn shall be numbered the fifth brigade, the brigade second drawn shall be numbered the sixth brigade, the brigade third drawn shall be numbered the seventh brigade, the brigade fourth drawn shall be numbered the eighth brigade, and the brigade fifth drawn shall be numbered the ninth brigade. That then the committee shall, in like manner, by lots drawn in their presence, proceed to number the regiments, taking care so to conduct the drawing that the lowest number of the respective regiments be given to the lowest number of the respective brigades, and that the brigades highest in number have the regiments highest in number; and that the rank of battalions, in their respective regiments, be always determined by the seniority of their respective majors.

II. *And be it further enacted* by the authority aforesaid, That all the officers who were elected by the Legislature, at their last session, or by the people since, shall take rank in the following manner, that is to say: if the eastern division shall be the first drawn, all the officers of equal grade of date and commission in that division, shall take rank of all the officers of similar grade and date of commission in the western division; and if the western shall be the first drawn, all the officers of equal grade and date of commission in that division, shall take rank of all the officers of similar grade and date of commission in the eastern division; and all the officers of equal grade and date of commission, of the brigades lowest in number, shall take rank of all the officers of equal grade and date of commission in the brigades higher in number, in the division to which it belongs; and all the officers of equal grade and date of commission, in the regiments lowest in number, shall take rank of all the officers of equal grade and date of commission in the regiments highest in number, in their respective brigades. And all the officers of equal grade and date of commission in their respective regiments, shall determine their rank in their regiment by lot, drawn in the presence of the lieutenant-colonel or commanding officer of the regiment; or where the lieutenant-colonel is dead, and the rank has not been determined between the majors, in the presence of some person to be appointed by the brigadier-general, or in his absence by the major-general. *Provided, always*, that nothing in this Act shall be construed to extend to deprive officers who have been elected to the same grade they held before, from retaining and taking rank agreeably to their old commissions, or to determine the rank of officers in any regiment, where they have already drawn for it.

Rank of regimental officers to be ascertained by lot.

III. *And be it further enacted* by the authority aforesaid, That when the commission of ensign is vacant in any company, the men liable to do duty in that company, as well in time of alarm as at common musters, shall elect, by ballot, a fit person to fill the vacancy; and the lieutenant-colonel

Ensigns, how to be elected.

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or commanding officer shall order such election, giving notice on one muster day, in writing, which shall be publicly declared and made known to the company by the officer commanding the same, and shall be fixed up in some public place upon the muster ground, that the election will be held at the ensuing muster; and the captain or commanding officer of the company shall manage the election.

Sergeants refusing to do duty to be fined.

IV. *And be it further enacted* by the authority aforesaid, That if any person liable to do duty at common musters shall be appointed a sergeant, and refuse to do duty as such, he shall be fined in a sum of four pounds; but no person shall be obliged to act as sergeant more than one year at a time.

Governor, major-generals and brigadier-generals.

V. *And be it further enacted* by the authority aforesaid, That the Governor, the major-generals and brigadier-generals, respectively, as occasion may require, shall be authorized to appoint one or two extra aids-de-camp, who shall not be entitled to any other rank or pay than what they are entitled to in the line.

Parade limits to be ascertained.

VI. *And be it further enacted* by the authority aforesaid, That each commanding officer of a corps, when on duty or parade, shall have full power and authority to ascertain and fix certain necessary limits and bounds to their respective parades and places of exercise, (no road in which people usually travel, or more than one half the width of any street, to be included,) within which no spectator shall have a right to enter, without liberty from the said commanding officer; and in case any person shall so intrude within the lines of the parade or place of exercise, after being once forbidden, he shall be liable to be confined under guard during the time of exercise, at the discretion of the commanding officer.

Fines, how to be recovered.

VII. *And be it further enacted* by the authority aforesaid, That every fine imposed by this Act, or the Act entitled "An Act to organize the militia throughout the State of South Carolina, in conformity with the Act of Congress," or by any future Act, shall be recovered in the following manner, that is to say: the officer who presided at the court martial when any such fine or fines shall be imposed, (excepting fines incurred for misconduct while under arms, which shall be recovered as is directed by said Act,) shall issue his warrant, under his hand and seal, directed to some sergeant belonging to the brigade, regiment, battalion, company or troop to which the offender, according to his rank, may immediately belong, or for want of such sergeant, to such other person as may be appointed by the commanding officer of the regiment, and shall mention therein the amount of the fine or forfeiture, or fines or forfeitures incurred, and for what default or misconduct, and by what court-martial the same was or were imposed, and shall thereby command such sergeant or other person to take the body of the defaulter or offender to the nearest gaol, there to be confined until such fine or forfeiture, or fines or forfeitures, together with the gaoler's and sergeant's fees, shall be paid; and every such sergeant or other person shall be obliged to execute such warrant, according to the tenor or purport thereof; and all district sheriffs and gaolers, county sheriffs and gaolers, and city sheriffs and gaolers, in this State, are hereby empowered and required to receive the body of any such defaulter or offender, who may be brought to either of them under any such warrant, and to keep him in safe custody until the amount specified in the warrant, together with the gaoler's and sergeant's fees, shall be paid; and the sheriffs and gaolers shall be allowed the same fees in such cases as are allowed in other cases of commitments,

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and the sergeant shall be allowed the same fees as constables have for serving summonses, and for commitments for the same amount, or for levying an execution for the same amount. *Provided, always*, that the person so committed shall, at the end of a certain time, to be computed at the rate of one day for every three shillings and six pence he may be condemned to pay, be released, upon swearing that he is unable to pay the amount for which he may be committed, and the fees hereinbefore directed to be paid; and *provided, also*, that no person shall be taken up on any such warrant or execution, if he will immediately pay the amount he is liable for, and the fees due, or produce to the officer sufficient property of his own to satisfy the same, which, if he shall produce, the officer shall take and dispose of at public sale, in the same manner as constables make their sales under execution; and after paying the fine or fines due, and the fees that have accrued, he shall return the surplus, if any there be, of the proceeds of the sale, to the said defaulter or offender.

Officers to take an oath.

VIII. *And be it further enacted* by the authority aforesaid, That every officer in the militia shall, within six months after the ratification of this Act, or after he shall be elected or appointed, take the following oath or affirmation, before some justice of the peace, who shall certify the same on the back of his commission: "I, A B, do solemnly swear, (or affirm, as the case may be,) that I will support and maintain, to the utmost of my ability, the laws and constitution of this State and of the United States." And every officer neglecting so to do shall vacate his commission.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-four, and in the nineteenth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*
JACOB READ, *Speaker of the House of Representatives.*

AN ADDITIONAL ACT TO THE ACT ENTITLED "AN ACT TO ORGANIZE THE MILITIA THROUGHOUT THE STATE OF SOUTH CAROLINA, IN CONFORMITY WITH THE ACT OF CONGRESS;" AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 1622.

Field officers to give relief, where regiments, &c. are injured by division.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That in all cases where any of the regiments, or any of the battalions and companies belonging to any of the regiments, of this State, shall or may be aggrieved and injured, by the division or divisions made by the different commissioners appointed by the several Brigadier Generals, for the purpose of dividing the regiments belonging to their respective brigades into battalions and companies, pursuant to the Militia Act of this State, passed on the tenth day of May, seventeen hundred and ninety-four, the regiments, or any of the battalions or companies belonging to the said regiments, so aggrieved or injured, shall make their application for redress to the Brigadier General of the brigade to which the said regiment or regiments belong, who shall appoint two field officers of the brigade, who are not involved in the dispute or interested in the decision of the same,

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who are hereby empowered and directed, should it appear to them fit and expedient, to make, direct and order, any arrangement or division of the said regiments, or any of the battallions or companies belonging thereto, as to them shall appear to the advantage of the same; *provided*, *however*, that such arrangement or division be, as nearly as conveniently may be, in conformity to the Act of Congress, passed on the eighth day of May, seventeen hundred and ninety-two.

In case of contested elections, appeal to be made.

II. *And be it further enacted* by the authority aforesaid, That in all cases of contested elections for field officers, where either of the candidates think themselves aggrieved by the determination of the brigadier general or field officers who have decided or shall decide on the election, such candidate may appeal from such decision to the major general of the division to which he belongs, and the said major general, together with a board of general and field officers, to be appointed by the said major general, and to consist of the said major General and not less than one brigadier general and three field officers, shall examine into the merits of the said election, and shall decide thereon; and such decision shall be final and conclusive, and the person in whose favor they decide shall be commissioned by the Governor.

Militia officers allowed a further time to qualify.

III. And *whereas*, many of the officers in the militia have, through inadvertence, neglected to take the oath or affirmation prescribed by the Act, passed on the nineteenth day of December, seventeen hundred and ninety-four:—*Be it further enacted* by the authority aforesaid, That a further time of six months be allowed them to take the said oath or affirmation before some justice of the peace, who shall certify the same on the back of his commission; and every officer who shall neglect so to do, within the time above limited, shall vacate his commission; but provided he takes the said oath within the said time, he shall retain his commission; any thing in the said Act contained to the contrary thereof in any wise notwithstanding.

Salary of Adjutant General.

IV. And *whereas*, it has been represented to the Legislature, that the duty of the adjutant general is very laborious, and attended with considerable expense. *Be it therefore enacted* by the authority aforesaid, That the salary of the said officer shall be, in future, one thousand dollars per annum; *provided*, he shall attend the different regimental reviews throughout the State, once in every year.

Persons employed at the Santee Canal, exempt from militia duty.

V. And *whereas*, it is of great importance to this country, that encouragement should be given to the company for opening the Santee Canal. *Be it therefore enacted* by the authority aforesaid, That the overseers, toll-receivers, lock-keepers, and white laborers, employed or to be employed by the said company, be exempt from doing militia duty at any time hereafter, except in times of alarm.

Duration.

VI. *And be it further enacted* by the authority aforesaid, That so much of this Act as relates to the office, salary, and duties of the adjutant general, shall continue in force for and during the term of three years, and from thence to the end of the next session of the Legislature thereafter, and no longer.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-five, and in the twentieth year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*
ROBT. BARNWELL, *Speaker of the House of Representatives.*

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AN ACT TO PROLONG THE TIME FOR CERTAIN OFFICERS OF THE MILITIA TO TAKE THE OATH OR AFFIRMATION PRESCRIBED BY LAW. No. 1657.

WHEREAS, many officers of the militia have, through inadvertence, neglected to take the oath or affirmation prescribed by the Act entitled An additional Act to the Act entitled An Act to organize the Militia throughout the State of South Carolina, passed on the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-four, in conformity with the Act of Congress.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That a further time of six months be allowed the said officers to take the said oath or affirmation before some justice of the peace, who shall certify the same on the back of their commissions; and that the said officers thus taking the said oath or affirmation, shall be still qualified to hold their said commissions; any thing in the aforesaid Act, passed the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-four, to the contrary hereof notwithstanding. *Provided, nevertheless*, that if the said officers do not within the said time take the said oath or affirmation, at the expiration of the same their commissions shall be vacated.

II. *And be it enacted* by the authority aforesaid, That any officer or officers taking the oath or affirmation within the time abovementioned, shall receive commissions of the same date, and shall be entitled to the same grade, as if he or they had taken the said oath or affirmation when first elected.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand seven hundred and ninety-six, and in the twenty-first year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*
ROBT. BARNWELL, *Speaker of the House of Representatives.*

AN ACT CONCERNING THE CAVALRY AND ARTILLERY OF THIS STATE; AND FOR OTHER PURPOSES THEREIN MENTIONED No. 1662.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the cavalry of this State shall be arranged into squadrons and regiments, as follows:—the several troops now raised, and hereafter to be raised, in the brigade number one, (No. 1.) shall form one regiment; the several troops now raised, or hereafter to be raised, in the brigade number two, (No. 2.) shall form one regiment; the several troops now raised, and hereafter to be raised, in the brigade number three, (No. 3.) shall form one regiment; the several troops now raised, and hereafter to be raised, in the brigade number four, (No. 4.) shall form one regiment; the

Cavalry of the State arranged in squadrons and regiments.

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several troops now raised, and hereafter to be raised, in the brigade number five, (No. 5.) shall form one regiment; the several troops now raised, and hereafter to be raised, in the brigade number six, (No. 6.) shall form one regiment or squadron; the several troops now raised, and hereafter to be raised, in the brigade number seven, (No. 7.) shall form one regiment; the several troops now raised, and hereafter to be raised, in the brigade number eight, (No. 8.) shall form one regiment; the several troops now raised, and hereafter to be raised, in the brigade number nine, (No. 9.) shall form one regiment or squadron. *Provided*, that no regiment shall consist of more than six troops, nor less than four, nor each troop of more than sixty-four, rank and file.

Brigadiers to fill up regiments of horse, &c.

II. *And be it further enacted* by the authority aforesaid, That the brigadier general of each of the aforesaid brigades shall be, and he is hereby, authorized and empowered, whenever the regiment of horse in his brigade is not complete, to fill up the same, if he shall see fit, by authorizing proper persons to raise the necessary number of troops; and also, by empowering the captains of the respective troops in his regiment to enrol men who are not obliged to do militia duty, but who would be willing to enrol themselves in such troops, and to turn out with them, properly uniformed and accoutred, when called into actual service; and the said brigadiers shall distribute the troops in their respective regiments into squadrons.

Each squadron to have a major.

III. *And be it further enacted* by the authority aforesaid, That to each of the aforesaid squadrons there shall be one major; and each of the aforementioned regiments shall be commanded by one lieutenant-colonel; and the Governor and Commander-in-chief shall be, and he is hereby, authorized to commission, in common form, the eldest captain of horse in each brigade, as lieutenant-colonel in each brigade, and the second and third in seniority, as majors of the first and second squadrons, in each regiment, respectively; and if any case should occur in which the captains's commissions bear even date, the preference shall be decided by lot, in presence of the brigade major, who shall make a return thereof to the adjutant-general; and the rank of the several lieutenant colonels shall also be determined by lot, to be drawn in the following manner:—the adjutant general shall write the names of the respective regiments on slips of paper, and having intermixed them well, shall, in presence of the Governor or Commander-in-chief, draw forth their names, singly; and each of the aforesaid lieutenant colonels shall take rank in the order in which his name is drawn; and the adjutant general shall make out two lists of the said officers, according to their respective ranks, and transmit one of the said lists to the secretary's office in Charleston, and the other to the secretary's office in Columbia, there to be recorded. *Provided*, that nothing herein contained shall be so construed as to give rise to any captain or commander of a troop, who has neglected, for six months previous to the passing of this Act, to muster his troop.

Persons formerly enrolled, to remain.

IV. *And be it further enacted* by the authority aforesaid, That all those of the militia who have heretofore enrolled themselves in any troop or company of cavalry, may remain with their troop or company; and that hereafter all volunteers for the corps of cavalry shall be limited to their respective brigades, except otherwise ordered by the Commander-in-chief.

Horses to be appraised.

V. *And be it further enacted*, That whenever any of the cavalry, or any part thereof, shall be called into the actual service of this State, it shall be the duty of the brigadier-inspector to call to his assistance two of the freeholders of the county where each horseman may reside, who, together

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with the said brigade inspector, shall, on oath, appraise the horse of each horseman, immediately before the time of going into such service, and enter such appraisement in a book, to be kept for that purpose; and the said cavalry shall receive the same indemnification, and no other, for loss of horses or otherwise, under the same regulations and restrictions, as are or may be established, in like cases, in the militia in the service of the United States, by the laws thereof, for the time being.

Troops to meet.

VI. *And be it further enacted*, That the cavalry shall meet in troop, at least six times in each year, and at such places as the commanding officer of each troop shall direct.

Uniform and discipline.

VII. *And be it enacted*, That the brigadier in each brigade be, and he is hereby, authorized to direct the mode of uniform for the cavalry of his brigade; and the adjutant general shall prescribe the form of discipline to be used and adopted by them.

Regiment of artillery formed.

VIII. *And be it further enacted*, That the company of artillery attached to the twenty-eighth regiment, the company attached to the twenty-ninth regiment, and the company attached to the thirtieth regiment of infantry, shall form one battalion; and the said battalion, together with the Charleston battalion of artillery, shall form one regiment.

How to be officered.

IX. *And be it further enacted*, That the said regiment of artillery shall be commanded by a lieutenant-colonel; and each of the said battalions, by a major; and the Governor or Commander-in-chief shall be, and he is hereby, authorized to commission, in common form, the first officer in rank in the said regiment, as lieutenant-colonel thereof; and the second and third in seniority, as majors of the battalions, who shall take rank according to the dates of their commissions.

Other artillery to remain as before.

X. *And be it further enacted*, That throughout the other parts of the State, the captains of artillery shall be attached to the battalions in which they reside, respectively; and rise in the same, with the other officers, according to the dates of their commissions.

Officers, how to rank and rise.

XI. *And be it further enacted*, That the said lieutenant-colonel of cavalry, and lieutenant-colonel of artillery, shall take rank and promotion together with and in the same manner as the other lieutenant-colonels of this State. *Provided, nevertheless*, that no officer to be appointed by virtue of this Act shall take rank and precedent over any officer of infantry of the militia of this State, of the same grade, except by seniority of commission.

Subject to general rules.

XII. *And be it further enacted*, That the officers and men of the cavalry and artillery, throughout this State, shall be subject to the same laws, rules and orders, as the officers and men of the infantry of this State, are or shall be subject to. *Provided always, nevertheless*, that nothing contained in this Act shall be construed to affect the rights and privileges of the ancient battalion of artillery in Charleston, as secured to them by their charter, or by any other law or regulation.

Artillery in Gen Winn's brigade.

XIII. *And be it enacted* by the authority aforesaid, That the three companies of artillery in brigadier-general Winn's brigade shall also form one battalion; and the eldest captain in the said battalion shall be commissioned major thereof.

Officers in Georgetown.

XIV. *And be it enacted* by the authority aforesaid, That the officers commanding in the different company beats in the town of Georgetown, be, and the same are hereby, authorized to hold their respective commissions, although not resident in the beats aforesaid; *provided*, that the said residence be in his battalion.

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Warrants for fines, &c.

XV. And *whereas*, it has been inconvenient, and sometimes oppressive, to issue warrants, in the first instance, against the body of defaulters, and other persons subjected to the fines by the militia law:—for remedy whereof, *Be it enacted* by the authority aforesaid, That the officer to whom the power is given of issuing warrants against the body of defaulters, and other persons liable to fines, shall, in the first instance, issue his warrant against the goods and chattels of such person; and the sergeant or other person to whom such warrant shall be directed, is hereby authorized and required to seize the property of the person against whom the warrant shall be issued, and sell the same, after having advertised it in some public place in the regimental or company district to which the said person may belong, at least five days previous to the sale; and if the person to whom the said warrant shall be directed, shall make a return that he cannot find any goods and chattels to be levied on, then the officer who issued the first warrant is hereby authorized and required to issue a warrant against the body of the person, in lieu of that which was issued against his goods and chattels.

Governor to issue blank commissions.

XVI. And *be it further enacted* by the authority aforesaid, That the Governor and Commander-in-chief for the time being, be, and he is hereby, authorized to issue blank commissions to the lieutenant-colonels of the respective regiments; and the lieutenant-colonels of the respective regiments shall, from time to time, as vacancies may occur in their said regiments, fill up and issue commissions, and make return thereof to the brigadier.

Turning out of the militia.

XVII. And *be it further enacted* by the authority aforesaid, That the militia of Charleston and Georgetown shall be, and they are hereby, exempted from turning out on company parade, oftener than once in every two months; and the commanding officer in each regiment throughout the State, shall be authorized, if he see fit, to exempt his men from turning out on parade in the months of July, August and September; *provided*, they turn out not less than six times in the year.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand seven hundred and ninety-seven, and in the twenty-second year of the Independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*
ROBT. BARNWELL, *Speaker of the House of Representatives.*

No. 1748. AN ACT IN ADDITION TO THE MILITIA LAWS OF THIS STATE.

WHEREAS, it is necessary and proper to alter and amend, in some respects, the militia laws of this State: and *whereas, also*, it is highly necessary that due subordination and obedience to orders should be maintained and ensured in the said militia.

Officers liable to be cashiered.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That every commissioned officer of the militia of this State, or any part thereof, who shall be tried for and found guilty of disobeying the lawful order or orders of his superior officers, shall be liable,

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therefor, to be cashiered by a court martial, if the same shall be approved of, and the officer ordered to be cashiered, by the Commander-in-chief of this State.

What number of men shall form a company.

II. *And be it enacted* by the authority aforesaid, That when any volunteer company of cavalry shall be reduced to less than twenty-four men, and when any volunteer company of infantry or artillery shall be reduced to less than thirty men, uniformed according to law, then, and in every such case, the commissions of the officers of such troop or company, as the case may be, shall, respectively, cease and determine; unless such troop or company shall, respectively, be completed with the number of men aforesaid, within twelve months after the passing of this Act.

Persons enrolled in a volunteer company, to give six months notice of their intention to leave it.

III. *And be it further enacted* by the authority aforesaid, That no person liable to do militia duty, who now is, or hereafter may be, enrolled in any volunteer troop of cavalry, infantry or artillery, shall be exempted from doing duty in such troop or company, unless he shall have given six months previous notice, in writing, of his intention of leaving such troop or company, to the commanding officer thereof, and shall have complied with the other requisitions required by law.

Captains who neglect to muster, to forfeit their commissions.

IV. *And be it enacted* by the authority aforesaid, That the commission of every captain of any troop of cavalry or company of artillery or infantry, shall be null and void, to all intents and purposes, who hereafter shall refuse or neglect, for the space of six months in immediate succession, to muster his troop or company, as the case may be.

Persons appointed to collect fines.

V. *And be it further enacted*, That the brigadiers general shall, within their respective commands, depute proper persons to collect all fines and penalties which may be imposed on delinquents under the militia laws of this State, and allow such percentage on the collection thereof, as to them shall appear advisable, so as the same shall not exceed ten per cent.

Fire masters exempted from militia duty.

VI. *And be it enacted* by the authority aforesaid, That all persons acting as fire-masters, or enrolled in any department under them, shall, on ordinary musters, be exempted from the performance of militia duty.

Mode of conducting elections.

VII. *And be it enacted* by the authority aforesaid, That every militia officer who shall be appointed to conduct an election for an ensign, or other commissioned officer, shall fairly enter, or cause to be entered, in a book or roll, the names of all persons voting at such election, and shall provide a box or glass for the purpose of receiving the said ballots; and the officer so managing such election may require any person offering to give his vote thereat, to swear that he is a resident within the company beat, or is otherwise properly enrolled therein, and is then liable to do duty in that company, under the third section of "An additional Act to organize the Militia throughout the State of South Carolina," passed the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety four; and the officer holding such election shall make oath, that he has managed the election according to law, according to the best of his knowledge and belief, and the orders he shall have received from the commanding officer for conducting the same.

Militia officers may inquire into the liability of persons to do militia duty.

VIII. *And be it enacted* by the authority aforesaid, That whenever it shall be considered as necessary for any militia officer, not under the rank of captain, or other commanding officer of a company, to take a census of the number of persons within his beat, company or district, liable to the performance of militia duty, such officer or officers shall be, and they are hereby, authorized and required to demand the name or names of each and every householder, or other person or persons so resident therein, and to

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inquire into their liability to perform such duty in his said beat, company or district; and if any householder, or other person or persons residing in such beat, shall fail or refuse to satisfy the necessary enquiries of such officer, touching his or their liability to be enrolled as a militia man, such householder or other resident shall forfeit and pay the sum of ten dollars, to be sued for and recovered before any one justice of the peace; which penalty shall be paid into the hands of the paymaster of the regiment in which such person or persons may reside.

Carbineers attached.

IX. *And be it enacted* by the authority aforesaid, That it shall and may be lawful to and for any major of cavalry to attach to the squadron under his command, by and with the consent of the commanding officer of the regiment of which such squadron shall be a part, any number of rifle carbineers, not exceeding twelve to a troop, who shall also be armed as troopers, in such way and manner as he shall think fit and direct.

Vacancies, how filled.

X. *And be it enacted* by the authority aforesaid, That whenever a vacancy or vacancies shall happen of any commissioned officer or officers in any troop or company of the militia, and the men composing such troop or company, respectively, shall neglect or refuse, for the space of three months, due notice of an election being given, to fill up the same as the law directs, then, and in every such case, it shall and may be lawful to and for the commanding officer of the regiment to which such troop or company shall belong or be attached, by and with the consent of the commanding officer thereof, to fill up such vacancy.

Pioneers may be attached.

XI. *Be it enacted* by the authority aforesaid, That it shall and may be lawful to and for the commanding officer of any company of artillery to attach thereto any number of free negroes and Indians, moors, mulattoes, and mestizoes, between the age of eighteen and forty-five, not exceeding four, to act as pioneers, in such way and manner as the commanding officer of the regiment or battalion to which such company may belong or be attached, shall think fit, or direct the said pioneers to be clothed in hunting shirts and overalls, and equiped with the usual accoutrements of a pioneer, except swords, hangers or bayonets.

Fines, how to be applied.

XII. *And be it enacted* by the authority aforesaid, That the fines which have been, or may hereafter be, collected in the ancient battalion of artillery in Charleston, under the authority of the militia law of this State, from the commissioned and non-commissioned officers and matrosses of the said battalion, shall and may be applied, exclusively, to the uses and purposes of the said battallion; and the fines collected, as aforesaid, in the second battallion of the regiment of artillery in Charleston, shall and may be applied, exclusively, to the uses and purposes of the said second battalion.

Persons of color not to wear offensive weapons.

XIII. *And be it enacted* by the authority aforesaid, That no trumpeter or musician, being a negro, mulatto, mestizo, or person of color, attached to any corps of cavalry, be permitted to be armed with any offensive weapons, unless in cases of alarm or of service on detachment.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred, and in the twenty-fifth year of the Independence of the United States of America.

JOHN WARD, *President of the Senate.*
THEO. GAILLARD, *Speaker of the House of Representatives.*

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AN ACT TO ALTER AND AMEND AN ACT ENTITLED "AN ACT CONCERNING THE CAVALRY AND ARTILLERY OF THIS STATE, AND FOR OTHER PURPOSES THEREIN MENTIONED;" PASSED THE SIXTEENTH DECEMBER, SEVENTEEN HUNDRED AND NINETY-SEVEN. No. 1892.

WHEREAS, by the eighth section of the Act aforesaid, it is enacted that the company of artillery attached to the twenty-eighth regiment, the company attached to the twenty-ninth regiment, and the company attached to the thirtieth regiment of infantry, shall form one battallion, and the said battalion, together with the Charleston battalion of artillery, shall form one regiment. And *whereas*, no such company as is stated in the said Act to be attached to the thirtieth regiment of infantry, did or does exist. And *whereas*, the Governor and Commander-in-chief for the time being, did permit to be raised a company of artillery, by the name of "The Federalist Artillery Company," pursuant to the Act of Congress, in such case made and provided, and did duly commission the officers thereof, which company hath ever since acted with the said regiment of artillery as a company of the battallion aforesaid, formed by the Act aforesaid, commonly called and known as the second battalion of the said regiment of artillery.

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now sitting in General Assembly, and it is hereby enacted by the authority of the same, That the said company of artillery, called the Federalist Artillery Company, be, and the same is hereby, attached to the said regiment of artillery, as one of the companies of the said second battalion of the said regiment; and that the officers thereof shall, in all cases, take and be entitled to rank in the said regiment, and militia of this State, according to law and the dates of their commissions.

II. *And be it further enacted* by the authority aforesaid, That if, at any time hereafter, it shall happen that one or more of the companies forming the said second battalion of artillery shall be dissolved, or otherwise legally cease to exist, it shall and may be lawful to and for the Governor or Commander-in-chief for the time being, to raise, or cause or permit to be raised, one or more companies, as the vacancies of the said second battalion of artillery may require, and to commission the officers thereof according to law; which company or companies, as the case may be, shall be attached, and form a company or companies, as the case may be, of the said second battalion of artillery, in the room and stead of any company or companies so dissolved or ceasing to exist, so that the said battalion may always be kept entire.

III. *And be it further enacted* by the authority aforesaid, That so much of the said Act entitled "An Act concerning the Cavalry and Artillery of this State," passed the 16th December, 1797, as is repugnant to this Act, be, and the same is hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-second.

WM. SMITH, *President of the Senate.*
JOSEPH ALSTON, *Speaker of the House of Representatives.*

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No. 1893. AN ACT TO GIVE THE MILITIA OFFICERS OF THIS STATE, WHO HAVE NOT TAKEN THE OATHS REQUIRED BY THE ACT OF THE GENERAL ASSEMBLY, PASSED THE NINETEENTH DAY OF DECEMBER, ONE THOUSAND SEVEN HUNDRED AND NINETY-FOUR, IN THE MANNER DIRECTED BY SAID ACT, FURTHER TIME TO TAKE THE SAID OATH.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met in General Assembly, and by the authority of the same, That all militia officers of this State, who have received commissions, and who have not taken the oath prescribed by the Act of the General Assembly of this State, passed the nineteenth day of December, in the year one thousand seven hundred and ninety-four, within the time limited by the said Act, and who shall take the said oath within the space of one year from the date of the passing of this Act, shall be, and they are hereby, established in their respective commissions, and shall take grade in the same manner, and possess the same rights and privileges, as they might or would have had, provided they had taken the oath as prescribed and directed by the said Act of the General Assembly, passed on the nineteenth day of December, in the year one thousand eight hundred and ninety-four; any law or custom to the contrary notwithstanding.

II. *And be it enacted* by the authority aforesaid, That nothing in this Act shall extend, or be construed to extend, to any militia officer of this State who is or may have been concerned in any decision already made by any military court, or where there are now any officers contending for rank, in consequence of the aforesaid oath not having been taken, or may contend for, three months after the passing of this Act.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-second.

WM. SMITH, *President of the Senate.*
JOSEPH ALSTON, *Speaker of the House of Representatives.*

No. 1898. AN ACT EXPLANATORY OF FORMER ACTS RELATIVE TO THE MODE OF DETERMINING THE SENIORITY OF OFFICERS IN THE MILITIA OF THIS STATE; AND FOR OTHER PURPOSES THEREIN MENTIONED.

WHEREAS, it appears that Captain Janent Laval and Captain John Geddes, hold commissions in the first squadron, eight regiment of cavalry, of the same grade, each to take rank on the same day; and *whereas*, in consequence thereof, Isaac Walter, Esq., lieutenant-colonel of the said regiment, did order and direct their seniority to be determined by lot, as directed by law; and *whereas*, brigadier-general Read set aside and annulled the said order, and a court of enquiry, unauthorized in such cases by any law, was called by the Governor of this State, to determine the rank

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of the said officers, and the seniority thereby given to Captain Janent Laval, although the same had not been determined by lot, as is directed by law, as aforesaid, whereby it appears that the said Captain John Geddes has been deprived of a right secured to him by the militia laws, in such cases made and provided.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That lieutenant-colonel Isaac Walter, or the commanding officer of the said eighth regiment of cavalry, is hereby required and directed, on or before the first Monday in February next, to cause the seniority of rank between Captain Geddes and Captain Laval to be determined by lot, according to the mode prescribed by the militia laws.

II. *And be it further enacted* by the authority aforesaid, That in all cases where two officers hold commissions of equal grade, and are entitled to take rank on the same day, notwithstanding the said commissions may have been issued and filled up on different days, yet the seniority of such officers shall be determined (without reference to their former commissions,) by lot, according to the directions of an Act of Congress, passed the eighth day of May, one thousand seven hundred and ninety-two, and an Act of this State, passed the eighteenth day of December, one thousand seven hundred and ninety-four, in conformity thereto.

III. *And be it further enacted* by the authority aforesaid, That this Act be deemed a public Act, and that it shall be the duty of the militia officers of this State to enforce the due observance thereof.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-second.

WM. SMITH, *President of the Senate.*
JOSEPH ALSTON, *Speaker of the House of Representatives.*

AN ACT REQUIRING THE MAJOR-GENERALS OF THE MILITIA OF THIS STATE TO CAUSE ONE UNIFORM SYSTEM OF EVOLUTIONS TO BE ADOPTED BY THE CAVALRY, WITHIN THEIR RESPECTIVE DIVISIONS; FOR PERFECTING THE SEVERAL OFFICERS OF THE MILITIA THROUGHOUT THIS STATE, IN THEIR MILITARY DUTIES; AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 1916.

WHEREAS, it is highly expedient and necessary that a uniform system of evolutions should be adopted for the cavalry; that the several militia officers throughout this State should become perfect in their military duties; and that patrol duty should be strictly and regularly performed:

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That an uniform system of evolutions be adopted

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and performed by the cavalry of this State, the same to be settled and agreed upon by the major-generals and the adjutant-general, or a majority of them. That it shall be the duty of the major-generals of the militia of this State to cause the same to be notified to, and to be adopted and observed by, the cavalry within their respective divisions.

Uniform system of evolutions.

II. *And be it further enacted* by the authority aforesaid, That it shall be the duty of all the officers of the several different brigades throughout this State, under the rank of brigadier, excepting artillery and cavalry officers, to assemble in some central and proper place within their respective brigades, in full uniform, and equipped with a musket, bayonet, cartouch box and twenty-four cartridges, once at least in every two years, and there be kept on duty in the practice of the manual exercise, for a time not exceeding six days, nor less than three days, as the major-general of each division may think fit and proper. And it shall be the duty of the several brigadier-generals to attend the said officers so assembled within their respective brigades, and to lead, train, discipline and manœuvre the said officers, according to the system of Steuben, or any other system which may be adopted by Congress. And it shall be the duty of the adjutant-general and brigade-majors, within the respective brigades, to attend such musters, and be subject to orders, as on reviews; and it shall also be the duty of the major-generals, within their respective divisions, to attend at the said musters; which said musters of the officers, as aforesaid, shall be ordered by the Governor or Commander-in-chief, and at such times as he shall deem fit and proper for the purposes intended by this Act. And in case any of the officers required by this Act to attend the musters aforesaid, shall fail or neglect so to attend, the said officers, respectively, so failing or neglecting, shall be subject to the fines and forfeitures following, that is to say: a major-general shall be fined in the sum of sixty dollars, a brigadier-general in the sum of fifty dollars, a colonel in the sum of forty dollars, a major in the sum of thirty-dollars, a captain, lieutenant or ensign, in the sum of twenty dollars; and that such defaulter or defaulters shall be tried in the same manner as is now directed by the militia laws of this State, and the fines applied to the use of the brigade in which such fines and forfeitures have accrued.

Officers to attend brigade musters.

III. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the officers of the several regiments within this State, in like manner, to assemble, once at least in every year, in some convenient and central place, within the bounds of the said regiments, respectively, at such times as the respective brigadiers shall order, accoutred in the same manner as hereinbefore directed; at which regimental musters it shall be the duty of the brigade-major of the respective brigades to attend; and the said officers, respectively, in case of default, shall be subject to the same fines and forfeitures as are in the said clause mentioned; which said fines and forfeitures are to be collected in like manner as aforesaid, and to be applied to the use of the regiments in which such fines and forfeitures have accrued.

Officers to attend regimental musters.

IV. *And be it further enacted* by the authority aforesaid, That every lieutenant-colonel who shall wilfully neglect to turn out at a regimental muster, shall be fined in a sum of forty dollars, and fifty per cent. on the amount of his last general tax; and that every major, for a like neglect, either at a regimental or battalion muster, shall be fined thirty dollars, and also fifty per cent. on the amount of his last general tax; that every captain, for a like neglect, shall be fined twenty-dollars, and also a

Fines for non-attendance.

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sum not exceeding fifty per cent. on his general tax; that every subaltern officer, for a like neglect, shall be fined fifteen dollars, and also a sum not exceeding fifty per cent. on the amount of his general tax; and that every non-commissioned officer and private, for a like neglect, shall be fined the sum of three dollars, and fifty per cent. on the amount of his general tax; that every captain who shall wilfully neglect to turn out at any ordinary muster, shall be fined in the sum of six dollars, and also fifty per cent on the amount of his general tax; that every subaltern officer, for a like neglect, shall be fined in the sum of four dollars, and also fifty per cent. on the amount of his general tax; and that every non-commissioned officer and private, for the like neglect, shall be fined the sum of one dollar and fifty cents, and fifty per cent. on the amount of his general tax.

Fine for not performing patrol duty.

V. *And be it further enacted* by the authority aforesaid, That every person liable to perform patrol duty, or liable to procure a substitute to perform the same, shall, on failure (without legal excuse,) to ride patrol, either by himself or substitute, in their respective turn, for every such default, forfeit and pay to the commanding officer of the company of which such patrol is a detachment, the sum of two dollars, and also the sum of fifty per cent. on the amount of his last general tax, to be recovered before the captain of such company, the money to go to the use of the company of which such patrol is a detachment.

Officers to perform patrol duty.

VI. *And be it further enacted*, That no officer, either of infantry, cavalry or artillery, shall be excused from the performance of patrol duty; but every officer, either of cavalry, infantry or artillery, and every private, shall be liable to perform patrol duty in the beat, under the [captain] of said beat, within which such officer or private resides.

This Act, how to be construed.

VII. *And be it further enacted*, That every clause and article in this Act shall be construed to extend as well to the officers and privates of the cavalry, artillery and volunteer companies, as to the officers and privates of the infantry.

Repealing clause.

VIII. *And be it further enacted* by the authority aforesaid, That all Acts and clauses of Acts repugnant hereto, be, and the same are hereby, repealed.

The militia ordered to be organized, exempt from ordinary militia duty.

IX. *And be it further enacted* by the authority aforesaid, That the proportion of the militia of this State ordered to be organized and held in readiness to act at a moment's warning, be exempt, during their organization and the continuance of such orders, from ordinary militia duty, and be subject to the immediate command only of the officers detached with them; and that the militia so detached, until called into actual service, shall be subject and liable to the same fines and penalties for breach of duty, as by law are imposed on the militia of the State generally; such fines to be appropriated to the use of the respective battalions or regiments in which they may accrue; and that the militia so detached be required to assemble in battalions, squadrons or regiments, at the discretion of the commanding officers of regiments or brigades, to be encamped, and there to perform all the usual duties and exercises of a camp, and to continue embodied and encamped for not less than three or more than five days; and that the troops who may perform such duty shall be entitled to rations, or money in lieu thereof, agreeably to the contract of the United States for rations in this State; and that the sum of four thousand dollars be appropriated in the tax bill, for the above purpose; and that his Excellency the Governor be, and he is hereby, authorized to apply to the comptroller-general for

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warrants, and the said comptroller-general to issue the same, in favor of the commanders of the corps who may encamp as aforesaid, for the rations, or amount thereof, due to said corps, respectively.

Mode to be adopted in relation to the rise of officers.

X. *And be it further enacted* by the authority aforesaid, That the following mode, in relation to the rise of officers, and no other mode, be hereafter adopted and adhered to, viz; that in case of any vacancy for any commissioned officer in any company, such vacancy shall be filled up by the ballot of all persons enrolled, (including alarm men,) in such company; that in case the majority in any battalion or squadron shall become vacant, that such vacancy shall be filled up by the votes of the commissioned officers of such battalion or squadron, who shall be compelled to elect a major from the captains of said battalion or squadron; that in case of the death, resignation or removal of any lieutenant-colonel, that the vacancy thereby occasioned shall be filled up by the votes of the captains in said regiment, who shall elect a lieutenant-colonel from one of the majors of said regiment; and if it should happen that two majors are not in commission when the lieutenant-colonel may die, resign or be removed, that the commissioned officers of the battalion in which such vacant majority may occur, shall be obliged to appoint a major or majors, as the case may be, before a choice of lieutenant-colonel can be made; that in case of the death, resignation or removal of any brigadier-general, that the vacancy thereby occasioned shall be filled up by the votes of the field officers of the brigade electing him, from among the lieutenant-colonels; that in case of the death, resignation or removal of any major-general, that the vacancy thereby occasioned shall be filled up by the brigadier-generals of the division, electing from among themselves.

Regiments of cavalry and artillery to be formed into brigades.

XI. *And be it further enacted* by the authority aforesaid, That the regiments of cavalry and artillery of the two divisions of the militia of this State, be formed into brigades, one brigade of each to be attached to each division; and that as soon as his Excellency the Governor shall report the organization of said brigades, the brigadier-generals thereof shall be appointed from among the colonels of the brigades, respectively, by the field officers of the same.

Sanction of Congress to be obtained.

XII. *And be it further enacted* by the authority aforesaid, That certified copies of this clause of this Act, together with the laws heretofore passed in relation to the cavalry and artillery of this State, be transmitted to the senators and members of Congress from this State, with a request that they endeavor to obtain from the Congress of the United States their sanction of the organization of the cavalry and artillery of this State.

Fines in uniform companies, how to be collected.

XIII. *And be it further enacted* by the authority aforesaid, That the officers commanding uniform corps of infantry, cavalry or artillery, shall, on their court martials being approved of hereafter, transmit the same to the adjutant of their respective regiments, whose duty it shall be to sign and issue executions against all persons returned as defaulters by said courts martial, except as to the militia of Charleston, where the brigade collector shall sign all executions and collect all fines.

Persons removing must enrol their names where they settle

XIV. *And be it further enacted* by the authority aforesaid, That all persons enrolled in any company of militia in this State, who shall or may remove out of the company, beat or precinct, or settle or reside, for the space of three months, in any other part of the State, and who shall not enrol his name, and do ordinary militia duty in the place or precinct to which he may so remove and remain for the time above mentioned, or any

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longer space of time, shall be liable to be fined as a defaulter, in case the company in which his name is enrolled has performed militia duty during his absence.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and eight, and in the thirty-third year of the Sovereignty and Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*
JOSEPH ALSTON, *Speaker of the House of Representatives.*

AN ACT TO AMEND AND EXPLAIN THE MILITIA LAWS OF THIS STATE. No. 1940.

Rise of officers fixed.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That in case of vacancy of the majority in any battalion or squadron, the captains and subalterns thereof shall fill up the said vacancy, by the election of some officer from among themselves. That in case of vacancy of a colonel's commission in any regiment, the majors and captains thereof shall fill the same, by election of some officer from among themselves. That in case of vacancy in the commission of a brigadier-general, the colonels and majors of the brigade shall fill the said vacancy, by the election of some officer from among themselves. That in case of the vacancy of a general of division, the colonels and brigadiers of such division shall fill the same, by the election of some officer from among themselves.

Part of a former Act repealed.

II. *And be it further enacted* by the authority aforesaid, That so much of an Act, passed at the last session of the General Assembly, as enacts that the cavalry and artillery of this State shall be arranged into brigades, be, and is hereby, repealed; and that hereafter, colonels and majors of cavalry, and colonels and majors of artillery, respectively, may and shall be eligible by election to the commission of brigadier-general, or general of division, as the case may be, agreeably to terms set forth in the foregoing clause of this Act.

How to hold elections.

III. *And be it further enacted* by the authority aforesaid, That all elections for officers as aforesaid, shall be ordered by the officer commanding the battalion or squadron, regiment, brigade or division, wherein the vacancy shall occur, as the case may be, giving at least thirty days notice for the election of a major, at least forty days notice for that of a colonel, and at least fifty days notice of the election for a brigadier-general or general of division; that at every such election, it shall require a majority of the persons eligible to vote, to constitute an election, and a majority of the votes to elect.

Hoyt's system adopted.

IV. *And be it further enacted*, That in consequence of the major-generals and adjutant general of this State not having, as directed by the first section of the militia law, passed the seventeenth day of December last, brought forward a system of uniform exercise and evolutions, for the

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training of cavalry, that the exercise and evolutions laid down and published by —— Hoyt, be now and hereafter adopted, and none else, throughout the State, until the major-generals and adjutant-general do bring forward such uniform system, as directed by the aforesaid Act.

How fines are to be collected.

V. *And be it further enacted* by the authority aforesaid, That in future, all fines to be imposed for neglect of patroll and militia duty, generally, in every company, battalion, regiment or brigade, shall be collected as follows, viz :—by such person or persons as the majors, lieutenant-colonel, or commanding officer of regiments or brigades, shall appoint to collect the same within their respective commands; and that the said persons so to be appointed to collect said fines, shall be allowed a per centage on the monies to be collected by them, respectively, not exceeding ten per cent.; and that it shall be the duty of the senior officer presiding at a court martial, to furnish the collector so to be appointed, with a list of the fines imposed by such court, within fifteen days after the said court shall have imposed the same; and that the said collector shall, within thirty days after receiving such lists, notify to each delinquent the amount of his fine, and require the payment of the same; and if the said delinquent, so to be notified of his fine, shall neglect to pay the same for the space of fifteen days after such notification, the said collector shall issue an execution, and may arrest thereunder the body of said delinquent for satisfaction of said fine, unless the said delinquent shall point out sufficient property which can be levid on for satisfaction of said fine so to be imposed; and that it shall be the duty of the several tax collectors in this State, on the reasonable request of any commissioned officer in the militia, or of any collector of militia fines, to discover and make known the amount of the last general tax of any defaulter liable to be fined as aforesaid; *provided always*, that every non-commissioned officer or private, who may conceive himself aggrieved by the sentence of any court martial, shall have a right to appeal from the same, within fifteen days after being notified of the fine imposed, to the field officers of his regiment; and the determination of a majority of the field officers of such regiment, shall be conclusive on the subject submitted to them.

Collector to account to proper officer.

VI. *And be it further enacted* by the authority aforesaid, That all officers ordering court martials, or authorized by law to approve court martials, within their respective commands, shall, as often as they may think proper, and once in every year at least, compel the collector or collectors of fines as aforesaid, and all others who may have received or collected fines for neglect of patrol or militia duty, to come to an account and reckoning, and pay over the said fines so collected, to be applied according to law.

Officers to purchase lands for parade ground.

VII. *And be it further enacted* by the authority aforesaid, That the field officers of the seventh brigade, residing within the parishes of St. Philip's and St. Michael's, shall have power, for the use of the militia of said parishes, to purchase as much land, not exceeding three hundred acres, as they may deem requisite and sufficient for a parade ground, or place of military exercise; and they and their successors in command, may hold the same for ever thereafter, as a parade ground for the militia aforesaid, free of taxes; and to aid them in the purchase hereby intended to be made, the said field officers, or a majority of them, shall have liberty to draw one or more lotteries, the profits whereof to be applied in payment of said parade ground, and to no other purpose, and not to exceed the amount of the said purchase.

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Officers to meet and be instructed.

VIII. *And be it enacted* by the authority aforesaid, That the lieutenant-colonels or commandants or the respective regiments, shall, at least once in every year, order and direct the several commissioned and non-commissioned officers under their command, to assemble, completely armed and accoutred, at some convenient and central place, within their battalion or regimental preoinct, one day previous to the battalion or regimontal parade or review, for the purpose of being instructed in the exercise and manœuvres intended to be performed by the battalion or regiment to which said officers may be attached, at the next parade or review of the same; which said duty shall be in substitution of the duties required by law of said regimental officers, under the Act passed seventh December, one one thousand eight hundred and eight; and any commissioned officer neglecting to obey the order of his commanding officer aforesaid, shall be liable to the fines imposed by the aforesaid Act; and every non-commissioned officer, to the same fines as are imposed by law on them in case of their neglect of militia duty.

Fine for not riding patrol.

IX. *And be it further enacted* by the authority aforesaid, That every person liable to perform patrol duty, or liable to procure a substituto to perform the same, shall, on failure, without legal excuse, to ride patrol, either by himself or substitute, in their respective turn, for every such default, forfeit and pay to the commanding officer of the company of which such patrol is a detachment, the sum of five dollars, and also, the sum of five per cent. upon the amount of his last general tax, to be recovered before the captain of such company, the money to go to the use of the company of which such a patrol is a detachment; and all Acts and clauses of Acts repugnant hereto, be, and the same are hereby, repealed.

Money appropriated.

X. *And be it further enacted* by the authority aforesaid, That the sum of five hundred dollars be appropriated, subject to the draft of the Governor, for the payment of the balance due of the expenditure of the late quota of the militia of this State; and that the sum of five thousand dollars be appropriated, and be subject to the draft of the Governor, as a provision, in case the General Government should call upon this State to furnish a quota of active militia to take the field, and not otherwise; and also, that the sum of two thousand five hundred dollars be appropriated for the purpose of building two new sheds for the securing of the carriages for the artillery in Charleston, and for repairing the former ones built for that purpose, and that the same be subject to the draft of the field officers of the twenty-eighth and twenty-ninth regiments of this State, and the field officers of the regiment of artillery in Charleston.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and nine, and in the thirty-fourth year of the Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*
JOSEPH ALSTON, *Speaker of the House of Representatives.*

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No. 2010. AN ACT TO EXEMPT THE OFFICERS, NON-COMMISSIONED OFFICERS AND PRIVATES, OF THE CITY GUARD OF CHARLESTON, FROM MILITIA DUTY.

WHEREAS, it has been represented to the Legislature, that under the present militia laws of this State, the officers, non-commissioned officers and privates, of the city guard of Charleston, are subject, (notwithstanding their enrolment under the ordinance of said city,) to be fined by the officers of the militia in whose beat they reside, for not performing the duties required under the militia law, when at the same time they are performing the duties of guard and watch of the city; therefore, to remedy, in future, this inconvenience and grievance,

I. *Be it enacted, and it is hereby enacted*, That from and after the passing of this Act, that so much of the militia law of this State shall be, and is hereby, repealed, as imposes a fine or fines on any member of the city guard of Charleston, so long as said members so continue, and until discharged from the said guard, notwithstanding such member of the guard may be resident in the militia beat; *provided*, that the city guard of Charleston shall at no time consist of more than one hundred, rank and file; and this Act may, in the above case, be specially pleaded.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and twelve, and in the thirty-seventh year of the Sovereignty and Independence of the United States of America.

SAMUEL WARREN, *President of the Senate.*
JOHN GEDDES, *Speaker of the House of Representatives.*

No. 2026. AN ACT TO ALTER AND AMEND THE MILITIA LAWS OF THIS STATE.

Commander-in-chief may order out the militia.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the Commander-in-chief for the time being, may, in case of invasion or other emergency, when he shall judge it necessary, order out any portion of the militia of this State, to march to any part thereof, and continue not more than three months at any one time, and until relieved, for which he shall make timely provision; and likewise, may, in consequence of an application of the Executive of any of the United States, on an invasion or insurrection, or on apprehension of an invasion, of such State, at his discretion, order any number of militia, not exceeding one-third part thereof, to such State; *provided*, that the militia which shall be so ordered out of the State, shall not be obliged to continue on duty out of this State more than two months at any one time.

Volunteers and substitutes to be accepted.

II. *And be it further enacted* by the authority aforesaid, That in all cases where the militia are ordered out by virtue of this Act, volunteers and substitutes shall be accepted in the place of those ordered out, under the conditions, limitations and restrictions, already established by law.

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III. *And be it further enacted* by the authority aforesaid, That no civil officer whatsoever shall, on any pretence, execute any process, unless for treason, felony or breach of the peace, on any person whatsoever, when such person shall be called out into service and embodied by the Executive authority of this State, in pursuance of the directions of this Act, or within thirty days after such person shall be discharged from the service upon which such person shall be called out, under the penalty of twenty dollars, and the service of any such process shall be void, to all intents and purposes whatsoever; and that all suits which may be pending against such persons, shall stand and be continued over, in the same manner as if they had been regularly postponed by affidavit. Process, when to be executed.

IV. *And be it further enacted* by the authority aforesaid, That the estate of any person whatsoever, when such person shall be called out and embodied in pursuance of the directions of this Act, shall be free and exempt from levy, distress or sale, by virtue of any legal process whatsoever, from the time any such person shall be called out as aforesaid, and until thirty days shall elapse after such person shall be discharged from the service upon which such person shall be so called out; and that any person making any such levy, or distress, or sale, as aforesaid, shall be fined in the sum of twenty dollars; and every such levy, distress, or sale, as aforesaid, shall be void, to all intents and purposes whatsoever. Estates protected.

V. *And be it further enacted* by the authority aforesaid, That from and after the passing of this Act, the officers, non-commissioned officers, musicians and privates, of the infantry, artillery, cavalry and riflemen, of the militia of this State, when called into service and embodied by the authority of the laws thereof, and whilst remaining therein, shall be entitled to the same pay, rations and forage, with the regular troops of the United States. Pay of militia.

VI. *And be it further enacted* by the authority aforesaid, That whenever the militia shall be called into the actual service of this State, by the authority of the laws thereof, their pay shall be deemed to commence from the day of their appearing at the places of battalion, regimental or brigade rendezvous, allowing to each officer, non-commissioned officer, musician and private soldier, a day's pay and rations for every fifteen miles from his home to such place of rendezvous, and the same allowance for travelling home from the place of discharge. Pay, when to commence.

VII. *And be it further enacted* by the authority aforesaid, That whenever the militia, or any part thereof, shall be in actual service, and embodied in consequence of being so ordered out by the Commander-in-chief, either within or without the State, they shall be subject to the same rules and regulations as the troops of the United States shall be subject to, at the time the militia shall be so ordered out, in order to secure, as far as possible, an uniformity of discipline between the militia of this State and the troops of the United States; and the said rules and articles shall be proclaimed with due solemnity at the head of such detachment, as soon after their being assembled as possible. How to be governed.

VIII. *And be it further enacted* by the authority aforesaid, That whenever a militia-man, in either of the aforesaid cases, shall have been duly summoned or ordered to appear at the rendezvous appointed, and shall not appear, then, and in that case, he may be fined in a sum not exceeding five hundred dollars, and the amount of his taxes last paid to the State, at the discretion of a court martial, to be composed of officers of the detachment Fine for not turning out.

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ordered out, if it be convenient; if not convenient, of officers of the brigade to which the delinquent shall belong, or of any other officers of the militia of this State, at the discretion of the Commander-in-chief, who is hereby authorized to order the said courts, in conformity with the usage of the army of the United States. And in addition to the fine which the said court-martial may inflict on any person who may subject himself to any of the aforesaid penalties, the said court martial may, at their discretion, sentence any delinquent to imprisonment in the common gaol, for a term not exceeding three months; *provided, always*, that no fine or imprisonment shall be imposed on any delinquent until he shall have been summoned to appear before a court-martial, to shew cause why such fine or imprisonment should not be imposed.

How to be warned to turn out.

IX. *And be it further enacted* by the authority aforesaid, That as often as it shall happen that any non-commissioned officer or private shall be absent when any non-commissioned officer shall call to warn him to appear at rendezvous, a notice in writing, signed by such non-commissioned officer, and left at the usual place of his abode, shall be deemed a sufficient warning.

Fines, how to be collected.

X. *And be it further enacted* by the authority aforesaid, That all fines which shall be imposed by virtue of this Act, shall be collected in the following manner: the president of every court martial shall make a list of all the persons fined, designating the company to which they belong, and the sum imposed as fines on each person, and draw his warrant, under his hand and seal, directed to any sheriff of any district, as the case may be, thereby commanding such sheriff to levy such fine or fines, together with his costs, of the lands, tenements, goods and chattels, of such delinquent; and every such sheriff to whom such list and warrant aforesaid shall be directed and delivered, shall execute the same by levying and collecting the said fines, as aforesaid, and shall make return thereof, within forty days from the receipt of such warrant, to the president who issued the same; and should the sheriff be able to find no lands, tenements, goods or chattels, of which to levy the said fine or fines, then he shall take the body of the said delinquent, and commit it to gaol, and there keep it until the said fine or fines shall be paid, or until double the time shall have elapsed for which the delinquent would have served, had he joined the militia so ordered out; and the said sheriff shall be entitled to the same fees for collecting the aforesaid fines, and subject to the same penalties for neglect, as are allowed and provided in similar cases.

To be paid to the paymaster.

XI. *And be it further enacted* by the authority aforesaid, That all fines collected as above, shall be paid into the hands of the pay-master of the regiment to which the delinquents shall, respectively, belong.

Fines for patrol and militia duty.

XII. *And be it further enacted* by the authority aforesaid, That all fines, (except such as are otherwise provided for by this Act,) now incurred, or which may hereafter be incurred or imposed for neglect or default of patrol or militia duty, (except in the parishes of St. Philip and St. Michael,) may be collected in the following manner, to wit: by warrant, under the hand and seal of the captain, or other commanding officer of the company, or by the presiding officer of the court-martial by which the fine is imposed, which said warrant may be directed to any sergeant of the company to which the delinquent belongs, commanding him to levy and collect the said fine or fines; and the said sergeant is hereby authorized and required, under the penalty of twenty dollars, to call on every delinquent who shall

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be named in such warrant, or in a schedule or list to the warrant annexed, and to demand payment of the said fine or fines; and on neglect or refusal to make such payment, after demand thereof so as aforesaid made, then the said sergeant having the aforesaid warrant, is hereby required forthwith to proceed to collect the said fine or fines, together with such costs as are received by constables in small and mean causes.

XIII. *And be it further enacted* by the authority aforesaid, That the form of the warrant to be issued by the captain or commanding officer of the company, or the presiding officer of the court martial, for the collection of the fines aforesaid, shall be as follows:

"*The State of South Carolina*:

Whereas, the persons named in the schedule or list hereunto annexed, have been duly sentenced by a court martial to pay the sums to their names affixed; this warrant, therefore, authorizes and requires you to levy and sell of the goods and chattels sufficient to pay the fine and costs which have been adjudged against him; and pay over the fines aforesaid to the proper officer. Form of warrant to collect fines.

Given under my hand and seal, the ——— day of ———, one thousand eight hundred and ———.

A B, Captain. L. S."

XIV. *And be it further enacted* by the authority aforesaid, That if the said person to whom the said warrant shall be directed, shall make return that he cannot find any goods and chattels to be levied on, then the officer who issued the warrant is hereby authorized and required to issue a warrant against the body of the delinquent, and take him to the common gaol, there to remain for such time as is already provided for by law, unless the fine and costs may be sooner paid. Body of delinquent may be taken.

XV. *Whereas*, Chapman Levy, Francis Blair, William Robinson, Robert Singleton, Joshua English, John Hughson, William Trapp, A. Blanchard, John Parker, and Robert Coleman, have prayed for leave to raise a fund, by one or more lotteries, for the purpose of purchasing arms and other munitions of war for the use of the Camden rifle and artillery companies: *Be it therefore enacted* by the authority aforesaid, That the said Chapman Levy, Francis Blair, William Robinson, Robert Singleton, Joshua English, John Hughson, A. Blanchard, John Parker, and Robert Coleman, be, and they are hereby, authorized to raise a fund, not exceeding five thousand dollars, by establishing and drawing one or more lottery or lotteries; the said fund to be appropriated for the purchase of such arms as may be suitable for the use of the said Camden rifle and artillery companies. Camden Rifle and Artillery Companies.

XVI. *And be it further enacted* by the authority aforesaid, That all free persons of color, pioneers, fatigue-men, musicians, trumpeters, buglers, drummers, and fifers, attached to, or liable to do duty in, any company, troop or corps, shall be entitled to the same pay, and be liable to the same fines and penalties, and subject to the same rules and regulations, as the militia of this State are liable to. Pioneers, &c., how paid and governed.

XVII. *And be it further enacted* by the authority aforesaid, That the Commander-in-chief for the time being shall have authority to remove to some temporary place of safety and deposit, such portion of the arms, ammunition and military stores, at any time deposited in the public arsenals of the State, as circumstances may appear to require, and, when necessary, in his opinion, to provide and furnish sufficient guards to protect the public Commander-in-chief may remove public arms.

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arsenals, until it be found expedient to call out into the public service detachments of the militia, on whom this duty may in part devolve.

Arsenals to be examined.

XVIII. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the Governor and Commander-in-chief for the time being, from time to time, to examine, or cause to be examined by some proper officer, the situation of the respective arsenals throughout the State; to require security from the arsenal keepers, and to remove them for negligence or other improper conduct, or incapacity of performing the duties devolving on them as as such; and to appoint, in cases of removal, other persons to supply the vacancies thereby created.

Governor may aid in erecting temporary works.

XIX. *And be it further enacted* by the authority aforesaid, That the Commander-in-chief for the time being may, at his discretion, aid and assist the citizens of any portion of this State in erecting temporary works and means of protection, and build such redoubts and establish such military posts, as he shall deem necessary, and best calculated to promote the common defence.

Additional compensation to the adjutant general.

XX. *And be it further enacted* by the authority aforesaid, That the Governor shall be, and he is hereby, authorized to make, to the adjutant-general, from the contingent fund, such additional compensation as the additional duties imposed on that officer may, in his judgment, render proper and reasonable; *provided*, the same do not exceed five hundred dollars per annum.

Repealing clause.

XXI. *And be it further enacted* by the authority aforesaid, That all Acts and parts of Acts repugnant to this Act, be, and the same are hereby, repealed.

In the Senate House, the twenty-fourth day of September, in the year of our Lord one thousand eight hundred and thirteen, and in the thirty-eighth year of the Sovereignty and Independence of the United States of America.

JAMES B. RICHARDSON, *President of the Senate.*
JOHN GEDDES, *Speaker of the House of Representatives.*

No. 2046. AN ACT TO PROLONG THE TIME FOR CERTAIN MILITIA OFFICERS TO TAKE THE OATH OR AFFIRMATION PRESCRIBED BY LAW.

WHEREAS, many officers of the militia have, through inadvertence, neglected to take the oath or affirmation prescribed by the Act entitled "An Act to organize the militia throughout the State of South Carolina," passed on the nineteenth day of December, in the year of our Lord one thousand seven hundred and ninety-four, in conformity with the Act of Congress.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That a further term of six months be allowed the said officers to take the said oath or affirmation, before some justice of the peace or quorum, who shall certify the same on the back of their commissions; and the said officers thus taking said oath or affirmation, shall be

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still qualified to hold their said commissions; any law to the contrary notwithstanding. *Provided, nevertheless,* that if the said officers do not, within the said time, take the said oath or affirmation, their commissions shall be vacated.

II. *And be it further enacted* by the authority aforesaid, That any officer or officers taking the oath or affirmation within the time above mentioned, shall receive commissions of the same date, and shall be entitled to take the same grade, as if he or they had taken the said oath or affirmation according to the requisitions of the above-mentioned Act.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and fourteen, and in the thirty-ninth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
THOS. BENNETT, *Speaker of the House of Representatives.*

AN ACT TO DIVIDE THE STATE INTO FIVE DIVISIONS AND TEN BRIGADES. No. 2054.

I. *Be it enacted,* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and immediately after the passing of this Act, this State shall be divided into five divisions, and to each division there shall be a major-general; the first of which divisions shall comprehend the districts of Edgefield, Abbeville, Pendleton and Greenville; the second division shall comprehend the districts of Barnwell, Beaufort, Colleton, Charleston, Orangeburg, and Lexington, (except the Dutch Fork between Saluda and Broad rivers;) one other division shall comprehend the districts of Georgetown, Williamsburg, Horry, Marion, Marlborough, Chesterfield, and Darlington; one other division shall comprehend the districts of Richland, Sumter, Kershaw, Lancaster, Chester and Fairfield; one other division shall comprehend the districts of Union, York, Spartanburg, Newberry, and Laurens, including the Dutch Fork between Saluda and Broad rivers.

II. *And be it further enacted* by the authority aforesaid, That the rank of the three last divisions created by virtue of this Act, shall be ascertained and determined by lot, in the manner following, that is to say: a joint committee of both Houses shall forthwith cause the words Eastern Division, North-Eastern Division, and Northern Division, to be, respectively, written on three pieces of paper, which shall be folded up and put into a hat, and they shall then cause a child under ten years of age to draw out, in their presence, two of the said pieces of paper or lots, and that which shall be first drawn shall be the third division of this State, that which is next drawn shall be the fourth division, and the remaining lot or piece of paper shall be the fifth division.

III. *And be it further enacted* by the authority aforesaid, That the rank of the brigades and regiments of infantry shall likewise be determined by

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lot, the first division having the lowest numbers and highest rank, those of the second division shall be next lowest in numbers and highest in rank, and so on, according to the rank of the respective divisions, taking care so to conduct the drawing that the lowest number of the respective regiments be given to the lowest number of the respective brigades; and that the rank of the battalions, in their respective regiments, be always determined by the seniority of their respective majors.

IV. *And be it further enacted* by the authority aforesaid, That the districts of Fairfield and Chester shall form and constitute one additional brigade, which shall be numbered according to the rank to which it may be drawn.

V. *And be it further enacted* by the authority aforesaid, That the cavalry now raised, and hereafter to be raised, in the districts of Fairfield and Chester, shall form one regiment or squadron, according as the number of troops therein may warrant.

VI. *And be it further enacted* by the authority aforesaid, That the Legislature, under this Act, shall choose, by ballot, the major-generals of the three additional divisions created by virtue of this Act, who shall take rank according to the number of their divisions; the Legislature shall also choose, in like manner, the brigadier-general of the newly formed brigade; and as soon as the brigadier-general is notified by the Governor of his election, he shall proceed to divide his brigade into four regiments, and after he has made such division he shall appoint five fit and proper persons in each regiment, whose duty it shall be to divide the respective regiments into battalions and companies, as near as conveniently may be conformably to the Acts of Congress. *Provided*, no officer now in commision in said regiments shall be divested of his commission by such division or alteration.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and fourteen, and in the thirty-ninth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
THOS. BENNETT, *Speaker of the House of Representatives.*

No. 2055. AN ACT TO RAISE A BRIGADE OF STATE TROOPS.

Brigade of infantry to be raised

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That there shall be raised, in this State, one brigade of military, in the manner hereinafter mentioned; that said brigade shall consist of two regiments, each regiment of two battalions, each battalion of five companies, and each company of one captain, one first lieutenant, one second lieutenant, one third lieutenant, one ensign, five sergeants, six corporals, two musicians, and ninety privates. That each battalion shall have one major, and each regiment one colonel, one lieutenant-colonel, one adjutant, one quarter-master, one pay-master, one surgeon, two surgeon's mates, one

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sergeant-major, and one quarter-master sergeant; and said brigade shall be commanded by a brigadier general, who shall appoint such brigade staff as are attached to the brigades in the army of the United States; and the colonels shall appoint the staff of their respective regiments.

Field officers, how appointed, &c.

II. *And be it further enacted* by the authority aforesaid, That the brigadier-general and field officers of the said brigade shall be appointed by the Legislature previous to the adjournment, but they shall not be called into service, nor be entitled to pay, until their respective commands have been raised, that is to say:—as soon as five companies are raised, the eldest major shall be called into service; as soon as six companies are raised, the eldest lieutenant-colonel shall be called into service; and as soon as a regiment is raised, all the officers of a regiment shall be called into service. That as soon as two regiments are completed, the brigadier-general, with his staff, shall be called into service; and when the services of these officers, respectively, are required, they shall be notified thereof by the Governor and Commander-in-chief.

Company officers, how appointed.

III. *And be it further enacted* by the authority aforesaid, That the company officers of the said brigade shall be appointed and commissioned in the following manner, that is to say:—as soon as any five citizens of the United States shall engage a full company of able bodied effective men, and present them to the Governor, or any inspector authorized to inspect them, or shall shew, by the articles of engagement, that he has actually engaged the said company, they shall be entitled to the commissions in that company, which shall be distributed according to any agreement which shall have been made between the parties; and the company first raised, shall rank first; that is to say, the captain thereof shall be the first captain in the brigade, and, with his officers, shall take rank from the day on which his company was inspected and received; and all the companies which shall be raised in the manner aforesaid, shall rank from the day on which they shall be inspected and received.

Persons furnishing substitutes exempt from draft.

IV. *And be it further enacted* by the authority aforesaid, That every militia man of this State who shall furnish an able bodied man for the brigade, shall be, and he is hereby, exempted from any draft to which the militia of this State shall be liable during the service of the brigade, excepting in cases of invasion or insurrection; and the said citizen so furnishing such recruit, shall, in every other respect, be liable to the performance of militia and patrol duty, as is now required by law; and the certificate of any officer of the said brigade shall be regarded as sufficient evidence to entitle any militia man to the exemption aforesaid; *provided, however*, that the recruit so furnished shall not be entitled to and receive the bounty offered by the State.

Deficiency of troops, how to be made up.

V. *And be it further enacted* by the authority aforesaid, That if the whole number of troops authorized by this Act shall not be raised in the manner beforementioned, the deficiency shall be raised in the following manner, that is to say:—the Governor shall appoint four convenient places of rendezvous, or more, for the four battalions hereby authorized to be raised, and shall, by proclamation, call upon all persons who shall raise any number of men to present them, on the first day of May next, at one of the places of rendezvous appointed by him; that the Governor is hereby authorized and directed to appoint some proper person to inspect the said troops; that if any five persons shall then and there present a full company, they shall be first commissioned; that if no full companies shall have been commissioned, or there shall remain vacancies in the said regiment, the

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person presenting the greatest number of men shall be commissioned captain, and take rank next to those previously commissioned; the person presenting the next greatest number shall be the next captain; and so on, until all the vacancies are filled, each officer taking rank according to the number of men he shall bring. *Provided, always*, that no person shall be entitled to a captain's commission who shall bring less than forty men; no person a first lieutenant's commission, who shall bring less than twenty-one men; no person a second lieutenant's, who shall bring less than eighteen men; no person a third lieutenant's, who shall bring less than fourteen men; and no person an ensign's, who shall bring less than ten men. And *provided also*, that if a greater number of men are presented than are required, those who bring the greatest number of men shall be first accepted, and the surplus shall be discharged proportionably and by lot; and the men so discharged shall be entitled to forty cents per day, from the time they left the place of their engagement, until their return to the same place, at the rate of fifteen miles for every day.

Engagement to be signed.

VI. *And be it further enacted* by the authority aforesaid, That any person who shall undertake to raise men for the brigade aforesaid, shall be authorized to obtain signatures to an engagement to serve the State during the continuance of the present war; and any person who shall sign such engagement, shall be bound thereby as firmly as if they had regularly engaged with an authorized officer of the State; and if, after having so engaged, he shall fail to appear at the places of rendezvous appointed by virtue of this Act, he shall be deemed a deserter, and proceeded against accordingly; and on the said recruit's appearing at any of the abovementioned places of rendezvous, he shall receive a bounty of thirty dollars, and have the rules and articles of war read to him, and shall be liable to the said rules and articles of war, as practised in the army of the United States. *Provided, nevertheless*, that nothing herein contained shall effect any minor, unless such minor shall have the sanction, in writing, of his father, if he be alive, and if the father be not alive, of his mother, and if neither father or mother be alive, then of his guardian.

Rank of officers determined by lot.

VII. *And be it further enacted* by the authority aforesaid, That on the appointment of the field officers, a joint committee of the two houses shall determine by ballot the rank of the officers; those which shall draw the lowest numbers shall be the highest in rank, and be attached to the first regiment, and the others to the second regiment; and the said regiments shall be called the first and second regiments of South Carolina State Troops; and in case any officer appointed by the Legislature shall refuse to accept said appointment, or resign, or die, before the battalions shall have been raised, the Governor shall appoint some suitable person to fill such vacancy.

Officers, how to rise.

VIII. *And be it further enacted* by the authority aforesaid, That the officers of the said brigade shall rise in line in conformity to the regulations adopted in the army of the United States; and the Governor shall appoint proper persons to be ensigns in the place of those who shall be promoted.

Pay and clothing of the officers and men.

IX. *And be it further enacted* by the authority aforesaid, That the officers, non-commissioned and privates of the said brigade, shall be entitled to the same pay, rations, clothing, and allowance, (except bounty,) as the troops of the United States.

X. *And be it further enacted* by the authority aforesaid, That the officers of the said brigade shall, when serving with the militia of this State,

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or the army of the United States, have the same rank as the officers of the United States's army; and that all persons attached to the said brigade, committing any offences, shall be tried, and the offenders punished, by a court-martial composed of officers of the brigade; and when any offence shall be committed by the brigadier-general or the field officers of the said brigade, a court-martial shall be held by the militia officers of the State. Rank of officers, &c.

XI. *And be it further enacted* by the authority aforesaid, That the uniform of the said brigade shall be blue woolen coatees and pantaloons, after the same fashion, and in every respect comformable, with the uniform of the infantry of the United States, except that the non-commissioned officers and soldiers shall wear round wool hats, with blue pompons; but the officers of the said brigade shall wear the same dress as the officers of the United States infantry, with yellow buttons, gold epaulets, and a blue feather. Uniform of the brigade.

XII. *And be it further enacted* by the authority aforesaid, That as soon as the said brigade, or any part thereof, shall be raised, they shall be offered by the Governor to the United States; on the condition, however, that they be kept within the State for the defence thereof, unless in the case of an actual invasion of a contiguous State, it shall become necessary to call on the people of South Carolina to assist in repelling them; in which case, the said brigade may be marched to repel such invasion; *provided*, they be not kept out of the State longer than necessary to repel such invasion; and while so out of the State, an equal number of militia be called into service by the United States, for the protection of this State. Brigade to be offered to the United States.

XIII. *And be it further enacted* by the authority aforesaid, That immediately after the passing of this Act, it shall be the duty of the Governor to transmit a copy thereof to the Secretary of War, and to know from him how far the United States can aid the State in arms, clothing, and munitions of war; and he is hereby authorized and directed to order the commissary-general of purchases to procure whatever may be necessary for the purposes aforesaid, and which cannot be provided by the United States; and the Governor is authorized to draw orders on the treasury in favor of the proper officers, taking receipts for the same; and all the accounts of the expenditures made by virtue of this Act, shall be rendered to the comptroller-general, and by him be laid before the Legislature. Governor to transmit this Act to the secretary.

XIV. *And be it further enacted* by the authority aforesaid, That as soon as any part of the said brigade shall be called into service, the Governor shall be authorized to purchase, and attach to the several posts that may be established on the sea board, any number of row, or other boats, not exceeding twelve, suitable to the transportation of troops at a moment's warning, to any point of attack, and to be employed as look-out boats, to ascertain the approach of the enemy's barges, and to give notice thereof to the coasting trade. Boats to be attached to military posts.

XV. *And be it further enacted* by the authority aforesaid, That the sum of five hundred thousand dollars be, and the same is hereby, appropriated out of any monies in the treasury not otherwise appropriated, for the purpose of carrying this Act into full and complete effect. Appropriation.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and fourteen, and in the thirty-ninth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
THOMAS BENNETT, *Speaker of the House of Representatives.*

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No. 2069. AN ACT FOR THE ORGANIZATION OF THE STAFF OF THE MILITIA OF SOUTH CAROLINA; AND FOR OTHER PURPOSES THEREIN MENTIONED.

Staff of the militia of this State organized.

I. *Be it enacted*, by the Senate and House of Representatives of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the adjutant-general's department shall hereafter consist of one adjutant and inspector-general, with the rank of a brigadier-general, and five division or deputy adjutant-generals, with the rank of lieutenant colonel, one in each division. That the quartermaster-general's department shall consist of one quartermaster-general, with the rank of colonel, five division or deputy quartermaster-generals, with the rank of major, and ten brigade or assistant deputy quartermaster-generals, with the rank of captain; one division quartermaster being taken from each division, and one brigade quartermaster from each brigade. That there shall be to each division of the State, one division or assistant inspector-general, with the rank of lieutenant-colonel, and to each brigade, one assistant deputy inspector-general, with the rank of major. There shall also be to the militia of this State, one judge advocate general, with the rank of lieutenant-colonel; and to each brigade there shall be a brigade or deputy judge advocate general, with the rank of major.

Commissary general of purchases.

II. *And be it further enacted* by the authority aforesaid, That there shall be one commissary-general of purchases, with the rank of lieutenant-colonel; one commissary-general of issues, with the rank of lieutenant-colonel; one paymaster-general, with the rank of lieutenant-colonel; one physician and surgeon-general, with the rank of lieutenant-colonel; one apothecary-general, with the rank of major; and one brigade chaplain to each brigade.

Aids-de-camp to be appointed.

III. *And be it further enacted* by the authority aforesaid, That the Governor and Commander-in-chief shall be entitled to ten aids-de-camp, with the rank of lieutenant-colonel; the major-generals to three aids-de-camp, with the rank of major; and the brigadier-generals to two aids-de-camp, with the rank of captain.

Adjutant general to be inspector general, &c.

IV. *And be it further enacted* by the authority aforesaid, That the adjutant-general shall be, and he is hereby, appointed adjutant and inspector-general, and that all officers who now hold any of the aforesaid offices, be, and they are hereby, confirmed in them respectively; and the Governor and Commander-in-chief shall be authorized to appoint proper persons to the offices hereby created, and to fill all vacancies which shall hereafter occur in any of the abovementioned offices, except aids to the major-generals and brigadier-generals.

Duties defined.

V. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the Governor and Commander-in-chief, and he is hereby authorized, to prepare general regulations, better defining and prescribing the respective duties and powers of the several officers before mentioned, which shall be respected and obeyed, until altered and revoked by the same authority; and the said general regulations shall be laid before the Legislature at their next meeting.

Certain officers not to be affected thereby.

VI. *And be it further enacted* by the authority aforesaid, That nothing herein contained shall be construed so as to affect the officers of the regimental staff, or the brigade majors, now authorized by law, otherwise than being subject to the general regulations aforesaid.

VII. *And be it further enacted* by the authority aforesaid, That the uniform of the officers of the militia of this State shall hereafter be the

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same in every respect, as that now established in the army of the United States for officers of similar grade and character; and that all the officers hereafter to be elected, shall be required to conform to this arrangement immediately on their election; and all officers now in commission, shall be allowed twelve months to procure the new uniform. *Provided*, nothing herein contained shall be construed to extend to officers of volunteer companies.

In the Senate House, the thirteenth day of December, in the year of our Lord one thousand eight hundred and fifteen, and in the fortieth year of the Sovereignty and Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
THOMAS BENNETT, *Speaker of the House of Representatives.*

AN ACT TO ALTER AND AMEND THE MILITIA LAWS OF THIS STATE. No. 2071.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, every officer of the militia of this State who shall be declared, by the sentence of a court martial, to be incompetent to the discharge of the duties of his station, shall be cashiered; *provided*, every officer, after charges exhibited, shall be at liberty to resign; the said courts martial to be ordered by the officers commanding battalions, regiments, brigades, and divisions, respectively; and on major-generals, by the Commander-in-chief; and the members of every court martial hereafter to be held in this State, as well on officers as non-commissioned officers and privates, shall, in addition to the oath now prescribed by law, severally swear, "that they will well and truly try and determine the cases that shall be brought before them, according to law, and the evidence that shall be adduced." Incompetent officers to be cashiered.

II. *And be it further enacted* by the authority aforesaid, That courts martial on non-commissioned officers and privates, may hereafter be held by any three commissioned officers of the regiment to which they belong. Courts-martial.

III. *And be it further enacted* by the authority aforesaid, That no appeal shall hereafter be made from courts martial, imposing fines on non-commissioned officers and privates, unless the appellant shall accompany his appeal by an affidavit, that he could not attend the court by which he was fined, and that he does not appeal for the purpose of delay; in all other cases, the decision of every such court martial shall, when approved by the officer ordering the same, be final and conclusive.

IV. *And be it further enacted* by the authority aforesaid, That every officer who shall hereafter be cashiered by the sentence of a court martial, shall be disqualified from holding any commission in the militia, for a period not less than one year, nor more than five, at the discretion of the court; and no officer who shall hereafter resign his commission, shall be Appeals, how to be made.

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re-eligible to the same office, until it shall have been filled by some other person.

Penalty for not attending properly equipped, &c.

V. *And be it further enacted* by the authority aforesaid, That in addition to the fines now imposed by law on officers neglecting to attend the brigade encampments, without a sufficient excuse, every officer so neglecting shall pay fifty per cent. on his general tax for the year preceding such default, and shall be fined the sum of one dollar for each article of uniform or equipment which he shall not have at such encampment, unless he can shew that he could not procure the same; and it shall be the duty of the brigadier and major-generals to attend the reviews of their respective brigades; and for their neglecting so to do, every brigadier-general shall be fined in the sum of fifty dollars, and fifty per cent. on his general tax; and every major-general the sum of eighty dollars, and fifty per cent. on his tax. And all fines hereby imposed for default at any brigade encampment, shall be collected in the manner following, that is to say:—the presiding officer of the court martial shall issue his warrant under his hand and seal, directed to any person now authorized to collect fines in the several regimental districts, who shall collect the same in like manner as other fines are now collected; and for the collection of the same, he shall be allowed twenty per cent. on the amount collected; and that the said penalty, when received, shall be paid to the collector of the regiment, to be applied to the purchase of drums, fifes or colors, for the use of the regiment, and for defraying other necessary expenses of the same, or the necessary expenses of the brigade or division.

Penalty for not enforcing militia law.

VI. *And be it further enacted* by the authority aforesaid, That every officer whose duty it shall be to enforce the militia laws of this State, who shall wilfully neglect so to do, shall, on conviction, be cashiered; and courts martial shall be ordered as in other cases.

Officers to assemble the day previous to regimental musters.

VII. *And be it further enacted* by the authority aforesaid, That it shall be the duty of officers commanding regiments, to assemble the officers and non-commissioned officers of their respective regiments, the day previous to every regimental muster, to instruct them in the exercise and evolutions to be performed on the day following; and every officer and non-commissioned officer who shall fail to attend such meeting, shall be subject to the same fines as are imposed by law for non-attendance at regimental musters; and courts martial shall be ordered as in other cases.

Officers of cavalry and artillery to attend brigade encampments.

VIII. *And be it further enacted* by the authority aforesaid, That officers of the cavalry and artillery shall be liable to attend at the brigade encampments; and where cavalry and artillery companies are attached to regiments of infantry, the officers and non-commissioned officers of the companies so attached, shall attend the meeting of the regimental officers of infantry the day previous to every regimental muster, to be instructed in the evolutions to be performed; and the said officers of cavalry and artillery shall, at the brigade encampments, be armed in the same manner as officers of infantry; and for non-attendance at such encampments, or at the regimental meetings aforesaid, the said officers and non-commissioned officers shall be liable to the same fines as the officers of infantry; and any officer guilty of misconduct at any encampment or regimental meeting, shall be liable to be put under guard, and to be cashiered by the sentence of a court martial; and should any person not bound to attend at such meetings, molest or disturb the same, such person may be put under guard, and kept in confinement at the discretion of the commanding officer, during the continuance of such encampment.

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U. S. exercises to be observed.

IX. *And be it further enacted* by the authority aforesaid, That the rules and regulations of the field exercise and maœuvres of infantry, compiled and adapted to the organization of the army of the United States, agreeably to a resolve of Congress, shall hereafter be observed in the instruction and exercise of infantry within this State, and that every officer shall be furnished by the State with a copy thereof; and every such officer so furnished, shall be compelled, upon the vacation of his commission, to deliver over to his successor the said book, under the penalty of five dollars, to be recovered before any magistrate.

Volunteer companies may be raised.

X. *And be it further enacted* by the authority aforesaid, That the officers commanding regiments of infantry within this State, shall be authorized to permit volunteer uniform companies of infantry or riflemen to be raised within their respective commands, and the officers thereof shall be commissioned, if such companies shall consist, respectively, of forty effective rank and file in uniform; and officers commanding brigades are authorized to permit volunteer companies of cavalry and artillery to be raised within their respective commands, which shall consist of thirty effective men in complete uniform, and to commission the officers thereof; and if such volunteer companies of infantry or riflemen shall at any time be reduced below thirty men in uniform, and any such company of cavalry or artillery shall be reduced below twenty-four men in uniform, and the said companies, respectively, shall not, within six months after notice given by the commanding officer of the brigade or regiment, recruit their respective companies, they shall be dissolved, and the commissions of the officers forfeited; *provided always*, that no beat or district company shall be reduced below thirty men, by the formation of any volunteer company or companies; and *provided also*, that whenever any call shall be made for the services of any volunteer company, they shall go by companies under their own officers; *provided*, nothing herein contained shall authorize the raising a greater portion of cavalry, artillery, riflemen or infantry, than are now authorized by law.

Rank of officers settled.

XI. *And be it further enacted* by the authority aforesaid, That the rank of officers in the militia of this State shall be the same as that of the officers of the army of the United States, that is to say:—the commanding officers of regiments shall hereafter have the rank of colonel; the second officer in each regiment shall have the rank of lieutenant-colonel; and to each company of infantry there shall be a captain, first lieutenant, second lieutenant, and ensign; and every lieutenant-colonel in the State is hereby created a colonel; the first major of every regiment, a lieutenant-colonel; the lieutenant of every company, a first lieutenant; and the ensign of every company, a second lieutenant; and elections shall be held throughout the State for ensigns in the several companies; and the proper officers are hereby authorized to give commissions to the officers hereby promoted, who shall take rank from the date of their former commissions, respectively.

Charleston Ancient Battalion of Artillery, divested of certain privileges.

XII. And *whereas*, the Charleston Ancient Battalion of Artillery are now entitled to or do assume certain exclusive privileges, from which other militia corps are excluded:—*Be it therefore enacted* by the authority aforesaid, That the said Charleston Ancient Battalion of Artillery shall be, and they are hereby, divested of all exclusive privileges, and put upon an equality with the other militia companies and battalions of this State; *provided*, the captains-lieutenants now in commission, shall retain their commissions; but when vacancies hereafter occur in said offices, no elections

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shall be held, nor rise by seniority to supply said offices, but the office of captain-lieutenant shall be abolished.

Charleston, how guarded in case of alarm of fire, &c.

XIII. *And be it further enacted* by the authority aforesaid, That the Governor and Commander-in-chief, in order to prevent the confusion which may arise from too many men being under arms, when fires shall break out in the city of Charleston, be, and he is hereby, authorized to fix the number of men necessary to be under arms in such cases, and to make regulations by which a certain portion only of the militia of Charleston shall be required, for the period of three months, to hold themselves in readiness to parade in cases of alarm from fire; and if any officer, non-commissioned officer, or soldier, so ordered, shall fail to attend at his muster-ground in cases of alarm, he shall be subject to the same fines as are imposed by law for non-attendance at regimental musters.

Public arms to be sold.

XIV. *And be it further enacted* by the authority aforesaid, That the Governor and Commander-in-chief be, and he is hereby, authorized to cause to be sold such arms as on inspection shall be found incapable of repair, and to pass the amount of such sales to the credit of the quartermaster-general's department, to be applied to the repair and preservation of arms.

Arsenals to be visited.

XV. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the brigade quarter-masters, within the limits of whose brigades arsenals are or shall hereafter be established, to visit and inspect the same, at least once in every year, and to report to the quartermaster-general thereon; and that the several arsenal keepers within the State shall each receive an additional compensation of one hundred dollars per annum, and shall give bond to the quartermaster-general for the faithful performance of their duties.

Officers to raise by seniority.

XVI. *And be it further enacted* by the authority aforesaid, That where vacancies shall hereafter occur in any company, battalion, regiment, brigade, or division, such vacancy shall be filled by the officer next in rank, the officers rising by seniority in their respective companies, battalions, regiments, brigades and divisions.

Former Acts repealed.

XVII. *And be it further enacted* by the authority aforesaid, That all Acts and parts of Acts contrary to any thing herein contained, be, and the same is hereby, repealed.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and fifteen, and in the fortieth year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
THOS. BENNETT, *Speaker of the House of Representatives.*

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AN ACT TO MAKE ALL THE OFFICERS OF THE MILITIA OF THIS STATE ELECTIVE. No. 2099.

WHEREAS, experience has shown that it is inexpedient that the officers of the militia of this State should rise by seniority; for remedy whereof,

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this Act, when any vacancy shall take place in any of the military commissions of the militia of this State, the same shall be filled by election, in the following manner: when any vacancy shall take place in the commission of a major-general, the Governor for the time being shall forthwith issue his orders to the several brigadier-generals of the division in which such vacancy shall happen, requiring such brigadier-generals to order an election in each regiment within the division in which such vacancy shall have occurred, for a major-general to fill such vacancy; and all commissioned officers of the division in which such vacancy shall have happened, shall be entitled to vote for a major-general; and any commissioned officer of the division in which such vacancy shall have occurred, shall be eligible to the office of major-general; and each colonel shall return the state of the polls of his regiment to the brigadier-general, who shall transmit the same to the Governor, who is hereby empowered to pronounce the person having the greatest number of votes to be duly elected, and shall commission such person accordingly. Vacancies to be filled by elections.

II. *And be it further enacted* by the authority aforesaid, That when any vacancy shall take place in the commission of brigadier-general, the major-general, and in case there is no major-general, then the next commanding officer of the division, shall forthwith issue his orders to the several colonels of the regiments composing the brigade where such vacancy shall be, to hold, in each of their respective regiments, an election for brigadier-general, to fill such vacancy; and all commissioned officers of the brigade where there shall be such vacancy, shall be entitled to vote for brigadier-general to fill the same; and any commissioned officer of such brigade shall be eligible to the office of brigadier-general; and each colonel shall attend the counting out of the votes, and return the state of the polls of his regiment to the commanding officer of the division, who shall pronounce the person having the greatest number of votes duly elected, and commission him accordingly. And when any vacancy shall take place in the commission of colonel of infantry, the same shall be filled by election by all free white men above the age of eighteen years, who reside within the said regiment, (except such persons as are attached to the cavalry, or any regiment of artillery,) the person having the greatest number of votes shall be the person elected. When any vacancy shall take place in the commission of lieutenant-colonel, the major then in commission in the same regiment shall be immediately commissioned lieutenant-colonel; and whenever a vacancy shall take place in the commission of major, the same shall be filled by election by all free white men above the age of eighteen years, who belong to the battalion where such vacancy shall occur; the person having the greatest number of votes shall be elected. When any vacancy shall take place in the commission of captain, first-lieutenant, second-lieutenant, or ensign, of any beat company, the same shall be filled by election by all free white men above the age of eighteen years, residing within Officers, how to be elected.

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the said beat company; the person having the greatest number of votes shall be the person elected. *Provided, nevertheless*, that nothing herein contained shall extend to any volunteer corps of artillery, cavalry or light infantry, who shall elect their respective officers from among themselves, in the following manner: when any vacancy shall take place in the commission of colonel of cavalry, the same shall be elected from amongst the officers, non-commissioned officers and privates of the said regiment, by themselves; the person having the greatest number of votes to be the person elected. When any vacancy shall take place in the commission of lieutenant-colonel, or major of cavalry, or major of artillery, the same shall be filled by election, by the officers, non-commissioned officers and privates composing the said battalion or squadron, from among themselves; the person having the greatest number of votes to be the person elected. When any vacancy shall take place in the commission of any captain, first lieutenant, second lieutenant, ensign or cornet, of any company of artillery, light infantry, or troop of cavalry, the same shall be filled by election, by the officers, non-commissioned officers and privates of the said company or troop, from among themselves; the person having the greatest number of votes shall be the person elected.

Colonel. III. *Be it further enacted*, That when the commission of a colonel shall become vacant, the brigadier-general, or, in case there be no brigadier-general or major-general commanding the said regiment, the Governor for the time being, shall appoint two fit and proper persons to open and hold a poll at each of the battalion muster grounds of the said regiment, and two fit and proper persons to open and hold a poll at the regimental muster ground of the said regiment; which said managers shall advertise the same for forty days in twelve public places in the said regiment; the said managers shall hold the polls one day at each place, from eleven o'clock in the morning until three o'clock in the afternoon, and shall meet at the regimental muster ground on the day following, and count over the votes and declare the election.

Major. IV. *Be it further enacted*, That when the commission of major shall become vacant, the colonel, or, if there be no colonel, the officer next in command in the said regiment or battalion, shall appoint two fit and proper persons to open and hold the poll for the said election, at the battalion muster ground of the said battalion, from ten o'clock in the morning until four o'clock in the afternoon, after having advertized the same for thirty days in six public places within the said battalion; and the said managers shall meet at the said place of election the day following, count over the votes and declare the election.

Captain. V. *Be it enacted*, That when any vacancy shall take place in a captain's commission, the lieutenant-colonel or officer commanding the battalion or squadron, shall appoint two fit and proper persons within the said company or troop, to manage the said election, who shall hold the polls at the usual muster ground of the said troop or company, from eleven o'clock in the morning until three o'clock in the afternoon, after having advertized the same for twenty days before the said election, in at least four public places in the said company or troop; and that on the same evening the managers shall count over the votes and declare the election.

Lieutenant, &c. VI. *Be it further enacted*, That when the commission of first lieutenant, second lieutenant, ensign, or cornet, shall become vacant, the captain, or if there be no captain, the major or lieutenant-colonel, commanding the said company or troop, shall appoint two fit and proper persons to hold an election at the usual muster ground of said company or troop, from eleven

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o'clock in the morning until three o'clock in the afternoon, after having advertized the same for at least twenty days previous to the election, in at least four public places in the said company or troop; and on the same evening the managers shall count over the votes and declare the election.

VII. *Be it further enacted*, That when any division, brigade, regiment, battalion, squadron, company or troop, shall be embodied and in actual service, either under the authority of this State or of the United States, the vacancies therein shall be filed by seniority, agreeable to the usages and customs of war. In time of actual service, vacancies to be filled by seniority.

VIII. *And be it further enacted* by the authority aforesaid, That whenever an election is ordered for a major-general or brigadier-general, it shall be the duty of each colonel who shall be ordered to hold such election, to give fifty days notice in his regiment of such election, and post up the said notice for that length of time, at least at one public place in each beat in his regiment. Notice to be given of elections.

IX. *And be it further enacted* by the authority aforesaid, that from and after the passing of this Act, it shall not be necessary, in order to constitute a battalion court martial or court of enquiry, that a field officer should preside; but that the same may consist of a captain, as presiding officer of said court, and four other commissioned officers of said battalion, one of whom at least shall be of the rank of a captain. Courts-martial, how to be constituted.

X. *And be it further enacted* by the authority aforesaid, That the commanding officer of any division, brigade, regiment, battalion, squadron, troop or company, who shall call out the men under his command to muster, shall be, and he is hereby, authorized and empowered to appoint a sutler to retail spirituous liquors at the muster ground of said division, brigade, regiment, battalion, squadron, troop or company, without any other license or permission. *Provided*, that the said sutler so appointed do furnish a suitable field to exercise the said troops on, to be approved by the commanding officer who shall have ordered the said muster. Sutlers to be appointed.

XI. *And be it further enacted*, That all Acts and parts of Acts repugnant to this Act, be, and the same are hereby, repealed.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, and in the forty-first year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
THOS. BENNETT, *Speaker of the House of Representatives.*

AN ACT TO INCREASE THE NUMBER OF PLACES OF ELECTIONS, NOW LIMITED BY LAW, FOR THE ELECTIONS OF COLONELS AND MAJORS IN EACH REGIMENT OR BATTALION THROUGHOUT THE STATE; AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 2187.

I. *Be it enacted* by the Honorable Senate and House of Representatives, now met and in Session, and by the authority of the same, That from and immediately after the passing of this Act, instead of the elections for colonels being only held at the battalion muster grounds as heretofore, when

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Elections, where and how to be held.

the commission of colonel in any regiment shall hereafter become vacant, the brigadier-general, or in case there be no brigadier-general or major-general commanding said regiment, the officer next in command in said brigade, shall issue his order, to be extended to each captain or commanding officer of a company constituting said regiment, to call to his assistance two of his subaltern officers, or, if none, two other fit and proper persons, to open and hold a poll at their respective muster grounds, which said captain shall advertize for at least forty days at three public places in the bounds of his command; the said managers shall hold the polls one day, from eleven o'clock in the morning until three o'clock in the afternoon, and shall meet at the regimental muster ground the first or second day after the election, as may be ordered by the officer who shall order such election, to count over the votes and declare the election. That when the commission of major shall become vacant, the colonel, and if there be no colonel, the officer next in command in said regiment, shall order each captain or commandant of a company to call to his assistance two of his subaltern officers, or other fit and proper persons, to open and hold a poll at their respective muster grounds, giving forty days notice, by advertising in three public places in the bounds of their command; the said managers shall hold the poll on one day at their muster ground, from eleven o'clock in the morning until three o'clock in the afternoon, and shall meet on the battalion muster ground, or some public house near the same, on the day following, and count over the votes and declare the election.

Managers to be sworn.

II. *And be it further enacted* by the authority aforesaid, That the managers of elections to be appointed in pursuance of this Act, before they proceed to hold any election, shall be duly sworn that they will impartially and faithfully hold such election; and that the presence of not more than one manager from each place of election, shall be necessary at the time of counting over the votes and declaring the election.

Battalion of artillery dissolved.

III. *And be it further enacted* by the authority aforesaid, That the battalion of artillery formed by an Act of the General Assembly of the year seventeen hundred and ninety-seven, of the three companies of artillery then in brigadier-general Winn's brigade, be, and the same is hereby, dissolved.

Managers exempt from toll.

IV. *And be it enacted* by the authority aforesaid, That the managers of elections for colonels and majors as aforesaid, shall be exempted from paying any ferriage or toll which are usually paid at the ferries and toll-bridges within this State, while going or returning from the places for holding and declaring the elections, as aforesaid; any law, usage or custom to the contrary notwithstanding.

Companies to be subdivided.

V. *And be it further enacted* by the authority aforesaid, That the brigadier-general or commandant of the third brigade, be, and he is hereby, authorized to appoint three fit and proper persons to subdivide into three companies the two companies now commanded by captains Simms and Farr, of the south battalion, thirteenth regiment South Carolina militia. *Provided, nevertheless*, that the officers now in commission shall hold their respective commissions in one of the said subdivided companies, and cause the vacancies for the balance of the officers to be filled up, as heretofore provided by law.

R. Hamilton's company to be subdivided.

VI. *And be it further enacted* by the authority aforesaid, That the brigadier-general of the eighth brigade be, and he is hereby, authorized to appoint three fit and proper persons to subdivide Robert Hamilton's company of militia, in the upper battalion, and thirty-second regiment of the

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said eighth brigade, into two companies. *Provided, nevertheless*, the officers now in commission in the aforesaid Robert Hamilton's company shall hold their respective commissions in one of the said companies.

VII. *And be it further enacted* by the authority aforesaid, That so much of an Act passed on the seventeenth day of December, in the year of our Lord one thousand eight hundred and eight, as requires all the officers of the several different brigades throughout this State, under the rank of brigadier, excepting artillery and cavalry officers, to assemble in some central and proper place once at least in every two years, to be practiced and instructed for a term not exceeding six days, nor less than three, be, and the same are hereby, repealed. Former Act repealed.

VIII. *And be it enacted* by the authority aforesaid, That all Acts and parts of Acts repugnant to the true intent and meaning of this Act, be, and the same are hereby, repealed. Repealing clause.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO EXCUSE THE OFFICERS OF THE SEVERAL BRANCHES OF THE BANK OF THE STATE OF SOUTH CAROLINA FROM THE PERFORMANCE OF ORDINARY MILITIA DUTY, AND SERVING ON JURIES. No. 2199.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the presidents and cashiers of the several branches of the Bank of the State of South Carolina, and the clerks employed in the same, shall be, and they are hereby declared to be, exempted from the performance of ordinary militia duty, and from serving on juries.

In the Senate House, the sixteenth day of December, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-third year of the Independence of the United States of America.

JAMES R. PRINGLE, *President of the Senate.*
ROBT. Y. HAYNE, *Speaker of the House of Representatives.*

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No. 2220. AN ACT TO PROVIDE FOR THE MORE EFFECTUAL PERFORMANCE OF PATROL DUTY.

Patrol districts to be formed.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That it shall be the duty of the captains of the several beat companies within this State, within six months after the passing of this Act, to cause their respective beats to be divided into convenient patrol districts; which divisions, when made, shall be permanent until the same shall be altered by a majority of the officers of the said company. And in case the captain of any beat company shall neglect to perform the duty hereinbefore required of him, he shall forfeit and pay the sum of thirty dollars, to be recovered in any court having competent jurisdiction.

Rolls to be made out.

II. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the commanding officer of each and every beat company to cause to be made out a roll for each patrol district, which shall include the names of all the free white male inhabitants above the age of eighteen years, residing within the said patrol district. *Provided*, that nothing herein contained shall be construed to compel any male inhabitant of any beat company to perform patrol duty, either in person or by substitute, who may have attained the age of forty-five years or upwards, and who shall not possess any slave or slaves.

Patrol to be pricked off.

III. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the commanding officer of each and every beat company, at every regular petty muster, to prick off from the roll of each patrol district, at his discretion, any number of persons, who shall perform the duty hereinafter prescribed until the next regular petty muster; and to every patrol the commanding officer of the company shall appoint some prudent and discreet person as commander; and in case the commanding officer of the company shall fail to prick off such patrol, or the commanders of the patrol shall fail to perform the duties herein required of them, they shall, respectively, forfeit and pay, to be recovered by indictment, a sum not exceeding thirty dollars.

To turn out once a fortnight.

IV. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the commander of every patrol, at least as often as once a fortnight, to call out the patrol under his command, and to take up all slaves who may be found without the limits of their owners's plantations, under suspicious circumstances, or at a suspicious distance therefrom, and to correct all such slaves by a moderate whipping, with a switch or cowskin, not exceeding twenty lashes, unless the said slave shall have a ticket or letter to show the reasonableness of his or her absence, or shall have some white person in company to give an account of the business of such slave or slaves. And if any white person shall beat or abuse any slave, quietly or peaceably being in his or her master's plantation, or found anywhere without the same without a lawful ticket, he shall forfeit the sum of fifty dollars, to be recovered by the owner, and to his use, by action of debt, besides being liable to the owner in an action of trespass for damages.

May enter disorderly houses.

V. *And be it further enacted* by the authority aforesaid, That the said patrols, in their respective divisions, shall have power, and they are hereby authorized and required, to enter into any disorderly house, or into any other house, vessel or boat, suspected of harboring, trafficking or dealing with negroes, whether the same be occupied by white persons, free negroes, mulattoes, mestizoes, or slaves, and to apprehend and correct all slaves

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found there, by whipping, as hereinbefore directed. And the said patrol are, moreover, authorized and required to give information of such white persons as may be found in such house, vessel or boat, and to detain in their possession such produce or articles for trafficking, as may be found in such house, vessel or boat, if such detention be authorized by any three freeholders, or by any justice of the peace, until the same shall be recovered according to law.

Slaves not to carry or use fire arms.

VI. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any slave, except in the company and presence of some white person, to carry or make use of any fire arms or other offensive weapon, unless such slave shall have a ticket or license in writing from his owner or owners, or be employed to hunt and kill game, mischievous birds, or beasts of prey, within the limits of his master's plantation, or shall be a watchman in and over his owner's fields and plantation. And in case any white person shall find any slave using or carrying any gun or other offensive weapon, contrary to the intent and meaning of this Act, he, she or they, may lawfully seize such gun or offensive weapon, and convert the same to his, her or their own use; but before the property of such goods shall be vested in the person who shall seize the same, such person shall, within forty-eight hours after such seizure, go before the next justice, and shall make oath of the manner of taking; and if such justice of the peace, after such oath shall be made, or if upon any other examination, he shall be satisfied that the said fire arms, or other offensive weapons, shall have been seized according to the directions and agreeable to the true intent and meaning of this Act, the said justice shall, by certificate under his hand and seal, declare them forfeited, and that the property is lawfully vested in the person who seized the same; *provided*, that no such certificate shall be granted until the owner or owners of such fire arms, or other offensive weapon, so seized, as aforesaid, or the overseer or overseers who shall or may have the charge of such slave or slaves from whom such fire arms or other offensive weapon shall be taken or seized, shall be duly summoned to shew cause, (if any such they have,) why the same should not be condemned as forfeited, nor until forty-eight hours after the service of such summons, and oath made of the service thereof before the said justice.

Patrol to be kept in order.

VII. *And be it further enacted* by the authority aforesaid, That the commander of every patrol shall have power to keep the men under his command in good order and demeanor during their term of service; and in case any patrol man shall misbehave himself, or neglect or disobey the orders of his commander, he shall be subject to a fine of not more than two dollars, to be imposed by the company court martial to which such offender shall belong, to be paid to the commissioners of the poor for the use of the poor.

Captain of patrol may be fined.

VIII. *Be it further enacted*, that if any captain of a patrol shall act disorderly while on duty, so as to defeat the orderly performance or execution of the patrol laws, agreeable to the true intent and meaning thereof, he shall be liable to be returned by either of the members of his patrol, or other person competent to give evidence, to the commanding officer of the beat, who shall order a court martial for such trial, and upon sufficient evidence being given of the charge, such captain of the patrol shall be fined in the sum of five dollars, to be recovered and applied as aforesaid to the use of the poor.

IX. *And be it further enacted* by the authority aforesaid, That it shall be lawful for any person or persons hereby declared liable to perform patrol

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Substitutes may be employed.

duty, to send any able bodied white man, between the ages of eighteen and sixty, to perform patrol duty for him or them. And if any patrol man shall neglect or refuse to perform the duty required of him by this Act, or to procure a substitute to perform the same, without a legal excuse, he shall forfeit and pay a fine of two dollars for each and every such default, and ten per cent. on his general tax for the year preceding paid by him on the property owned by him in the district or parish in which he is a defaulter, to be inflicted by a court martial of the company in which the offender may reside, to the use of the poor of the district or parish.

Return to be made.

X. *And be it further enacted* by the authority aforesaid, That each captain of patrol shall make a return, upon oath, of the performance of the duties of his office as commander of such patrol, to the captain or officer commanding the beat company, at the regular times required by this Act, under the penalty of a fine of twenty dollars, to be recovered by indictment.

Slaves to be corrected.

XI. *And be it further enacted* by the authority aforesaid, That it shall be lawful for all persons, as well patrol as other persons, to apprehend, and moderately correct with stripes, not exceeding twenty, all slaves who may be found without their masters's plantations, without a ticket in the form or of the import of the ticket before prescribed by this Act to be used by persons who shall have the care or management of any slave or slaves; or with a ticket, if such slave or slaves shall have in his possession any gun, pistol or other offensive weapon, unless such slave shall be on lawful business, or in company with some white person, not less than ten years of age; and also to disperse and punish, as aforesaid, all unlawful assemblies of slaves, free negroes, mulattoes or mestizoes, whether the said assembly shall consist of all or any of the persons above described. And *provided, always*, that nothing herein contained shall be construed to authorize any person to break into or disturb any church or place of public worship, wherein shall be assembled the members of any religious society, a majority of whom shall be white persons, at any time before nine o'clock in the evening—unless the said person or persons shall have previously obtained a warrant from a magistrate, authorizing him to do so; and *provided, also*, that nothing herein contained shall be construed so as to authorize any patrol or other person to strike and correct, or beat in any manner, any slave or slaves who shall be employed by the person having the charge of such slave or slaves in any incorporated town, when such slave or slaves shall be absent from the place of residence of such slave or slaves, between daybreak and nine o'clock in the evening, within the limits of such incorporated town, unless such slave or slaves shall be engaged in an unlawful purpose.

Unlawful assemblages to be dispersed.

XII. *And be it further enacted* by the authority aforesaid, That it shall be lawful for any person or persons who may be engaged in dispersing any unlawful assembly of slaves, free negroes, mulattoes or mestizoes, to enter into all such places as the said persons may be assembled at, and if resisted, they may break open doors, gates or windows.

Owners of plantations to employ white persons thereon.

XIII. *And be it further enacted* by the authority aforesaid, That every owner of any settled plantation shall employ and keep on such plantation some white man capable of performing patrol duty, under the penalty of fifty cents per head per month, for each and every working slave which may be on such plantation; to be recovered by indictment, one half to the informer, the other half to the use of the State; *provided always*, that nothing herein contained shall be construed to affect any person or persons

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who resides on his, her or their plantation for the space of seven months in the year, or who shall employ less than ten working slaves on such plantation.

XIV. *And be it further enacted* by the authority aforesaid, That if any person or persons shall commence an action agninst any patrol or other person, for any trespass by him committed in carrying into execution the provisions of this Act, and at the trial thereof shall fail to recover any damage, he, she or they shall be liable and adjudged to pay to the party so sued treble costs

Persons prosecuting and failing, to pay treble costs.

XV. *And be it further enacted* by the authority aforesaid, That the Secretary of State be, and he is hereby, required to have a sufficient number of copies of the aforesaid Act printed, and by him to be transmitted to the commandants of regiments, to be by them distributed to the commissioned officers of their respective regiments; and it shall be the duty of the captain or commanding officer of each company, to read this Act to his company, at least once in six months.

Secretary of State to distribute this Act.

XVI. *And be it further enacted* by the authority aforesaid, That all Acts and parts of Acts repugnant to this Act, be, and the same are hereby, repealed. *Provided, nevertheless*, that nothing herein contained shall be construed so as to deprive the Intendant and Wardens of any incorporated town, of any power heretofore invested in them, to regulate and order out patrols within the limits of such incorporation; but that such Intendant and Wardens shall have as full power as they were invested with before the passing of this Act.

Acts repugnant to this Act, repealed.

Proviso.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and nineteen, and in the forty-fourth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO GIVE THE SAME COMPLIMENT OF OFFICERS TO COMPANIES OF ARTILLERY IN THIS STATE, AS ARE REQUIRED BY THE LAWS NOW IN FORCE IN THE UNITED STATES SERVICE; AND FOR OTHER PURPOSES THEREIN MENTIONED. No. 2232.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the several artillery companies in this State shall have the same compliment of officers as are now required by law in the companies of artillery in the service of the United States, to wit:—each company of artillery in this State shall consist of one captain, one first lieutenant, one second lieutenant, and one third lieutenant.

II. *And be it further enacted* by the authority aforesaid, That immediately after the passing of this Act, elections shall be ordered and held, in the same manner already prescribed by law, for the purpose of filling the

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office of third lieutenant in each and every company of artillery in this State.

III. *And be it further enacted* by the authority aforesaid, That so much of the militia law as requires the encampment of artillery and cavalry officers, be, and the same is hereby, repealed.

In the Senate House, the ———— day of December, in the year of our Lord one thousand eight hundred and twenty, and in the forty-fifth year of the Independence of the United States of America.

BENJ. HUGER, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2244. AN ACT AUTHORIZING ANOTHER REGIMENT OF MILITIA TO BE RAISED AND ORGANIZED IN THE DISTRICT OF PENDLETON; AND FOR OTHER PURPOSES.

WHEREAS, the persons subject to militia duty in the District of Pendleton, suffer many inconveniences in consequence of the extensive bounds of the Regiment in the said district, which have been greatly enlarged by the late acquisition of territory from the Cherokee Indians.

I. *Be it therefore enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the three regiments of militia in the district of Pendleton, be, and the same are hereby, required to be so divided, as to form four regiments, as equal in strength as practicable, each regiment to consist of at least eight companies.

II. *And be it further enacted* by the authority aforesaid, That the following persons be, and they are hereby, appointed commissioners to divide the said regiments, and to make another regiment, as directed by this Act, viz:—Alexander Moorhead, Peter Keys, Patrick Norris, John C. Kilpatrick, Robert Stribling, Thomas Stribling, George Rankin, John Esly, and Andrew Humbleton.

III. *And be it further enacted* by the authority aforesaid, That if the said commissioners shall refuse or neglect to act, so as to carry this Act into effect, then it shall be the duty of the brigadier-general commanding said regiments, to appoint three suitable and proper persons from each of the present regiments, to lay out and designate the bounds and limits of the said new regiment; and also, to make alterations in the lines of the present existing regiments; *provided*, they do not alter the lines of beat companies, or divide any established beat company.

IV. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the said commissioners, so soon as they have made a division and formed said regiment, to report the same to the brigadier-general commanding said regiment, and to the several colonels commanding the same, which said report shall designate the companies composing the said several regiments; and it shall be the duty of the said brigadier-general, immediately after the receipt of the said report, to order elections for such

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field officers as it shall be necessary to create in consequence of raising the said new regiment; and where the present field officers shall fall into the said new regiment, they shall have command in the same.

V *And be it further enacted* by the authority aforesaid, That the said new regiment shall be ranked the Forty-second Regiment of the South Carolina Militia, and be attached to the first brigade of the first division of the same.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty, and in the forty-fifth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT AUTHORIZING ANOTHHER REGIMENT OF MILITIA TO BE RAISED AND ORGANIZED IN THE DISTRICT OF BARNWELL; AND FOR OTHER PURPOSES. No. 2271.

WHEREAS, the persons subject to militia duty in the District of Barnwell, suffer many inconveniences, in consequence of the extensive bounds of the Regiment in said district.

I. *Be it therefore enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the regiment of militia in the district of Barnwell, be, and the same is hereby, required to be so divided as to form two regiments, as equal in strength as practicable, each regiment to consist of at least seven companies.

II. *And be it further enacted* by the authority aforesaid, That the following persons be, and they are hereby, appointed commissioners to divide the said regiment, and to make another regiment, as directed by this Act, viz :—William Walker, William McMillian, William Bush, Barnet H. Brown, and James W. Maxwell.

III. *And be it further enacted* by the authority aforesaid, That if the said commissioners shall refuse or neglect to act, so as to carry this Act into effect, then it shall be the duty of the brigadier-general commanding said regiment, to appoint three suitable and proper persons from said regiment, to lay out and designate the bounds and limits of said new regiment.

IV. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the said commissioners, so soon as they have made a division and formed said regiment, to report the same to the brigadier-general commanding said regiment, and to the several colonels commanding the same, which said report shall designate the companies composing the said two regiments; and it shall be the duty of the said brigadier-general, immediately after the receipt of the said report, to order elections for such field officers as it shall be necessary to create in consequence of raising the

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said new regiment; and where the present field officers fall into the said new regiment, they shall command in the same.

V. *And be it further enacted* by the authority aforesaid, That the said new regiment shall be ranked Forty-third Regiment of South Carolina Militia, and be attached to the third brigade of the second division of the same.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-one, and in the forty-sixth year of the Independence of the United States of America.

BENJAMIN HUGER, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2294. AN ACT TO CONSOLIDATE AND EQUALIZE CERTAIN MILITIA COMPANIES; TO AUTHORIZE THE SALE OF SMALL ARMS; AND THE INSPECTION OF MUSKETS MADE BY ADAM CARRUTH, PREPARATORY TO THEIR BEING PURCHASED BY THE STATE.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, there shall be but one beat company in each of the parishes of Christ Church and St. James Santee; and the two companies in each of the said parishes shall be consolidated into one.

II. *And be it further enacted* by the authority aforesaid, That the persons residing in the parish of Saint James Santee, entitled to vote for company officers, shall meet at the head of Wigfall's, (now Cordes's causeway,) on the third Monday in January next, for the purpose of electing officers for the company within said parish, which place is hereby declared to be the muster ground of the said company.

III. *And be it further enacted* by the authority aforesaid, That the eleven mile post on the Stage-road from Charleston to Georgetown, shall be the place of meeting of the company within the parish of Christ Church; and an election shall be held at the said place on the third Monday of January next, for the election of officers for the said company.

IV. *And be it further enacted* by the authority aforesaid, That Thomas Gaillard, Thomas Porcher, jr., Peter Broughton, Philip Porcher, and Samuel Porcher, or any three of them, shall be, and they are hereby, appointed commissioners to alter the dividing line between the upper and lower beat companies in the parish of Saint John's Berkly, for the purpose of making said beat companies equal; and the said commissioners, or any three of them, after altering the said line, shall make a report of their proceedings in the premises, to the colonel or other officer commanding the regiment in which the said companies are situated.

V. *And be it further enacted* by the authority aforesaid, That as soon as practicable after the passing of this Act, it shall be the duty of the

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colonels or other commanding officers of the 16th and 17th regiments in the 4th brigade of South Carolina Militia, to divide the company of militia on Charleston Neck, into four companies, as nearly equal in number as may be; two of which companies shall be attached to the 16th and the other to the 17th regiment.

VI. *And be it further enacted* by the authority aforesaid, That the Governor and Commander-in-chief do cause an inspection to be made of the muskets manufactured by Adam Carruth, under a contract with the General Government, and now the property of William Young, Barksdale Garrison, John Charles, and Robert Anderson; and if on inspection the said muskets are approved, he is hereby authorized to receive in payment of the debt due by the said William Young, Barksdale Garrison, John Charles, and Robert Anderson, as securities of the said Carruth, any number of the said muskets not exceeding one thousand, at such price as was contracted to be paid for muskets to the said Carruth by the Government of the United States.

VII. *And be it further enacted* by the authority aforesaid, That the Governor and Commander-in-chief be, and he is hereby, authorized and empowered to cause to be sold, to any of the militia of this State, any arms belonging to the State, in any of the public arsenals, at such price as the said arms may have cost the State; and the Governor is hereby authorized to lay out the money received from the sale of any arms as aforesaid, in the purchase of other arms.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-seventh year of the Independence of the United States of America.

JACOB BOND PON, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO REGULATE THE PERFORMANCE OF PATROL DUTY ON CHARLESTON NECK. No. 2317.

WHEREAS, the Local situation of Charleston Neck, from the bounds of the city of Charleston to the northern boundary of St. Philip's Parish, renders the present existing patrol laws insufficient to protect the property of the inhabitants of said neck, and to controll and keep in order the numerous black population of the same, and others travelling to and from the city within the aforesaid limits.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That it shall be the duty of the officer or officers commanding the militia company or companies on Charleston Neck, within two months after the passing of this Act, to cause his or their company or Patrol to be formed.

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companies to be divided into convenient patrols, in such manner as a majority of said company officers shall direct; which division, when made, shall be permanent, until altered by a majority of said officers; and in case the officers of such company or companies shall neglect or refuse to perform the duty hereinbefore required of them, each shall forfeit and pay the sum of thirty dollars, to be recovered in any court having competent jurisdiction, to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads.

Rolls to be made out.

II. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the commanding officer or officers of the company or companies aforesaid, to cause to be made out a roll for each patrol district, which shall include the names of all the free white male inhabitants above the age of eighteen years, and under the age of sixty, residing within the said patrol district, except Ministers of the Gospel of any sect or denomination whatsoever, and all females owning ten slaves above the age of ten years. And all persons having settled farms, or a house and lot with five or more slaves above the age of sixteen years, residing within the said company or companies, shall be liable to perform the patrol duty hereinafter prescribed.

Leaders of patrols to be appointed.

III. *And be it enacted* by the authority aforesaid, That it shall be the duty of the commanding officer or officers of the said company or companies to appoint, which appointment shall be in writing, signed by such commanding officer or officers, some prudent and discreet person as leader in each patrol district, who shall perform the duty hereinafter prescribed, until the expiration of two months from the date of such appointment; and in case the person appointed shall refuse to accept such appointment, or the commanding officer or officers of the said company or companies, or the leader or leaders of the patrol, shall fail to perform any of the duties required of them by this Act, they shall, respectively, forfeit and pay the sum of twenty dollars, to be recovered in any court having competent jurisdiction, to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads; *provided always*, that no person shall be compelled to serve more than once in every twelve months, as leader of any patrol.

To turn out twice a month.

IV. *And be it enacted* by the authority aforesaid, That it shall be the duty of the leader of each patrol, at least as often as twice a month, to call out any number of persons under his command, and to ride patrol through Charleston Neck, and to take up all slaves who may be found within its limits, and without their owners's inclosures under suspicious circumstances, or at a suspicious distance therefrom, and to correct all such slaves by a moderate whipping with a whip or cowskin, not exceeding twenty lashes, unless the said slave shall have a ticket or letter to shew the reasonableness of his or her absence; and if any white man shall wantonly beat or abuse any slave, quietly and peaceably being in his or her owner's inclosure, or found any where without the same with a lawful ticket, he shall forfeit the sum of fifty dollars, to be recovered by the owner of said slave, and to his use, by action of debt, besides being liable to the owner in an action of trespass for damages.

Powers and duties.

V. *And be it enacted* by the authority aforesaid, That the said patrols shall have power, within the limits of Charleston Neck, and they are hereby authorized and required, to enter into any disorderly house, or into any vessel or boat, suspected of harboring, or unlawfully trafficking or dealing with slaves, and if resisted, to break open doors, windows or locks, and to

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apprehend and correct or commit, all slaves found there contrary to the true intent and meaning of this Act; and the leaders of said patrols are further authorized and required to give information of such white persons, or persons of color, as may be found in such house, vessel or boat, or place, unlawfully trading or trafficking with slaves, to any lawful magistrate; and to deliver to the said magistrate such produce or articles for trafficking as may be found in such house, vessel, boat or place, to be disposed of according to law.

Penalty on patrol men who misbehave.

VI. *And be it enacted* by the authority aforesaid, That the leader of every patrol shall have power to keep the men under his command in good order and demeanor during their time of service; and in case any patrol man shall misbehave himself, or neglect or disobey the orders of his commander, he shall be subject to arrest, at the discretion of the said leader, and be liable to a fine of not more than two dollars, to be imposed by a court consisting of the officers of the company to which he belongs, to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads.

Leaders of patrol may be fined.

VII. *And be it further enacted* by the authority aforesaid, That if any leader of patrol shall act disorderly while on duty, so as to defeat the orderly performance or execution of the patrol law, agreeable to the true intent and meaning of this Act, he shall be liable to be reported by any of the members of his patrol, or other persons competent to give evidence, to the commanding officer of the company to which he is attached, who shall order a court, consisting of the officers of said company, or of any three officers of the regiment to which such company is attached, to try him, and upon sufficient evidence being given of the charge, such leader of the patrol shall be fined in the sum of ten dollars; to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads.

Fine for not performing patrol duty.

VIII. *And be it further enacted* by the authority aforesaid, That it shall be lawful for any person or persons hereby declared liable to perform patrol duty, to send any able bodied white man, between the age of eighteen and sixty, to peform patrol duty for him or them; and if any patrol man shall neglect or refuse to perform the duty required of him by this Act, or procure a substitute to perform the same, without a legal excuse, he shall forfeit and pay a fine of two dollars for each and every default, and ten per cent on his general tax for the year preceding on property owned by him on Charleston Neck, to be inflicted by a court composed of the officers of the company to which he is attached, a majority of whom shall be sufficient to form such court, or any three officers of the regiment to which the said company is attached, and to be collected by the collector of the regiment, who shall have as full power and authority to collect the same, as he now has or may hereafter have to collect militia fines, under any law which now is or may hereafter be of force in this State; to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads.

Return to be made.

IX. *And be it further enacted* by the authority aforesaid, That it shall be the duty of each leader of patrol to make a return upon oath of the performance of the duties of his office, to the commanding officer of the company to which he belongs, once in every two months, under the penalty of a fine not exceeding twenty dollars; to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads.

Slaves to be corrected.

X. *And be it further enacted* by the authority aforesaid, That all persons of color, (Indians in amity with the United States excepted,) negroes,

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mulattoes, or mestizoes, found within the limits of Charleston Neck, shall be taken and considered as slaves, and shall be liable to such correction or other punishment to which by this Act slaves are liable, unless such persons of color shall produce their free papers, or copies of the same, or such other good and sufficient evidence of their freedom as may be satisfactory to the leader of the patrol; *provided, nevertheless*, that free negroes, mulattoes or mestizoes, found within Charleston Neck, and without their own or their employer's enclosure, not having a regular ticket from their guardian, after the hours of nine o'clock, P. M., from the twentieth of September to the twentieth of March, and ten o'clock, P. M., from the twentieth of March to the twentieth of September, in each and every year, shall be liable to the same punishment to which by this Act slaves are liable.

No shop to be kept open after nine o'clock.

XI. *And be it further enacted* by the authority aforesaid, That it shall not be lawful for any owner or occupant of a grocery store or retail shop, within the limits of Charleston Neck, or of any store, shop or place within the limits aforesaid, wherein are vended spirituous liquors, to keep open the said stores, shops and places, for the purpose of trade, or to trade, traffick or barter therein, with negroes or persons of color, on the Sabbath day, or any other day after the hours of nine o'clock, P. M., from the twentieth of September to the twentieth of March, and ten o'clock, P. M., from the twentieth of March to the twentieth of September, in each and every year. And in case any owner or occupant of any such store, shop or place, shall transgress or violate this Act, by keeping open the said stores, shops or places, or by trading, trafficking or bartering therein, with any negroes or persons of color, on the Sabbath day, or on any other day after the hours of nine o'clock, P. M., from the twentieth of September to the twentieth of March, and ten o'clock, P. M., from the twentieth of March to the twentieth of September, in each and every year, he, she or they, shall forfeit and pay the sum of fifty dollars, to be recovered in any court having competent jurisdiction; to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads.

Patrol to be provided with arms.

XII. *And be it further enacted* by the authority aforesaid, That every person liable to perform patrol duty on Charleston Neck, shall provide for himself, and keep always in readiness, and carry with him on his patrol service, one good gun or pistol, in order, with at least six ball cartridges for the same, or a cutlass, under the penalty of two dollars, and ten per cent on his general tax for the year preceding, on property owned by him on Charleston Neck, for want of any such arms or ammunition; to be recovered and appropriated in the same manner as by this Act fines for non-performance of patrol duty are recovered and appropriated.

Fines to be paid to the commissioners of the Cross Roads.

XIII. *And be it further enacted* by the authority aforesaid, That the commissioners of the Cross Roads of Charleston Neck shall have power to demand and receive all such fines and forfeitures, and other monies and things whatsoever, as are appropriated by this Act to the use of the said Cross Roads; and in case of refusal to deliver or pay the same, to commence and prosecute any lawful action for the recovery thereof.

Record of proceedings to be kept.

XIV. *And be it further enacted* by the authority aforesaid, That the commanding officer of the militia company or companies of Charleston Neck, shall have power to appoint a secretary, whose duty it shall be to prepare and lay before the court or courts hereby established, all necessary papers, and to keep a record of the proceedings of the same, which record shall be open to the inspection of any citizen interested therein; for which services, the said secretary shall be excused from the ordinary patrol duty.

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XV. *And be it further enacted* by the authority aforesaid, That the leader of each patrol district shall have power to appoint a person whose duty it shall be to summon out the patrol at the times and places appointed by the leader, and to extend such orders and commands as may be given to him by the said leader of patrol; for which services, the said person shall be excused from ordinary patrol duty. Patrol to be summoned.

XVI. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the commanding officer of each militia company on Charleston Neck, and of all lawful magistrates within the limits of Charleston Neck, to give information to the respective leaders of patrol, of any unlawful assemblies of negroes or persons of color, which may come within their knowledge; which leaders, on receiving such information, shall turn out their patrols and perform the duties prescribed by law; and in case any leader of patrol shall neglect or refuse to turn out his patrol, and perform the duties required by law, after receiving such information, he shall forfeit and pay a sum not exceeding twenty dollars; to be paid to the commissioners of the Cross Roads of Charleston Neck, for the use of the said roads. Information of unlawful assemblies to be given to the commanding officer.

XVII. *And be it further enacted* by the authority aforesaid, That if any person or persons shall commence an action against any patrol or patrol man, for any trespass by him committed in carrying into execution the provisions of this Act, and at the trial thereof shall fail to recover any damage, he, she or they shall be liable and adjudged to pay to the party so sued treble costs. Persons prosecuting and failing, to pay treble costs.

XVIII. *And be it enacted* by the authority aforesaid, That all Acts and parts of Acts repugnant to this Act, be, and the same are hereby, repealed. Repealing clause.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-three, and in the forty-eighth year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO REQUIRE THE OFFICERS OF EACH BRIGADE OF MILITIA TO ASSEMBLE IN BRIGADE ENCAMPMENTS; AND FOR OTHER PURPOSES. No. 2818.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall be the duty of all the commissioned officers of the several different brigades throughout this State, under the rank of brigadier, to assemble in some central and proper place, within their respective brigades, in full uniform, and equipt with a musket, bayonet, cartouch-box and twenty-four cartridges, at least once in two years, and there be kept on duty and in the practice of the manual exercise for a time not exceeding six days nor less than three days,

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as the major-general of each division may think fit and proper; and it shall be the duty of the several brigadier-generals to attend the officers so assembled within their respective brigades, and to lead, train, discipline and manœuvre the said officers, according to the system of Scott, or any other system which may be adopted by Congress; and it shall be the duty of the adjutant-general and brigade-majors, within their respective brigades, to attend such musters, and be subject to orders as on reviews; and it shall also be the duty of the major-generals, within their respective divisions, to attend at the said musters. Which said musters of the officers, as aforesaid, shall be ordered by the Governor and Commander-in-chief, and at such times as he shall deem fit and proper, for the purposes intended by this Act. And in case any of the officers required by this Act to attend the musters aforesaid, shall fail or neglect so to attend, the said officers, respectively, so failing or neglecting, shall be subject to the fines and forfeitures following, that is to say: a major-general shall be fined in the sum of sixty dollars; a brigadier-general in the sum of fifty dollars; a colonel in the sum of forty dollars; a major in the sum of thirty dollars; a captain, lieutenant or ensign, in the sum of twenty dollars; and that such defaulter or defaulters shall be tried in the same manner as is now directed by the militia laws of this State, and the fines applied to the use of the brigade in which such fines and forfeitures have accrued.

II. *Be it further enacted*, That if any beat company of militia shall neglect or refuse, for three months, to elect officers to command said company, it shall be the duty of the colonel, lieutenant-colonel or major commanding the regiment or battalion to which the said company may belong, to divide the said company, and attach it to the nearest beat companies thereto, until the said company shall elect officers to command the same, and those composing such company are hereby required to do duty in the beat company to which they shall be attached.

III. *And be it enacted*, That the officers commanding the 2d company of the 2d battalion of the 19th regiment of South Carolina militia, shall hereafter hold their company musters at Brown's Tavern, in St. John's parish, Berkley.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-three, and in the forty-eighth year of the Independence of the United States of America.

JACOB BOND PON, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2341. AN ACT TO REPEAL THE FIRST SECTION OF AN ACT ENTITLED "AN ACT TO REQUIRE THE OFFICERS OF EACH BRIGADE OF MILITIA TO ASSEMBLE IN BRIGADE ENCAMPMENTS, AND FOR OTHER PURPOSES;" PASSED THE TWENTIETH DAY OF DECEMBER, 1823; AND FOR OTHER PURPOSES.

WHEREAS, by the first section of an Act of Assembly, passed on the twentieth day of December, in the year of our Lord one thousand eight

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hundred and twenty-three, all the commissioned officers in each brigade of militia in this State were required to meet and assemble at some central and proper place within their respective brigades, in full uniform, and equipt as therein directed, at least once in two years, and there to be kept in the practice of military exercises for a time therein specified. And *whereas*, the said law has not only effected no beneficial purpose, but is inconvenient, oppressive and burthensome to the officers of the militia of this State:

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the first section of an Act entitled "An Act to require the officers of each brigade of militia to assemble in brigade encampments, and for other purposes," be, and the same is hereby, repealed.

II. *And be it further enacted* by the authority aforesaid, That the Beaufort volunteer company of artillery be, and the same are hereby, exempted from attending any regimental reviews; *provided*, the said company, in addition to the days and times now required by law, do, on the days and times when the regiment to which the said company is now attached shall parade for review and exercise, also assemble at the usual muster ground of said company, for drill, exercise and instruction; and *provided, also*, that the members of said company shall at no time exceed sixty-four men, rank and file.

III. *And be it further enacted* by the authority aforesaid, That the fifth section of an Act passed on the twenty-first day of December, in the year of our Lord 1822, entitled "An Act to consolidate and equalize certain beat companies; to authorize the sale of small arms, and the inspection of muskets made by Adam Carruth, preparatory to their being purchased," be, and the same is hereby, repealed.

IV. *And be it further enacted* by the authority aforesaid, That all that part of the Charleston Neck company which lies on the east side of King street, up to the cross roads, and thence on the east side of the main road to the quarter house, be and constitute one company; and that part of said company which lies on the west side of said line, be and constitute another company; both of which companies shall continue attached to the sixteenth regiment.

V. *Be it further enacted* by the authority aforesaid, That the commissioned officers of the Charleston Neck company may select in which of the companies hereby created they will hold their commissions, and they shall, respectively, hold and be confirmed in the rank and commission which they now hold; and it shall be the duty of the colonel or commanding officer of the 16th regiment, as soon hereafter as may be practicable, to order an election for officers in the other company.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and twenty-four, and in the forty-ninth year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*
JNO. B. O'NEALL, *Speaker of the House of Representatives.*

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A. D. 1827. *Acts relating to the Militia.*

No. 2406. AN ACT TO ALTER AND DEFINE THE LINE BETWEEN THE 34TH AND 35TH REGIMENTS OF THE SOUTH CAROLINA MILITIA; AND FOR OTHER PURPOSES.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the following shall hereafter be the boundary between the 34th and 35th regiments of the South Carolina militia, that is to say: the line shall commence on Pacolet river, opposite Sandy Run; thence down said river to Thomas Taylor's; thence to William Huckby's, son of Robert Huckby; thence down the old regimental line to Broad river, near the mouth of Thicketty creek; thence up said Thicketty creek to John Jeffers's ford, on the said Thicketty creek; thence along the main road, by Hancocksville, to the Grindal Shoals, on Pacolet river; and that the persons liable to perform militia duty, residing within the aforesaid limits, be formed into a beat company, be, and the same is hereby, attached to the thirty-fifth regiment.

II. *And be it further enacted*, That the lower battalion of the seventh or Glascock's regiment, shall be divided into five beat companies, instead of four, as heretofore: and that Col. Thomas Glascock, Lieut. Col. John Marsh, and Major Andrew P. Jones, are hereby appointed commissioners to make such division; the said commissioners to report to the brigadier-general the division so made, and on his approval of the same, the proper officer shall forthwith order an election of officers for the additional beat company hereby authorized to be laid off; *provided*, that no officer in command shall thereby have his commission vacated.

In the Senate House, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and in the fifty-second year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*
JNO. B. O'NEALL, *Speaker of the House of Representatives.*

No. 2410. AN ACT TO ENLARGE THE RECRUITING LIMITS OF THE WINNSBOROUGH LIGHT INFANTRY VOLUNTEER COMPANY.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That hereafter it shall and may be lawful for any person residing within Fairfield district, and liable to do militia duty, to join and become a member of the Winsborough Light Infantry Volunteer Company, in the same manner as such person would be entitled to do, were he a resident of that regiment to which said company is attached.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and twenty-seven, and in the fifty-second year of the Independence of the United States of America.

JACOB BOND I'ON, *President of the Senate.*
JNO. B. O'NEALL, *Speaker of the House of Representatives.*

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AN ACT TO REGULATE THE ELECTION OF CAVALRY AND ARTILLERY OFFICERS THROUGHOUT THIS STATE. No. 2450.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That whenever any vacancy shall take place in the commission of lieutenant-colonel of cavalry or artillery, the major then in commission in the same regiment, shall be immediately commissioned lieutenant-colonel.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, and in the fifty-third year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*
B. F. DUNKIN, *Speaker of the House of Representatives.*

AN ACT TO REGULATE THE COLLECTION OF MILITARY FINES; AND FOR OTHER PURPOSES. No. 2479.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all fines hereafter imposed on any commissioned officers for neglect of military duty in any battalion, regiment or brigade, shall be collected by the sheriff of the judicial district in which such delinquent may reside, and for the performance of this duty the sheriff shall receive twenty-five per cent. on all monies so collected; except in the parishes of St. Philip and St. Michael, where fines shall be collected as heretofore; the collector of fines in which place shall be entitled to the like compensation as is herein provided for the sheriff.

II. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the officer ordering any courts martial, to furnish the sheriff, within fifteen days after any fine has been imposed on any commissioned officer, with executions against such delinquents; and the said sheriff, within thirty days after receiving such executions, shall notify each delinquent of the amount of his fine, and to requite payment thereof; and if the said delinquent shall neglect or refuse to pay the same within fifteen days after such notification, the said sheriff shall proceed on this execution, and shall arrest the body of the said delinquent for the satisfaction of the said fine, unless the said delinquent shall point out sufficient property whereof to levy and satisfy such fine so imposed as aforesaid.

III. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the several tax collectors in this State, at the request of any militia officer, to furnish such officer with the amount of the last general tax of any defaulter liable to be fined as aforesaid; but nothing in this Act shall be construed to deny the right of appeal to any officer who may conceive himself aggrieved by the sentence of any court-martial.

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IV. *And be it further enacted* by the authority aforesaid, That the sheriff with whom any such execution shall be lodged, shall be bound to execute and return the same to the paymaster of the regiment, within three months from the time of the lodgment thereof, and on default, he shall pay the sum of fifty dollars, to be recovered by summary process, in the name of the State of South Carolina; one half of which shall be paid to the informer, and the other half to the use of the regiment.

V. *And be it further enacted* by the authority aforesaid, That it shall be the duty of the sheriff within ten days after demand, to pay over all monies collected by him, pursuant to this Act; and, in default thereof, an action may be brought against him, in the name of the regimental paymaster, and the amount so collected, recovered against him, with interest at the rate of six per cent. for each month, from the time of demand.

VI. *And be it further enacted*, That if any member of the magazine guard, at Laurel Island, on Charleston Neck, or of the guard to be hereafter, or at this session, established at Georgetown, shall be hereafter intoxicated, or disorderly or disobedient to lawful orders, he may be arrested and confined, by order of the commanding officer of said guard.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, and in the fifty-fourth year of the Independence of the United States of America.

HENRY DEAS, *President of the Senate.*
BENJ. F. DUNKIN, *Speaker of the House of Representatives.*

No. 2487. AN ACT TO PROVIDE FOR THE DIVISION OF BEAT COMPANY NUMBER SEVEN, OF THE 15TH REGIMENT OF SOUTH CAROLINA MILITIA.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, That beat company number seven, of the fifteenth regiment of South Carolina militia, now commanded by captain Jacob Kitchen, shall, as soon hereafter as practicable, be divided into two companies, and that Richard Jones, Esq., John Horsey, Jacob Kitching, John Quattlebaum, and George Sawyer, be appointed commissioners to divide the same.

II. The said commissioners, or a majority of them, shall, as soon as may be practicable, meet and make such division, and shall return, in writing, to the colonel of the regiment, a report of such division, and the limits apportioned to each beat company; and the colonel shall cause the same to be entered in the books of the regiment.

III. The officers now holding commissions in said beat company, shall be entitled to hold the same in the company, within the limits of which they may, respectively, fall.

IV The colonel shall, as soon as the said limits are fixed, order elections to fill up the vacancies that may exist in said companies, respectively.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, and in the fifty-fourth year of the Independence of the United States of America.

HENRY DEAS, *President of the Senate.*
BENJ. F. DUNKIN, *Speaker of the House of Representatives.*

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AN ACT TO CONSOLIDATE THE TWO BEAT COMPANIES OF GEORGETOWN. No. 2488.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the two beat companies of the lower battalion, thirty-first regiment, heretofore known as the upper and lower beats of Georgetown, be, and the same are hereby, consolidated, so as to constitute hereafter but one beat instead of two.

II. *And be it further enacted* by the authority aforesaid, That the officer now in command of the said lower battalion, thirty-first regiment, be, and he is hereby, authorized and directed to carry into effect the provisions of this Act, and forthwith to order the necessary elections, and cause to be filled the offices of the said company, whereupon he shall report his proceedings to the colonel of his regiment.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, and in the fifty-fourth year of the Independence of the United States of America.

HENRY DEAS, *President of the Senate.*

BENJ. F. DUNKIN, *Speaker of the House of Representatives.*

AN ACT TO CHANGE THE PLACE OF COMPANY MUSTER IN ST. JAMES SANTEE. No. 2504.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the beat company of militia in the parish of St. James Santee, shall cease to be mustered at the head of Wigfall's or Cordes's causeway, as they heretofore have been, and that the head of Palmer's causeway shall be, and is hereby, fixed and established as the muster ground of the said beat company.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

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A. D. 1830. *Acts relating to the Militia.*

No. 2506. AN ACT TO ESTABLISH THE DIVIDING LINE BETWEEN THE 26TH AND 27TH REGIMENTS OF MILITIA; AND TO LAY OFF A NEW BEAT COMPANY AT AND AROUND SUMTERVILLE.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly; and by the authority of the same, That the boundary line which divides the 26th and 27th regiments of South Carolina militia from each other, shall be, and the same is hereby, altered, defined and established, to run as follows, that is to say: beginning at M'Clure's old field, on the Saluda road, near the village of Chester; running thence in a direct line to the spring east of the said village; thence along the meanders of the branch from the said spring until it intersects the Charleston road; and thence along the said road as heretofore.

II. *Be it further enacted* by the authority aforesaid, That a new beat company of militia be formed and established in and around the village of Sumterville, by uniting portions of the two beat companies commanded by captain William N. Harvin and captain James A. Vaughan, in manner and form following, that is to say: captain Harvin's beat shall be divided by a line beginning at the mouth of Cow-pen branch, near Thomas J. Wilder's plantation; thence upward along said branch to its source; thence directly to the head of Camp branch; thence along the meanders of the same to its juncture with Black river; and that captain James A. Vaughan's beat shall be divided by a line beginning at Mr. Charles Spann's mill; thence along the road to John Knox's; thence along the Stateburg road to Green swamp; and that the contiguous portions of the said beat companies, so abstracted and divided off by the said lines, form and be constituted a separate beat; *provided*, that the companies hereby directed to be divided, shall not be reduced by such division below the number directed by law to constitute a company.

III. *And be it further enacted*, That the beat hereby directed to be formed and established, shall be attached to, and form a part of the lower battalion of the 20th regiment, and that the officer whose duty it may be, shall forthwith issue the necessary orders for the election of company officers in the said new beat.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the American Independence.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

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AN ACT TO CONFORM THE MILITARY WITH THE JUDICIAL DIVISIONS OF PENDLETON DISTRICT; AND FOR OTHER PURPOSES. No. 2510.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the first day of March next, the 4th and 42d regiments of militia, shall be included in the district of Anderson; and that the 2d and 5th regiments of militia, shall be included in the District of Pickens. Division of militia.

II. That the fifth street in the village of Anderson, be the line between the 4th and 42d regiments, continuing from the east end thereof to a point on Saluda river, within one mile of Wilson's Ferry, above; and from the west end of said street, to a point on Senaca river, between Mrs. Sloan's Ferry, and two miles above the mouth of said river. The said lines to be run by a person to be nominated by the Colonels of those regiments, and the expense to be defrayed out of fines collected from defaulters in said regiments, each contributing equally. Dividing line.

III. *And be it further enacted*, That this line dividing the 2d and 5th regiments, shall commence at the point of intersection between the district line of Pickens and Anderson, and the public road leading from the village of Pendleton to Harrison's Ferry on Senaca river; thence along said road to said ferry; thence up said river, to the mouth of Toxaway, and up Toxaway to the Three Forks; and thence up South Fork to the State line.

IV. *And be it further enacted*, That the General's road shall be the dividing line between the two battalions of the 4th regiment; and that Samuel J. Hammond, Christopher Orr, and Asa Clinkscales, be commissioners in the first battalion; and that John McFall, jr., Solomon Shelton, and William Houston, be appointed commissioners in the second battalion, to establish the beat company lines and battalion parade grounds in their respective battalions. Commissioners to establish dividing lines, &c.

V. *And be it further enacted*, That Swellen Goode, A. J. Liddell, and Job Rainwater, be appointed commissioners for like purposes, in the battalion in which they reside; and that James L. McCann, James Mulligan, and Saxon Anderson, be appointed commissioners for like purposes, in the battalion in which they reside; and that they jointly, form a board of commissioners for the 42d regiment, to determine the grade of battalions, the dividing line of the battalions, and the regimental parade ground.

VI. *And be it further enacted*, That Samuel Reid, William Duff, and Michael Edmonston, be appointed commissioners for like purposes, in the battalion in which they reside; and Samuel C. Reeder Jacob R. Cox, and Obediah Trimmier, be appointed commissioners in the battalion in which they reside, for like purposes, who shall, jointly, determine the grade of the battalions, the battalion line, and the regimental parade ground for the second regiment; and that Samuel Gassaway, John Bowen, jr., and James Hendrix, be appointed commissioners for like purposes, in the battalion in which they reside; and John Hunter, Nathaniel Lynch, and William Sutherland, be appointed commissioners for similar purposes, in the battalion in which they reside, who shall also, jointly, determine the grade of the two battalions, the battalion line, and regimental parade ground for the fifth regiment. Commissioners for like purposes.

VII. *And be it further enacted*, That the foregoing changes shall not

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occasion any forfeiture of commission or rank, either in regimental, battalion, or beat company officers, or any dissolution of any existing uniform corps, but such officers or privates may continue to exercise the duties of their respective commands, or parade with the uniform corps to which they may have been attached, as the case may be.

Commissioners of roads, &c.

VIII. *And be it further enacted*, That Jesse W. Norris, A. Rice, Thos. Bunoughs, William Houston, Archibald Simpson, Christopher Orr, Hugh Wilson, Miles J. Hardy, James Pagott, and John T. Broyles, be appointed commissioners of roads and bridges for the fourth regiment; and that Jas. C. Griffin, Wyatt Smith, William Steel, John Harris, jr., Jas. L. M'Cann, William Holcomb, Joseph V. Shanklin, Herbert Hammond, Baylis Wodkins, William McMurry, and Eben Smith, be appointed commissioners of roads, bridges, et cetera, for the forty second regiment; and that William G. Field, Joseph Evetts, Jeptha Norton, jr., Frederick N. Garvin, Stephen C. Reid, Weyman Holland, and John Hunter, be appointed commissioners of roads for the fifth regiment; and that John T. Humphreys, Thomas Fitzgerald, Jesse McKinney, Samuel C. Reeder, Samuel Kirksey, John E. Calhoun, and Joseph Grisham, be appointed commissioners of roads for the second regiment, vested with the same powers, and subject to the same penalties as now by law provided.

General board of commissioners.

IX. *And be it further enacted*, That the boards of the fourth and forty-second regiments, shall form a general board for Anderson district; and the said boards for the fifth and second regiments, shall form a general board for Pickens districts; each to meet on the first Monday in January next, at their respective court houses, and annually, thereafter, to transact such business as is now required of such general board by law; and it shall be the duty of the tax collector for Pendleton district, to collect such assessments as he may be required by each of these boards, from the tax-paying inhabitants in Anderson and Pickens, respectively. And it shall be the duty of the treasurer for the general board for Pendleton, to exhibit a fair account, current, to each of the general boards for Anderson and Pickens, the balance of funds on hand, or amount, if deficient, to be received or contributed in equal proportion by each of the general boards aforesaid, as the case may be; and all appeals now pending, or other unfinished business before the general board, to be transferred to that board to which it properly belongs, by the said treasurer.

Commissioners of free schools.

X. *And be it further enacted*, That Robert Anderson, Thos. W. Sloan, Benjamin D. Dupree, Bailey Barton, James Osborne, David Hendricks, and David McKinney, shall constitute a board of commissioners of free schools for Pickens District; and that Levi Garrison, Jesse W. Norris, Christopher Orr, J. D. Gaillard, J. L. McCann,, Garrison Lynn, and A. Evans, shall constitute a board of commissioners of free schools for Anderson district, shall meet at their respective court houses on the first monday in February next, for the purpose of organizing their boards, locating schools, and transacting such duties as are now required of boards of commissioners by law; meeting quarterly and annually thereafter, on such days as are now provided. And it shall be the duty of the present board of commissioners of free schools for Pendleton, on the fourth Monday in January next, only to examine the reports of teachers, and ascertain the amounts due to each, and draw their order therefor on the treasurer of the Upper Division, in conformity with existing laws; and bring to a close, as far as practicable, all engagements with their teachers, from and after which day, the said board is hereby, dissolved; *nevertheless*, it shall be

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their duty to transfer to each of the new boards, respectively, such business as may not be closed.

XI. *And be it further enacted*, That the balance of appropriation, as well as all future appropriations to which Pendleton District may be entitled by laws now of force, be, and the same shall hereafter be, divided between the districts of Anderson and Pickens, in equal shares, one moiety to each, and no more; liable to be drawn from the treasury, as is now provided for the other boards of free schools. And it shall be the duty of the treasurer of the upper division, after the payment of said order from the board for Pendleton District, to open an account, current, with Pickens and Anderson, in conformity with the provisions. Division of appropriation.

XII. *And be it further enacted*, That in the event of the neglect or refusal of any one or more of the commissioners, appointed to adjust and establish the lines of beat companies, etcetera, such vacancy or vacancies, may be filled by the Pendleton delegation. To fill vacancies.

XIII. *And be it further enacted*, That from and after the passing of this Act, Anderson district shall be entitled to fifteen justices of quorum, and twenty justices of the peace, and no more; and that Pickens district shall be entitled to twelve justices of the quorum, and fifteen justices of the peace, and no more; each inclusive of those now in office. Number of justices of peace and quorum.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

AN ACT TO FORM A SQUADRON OF CAVALRY IN THE EIGHTH BRIGADE. No. 2511.

I. *Be it enacted*, by the Senate and House of Representatives, That the All Saints Light Dragoons, the Winyaw Hussars, and the Marion Troop, three troops of Cavalry belonging to the Eighth Brigade of the Militia of this State, be formed into a Squadron, under the command of a field officer, with the rank of Major, who shall be elected by the members of the said corps; and that the brigadier-general of the said brigade, be authorized to order an election for such officer.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

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No. 2523. AN ACT TO AUTHORIZE THE FORMATION OF A MOUNTED CORPS IN CHARLESTON.

I. *Be it enacted*, by the Senate and House of Representatives, That from and after the passing of this Act, it shall and may be lawful to and for such persons, not exceeding one hundred in number, as reside in the city or district of Charleston, who are exempt from ordinary militia duty, to form themselves into a military corps of mounted men, under the name of "The Charleston Horse Guards," to be equipped in such manner as the Governor shall direct or approve.

II. That the said corps shall be entitled to the usual number of officers, and are hereby, authorized to regulate the election and removal of said officers as they see fit.

III. That when the said corps shall be organized in such manner as the Governor shall approve, the Governor is hereby, authorized and required to, commission the officers to be elected by them.

IV. That it shall be the duty of the said corps in times of alarm, to perform such service as shall be prescribed and directed by the commanding officer of the militia in Charleston, on pain of incurring like penalties as the other militia of the State.

V. That a list of the persons who may be enrolled in the said corps, duly certified by the captain, shall be furnished to the captains of the several beat companies in which they reside; and said persons while they continue members of the Horse Guards, shall not be liable to do duty in said beats.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, and in the forty-sixth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

No. 2525. AN ACT TO DEFINE THE RECRUITING LIMITS OF THE FAIRFIELD GRENADIER COMPANY.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That hereafter, it shall be lawful for any person residing within the districts of Fairfield and Chester, and liable to do militia duty, to join and become a member of the Fairfield Grenadier Company, in the same manner as such person would be entitled to do, were he a resident of that regiment to which said company is attached.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, and in the fifty-sixth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

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AN ACT TO LAY OFF AND ESTABLISH A NEW BEAT COMPANY IN THE SEVENTH REGIMENT OF SOUTH CAROLINA MILITIA. No. 2529.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That a new beat company be formed and established, in and around the Town of Edgefield, by uniting portions of Bland's and the Horn's Creek Beat Companies, by lines running in the following manner, that is to say:—beginning at the head of Log Creek, and running down and along the meanders of the said creek to the dividing line between the seventh, (Col. Bacon's,) and ninth, (Col. Tompkins's,) regiments; thence along said regimental line, to its intersection with the old Long Cane road, near the residence of James Griffin; thence down said road to the two mile stone, on the road leading from Edgefield Court House to the Pine House; thence a direct line to the head of Log Creek, the beginning; and that the portions of said two beat companies included within the said lines, form and be constituted a separate beat.

II. *And be it further enacted*, That the beat hereby directed to be formed and established, shall be attached to and form a part of the upper battalion of the seventh regiment; and that the officer whose duty it may be, shall immediately issue the necessary orders for the election of company officers in the said new beat.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, and in the fifty-sixth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

AN ACT TO ENABLE OFFICERS OF THE MILITIA TO RESIDE, IN CERTAIN CASES, OUT OF THEIR COMMANDS. No. 2541.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That in all cases where the dividing line between any regiments in this State shall pass through any town or village, it shall be lawful for any person holding a commission in either regiment, to reside any where within the limits of said town or village, without a forfeiture of his commission.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, and in the fifty-sixth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

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No. 2560. AN ACT FURTHER TO ALTER AND AMEND THE MILITIA LAWS OF THIS STATE.

Governor may call out troops.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That in case the Government of the United States, or any officer thereof, shall, by the employment of naval or military force, attempt to coerce the State of South Carolina into submission to the Acts of Congress, declared and ordained to be null and void and no law, in a convention of the people of the State of South Carolina, on the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, or to resist the enforcement of an ordinance adopted by the convention aforesaid, or the laws passed in pursuance thereof, or in case of any armed or forcible resistance thereto, the Governor is hereby authorized and empowered to resist the same; and in order to render such resistance effectual, he is hereby authorized and empowered to order into service the whole military force of this State, or so much thereof as he may, from time to time, deem necessary and proper.

Calling out troops for defence.

II. In case of any overt act of coercion, or an intention on the part of the Government of the United States, or any officer thereof, to commit such an act, manifested by an unusual assemblage of naval or military forces, in or near this State, or the occurrence of any circumstances indicating the probability that armed force is about to be employed against this State, or in resistance to its laws, the Governor be, and he is hereby, authorized to call into the service of this State, from time to time, such portion of the militia as may be required to meet the emergency.

Infantry and rifle companies, what number to consist of.

III. Each company of infantry called into the service, shall consist of sixty privates, five sergeants and six corporals, to be officered by one captain, one first and second lieutenant and ensign; and each company of infantry or riflemen, shall consist of not less than forty privates, and the requisite number of non-commissioned and commissioned officers.

Regiment of infantry, what to consist of.

IV. Each regiment of infantry called into service as aforesaid, shall consist of eight companies of infantry, and two companies of light infantry or riflemen, to be commanded by one colonel, one lieutenant-colonel and one major, to be selected by the commander-in-chief from amongst the officers of their respective grades in commission at the time, in the brigade or division out of which such regiment shall be raised; and each colonel commanding a regiment of volunteers or militia, shall appoint his regimental staff, subject to the approval of the brigadier-general.

Volunteer companies to be raised.

V. The Governor is hereby authorized, out of the several brigades or divisions of the State, to permit volunteer companies, troops, battalions, squadrons, and regiments of infantry, artillery, cavalry, light infantry, and riflemen, to be raised; and he is hereby authorized to accept the services of volunteers, whether by files, companies or otherwise; and it shall be his duty, whenever in his opinion the public interest shall require it, to cause such volunteers to be organized into companies, troops, battalions, squadrons or regiments, as the case may be, and he may form the same into brigades and divisions; *provided*, no troop or company shall consist of less than forty or more than one hundred effective rank and file, with the proper compliment of non-commissioned and commissioned officers required by law; the field and general officers to be selected by the Governor, from amongst the officers of their respective grades in the brigade or division out of which such regiment or brigade shall be raised; and where any

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officer already in commission, shall accept a command in any such volunteer corps, he may retain both commissions, and at the end of his term of service as a volunteer, shall be at liberty to resume his rank and command; *provided*, that every volunteer company, troop, battalion, squadron or regiment, which shall offer its services as a whole, shall be received and permitted to retain its own officers.

Volunteers exempt from ordinary militia duty.

VI. The officers, non-commissioned officers, and privates of every volunteer company, troop, battalion, squadron or regiment, which may be raised, or whose services may be accepted as aforesaid, shall not be called upon to do militia duty in any other corps; but shall be liable to perform, in their respective volunteer companies, all the duties now required, or which may hereafter be required, of the militia by law; and the officers of such volunteer corps, shall, when acting in conjunction with their corps, rank according to the date of their respective commissions.

Time of service.

VII. The volunteers which shall be raised, or whose services shall be accepted as aforesaid, or any portion thereof, may be called out by the Governor in any of the cases above mentioned, or other emergency in which he is authorized by law to call out the militia, and the term of service of the said volunteers, as well as the other militia corps, shall be six months from the day of their being mustered into service, unless sooner discharged; and all free white men above the age of sixteen years, may be accepted as volunteers; and all between the ages of eighteen and forty-five, shall be liable to be called out as is hereinbefore provided for.

Regulations for militia and volunteers.

VIII. Whenever any portion of the volunteers or militia aforesaid, shall be required for actual service, they shall, in every respect, be subject to the provisions contained in the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh sections of the Act of the General Assembly, ratified on the twenty-fourth day of September, eighteen hundred and thirteen, entitled "An Act to alter and amend the militia laws of this State."

Governor to order out troops for instruction.

IX. The Governor shall be, and he is hereby, authorized to order out any portion of the volunteers and militia of this State for review, inspection, and military instruction, as often as, in his opinion, the public service may require; *provided*, that when so ordered out, they shall not be kept longer in the field than twelve hours at any one time; and every officer, non-commissioned officer and private, shall be liable to the same fines and other penalties for non-attendance, or disobedience of orders while under arms, as are now imposed by law for non-attendance or disobedience of orders at regimental musters; the same to be imposed, collected and appropriated as now provided for by law in relation to regimental musters.

Authorizing the purchase of arms.

X. The Governor is hereby authorized and empowered to purchase, for the use of the State, as he may judge necessary, from time to time, ten thousand stand of small arms, and the necessary accoutrements, the requisite quantity of cannon balls, powder, lead, and other munitions, such ordinance as he may deem advisable, and to repair and mount such ordinance now belonging to this State, as may be worth the expense. And the Governor also shall be, and he is hereby, authorized to appoint, from time to time, such assistant staff officers of the grades now established by law, as may be necessary for the purpose of carrying this Act into complete effect; and he is also authorized to appoint additional aids-de-camp, whenever, in his opinion, the public service may require it; *provided*, that such appointments shall not continue in force longer than two years after the passage of this Act.

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In case of inability in the civil authority, the military to be called out.

XI. The Governor shall have power, and it is hereby declared to be his duty, in all cases of insurrection or invasion, or eminent danger thereof, and in cases where the laws of this State shall be opposed, and the execution thereof forcibly obstructed, by combinations too powerful to be suppressed by the power vested in the sheriffs or other civil officers of the State who may be charged with the execution of the said laws, to call forth such portions of the militia and volunteers aforesaid, as may be necessary promptly to suppress such combinations, and to cause the laws of the State to be duly executed.

This Act to be given in evidence.

XII. And if any person or persons whosoever shall be sued, impleaded, molested or prosecuted, for any matter, cause or thing, done or executed, or caused to be done or executed, by virtue of or in pursuance of this Act, all and every such person shall and may plead the general issue, and give this Act and the special matter in evidence; in case the plaintiff should suffer a discontinuance, enter a *nolle prosequi*, suffer a non-suit, or if a verdict or judgment shall pass against him, he shall pay to every defendant that shall be acquitted, or for whom judgment shall pass, his full double costs of suit.

The law prohibiting the reduction of beat companies, suspended.

XIII. The laws now of force prohibiting the reduction of beat companies below the number of thirty men, or the raising a greater portion of certain descriptions of troops than are now authorized within the limits of each military division, be, and the same are hereby, suspended, so far as the operation of this Act is concerned; and this Act shall continue of force, unless sooner repealed, for two years from the passing thereof, and no longer. The abstract of infantry tactics for the use of the militia of the United States, published by the department of war, under the authority of the Act of Congress, of the second of March, eighteen hundred and twenty-nine, shall, hereafter, be observed in the instruction and exercise of infantry within this State; and the exercise and manœuvres of light infantry and riflemen, annexed to said abstract, shall, in like manner, be observed in the instruction and exercise of light infantay and riflemen; and the system of exercise and instruction of field artillery, including manœuvres for light or horse artillery, shall likewise be observed by the artillery within this State; and the officers of infantry, cavalry and artillery, respectively, shall be furnished with a copy thereof by the Governor; and every officer shall be required, on the vacation of his commission, to deliver over to his successor the said book, or pay to said successor three dollars, to be by him recovered before any magistrate, and applied by said successor to the purchase of another and similar book.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and fifty-seventh of the Independence of the United States of America.

H. DEAS, *President of the Senate.*

H. L. PINCKNEY, *Speaker of the House of Representatives.*

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AN ACT TO REGULATE THE MILITIA OF THE PARISHES OF ST. PHILIP AND ST. MICHAEL; AND FOR OTHER PURPOSES. No. 2561.

WHEREAS, from the location of the regiments and corps composing the militia of the parishes of St. Philip and St. Michael, they can be conveniently assembled as a body, for inspection, exercise and review, to their manifest advantage in point of discipline and efficiency:

I. *Be it therefore enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the brigadier-general, or officer commanding the fourth brigade, in the second division of the militia of this State, to order the several regiments and corps composing the militia of the said parishes, to parade for inspection, exercise and review, twice in each and every year; parades for such purpose to be enumerated as a part of the six company parades now annually required by law. Reviews for St. Philip and St. Michael.

II. *Be it further enacted* by the authority aforesaid, That the brigadier general of the said brigade be, and he is hereby, constituted a member and the presiding officer of the board of field officers residing in said parishes, empowered by the Act of 1809 to purchase a parade ground for the use of the militia of the said parishes. Parade ground.

III. *And be it further enacted* by the authority aforesaid, That the brigadier-general of the said brigade be, and he is hereby, authorized and required to appoint a collector of the militia fines for the said parishes, whose duty it shall be to collect all fines now imposed, or hereafter to be imposed, for neglect of militia duty, in the militia of said parishes; and who shall be clothed with the same authority and powers as are now vested by law in the collectors of militia fines throughout the State; and who shall receive, as a compensation for his services, a sum not exceeding twenty-five per cent. on all monies collected, together with the usual fees allowed to magistrates and constables, to be collected from the parties, if able to pay, in all cases where executions shall be issued. Collection of fines for those parishes.

IV. *And be it further enacted* by the authority aforesaid, That the fines so collected shall form a common fund for the militia of said parishes, to defray the expenses incident to their company and other parades, and in general, to be appropriated to their use, and disbursed under the direction of the board of officers aforesaid, composed of the brigadier-general and field officers residing within the said parishes. Fines, how appropriated.

V. And *whereas*, some difficulty has arisen in relation to courts martial ordered to be held on the commissioned officers, non-commissioned officers and privates, who may compose the fire guard of the city of Charleston, for default of duty and other military offences; for remedy whereof, *Be it further enacted* by the authority aforesaid, That from and after the passing of this Act, the brigadier-general of the fourth brigade, or in his absence from the parishes of St. Philip and St. Michael, the senior officer of the militia of said parishes, shall have full power and authority to order courts martial on all officers, non-commissioned officers and privates, composing the aforesaid fire guard, who shall fail to attend in case of alarm from fire, and when ordered to mount guard, and for relief of the same, and for other military offences, at such times and in such manner as may be deemed fit and proper; and that the proceedings of such courts martial shall be approved or disapproved of by the officer so ordering the same. Courts-martial for fire-guard.

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VI. *And be it further enacted* by the authority aforesaid, That all Acts and parts of Acts repugnant to this Act, be, and the same are hereby, repealed.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

No. 2565. AN ACT TO EMPOWER THE COMMISSIONERS OF CROSS ROADS, FOR CHARLESTON NECK, TO APPOINT A COLLECTOR OF PATROL FINES.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in Genoral Assembly, and by the authority of the same, That so much of the Act of General Assembly, ratified the twentieth day of Decembor, one thousand eight hundred and twenty-three, as appoints the collector of the regiment to collect the fines and penalties imposed for neglect or default in the performance of patrol duty, on Charleston Neck, be, and the same are hereby, repealed; and that the commissioners of cross roads for Charleston Neck, be, and are hereby, empowered to appoint a collector, who shall have the same power and authority to collect the fines and ponalties imposed for neglect or dofault in the performance of patrol duty, as by the said Act is vested in the collector of the regiment. And the said commissioners are authorized and empowered to require of the collector to be appointed by them, bond, with sufficient security, for the faithful performance of the duties of his office; and also to remove said collector from office.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the Indepeadence of the United States of America.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

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AN ACT TO TRANSFER CAPTAIN CLECKLEY'S COMPANY TO THE FOURTEENTH REGIMENT, SOUTH CAROLINA MILITIA; AND FOR OTHER PURPOSES. No. 2567.

I. *Be it enacted*, by the Senate and House of Representatives, That the company of militia in St. Matthew's parish, now under the command of captain Cleckley, and known by the name of the Buck-head company, be transferred from the fifteenth regiment, and attached to and form a part of the fourteenth regiment of the militia of this State.

II. *And be it further enacted*, That the field officers of the fifteenth regiment of the militia of this State, divide the battalions composing the same, by substituting Savannahunt, instead of Sandy Run, as the division line of said battalions, on or before the thirteenth day of January next.

III. *And be it further enacted*, That the dividing line between the first and second battalions, in the first and second battalions in the fourth regiment, be so altered as to include the dwelling house on the Verennes Tract, within the limits of the first battalion.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of American Independence.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

AN ACT PRESCRIBING THE MODE OF ALTERING THE BOUNDARIES OF THE SEVERAL MILITIA BEATS, BATTALIONS AND REGIMENTS, WITHIN THIS STATE. No. 2570.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall be the duty of each of the brigadier-generals of this State, to whom representation shall be made of any gross inequality or manifest inconvenience of boundary, between any two or more adjoining beats, battalions, or regiments, within his brigade, to appoint a board of commissioners, consisting of not less than five persons from each of the beats, battalions or regiments, liable to be affected by their decision, whose duty it shall be to examine fully the complaints or representations so made as aforesaid, and to make such decision in the premises, in favor of the existing boundaries, or of such new boundaries, as to them shall seem proper. And any boundaries of any adjoining beats, battalions or regiments, adopted by such board of commissioners, when approved by the brigadier-general, and by him announced in brigade orders, shall be the boundary of every such beat, battalion or regiment.

In the Senate House, December the twentieth day, in the year of our Lord one thousand eight hundred and thirty-two, and the fifty-seventh of the Independence of the United States of America.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

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A. D. 1833. *Acts relating to the Militia.*

No. 2612. AN ACT TO PROVIDE FOR THE MILITARY ORGANIZATION OF THIS STATE.

Commissions vacated.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, That from and after the passing of this Act, the commissions of the major-generals, brigadier-generals, and their respective staffs, the adjutant and inspector-general, and deputy adjutant-generals of the militia of this State, are hereby vacated; and the Legislature shall forthwith, by joint ballot of both houses, elect five major-generals, one for each division, and ten brigadier-generals, one for each brigade.

Officers, how to be elected.

II. There shall be one adjutant and inspector-general, with the rank of brigadier-general, five assistant adjutants-general, with the rank of colonel, and to each division and brigade the additional staff officers now required by law. The adjutant and inspector-general to be elected by joint ballot of both branches of the Legislature, to continue in office for four years from the date of his commission. The division staff to be appointed by the major-generals, subject (except his aids-de-camp,) to the approval of the commander-in-chief; the brigade staff to be appointed by the brigadier-general, subject, except his aids-de-camp, to the approval of the major-general; and the adjutant and inspector-general shall receive an annual salary of fifteen hundred dollars.

Companies dissolved.

III. Each and every volunteer company of light infantry, riflemen, or gronadiers, in existence at the passing of this Act, attached to any regiment or battalion of the militia of this State, except such as are incorporated by Act of the Legislature, shall be dissolved on the first day of March next, and the commissions of their respective officers vacated, and of none effect.

Beats, how laid off.

IV. Each brigadier-general, immediately after his election, shall appoint five commissioners in each battalion of his brigade, in which there shall be either more or less than four beat companies, whose duty it shall be to divide said battalions into four beat companies, as nearly as may be, and report the same to the brigadier-general, designating the boundaries and lines of each beat, within two months from the adjournment of the Legislature. Three of said commissioners shall be a quorom to perform said duties; and if either of said commissioners shall wilfully neglect or refuse to perform the duty hereby assigned, he shall, upon conviction on indictment, be fined not less than one hundred dollars.

Boundaries to be recorded.

V. Within fifteen days after the report of the commissioners is received, each brigadier-general shall issue an order, defining the boundaries of each beat company, which shall be posted up at two public places, at least, within said beat company, and which shall be recorded in the office of the register of mesne conveyance of the district in which said beat is situated; he shall also order an election and appoint managers to conduct and declare the same, for one captain, two lieutenants, and one ensign, to command said company; for one major to command said battalion, and one colonel to command the regiment; which election shall be held on the eleventh day of April next; elections shall also be held on the same day in each volunteer uniform company, having the full compliment of rank and file required by this Act, and regularly attached to said regiment, for company, battalion and regimental officers. And should any brigadier-general neglect or refuse, or from any cause fail, to have the several battalions of his brigade divided into beats, as herein provided, or to order the election of officers on the eleventh of April next, the commander-in-chief is hereby authorized

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and required to cause the election of field officers to be advertized and held in every regiment of such brigade, the return to be made to the commander-in-chief; and every colonel so elected, when commissioned, shall forthwith cause each of the battalions in his regiment to be divided into four beat companies, and order elections to be held for company officers in each of such beats.

Fees for granting commissions.

VI. On the tenth day of April next, the commission of each and every militia officer of this State, except those elected or appointed under this Act, and the aids of the Commander-in-chief, shall be, and the same are hereby declared, vacated and of none effect; *provided*, that every officer who may be elected or appointed under this Act to the same office which he may hold on the said tenth day of April next, shall take rank from the date of his commission so vacated. The Secretary of State shall be allowed one thousand dollars, in lieu of all fees and charges for services, in relation to military commissions for the ensuing year.

Major-generals and brigadier-generals, how elected.

VII. From and after the present session of the Legislature, each major-general shall be elected by the commissioned officers of the division in which the vacancy shall occur, from amongst the general, field and staff officers, residing within the said division, of or above the rank of major; and no such officer shall be eligible, unless he has held a commission of or above the rank of captain, for twelve months next preceding the election; and each brigadier-general shall be elected by the commissioned officers of the brigade in which such vacancy shall occur, and by the staff officers residing in the said brigade, from among the officers of the brigade and the staff officers residing in said brigade, of or above the rank of captain; and no officer shall be elegible, unless he has held a commission of or above the rank of captain, for twelve months next preceding the election; *provided*, the ineligibility above specified shall not extend to officers elected or appointed under the provisions of this Act, until the expiration of twelve months from the eleventh day of April next.

Colonels and majors.

VIII. From and after the eleventh day of April next, every vacancy in the offices of colonel and major in the line, shall be filled by election, as now prescribed by law; *provided*, that no person shall be eligible to either of said offices, unless he has held a commission in said regiment or battalion at least six months next preceding the election; *provided*, the ineligibility above specified shall not extend to officers elected or appointed under the provisions of this Act, until the expiration of twelve months from the eleventh day of April next; and all vacancies in the offices of the volunteer uniform and battalion beat companies, shall also be filled as now prescribed by law; *provided*, that no person attached to the cavalry, and no person who has not resided in the State at least six months next preceding such elections, shall be allowed to vote at the same.

Companies refusing to elect, officers to be appointed.

IX. Whenever any beat company shall neglect or refuse to elect an officer to fill any vacancy which shall occur in said company, for the space of two months, or where the person elected to fill such vacancy shall refuse to accept, within thirty days from the time of his election, it shall be the duty of the colonel or officer commanding the regiment to which said company belongs, to appoint and commission some fit and proper person, liable to do ordinary militia duty within such beat, to fill such office, who shall discharge the duties thereof for twelve months, unless said office be sooner filled by the election of some person who will accept the same, as provided by this Act; and upon the refusal of any person so appointed to office to

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discharge the duties of said office, he shall pay a fine of twenty dollars, to be imposed by the field officers sitting in court-martial, and collected as other fines hereinafter provided. And it shall be the duty of the colonel or officer commanding the regiment, to appoint and commission, as often as such vacancy shall occur, until the same shall be filled by some person accepting said office; and in every case of refusal to accept, the penalty above mentioned shall be inforced against the person so refusing, in the manner prescribed in the forgoing part of this clause; and each company officer elected and commissioned as provided by this Act, shall, under a penalty of twenty dollars, to be imposed as aforesaid, be compelled to serve at least twelve months, unless he shall be promoted or shall remove from the limits of his command, or in the opinion of the field officers of the regiment, become incompetent to discharge the duties of the same. *Provided*, that no person accepting a commission under the appointment of the colonel or other officer in command of the regiment, as hereinabove provided for, shall be compelled to uniform himself, or be compelled to discharge the duties of a commissioned officer in said company longer than one year in three.

X. In addition to the oaths now required by law, every officer of the militia hereafter elected, shall, before he enters upon the duties of his office, take and subscribe, before some person authorized by law to administer oaths, the following oath:

Oath.

"I, A B, do solemnly swear, (or affirm, as the case may be,) that I will be faithful, and true allegiance bear to the State of South Carolina. So help me God."*

Which oath shall be indorsed and certified upon his commission, as hereinafter prescribed.

In case of neglect new elections to be made.

XI. If any person elected or appointed to any military office in this State shall accept the same, and shall neglect or refuse to take the oath of office prescribed by law, within thirty days after his election or appointment, he shall, in addition to the penalties provided by this Act, for refusing to discharge the duties of the office to which he has been elected or appointed, forfeit his commission; and the officer authorized to commission such person is hereby authorized and required to appoint some suitable person to fill said office, who, upon taking said oath, shall continue to discharge the duties thereof until the same shall be filled by election or appointment, as provided for by this Act. All officers authorized to commission an officer by the provisions of this Act, are hereby authorized to administer the oath of office; and no person elected or appointed to office under this Act, who shall accept the same, and wilfully neglect or refuse

*This clause of the Act, the late court of appeals, composed of three judges, declared unconstitutional and void. *Johnson, J.*, holding that the State Constitution, article 4, having prescribed the form of the oath of office, the Legislature had no authority to change, add to or alter it; and *O'Neall, J.*, that the oath is contrary to the Constitution of the State, and inconsistent with the allegiance of the citizen to the Federal Government. *Harper, J.*, dissenting, held that it was neither repugnant to the Constitution of the State, nor inconsistent with any obligation of the citizen to the Federal Government. The State *ex relatione* M'Crady vs. Hunt, and M'Daniel vs. M'Meekin; 2 Hill R., 1, and note by the Reporter, at page 2.

See 1st volume, 120, 135, 147, for former Acts requiring oath of allegiance. Mr. attorney-general Smith's argument; 2 Hill, 96, 110, 111, 112. See, also, the oath required of all district officers in the State, in the present volume, at page 384; and the oaths required of attorneys and solicitors, chancellors, of magistrates, sheriffs and constables, in relation to the laws against gaming; of the takers of the consus, tax collectors, and electors of president and vice president of the U. S.; oath of commissioners to count the votes for members of Congress, &c., &c.

See amendment of the Constitution of South Carolina, of Dec. 6, 1834. 1 vol., 196.

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to take the oath prescribed by law, shall thereafter be eligible to that office.

Oath certified to.

XII. The officer whose duty it shall be to commission any person elected or appointed to any office in the militia, shall, in each and every case, before issuing a commission to an officer, receive from such officer the above prescribed oath, sworn to as the law directs, certified by the officer before whom the oath was taken: which oath and certificate he shall indorse upon said commission, and certify to be true copies.

Formation of regiments, &c.

XIII. Each regiment of infantry shall consist of two battalions, and each battalion of four beat companies; and to each regiment there may be attached two light companies and one company of artillery, and no more; and from and after the eleventh day of April next, the colonel or commanding officer of each regiment in which the number of light companies allowed by this Act, have not been raised, is hereby authorized and required to permit said companies to be raised.

Companies to consist of a certain number of men.

XIV. No light company shall be inspected and received into any regiment unless it consist of forty rank and file, four officers and four serjeants; nor shall any such company contain more than one hundred, rank and file; and should any such company at any time be reduced below the number above required for inspection, the colonel of the regiment to which it is attached, shall give notice to its commanding officer to fill up its ranks; and unless the said company shall, in six months after the said notice, be filled up to the number above required for inspection, the colonel shall disband it.

Companies may be raised.

XV. Immediately after the brigadier-general has issued his order defining the boundaries of the beat companies, the light companies specified in the foregoing clauses may be raised, precedence, in all cases, being given to those companies already incorporated by Act of the Legislature. And all such volunteer light companies which are in complete uniform and attached to their proper regiments, on the tenth day of April next, shall hold elections for company, battalion and regimental officers, as provided by this Act.

Volunteers to turn out as a whole.

XVI. The volunteer light companies to be raised under this Act, shall, when called into service by the authority of this State, go as a whole; and upon refusal of any such company so to turn out, it shall be disbanded, and the commissions of its officers vacated and of none effect; and the proper officer shall forthwith permit another company to be organized to supply its place.

Companies may be re-organized.

XVII. Artillery companies, troops, squadrons and regiments of cavalry, which were organized according to law, previous to the Act passed in December last, entitled "An Act further to alter and amend the militia laws of this State," shall be allowed to re-organize themselves, and elect their officers on the eleventh day of April next; and where no such companies, troops, squadrons and regiments have been raised, as now provided by law, the brigadier-generals are hereby authorized to permit the raising of such corps within their respective commands.

XVIII. No beat company shall be reduced below forty rank and file, by the raising of any light or other volunteer company.

XIX. Each captain or officer commanding a company or troop, shall assemble his command six times in every year, for drill, exercise and instruction, to continue not more than one day at each time of assembling.

XX. Each colonel or officer commanding a regiment, is hereby authorized and required to order out his regiment once in every year, to assemble at

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Parades.

some convenient place for drill, exercise and instruction, to continue assembled not more than one day; and the said colonel or officer commanding a regiment, shall likewise, on the day preceding such drill, assemble all the officers and non-commissioned officers of his regiment, and drill, exercise and instruct them in the manœuvres which are to be performed the next day.

How conducted.

XXI. It shall be the duty of each colonel to attend the muster of each company in his regiment, at least once in every year, and of the lieutenant-colonel and major to attend the muster of each company in their respective battalions, at least twice in each year, to give them assistance and superintendance in the drill, exercise and instruction of said companies. And each captain or officer commanding a company, shall arrange his musters at such times as will best enable the colonel, lieutenant-colonel and major to perform the above duties; and shall, whenever required, furnish said officers with a report, specifying the times and places at which his company will be mustered for the year next ensuing.

Reviews.

XXII. It shall be the duty of each brigadier-general to order, and with his staff attend, a muster and review of each regiment in his brigade, at least once in every year; and of each major-general to order, and with his staff attend, a muster and review of each regiment in his division, at least once in every two years.

Power vested in Commander-in-chief.

XXIII. The Commander-in-chief shall have power and authority to order reviews of such portions of the militia, and at such times and places, as he may deem expedient and proper; and be also invested with all the powers and authority now provided by law in cases of invasion or threat of invasion.

XXIV. The army regulations of the United States, as far as consistent with the laws and constitution of the State, are hereby adopted and established as a system of police for the militia of this State.

System of tactics to be compiled.

XXV. The Commander-in-chief is hereby authorized to cause a system of cavalry and artillery tactics to be compiled, published and distributed, for the use of the cavalry and artillery of this State.

Commissioned officers to assemble

XXVI. It shall be the duty of the brigadier-general or officer commanding the brigade, under the direction of the Commander-in-chief, once in two years, to assemble the commissioned officers of his brigade, at some convenient place within said brigade, to be encamped for five days, and instructed and exercised in the various schools of the soldier, company and battalion, the manœuvres of the line, and the routine of the duties and discipline of the camp; each officer to be in full uniform, and fully equipped, besides his side arms, with a musket, bayonet, cartouch-box, twenty-four rounds of blank cartridge, and a knapsack; and each brigade shall be furnished by the State with the requisite number of good tents.

Notice given for parade.

XXVII. Whenever a brigadier-general, or officer commanding a brigade, shall have issued orders for a brigade encampment, he shall notify the major-general, or officer commanding the division, of the time and place at which the officers of his brigade will be encamped; and it shall be the duty of the said major-general, or officer commanding the division, with his staff, to attend such encampment.

Duty of adjutant and inspector-generals.

XXVIII. In addition to the duties now required by law of the adjutant and inspector-general, it shall be his duty to attend all encampments of officers, and to drill, train, exercise and instruct them in the various branches of military manœuvre and tactics.

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Courts-martial, how ordered and conducted.

XXIX. Each colonel of a regiment shall have power to order courts-martial for the trial of all officers under his command, except field officers, to consist of not less than five, nor more than thirteen officers, one of whom shall be a field officer; and it shall also be his duty to detail courts-martial, to consist of at least three commissioned officers, who shall meet at least once in every four months, in full uniform, at or near the regimental muster-ground, or at such other place within the limits of the regiment as the colonel may deem proper, to try all defaulters at company, battalion or regimental musters, and all non-commissioned officers, privates or fatiguemen, for the non-performance or violation of any duty required by law, as well as for disobedience of orders, and for non-performance of patrol duty. The officers commanding companies in said regiment shall report all the defaulters to this court, at each of its meetings, and shall cause them to be summoned to attend its sittings, and furnish the court with proof of the summons. Defaulters may send their excuse, if fairly written out and sworn to before some person competent to administer an oath, unless specially summoned to attend in person by the court; and from this court there shall be no appeal; but no sentence of any court-martial shall be put in force until approved of by the officer ordering said court.

Defaulters may send their excuses in writing.

Fines, how to be collected.

XXX. All penalties imposed by this Act may be recovered within twelve months after the party has made default; but no defaulter shall be liable to any penalty after the expiration of the time aforesaid.

Fi. Fa. may be issued.

XXXI. The president of every court-martial imposing a fine shall issue an execution, *fi. fa.* or *ca. sa.*, for the same, directed to all and singular the sheriffs of this State, who shall execute and return the same to the court from which it issues, within four months, and pay the amount collected to the proper paymaster, under the same penalties as are now imposed by law for not returning process issued by any court of this State. The sheriff's fees for executing such process shall be fifty cents from the defendant, and ten per cent. on the fines collected.

Duties of the sheriff and paymasters.

XXXII. Each sheriff failing to collect and pay over fines, or to make return of the execution, as above required, shall be subject to rule and attachment from the court of common pleas of the district wherein he resides, upon motion of any attorney, president of a court-martial, the officer ordering the same, or any paymaster or other officer, whose duty it is to see that such process be duly executed.

XXXIII. The paymaster of the regiment shall receive all fines imposed by regimental courts-martial, which shall be disbursed by order of the field officers of the regiment, as now required by law.

Paymasters, how appointed.

XXXIV. Each major-general and brigadier-general is hereby authorized to appoint a paymaster for his division or brigade, respectively, who shall continue in office during the pleasure of the officer making his appointment, and who shall receive all fines imposed by division or brigade courts martial, which shall be disbursed by order of the major-general or brigadier-general, for the use of the division or brigade in which they may have been imposed.

Paymaster to give bond.

XXXV. It shall be the duty of each officer authorized to appoint a paymaster, to take from him a bond, with good security, in the penal sum of one thousand dollars, conditioned for the faithful performance of the duties of his office; which said bond shall be made payable to the State of South Carolina, and shall be lodged with the clerk of the court of the district in which the paymaster resides; and every paymaster shall be allowed to retain for his services, ten per cent. of the monies collected by him. And each

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paymaster shall be compelled to account, once at least in twelve months, and oftener, if required, to the commanding officer of the regiment, brigade or division, respectively, of which he is paymaster; which account shall be subject to the inspection of the brigadier-general, major-general, and commander-in-chief, respectively.

Penalties for neglect of duty.

XXXVI. A major-general and each officer of his staff, a brigadier-general and each officer of his staff, each field officer, and each officer of the regimental staff, shall, for any neglect of duty, on or off parade, in addition to the other penalties provided by law, be liable to pay a fine of not less than twenty, nor more than one hundred dollars; to be imposed by courts martial authorized to try officers of their grades, respectively.

Neglect or disobedience on parade.

XXXVII. Every commissioned company officer for each neglect of duty or disobedience of orders, either on or off parade, shall be fined not less than five dollars, nor more than fifty dollars; to be imposed by courts martial authorized to try officers of their grade, besides being liable to the other penalties now imposed by law.

XXXVIII. Each non-commissioned officer or private for non-attendance at a company muster, shall be fined two dollars, and fifty per cent on his last general tax; *provided*, that such fines shall in no case exceed twenty dollars.

Disorderly conduct, how punished.

XXXIX. While on parade, the officer commanding shall have full power and authority to put under arrest any non-commissioned officer or private, who may disobey orders, or be guilty of disorderly conduct, or any other person who shall disturb the parade; and to inflict, forthwith, a fine of not less than two nor more than ten dollars on the offender; for the collection of which, he shall issue an execution forthwith, directed to the sheriffs of the State, as is hereinbefore provided for other fines; and shall also have power to cause the offender to be confined, not exceeding ten hours, under a guard.

XL. Each non-commissioned officer for disobedience of orders, or any neglect of duty off parade, shall be fined by a court martial, not less than three, nor more than twenty-five dollars.

Returns.

XLI. Any officer whose duty it is to make any returns required by law, or any paymaster whose duty it is to account, shall do so whenever ordered by the proper officer, under a fine, for neglecting so to do, of not less than ten, nor more than one hundred dollars; to be imposed by a court martial.

Equipments.

XLII. Instead of the fines now imposed by law, on a non-commissioned officer or private, who appears on parade without the proper equipments, he shall be fined one dollar, unless he appears at muster with a gun in good order for service, the officer commanding to issue execution therefor forthwith; *provided*, that no person shall be compelled to pay said fine, who shall make oath, before some magistrate, or the commanding officer of his company, who is hereby authorized to administer such oath, of his inability to purchase or procure such weapon.

Persons to report themselves.

XLIII. Every person removing from one beat to another, shall report himself within thirty days after his removal, to the officer commanding the beat from which he has removed, and to the officer commanding the beat to which he has removed, or be fined five dollars, besides being liable for default of duty in the beat from which he has removed.

Fines for non-attendance.

XLIV. For a non-attendance of brigade encampments, the following fines shall be imposed:—a major-general, one hundred dollars; a brigadier-general, eighty dollars; a colonel, sixty dollars; a lieutenant-colonel or major, fifty dollars; a captain or subaltern, twenty-five dollars; to be

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imposed by courts martial authorized to try officers of their grades, respectively.

XLV. The following persons, and none others, shall be exempt from the performance of ordinary militia duty, and those not in time of alarm or military invasion, to wit:—the lieutenant governor; judges; members of both branches of the Legislature, and their respective officers, fifteen days before the commencement, during, and fifteen days after the close of each session; regularly officiating clergymen; schoolmasters, having under their tuition not less than fifteen scholars; students at school, academies and colleges; clerks of courts; sheriffs and jailors; regularly admitted practicing physicians and surgeons; all branch pilots; one white man to each established ferry, toll-bridge and toll grain mill; one white man to each forge, and three white men to each furnace erected at any iron works in this State, who shall constantly reside and work at the same; the overseers, toll-keepers, and lock-keepers of the Santee Canal; the president, cashiers, and clerks, employed in keeping the books of the several banks of this State, the branches of the bank of the State, and the office of discount and deposite of the bank of the United States; the officers and men of the city guard of Charleston; the officers of the South Carolina Canal and Rail Road Company, as specified in the Act entitled "An Act concerning the South Carolina Canal and Rail Road Company," passed on the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two; the superintendant and keepers of the Lunatic Asylum; and the several fire engine companies; the superintendant of public works, toll-collectors on the State road, and lock-keepers on the State canals; the keepers of the Arsenals at Charleston and Columbia, and the citadel and magazine guard in Charleston; all persons holding office under the United States, who are now exempt by law; and all persons under the age of eighteen, and over the age of forty-five years. Certain persons exempt from military duty.

XLVI. From and after the eleventh day of April next, the uniform of all officers shall be the same as that prescribed in the army regulations adopted in 1815, except, that the uniform of all officers of the line, of and under the rank of captain, shall be a plain black hat with a white plume, common dress coat, of blue broad cloth, and pantaloons of white or blue cloth, with a sword and epaulette; *provided*, that the buttons worn upon the uniform of all general, staff and field officers, shall be convex; and those worn by officers of the line, shall be flat; having, in all cases, the palmetto emblem; *provided*, nothing herein contained shall apply to volunteer uniform companies. Uniform.

XLVII. The Governor is hereby authorized to have the militia and patrol laws, and the decisions of the court thereon, properly digested and indexed, at the expence of the State, and a number of copies published, sufficient to furnish one to each officer; and every officer shall be required, on the vacation of his commission, to deliver over to his successor the said digest, or pay to such successor four dollars, to be by him recovered before any magistrate, and applied by said successor to the purchase of another copy of said digest. Militia laws to be published.

XLVIII. The Act of the General Assembly, entitled "An Act further to alter and amend the militia laws of this State," passed on the twentieth day of December last, so far as relates to the organization of volunteers, and so far as it may be repugnant to this Act, shall be repealed from and after the first day of March next. An Act repealed.

XLIX. A separate mode of organization shall be adopted for the militia

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Separate mode of organization for St. Philip and St. Michael.

of the parishes of Saint Philip and Saint Michael, and the militia of said parishes shall be arranged as heretofore, into one regiment of artillery, one squadron of cavalry, and two regiments of infantry.

L. The organization of the artillery and cavalry of said parishes shall be continued in precisely the same form as it now exists; and the present organization of the sixteenth and seventeenth regiments of infantry, in the said parishes of Saint Philip and Saint Michael, be abolished.

LI. On the tenth day of April next, the commission of each and every officer of the said parishes, except those elected or appointed under the provisions of this Act, shall be, and the same is hereby, vacated and of non-effect; and the brigadier-general of the fourth brigade, immediately after his election, shall appoint five commissioners to re-organize said regiments, in the manner following, to wit:—the artillery and cavalry of the said parishes, in the same form precisely as it now exists, in manner following, viz:—public notice shall be given for the re-organization of the several companies and troops composing the regiment of artillery and the squadron of cavalry of said parishes. Within twenty days from the date of said notice, report shall be made to said commissioners by the captains elect of all such companies or troops as may be re-organized, of the effective force of their respective corps; and said commissioners are authorized and required to receive as a full company of artillery or troop of cavalry, [any company of artillery or troop of cavalry] so re-organized and reported, which shall consist of not less than thirty effective rank and file, with a proper compliment of commissioned and non-commissioned officers; and the officers of the said corps shall be commissioned on the eleventh day of April next. After said re-organization of companies and troops, it shall be the duty of the said commissioners to organize said companies and troops into one regiment of artillery, and one squadron of cavalry, in the form as at present existing, and report such organization to the brigadier-general of the brigade, who shall be authorized and required to issue the necessary orders for the election, on the eleventh day of April next, of all officers within said parishes whose commissions shall be vacated under the provisions of this Act. And the said commissioners shall also reorganize the sixteenth and seventeenth regiments of infantry. Public notice shall be given for the re-organization of volunteer corps of infantry in the said parishes. Within twenty days from the date of said notice, report shall be made to the said commissioners, by the captains elect of all such volunteer corps as may be re-organized in the said parishes, of the effective force of their respective corps; and the said commissioners are authorized and required to receive, as a full corps of infantry, any volunteer corps so re-organized and reported, which shall consist of not less than forty effective rank and file, with a proper compliment of commissioned and non-commissioned officers; and the officers of the said corps shall be commissioned on the eleventh day of April next. As soon as the number of the said volunteer corps shall be ascertained, the said commissioners shall cause a census to be taken of all the male inhabitants of said parishes, not attached to the volunteer corps aforesaid, the cavalry or artillery, specifying the individual registered, and whether he be exempt or not from militia duty. After said census shall be taken, the said commissioners shall proceed to lay off the said parishes into as many beats as shall be required to make up, with the volunteer corps aforesaid, ten companies to each of the said sixteenth and seventeenth regiments. The said beats

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shall be divided by certain territorial boundaries, and as far as may be practicable, the individuals registered in the census aforesaid, be equally distributed and classified among the several beats so laid off. After the said division and classification into beats shall have been effected, the said commissioners shall proceed to organize the whole number of volunteer and beat companies into two regiments, to be entitled, as heretofore, the sixteenth and seventeenth regiments of infantry, and report such organization to the brigadier-general of the said brigade, who shall be authorized and required to issue the necessary orders for the election, on the eleventh day of April next, of all officers within the said parishes, whose commissions shall be vacated under the provisions of this Act.

LII. No volunteer corps in the said parishes of Saint Philip and Saint Michael shall consist of more than sixty-four rank and file, with the usual compliment of commissioned and non-commissioned officers.

Artillery corps to be furnished with powder, &c.

LIII. Each corps of artillery throughout the State shall be supplied, as heretofore, from the State magazine, with the requisite quantity of powder and ball for the usual parades ordered by law; and the necessary expenses incurred by said corps in providing cartridges, tubes, match-ropes, and other incidental charges, to be paid by the State; *provided*, the amount of said charges shall, in no event, exceed the sum of fifty dollars a year to each corps; and that each regiment of cavalry may be furnished with twenty pounds of powder for each regimental review; and each squadron, with ten pounds for each squadron muster or review; the said powder to be subject to the order of the colonel, lieutenant-colonel, or major commanding said regiment or squadron.

Officers, how commissioned.

LIV. Militia fines in the parishes of Saint Philip and Saint Michael, shall be collected and disbursed as provided for by this Act. The Governor is hereby authorized and required to cause military commissions to be prepared and issued in proper form. It shall be the duty of the Governor to commission the major-generals and the general staff. The major-general, or officer in command of a division, shall commission the division staff, and the brigadier-generals. The brigadier-general, or officer in command of a brigade, shall commission his own staff, and all the field officers of his brigade. Each colonel, or officer in command of a regiment or squadron, shall commission the company and staff of the regiment or squadron under his command.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-three, and in the fifty-eighth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

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EXHIBIT 13
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No. 2624. AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE MILITIARY ORGANIZATION OF THIS STATE," PASSED ON THE NINETEENTH DAY OF DECEMBER, EIGHTEEN HUNDRED AND THIRTY-THREE; AND FOR OTHER PURPOSES.

Appeals from courts martial.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, the right of appeal from the decision of courts martial, shall be the same as established by law, previous to the passing of the Act entitled "An Act to provide for the military organization of this State," ratified on the nineteenth day of December, one thousand eight hundred and thirty-three.

How to proceed against defaulters.

II. That the commissioned officers of each company, upon the application of any defaulter for militia or patrol duty, to render in his excuse in writing, are hereby authorized and required to administer to such defaulter the necessary oath, and the person making the affidavit shall sign the same; and the officer administering the oath shall certify it, designating his rank in the company; and for this service he shall receive no compensation. And it shall be the duty of the captain or officer commanding the company, when he sends up the names of defaulters to courts martial, to send up also, such affidavits of excuse as have been rendered according to the provisions of this section.

Oath to be taken.

III. That every officer of the militia hereafter to be elected or appointed, shall, before he enters upon the duties of his office, take and subscribe, before some person authorized by law to administer oaths, the following oath prescribed by the constitution, to wit:

"I do solemnly swear, (or affirm,) that I will be faithful, and true allegiance bear, to the State of South Carolina, so long as I continue a citizen thereof; and that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been appointed; and that I will, to the best of my abilities, discharge the duties thereof; and preserve, protect and defend, the constitution of this State and of the United States. So help me God."

Which oath shall be endorsed and certified upon his commission, as is provided by the twelfth section of the Act aforesaid, in relation to the oath thereby prescribed. And if any person elected or appointed to any office in the militia of this State, shall accept the same, and shall neglect or refuse to take the oath aforesaid, within sixty days after his election or appointment, he shall, for such neglect or refusal, be subject to all the penalties provided by the Act aforesaid, entitled "An Act to provide for the military organization of this State," for refusal or neglect to take the oath therein required.

Elections made under Act of 1832, declared valid.

IV. That the elections or appointments of all officers made under the provisions of the Act aforesaid, are hereby declared to be valid, except where from the refusal or neglect of an officer to comply with the requisitions of the law, a new election or appointment has been made to the same office; *provided*, that every officer so elected or appointed, who has not taken the oath of office and been commissioned, shall, within three months after the passing of this Act, take the oath prescribed by the third section of this Act.

V. That every officer of the militia, except such as are exempt by law, shall, within three months after his election or appointment, uniform

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himself according to law; and in case any officer shall appear on parade, or at any court martial, of which he may be a member, without such uniform, after the time above specified, he shall be fined in a sum of not less than five nor more than fifty dollars; to be imposed by courts martial authorized to try officers of his grade. Time allowed officers to equip themselves.

VI. That in addition to the volunteer companies now allowed by law in the several regiments, there may be raised in each regiment, two companies of riflemen or light infantry, as is provided by the Act aforesaid, entitled "An Act to provide for the military organization of this State;" *provided*, that not more than two volunteer companies of riflemen or light infantry shall be raised in each battalion. Number of volunteer companies that may be raised.

VII. That the Governor is hereby authorized to require all the arms belonging to the State, not in the possession of some regularly organized company of militia, to be collected; and such as are fit for use may be re-issued to any volunteer company applying for the same; and those unfit for use shall be returned to the arsenal, either in Columbia or Charleston, and repaired or disposed of according to law. Governor to collect arms belonging to the State.

VIII. That the citizens of James Island, Wadmalaw, and John's Island, conjointly; of Edisto Island, and of Port Royal and Lady's Island, conjointly; of St. Helena Island, of Hilton Head, and Dawfusky Island, conjointly, are hereby authorized to form beat companies within their respective limits, without regard to numerical force; and shall be attached to their respective regiments, and shall conform to the law in other particulars. Citizens of James Island and others, to form beat companies.

IX. That the major-general of the fifth division shall, within two months from the adjournment of the Legislature, cause the ninth brigade of said division to be divided into six regiments, as nearly equal in numbers as may be, in the following manner, to wit:—the district of York shall be divided into two regiments, and the districts of Spartanburgh and Union, into four regiments; and when the said brigade shall be so divided, the regiments embracing a portion of the lower end of Spartanburgh and the upper end of Union districts, situate on the Enoree river, shall be attached to and form a part of the tenth brigade. Division to be made in ninth brigade.

X. That four of the regiments composing the said brigade, shall retain the rank now held by the four regiments in said brigade, to be determined by lot; the rank of the fifth regiment of said brigade, and the regiment attached to the tenth brigade, shall also be determined by lot; and they shall be denominated accordingly. Regiments to retain their rank.

XI. That to effect the above organization, the major-general shall have power to appoint five or more commissioners in each district, a majority of whom shall be a quorum to perform their duties, who shall proceed to divide said brigade according to the provisions of this Act, and report the same to the major-general within the time above specified, designating the boundaries and lines of each regiment; and if either of the said commissioners shall wilfully neglect or refuse to perform the duty hereby assigned, he shall, upon indictment and conviction thereof, be fined not less than one hundred dollars. Within fifteen days after the report of the commissioners is received, the major-general shall issue an order, defining the boundaries and rank of each regiment, and shall furnish the brigadier-general of each brigade with a copy of such order; and also, the adjutant and inspector-general of the State with a copy of the same, to be recorded in his office. Maj. Gen. may appoint commissioners.

XII. Each brigadier-general, upon receiving the order of the major-general, defining the boundaries of the regiments attached to his brigade,

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Brigadier Gen. to cause regiments to be divided, &c. upon orders from Maj. General.

shall forthwith cause each regiment to be divided into two battalions, and each battalion into four beat companies, as nearly equal as may be, in respect to numbers and territory; to effect which, he shall appoint commissioners, five or more in number, receive their report, issue his order defining the boundaries and lines of the battalions and companies, and cause the same to be recorded, as is provided by the fourth and fifth sections of the Act aforesaid, entitled "An Act to provide for the military organization of this State;" and each commissioner appointed by the brigadier-general, shall, for wilful neglect or refusal to perform the duty assigned him, be subject to the penalty provided for like offence by the Act aforesaid; and the said commissioners shall complete the duties herein assigned them, within two months from the date of the order of the brigadier-general.

Twentieth regiment to be divided.

XIII. That the regiment of militia in the district of Sumter, known as the twentieth regiment South Carolina Militia, be, and the same is hereby required to be, so divided as to form two regiments, as equal in strength as practicable.

How the above regiments shall be divided.

XIV. The brigadier-general commanding the brigade in which the said twentieth regiment is included, shall forthwith cause the said regiment to be divided into two regiments; each of the two regiments into two battalions; and each of the said battalions into four beat companies, as nearly equal as may be, in respect to numbers and territory; to effect which, he shall appoint commissioners, five or more in number, receive their report, issue his order defining the boundaries and lines of the said regiments, battalions and companies, and cause the same to be recorded, as is provided by the fourth and fifth sections of the Act aforesaid, entitled "An Act to provide for the military organization of this State;" and each commissioner appointed by the brigadier-general, shall, for wilful neglect or refusal to perform the duties assigned him, be subject to the penalty provided for the like offence by the Act aforesaid; and the said commissioners shall complete the duties herein assigned them, within two months from the date of the order of the brigadier-general.

Officers to take rank, &c.

XV. Each officer in commission when the organization of the brigade is completed, as is provided by this Act, in any regiment, battalion or company, shall retain his rank and command, except when two or more officers of the same rank shall reside within the limits of the same command; in which case, an election shall be ordered by the proper authority, for such officer or officers; and if either of the persons so in commission shall be elected to the same office held by him before, he shall retain his commission, and take rank from the date thereof.

Elections to be held to fill vacancies.

XVI. If by this organization the offices of colonel, lieutenant-colonel, major, captain, or other subaltern officers, in any regiment, battalion or company, shall be vacant, elections shall be forthwith ordered, as is now provided by law, to fill such vacancy or vacancies.

XVII. The same number and description of volunteer companies permitted by law to be raised in the regiments or battalions of infantry, may be organized and attached to each of the said regiments or battalions.

Fines, &c.

XVIII. That the proviso contained in the thirty-ninth section of the Act aforesaid, entitled "An Act to provide for the military organization of this State," limiting the fines to be imposed on non-commissioned officers or privates for non-attendance at a company muster, to twenty dollars, be, and the same is hereby, repealed; and in lieu of the fine heretofore imposed for non-attendance at company musters, the fine shall be two dollars, and twenty per cent. on the last general tax of the defaulter.

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Recruiting limits of volunteer companies enlarged.

XIX. That the recruiting limits of volunteer companies shall not hereafter be confined to the boundaries of the regiments to which they are attached, respectively, but may extend to the boundaries of the brigades to which they belong, and not beyond them.

What kind of buttons shall be worn.

XX. The buttons worn on the uniform of the general, staff and field officers, shall be convex: and those worn by officers of the line, shall be flat, having, in all cases, the palmetto crest, the emblem of the State; but nothing herein contained shall apply to the officers of uniform companies.

Courts martial to be held.

XXI. That courts martial shall be hereafter held upon all defaulters at the several parades now authorized by law, to mount and relieve guard, and in cases of alarm of fire in the parishes of Saint Philip and Saint Michael, according to the provisions of the Act entitled "An Act to provide for the military organization of this State," passed on the nineteenth day of December, eighteen hundred and thirty three, with the right of appeal as provided for in the first section of this Act.

XXII. That all Acts and parts of Acts contrary to the provisions of this Act, be, and the same are hereby, repealed.

In the Senate House, the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-four, and in the fifty-ninth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT FURTHER TO PROVIDE FOR THE MILITARY ORGANIZATION OF THIS STATE

No. 2650.

Suspension of a former Act, to make persons eligible.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That for the purpose of effecting the immediate organization of the regiment situated on Broad River, in York District, in the ninth brigade South Carolina Militia, William C. Beatty, who has been duly elected and commissioned colonel of said regiment, be confirmed in his said commission, and that he shall take rank from the date thereof; and that the ineligibility to hold office, specified in the eighth section of an Act entitled "An Act to provide for the military organization of this State," passed on the nineteenth day of December, one thousand eight hundred and thirty-three, shall be, and the same is hereby declared to be, inoperative in the said regiment for the space of twelve months from and after the passing of this Act, and no longer. And if it shall appear to the satisfaction of any of the brigadier-generals of this State, that there are no commissioned officers in any one of the regiments under his command, who are, by law, eligible to the offices of colonel, lieutenant-colonel, and major, in said regiments, by reason of the provisions of the said eighth section of the Act aforesaid, it shall be lawful for the said brigadier-general to commission to such offices aforesaid, any person who shall be duly elected to the same, notwithstanding the disqualification of such person by reason of the operation of

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the said eighth section of the Act aforesaid; *provided, however*, that such person be not otherwise disqualified from holding office; and *provided*, that this provision continue of force only for the time above specified.

Power to order courts martial.

II. That the major-generals and brigadier-generals, respectively, shall have power to order courts martial for the trial of all commissioned and non-commissioned officers, musicians and privates, who may, at any time, disobey any orders issued by them, whether such orders be issued where the militia of this State be in actual service, or for ordinary musters, encampments or reviews; *provided*, this authority shall not be construed to invalidate the concurrent power of colonels to order regimental court martials, as now provided by law.

Sentence of courts martial to be made public, &c.

III. That hereafter, it shall not be necessary for the members of a court martial, convened for the trial of defaulters, for neglect of militia or patrol duty, to keep secret the sentence of the court; but upon the final adjournment of the court martial, the same shall be made public, for which purpose, the president of the court martial shall post up, at the place where the court was held, a notice, containing the names of all persons fined by said court; and it shall, moreover, be the duty of the president of the court martial aforesaid, forthwith to transmit the proceedings of the court to the officer ordering the same, who shall retain in his possession the said proceedings for the space of thirty days from the adjournment of the court martial, during which time, any person who may conceive himself aggrieved by the decision of the court, shall have the right of appeal to the officer ordering said court; *provided*, he shall accompany such appeal by an affidavit, that he could not attend the court by which he was tried, nor render his excuse in writing to the same, and that he does not appeal for the purpose of delay merely; and it shall be the duty of the officer ordering the said court, at the expiration of the said thirty days, to issue an execution against all persons fined by the court, except such whose cases may be submitted for re-consideration, (as is hereinafter provided,) directed to the sheriff of the district in which they reside, in manner and form following, that is to say:—

Form of Execution.

Form of execution.

"THE STATE OF SOUTH CAROLINA:

To all and singular the Sheriffs of said State:—Whereas, the persons named in the schedule or list hereunto annexed, have been duly sentenced by a court-martial, convened at ——, on the —— day of——18—, to pay the sums to their names affixed, respectively: You, and each of you, are, therefore, hereby authorized and required to levy and sell of the goods and chattels of each person therein named, sufficient to pay the fine and costs which have been adjudged against him, and pay over the fines aforesaid to the proper officer; and you are further authorized and required, in case any person named in the schedule or list aforesaid shall refuse to pay the fine and costs adjudged against him, or to shew property sufficient to pay the same, to take the body of the delinquent, and lodge him in the jail of your district, there to remain until discharged by due course of law. Given under my hand and seal, this ——— day of ———, 18—. A B, (L. S.,)

Colonel of ——— regiment, Brigadier-General of ——— brigade, etc., (as the case may be.")

Form of Schedule.

Form of schedule.

"A B, two dollars, and 20 per cent. on his general tax for 18—.

C D, three dollars, and fifty (50) per cent. on his general tax for 18—.

E F, one hundred dollars.,

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I certify the above schedule to be a true copy of the fines imposed on the persons therein named, respectively, by a court-martial convoned under my orders, at ———, the ——— day of ———,18—. (Signed.) A B, (with the rank attached.")

Which said execution shall be lodged in the office of the sheriff aforesaid, within ten days after the expiration of the thirty days aforesaid, or as soon thereafter as practicable; and the sheriff, for every fine paid to him previous to levy, shall be entitled to receive from the delinquent the sum of fifty cents; and for every fine collected by the sheriff, after levy of the said execution, he shall be entitled to receive from the delinquent the sum of one dollar, and the usual fees for advertizing.

Remittance of fines, and collection.

IV. That in no case wherein courts-martial have proceeded according to law, and fined defaulters for neglect of militia or patrol duty, shall the officer ordering the same have power to remit such fines; but if he conceives that the court has mistaken the law, or erred in judgment, in any case, whether by imposing a fine or excusing a defaulter, he may re-assemble the court to re-consider such case, and may assign his reasons to the court, which shall forthwith proceed to re-consider, and their decision shall be final and conclusive; and the officer ordering said court shall forthwith carry such decision into effect.

Delinquents punished by imprisonment.

V. That in case any delinquent shall neglect or refuse to pay the fine imposed upon him, as aforesaid, and the cost accruing, or shall fail to point out to the sheriff aforesaid sufficient property to pay the same, it shall be the duty of the sheriff, by virtue of the execution aforesaid, to arrest the body of such delinquent, and commit him to close confinement in the common jail of his district, there to remain until such fine and cost be paid; *provided*, the person so committed shall, at the end of a certain time, to be computed at the rate of one day for every dollar he may be adjudged to pay, as aforesaid, be released, upon swearing, before some justice of the peace or quorum, that he is unable to pay the sum for which he stands committed; and *provided, also*, that in no case shall any person so committed be confined in prison for a longer period than ten days, if at the end of such time he shall take the oath aforesaid.

Oath.

VI. That each member of a court martial, convened for the trial of defaulters, for neglect of militia or patrol duty, shall hereafter, in lieu of the oath now prescribed, take the following oath, to wit:

"I do swear that I will well and truly try and determine the cases which shall be brought before me, according to the law and the evidence which shall be adduced, and that I will not divulge the vote or opinion of any particular member of the court martial, unless required to give evidence thereof in a court of justice, in due course of law. So help me God"

How many the court shall consist of.

VII. That hereafter courts martial for the trial of general and field officers, shall consist of not less than five nor more than thirteen officers; that upon a court martial to try a major-general, a major-general and not less than two brigadier-generals, shall sit, and the other members of the court shall be field officers of and above the rank of major; that a brigadier-general shall be tried by one or more brigadier-generals, and the other members of the court shall be field officers, not under the rank of major; that a colonel shall be tried by one or more colonels, and the other members of the court shall be officers not under the rank of captain; that a lieutenant-colonel and major, respectively, shall be tried by one or more lieutenant-colonels or majors, as the case may be, and the other members of the court shall be officers not under the rank of captain.

VIII. That in all cases of contested elections for brigadier-generals, the

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Contested elections.

same shall be tried by a board of officers to consist of a major-general and four other officers, not under the rank of field officers, whose decision shall be final and conclusive; and in all cases of contested election for major-generals, the same shall be tried by a board to consist of one major-general, one brigadier general, and three colonels, whose decision shall be final and conclusive; the former board to be convened by the major-general, the latter by the commander-in-chief.

Officers subject to serve on courts.

IX. That commissioned officers who have been, or may hereafter be, appointed, according to the provisions of the existing law, and who are not required to uniform themselves, shall, notwithstanding, be subject to serve upon courts martial, and shall not be required to appear in uniform.

How vacancies shall be filled.

X. That when courts martial shall be convened for the trial of any officer within its jurisdiction, if any of the officers required by the order convening the court, to sit on the same as members, shall not appear, their places shall be filled from among the supernumerary officers ordered to attend the said court.

Respecting cashiered officers.

XI. That whenever an officer has been cashiered and disqualified from holding office, by the sentence of a court-martial, which sentence has been approved and carried into effect, and such officer shall be voted for and receive the highest vote at an election for militia officers, before the expiration of his term of disqualification, the officer authorized to commission to said office shall disregard such vote, and commission the person having the highest vote at such election, who, agreeable to law, may be eligible to said office.

Time regiments, battalions and companies shall be kept on duty.

XII. That whenever the commandants of regiments or battalions shall assemble their commands for drill or review, they shall be kept on duty at least three hours, and the commandants of companies shall, in like case, drill their commands at least two hours, excluding the necessary intervals of rest.

How colonels and majors may order company drills.

XIII. That for the purpose of enabling colonels or majors to attend the company drills within their command, as required by law, they shall have power, respectively, to order such drills as they shall attend, at such times as they may deem proper. *Provided*, such order be issued to the commanding officer of such company, at or previous to the preceding company muster.

Judge Advocate, and duty;

XIV. That the colonel of each regiment is hereby authorized and required to appoint and commission a regimental judge advocate, with the rank of lieutenant, who shall be attached to his staff, and who shall act as recorder to all courts martial which shall be ordered by the colonel or commanding officer of his regiment.

No substitute allowed.

XV. That it shall not be lawful for any officer commanding a company, battalion, or regiment, when his command shall be assembled for drill, inspection or review, to receive a substitute in the place of any person required by law to do militia duty, under a penalty of not less than five nor more than fifty dollars, to be imposed by a court martial.

Clerk of company exempt from drill.

XVI. That the captain or commanding officer of each company shall have power to appoint a clerk of the company, who shall be exempt from drill at company, battalion, or regimental musters, and whose duty it shall be, under the superintendance of the captain or commanding officer of the company, to take a census of the company when required, to make out and keep a regular roster of those who are liable to perform patrol duty, and to furnish orders and lists for such duty. And in consequence of the sergeants of companies being herein required to attend the brigade encampments of

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officers, they shall be exempt from the duty of warning the men to attend musters and courts-martial, and such duty shall hereafter be performed by the corporals of each company, under the penalty of twenty dollars.

Return of defaulters to be on oath.

XVII. That the officer or other person whose duty it may be to summon defaulters for neglect of militia or patrol duty, to attend court-martial, may make his return upon oath, in writing, to the court; and any officer of the division, brigade, regiment, battalion, or company, under whose authority he shall be acting, is hereby authorized to administer to such officer or person the usual oath, certified as is now prescribed by law.

Excuses to be rendered on oath.

XVIII. That it shall be lawful for all commissioned officers, when summoned to attend a court-martial for neglect of militia or patrol duty, to send their excuses, in writing, to the court, rendered upon oath, and certified by any officer or other person authorized by law to administer oaths; and all such excuses shall be received and acted on by the court-martial, unless, in the opinion of the court-martial, the personal attendance of such defaulter shall be necessary to a proper adjudication of the matter.

Limits where persons may vote.

XIX. That it shall be lawful for any person entitled to vote for field officers of any regiment or battalion in this State, to give his ballot at any election poll which shall be held agreeable to law, within the limits of such regiment or battalion; except in the parishes of St. Philip and St Michael, where such voter shall be required to vote at the election poll of the company to which he belongs.

Fatigue-duty.

XX. That the officers commanding divisions, brigades, regiments, battalions and companies, shall, respectively, have power to order out such persons as are by law liable to fatigue duty, to perform such duty as fatigue-men as shall be deemed necessary for military purposes; *provided*, they shall not be required to be on such duty for a greater number of days in each year than the officers of this State are required to be on militia duty.

Power of brigadier, respecting artillery companies.

XXI. That when a brigadier-general shall receive and commission the officers of any company of artillery permitted to be raised within the limits of his command, except such as may be attached to a battalion of artillery, he shall have power to designate the regiment and battalion to which the said company shall be attached; *provided*, there shall in no case be more than one company attached to a regiment.

XXII. That the quarter-master general shall, from and after the passing of this Act, receive an annual salary of five hundred dollars.

Where officers may lawfully reside.

XXIII. That in all cases where the dividing line between regiments in any brigade in this State shall pass through the lands on which any officer holding a commission in either regiment shall reside, it shall be lawful for such officer to reside on either side of said line, without a forfeiture of his commission.

Magistrate's duty where companies are without officers.

XXIV. That whenever, from any cause, any beat company in any district or parish in this State shall be without commissioned officers for the term of three months, it shall be the duty of the magistrates of the said beat, on the information of any of the inhabitants thereof, to issue patrol warrants to any competent persons to execute the patrol duties of said beat; and the said magistrate shall cause returns to be made to him, and impose the same fines and penalties for non-execution thereof as are now imposed by law.

Quarter-master's duty.

XXV. That the division quarter-masters, respectively, shall, when required, take charge of the tents which may be furnished by the State, for the use of their divisions; and shall, when required, cause the said tents to

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be carried to the brigade encampments of officers within their divisions; and at the close of said encampments shall cause the said tents to be returned and deposited under their care; the expenses of transportation, and such other expenses as may be necessary to procure a suitable place of deposit for said tents, to be paid by the State; and the said quarter-masters shall return their accounts to the Governor, who is hereby authorized to pay the same out of the contingent fund.

Sergeants and others, required to attend encampments.

XXVI. That the encampments of officers, required by the twenty-seventh section of an Act entitled "An Act to provide for the military organization of this State," passed on the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-three, shall continue for six days; and, in addition to the officers therein required to attend said encampments, the sergeants of each company, and the non-commissioned regimental staff officers, are hereby required to attend said encampments, for the purpose of receiving military instruction, and shall be equipped with a musket and bayonet, cartouch box, and twenty-four rounds of blank cartridges; and for non-attendance at the said brigade encampments, each of the aforesaid officers shall be liable to be fined in the sum of fifteen dollars; and in lieu of the fines now imposed by law on company officers for non-attendance of brigade encampments, they shall each be subject, for such neglect of duty, to pay a fine of thirty dollars.

Captain's duty, and penalty.

XXVII. That it shall be the duty of the captain or commanding officer of each company, under the penalty of fifty dollars, to be imposed by courts-martial, to keep constantly in office in his company the full number of non-commissioned officers required by law; and any person appointed a non-commissioned officer, who shall refuse to serve, shall be liable to a penalty of thirty dollars, to be imposed by a court martial.

Penalty for disturbing a camp.

XXVIII. That any person who shall disturb the camp, or violate the regulations thereof, of any portion of the militia of this State, who shall be encamped in obedience to requirements of law, or voluntarily, shall, for such offence, be liable to a penalty not exceeding fifty dollars, to be imposed by any court-martial ordered by the commandant of the camp to try such offender, in addition to being confined under guard, at the discretion of the commanding officer, not exceeding twelve hours. And whenever any portion of the militia shall be voluntarily encamped for the purpose of military instruction, they shall be subject to the same rules and government, whilst encamped, as are established for the government of encampments ordered by law.

Superintendence of the encampment.

XXIX. That when the Commander-in-chief or the major-general of a division, within his command, shall attend the brigade encampments prescribed by law, he shall superintend and regulate the duties of the encampment, in such manner as he shall deem proper and conformable to military usage.

Governor to supply arms, powder, and lead to the officers in encampment.

XXX. That the Governer, on the requisition of any brigadier-general, is hereby authorized to cause to be issued, from any of the arsenals of this State, such portion of the public arms as may be necessary and suitable, (in addition to those in possession of the volunteer companies within the brigade,) to supply the officers required to attend brigade encampments; and the officers of volunteer companies, in each brigade, having under their charge public arms, are hereby required to furnish the same, upon requisition of the said brigadier-general of the brigade; which arms the said brigadier-general shall cause to be returned to the said officers in good order, as soon as may be after the close of the encampment, and shall cause any damage done to the same to be repaired at the public expense;

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and the Governor is hereby authorized and required to furnish for each encampment such quantity of powder as he may deem necessary and proper, and likewise to furnish a band of military music, each at the public expense.

Books to be furnished.

XXXI. That as soon as may be practicable, the Governor is hereby required to purchase and distribute for the use of the general and field officers of this State, sixty copies each of M'Comb on courts-martial, and the regulations for the army of the United States.

Copies of this Act, and books.

XXXII. That the Governor shall cause to be published, in pamphlet form, such number of copies of this Act as will supply each commissioned officer with one copy, and shall cause the same to be distributed as soon as practicable; and he shall also cause to be published, for the use of the infantry officers, a selection from Scott's infantry tactics, the column of attack, square against cavalry, and such other evolutions as he may deem necessary to perfect the drill book for infantry; and likewise cause to be published and distributed the sword exercise for cavalry.

Purysburg beat company.

XXXIII. That so much of the Purysburg beat company, attached to the twelfth regiment South Carolina militia, as lies east of New river, be, and the same is hereby, attached to the Oakely beat company in the same regiment.

Duty of colonel of 15th regiment.

XXXIV. That the colonel of the fifteenth regiment South Carolina militia, be authorized to commission the major elect of the upper battalion in that regiment, in virtue of the election heretofore held, to take date from said election.

Exemption.

XXXV. All officers who have held, or shall hold, commissions in the militia of this State, for the term of ten years consecutively, shall be thereafter exempt from the performance of ordinary militia duty.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT TO ALTER AND AMEND THE FOURTEENTH SECTION OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE MORE EFFECTUAL PERFORMANCE OF PATROL DUTY," PASSED ON THE EIGHTEENTH DAY OF DECEMBER, IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND NINETEEN. No. 2656.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the fourteenth section of an Act entitled "An Act to provide for the more effectual performance of patrol duty," passed on the eighteenth day of December, in the year of our Lord one thousand eight hundred and nineteen, be, and the same is hereby, altered and amended so as to read as

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follows, to wit: every owner of any settled plantation shall employ and keep on or in the immediate vicinity of such plantation, some white man, capable of performing patrol duty, under the penalty of fifty cents per head per month for each and every working slave which may be on such plantation, to be recovered by indictment, one half to the informer, the other half to the use of the State. *Provided, always,* that [nothing] herein contained shall be construed to affect any person or persons who resides on his, her or their plantation, for the space of six months in the year, or who shall employ less than fifteen working slaves on such plantation.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

No. 2660. AN ACT TO CONSOLIDATE THE FIRST COMPANY OF THE CHARLESTON ANCIENT BATTALION OF ARTILLERY, AND THE JEFFERSON ARTILLERY, INTO ONE COMPANY, AND TO INCORPORATE THE SAME; AND FOR OTHER PURPOSES.

I. *Be it enacted*, by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the first company of the Charleston Ancient Battalion of Artillery, and the Jefferson Artillery, two companies of the battalion of artillery attached to the fourth brigade of militia of this State, be, and the same are hereby, consolidated into one company, by the name and title of "The Charleston Ancient Artillery;" and that such persons as have, by agreement between the said two companies, been appointed to offices in the consolidated company, be commissioned by the commander-in-chief of this State accordingly; such of them as at present hold offices in either of the said companies, to take rank from the dates of their present commissions, respectively.

II. *And be it further enacted*, That those persons who now are, or hereafter may become, members of the said consolidated corps, be, and the same are hereby, created and declared a body politic and corporate, during the pleasure of the State, by the name and style of "The Charleston Ancient Artillery;" and that the said corporation shall be capable in law, to have succession of officers and members, to be chosen and admitted according to the rules and regulations made or to be made for its government and direction; to make all lawful by-laws; to have a common seal, and to alter the same; and, by its said name, to sue and be sued, implead and be impleaded, answer and be answered, in any court of law or equity in this State.

III. *And be it further enacted*, That the companies composing the battalion of artillery in the city of Charleston, be, and the same are hereby, exempt

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from mounting and relieving fire-guard, and from attendance, by companies, in cases of alarm of fire in the said city; and that in lieu thereof, it shall be the duty of the major, or other officer in command of the battalion, once in every three months, to detail an officer and a sufficient number of privates to man one piece, to attend at the arsenal at each alarm of fire, for the three months next succeeding; which officer and privates shall be subject to the same fines for default, and be tried by courts martial in the same manner, as now provided by law for defaults in the performance of fire-guard duty.

IV. *And be it further enacted*, That each corps of artillery throughout the State, shall be allowed the sum of twenty-five dollars per annum, for each piece of artillery fully manned and regularly exercised by the said corps, respectively, for the purpose of defraying the expenses of the same; to be drawn from the treasury by the order of the commanding officer of each corps, countersigned by the commanding officer of the regiment or battalion to which the said corps may be attached: *provided*, the sum so to be drawn shall in no case exceed one hundred dollars.

In the Senate House, the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, and in the sixtieth year of the Sovereignty and Independence of the United States of America.

H. DEAS, *President of the Senate.*
PATRICK NOBLE, *Speaker of the House of Representatives.*

AN ACT FURTHER TO PROVIDE FOR THE MILITARY ORGANIZATION OF THIS STATE. No. 2686.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That all persons residing on St. Helena Island, be, and they are hereby, authorized to organize a corps of mounted riflemen, to be attached to the twelfth regiment, to be called "The Saint Helena Mounted Riflemen," and subject to all the duties to which they have heretofore been liable as a beat company; and that the said company hereby authorized to be formed, shall attend the reviews of the said regiment, either on foot or horse, as the colonel shall direct; that the said company shall parade and muster once every two months; and shall perform patrol duty as now required by law. Saint Helena Riflemen.

II. That the persons composing the Charleston Fire Company of Axemen, and the city Constables of Charleston, provided the latter do not exceed twenty-four, be, and they are hereby, exempted from the performance of ordinary militia duty. Exemptions from militia duty.

III. All officers who have held or shall hold commissions in the militia of this State, for the term of seven years consecutively, shall be, thereafter, exempt from the performance of ordinary militia duty.

IV. That the system of instruction and regulations, prepared and arranged under the superintendance of Major General McComb, and established for the government of the militia and volunteers of the United States, be observed in the instruction and exercise of the militia of this

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Books of instruction.

State; and that all Acts and parts of Acts inconsistent with this Act, be, and the same are hereby, repealed. And that the Governor be, and he is hereby, authorized to purchase a sufficient number of copies of said book of instruction and exercise, and distribute one copy thereof to each officer, who shall, on his resignation or removal from office, deliver the same to his successor, or to the colonel of the regiment to which such officer belongs; and in case of the death of any officer, his legal representative shall deliver over the same to such successor or colonel of the regiment as aforesaid, under the penalty of four dollars, which shall be recoverable before any justice of the peace or quorum of this State, on information and proof of the said offence; which sum, when collected, shall be paid to the paymaster of the regiment in which the default was made, and shall be applied to replace the book or books, so withheld, lost or destroyed; and the sum of twenty-five hundred dollars, if so much be necessary, be, and the same is hereby, appropriated to purchase twenty-five hundred copies of said books of instruction and exercises.

Adjutant Gen. to attend and instruct regiments.

V. *And be it further enacted*, That it shall hereafter be the duty of the adjutant and inspector general, and he is hereby required, in addition to his duties heretofore prescribed by law, to attend, once a year, the muster of each regiment in the State, and the drill of the officers of each the day previous; and whenever he shall deem it necessary to the correct instruction in military tactics of the officers or the regiment, he may act as instructor; *provided*, there shall be no superior officer present who may think proper to assume the direction of the drill; and he shall, with the consent of the commander-in-chief, have power, and he is hereby authorized, to order out for drill the said regiments, at such times as will best enable him to perform the duties hereby assigned.

To keep a military Bureau, &c.

VI. He shall keep a military Bureau, and shall keep a record of the number and rank of each division, brigade and regiment, in the State; procure and record, annually, a return of the strength, arms and equipments of the militia; the names, rank and date of the commissions of all the general, staff and field officers; record all military orders received or issued by him; and, generally, all matters which relate to the militia, and which, in his opinion, may be necessary to enable him to exhibit the true strength, character and condition, of the military force and power of the State.

To inspect arsenals and magazines.

VII. He shall, once a year, visit and inspect the arsenals and magazines in the State, and report to the commander-in-chief, to be by him submitted to the Legislature; and record in his office their condition, the number and condition of the arms, equipments and public stores in each; the number and description of public arms and equipments distributed to the militia each year, and the disposition and conditions of such distribution; the strength of the guards at each, the duties performed by them, their general condition and efficiency to discharge the duties required of them. And to enable him to perform this duty, the quarter-master-general and other officers having charge of those departments, shall, when required, make to him full reports of the different matters committed to their charge.

VIII. It shall further be the duty of the adjutant-general, and he is hereby required, to deposite in the Executive office at Columbia, in a Bureau kept for the purpose, a true record of all matters relating to his office, as is hereinbefore enjoined.

IX. That hereafter, a regiment of cavalry may consist of eight troops

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of horse; and that a squadron may consist of four troops of horse; and the lieutenant colonel, major, or officer commanding a squadron of cavalry, may, and is hereby authorized to, order courts martial for the trial of all defaulters at troop or squadron musters, in the same way, as far as practicable, as is now done by the colonels of regiments of cavalry. Cavalry.

X. That the annual salary of the Arsenal keeper in Charleston shall be, and is hereby, increased to the sum of one thousand dollars.

XI. That a small magazine shall be erected in the citadel in Charleston, and the sum of twelve hundred dollars, if so much be necessary, shall be, and is hereby, appropriated for that purpose.

XII. That the arsenal, magazine and guard houses, situated within the corporate limits of the town of Camden, be, and the same are hereby, transferred to and vested in the Town Council of Camden, to be used for corporate purposes.

XIII. *And be it further enacted*, That such persons residing in the town of Columbia, not exceeding thirty in number, as shall organize themselves into a Fire Engine Company, and train, exercise and do duty as such, whenever called on by the town council, shall be, and they are hereby, exempted from the performance of ordinary militia duty, so long as they continue members of said company, and faithfully discharge the duties hereby enjoined; *provided*, that no person or persons hereby intended to be exempted from militia duty, shall be so excused, until the officer commanding the regiment in which they reside, shall be furnished by the town council with a statement, certifying the names of the persons enrolled in said company, its organization and readiness to perform the duties hereby required. Columbia Fire Company.

XIV. That the ineligibility to hold office, specified in the eighth section of an Act entitled "An Act to provide for the military organization of this State," passed the nineteenth day of December, one thousand eight hundred and thirty-three, shall be, and the same is hereby declared to be, inoperative in the two regiments of infantry in Greenville district, for the space of twelve months from and after the passing of this Act, and no longer. Regiments in Greenville.

XV. That in all cases of appeal heretofore allowed by law for default of militia or patrol duty, the officer ordering the court shall hear the case, and his decision shall be final and conclusive, and he shall issue executions as is in other cases provided by law.

In the Senate House, the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-six, and in the sixty-first year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

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No. 2714. AN ACT FURTHER TO PROVIDE FOR THE MILITARY ORGANIZATION OF THIS STATE; AND FOR OTHER PURPOSES.

Battalions to drill once a year.

I. *Be it enacted*, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That from and after the passing of this Act, it shall be the duty of the colonels or officers commanding regiments to order out their regiments, by battalion, for drill, exercise and inspection, once in each year; the commissioned and non-commissioned officers to assemble the day previous for drill; and courts martial upon defaulters for such musters, shall be ordered and holden as is now provided by law.

Two companies of volunteers to each regiment.

II. *And be it further enacted*, That whenever the number of volunteer corps of light infantry or riflemen, now existing in any regiment of infantry in this State, shall be reduced to two in number, that it shall not be lawful to permit the raising of more than two of such corps in each regiment, one of which, if practicable, shall be raised in and attached to each battalion, and shall consist of sixty-four rank and file, with the compliment of commissioned and non-commissioned officers, now or hereafter to be required by law, in full uniform.

Rank and file of artillery corps.

III. *And be it further enacted*, That the artillery corps now allowed by law, shall consist of sixty-four rank and file, with the compliment of commissioned and non commissioned officers, now or hereafter to be required by law, in full uniform; and all such corps that are now in existence which shall not, within twelve months from the passing of this Act, be organized as above specified, shall be dissolved.

Inspections.

IV. *And be it further enacted*, That it shall be the duty of the colonel or officer commanding the regiment, to cause the volunteer light corps above specified, to be inspected once in each year, and if, at any such inspection, it shall appear that the number of rank and file of any corps in complete uniform, is below the number required by law, he shall notify such corps of the fact; and *provided*, that it shall not recruit its numbers to the compliment required for its organization, within twelve months from the date of the notice, it shall be dissolved.

Artillery may be armed as infantry.

V. *And be it further enacted*, That the artillery corps attached to the regiments of infantry, may be armed with muskets and bayonets, or field pieces, (to be furnished by the State,) at the discretion of the commander-in-chief.

Drill Books.

VI. *And be it further enacted*, That the non-commissioned staff of each regiment, and the sergeants of companies, shall each be furnished with a drill book similar to that used by the company officers, and upon the same conditions; and that the sergeants hereafter appointed, shall be exempt from road duty, during the year in which they are required

Sergeants.

to attend the brigade encampments, except in the parishes of St. Philip and St. Michael, and in lieu thereof, any person who shall serve as a sergeant in said parishes for ten years consecutively, shall, thereafter, be exempt from ordinary militia duty.

Corporals.

VII. *And be it further enacted*, That hereafter, corporals shall serve for one year, and be subjected to a fine of thirty dollars for refusing to accept the appointment and discharge the duties thereof.

VIII. *And be it further enacted*, That hereafter, for non-attendance of brigade encampments authorized by law, the following fines shall be imposed:—a major-general, one hundred and fifty dollars; brigadier-general, one hundred dollars; colonels, lieutenant-colonels, and majors, each,

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seventy-five dollars; captains and subaltern officers, each, fifty dollars; and similar fines shall be imposed upon all staff officers, according to their respective grades; and upon the non-commissioned regimental staff officers and sergeants, thirty dollars; and upon sergeants for refusing to accept their appointments, each, thirty dollars; and upon company officers, who shall be elected or appointed as now provided by law, for refusing to accept and perform the duties of their office, each fifty dollars. Penalty for non-attendance at encampments.

IX. *Be it enacted*, That any person or persons who now are, or hereafter may be, exempt from the performance of militia duty, shall attach himself or themselves to any volunteer corps of militia, and have accepted, or shall accept any office, whether held by commission or warrant, he or they, shall be subject to the same fines and forfeitures, respectively, that officers of their rank now are or shall be liable to by law. Volunteers.

X. *And be it further enacted*, That any captain or commanding officer of a company, or leader of a patrol, who shall neglect to perform the duty assigned him by the laws regulating the performance of patrol duty, shall be tried by courts martial, in the same manner as the officers of the militia are, and subjected to the same fine as now provided by law. Patrol duty.

XI. *And be it further enated*, That all penalties incurred for the neglect of militia or patrol duty, may be imposed by courts martial, within twelve months from the time of making default, and not thereafter; but upon judgment being had, the party shall be liable to execution and collection as in civil cases; *provided*, that nothing herein contained shall release the collecting officers from the performance of their duty as now required by law. Penalty for neglect.

XII. *And be it further enacted*, That the colonels or commanding officers of regiments, shall order courts martial for the trial of defaulters of militia or patrol duty, to sit at each battalion muster-ground, or at such other place or places, within the limits of his regiment, as he may deem expedient; and it shall be the duty of the officers aforesaid, to issue an order to the commanding officers of companies, notifying them of the times and places at which the court or courts shall be convened for the trial of their respective defaulters; and (if practicable,) all persons who have made default previous thereto, shall be reported to and tried by such court or courts, as now provided by law; *provided*, any person [who] shall be fined by default, and conceive himself aggrieved by the sentence of the court, and shall make affidavit that he could not attend the court by which he was tried, or render his excuse in writing to the same, or that it was out of his power to sue out an appeal before the issuing of execution, and that he does not appeal for the purpose of delay, the colonel or officer in command of the regiment, shall have power to hear and determine the case; and if he shall decide in favor of the party, he shall notify the sheriff in writing to that effect, upon which the sheriff shall enter satisfaction in the case, stating the manner in which it was settled; and *provided*, the colonels or commanding officers of regiments shall wilfully fail or neglect to perform any of the duties herein specified, they shall be liable to a fine of twenty-five dollars, to be recovered by courts martial. Courts martial.

XIII. *And be it further enacted*, That beat companies shall have the privilege of passing by-laws for their government to uniform themselves, and impose such penalties for a violation of their laws, as may be agreed upon by the company; *provided*, that no member of a company shall be compelled to uniform, or be subjected to any penalty imposed by the by-laws, unless he shall have assented to and subscribed the same; and Beat companies may pass by-laws.

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whenever any beat company shall be uniformed as above provided, the commissioned officers thereof shall be permitted to adopt and wear the same.

When companies shall be received.

XIV. *And be it further enacted*, That from and after the passing of this Act, no volunteer corps of cavalry, artillery, light infantry or riflemen, shall be inspected or received, and the officers thereof commissioned, until the said corps shall have the compliment of men rank and file, and officers in full uniform, required for its organization; and any officer permitted by law to authorize the raising of such corps, shall, for a violation of this provision, be liable to a fine of twenty-five dollars, to be recovered by courts martial.

Beaufort Troop.

XV. *And be it further enacted*, That the Beaufort District Troop of Horse shall be exempted from attendance at regimental reviews and parades, as soon as it shall conform to the organization of cavalry corps to be adopted by the provisions of this Act; *provided*, it shall hold itself in readiness to move at a moment's notice to any part of the district, where the public safety may require its service, and be liable to such inspection and drill on its company parade ground, as is now required by law.

Adjutant Gen. salary.

XVI. *And be it further enacted*, That hereafter, the salary of the adjutant and inspector-general shall be twenty-five hundred dollars.

Furloughs.

XVII. *And be it further enacted*, That hereafter, no officer of the militia of this State shall have authority, except when in actual service, to grant a furlough or leave of absence to relieve the party from the performance of militia duty required by law; but all defaulters of such duty shall be tried by courts martial as the law directs; *provided*, that nothing herein contained shall be construed to prevent the commander-in-chief, or senior officer on duty, when the troops shall have assembled for drill, exercise, inspection or review, to grant leave of absence from that special duty, upon good and lawful cause being shewn.

Companies in Christ Church parish.

XVIII. *And be it further enacted*, That the two beat companies now existing in Christ Church Parish, shall be united and form one beat company, and the commissions of the officers of said companies are hereby vacated. And it shall be the duty of the colonel of the 19th regimont to order an election for a captain, first and second lieutenants and ensign, to command said company, within two months from the passing of this Act, and the persons having the greatest number of votes for each commission, shall be commissioned as the officers to command the said company; and hereafter the muster-ground of said company shall be at or near the thirteen mile-post on the State road.

Thirtieth regiment.

XIX. *And be it further enacted*, That to equalize the battalions and beat companies of the 30th regiment in the seventh brigade of the militia of this State, the brigadier general of the said brigade is hereby authorized to cause the said regiment to be re-divided into two battalions and eight beat companies, according to the principles prescribed in the fourteenth, fifteenth and sixteenth sections of an Act, passed the seventeenth day of December, 1834, entitled "An Act to amend An Act entitled An Act to provide for the military organization of this State, passed the nineteenth day of December, 1833, and for other purposes;" and the same penalties shall attach for neglect of duty and forfeitures of commissions in the said regiment as is provided by the Act aforesaid.

XX. *And be it further enacted*, That the regiments of cavalry in this State, now raised or hereafter to be raised, shall take and have the number,

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designation and rank, of the brigade of infantry within which such regiment of cavalry is raised, that is to say:—the regiment of cavalry now attached to the first brigade, shall be the first regiment; the regiment of cavalry now attached to the second brigade, shall be the second regiment; the regiment of cavalry now attached to the third brigade, shall be the third regiment; the regiment of cavalry now attached to the fifth brigade, shall be the fifth regiment; the regiment of cavalry now attached to the sixth brigade, shall be the sixth regiment; the regiment of cavalry now attached to the ninth brigade, shall be the ninth regiment; the regiment of cavalry now attached to the tenth brigade, shall be the tenth regiment; and that whenever a sufficient number of troops shall have been raised in the fourth brigade, to constitute, according to law, a regiment of cavalry, such regiment shall be the fourth regiment; whenever a sufficient number of troops shall have been raised in the seventh brigade, to constitute a regiment according to law, such regiment shall be the seventh regiment; and whenever a sufficient number of troops shall have been raised in the eighth brigade, to constitute a regiment according to law, such regiment shall be the eighth regiment. Arrangement of cavalry regiments.

XXI. *And be it further enacted*, That the number, designation and rank of the cavalry regiments aforesaid, shall be and remain permanent; and whenever either of the regiments aforesaid shall be dissolved, and a new regiment raised in its stead, such new regiment shall take and have the number, designation and rank of the regiment so dissolved. Their rank.

XXII. *And be it further enacted*, That the regiments of cavalry in this State, be, and they are hereby, arranged and constituted into brigades of cavalry, in the manner following, that is to say:—the first and second regiments, shall constitute the first brigade; the fifth and sixth regiments, shall constitute the third brigade; the ninth and tenth regiments, shall constitute the fifth brigade; and whenever the fourth regiment shall have been organized according to law, the third and fourth regiments shall constitute the second brigade; and whenever the seventh and eighth regiments shall have been organized, according to law, the said seventh and eighth regiments shall constitute the fourth brigade. Brigades of cavalry.

XXIII. That the third regiment of cavalry, and the troops now organized in the fourth, seventh and eighth infantry brigades, remain attached to said infantry brigade, as now provided by law, until fully organized, as required by the twentieth section of this Act.

XXIV. *And be it further enacted*, That it shall be the duty of the major-generals, commanding the first, third and fifth divisions of the militia of this State, within three months after the passing of this Act, to issue their orders to the colonels of the cavalry regiments, within their respective divisions, to advertise and hold an election for a brigadier-general of cavalry, to command the brigade of cavalry within their respective divisions; and whenever either the second and fourth brigades of cavalry shall have been organized, as required by the twenty second section of this Act, the major-general commanding the division in which such brigade may be organized, shall, forthwith, order an election for a brigadier-general to command such brigade. Election of Brigadier Gen. of cavalry.

XXV. *And be it further enacted*, That all elections of brigadier-generals of cavalry shall be ordered, advertised, held and conducted, and the brigadier-generals elected receive their commissions, in the same manner as now provided for the electing and commissioning of brigadier-generals of infantry. Elections, how to be conducted.

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Ineligibility and voters.

XXVI. *And be it further enacted*, That the same ineligibility to the office of brigadier-general of cavalry, and the same qualification in the voters for such office, shall be required, as now provided by law for the office of brigadier-general of infantry; *provided*, that no officer of the infantry or artillery shall be eligible to the office or entitled to a vote for brigadier-general of cavalry; and no officer of cavalry in any organized brigade of cavalry, shall be eligible to the office or entitled to a vote for brigadier-general of infantry.

When cavalry brigades shall be dissolved.

XXVII. *And be it further enacted*, That hereafter, when either of the regiments composing a brigade of cavalry shall be reduced below the number of troops required by law to constitute a regiment, and shall not recruit to such number within twelve months after notice to the commanding officer of such regiment, from the major-general of the division in which such regiment was raised, or from the commander-in-chief, then, and in that case, such brigade shall be dissolved, the commission of the brigadier-general of such brigade of cavalry vacated, and the regiment, squadron or troops, still in existence within the limits of such brigades, be attached to the infantry brigades, as now provided by law.

Quota of men for cavalry corps.

XXVIII. That a troop of cavalry shall hereafter consist of thirty-six men rank and file, four sergeants, one captain, two lieutenants and one cornet; and if any troop now raised shall not, within twelve months after the passing of this Act, contain the number of rank and file and the sergeants and officers herein required, such troop shall be dissolved by the major-general of the division to which such troop is attached; and if, at any subsequent inspection, any troop of cavalry now raised or hereafter to be raised, shall not contain twenty-eight rank and file, and the sergeants and officers required by law, and shall not recruit the same within six months after notice to fill up its ranks, given to the commander of such troop, then such troop shall be dissolved.

Cavalry to encamp with infantry.

XXIX. *And be it further enacted*, That the cavalry shall continue to encamp with the brigades of infantry, as now required by law; and it shall be the duty of the brigadier-generals of cavalry to attend the encampments of the cavalry of their respective brigades, and superintend and instruct them in the drill, exercise, and manœuvres of cavalry; *provided*, that no brigadier-general of cavalry shall assume or exercise any command or authority over the infantry or artillery of such encampment.

Duty of Colonels and Majors.

XXX. *And be it further enacted*, That colonels of cavalry shall, after the passing of this Act, drill each troop in their respective regiments, once in every two years; and that lieutenant-colonels and majors of cavalry, shall also drill each troop in their respective squadrons, once in every twelve months.

How disputes shall be settled between cavalry and infantry.

XXXI. *And be it further enacted*, That if any collision or dispute shall arise between the cavalry and infantry arms of service, within any division of this State in which shall be organized a brigade of cavalry, it shall be the duty of the major-general of such division to hear and determine the cause, and his decision shall be conclusive; and *provided*, any such collision or dispute shall occur in a brigade of infantry, in which the cavalry shall not be organized into a brigade, the same shall be heard and determined by the brigadier-general of such brigade, and his decision shall be conclusive; reserving to the parties the right of appeal, in the former case, to the commander-in-chief, and in the latter case, to the major-general of the division.

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XXXII. *Be it further enacted*, That the Hilton Head company, in the twelfth regiment, be exempted from attending battalion and regimental musters. Hilton Head company.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*
D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PERFORMANCE OF PATROL DUTY ON CHARLESTON NECK;" AND FOR OTHER PURPOSES. No. 2724.

I. *Be it enacted* by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That the eleventh section of the Act entitled "An Act to regulate the performance of Patrol Duty on Charleston Neck," be, and is hereby, repealed. Former Act repealed.

II. *Be it further enacted*, That it shall not be lawful for any owner or occupyer of a grocery store or retail shop within the limits of Charleston Neck, or any store, shop or place, within the limits aforesaid, wherein are vended spirituous liquors, to keep open the said stores, shops or places, or to trade, traffick or barter therein, with negroes or persons of color, at any time on the Sabbath day, or on any other day, after the hours of nine o'clock, P. M., from the twentieth day of September to the twentieth day of March, and ten o'clock, P. M., from the twentieth day of March to the twentieth day of September, in each and every year; and in case any owner or occupant of any such store, shop or place, shall transgress or violate this Act, by keeping open the said stores, shops or places, or by trading, trafficking or bartering therein, with any negroes or persons of color, at any time on the Sabbath day, or on any other day, after the hours of nine o'clock, P. M., from the twentieth day of September to the twentieth day of March, and ten o'clock, P. M., from the twentieth day of March to the twentieth day of September, in each and every year, he, she or they, shall forfeit and pay the sum of one hundred dollars, to be recovered in any court having competent jurisdiction; to be paid to the commissioners of Cross Roads of Charleston Neck, for the use of said roads. Provision respecting Grocery stores on Charleston Neck.

III. *And be it further enacted*, That it shall not be lawful for the owner or keeper of any retail shop within the limits of Charleston Neck, or the owner or occupant of any place within the limits aforesaid, wherein are vended spirituous liquors, to erect or keep in such shop or place, any blind, screen, or other obstruction whatever, to the view from the front door or other opening, behind which any article might be secretly sold, nor shall he or she have recourse to any private room, closet or other enclosure on the said premises, to effect such object with greater privacy; and every person violating the provisions of this Act, shall forfeit and pay, not less Retail shops on Charleston Neck, not to have screens and blinds.

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than fifty, nor more than two hundred dollars, according to the discretion of the presiding judge; to be recovered in any court having competent jurisdiction; to be paid to the commissioners of Cross Roads, for the use of said roads.

Hogs running at large on Charleston Neck, prohibited.

IV. And *whereas*, the going at large of hogs on Charleston Neck, is a great inconvenience to the citizens thereof: *Be it therefore enacted*, That the clerk of the board of commissioners of Cross Roads for Charleston Neck, or his deputy or deputies, shall, on and after the first day of February next, be authorized and required to seize or kill any hog or hogs going at large any where on that part of Charleston Neck which lies between Cooper and Ashley Rivers, and extending from Boundary to Line street; and that every hog or hogs so taken or killed, shall be forfeited by law; and the said clerk of the said board of commissioners of Cross Roads, or his deputy or deputies, shall take and keep the said hog or hogs, or the same sell and dispose of, applying the proceeds thereof to his own or their use, benefit and behoof, as a perquisite of his or their office, without question or claim from any person or persons whatever; *provided*, this law shall not be construed to extend to any hog or hogs driven through the streets within the limits aforesaid, for market or any such purpose; and it shall be the duty of the said clerk to give one month's notice in one or more of the gazettes of the city of Charleston, and of this law, previous to his proceeding to execute the same.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

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by this commonwealth, and with all ſums of money directed to be paid by the preſent General Aſſembly, for which no other proviſion has been made, and all warrants and other facilities which have been heretofore receivable in diſcharge of the reſpective taxes, which conſtitute the aggregate fund, and all warrants, with the payment of which the aggregate fund is charged by this act, may be paid in diſcharge of the taxes which conſtitute the ſaid fund; and the ſheriffs or collectors of the revenue taxes which conſtitute the ſaid fund, ſhall on payment thereof into the public treaſury, have credit for the ſame accordingly; the monies which may be paid into the treaſury, in diſcharge of the taxes which conſtitute the ſaid fund, and alſo the money which may be received on ſales of tobacco, paid in diſcharge of the ſame, or ſo much thereof as ſhall be neceſſary, ſhall be paid by the treaſurer to the holders of warrants on the ſaid fund at certain periods. And to the end that all holders of ſuch warrants, may receive in proportion to their reſpective claims, the treaſurer ſhall give in the Virginia Gazette, ſix weeks previous notice of the time, when payment is to be made, in order that ſuch warrants may be previouſly regiſtered, and the money belonging to the ſaid fund duly apportioned amongſt them.

Former appropriations continued.

Charges on the revenue of 1791.

SEC. II. *AND be it further enacted*, That all taxes and arrearages of taxes, except thoſe conſtituting the aggregate fund, ſhall continue as appropriated by the aforeſaid act of the laſt ſeſſion of Aſſembly, intituled, "An act for appropriating the public revenue;" and that all branches of revenue which ſhall ariſe to the commonwealth, between the laſt day of December, one thouſand ſeven hundred and ninety-two, and the firſt day of January, one thouſand ſeven hundred and ninety-four, ſhall be appropriated to the ſupport of civil government, and for the contingent charges thereof; and ſhall alſo be charged with the payment of all unſatisfied warrants charged on the ſaid taxes and arrearages of taxes by the aforeſaid act of laſt ſeſſion of Aſſembly, of warrants which ſhall be hereafter iſſued for expences attending criminal proſecutions; for the ſtate's ſhares in the Patowmac, James River, and Diſmal Swamp Canal companies; for the hoſpital for the reception of perſons of unſound mind; to the directors of the public buildings; for erecting public buildings at the federal ſeat of government on the Patowmac; for the expences attending the arſenal at the Point of Fork; for all penſions allowed by this commonwealth; and for expences which may accrue, by order of the Executive, in defence of the weſtern frontier. And if the funds herein appropriated to the payment of the officers of civil government, and of warrants iſſued by direction of the Executive for the contingent purpoſes thereof; on account the of ſtate's ſhares in the Patowmac, James River, and Diſmal Swamp Canal Companies; for the hoſpital for the reception of perſons of unſound mind; for erecting the public buildings at the federal ſeat of government on Patowmac; for all penſions due by this commonwealth, and for expences which may accrue, by order of the Executive, in defence of the weſtern frontier, ſhould not be productive early enough for thoſe purpoſes, it ſhall be lawful for the Executive to direct the treaſurer to borrow as much money as ſhall be deficient, out of any other funds, and to replace the ſame as ſoon as poſſible.

Deficiency in certain funds to be ſupplied by borrowing from others.

Repealing clauſe.

SEC. III. SO much of every act of Aſſembly as comes within the purview of this act, ſhall be, and the ſame is hereby repealed.

Certificates in the ſinking fund to be exchanged for others in the hands of certain creditors.

SEC. IV. *AND be it further enacted*, That it ſhall be lawful for the treaſurer to pay to the agent of Caron de Beaumarchais, on warrant or warrants from the auditor, military, or other certificates of the ſinking fund dated prior to the firſt day of January, one thouſand ſeven hundred and ninety, to the amount of the liquidated claim of the ſaid De Beaumarchais, and in like manner to any other public foreign creditor willing to accept of ſuch payment; and alſo to exchange certificates of the ſaid fund of a prior date to the ſaid period, for any of the certificates of this commonwealth, dated ſubſequent to the firſt day of January one thouſand ſeven hundred and ninety, and bearing an intereſt of ſix per centum.

Commencement of the act

SEC. V. THIS act ſhall commence in force from and after the paſſing thereof.

C H A P. IV.

An ACT *for regulating the Militia of this Commonwealth.*

[Paſſed December the 22d, 1792.]

Preamble.

SECTION I. WHEREAS the Congreſs of the United States did at their laſt ſeſſion paſs an act, intituled, "An act more effectually to provide for the national "defence, by eſtabliſhing an uniform militia throughout the United States;" and it is expedient for this Legiſlature to carry the ſame into effect, ſo far as it reſpects this ſtate:

Arrangement of the militia in brigades and diviſions;

SEC. II. *BE it therefore enacted*, That the counties of Accomack, Northampton, Princeſs-Anne, and Norfolk, ſhall compoſe one brigade; the counties of Nanſemond, Iſle of Wight, Southampton, Surry, Suſſex, and Prince-George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New-Kent, Henrico, and Hanover, one brigade; the counties of Glouceſter, Mathews, Middleſex, Eſſex, King William, King & Queen, Lancaſter, Northumberland, Richmond, and Weſtmoreland, one brigade: and the ſaid brigades ſhall compoſe one diviſion. That the counties of Loudoun and Fairfax ſhall compoſe one brigade; the counties of Fauquier, Prince William, Stafford, and King George, one brigade; the counties of Culpeper, Orange, Spotſylvania, and Caroline, one brigade; the counties of Louiſa, Goochland, Fluvanna, Albemarle, and Amherſt, one bri-

gade: and the ſaid brigades ſhall compoſe another diviſion. The counties of Frederick and Berkeley, ſhall compoſe one brigade; the counties of Rockingham, Auguſta, and Shenandoah, one brigade; the counties of Wythe, Ruſſell, Waſhington, Lee, Grayſon, and Montgomery, one brigade; the counties of Botetourt, Rockbridge, Greenbrier, Bath, and Kanawha, one brigade; the counties of Hampſhire, Hardy, Pendleton, Randolph, Harriſon, Monongalia, and Ohio, one brigade; and the ſaid brigades ſhall compoſe another diviſion. The counties of Henry, Patrick, Franklin, Campbell, and Bedford, ſhall compoſe one brigade; the counties of Pittſylvania, Halifax, Charlotte, and Prince Edward, one brigade; the counties of Dinwiddie, Greenſville, Brunſwick, Lunenburg, and Mecklenburg, one brigade; the counties of Cheſterfield, Amelia, Nottoway, Powhatan, Cumberland, and Buckingham, one brigade; and the ſaid brigades ſhall compoſe another diviſion.

In regiments and battalions.

SEC. III. *AND be it further enacted*, That the counties of Berkeley, Culpeper, Loudoun, and Frederick, ſhall compoſe two regiments, and four battalions each; that the counties of Middleſex and Eſſex, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of King & Queen and King William, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of Northumberland and Lancaſter, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of Richmond and Weſtmoreland, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of Powhatan and Cumberland, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of Harriſon and Randolph, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of Ruſſell and Lee, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; and the counties of Charles City and New-Kent, ſhall compoſe each one battalion, which two battalions ſhall conſtitute one regiment; the counties of Elizabeth City and Warwick, one battalion, and the counties of York and James City, one battalion, which two battalions ſhall compoſe one regiment; and each of the other counties in this commonwealth, and alſo the city of Richmond and borough of Norfolk, ſhall compoſe each one regiment and two battalions.

Officers, how to be appointed.

SEC. IV. *AND be it further enacted*, That the General Aſſembly ſhall by joint ballot of both houſes, appoint an Adjutant-General for the militia of this ſtate, and alſo a Major-General to each diviſion, and a Brigadier-General to each brigade; which Major-Generals and Brigadiers, ſhall reſide within the limits of their reſpective commands. Each Major-General ſhall appoint his own aids de camp, and each Brigadier-General his own brigade inſpector, who ſhall alſo reſide within the limits of their reſpective diviſions and brigades.

SEC. V. *AND be it enacted*, That the courts of the ſeveral counties and corporations, ſhall from the field and other officers who at preſent hold commiſſions in the militia of the reſpective counties and corporations, proceed to recommend to the Executive, the officers neceſſary to complete the regiments and battalions and companies, purſuant to this act, by grades and ſeniority; and the perſons ſo recommended, ſhall be commiſſioned by the Governor, agreeable to the conſtitution of this ſtate.

Officers not recommended by the county court to become ſupernumeraries.

SEC. VI. ALL perſons holding commiſſions under the late militia laws of this ſtate, and who ſhall not be recommended by their reſpective courts, ſhall be conſidered as ſupernumerary officers, and may be recommended by the reſpective county and corporation courts to ſupply vacancies hereafter happening in the officers of the militia.

Commiſſioned officers to meet twice in every year to be trained.

SEC. VII. AND whereas it will be productive of conſiderable advantages to the diſciplining the militia, to have frequent meetings of the commiſſioned officers of the ſeveral regiments and battalions: *Be it enacted*, That the commiſſioned officers of the ſeveral regiments and battalions ſhall meet twice in every year, for the purpoſe of being trained and inſtructed by the Brigade Inſpector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus aſſembled, ſhall each continue two days and no longer, for every time they ſhall be called out. Every officer failing to attend ſuch meeting on being ſummoned (not having a reaſonable excuſe, to be adjudged of by a court-martial) ſhall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Diviſions, brigades and regiments to be numbered and regiſtered in the adjutant general's office.

SEC. VIII. IT ſhall be the duty of the Executive to number by ballot the ſeveral diviſions, brigades, and regiments, and cauſe the ſame to be regiſtered in the office of the Adjutant-General; and every commiſſion hereafter iſſued by the Executive, ſhall expreſs the number of the diviſion, brigade or regiment reſpectively, to which the perſon to whom the ſame is directed ſhall belong.

Counties to be divided into diſtricts for forming regiments, battalions and companies.

SEC. IX. *AND be it further enacted*, That the commanding officers of regiments, battalions, and companies, to be appointed and commiſſioned by virtue of this act, ſhall meet at their reſpective courthouſes on ſome day in the month of March or April next, to be appointed by the commanding officers of regiments, then and there to divide their reſpective counties into diſtricts for the purpoſe of forming the regiments, battalions, and companies, by this act eſtabliſhed; which diſtricts ſo laid off ſhall be deſignated by certain lines and bounds to be eſtabliſhed by them, and recorded by the clerks of the courts-martial reſpectively, hereinafter to be appointed.

Companies to be divided into divisions.

SEC. X. *AND be it further enacted*, That it shall be the duty of the commanding officers of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular rotine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Persons exempted from militia duty.

SEC. XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors and students at the college of William & Mary, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

SEC. XII. AND whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result.

A company of grenadiers, light infantry, or riflemen, to be annexed to each battalion.

SEC. XIII. *BE it enacted*, That the Governor with the advice of Council, shall issue commissions for a captain, lieutenant and ensign to each battalion out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the Executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be inrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

A company of cavalry, and a company of artillery, to be annexed to each division.

SEC. XIV. *AND be it further enacted*, That the Governor with the advice of Council, shall and he is hereby empowered, to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorised and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the Executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same proportions to their respective ranks, enlist a company, to be denominated the company of cavalry. *Provided*, that the number of companies of artillery and of cavalry, shall not exceed one for each brigade.

Proviso.

Oaths of officers.

SEC. XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:—"I— do swear that I will be faithful and true to the "commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a in the regiment of the " militia of Virginia, according to the best of my skill and judgment: So "help me God."

Adjutant-general may convene brigade-majors and inspectors.

SEC. XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors, at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department, as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act.

SEC. XVII. THERE shall be a private muster of each company of grenadiers, light-infantry, riflemen, artillery, and cavalry, once in every two months, except in the months of December, January and February, in every year, and every other company, formed by virtue of this act, once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of May, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion, and a muster of each regiment in the month of October in every year, to be appointed by the brigadier general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be, to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of companies shall give notice of the regimental battalion and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster field on the day appointed by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occuring thereat, and make return thereof at the next regimental or battalion muster to the commanding officer of his battalion, including those which may occur on that day. And every commanding officer of a battalion, shall at their regimental or battalion musters (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; *Provided*, that the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit: "I do certify that the return hereunto annexed, contain all the "delinquencies which have occurred in my company since my last return, having examined "the same as the law directs." And to the battalion returns shall be added, "and that the "reports which accompany them, are all which have been made by the commanding officers "of battalions."

Musters of the companies;

Of the battalions;

Of the regiments;

Notices of them, by whom & how to be given.

Penalties on officers, and serjeants failing to give the notices;

Rolls to be called, and delinquencies noted.

Form of return of delinquencies.

SEC. XVIII. EVERY captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Returns of companies;

Of battalions;

Of regiments;

SEC. XIX. EACH captain or commanding officer of a company, shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion, and all vacancies which may thereafter happen, shall be filled up by appointments in like manner.

Drummer and fifer to be appointed to each company.

SEC. XX. IN all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

The officer next in rank to take command, in the absence of his superior.

SEC. XXI. IT shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline prescribed by Congress, under pain of being arrested and

Militia to be exercised,

EXHIBIT 14
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tried for breach of their duty, and for this purpose the said officers are hereby authorised to order the most expert and fit officer in their respective commands, to perform that duty.

Officers to be furnished with printed copies of the rules of discipline.

SEC. XXII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, may be diffused, the Executive is hereby authorised and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one; and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expense thereof, the Executive shall draw on the contingent fund.

Officers may be arrested for misbehaviour. Non commissioned officers & soldiers may be confined or bound neck & heels for disobedience or mutiny.

SEC. XXIII. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

SEC. XXIV. IF any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board directed by this act to be held, the commanding officer, court, or board, may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

Bystanders may be confined for molesting any officer or soldier on duty.

SEC. XXV. IF any bystander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

Colours to be procured;

Drums & fifes, or bugle-horns

SEC. XXVI. THE commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

Militia to be called forth in case of invasion or insurrection.

SEC. XXVII. *AND be it further enacted*, That the Governor, with the advice of Council, be authorised and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the Governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

Articles impressed to be valued,

and the owners paid therefor if lost;

Officers answerable to the public, if lost thro' neglect.

SEC. XXVIII. THE lieutenant colonel commandant, or commanding officers of regiments from which such detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein-after appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorised and required to prosecute a suit against such officer for the recovery of damages for the use of the commonwealth.

Executive to appoint officers when necessary

SEC. XXIX. IF it shall appear to the Executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the Governor, with the advice of Council, is hereby authorised to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

Commanding officer in a county may order out militia in invasions or insurrections.

SEC. XXX. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorised and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he

may think neceſſary, who ſhall forthwith in like manner furniſh the ſame; and for aſſembling the militia required upon ſuch occaſions, or by orders of the Executive, the ſame meaſures ſhall be taken to ſummon them as is directed in the caſe of muſters.

Militia in ſervice to be governed by the articles of war of the United States.

Their pay and rations;

SEC. XXXI. WHENEVER any militia ſhall be called forth into actual ſervice as aforeſaid, they ſhall be governed by the articles of war which govern the troops of the United States. And courts-martial ſhall be held as are therein directed, to be compoſed of militia officers only, for the trial of any perſon in the militia; but to the caſhiering of any officer, or capital puniſhment of any perſon, the approbation of the Executive ſhall be neceſſary; and when any militia ſhall be in actual ſervice, they ſhall be allowed the ſame pay and rations as are allowed by the Congreſs of the United States to the troops in the ſervice of the United States.

Patrollers to be appointed;

Their duty;

Their pay;

Penalty for failing to do their duty;

SEC. XXXII. *AND be it further enacted*, That the commanding officer of every battalion of militia, ſhall from time to time, as he ſhall deem it neceſſary, appoint an officer, and ſo many men of the militia as to him ſhall ſeem neceſſary, not exceeding four, once in every month, or oftener if thereto required by ſuch officer, to patrole and viſit all negro quarters and other places ſuſpected of entertaining unlawful aſſemblies of ſlaves, ſervants, or other diſorderly perſons, as aforeſaid, unlawfully aſſembled, or any others ſtrolling about from one plantation to another, without a paſs from his or her maſter, miſtreſs, or owner, and carry them before the next juſtice of the peace, who, if he ſhall ſee cauſe, is hereby required to order every ſuch ſlave, ſervant, ſtroller, or other diſorderly perſon as aforeſaid, to receive any number of laſhes, not exceeding twenty, on his or her bare back; and in caſe one company of patrollers ſhall not be ſufficient, more companies may in like manner be ordered for the ſame ſervice. And after every patrole, the officer of every party ſhall return to the captain of the company to which he belongs, a report in writing upon oath (which oath ſuch captain is hereby empowered to adminiſter) of the names of thoſe of his party who were upon duty, and of the proceedings of ſuch patrole; and ſuch captain ſhall once in every month deliver ſuch patrole returns to the commanding officer of his battalion, by whom they ſhall be certified and laid before the next court-martial; and if they ſhall adjudge the patrollers to have performed their duty according to law, the ſaid court ſhall certify the ſame to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them ſhall ſo patrole; and every commanding officer failing to appoint patrollers according to the directions of this act, ſhall forfeit and pay thirty dollars; and every perſon appointed to patrole, failing to do his duty, ſhall forfeit and pay three dollars for every ſuch failure; which fines, ſhall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the ſeveral fines and penalties by this act directed.

Courts-martial to be held for the trial of officers;

Officers, by whom to be arreſted.

SEC. XXXIII. AND WHEREAS it is neceſſary that certain tribunals be inſtituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and aſſeſſing fines thereon: *Be it therefore enacted*, That the Governor ſhall have power to arreſt the major generals and all other officers for any miſconduct whatever, and upon trial and conviction, may cenſure or caſhier them; a lieutenant colonel commandant may arreſt any officer under his command, and report him to the Governor for trial, or at the option of ſuch lieutenant colonel commandant, a general court-martial, to conſiſt of thirteen officers, may by his order be held within the limits of his regimental diſtrict, for trial of ſuch as ſhall be under the rank of a field officer. The preſident of the ſaid court ſhall be a field officer, and ſix at leaſt of the members ſhall be captains, and where there is not a ſufficient number of officers in any regiment to conſtitute a court where the arreſt is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from ſuch regiment as will be ſufficient to make a court, and ſuch court may, on conviction, cenſure or caſhier any officer ſo tried, and their ſentence ſhall be final; ſaving to ſuch officer an appeal to the executive, if he ſhall think proper, in which caſe the commanding officer ſhall furniſh him with a copy of the proceedings of the ſaid court. Any non-commiſſioned officer, or ſoldier, offending, ſhall be tried by a like general court martial, and may, on conviction, be cenſured or fined at the diſcretion of the court. For obtaining the neceſſary evidence for the trials aforeſaid, the governor, or the commanding officer of the regiment (as the caſe may be) ſhall iſſue his ſummons, and any perſon ſo ſummoned failing to attend, ſhall forfeit and pay, upon a ſummons from the governor, thirty dollars, and upon a ſummons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongſt other delinquencies, to the court aforeſaid.

Appeals may be made from the ſentence of a court-martial to the Executive;

Evidence, how to be procured.

Courts for aſſeſſment of fines, when & where to be held;

SEC. XXXIV. *AND be it further enacted*, That the commanding officers of regiments ſhall, on ſome day in the months of May and October, not exceeding fifteen, nor leſs than ten days after their regimental and battalion muſters, order the commanding officers of battalions and of companies, to meet at the places where their laſt battalion muſters reſpectively were held, a majority of whom ſhall form a court of enquiry and aſſeſſment of fines, and it ſhall be the duty of the lieutenant colonel commandant to preſide at ſuch boards, and in caſe of his abſence by ſickneſs or otherwiſe, the next officer in rank ſhall preſide. The ſaid court ſhall take the following oath, to be adminiſtered by the ſenior officer preſent, and afterwards by any other officer of the ſaid board to him, to wit: "I do ſwear, that I will truly and "faithfully, enquire into all delinquencies which appear on the returns to be laid before me, "and will aſſeſs the fines thereon as ſhall ſeem juſt, without favor, partiality, or affection," "So help me GOD." The lieutenant colonel commandant ſhall then lay before the ſaid court

all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Fines to be collected by the sheriffs;

SEC. XXXV. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the clerk of the said court, and delivered to the sheriff, on or before the first day of January, in every year, who shall give his receipt therefor, and account for the same to the lieutenant colonel commandant, or his successor, and be allowed the same commissions as for other public monies, on or before the first day of November in the same year; and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county or corporation court with costs; and should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorised to make distress and sale therefor, in the same manner as is directed in the collection of the taxes.

by distrels, when necessary;

Officers to render accounts of fines received.

SEC. XXXVI. THE commanding officer of every regiment shall on or before the thirty first day of December, in every year, render to the Executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury in aid of the contingent fund.

Fines to be paid for delinquencies; By a commanding officer of a regiment;

SEC. XXXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By a lieutenant-colonel commandant, or commanding officer of a regiment, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a regimental or battalion muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay seventy dollars; failing to send into actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence or neglect, thirty dollars; failing to call forth from his battalion with due dispatch, any detachment of men and officers, as shall be required from time to time by the commanding officer, or any call from the governor, invasion of or insurrection in his county, or requisition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he shall forfeit and pay for each and every such offence and neglect, twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the Governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay forty dollars. By a subaltern officer for failing to take any oath, to attend any court, or muster armed as directed, for each and every such offence he shall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required; when ordered upon any call from the Governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay twenty dollars: And moreover the said officers, for any of the said offences, shall be liable to be arrested and tried for the same as military offenders. By a non-commissioned officer or soldier, for failing to attend at any muster, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous when ordered, upon any call from the Governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

By a major;

By a captain;

By a subaltern;

By a non commissioned officer or private.

Arms, &c. of militia exempted from executions, distresses, &c. and their persons from arrests, at musters and in service.

SEC. XXXVIII. ALL arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

SEC. XXXIX. THE commanding officers of regiments shall on the day of his regimental muster first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster-ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards herein before directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular rotine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

Richmond, Williamsburg, and Norfolk militia to be under the like regulations as the militia of the counties.

SEC. XL. THE militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

SEC. XLI. THE commanding officers of regiments are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

Courts martial may remit fines;

SEC. XLII. ANY court martial may for good cause shewn, remit any fines imposed by a former court martial, provided that not more than two courts martial shall have intervened between such imposition and application for remission.

And exempt persons from militia duty for bodily infirmities.

SEC. LXIII. COURTS martial may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

Courts martial for the trial of general officers.

SEC. LXIV. FOR the trial and punishment of the adjutant general, major generals, and brigadier generals, *Be it enacted*, that any major general or brigadier general offending under this act, shall be arrested and tried in the following manner, viz. A major general shall be arrested by the commander in chief of the state upon any misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court martial, to consist if convenient of the remaining major generals, the brigadier generals of the division, over which such major general is appointed, or as many of them as can conveniently attend, and as many lieutenant colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court martial for the trial of such offenders. Any brigadier general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major general of the division to which he belongs, and tried by a court martial, to consist of one major general, and not more than four brigadiers, and as many lieutenant colonel commandants, majors, and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

By whom they may be arrested.

Salaries of the adjutant general and brigade inspectors.

SEC. LXV. *AND be it further enacted*, That the adjutant general shall be allowed four hundred dollars per year; and that each brigade inspector shall be allowed one hundred and fifty dollars per year, for the duties herein required of them, to be paid by the treasurer, on warrant from the auditor, who is hereby authorised and required to grant the same quarter yearly, on proper application being made.

Commencement of this act.

SEC. LXVI. THIS act shall commence and be in force from and after the passing thereof.

CHAP. V.

An ACT *for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors.*

[Passed December the 13th, 1792.]

Writs of execution.

SECTION I. BE *it enacted by the General Assembly*, That all persons recovering any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fieri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for the taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, that executions may be issued from the General Court returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the District Courts, and be returnable to the first day thereof. *And provided also*, that if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable, at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis*, *mutandis*, to wit;

How to be issued and returned.

Fifteen days at least between teste & return.

From the general and districts courts, when returnable.

Forms of the writs.

"A FIERI FACIAS IN DEBT.

Against goods and chattels.

"THE commonwealth of Virginia, to the sheriff of county, greeting: WE command you, that of the goods and chattels of A. B. late in your bailiwick, you cause to be made the sum of , which C. D. lately in our court hath recovered against him for debt; also the sum of , which to the said C. D. in the same court were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record, and that you have the said before the judges or justices (as the case may be) of our said court, the day of , to render to the said C. D. of the debt and damages aforesaid. And have then there this writ. Witness, &c."

Debt.

The same in case, upon a Promise;

Case, assumpsit.

AS before unto , "for his damages, which he sustained, as well by reason of his not performing a certain promise and assumption to the said C. D. by the said A. B. lately made, as for his costs by him about his suit in this behalf expended, &c."

D

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States, and for appropriating the same, took effect: *And provided also*, That such allowance shall not exceed the annual amount of seventy thousand dollars, until the same shall be further ascertained by law. not to exceed $70,000.

Sec. 17. *And be it further enacted*, That the act, intituled "An act repealing after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad and laying others in their stead, and also upon spirits distilled within the United States, and for appropriating the same," shall extend to and be in full force for the collection of the several duties herein before mentioned and for the recovery and distribution of the penalties and forfeitures herein contained and generally for the execution of this act, as fully and effectually as if every regulation, restriction, penalty, provision, clause, matter, and thing therein contained were inserted in and re-enacted by this present act, subject only to the alterations hereby made. Certain act in force for collection of the duties, &c. herein. 1791, ch. 15.

Approved, May 8, 1792.

Statute I.

May 8, 1792.

Chap XXXIII.—*An Act more effectually to provide for the National Defence by establishing an Uniform Militia throughout the United States.*(a)

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled* That each and every free able-bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such captain or commanding officer of a company to enrol every such citizen, as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years (except as before excepted) shall come to reside within his bounds; and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball: or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle and a quarter of a pound of powder; and shall appear, so armed, accoutred and provided, when called out to exercise, or into service, except, that when called out on company days to exercise only, he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword or hanger and espontoon, and that from and after five years from the passing of this act, all muskets for arming the militia as herein required, shall be of bores sufficient for Militia how and by whom to be enrolled. How to be armed and accoutred. 1803, ch. 15.

(a) The acts for the establishment of an uniform system for the government of the militia, are: An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States, May 8, 1792, chap. 33; an act providing arms for the militia throughout the United States, July 6, 1798, chap. 65; an act in addition to an act entitled, "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," March 2, 1803, chap. 15; an act more effectually to provide for the organizing of the militia of the District of Columbia, March 3, 1803, chap. 20; an act establishing rules and articles for the government of the armies of the United States, April 10, 1806, chap. 20; an act in addition to the act entitled, "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and to repeal the act now in force for those purposes," April 18, 1814, chap. 82; an act concerning field officers of the militia, April 20, 1816, chap. 64; an act to establish an uniform mode of discipline and field exercise for the militia of the United States, May 12, 1820, chap. 97; an act to reduce and fix the military peace establishment of the United States, March 2, 1821, chap. 13, sec. 14.

balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or for the payment of taxes.

Executive officers, &c. exempted.

SEC. 2. *And be it further enacted*, That the Vice President of the United States; the officers judicial and executive of the government of the United States; the members of both Houses of Congress, and their respective officers; all custom-house officers with their clerks; all post-officers, and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective states, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

1810, ch. 37, sec. 33.

Militia how to be arranged, and

SEC. 3. *And be it further enacted*, That within one year after the passing of this act, the militia of the respective states shall be arranged into divisions, brigades, regiments, battalions and companies, as the legislature of each state shall direct; and each division, brigade and regiment, shall be numbered at the formation thereof; and a record made of such numbers in the adjutant-general's office in the state; and when in the field, or in service in the state, each division, brigade and regiment shall respectively take rank according to their numbers, reckoning the first or lowest number highest in rank. That if the same be convenient, each brigade shall consist of four regiments; each regiment of two battalions; each battalion of five companies; each company of sixty-four privates. That the said militia shall be officered by the respective states, as follows: To each division, one major-general and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with one brigade inspector, to serve also as brigade-major, with the rank of a major; to each regiment, one lieutenant-colonel commandant; and to each battalion one major; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler. That there shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenants; one paymaster; one surgeon, and one surgeon's mate; one sergeant-major; one drum-major, and one fife-major.

by whom officered.

1803, ch. 15, sec. 3.

Each battalion to have one company of grenadiers, &c. and one company of artillery.

SEC. 4. *And be it further enacted*, That out of the militia enrolled, as is herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse: there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombadiers, one drummer, and one fifer. The officers to be armed, with a sword or hanger, a fusee, bayonet and belt, with a cartridge-box to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses of at least fourteen hands and an half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mailpillion and valise, holsters, and a breast-plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartouch-box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the

Officers how to be armed.

Troops of horse how officered, &c.

Artillery and horse of whom to be formed;

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discretion of the commander-in-chief of the state, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

to be uniformly clad at their own expense.

1803, ch. 15.

SEC. 5. *And be it further enacted*, That each battalion and regiment shall be provided with the state and regimental colours by the field officers, and each company with a drum and fife, or bugle-horn, by the commissioned officers of the company, in such manner as the legislature of the respective states shall direct.

What colors &c. and by whom to be furnished.

SEC. 6. *And be it further enacted*, That there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander-in-chief of the state to the several corps; to attend all public reviews when the commander-in-chief of the state shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: all which the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make in the usual manner, so that the said adjutant-general may be duly furnished therewith: from all which returns he shall make proper abstracts, and lay the same annually before the commander-in-chief of the state.

Adjutant-general in each state, his duty.

1803, ch. 15.

SEC. 7. *And be it further enacted*, That the rules of discipline, approved and established by Congress in their resolution of the twenty-ninth of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout the United States, except such deviations from the said rules as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances. It shall be the duty of the commanding officer at every muster, whether by battalion, regiment, or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline.

Rules of discipline.

SEC. 8. *And be it further enacted*, That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company, or detachment.

Officers how to take rank.

SEC. 9. *And be it further enacted*, That if any person, whether officer or soldier, belonging to the militia of any state, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

Provision in case of wounds, &c.

SEC. 10. *And be it further enacted*, That it shall be the duty of the brigade-inspector to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition, and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline before described throughout the brigade, agreeable to law, and such orders as they shall from time to time receive from the commander-in-chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements, and ammunition of the several corps, and every other thing which, in his judgment, may relate to their government and the

Brigade inspector's duty.

1803, ch. 15.

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general advancement of good order and military discipline; and the adjutant-general shall make a return of all the militia of the state to the commander-in-chief of the said state, and a duplicate of the same to the President of the United States.

Artillery &c. now existing,

And whereas sundry corps of artillery, cavalry, and infantry now exist in several of the said states, which by the laws, customs, or usages thereof have not been incorporated with, or subject to the general regulations of the militia:

to retain their privileges.

Sec. 11. *Be it further enacted*, That such corps retain their accustomed privileges, subject, nevertheless, to all other duties required by this act, in like manner with the other militia.

Approved, May 8, 1792.

Statute I.

May 8, 1792.

Chap. XXXIV.—*An Act relative to the compensations to certain officers employed in the collection of the duties of impost and tonnage.*

[Obsolete.] Additional specific allowance from 1st of July next to certain surveyors and collectors. 1790, ch. 35. sec. 53. Act of March 2, 1799, ch. 23.

Section 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the last day of June next, in addition to the fees and emoluments which may accrue to the officers employed in the collection of the duties of impost and tonnage, by the provisions already made, they shall severally have and be entitled to the respective allowances following, to wit: The surveyors of Newburyport, Salem, St. Mary's and Wilmington, in North Carolina, the yearly sum of one hundred dollars each; the surveyors of Beverly, North Kingston, East Greenwich, Warren, Bristol, Pawcatuck river, Providence, Patuxet, New Haven, Lewellensburg, Alexandria, Beaufort, Hertford, Winton, Bennet's creek, Plymouth, Windsor, Skewarkey, Murfreesborough, Nixonton, Indiantown, Currituck inlet, Pasquotank river bridge, and Newbiggen creek, the yearly sum of eighty dollars each; the surveyor of Portsmouth, the yearly sum of sixty dollars; the surveyors of Ipswich, Portland, Newport, Stonington, Middleton, Bermuda hundred, Petersburg, Richmond, and Savannah, the yearly sum of fifty dollars each; the surveyors of Gloucester, New London, and Swansborough, the yearly sum of thirty dollars each; the surveyors of Hudson, Little Egg Harbour, Suffolk, Smithfield, Urbanna, and Fredericksburg, the yearly sum of twenty dollars each; the collector of the district of Wilmington, in North Carolina, the yearly sum of one hundred and fifty dollars; the collectors of the districts of Portsmouth, Gloucester, Albany, Annapolis, Vienna, Nottingham, Yorktown, Dumfries, and Louisville, the yearly sum of one hundred dollars each; the collector of the district of Fairfield, the yearly sum of eighty dollars; the collectors of the districts of Marblehead, Plymouth, Barnstable, Nantucket, New Bedford, Dighton, York, Biddeford, and Pepperelborough, Bath, Wiscasset, Machias, Newport, New Haven, Perth Amboy, Great Egg Harbour, Wilmington, in Delaware, Chester, Cedar Point, Georgetown, Hampton, South Quay, Washington, Plank Bridge, and Georgetown, in South Carolina, the yearly sum of fifty dollars each; the naval officer of the district of Portsmouth, the yearly sum of one hundred dollars; the naval officers of the districts of Newburyport, Newport, Providence, Wilmington, in North Carolina, and Savannah, the yearly sum of fifty dollars each; the collector of the district of Salem and Beverly, one fourth of one per centum on the amount of all monies by him received on account of the said duties; and to the collectors of the districts of Portsmouth, Newburyport, Gloucester, Marblehead, Plymouth, Nantucket, Edgartown, New Bedford, Dighton, York, Biddeford, and Pepperelborough, Portland, Bath, Wiscasset, Penobscot, Frenchman's bay, Machias, Newport, Providence, New Haven, Fairfield, Perth Amboy, Burlington, Great Egg Harbour, Wilmington, in Delaware, Oxford, Vienna, Snowhill, Annapo-

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HISTORY AND TRADITION IN MODERN CIRCUIT CASES ON THE SECOND AMENDMENT RIGHTS OF YOUNG PEOPLE

David B. Kopel* & Joseph G.S. Greenlee**

I. INTRODUCTION

This Article surveys nineteenth century laws and cases that restricted arms ownership based on age. We analyze the nineteenth century statutes and cases through the lens of five federal Circuit Court of Appeals cases involving restrictions on the Second Amendment rights of young people.

Part II examines *Rene E.*, a First Circuit case. Because *Rene E.* relied on nineteenth century cases, Part II analyzes those cases.

Part III is the Fifth Circuit's *NRA v. BATF*, which cited nineteenth century statutes, some of which had led to the cases that *Rene E*. cited. So, Part III reviews the statutes.

Parts IV, V, and VI each have shorter discussions of the other leading Circuit cases: *NRA v. McCraw* (5th Cir.) (carry permits); *Horsely v. Trame* (7th Cir.) (parental permission for gun license), and *Ezell v. Chicago* (7th Cir., "Ezell II") (ban on persons under 18 using firing ranges).

Because this Article focuses on post-*Heller* circuit court cases and their use of history, there are certain topics that we do not address. First, we discuss the Supreme Court's Second Amendment decisions only to the extent that they are discussed by the circuit opinions. Second, we do not discuss the history of colonial and Early Republic militia statutes. Those statutes typically set the minimum age for militia service at sixteen, although by the end of the eighteenth century the minimum age federally and in most states had been raised to eighteen. Third, we do not discuss contemporary gun control laws, except to the extent that particular laws are at issue in the circuit cases we analyze. All of the topics that we do not examine in this Article will be reviewed in depth in an Article in the next issue of this Journal.[1]

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II. UNITED STATES V. RENE E.

Rene E. was convicted of violating the federal ban on juvenile handgun possession, by possessing a handgun at age seventeen.[2] The First Circuit upheld the ban based "on the existence of a longstanding tradition of prohibiting juveniles from both receiving and possessing handguns."[3] The court considered (1) "contemporary federal restrictions on firearm and handgun possession by juveniles;" (2) "nineteenth-century state laws imposing similar restrictions;" and (3) "whether the Founders would have regarded prohibiting the juvenile possession of handguns as consistent with the Second Amendment right."[4] We will analyze the issues following *Rene E.*'s organization.

A. Congressional regulation of juvenile access to firearms

First, the court inaccurately summarized federal age-based firearms regulations, describing federal law as "prohibiting the sale of firearms to individuals less than twenty-one years old."[5] Actually, the 1968 law cited by the court applied only to a federally "licensed importer, licensed manufacturer, or licensed dealer," and it allowed long gun sales to persons 18-to-20.[6] There were not, and never have been, federal rules on private long gun possession by juveniles; it is a matter of state law. The same was true for handguns until 1993, when the Youth Handgun Safety Act, restricted, but did not ban, juvenile handgun possession.[7]

The *Rene E.* court emphasized that the allowances for juvenile possession made the statute less burdensome than the handgun ban struck down in *Heller*:

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1 David B. Kopel & Joseph G.S. Greenlee, *The Second Amendment Rights of Young Adults*, 43 S. ILL. U. L.J. (forthcoming 2019).

2 United States v. Rene E., 583 F.3d 8, 9 (1st Cir. 2009). 18 U.S.C. § 922(x)(2) (2018) provides:
It shall be unlawful for any person who is a juvenile to knowingly possess--
(A) a handgun; or
(B) ammunition that is suitable for use only in a handgun.

3 *Rene E.*, 583 F.3d at 12.

4 *Id.* at 12–13.

5 *Id.* at 13.

6 Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 922(a)(1), 82 Stat. 197, 235 (1968) (codified at 18 U.S.C. § 922(a)(1); 18 U.S.C. § 922(b)(1) (2018) (prohibiting FFL transfer of "any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.").

7 Youth Handgun Safety Act, Pub. L No. 103–159, 107 Stat. 1536 (1993) (codified as amended at 18 U.S.C. § 922(x)).

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> These exceptions permit juveniles to possess handguns for legitimate purposes, including hunting and national guard duty, as well as "in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest." Thus, contrary to appellant's suggestion, the ban on juvenile possession of handguns is not "even more complete" than the D.C. ban at issue in *Heller*, but contains important exceptions.[8]

B. Historic state cases on juvenile access to firearms

1. Callicutt: Tennessee's Misinterpretation of the Right to Arms

Next, *Rene E.* considered state cases. The court pointed first to *State v. Callicutt*, decided by the Supreme Court of Tennessee in 1878.[9] The law at issue had made it "a misdemeanor to sell, give, or loan a minor a pistol, or other dangerous weapon, except a gun for hunting, or weapon for defense in traveling."[10] The defendant "insisted that every citizen who is subject to military duty has the right 'to keep and bear arms,' and that this right necessarily implies the right to buy or otherwise acquire, and the right in others to give, sell, or loan to him."[11] As quoted in *Rene E.*, the *Callicutt* court retorted: "we regard the acts to prevent the sale, gift, or loan of a pistol or other like dangerous weapon to a minor, not only constitutional as tending to prevent crime but wise and salutary in all its provisions."[12]

Callicutt is poor precedent because it is based on the Tennessee Supreme Court's interpretation of the Second Amendment in the 1840 case *Aymette v. State*.[13] The *Heller* Court expressly denounced *Aymette*: "This odd reading of the right is, to be sure, not the one we adopt. . . ."[14] Indeed, as

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8 *Rene E.*, 583 F.3d at 13–14 (internal citations omitted).

9 State v. Callicutt, 69 Tenn. (1 Lea) 714 (1878).

10 *Id.* at 714.

11 *Id.* at 716.

12 *Id.* at 716–17; *Rene E.*, 583 F.3d at 14.

13 21 Tenn. (2 Hum.) 154 (1840).

14 District of Columbia v. Heller, 554 U.S. 570, 613 (2008). In full, the U.S. Supreme Court said:

> Those who believe that the Second Amendment preserves only a militia-centered right place great reliance on the Tennessee Supreme Court's 1840 decision in Aymette v. State, 21 Tenn. 154. The case does not stand for that broad proposition; in fact, the case does not mention the word "militia" at all, except in its quoting of the Second Amendment. Aymette held that the state constitutional guarantee of the right to "bear" arms did not prohibit the banning of concealed weapons. The opinion first recognized that both the state right and the federal right were descendants of the 1689 English right, but (erroneously, and contrary to virtually all other authorities) read that right to refer only to "protect[ion of] the public liberty" and "keep[ing] in awe those who are in power," *id.*, at 158. The court then adopted a sort of middle position, whereby citizens were permitted to carry arms openly, unconnected with any service in a formal militia, but were given the right to use them only for the military purpose of banding together to

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the sentence from *Callicutt* immediately preceding the sentence quoted by the First Circuit explains, the *Callicutt* court was relying on the *Aymette*'s "odd reading of the right." The full paragraph from *Callicutt* states:

> The cases of Aymette v. State, 2 Hum., 155, opinion by Judge Greene, and of Page v. State, 3 Heis., 198, opinion by Chief Justice Nicholson, sufficiently indicate the difference between the right and the wrong construction of the "right to keep and bear arms," etc., and we do not deem it necessary to do more than say that we regard the acts to prevent the sale, gift, or loan of a pistol or other like dangerous weapon to a minor, not only constitutional as tending to prevent crime but wise and salutary in all its provisions.[15]

2. McMillan: Pennsylvania Ban on Handgun Sales to Persons under Sixteen

After the quote from *Callicutt*, the First Circuit provided a string cite of other nineteenth and early twentieth century cases.[16] First, was Pennsylvania's *McMillen v. Steele*.[17] The case involved an 1880 statute that made it unlawful to "knowingly and willfully sell . . . to any person under the age of sixteen years, any cannon, revolver, pistol or other such deadly weapon."[18] A storeowner was being sued because his store sold a firearm to a person under 16.

McMillen explained why the limit was set at 16: "The act of 1881 merely substitutes, for the proof necessary to show lack of capacity, the hard and fast rule of sixteen years of age. Children under that age have been legislatively declared utterly unfit to handle firearms. The negligent act is solely referable to the unlawful sale to a minor under sixteen."[19] Persons 16 and above were held to a different standard than those below 16. Thus, *McMillen* did not support the ban on the 17-year-old in *Rene E.*

> oppose tyranny. This odd reading of the right is, to be sure, not the one we adopt—but it is not petitioners' reading either.

15 *Callicutt*, 69 Tenn. at 716–17. *Page v. State*, 79 Tenn. (11 Lea) 202 (1883) dealt with bearing arms in public and contributes nothing to the discussion of age limitations.

16 *Rene E.*, 583 F.3d at 14.

17 McMillen v. Steele, 119 A. 721 (Pa. 1923).

18 *Id.* at 721; Act of June 10, 1881, § 1 (Pub. L. 111; Pa. St. 1920, § 10595). This statute was involved in another negligence case, *Shaffer v. Mowery*, 108 A. 654 (Pa. 1919), in which a 13-year-old purchased a cartridge from a general merchandise store.

19 *McMillen*, 119 A. at 722.

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3. Cases not Addressing the Right to Arms

Second, *Rene E.* cited *State v. Quail*.[20] The *Quail* defendant unsuccessfully argued that a Delaware law prohibiting the concealed carrying of a deadly weapon (other than a pocket knife) did not apply to unloaded revolvers. The same statute made it unlawful to "knowingly sell a deadly weapon to a minor other than an ordinary pocket knife," although that part of the statute was not at issue.[21]

The next case was *Tankersly v. Commonwealth* from the Court of Appeals of Kentucky—a three sentence opinion, in which the court declared that it did not have jurisdiction to hear an appeal to an indictment for selling a deadly weapon to a minor, because the punishment was not severe enough to qualify for an appeal.[22]

The fourth case, *State v. Allen*, was decided by the Supreme Court of Indiana. Allen was accused of unlawfully bartering "to Wesley Powles, who was then and there a minor under the age of twenty-one years, a certain deadly and dangerous weapon, to wit: a pistol, commonly called a revolver, which could be worn or carried concealed about the person."[23] Since the appeal was argued on procedural grounds, the constitutionality of the statute was not at issue.

The next case, *Coleman v. State*, was an Alabama appeal of an indictment founded on an 1856 statute making it a misdemeanor to "sell, or give, or lend" a pistol to "any male minor."[24] Notably the Alabama statute did not apply to female minors. The constitutionality of the statute was not at issue in *Coleman*.

4. Georgia and Minnesota Tort Liability for Illegal Sale of Handgun to Minor

The sixth case, *Spires v. Goldberg*, involved tort liability for an injury that occurred after the defendants sold a pistol and cartridges to a boy around 14 years old.[25] The Georgia appellate court noted that a state statute "forbids the sale of pistols to minors and makes the violation of the statute a misdemeanor."[26] The constitutionality of the law was not litigated; the question was whether the statutory violation constituted negligence.

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20 State v. Quail, 92 A. 859 (Del. Super. Ct. 1914).
21 *Id.*; 16 Del. Laws 716 (1881).
22 Tankersly v. Commonwealth, 19 S.W. 702, 703 (Ky. 1888).
23 State v. Allen, 94 Ind. 441, 442 (1884)
24 Coleman v. State, 32 Ala. 581, 582 (1858).
25 Spires v. Goldberg, 106 S.E. 585 (Ga. Ct. App. 1921).
26 *Id.* at 586.

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The *Spires* court cited two cases "which come nearest to analogy."[27] *Fowell v. Grafton* was a case from Ontario that involved the violation of a statute making it illegal to sell an airgun to a child under 16.[28] More relevant to this Article, *Binford v. Johnston* involved the violation of an Indiana statute prohibiting the sale of pistol cartridges to persons under 21.[29]

The seventh case, *Schmidt v. Capital Candy Co.*, was about a Minnesota ordinance prohibiting the sale of fireworks and explosives to minors. The ordinance also made it "unlawful for any person or dealer . . . to sell, expose or offer for sale, or in any manner furnish or dispose of . . . to any minor person at any time, any blank cartridge, pistol or revolver."[30] The case decided a question of liability, rather than the constitutionality of the ordinance.

5. Georgia: Minors Have No Constitutional Rights and Handguns can be Banned

As the First Circuit recognized, the statutes in all of the above cases were bans only on *sales*, and not on uncompensated transfers (except for the Alabama statute). None of the statutes criminalized possession by minors. So the First Circuit then looked for laws that "criminalized the mere *possession* of handguns by juveniles."[31]

The first anti-possession case cited by the First Circuit was *Glenn v. State*.[32] It challenged a 1910 Georgia statute that prohibited the carrying of firearms without a license and did not make licenses available to persons under 18.[33] The same statute made it illegal to "knowingly sell, or furnish, any minor with 'any pistol, dirk, bowie knife, or sword cane, except under circumstances justifying their use in defending life, limb, or property.'"[34] The *Glenn* court interpreted the statute as a complete prohibition on persons under 18 from possessing pistols.[35] The interpretation is plainly incorrect, since the statute allowed possession for self-defense.

The *Glenn* court upheld the statute under the theory that minors have *no* rights that the legislature is bound to respect: "It is entirely within the

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27 *Id.* at 588.
28 *Id.*
29 Binford v. Johnson, 82 Ind. 426 (1882).
30 Schmidt v. Capital Candy Co, 166 N.W. 502, 503 (Minn. 1918).
31 United States v. Rene E., 583 F.3d 8, 14 (1st Cir. 2009).
32 *Id.*
33 Glenn v. State, 72 S.E. 927 (Ga. Ct. App. 1911).
34 *Id.* at 928.
35 *Id.* ("We conclude, therefore, that the act of 1910 not only prohibits minors under the age of 18 years from obtaining license to have a pistol or revolver on their persons, but that the clear intendment of the act is to prevent minors from having about their persons at all this character of weapons, and this construction is in harmony with the general legislation of the State on the subject of minors")

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province of the legislature, in the exercise of the police power of the State, to prohibit, on the part of minors, the exercise of any right, constitutional or otherwise, although in the case of adults it might only have the right to regulate and restrict such rights."[36]

The assertion that minors have no constitutional rights is plainly wrong under modern precedent, and it was plainly wrong under the law of the time.[37]

Glenn also asserted that handguns are not constitutionally protected arms: "So far as the writer of this opinion is concerned, he is decidedly of the opinion that the possession of a pistol or revolver about the person, either by a minor or an adult, concealed or open, is a menace to individual safety and to law and order, and he concurs strongly in the view of those able jurists who construe the constitutional provision above quoted as not applicable to the modern pistol or revolver."[38]

The *Glenn* decision is contrary to *Heller*, which holds that the possession of pistols and revolvers (handguns) is a constitutional right. *Glenn* was also contrary to Georgia Supreme Court precedent from 1844, which had held that handguns are protected by the right to keep and bear arms.[39]

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36 *Id.* at 928-29.

37 *See* In re *Gault*, 387 U.S. 1, 13 (1967) (holding that "neither the Fourteenth Amendment nor the Bill of Rights is for adults alone" and that juveniles have right to counsel, right to notice of charges, right to confront and cross-examine witnesses, and right against self-incrimination); Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 511 (1969) ("Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect…"); Roper v. Simmons, 543 U.S. 551 (2005) (holding that the Eighth and Fourteenth Amendments forbid the execution of individuals who committed their crimes when they were under 18); 1 BLACKSTONE, COMMENTARIES *460–466 (chapter "Of Guardian and Ward" describing various legal rights of minors). If *Glenn* were correct that minors have no constitutional rights, then the Georgia Constitution of 1877, which was still in effect in 1911, would have been no barrier to the Georgia legislature enacting laws against some or all minors: to take their property without due process of law, to banish them from the state, to inflict cruel and unusual punishments on them, to require all Georgians under 21 to profess believe in an official state religion, to punish their dissent from said religion as heresy, to forbid them from criticizing government officials of Georgia, to search their houses without warrants, to forbid them to petition government, and to punish them with ex post facto laws and bills of attainder. *See* GA. CONST. (1877), art. I, § 1, parts 3, 7, 12, 15, 16, 24, § 3, part 2 (enumerating prohibitions on aforesaid types of government action, and not limiting the protections only to adults). The absurdity of the proposition is self-evident.

38 *Glenn*, 72 S.E. at 929.

39 Nunn v. State, 1 Ga. 243 (1846).
Glenn silently sidestepped *Nunn* by stating that the right to arms did not apply to "the *modern* pistol or revolver." (emphasis added). This is implausible. By the time *Nunn* was decided in 1844, modern revolvers, from Colt's Manufacturing Company, were on the market. They had been preceded by widespread sales of multi-shot "pepperbox" handguns, which function like a revolver. *See* JACK DUNLAP, AMERICAN BRITISH & CONTINENTAL PEPPERBOX FIREARMS 16 (1964); LEWIS WINANT, PEPPERBOX FIREARMS (1952); WILLIAM B. EDWARDS, THE STORY OF COLT'S REVOLVER (1953).

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6. Illinois Case Not Addressing Minors

The second anti-possession case cited, *Biffer v. City of Chicago*,[40] did not involve a statute that "criminalized the mere *possession* of handguns by juveniles."[41] The case challenged a Chicago ordinance that required arms dealers to have licenses and that restricted advertising. Those provisions were upheld as lawful under Chicago's police power.[42] At the time, Illinois had no constitutional right to keep and bear arms, and the U.S. Supreme Court had specifically declined an opportunity to enforce the Second Amendment against Illinois.[43]

Another portion of the Chicago ordinance, which was not specifically challenged, prohibited the general superintendent of police from issuing to minors the permit required "to purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person."[44] This was a sales restriction, not a possession prohibition.

7. The Kansas Supreme Court Reversal in Parman: Minors Have a Constitutional Right to Long Guns

The First Circuit also cited *Parman v. Lemmon*.[45] *Parman* is particularly relevant to this Article. The issue was whether a 20-gauge Winchester pump-action shotgun was a "dangerous weapon" prohibited by the Kansas statute that made it a misdemeanor to "sell, trade, give, loan or otherwise furnish any pistol, revolver or toy pistol, by which cartridges or caps may be exploded, or any dirk, bowie knife, brass knuckles, sling shot, or other dangerous weapons, to any minor, or to any person of notoriously unsound mind."[46] As detailed *infra*, many laws prohibiting the sale of pistols and revolvers also prohibited "other deadly weapons." Long guns were not considered "other deadly weapons"—the closest they came to being so characterized was by the Supreme Court of Kansas in *Parman*.

The *Parman* court initially held that shotguns (and therefore all firearms) were covered by the statute, and consequently that it was illegal to transfer any firearm to a minor. The court based its decision on the rule of ejusdem generis:

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40 Biffer v. Chicago, 116 N.E. 182 (Ill. 1917).
41 United States v. Rene E., 583 F.3d 8, 14 (1st Cir. 2009).
42 *Biffer*, 116 N.E. at 184.
43 *See* Presser v. Illinois, 116 U.S. 252 (1886).
44 *Biffer*, 116 N.E. at 184.
45 Parman v. Lemmon, 244 P. 227 (Kan. 1925).
46 *Id.* at 228 (citing R. S. 38–701). R. S. 38–702 made it unlawful for minors to possess these dangerous weapons.

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> Applying this general rule to the question, we have a title specifying minors and deadly weapons. The act enumerates pistol, revolver, toy pistol, dirk, bowie knife, brass knuckles, sling shot, and "other dangerous weapons." Can it be said that a Winchester rifle or repeating shotgun placed in the hands of an insane or incompetent person is not a weapon that is inherently dangerous to himself and his associates? The answer is obvious.[47]

"The rule, *ejusdem generis* ordinarily limits the meaning of general words to things of the same class as those enumerated under them."[48]

Justice John Dawson dissented:

> The fathers of our republic believed that a well-regulated militia was necessary to the security of a free state and that the right of the people to keep and bear arms should never be infringed. Have we ceased to believe that doctrine? I refer to this not because it is a provision of the federal constitution, and restricts the power of congress over this subject, but because it is a basic principle of statecraft of deep concern to all who are clothed with authority and who feel their responsibility to hand on undiminished to future generations those liberties which are our proud American heritage.
>
> From the landing of the Pilgrims in 1620 until the last Indian menace on the Kansas frontier in 1885, the rifle over the fireplace and the shotgun behind the door were imperatively necessary utensils of every rural American household. And it was just as imperative that the members of such household, old and young, should know how to handle them. And it was almost equally true that unless a man were trained in the use of the rifle and shotgun in his boyhood he seldom learned to use them. The American Civil War was largely fought by boys. Half of the Union armies were made up of lads in their teens. When those armies were disbanded, so many thousand ex-Union soldiers came to Kansas that their political views and outlook on life and government gave form and tone to the genius of our Kansas institutions. They filled our public offices for a full generation. They constituted a majority of the legislature of 1883, when this statute was enacted, and a majority of all the Legislatures of Kansas for a decade prior to and succeeding that time. Does anybody believe that while our western prairies were still sporadically subjected to Indian raids, while our pioneer homes were still shaded in gloom because of the tomahawk and scalping knife of Ogallalas, Cheyennes, Brule Sioux, and other bloodthirsty savages who smeared our frontier with blood and tears as late as 1878 and 1879, a

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47 *Id.* at 229.

48 *Id.* at 229 (citing 2 Words and Phrases, Second Series, 225). "Ejusdem generis" is Latin for "of the same kind or class." BLACK'S LAW DICT. 631 (10th ed. 2014). It is a canon of construction "that when a general word or phrase follows a list of specifics, the general word or phrase will be interpreted to include only items of the same class as those listed." *Id.*

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> Kansas legislature would enact a law declaring it to be a crime for a father to intrust a rifle to his son of less than tweny-one years, and declaring it to be a crime for every youth less than twenty-one years of age to handle such a weapon? Yet that is exactly what this decision means when plainly spelled out in the Kansas language for everybody to read.
>
> Yes, and it means more than that. It means that every parent in Kansas since the enactment of this statute in 1883 who has permitted his son under twenty-one to take the family shotgun or heirloom rifle and go rabbit hunting committed a crime in so doing and repeated that crime every time he did permit it. And the boy, too, committed a criminal act every time he used the gun or had it in his possession. Until the recent acceleration of urban population our people have been largely country bred and reared, and it is conservative to say that nine out of every ten country-reared boys have been and still are permitted to use rifles and shotguns. Yet this decision in effect says all such doings are crimes!
>
> It is only the indisputable fact that the legislature so intended which should constrain this court, after a lapse of forty-two years, to discover such an interpretation for this statute.
>
> I think it unnecessary to supplement these general observations with a mere lawyer's argument that the decision is wrong, although it could readily be made. An application of the principle of *ejusdem generis* would make it perfectly clear what the lawmakers of 1883 were concerned with—the vice of permitting children to handle revolvers, toy pistols, using explosives, dirks, sling shots and dangerous weapons of that character, *ejusdem generis*. A shotgun, a rifle, a pitchfork, a hatchet, is a dangerous weapon, of course, but neither is *ejusdem generis* with the sort of weapons denounced by the statute. But I place my dissent principally on the ground that the interpretation of the statute offends against the genius of Kansas and her hitherto free institutions, contemns her heroic history, and disdains the epics of her pioneers.[49]

Justice Henry Mason, also dissenting, argued that ejusdem generis required a different result:

> Here the dangerous weapons specifically named in the statute have a quality in common, bearing a clear relation to the evil to be remedied. They all (with the exception of the toy pistol, which, as noted in the opinion of the court, was inserted by amendment after the bill had been introduced) are weapons primarily intended and used to inflict injury upon human beings, and generally speaking, serve no worthy purpose but the quite exceptional one of self-defense. The shotgun, on the other hand, is habitually employed for such useful and ordinary purposes as protecting crops and procuring

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[49] *Parman*, 244 P. at 231–32 (Dawson, J., dissenting).

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> game. Moreover, it is such a common implement that if the lawmakers intended to include it in the prohibited list it is extremely unlikely they would have failed to mention it.[50]

These dissenting opinions apparently persuaded some justices who had originally constituted the majority. Rehearing was granted, and within five months of the original decision, the Kansas Supreme Court reversed itself.

> It is argued that if the meaning of a statute is doubtful, that construction should be given which leads to the most reasonable result, and that it is reasonable to conclude that the legislature did not intend to make law violators of sixty per cent of the militia of the state, it being estimated that sixty per cent. of the personnel of that body are minors; that it did not intend to prohibit students under twenty-one years of age in the colleges from taking military training; that it did not intend to prohibit young men under twenty-one years of age from taking out hunters' licenses and hunting; that it did not intend to prohibit young men who have not yet reached the age of twenty-one, who reside on the farms and ranches, from carrying and using shotguns and rifles when necessity requires.
>
> These suggestions and many others have had the consideration of the court. We do not deem it necessary to discuss the question at length, nor to analyze the cases. We are of the opinion that, if the legislature of 1883 had intended to include shotguns in the prohibited list of dangerous weapons it would have specifically mentioned them.
> . . .
> By a change of view on the part of some of the justices, the dissenting opinion at the time of the first decision has now become the controlling voice of the court, and further discussion is needless.[51]

The vacated *Parman* opinion had cited *Evans v. Waite*.[52] This Wisconsin case involved a dispute over liability where someone was accidentally shot with a revolver by "a minor of about the age of 18." "The circuit judge held that, because the defendant was a minor and was armed with a revolver" in violation of state law, "he was liable to the plaintiff for the injury, without regard to the question of negligence."[53] The Supreme Court of Wisconsin affirmed.

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50 *Id.* at 232 (Mason, J., dissenting).
51 Parman v. Lemmon, 244 P. 232, 233 (Kan. 1926).
52 Evans v. Waite, 53 N.W. 445 (Wis. 1892).
53 *Id.* at 446

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8. Virginia: Young Adults can Sign Arms-Bearing Contracts

Also cited by the First Circuit was *United States v. Blakeney*.[54] The Supreme Court of Appeals of Virginia held that 18-to-20-year-old "minors" were to be treated as adults in the context of bearing arms.[55] Blakeney was a 19-year-old who volunteered for military duty, and regretting his decision, argued that a minor (at the time, a person under 21) could not enter into a valid contract.[56] The court held the contract valid, based in part on the fact that as a 19-year-old, Blakeney had the mental and physical capacity to bear arms.[57]

The court explained that "children" were exempted from military service because they are incapable of handling arms:

> No person is naturally exempt from taking up arms in defence of the state; the obligation of every member of society being the same. They only are excepted who are incapable of handling arms, or supporting the fatigues of war. This is the reason why old men, children, and women are exempted.[58]

By contrast, "We know, as a matter of fact, that at the age of eighteen, a man is capable intellectually and physically of bearing arms."[59] And since 18-year-olds were just as capable as 21–year–olds of both carrying arms and consenting to military service, the court held that 18-to-20-year-olds were bound by military enlistments just as adults over 21 were:

> It seems to me obvious that the enlistment of a minor capable of bearing arms, does not fall within the general rule of the municipal law, in regard to the incapacity of infants under the age of twenty-one years, to bind themselves by contract. Nor am I disposed to regard the enlistment as an exception to that rule. The rule, I think, has no application to the subject. The capacity of all citizens or subjects able to bear arms to bind themselves to do so by voluntary enlistment, is in itself a high rule of the public law, to which the artificial and arbitrary rule of the municipal law forms no exception. The rule of the public law is subject to but two conditions, the ability of the party to carry arms, and his consent to do so; and these conditions may exist in as full force at the age of eighteen as at the age of twenty-one. The party is subject to no incapacity by any arbitrary rule in regard to discretion;

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54 United State v. Blakeney, 44 Va. (3 Gratt.) 405 (1847).
55 *Id.*
56 *Id.*
57 *Id.*
58 *Id.* at 408.
59 *Id.* at 418.

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> and there is but little room for discretion when he is in the line of his allegiance and public duty.60

In sum, *Rene E.*'s list of cases is less than meets the eye. Many of the cited cases did not address constitutional issues. Of those that did, several are indefensible in light of *Heller*. *Parman*, in its final outcome, affirms that minors have the right to possess and use long guns, and *Blakeney* is in the same spirit. Most the remaining cases involved handgun sales bans and not possession bans.

C. Evidence of the Founders' Attitudes

Turning to the Founding, the *Rene E.* court could not cite a single source in support of the notion that young people could be disarmed. The absence of such sources can hardly be surprising; as detailed in our forthcoming Article, over 250 colonial and state militia statutes through 1799 mandated that persons 16 and older (or sometimes 18, 15, or 10) be armed.[61]

So the First Circuit merely cited some modern law review articles contending that the Founders believed that unvirtuous persons could be disarmed. The paradigmatic examples in these articles were persons who were disloyal to the government during wartime, as well as slaves and hostile Indians.

The only Founding Era source directly cited in *Rene E.* was a never-adopted proposal from Pennsylvania's Anti-Federalists. The proposal would have amended the U.S. Constitution to prevent anyone from being disarmed "unless for crimes committed, or real danger of public injury from individuals." The proposal is addressed in Part III, but it is worth emphasizing here that it made no mention of age whatever. It hardly stands for the proposition that being under 21 years old constitutes "real danger of public injury."

The one other early historical source in *Rene E.* is a 1697 pro-militia pamphlet from England.[62] The pamphlet refers to ancient "Israelites, Athenians, Corinthians, Achaians, Lacedemonians, Thebans, Samnites, and Romans."[63] According to the pamphlet, "Their Arms were

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60 *Id.* at 409–10.

61 David B. Kopel & Joseph G.S. Greenlee, *The Second Amendment Rights of Young Adults*, 43 S. ILL. U. L.J. (forthcoming 2019).

62 J. Trenchard & W. Moyle, *An Argument Shewing, That a Standing Army Is Inconsistent with a Free Government, And Absolutely Destructive to the Constitution of the English Monarchy*, U. OF MICH., https://quod.lib.umich.edu/e/eebo/A63115.0001.001/1:3?rgn=div1;view=fulltext (last visited October 2, 2018).

63 *Id.* The ancient Hebrew militia obligation began at age 20. Numbers 1:2–4. Under the Hebrew monarchy, training the use of arms began during childhood. 2 Samuel 1:18; CHAIM HERZOG & MORDECHAI GICHON, BATTLES OF THE BIBLE: A MILITARY HISTORY OF ANCIENT ISRAEL 110–11 (rev. ed. 2002) (1978).

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never lodg'd in the hands of any who had not an Interest in preserving the publick Peace."[64] That may be true, but there is no evidence that any of these ancient societies considered arms possession by young people to be contrary to preserving the public peace.

In short, *Rene E.* was able to muster little historical evidence in support of a handgun possession ban for persons under 18, although there was some history of sales restrictions.

II. NATIONAL RIFLE ASSOCIATION VERSUS BUREAU OF ALCOHOL, TOBACCO, FIREARMS, & EXPLOSIVES

This Fifth Circuit case directly addressed the Second Amendment rights of young adults.[65] The National Rifle Association challenged the federal statute that prohibits federally licensed firearms dealers from selling handguns to 18–to–20–year–olds.[66] The court upheld the law after analyzing the historical understanding of the right to keep and bear arms.[67]

A. No Founding-Era Source Supports Disarming People under 21

The court found that "when the fledgling republic adopted the Second Amendment, an expectation of sensible gun safety regulation was woven into the tapestry of the guarantee:"[68]

> Since even before the Revolution, gun use and gun control have been inextricably intertwined. The historical record shows that gun safety

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The Athenians, Corinthians, Achaians, Lacedemonians (Spartans), and Thebans, were inhabitants of Greek city-states or regions. In Politics, Aristotle had explained that oligarchs attempt to obtain and maintain power by disarming the general public. 1 The Politics of Aristotle 48 (B. Jowett trans. & ed., 1885) ("the husbandmen have no arms, and the artisans neither arms nor land, and therefore they become all but slaves of the warrior class.''); id. at 80 ("in a constitutional government the fighting-men have the supreme power, and those who possess arms are the citizens.'); id. at 131 (oligarchies consolidate power by exempting the poor from the obligation to have arms); *id.* at 171 ("As of oligarchy so of tyranny . . . both mistrust the people, and therefore deprive them of their arms.''); *id*. at 221–22 (Citizens should be warriors at a young age, when their strength is greatest, and should be "councillors, who advise about the expedient and determine matters of law," later in life. "It remains therefore that both functions of government should be entrusted to the same persons, not, however, at the same time, but in the order prescribed by nature, who has given to young men strength and to older men wisdom.'').

The Samnites were a central Italian tribe that was conquered by, and assimilated to, the growing city-state of Rome. In the Roman Republic, the starting age for militia service was 16 years old. *See* STEPHEN DANDO-COLLINS, LEGIONS OF ROME: THE DEFINITIVE HISTORY OF EVERY IMPERIAL ROMAN LEGION 16 (2012).

64 Trenchard & Moyle, *supra* note 64.

65 Nat'l Rifle Ass'n of Am. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 700 F.3d 185 (5th Cir. 2012).

66 *Id.*

67 *Id.*

68 *Id.* at 200.

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> regulation was commonplace in the colonies, and around the time of the founding, a variety of gun safety regulations were on the books; these included safety laws regulating the storage of gun powder, laws keeping track of who in the community had guns, laws administering gun use in the context of militia service (including laws requiring militia members to attend "musters," public gatherings where officials would inspect and account for guns), laws prohibiting the use of firearms on certain occasions and in certain places, and laws disarming certain groups and restricting sales to certain groups.[69]

The court provided no specific examples, and the various laws listed can hardly be said to have woven an expectation of restrictions into the tapestry of the guarantee.

The gunpowder of the Founding Era was blackpowder, which is volatile.[70] To prevent fires and explosions, merchants were often required to store their reserves in a brick building.[71] The "laws prohibiting the use of firearms on certain occasions and in certain places" were typically for fire prevention.[72] Or laws might prohibit unsafe behavior such firing guns randomly at night—because gunshots were used to raise an alarm, and random fire at night would create a false alarm.[73]

The colonial and Founding Era arms sales restrictions for "certain groups" were primarily for Indians, and sometimes for slaves (or, very rarely, for free blacks).[74] There were no restrictions on sales to free citizens.

The only gun laws that were pervasive were the mandates to possess certain types and quantities of arms and accoutrements.[75] As will be detailed in our Article in the next issue of this Journal, militiamen (typically, ages 16 to 50 or 60) had to possess certain arms. So did men who had aged out of the militia (but who might be needed for local defense). In some colonies, heads of households (regardless of sex or age) also had to possess arms.

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69 *Id.*

70 *See* David B. Kopel, *How the British Gun Control Program Precipitated the American Revolution*, 38 CHARLESTON L. REV. 283, 291 (2012).

71 *Id.*

72 *See* Ezell v. City of Chicago, 651 F.3d 684, 706 (7th Cir. 2011).

73 *See* NICHOLAS J. JOHNSON, DAVID B. KOPEL, GEORGE MOCSARY & MICHAEL P. O'SHEA, FIREARMS LAW AND THE SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY 187 (2d ed. 2017) (Virginia: no shooting "any guns at drinkeing," except for marriages and funerals; Maryland: no shooting a gun more than three times in an hour, except to raise an alarm; Plymouth: no shooting at night, except at wolves or "for the finding of someone lost"; Pennsylvania, no shooting guns "wantonly" on New Year's Eve in inhabited areas, or shooting guns near highways). Founding Era limits on firing guns in municipalities were discussed in *Heller* and determined not to be limits on lawful defensive use. *Heller* at 631–34.

74 JOHNSON et al., *supra* note 75, at 187–96.

75 *Id.* at 175–82 (also noting exception for Pennsylvania, which had no colonial or local militias during most of the colonial period).

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Militia musters were the occasion for militiamen to demonstrate that they had the requisite arms by bringing them to the muster.

These laws do show that there were gun laws in the Founding Era, but these laws hardly created a pervasive system of gun control. If an individual possessed the required minimum arms, he or she could purchase and possess additional arms (or choose not to) with zero regulation, including zero restrictions on purchases.

The Fifth Circuit asserted that "laws that confiscated weapons owned by persons who refused to swear an oath of allegiance to the state or to the nation" supported the ban on young adults because the laws "targeted particular groups for public safety reasons."[76] These laws were rare and were enacted exclusively during war time to disarm potential enemy combatants.[77] The disarmament of disloyal persons during wartime is hardly a precedent for targeting other "particular groups" whose loyalty is unquestioned.

The Fifth Circuit specifically cited only two founding-era sources. The first was the document (mentioned above) issued by the Pennsylvania Anti-Federalists who opposed ratifying the Constitution without a declaration of rights. *The Address and reasons of dissent of the minority of the convention, of the state of Pennsylvania, to their constituents* called for the inclusion of the following right to bear arms in the Constitution:

> That the people have a right to bear arms for the defence of themselves and their own state, or the United States, or for the purpose of killing game, and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; and that the military shall be kept under strict subordination to and be governed by the civil powers.[78]

Because the dissenting minority's proposal would have permitted disarmament of people for "real danger of public injury from individuals," the Fifth Circuit concluded that *all* young adults could be placed outside of the Second Amendment's protections. This was the strongest founding-era justification that the court produced.

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76 Nat'l Rifle Ass'n of Am. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 700 F.3d 185, 200 (5th Cir. 2012).

77 JOHNSON et al, *supra* note 75, at 196–98.

78 Nathaniel Breading et al., *The Address and reasons of dissent of the minority of the convention, of the state of Pennsylvania, to their constituents*, LIBR. OF CONGRESS (Dec. 12, 1787), https://www.loc.gov/resource/bdsdcc.c0401/?sp=1.

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The other founding-era source—included in a footnote—was William Rawle. Rawle was an eminent lawyer, and his constitutional law treatise was the leading work on the subject following its publication in 1825.[79]

According to the court, Rawle "maintained that although the Second Amendment restrained the power of Congress to 'disarm the people,' the right to keep and bear arms nonetheless 'ought not, ... in any government, to be abused to the disturbance of the public peace.'"[80] Certainly, persons who abuse the right to arms by disturbing the peace may be punished by government. The principle does not justify disarming persons who do *not* abuse the right.

The Fifth Circuit omitted Rawle's language making it clear that Rawle was writing about people whose conduct demonstrated their danger. After the language quoted by the Fifth Circuit, Rawle elaborated that he was referring to mutinies and to specific individuals who terrorized the public:

> An assemblage of persons with arms, for an unlawful purpose, is an indictable offence, and even the carrying of arms abroad by a single individual, attended with circumstances giving just reason to fear that he purposes to make an unlawful use of them, would be sufficient cause to require him to give surety of the peace. If he refused he would be liable to imprisonment.[81]

The Supreme Court in *Heller* put the quote from Rawle in proper context.[82] The Court also quoted Rawle about how the foundation of a militia is an armed populace: "In a people permitted and accustomed to bear arms, we have the rudiments of a militia, which properly consists of armed citizens, divided into military bands, and instructed at least in part, in the use of arms for the purposes of war."[83] Since 18-year-olds were part of the militia—in Rawle's time and at present—they should be "permitted and accustomed to bear arms."

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79 David B. Kopel, *The Second Amendment in the Nineteenth Century*, 1998 BYU L. REV. 1359, 1384–88 (1998).

80 Nat'l Rifle Ass'n of Am., 700 F.3d at 212 n.12.

81 WILLIAM RAWLE, A VIEW OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA 125–26 (William S. Hein & Co. 2003) (2d ed. 1829). ("Surety of the peace" statutes could be used to require that individuals who had been proven to be acting in a threatening manner could be required to post bond for good behavior if they wanted to continue carrying arms.) *See* David B. Kopel, *The First Century of Right to Arms Litigation*, 14 GEO. J. L & PUB. POL'Y 127, 175–77 n.345 (2016).

82 District of Columbia v. Heller, 554 U.S. 570, 607–08 (2008) (quoting RAWLE, A VIEW OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA at 123)("Rawle further said that the Second Amendment right ought not 'be abused to the disturbance of the public peace,' such as by assembling with other armed individuals 'for an unlawful purpose'—statements that make no sense if the right does not extend to *any* individual purpose.").

83 *Id.*, 554 U.S. at 607 (quoting WILLIAM RAWLE, A VIEW OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA at 140).

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Thus, Rawle's treatise stands for the opposite of the point for which the Fifth Circuit cited the treatise. According to Rawle, law-abiding persons, including whoever would be in the militia, should be "permitted and accustomed to bearing arms." Further, persons of any age who abused the right by disturbing the peace could be punished.

Like the First Circuit in *Rene E.*, the Fifth Circuit in *NRA v. BATF* was unable to cite even one Founding Era source for stripping young adults of civil rights.

Like the Georgia Supreme Court in 1911, the Fifth Circuit resorted to the claim that minors lack constitutional rights. "The age of majority at common law was 21, and it was not until the 1970s that States enacted legislation to lower the age of majority to 18."[84] Therefore, "If a representative citizen of the founding era conceived of a 'minor' as an individual who was unworthy of the Second Amendment guarantee, and conceived of 18-to-20-year-olds as 'minors,' then it stands to reason that the citizen would have supported restricting an 18-to-20-yea-old's right to keep and bear arms."[85]

The Fifth Circuit's speculation is contrary to all the evidence. Persons under 21 were certainly minors under the common law of the Founding Era. Thus, their independent exercise of contract and property rights was limited.

However, there is no evidence "a representative citizen" (or anyone else) in the Founding Era considered all minors "unworthy of the Second Amendment guarantee." To the contrary, state and federal laws of the Founding Era are unanimous that minors aged 18-to-20 *were* considered worthy of the Second Amendment guarantee. As had been the case from the earliest colonial days, they were part of the militia and were required to possess their own arms.

As Blackstone put it, age limits are "different for different purposes."[86] For example, 14-year-olds were capable of discerning right from wrong and could be "capitally punished for any offense."[87] The principles of age limits on diverse matters will be discussed further in our forthcoming Article.

We do not need to reason by analogy to know the Founding Era laws for age limits for capital punishment, marriage (universally allowed before age 18), conveying real estate (21), or being elected to the U.S. House of Representatives (25).[88] Analogies are unnecessary because of the massive and uncontradicted evidence from the Founding Era—which also shows that

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84 Nat'l Rifle Ass'n of Am., 700 F.3d at 201.

85 *Id.* at 202.

86 1 BLACKSTONE, COMMENTARIES 463 (discussing various ages at which male and female wards may consent to marriage, choose their guardian, be an executor of an estate; listing various exceptions to the general rule that minors may not alienate property or enter contracts).

87 *Id.* at 463-64; *cf.* Roper v. Simmons, 543 U.S. 551 (2005) ("Today, the Supreme Court has forbidden capital punishment for persons under 18.").

88 U.S. CONST., art. I. § 2, cl. 2.

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18-to-20-year-olds *did* have the right to keep and bear arms, and indeed were required by law to exercise that right.

B. Late Nineteenth-Century State Statutes on Handguns for Minors

The Fifth Circuit found better support from the nineteenth century. It accurately stated that "by the end of the 19th century, nineteen States and the District of Columbia had enacted laws expressly restricting the ability of persons under 21 to purchase or use particular firearms, or restricting the ability of 'minors' to purchase or use particular firearms while the state age of majority was set at age 21."[89] A string citation in a footnote listed the laws. Most of them date from around the last quarter of the century. These laws did not apply to long guns, but only to handguns, and sometimes to other arms that were considered especially disreputable, such as brass knuckles and bowie knives. Some were limits only on sales; some had exceptions for parental consent, for self-defense, or for hunting.

The laws were:

Alabama. 1856. No one may give a male minor a handgun or bowie knife.[90]

Delaware. 1881. No one may sell to a minor a deadly weapon, other than a pocket knife.[91]

District of Columbia. 1892. No one may give a minor a pistol, bowie knife, dagger, or brass knuckles.[92]

Georgia. 1876. No one may give a minor a "pistol, dirk, bowie knife, or sword cane." The law does not limit "the furnishing of such weapons under circumstances justifying their use in defending life, limb or property."[93]

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89 Nat'l Rifle Ass'n of Am., 700 F.3d at 202.

90 1856 Ala. Acts §17 ("That anyone who shall sell or give or lend, to any male minor, a bowie knife, or knife or instrument of the like kind or description, by whatever name called, or air gun or pistol, shall, on conviction be fined not less than three hundred, nor more than one thousand dollars.").

91 16 Del. Laws 716, § 1 (1881): "That if any person shall carry concealed a deadly weapon upon or about his person other than an ordinary pocket knife, or shall knowingly sell a deadly weapon to a minor other than an ordinary pocket knife, such person shall, upon conviction thereof, be fined…."

92 27 Stat. 116–17, § 5 (1892) (District of Columbia)
That any person or persons who shall, within the District of Columbia, sell, barter, hire, lend or give to any minor under the age of twenty-one years any such weapon as hereinbefore described [deadly or dangerous weapons, such as daggers, air-guns, pistols, bowie-knives, dirk knives or dirks, blackjacks, razors, razor blades, sword canes, slung shot, brass or other metal knuckles] shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, pay a fine or penalty of not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the jail of the District of Columbia not more than three months.

93 1876 Ga. Laws 112, § 1
That from and after the passage of this Act it shall not be lawful for any person or persons knowingly to sell, give, lend or furnish any minor or minors any pistol, dirk, bowie knife, or sword cane. Any person found guilty of a violation of this Act shall be guilty of a misdemeanor, and punished as

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Illinois. 1873. Most people may not give a minor, "any pistol, revolver, derringer, bowie knife, dirk or other deadly weapon of like character, capable of being secreted upon the person." Such arms may be given to a minor by the minor's "father, guardian or employer."[94]

Indiana. 1875. No one may give a minor "any pistol, dirk, or bowie-knife, slung-shot, knucks, or other deadly weapon that can be worn, or carried, concealed upon or about the person." The same restriction applies to handgun cartridges.[95]

Iowa. 1884. No one may give "any pistol, revolver or toy pistol to any minor."[96]

Kansas. 1883. No one may give "any pistol, revolver or toy pistol, by which cartridges or caps may be exploded, or any dirk, bowie-knife, brass knuckles, slung shot, or other dangerous weapons to any minor, or to any person of notoriously unsound mind."[97] Minors in possession of such items are guilty of a misdemeanor, and may be fined up to ten dollars.[98] As discussed *supra*, the Kansas Supreme Court held these restrictions did not apply to long guns.[99]

Kentucky. 1873. The court cited 1873 Ky. Acts 359, but the citied material has nothing to do with arms.[100] We did find the following restriction

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prescribed in section 4310 of the Code of 1873: *Provided,* that nothing herein contained shall be construed as forbidding the furnishing of such weapons under circumstances justifying their use in defending life, limb or property.

94 1881 Ill. Laws 73, § 2
Whoever, not being the father, guardian or employer of the minor herein named, by himself or agent, shall sell, give, loan, hire or barter, or shall offer to sell, give, loan, hire or barter to any minor within this state, any pistol, revolver, derringer, bowie knife, dirk or other deadly weapon of like character, capable of being secreted upon the person, shall be guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

95 1875 Ind. Acts 86, § 1
That it shall be unlawful for any person to sell, barter, or give to any other person, under the age of twenty-one years, any pistol, dirk, or bowie-knife, slung-shot, knucks, or other deadly weapon that can be worn, or carried, concealed upon or about the person, or to sell, barter, or give to any person, under the age of twenty-one years, any cartridges manufactured and designed for use in a pistol.

96 1884 Iowa Acts 86, § 1 ("That it shall be unlawful for any person to knowingly sell, present or give any pistol, revolver or toy pistol to any minor.").

97 1883 Kan. Sess. Laws 159, § 1
Any person who shall sell, trade, give, loan or otherwise furnish any pistol, revolver or toy pistol, by which cartridges or caps may be exploded, or any dirk, bowie-knife, brass knuckles, slung shot, or other dangerous weapons to any minor, or to any person of notoriously unsound mind, shall be deemed guilty of a misdemeanor, and shall, upon conviction before any court of competent jurisdiction, be fined not less than five nor more than one hundred dollars.

98 1883 Kan. Acts 159, § 2 ("Any minor who shall have in his possession any pistol, revolver or toy pistol, by which cartridges may be exploded, or any dirk, bowie-knife, brass knuckles, slung shot or other dangerous weapon, shall be deemed guilty of a misdemeanor, and upon conviction before any court of competent jurisdiction shall be fined not less than one nor more than ten dollars.").

99 *See supra* text accompanying note 45.

100 1873 KY Law chapter 359 is an act to incorporate a banking and warehouse company. 1873 Kentucky Law page 359 is part of an 1874 law (beginning on page 327) revising and amending the charter of the city of Newport. Heinonline's Session Laws Library for Kentucky for 1873 contains

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on minors passed in 1860: "If any person, other than the parent or guardian, shall sell, give, or loan, any pistol, dirk, bowie-knife, brass-knucks, slung-shot, colt, cane-gun, or other deadly weapon, which is carried concealed, to any minor, or slave, or free negro, he shall be fined fifty dollars."[101]

Louisiana. 1890. No one may give a minor "any pistol, dirk, bowie-knife or any other dangerous weapon, which may be carried concealed."[102]

Maryland. 1882. No one may give a minor "any firearm whatsoever or other deadly weapons, except shot gun, fowling pieces and rifles."[103]

Mississippi. 1878. It is unlawful to sell to a minor or an intoxicated person "any bowie knife, pistol, brass knuckles, slung shot or other deadly weapon of like kind or description" or to sell pistol cartridges to such persons. Concealed carry by anyone of such arms is prohibited, except while traveling.[104] A father who knowingly allows "any minor son under the age of sixteen years to carry concealed" the above arms is guilty of a

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three books: "1873 (General Assembly, Public, Local, Private Acts, Regular Session pp. 1-570)"; "1873 vol. I (General Assembly, Public, Local, Private Acts, Adjourned Session pp. 1-694)"; and "1873 vol. II (General Assembly, Local, Private Acts, Adjourned Session pp. 1-644)." We could not locate a firearms law enactment about minors in any of them.

101 1860 Ky. Acts 245.

102 1890 La. Acts 39, § 1 ("That, hereafter, it shall be unlawful, for any person to sell, or lease or give through himself or any other person, any pistol, dirk, bowie-knife or any other dangerous weapon, which may be carried concealed to any person under the age of twenty-one years.").

103 1882 Md. Laws 656, § 2

That it shall be unlawful for any person, be he or she licensed dealer or not, to sell, barter or give away, to any person who is a minor under the age of twenty-one years. Any person or persons violating any of the provisions of this act shall, on conviction thereof, pay a fine of not less than fifty nor more than two hundred dollars, together with the cost of prosecution, and upon failure to pay said fine and cost, be committed to jail and confined therein until such fine and costs are paid, or for the period of sixty days, whichever shall first occur.

"Fowling pieces" would today be considered a type of shotgun especially suitable for bird hunting.

104 1878 Miss. Laws 175–76, § 1

SEC. 1. That any person, not being threatened with, or having good and sufficient reason to apprehend an attack, or traveling (not being a tramp) or setting out on a journey, or peace officers, or deputies in discharge of their duties, who carries concealed, in whole or in part, any bowie knife, pistol, brass knuckles, slung shot or other deadly weapon of like kind or description, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished for the first offence by a fine of not less than five dollars nor more than one hundred dollars, and in the event the fine and cost are not paid shall be required to work at hard labor under the direction of the board of supervisors or of the court, not exceeding two months, and for the second or any subsequent offence, shall, on conviction, be fined not less than fifty nor more than two hundred dollars, and if the fine and costs are not paid, be condemned to hard labor not exceeding six months under the direction of the board of supervisors, or of the court. That in any proceeding under this section, it shall not be necessary for the State to allege or prove any of the exceptions herein contained, but the burden of proving such exception shall be on the accused.

SEC. 2. *Be it further enacted*, That it shall not be lawful for any person to sell to any minor or person intoxicated, knowing him to be a minor or in a state of intoxication, any weapon of the kind or description in the first section of this Act described, or any pistol cartridge, and on conviction shall be punished by a fine not exceeding two hundred dollars, and if the fine and costs are not paid, be condemned to hard labor under the direction of the board of supervisors or of the court, not exceeding six months.

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misdemeanor.[105] Also guilty of a misdemeanor is "any student of any university, college or school, who shall carry concealed" as well as "any teacher, instructor, or professor" who knowingly permits student concealed carry.[106]

Missouri. 1879. Delivering arms to minors without parental consent is a misdemeanor.[107]

Nevada. 1885. Minors who carry concealed arms are guilty of a misdemeanor.[108]

North Carolina. 1893. It is illegal to sell or "dispose of to a minor any pistol or pistol cartridge, brass knucks, bowie-knife, dirk, loaded cane, or sling-shot."[109] Unlike some other states (e.g., Alabama 1856), North Carolina did not prohibit loaning such arms to minors.

Tennessee. 1856. It is unlawful "for any person to sell, loan, or give, to any minor a pistol, bowie-knife, dirk, or Arkansas tooth-pick, or hunter's knife." The law "shall not be construed so as to prevent the sale, loan, or gift, to any minor of a gun for hunting." Since the act did not apply at all to

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105 *Id.* § 3
That any father, who shall knowingly suffer or permit any minor son under the age of sixteen years to carry concealed, in whole or in part, any weapon of the kind or description in the first section of this Act described, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not less than twenty dollars, nor more than two hundred dollars, and if the fine and costs are not paid, shall be continued to hard labor under the direction of the board of supervisors or of the court.

106 1878 Miss. Acts 175–176
SEC. 4. *Be it further enacted*. That any student of any university, college or school, who shall carry concealed, in whole or in part, any weapon of the kind or description in the first section of this Act described, or any teacher, instructor, or professor who shall, knowingly, suffer or permit any such weapon to be carried by any student or pupil, shall be deemed guilty of a misdemeanor, and, on conviction, be fined not exceeding three hundred dollars, and if the fine and costs are not paid, condemned to hard labor under the direction of the board of supervisors or of the court.

107 1883 Mo. Acts 76 § 1274
If any person shall carry concealed, upon or about his person, any deadly or dangerous weapon, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for education, literary or social purposes, or to any election precinct on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any unlawful purpose other than for militia drill or meetings called under the militia law of this state, having upon or about his person any kind of fire arms, bowie knife, dirk, dagger, slung-shot, or other deadly weapon, or shall in the presence of one or more persons exhibit any such weapon in a rude, angry or threatening manner, or shall have or carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall directly or indirectly sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

108 1885 Nev. Stat. 51, § 1 (approved March 4, 1881)
Every person under the age of twenty-one (21) years who shall wear or carry any dirk, pistol, sword in case, slung shot, or other dangerous or deadly weapon concealed upon his person, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than twenty nor more than two hundred ($200) dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment.

109 1893 N.C. Sess. Laws 468–69, § 1.

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long guns, the intent of the exemption was to allow minors to hunt with handguns.[110]

Texas. 1897. In order to sell or give a minor, "any pistol, dirk, dagger, slung shot, sword-cane, spear, or knuckles made of any metal or hard substance," the vendor or donor must have "the written consent of the parent or guardian of such minor, or of some one standing in lieu thereof."[111]

West Virginia. 1882. No one may "sell or furnish" to a minor "any revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metalic or other false knuckles, or any other dangerous or deadly weapon of like kind or character." However, "nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises any such revolver or other pistol," or taking the handgun to or from a gunsmith for repair.[112]

Besides the blanket exception for handguns in the home, there was also an exception for carrying outside the home if the minor could prove "that he

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[110] 1856 Tenn. Pub. Acts 92, § 2
That, hereafter, it shall be unlawful for any person to sell, loan, or give, to any minor a pistol, bowie-knife, dirk, or Arkansas tooth-pick, or hunter's knife ; and whoever shall so sell, loan, or give, to any minor any such weapon, on conviction thereof, upon indictment or presentment, shall be fined not less than twenty-five dollars, and be liable to imprisonment, at the discretion of the Court : *Provided*, that this act shall not be construed so as to prevent the sale, loan, or gift, to any minor of a gun for hunting.

[111] 1897 Tex. Gen. Laws 221–22, § 1
That if any person in this State shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor, any pistol, dirk, dagger, slung shot, sword-cane, spear, or knuckles made of any metal or hard-substance, bowie knife or any other knife manufactured or sold for the purpose of offense or defense, without the written consent of the parent or guardian of such minor, or of some one standing in lieu thereof, he shall be punished by fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment. And during the time of such imprisonment such offender may be put to work upon any public work in the county in which such offense is committed.

[112] 1882 W. Va. Acts 421–22, § 7
If a person carry about his person any revolver or other pistol, dirk, bowie knife, razor, slung shot, billy, metalic or other false knuckles, or any other dangerous or deadly weapon of like kind or character, he shall be guilty of a misdemeanor, and fined not less than twenty-five nor more than two hundred dollars, and may, at the discretion of the court, be confined in jail not less than one, nor more than twelve months; and if any person shall sell or furnish any such weapon as is hereinbefore mentioned to a person whom he knows, or has reason, from his appearance or otherwise, to believe to be under the age of twenty-one years, he shall be punished as hereinbefore provided; but nothing herein contained shall be so construed as to prevent any person from keeping or carrying about his dwelling house or premises any such revolver or other pistol, or from carrying the same from the place of purchase to his dwelling house, or from his dwelling house to any place where repairing is done, to have it repaired, and back again. And if upon the trial of an indictment for carrying any such pistol, dirk, razor or bowie knife, the defendant shall prove to the satisfaction of the jury that he is a quiet and peaceable citizen, of good character and standing in the community in which he lives, and at the time he was found with such pistol, dirk, razor or bowie knife, as charged in the indictment he had good cause to believe and did believe that he was in danger of death or great bodily harm at the hands of another person, and that he was, in good faith, carrying such weapon for self defense and for no other purpose, the jury shall find him not guilty.

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is a quiet and peaceable citizen, of good character and standing in the community…and had good cause to believe…that he was in danger of death or great bodily harm at the hands of another person."[113]

Wisconsin. 1883. It is "unlawful for any minor…to go armed with any pistol or revolver."[114] It is also "unlawful for any dealer in pistols or revolvers, or any other person, to sell, loan, or give any pistol or revolver to any minor."[115]

Wyoming. 1890. It is unlawful "to sell, barter or give to any other person under the age of twenty-one years any pistol, dirk or bowie-knife, slung-shot, knucks or other deadly weapon that can be worn or carried concealed upon or about the person." It is also unlawful to give "cartridges manufactured and designed for use in a pistol" to a person under 16.[116]

Besides the state statutes, the Fifth Circuit also cited the cases of *State v. Quail*, *State v. Allen*, *Tankersly v. Commonwealth*, and *Coleman v. State*, all of which were cited by *Rene E.* and discussed *supra*.

As of 1899, there were forty-six states in the Union. Nineteen of them had some sort of law involving handguns and minors and the other twenty-seven had no such laws. No state criminalized handgun possession by minors. Ten states generally prohibited handgun transfers to minors; four of those ten had exceptions for self-defense, hunting, or home possession, and Alabama's law was only for males. Of these ten statutes, five expressly prohibited loans, while the other five were phrased in terms that could be construed to refer only to permanent dispositions. We do not know of caselaw for how those latter five statutes were applied, but we do note the 2006 Maryland decision that a statute restricting the "transfer" of a regulated weapon did not apply to loans.[117]

Three other states did not restrict transfers in general, but did restrict sales (Delaware, Mississippi) or dealer sales (Wisconsin). Five states

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113 *Id.*

114 1883 Wis. Sess. Laws 290
SECTION 1: It shall be unlawful for any minor, within this state, to go armed with any pistol or revolver, and it shall be the duty of all sheriffs, constables, or other public police officers, to take from any minor, any pistol or revolver, found in his possession.
SECTION 2: It shall be unlawful for any dealer in pistols or revolvers, or any other person, to sell, loan, or give any pistol or revolver to any minor in this state.

115 *Id.*

116 1890 Wyo. Sess. Laws 1253
It shall be unlawful for any person to sell, barter or give to any other person under the age of twenty-one years any pistol, dirk or bowie-knife, slung-shot, knucks or other deadly weapon that can be worn or carried concealed upon or about the person, or to sell, barter or give to any person under the age of sixteen years any cartridges manufactured and designed for use in a pistol; and any person who shall violate any of the provisions of this section shall be fined in any sum not more than fifty dollars.

117 State v. Chow, 903 A.2d 388, 406-07 (Md. 2006).

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required parental consent for handgun transfers to minors (Illinois, Iowa, Kentucky, Missouri, Texas). Nevada simply prohibited concealed carry.

C. Justice Cooley's Commentary

After the list of statutes, the Fifth Circuit turned to the most influential constitutional commentator of the latter nineteenth century, Michigan Supreme Court Justice Thomas Cooley. The court wrote that Cooley, in his "massively popular 1868 Treatise on Constitutional Limitations" relied on by *Heller*, "agreed that 'the State may prohibit the sale of arms to minors' pursuant to the State's police power."[118]

This is overstated in a section that analyzed the police power (and which was not analyzing the right to arms). Cooley cited *State v. Callicutt* in a footnote as holding "That the State may prohibit the sale of arms to minors."[119] Cooley was simply identifying *Callicutt* as a case related to his discussion, which is how he utilized footnotes to cite thousands of cases throughout the treatise.

Callicutt, as explained *supra*, was based on an interpretation of the right to bear arms that was expressly denounced by *Heller* as "odd" and "not the one we adopt."[120] *Heller* aside, because Congress does not have a police power, *Callicutt* is no precedent for the permissibility of the congressional statute that was at issue in *NRA v. BATF*.

In the section of *Constitutional Limitations* that *did* discuss the right to arms, Cooley set forth general rules, but expressly avoided discussing restrictions on the right: "how far it may be in the power of the legislature to regulate the right [to keep and bear arms] we shall not undertake to say."[121] "Happily," he added, "there neither has been, nor, we may hope, is likely to be, much occasion for an examination of that question by the courts."[122]

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118 Nat'l Rifle Ass'n of Am. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 700 F.3d 185, 203 (5th Cir. 2012).

119 THOMAS M. COOLEY, A TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES OF THE AMERICAN UNION 740 (6th ed. 1890). The footnote followed a discussion of laws establishing wharf lines and penalizing the removal of stones, gravel, or sand from a beach. Cooley, quoting the Supreme Judicial Court of Massachusetts in upholding the latter law, explained that courts viewed such regulations as "a just restraint of an injurious use of property, which the legislature have authority to impose." (citing, Commonwealth v. Tewksbury, 11 Mass. (11 Tyng) 55 (1846) (a statute which prohibited the having in possession of game birds after a certain time, though killed within the lawful time, was sustained in *Phelps v. Racey*, 60 N.Y. 10 (1875). But, such statute is held in Michigan not to cover a case where the birds were killed out of the State. People v. O'Neil, 39 N.W. 1 (Mich. 1888). That the State may prohibit the sale of arms to minors, see State v. Callicut, 69 Tenn. (1 Lea) 714 (1878).). Cooley, *supra*, at 739-40.

120 District of Columbia v. Heller, 554 U.S. 570, 613 (2008).

121 Cooley, *supra* note 121, at 427.

122 *Id.*

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The Fifth Circuit did not discuss Cooley's other major treatise, *The General Principles of Constitutional Law*, which was also quoted by *Heller*. The treatise does have application to arms rights of young adults. While emphasizing that the right to arms is not limited to persons in the militia, Cooley made clear that those in the militia certainly were protected:

> It might be supposed from the phraseology of [the Second Amendment] that the right to keep and bear arms was only guaranteed to the militia; but this would be an interpretation not warranted by the intent. The militia, as has been elsewhere explained, consists of those persons who, under the law, are liable to the performance of military duty, and are officered and enrolled for service when called upon. But the law may make provision for the enrolment of all who are fit to perform military duty, or of a small number only, or it may wholly omit to make any provision at all; and if the right were limited to those enrolled, the purpose of this guaranty might be defeated altogether by the action or neglect to act of the government it was meant to hold in check. *The meaning of the provision undoubtedly is, that the people, from whom the militia must be taken, shall have the right to keep and bear arms*; and they need no permission or regulation of law for the purpose. But this enables government to have a well-regulated militia; for to bear arms implies something more than the mere keeping; it implies the learning to handle and use them in a way that makes those who keep them ready for their efficient use; in other words, it implies the right to meet for voluntary discipline in arms, observing in doing so the laws of public order.[123]

According to Cooley, although the right is not limited to militiamen, everyone in the militia is protected by the Second Amendment. That includes young adults.

D. The Fifth's Circuit's Flawed Application of Intermediate scrutiny

Determining that "there is considerable historical evidence of age- and safety-based restrictions on the ability to access arms," the court concluded that "Modern restrictions on the ability of persons under 21 to purchase handguns—and the ability of persons under 18 to possess handguns—seem, to us, to be firmly historically rooted."[124] Nevertheless, in an abundance of caution, the court proceeded to apply heightened scrutiny.

The court explained that "A law that burdens the core of the Second Amendment guarantee—for example, 'the right of law-abiding, responsible

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[123] *Heller*, 554 U.S. at 617–18 (quoting Thomas M. Cooley, THE GENERAL PRINCIPLES OF CONSTITUTIONAL LAW IN THE UNITED STATES OF AMERICA 271 (1880) (emphasis added)).

[124] Nat'l Rifle Ass'n of Am. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 700 F.3d 185, 204 (5th Cir. 2012).

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citizens to use arms in defense of hearth and home,' *Heller,* 554 U.S. at 635, 128 S.Ct. 2783—would trigger strict scrutiny, while a less severe law would be proportionately easier to justify."[125]

Intermediate scrutiny was deemed appropriate because: (1) "this federal scheme is not a salient outlier in the historical landscape of gun control;"[126] (2) "The Second Amendment, at its core, protects 'law-abiding, *responsible*' citizens;"[127] (3) "Far from a total prohibition on handgun possession and use, these laws resemble 'laws imposing conditions and qualifications on the commercial sale of arms,' which *Heller* deemed 'presumptively lawful;'"[128] (4) "these laws do not strike the core of the Second Amendment because they do not prevent 18-to-20-year-olds from possessing and using handguns 'in defense of hearth and home;'"[129] (5) "18-to-20-year-olds may possess and use handguns for self-defense, hunting, or any other lawful purpose . . . and they may possess, use, and purchase long-guns;"[130] and (6) "they regulate commercial sales through an age qualification with temporary effect. Any 18-to-20-year-old subject to the ban will soon grow up and out of its reach."[131] Each of these reasons, however, was flawed.

1. The Federal Statute as an Outlier

As discussed above, by the end of the nineteenth century, thirteen states restricted handgun sales to minors, while four more required parental permission. So the Fifth Circuit was right that an age-based handgun sales restriction for persons under 21, although a minority in historical context, is not a "salient" outlier.

On the other hand, the *federal* scheme was "a salient outlier in the historical landscape of gun control" because no federal law had ever restricted handgun possession so severely. As the First Circuit recognized in *Rene E.*, federal laws receive limited support from cases that upheld regulations under a state's police power because "Congress does not have the police power. Its jurisdiction to regulate the juvenile possession of handguns must rest on a different basis."[132]

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125 *Id.* at 205.
126 *Id.*
127 *Id.* at 206 (quoting *Heller*, 554 U.S. at 635).
128 *Id.* (quoting *Heller*, 554 U.S. at 626–27 & n.26).
129 *Id.* (quoting *Heller*, 554 U.S. at 628–30, 635).
130 *Id.* at 207.
131 *Id.*
132 United States v. Rene E., 583 F.3d 8, 19 n.6 (1st Cir. 2009).

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2. Young Adults were Improperly Equated with Felons and the Mentally Ill

Second, the court inappropriately equated law-abiding young adults with felons and the mentally ill by claiming that they are all too "irresponsible" for Second Amendment protection: "as with felons and the mentally ill, categorically restricting the presumptive Second Amendment rights of 18-to-20-year–olds does not violate the central concern of the Second Amendment. The Second Amendment, at its core, protects 'law-abiding, *responsible*' citizens."[133] Such treatment contradicts the standing of young adults in American society, where they can vote, marry, contract, serve on juries, and serve in the military.

It is true that persons 18-to-20 commit gun crimes at a higher rate than do older people. It has long been known that there is a relationship between age and criminal activity. For example, one of the founders of quantitative criminology, Adolphe Quetlet, observed in 1833 that the percentage of the population that perpetrates crime peaks in late adolescence and early adulthood, and then declines as people age. The age-crime relationship can be found in many different historical periods and nations, and for many diverse types of crime.[134]

The age-crime relation persists as persons age. Persons 21-to-25 commit crimes at a higher rate than do people over 25. Persons 60-to-65 commit crimes at a higher rate than do persons over 65. By the Fifth Circuit's rationale, the minimum age for gun ownership could be set at 100, since persons under 100 commit crimes at a much higher rate than persons over 100.

A similar prohibitory rationale could be applied to many groups that commit crimes disproportionately. For instance, African Americans commit murders at disproportionately high rates, but that cannot justify bans on *all* African Americans.[135] If nineteenth century statutes are the basis for denial of the right to arms, one can find many more statutes for disarmament of persons of color, including free persons of color, than one can find for limiting handgun acquisition by minors. While the colonial and founding periods had no laws against guns for minors, some of the colonies and early states did restrict guns racially, such as in limits on arms possession by slaves (who were black or Indian). Limits on gun possession by free people of color became common in slave states during the nineteenth century. After the Civil

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133 Nat'l Rifle Ass'n of Am., 700 F.3d at 206 (emphasis added by Fifth Circuit).

134 ADOLPHE QUETLET, OF THE DEVELOPMENT OF THE PROPENSITY TO CRIME (1833).

135 FBI, *Uniform Crime Reports, 2016 Crime in the United States, Expanded Homicide Data Table 2*, FBI, https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s.-2016/tables/expanded-homicide-data-table-2.xls. (last visited on Oct. 5, 2018) (For 2016, the FBI reported 5,004 "White" murder offenders, 6,095 "Black or African American" murder offenders, 291 "Other" (which "Includes American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander"), and 5,574 "Unknown.").

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War and the Fourteenth Amendment, race-based limits continued, albeit in formally neutral gun control statutes that were enforced only against people of color.[136]

Regardless of age or race, males commit far more murders and other gun crimes than females.[137] That cannot justify an arms ban for all males—even though the 1856 Alabama statute is a precedent for sex discrimination in arms laws.

As the Fifth Circuit acknowledged, law-abiding, responsible citizens are at the core of the Second Amendment right. Their rights should not be forfeited because of irresponsible behavior by other persons of the same age, race, or sex.

3. "Conditions and Qualification on the Commercial Sale of Arms" Do Not Justify Prohibition

The Fifth Circuit's third rationale was that *Heller* allows "conditions and qualifications on the commercial sale of arms." Legitimate conditions and qualifications could include, for example, the federal licensing system for persons who are "engaged in the business" of selling arms. They must obtain a federal license and allow federal inspections of their inventory records. To be issued a license, persons must meet certain "qualifications," such as not having a felony conviction, and having a fixed place of business where sales will be conducted.[138]

The permissibility of "conditions and qualifications on commercial sale" does not authorize prohibition. For example, before *Heller*, a lawful seller of arms in the District of Columbia could not sell a handgun to a person who was not a government employee. The "conditions and qualifications" language from *Heller* is not an exception that swallows the *Heller* rule against banning handgun possession by classes of law-abiding citizens.

4. Long Guns are Not Acceptable Substitutes for Handguns, and Private Sales can be Inferior Substitutes for Store Sales

The court's fourth and fifth points were that the federal limit on commercial sales of handguns to young adults did not actually prevent young adults from obtaining handguns and from using those handguns for home defense, hunting, or other lawful activities. The young adults simply had to obtain the handguns someplace other than a licensed gun store—such as by

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136 See David B. Kopel, The First Century of Right to Arms Litigation, 14 GEO. J. L & PUB. POL'Y 127 (2016); David B. Kopel, Background Checks for Firearms Sales and Loans: Law, History, and Policy, 53 HARV. J. LEGIS. 303, 336–40 (2016).

137 FBI, supra note 137 (10,310 male murder offenders; 1,295 female offenders; and 5,359 unknown).

138 18 U.S.C. § 923; 27 C.F.R. § 478.41 et seq.

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purchase from a private individual, or by gift or loan from friends or family. Moreover, young adults could buy long guns from gun stores.

The long gun argument was directly contrary to *Heller*, which declares that long guns are *not* constitutionally adequate substitutes for handguns: "It is no answer to say, as petitioners do, that it is permissible to ban the possession of handguns so long as the possession of other firearms (*i.e.,* long guns) is allowed."[139]

The point about private sales was true. Young adults in Texas could, and still can, buy a handgun from anyone who is not a federally licensed firearms dealer. However, there is no guarantee that a young adult will be able to find a private seller or somebody to gift them a handgun. This is particularly so for young adults who are living on their own and recently moved to Texas from elsewhere.

Besides, as was pointed out by the briefs, but not addressed by the Fifth Circuit's opinion, it is hard to find much of a government interest in requiring young adults to buy from private sellers only, and not from stores. Presumably stores would be superior for many buyers, as the stores would typically have greater expertise in helping the buyer choose a reliable handgun with good ergonomics (e.g., grip fit, controllable recoil) for the particular buyer. And stores are more likely to be able to guide buyers towards available safety training courses.

Moreover, the Fifth Circuit's point about the alternative of private sales, while valid in Texas, is not applicable in some other states, such as those that have adopted Michael Bloomberg's "universal background check" laws. These laws require all private sales, all private loans of firearms, and all returns of loaned firearms, to take place at a gun store; the store must process the private sale (or the loan or return of a firearm) as if the store were selling a firearm out of its own inventory. Yet federal law prohibits the store from delivering a handgun to a person under 21.

Suppose an uncle wishes to give his 20-year-old niece a handgun. Or he wishes to loan it to her for her week-long camping trip. In "universal background check" states, the handgun transfer may only take place at a gun store. But the gun store may not transfer the handgun, because the recipient is under 21.

Thus, in Colorado, the Bloomberg law, adopted in 2013, has operated to terminate handgun acquisitions by young adults. This was never the intent of the Colorado legislature; the issue of blocking handguns for young adults was never mentioned during legislative debate or public testimony. The

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[139] District of Columbia v. Heller, 554 U.S. 570, 629 (2008).

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prohibition was an unintended consequence. Or at least unintended by the legislature.[140]

6. Unlike Illegal Drug Users, Young People have No Escape from Bans

Finally, the Fifth Circuit pointed out the temporary nature of the ban on gun store handgun sales to young adults. The court compared the age ban to the temporary nature of bans on illegal drug users. As we have previously argued:

> First, that a severe burden will be lifted in a few years does not change the present severity of the burden. That a person will be able to protect herself with a handgun three years from now is cold comfort when she cannot protect herself with a handgun from an imminent threat today. Similarly, the fact that a now-pregnant woman would be eligible to get an abortion in three years would not bolster the constitutionality of a law preventing her from getting an abortion today. Second, the court's comparison to unlawful drug users is misguided. As the court explained, the unlawful drug user can end the prohibition by simply ending his drug use—it is completely within the prohibited person's control.[141] In contrast, an age limitation is completely beyond the prohibited person's control.[142]

IV. NATIONAL RIFLE ASSOCIATION V. MCCRAW

We have finished with history. The remainder of this Part will address the three other major post-*Heller* federal circuit cases involving young adults.

NRA v. McCraw challenged Texas's statute that prevented most 18-to-20-year-olds from applying for a license to carry handguns for lawful

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140 David B. Kopel, *Background Checks for Firearms Sales and Loans: Law, History, and Policy*, 53 HARV. J. LEGIS. 303 (2016) (the "background check" bills drafted by Mr. Bloomberg's organizations are laden with prohibitions and consequences that go very far beyond simply requiring background checks on the private sales of guns. The Colorado law still allows transfers among some family members, without need for gun store processing. But many young adults in Colorado cannot take advantage of this. First, the permissible relatives may not live in Colorado. The out-of-state relatives cannot donate a gun, because federal law forbids private arms transfers across state lines. Or the young adult may be living independently from an abusive or otherwise dysfunctional family. Even for functional in-state families, a parent cannot purchase a handgun as an agent for a young adult, because the transaction would be a "straw purchase" under federal law.) *See* United States v. Moore, 109 F.3d 1456 (9th Cir. 1997) (en banc).

141 United States v. Carter (*Carter I*), 669 F.3d 411, 419 (4th Cir. 2012) ("[I]t is significant that § 922(g)(3) enables a drug user who places a high value on the right to bear arms to regain that right by parting ways with illicit drug use."); *see also* United States v. Yancey, 621 F.3d 681, 687 (7th Cir. 2010) ("[T]he gun ban extends only so long as Yancey abuses drugs. In that way, Yancey himself controls his right to possess a gun.").

142 David B. Kopel & Joseph G.S. Greenlee, *The Federal Circuits' Second Amendment Doctrines*, 61 ST. LOUIS U. L.J. 193, 282 (2017).

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protection in public places.[143] Having recently decided *NRA v. BATF*, the Fifth Circuit provided little analysis, explaining that it was bound by *BATF*: "The Texas scheme restricts the same age group's access to and use of handguns for the same reason [as the handgun sale restriction upheld in *BATF*]. Therefore, under circuit precedent, we conclude that the conduct burdened by the Texas scheme likely 'falls outside the Second Amendment's protection.'"[144] In other words, young adults have no Second Amendment rights, or at least no Second Amendment handgun rights.

Like the *BATF* court, the *McCraw* court applied intermediate scrutiny in an abundance of caution and upheld the law for similar reasons.

However, the *McCraw* court made at least two mistakes in its application of intermediate scrutiny. Under the post-*Heller* doctrines adopted by the federal circuits, the level of Second Amendment scrutiny in a given case depends on the severity of the burden on Second Amendment rights. Severe burdens should have more rigorous scrutiny than lesser burdens. In *BATF*, the effect of the federal statute was to restrict where and how young adults could acquire handguns; they could acquire handguns from private persons, but not from stores. The federal law simply forced young adults to use less convenient means of buying handguns. So arguably, intermediate scrutiny was the correct standard of review in *BATF*.

However, in *McCraw*, the effect of the law was to completely disable young adults from bearing handguns for lawful defense. Being a complete prohibition on the exercise of the right to bear handguns, the law at issue in *McCraw* should have been tested under strict scrutiny.[145]

The Fifth Circuit also refused to apply all of the intermediate scrutiny tests. In strict scrutiny, the government must prove that there is no "less restrictive alternative." Under the more relaxed standard of intermediate scrutiny, the government must prove that there is no "substantially less burdensome alternative."[146] The plaintiffs had argued that instead of banning licensed carry for young adults, Texas could have a more rigorous licensing system for young adults, compared to applicants over 21.

The *McCraw* court dismissed that alternative and said that "less restrictive alternative" is not part of intermediate scrutiny. True enough, but "substantially less burdensome alternative" is part of intermediate scrutiny, and the court offered no explanation for refusing to consider it.

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143 Nat'l Rifle Ass'n of Am. v. McCraw, 719 F.3d 338 (5th Cir. 2013).

144 *Id.* at 347 (quoting Nat'l Rifle Ass'n of Am. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, 700 F.3d 185, 203 (5th Cir. 2012)).

145 *Id.* (held categorically unconstitutional, as were the complete prohibitions on handguns and on home defense with any firearm in *Heller*.)

146 Kopel & Greenlee, *supra* note 144, at 309–12.

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V. HORSLEY V. TRAME

Illinois requires that residents obtain a firearm owner's identification (FOID) card before acquiring or possessing a firearm. In *Horsley v. Trame*, the plaintiff challenged the requirement that FOID card applicants between 18 and 21 obtain the consent of a parent or guardian.[147] The Seventh Circuit determined that the requirement did not violate the Second Amendment because "Illinois does not impose a categorical ban on firearm possession for 18-to-20-year-olds whose parents do not consent. Rather, when an applicant cannot obtain a parent or guardian signature, he or she may appeal to the Director for a FOID card, and the Director will make a determination."[148]

Specifically, "The Director may grant relief to a person who lacks a parent or guardian signature if the applicant establishes to the Director's satisfaction that the applicant has not been convicted of a forcible felony within a certain number of years, the applicant will not be likely to act in a manner dangerous to public safety, and granting relief would not be contrary to the public interest or to federal law. A decision from the Director denying an appeal is subject to judicial review under Illinois's Administrative Review Law."[149]

The Illinois Attorney General argued "that the Second Amendment was not originally understood to include minors, and that minors during the founding era were understood to be persons under the age of 21. From there she reasons that persons who are presently under the age of 21 do not have a Second Amendment right to possess a firearm."[150]

Following this reasoning, the court acknowledged that "[a]ccording to Blackstone . . . 'full age in male or female is twenty-one years,' and 'till that time is an infant, and so stiled in law.'"[151] "So most right-to-bear-arms laws were passed while 18-to-20-year-olds were minors."[152] Moreover, "Thomas Cooley's treatise that *Heller* called 'massively popular' [explains] that the

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147 Horsley v. Trame, 808 F.3d 1126 (7th Cir. 2015). The law, 430 ILL. COMP. STAT. 65/4(a)(2)(i), requires an applicant to submit evidence that:

> He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card

148 *Trame*, 808 F.3d at 1127.

149 *Id.* at 1128.

150 *Id.* at 1130.

151 *Id.* (quoting 1 COMMENTARIES ON THE LAWS OF ENGLAND 463 (St. George Tucker ed. 1803)).

152 *Id.* at 1130.

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states 'may prohibit the sale of arms to minors' pursuant to their police power."[153] The problems with these arguments have been discussed above.[154]

Horsley argued that even if the age of majority had once been 21, it is now 18. After all, nowadays 18-year-olds "can vote and serve in the military, get married without parental consent, and own land."[155] Moreover, she pointed out that the federal Uniform Militia Act of 1792 included 18-year-olds. "Because a minor could be a member of the militia and be armed, she reasons that the Second Amendment gives these persons a right to bear arms."[156]

After describing the pro/con arguments, the Seventh Circuit declared: "We need not decide today whether 18-, 19-, and 20-year-olds are within the scope of the Second Amendment."[157] Because regardless, the law would be constitutional. In deciding so, the court repeatedly emphasized that the law did not constitute a ban of any sort on 18-to-20-year-olds.[158]

Since there was no blanket ban on 18-to-20-year-olds who could not get parent or guardian consent, this case was "much different from the blanket ban on firearm possession present in *Heller*." The Illinois law was also different from the statute *Planned Parenthood v. Danforth*,[159] where the Supreme Court struck down a blanket provision requiring the consent of a

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153 *Id.* (quoting THOMAS M. COOLEY, TREATISE ON CONSTITUTIONAL LIMITATIONS 740 n.4 (5th ed. 1883)); District of Columbia v. Heller, 554 U.S. 570, 616 (2008).

154 *See supra* notes 88 and 119.

155 *Trame*, 808 F.3d at 1131.

156 *Id.*

157 *Id.*; *see* People v. Mosley, 33 N.E.3d 137 (Ill. 2015); *see also* People v. Jordan G. (*In re* Jordan G.), 33 N.E.3d 162 (Ill. 2015) (The court cited these two cases from the Supreme Court of Illinois upholding restrictions on 18-to-20-year-olds but was apparently not persuaded by either. Nor should it have been, as the Supreme Court of Illinois failed to conduct meaningful historical analysis in either case).

158 *Trame,* 808 F.3d at 1127 ("We disagree with Horsley that the Illinois statutory scheme violates her rights under the Second Amendment. Illinois does not impose a categorical ban on firearm possession for 18-to-20-year-olds whose parents do not consent."); *Id.* at 1130 ("The question in our case is whether the Illinois statutory scheme that promulgates a different procedure for 18-to-20-year-olds to possess a firearm, but does not ban them from doing so, violates the Second Amendment."); *Id.* at 1131–32 ("Significantly, although Horsley's arguments treat the challenged statute as a categorical ban on firearm possession, the FOID Card Act does not in fact ban persons under 21 from having firearms without parent or guardian consent."); *Id.* at 1132 ("The absence of a blanket ban makes the Illinois FOID Card Act much different from the blanket ban on firearm possession present in *Heller.*"); *Id.* at 1132 ("So the lack of a parent signature does not bar Horsley from possessing a firearm, despite her arguments to the contrary. Nor does it impose a bar on gun possession on an 18-to-20-year-old whose parents have passed away or are disqualified from owning guns."); *Id.* at 1132 ("The absence of a parent or guardian signature is not a 'veto' on the ability of a person between 18 and 21 to get a FOID card in Illinois. And the Illinois scheme is not a regulatory means that imposes severe burdens because it does not leave open ample alternative channels; rather it is a restriction that imposes only modest burdens because it does leave open ample alternative channels.")(internal quotations, citations, footnote markers, and brackets omitted).

159 Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976).

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parent or person *in loco parentis* for an abortion in certain circumstances.[160] Pursuant to *Danforth*, states that require parental consent for abortions for minors must have a safety valve, by which a minor can instead seek consent from a court.

So "The question in our case is whether the Illinois statutory scheme that promulgates a different procedure for 18-to-20-year-olds to possess a firearm, but does not ban them from doing so, violates the Second Amendment."[161] Persuaded primarily by the relatively higher crime rate of 18-to-20-year-olds, the court determined that a different—but not prohibitive—procedure for young adults was "substantially related to the state's important interests."[162]

VI. EZELL V. CITY OF CHICAGO

Ezell challenged a Chicago ordinance that prohibited anyone under 18 from entering a shooting range.[163]

Chicago argued that persons under 18 have no Second Amendment rights. "To support this sweeping claim, the City points to some nineteenth-century state laws prohibiting firearm possession by minors and prohibiting firearm sales to minors. Laws of this nature might properly inform the question whether minors have a general right, protected by the Second Amendment, to purchase or possess firearms. But, they have little relevance to the issue at hand."[164] As discussed above, in the nineteenth century, the majority of states imposed no age limits on the right to arms. Towards the end of the century, a minority of states did limit handgun acquisition. No state prohibited long gun acquisition by minors.

The nineteenth century laws did not prohibit minors who were lawfully in possession of arms from practicing with those arms. As the Seventh Circuit observed, "There's zero historical evidence that firearm training for this age group is categorically unprotected. At least the City hasn't identified any, and we've found none ourselves."[165]

Moreover, the court found nothing from Heller that would justify the ban:

> To the contrary, *Heller* itself points in precisely the opposite direction. 554 U.S. at 617–18, 128 S.Ct. 2783 ("[T]o bear arms implies something more than the mere keeping; it implies the learning to handle and use them ...; it

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160 *Trame*, 808 F.3d at 1132.
161 *Id.* at 1130.
162 *Id.* at 1134.
163 Ezell v. City of Chicago, 846 F.3d 888 (7th Cir. 2017).
164 *Id.* at 896.
165 Id.

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> implies the right to meet for voluntary discipline in arms, observing in doing so the laws of public order." (quoting Thomas McIntyre Cooley, A Treatise on the Constitutional Limitations 271 (1868))); *see also id.* at 619, 128 S.Ct. 2783 ("No doubt, a citizen who keeps a gun or pistol under judicious precautions, practices in safe places the use of it, and in due time teaches his sons to do the same, exercises his individual right." (quoting Benjamin Vaughan Abbott, Judge and Jury: A Popular Explanation of the Leading Topics in the Law of the Land 333 (1880))).[166]

The court, having determined that the Second Amendment applies to minors at firing ranges, applied heightened scrutiny to the law.

The government was "left to rely on generalized assertions about the developmental immaturity of children, the risk of lead poisoning by inhalation or ingestion, and a handful of tort cases involving the negligent supervision of children who were left to their own devices with loaded firearms."[167] Since the government could address these concerns with "a more closely tailored age restriction—one that does not *completely extinguish* the right of older adolescents and teens in Chicago to learn how to shoot in an appropriately supervised setting at a firing range," the law violated the Second Amendment.[168]

VII. CONCLUSION

This Article has not attempted to fully analyze all the legal issues involving restrictions on firearms for persons under twenty-one-years-old. Examination of all relevant Supreme Court precedents, of the legal history of the colonial period and Early Republic, of all contemporary statutes on arms and young people, and of age limits for other rights or activities will be discussed in our forthcoming article in the *Southern Illinois University Law Journal*.

In this Article, we have confined the analysis to the five major Circuit Court of Appeals cases on age restrictions for arms. We have closely examined how those cases used history and policy arguments. In short, there are no Founding Era sources that support restrictions on arms acquisition by young people. The first age restrictions appear in the South shortly before the Civil War; by the end of the nineteenth century, thirteen of the forty-six states had restricted handgun sales to minors; and five more required parental permission for such sales. Five states went so far as to prohibit handgun loans to minors. No state had restrictions on long gun sales or loans; a Kansas decision applying a vague statutory term to long guns was swiftly overturned.

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166 Id.

167 Id. at 898.

168 Id.

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Modern policy arguments attempting to justify prohibitions on young adults 18-to-20 are thinly reasoned and rely on the unsupportable theory that law-abiding young adults are legally similar to convicted felons, illegal drug users, or wartime traitors.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants

Case No.: 19-cv-01226-L-AHG

Hon. Judge M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DAVID T. HARDY IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 4 of 4)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

EXHIBIT "17"

The Second Amendment Rights of Young Adults

By David B. Kopel[1] & Joseph G.S. Greenlee[2]

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Introduction

Since the Supreme Court's 2008 decision in *District of Columbia v. Heller*, lower courts have analyzed diverse Second Amendment issues. One question is whether young adults—that is, persons aged 18-to-20—have Second Amendment rights. This article suggests that they do. Indeed, under *Heller*'s originalist methodology, this is an easy question.

Heller provided a methodology for determining whether a person, activity, or arm is protected by the Second Amendment.[3] The Court analyzed founding-era sources, including constitutional text and history, to determine the scope of the Second Amendment at the time of ratification.[4] The Court also looked to 19th century sources, but explained that these "do not provide as much insight into its original meaning as earlier sources."[5] We will take the same approach in this article to determine whether young adults aged 18-to-20 have the right to keep and bear arms.

Part I examines what the Supreme Court has said, explicitly and implicitly, about the Second Amendment rights of young adults.

Parts II and III survey colonial and founding-era sources. Part II begins with a glossary of various terms that were used in militia statutes. These show some of the arms and accoutrements that Americans were required to possess. The various items illustrate that the right to arms does not include only firearms and ammunition. The right also includes, for example, edged weapons and gun-cleaning equipment. Part II also describes the arms culture of early America, where it was a point of national pride that people were trained to arms "from their infancy."

Part III then surveys all the militia statutes from the earliest colonial days through 1800. The survey pays particular attention to two issues. The first is the age for militia service or for other forms of mandatory arms possession. As the statutes demonstrate, arms possession was mandatory for militiamen and for other categories of people. In some colonies, for example, every head of a house, regardless of gender, had to possess arms. So did men who were too old for militia service. The most common ages for mandatory militia service were from 16 to 60. But by the end of the eighteenth century, the militia mandate had been narrowed in most states to 18 until 45 or 50.

The second issue in Part III is the types of arms that militiamen—and the many other people required to possess arms—were supposed to own. Part III tracks the evolution of these laws, as they become more specific about requiring various accoutrements—such as gun cleaning equipment, holsters, and ammunition storage devices—and the laws' attempts to ensure that the public possesses modern arms.

Part IV describes federal laws regarding the ages for arms possession. These include the 1792 statute making 18-year-olds into members of the federal militia (as they are today, by statute), the 1968 Gun Control Act setting age limits on purchases in gun stores, and the 1994 federal law restricting handgun possession by persons under 18.

Part V covers the five leading post-*Heller* federal circuit court cases on age limits for exercising Second Amendment rights. Two of these cases relied heavily on cases and statutes from the nineteenth century; thus, in the course of discussing the cases, we survey the nineteenth century

[3] District of Columbia v. Heller, 554 U.S. 570, 595 (2008).

[4] *Id.* at 576 ("In interpreting this text, we are guided by the principle that '[t]he Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning.'") (quoting United States v. Sprague, 282 U.S. 716, 731 (1931)).

[5] *Id.* at 614.

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developments. By the end of the century, a substantial minority of states that placed some restrictions on handgun acquisition by persons under 21.

Finally, Part VI describes some of the present-day state laws that limit firearms acquisition or possession by young adults (18 to 20). Part VI also considers various past and present age limits in American law for different activities, such as voting, vices (e.g., alcohol, gambling), marriage, and the right to keep and bear arms.

In conclusion, this article finds that there is some historical precedent for extra regulation for handgun acquisition by young adults, and very little for extra restrictions on long gun acquisition. Pursuant to *Heller*, extra regulations for young adults may be permissible, but prohibitions or quasi-prohibitions are not. The Second Amendment rights of young adults include a core right affirmed in *Heller*: acquiring and keeping a handgun in the home for lawful self-defense.

I. The Supreme Court

Consider the following syllogism:

1. The militia has the right to keep and bear arms;
2. 18-to-20-year-olds are part of the militia;
3. Therefore, 18-to-20-year-olds have the right to keep and bear arms.

The Supreme Court's precedents have held that items one and two are correct.[6] As will be detailed in Part III, those precedents are correct because colonial and Founding Era militia statutes included young adults.

The *Heller* case affirmed that militiamen have the right to arms and also held that the Second Amendment right is not exclusively for the militia.[7] Further, according to *Heller*, whoever does have the right to arms has that right for all lawful purposes; these include not only militia service, but also self-defense, hunting, target practice, and so on.[8]

[6] *See* discussion *infra* Part I.

[7] *Heller*, 554 U.S. at 596; *see also* discussion *infra* Part IA.

[8] *Id.* at 614 ("[T]he right to keep arms involves, necessarily, the right to use such arms for all the ordinary purposes, and in all the ordinary modes usual in the country, and to which arms are adapted, limited by the duties of a good citizen in times of peace.") (quoting Andrews v. State, 50 Tenn. (3 Heisk.) 165, 178-79 (1871)). *Cf.* David B. Kopel & Joseph G.S. Greenlee, *The Federal Circuits' Second Amendment Doctrines*, 61 ST. L.U.L.J. 193, 204-12 (2017) (surveying post-*Heller* federal Circuit Court decisions, which unanimously find that the right to arms includes self-defense, militia, hunting, target shooting, and all other lawful purposes).

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A. District of Columbia v. Heller

The *Heller* Court held that the Second Amendment guarantees an individual right, and the right is not dependent on service in a militia. But the Court made clear that the militia is protected. Indeed, all nine Justices agreed that individual militiamen are protected by the Second Amendment. The disagreement between the Justices was whether the right extends beyond the militia, with the majority holding that it does.

The majority stated:

> the Second Amendment's prefatory clause announces the purpose for which the right was codified: to prevent elimination of the militia. The prefatory clause does not suggest that preserving the militia was the only reason Americans valued the ancient right; most undoubtedly thought it even more important for self-defense and hunting. But the threat that the new Federal Government would destroy the citizens' militia by taking away their arms was the reason that right—unlike some other English rights—was codified in a written Constitution.[9]

The dissenting opinions similarly recognized that the Second Amendment prevented the militia from being disarmed. Justice Stevens's dissent stated that "the purpose of the Amendment [was] to protect against congressional disarmament, by whatever means, of the States' militias."[10] The Amendment protects "the collective action of individuals having a duty to serve in the militia that the text directly protects,"[11] because the Amendment "was a response to concerns raised during the ratification of the Constitution that the power of Congress to disarm the state militias and create a national standing army posed an intolerable threat to the sovereignty of the several States."[12]

Justice Breyer's dissent noted the "general agreement among the Members of the Court that the principal (if not the only) purpose of the Second Amendment is found in the Amendment's text: the preservation of a 'well regulated Militia.'"[13] After all, the first clause of "[t]he Amendment itself tells us that militia preservation was first and foremost in the Framers' minds."[14]

Although the dissents disagreed with the majority that the right extends beyond the militia, the Court was unanimous that individuals in the militia were fully protected by the Second Amendment, and that the right was codified because the Founders and the public were horrified by the prospect of the government disarming the militia. As explained below, the militias of every colony and state, and the federal militia, included 18-to-20-year-olds. Young adults have been part of the militia from the seventeenth century through the twentyfirst. As Justice Breyer pointed out, the District of Columbia's militia at the time *Heller* was decided included "[e]very able-bodied

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[9] *Heller*, 554 U.S. at 599. The majority added: "Does the preface fit with an operative clause that creates an individual right to keep and bear arms? It fits perfectly, once one knows the history that the founding generation knew and that we have described above." *Id.* at 598. Because one reason the right was codified was to protect the militia, an interpretation that did not include the entire militia would destroy this "perfect fit."

[10] *Id.* at 660–61 (Stevens, J., dissenting). Justice Stevens's dissent was joined by Justices Souter, Ginsburg, and Breyer.

[11] *Id.* at 645.

[12] *Id.* at 637.

[13] *Id.* at 706 (Breyer, J., dissenting). Justice Breyer's dissent was joined by Justices Souter, Ginsburg, and Stevens.

[14] *Id.* at 715.

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male citizen resident within the District of Columbia, of the age of 18 years and under the age of 45 years."[15]

The *Heller* majority further indicated that 18-to-20-year-olds have Second Amendment rights by explaining:

> the ordinary definition of the militia [i]s all able-bodied men. From that pool, Congress has plenary power to organize the units that will make up an effective fighting force. That is what Congress did in the first Militia Act, which specified that "each and every free able-bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively be enrolled in the militia." Act of May 8, 1792, 1 Stat. 271. To be sure, Congress need not conscript every able-bodied man into the militia, because nothing in Article I suggests that in exercising its power to organize, discipline, and arm the militia, Congress must focus upon the entire body. Although the militia consists of all able-bodied men, the federally organized militia may consist of a subset of them.[16]

Because the militia consists of "all able-bodied men," because "Congress has plenary power to organize … an effective fighting force" "from that pool" of "able-bodied men," and because "[t]hat is what Congress did in the first Militia Act" by organizing the able-bodied men between eighteen and forty-five, the Court recognized 18-to-20-year-olds as part of the militia; as such, they necessarily have the right to keep and bear arms.

Perhaps, one could argue, that although 18-to-20-year-olds were part of the militia, they were not trusted with arms outside of their militia service. But the *Heller* majority rejects this, since it affirms the right to arms for all lawful purposes.[17] While the English militia of the time was often supplied with centrally-stored arms that were only brought out for practice days, American militiamen were expected to keep their own arms at home, and to be proficient with those arms.[18]

As *Heller* explained, "the conception of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home to militia duty."[19] The Court quoted with approval a previous Supreme Court decision, *United States v. Miller*, discussed *infra*, which stated that

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[15] D.C. CODE ANN. § 49-401 (West 1889); *Heller*, 554 U.S. at 707 (Breyer, J., dissenting).

[16] *Heller*, 554 U.S. at 596.

[17] *Id.* at 636-37 ("Whether [the Second Amendment] also protects the right to possess and use guns for nonmilitary purposes like hunting and personal self-defense is the question presented by this case. The text of the Amendment, its history, and our decision in *United States v. Miller*, 307 U.S. 174, 59 S.Ct. 816, 83 L.Ed. 1206 (1939), provide a clear answer to that question." (citation omitted)). *See also* McDonald v. City of Chicago, 561 U.S. 742, 780 (2010) ("the Second Amendment protects a personal right to keep and bear arms for lawful purposes, most notably for self-defense within the home."); Caetano v. Massachusetts, 136 S. Ct. 1027, 1028 (2016) (per curiam) ("the [lower] court used 'a contemporary lens' and found 'nothing in the record to suggest that [stun guns] are readily adaptable to use in the military.' But *Heller* rejected the proposition 'that only those weapons useful in warfare are protected.'") (citing *Heller*, 554 U.S. at 624–25) (internal citation omitted).

[18] NICHOLAS J. JOHNSON, DAVID B. KOPEL, GEORGE A. MOCSARY & MICHAEL P. O'SHEA, FIREARMS LAWS AND THE SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY 110-11, 136-40, 175-86, 237-40 (2d ed. 2017) (comparing and contrasting English and American militia and arms cultures and laws).

[19] *Heller*, 554 U.S. at 627.

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"ordinarily when called for [militia] service [able-bodied] men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."[20]

The Court also quoted "the most famous" late 19th-century legal scholar: "judge and professor Thomas Cooley, who wrote a massively popular 1868 Treatise on Constitutional Limitations." Cooley explained that "[t]he alternative to a standing army is 'a well-regulated militia,' but this cannot exist unless the people are trained to bearing arms."[21] Further, as quoted by the Court, "to bear arms implies something more than the mere keeping; it implies the learning to handle and use them in a way that makes those who keep them ready for their efficient use."[22]

Similarly, the Court quoted John Norton Pomeroy, another late-19th-century scholar, stating that the purpose of the Second Amendment is

> to secure a well-armed militia .... But a militia would be useless unless the citizens were enabled to exercise themselves in the use of warlike weapons. To preserve this privilege, and to secure to the people the ability to oppose themselves in military force against the usurpations of government, as well as against enemies from without, that government is forbidden by any law or proceeding to invade or destroy the right to keep and bear arms.[23]

And the Court quoted Benjamin Vaughan Abbott, another late-19th-crentury scholar, who said: "Some general knowledge of firearms is important to the public welfare; because it would be impossible, in case of war, to organize promptly an efficient force of volunteers unless the people had some familiarity with weapons of war."[24]

The *Heller* dissent was of a similar mind, explaining that "the Framers recognized the dangers inherent in relying on inadequately trained militiamen 'as the primary means of providing for the common defense.'"[25] The dissent acknowledged that "during the Revolutionary War, '[t]his force, though armed, was largely untrained, and its deficiencies were the subject of bitter complaint.'"[26] The dissent quoted George Washington stating that, "The firmness requisite for the real business of fighting is only to be attained by a constant course of discipline and service."[27] And Alexander Hamilton, who wrote that "War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice."[28]

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[20] *Id.* at 624 (quoting United States v. Miller, 307 U.S. at 179).
[21] *Heller*, 554 U.S. at 616-17.
[22] *Id.* at 617-18 (quoting THOMAS M. COOLEY, THE GENERAL PRINCIPLES OF CONSTITUTIONAL LAW IN THE UNITED STATES OF AMERICA 271 (1880)); *Id.* at 617 ("Cooley understood the right not as connected to militia service, but as securing the militia by ensuring a populace familiar with arms.").
[23] *Id.* at 618 (quoting J.N. POMEROY, AN INTRODUCTION TO THE CONSTITUTIONAL LAW OF THE UNITED STATES § 239 152-53 (1868)).
[24] *Id.* at 619 (citing B. ABBOTT, JUDGE AND JURY: A POPULAR EXPLANATION OF THE LEADING TOPICS IN THE LAW OF THE LAND 333 (1880)).
[25] *Id.* at 653 (quoting Perpich v. Dep't of Def., 496 U.S. 334, 340 (1990)).
[26] *Id.* (citing Frederick Bernays Wiener, *The Militia Clause of the Constitution*, 54 HARV. L. REV. 181, 182 (1940)).
[27] *Id.* at 654.
[28] *Id.* at 653 n.17 (Stevens, J., dissenting) (The Federalist No. 25). While these statements from Washington and Hamilton expressed frustration with the militia, they nonetheless demonstrate that the Founders rejected the idea of disarming a substantial segment of the militia, leaving them largely untrained and unfamiliar with firearms when called to duty. *See also* MARK W. KWASNY, WASHINGTON'S PARTISAN WAR: 1775–1783, at 337-38 (1996) ("Washington learned to recognize both the strengths and the weaknesses of the militia. As regular soldiers,

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These sources show that those in the militia were expected not only to provide their own arms, but also to practice with them frequently. All nine Justices shared that understanding.

The majority made clear that the right included, but was not limited to, the militia. "'Keep arms' was simply a common way of referring to possessing arms, for militiamen *and everyone else*."[29] The Court cited an opinion by the Georgia Supreme Court which "perfectly captured the way in which the operative clause of the Second Amendment furthers the purpose announced in the prefatory clause…":

> The right of the whole people, *old and young*, men, *women and boys*, and *not militia only*, to keep and bear arms of every description, and not such merely as are used by the militia, shall not be infringed, curtailed, or broken in upon, in the smallest degree; and all this for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free State.[30]

Heller's most definitive recognition that 18-to-20-year-olds have Second Amendment rights came in the Court's discussion of who "the people" in the Second Amendment are. The operative clause of the Second Amendment states that "the right of *the people* to keep and bear arms, shall not be infringed."[31] As the Court observed, "*the 'militia' in colonial America consisted of a subset of 'the people'*—those who were male, able bodied, and within a certain age range."[32] Thus, because 18-to-20-year-olds were part of the militia, 18-to-20-year-olds were also part of "the people." It is "*the right of the people* to keep and bear arms" that the Second Amendment protects.[33]

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militiamen were deficient.…He therefore increasingly detached Continentals to support them when operating against the British army.…Militiamen were available everywhere and could respond to sudden attacks and invasions often faster than the army could. Washington therefore used the militia units in the states to provide local defense, to suppress Loyalists, and to rally to the army in case of an invasion.…Washington made full use of the partisan qualities of the militia forces around him. He used them in small parties to harass and raid the army, and to guard all the places he could not send Continentals.…Rather than try to turn the militia into a regular fighting force, he used and exploited its irregular qualities in a partisan war against the British and Tories.").

[29] *Heller*, 554 U.S. at 583 (emphasis in original).

[30] *Id.* at 612–13 (quoting Nunn v. State, 1 Ga. 243, 251 (1846)) (emphasis added).

[31] U.S. CONST., amend. II (emphasis added).

[32] *Heller*, 554 U.S. at 580 (emphasis added). Elsewhere, the majority quoted Thomas Cooley with approval: "The meaning of the provision undoubtedly is, that *the people, from whom the militia must be taken*, shall have the right to keep and bear arms." *Id.* at 617 (emphasis added). The quotation similarly treats the militia as a subset of "the people."

[33] The Court's full discussion on "the people":

> What is more, in all six other provisions of the Constitution that mention "the people," the term unambiguously refers to all members of the political community, not an unspecified subset. As we said in *United States v. Verdugo–Urquidez*, 494 U.S. 259, 265, 110 S.Ct. 1056, 108 L.Ed.2d 222 (1990):
>
> > "'[T]he people' seems to have been a term of art employed in select parts of the Constitution .... [Its uses] sugges[t] that 'the people' protected by the Fourth Amendment, and by the First and Second Amendments, and to whom rights and powers are reserved in the Ninth and Tenth Amendments, refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community."

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As *Heller* observed, "Logic demands that there be a link between the stated purpose and the command."[34] The prefatory clause may assist in interpreting the operative clause.[35] The Second Amendment's prefatory clause makes it clear that, at a minimum, the main clause protects the entire militia.

The *Heller* Court held that the core of the Second Amendment includes keeping a handgun in the home for lawful defense.[36] The Supreme Court reiterated that holding in *McDonald v. City of Chicago*.[37] In the modern United States, some young adults maintain their own homes. Some of them are married. Some of them are raising children in their home. To deprive these householders of the right to possess a handgun in their homes for lawful defense thus infringes on the core of their Second Amendment rights.

The Supreme Court's "first in-depth examination of the Second Amendment"[38] demonstrated that 18-to-20-year-olds have Second Amendment rights, because: 1) the militia is protected by the Second Amendment; 2) 18-to-20-year-olds have historically been understood as part of the militia; and 3) militiamen were required to supply their personal arms, which the government could not deprive them of. But the Court had established this long before *Heller*.

B. Principles from Other Supreme Court Cases

1. The militia is protected by the Second Amendment

While the text of the Second Amendment[39] is sufficient to prove that the Founders understood the militia as having the right to keep and bear arms, the Court emphasized the point in *United States v. Miller*:[40] "With obvious purpose to assure the continuation and render possible the effectiveness of [militia] forces the declaration and guarantee of the Second Amendment were made. It must be interpreted and applied with that end in view."[41] While *Miller* has been criticized for its "conceptually flawed concentration on the amendment's militia purpose,"[42] since the case had little to do with the militia, *Miller* correctly affirmed that the Second Amendment prevents the government from rendering militia forces ineffective. Disarming 18-to-20-year-olds would render

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> This contrasts markedly with the phrase "the militia" in the prefatory clause. As we will describe below, the "militia" in colonial America consisted of a subset of "the people"—those who were male, able bodied, and within a certain age range.

Heller, 554 U.S. at 580.

[34] *Id.* at 577.

[35] *Id.* at 577-78.

[36] *Id.* at 628, 635 ("the home [is] where the need for defense of self, family, and property is most acute;" "the right of law-abiding, responsible citizens to use arms in defense of hearth and home.").

[37] McDonald v. City of Chicago, 561 U.S. 742, 886 (2010).

[38] *Heller*, 554 U.S. at 635.

[39] The Second Amendment 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." U.S. CONST., amend. II.

[40] United States v. Miller, 307 U.S. 174, 178 (1939).

[41] *Id.* at 178.

[42] Don B. Kates, *Handgun Prohibition and the Original Meaning of the Second Amendment*, 82 MICH. L. REV. 204, 259 (1983).

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them ineffective militia forces in the Founders' view, especially because militiamen were expected to provide their own arms.

2. 18-to-20-year-olds have historically been understood as part of the militia

That 18-to-20-year-olds were included in the federal militia and each state's militia at the time of the founding will be established below, in Parts III and IV. But it is also important to note that the Supreme Court has in every instance understood the militia to include 18-to-20-year-olds.

Citing the constitutional militia, as identified in Article 1, Section 8 of the Constitution, the Court in *Hamilton v. Regents of the University of California*, explained that "[u]ndoubtedly every state has authority to train its able-bodied male citizens of suitable age appropriately to develop fitness, should any such duty be laid upon them, to serve in the United States Army or in state militia (always liable to be called forth by federal authority to execute the laws of the Union, suppress insurrection, or repel invasion…)"[43] The *Hamilton* case involved university students who did not wish to participate in the mandatory militia training required by state law. Then as now, many students at the University of California were ages 18 to 20.

The *Miller* Court recognized that "the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators . . . show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense. 'A body of citizens enrolled for military discipline.'"[44] *Miller* then offered examples:

The General Court of Massachusetts in 1784 "provided for the organization and government of the Militia. It directed that the Train Band should 'contain all able bodied men, from sixteen to forty years of age, and the Alarm List, all other men under sixty years of age.'"[45]

The New York Legislature in 1786 "directed: 'That every able-bodied Male Person, being a Citizen of this State, or of any of the United States, and residing in this State, (except such Persons as are herein after excepted) and who are of the Age of Sixteen, and under the Age of Forty-five Years, shall … be enrolled.'"[46]

The General Assembly of Virginia in 1785, the U.S. Supreme Court explained, "directed that 'All free male persons between the ages of eighteen and fifty years,' with certain exceptions, 'shall be inrolled or formed into companies.'"[47]

In *Perpich v. Department of Defense*, the Court acknowledged that "[i]n the early years of the Republic" Congress "command[ed] that every able-bodied male citizen between the ages of 18 and 45 be enrolled" in the militia.[48] *Perpich* also pointed out that at the turn of the twentieth century, the "The Dick Act divided the class of able-bodied male citizens between 18 and 45 years of age into an 'organized militia' to be known as the National Guard of the several States, and the remainder of which was then described as the 'reserve militia,' and which later statutes have

[43] Hamilton v. Regents of the Univ. of Cal., 293 U.S. 245, 260 (1934) (citing U.S. CONST., art. 1, § 8, cls. 12, 15 and 16).
[44] *Miller*, 307 U.S. at 179. This language was favorably quoted in *Heller*, 554 U.S. at 595.
[45] *Id.* at 180 (quoting The General Court of Massachusetts, January Session 1784 (Laws and Resolves 1784, c. 55, pp. 140, 142)).
[46] *Id.* at 180-81 (quoting New York Legislature, an Act passed April 4, 1786 (Laws 1786, c. 25)).
[47] *Id.* at 181 (quoting The General Assembly of Virginia, 1785 (12 Hening's Statutes, c. 1, p. 9 et seq.)).
[48] Perpich v. Dep't of Def., 496 U.S. 334, 341-43 (1990).

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termed the 'unorganized militia.'"[49] As the Court noted, "[i]t is undisputed that Congress was acting pursuant to the Militia Clauses of the Constitution in passing the Dick Act."[50]

In *Presser v. Illinois*, the Court declared:

> It is undoubtedly true that *all citizens capable of bearing arms* constitute the reserved military force or reserve militia of the United States as well as of the states, and, in view of this prerogative of the general government, as well as of its general powers, the states cannot, even laying the constitutional provision in question out of view, prohibit *the people* from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable *the people* from performing their duty to the general government.[51]

Thus, the *Presser* Court, like the *Heller* Court, specified that the militia is part of "the people"—as in "the people" who have the right "to keep and bear arms" protected by the Second Amendment.[52] The militia identified by the *Presser* Court consists of "all citizens capable of bearing arms," which most certainly includes 18-to-20-year-olds, since the federal militia statute at the time included 18-to-20-year-olds.[53]

3. Militiamen were required to supply their personal arms, which the government could not deprive them of

According to the Supreme Court, militiamen were required to provide their own private firearms and were expected to achieve and maintain proficiency with those arms to ensure the effectiveness of the militia.

As *Miller* put it, "the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators . . . show . . . that ordinarily when called for service these men [in the militia] were expected to appear bearing arms *supplied by themselves* and of the kind in common use at the time."[54] The *Miller* Court provided founding-era examples from Massachusetts, New York, and Virginia: New York required "[t]hat every Citizen so enrolled and notified . . . provide himself, at his own Expense, with a good Musket or Firelock, a sufficient Bayonet and Belt, a Pouch with a Box therein to contain not less than Twenty-four Cartridges

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[49] *Id.* at 342.
[50] *Id.*
[51] Presser v. Illinois, 116 U.S. 252, 265-66 (1886) (emphasis added).
[52] *Cf.* Voisine v. United States, 136 S. Ct. 2272, 2291 (2016) (Thomas, J., dissenting) ("To be constitutional, therefore, a law that broadly frustrates an individual's right to keep and bear arms must target individuals who are beyond the scope of the 'People' protected by the Second Amendment.").
[53] *See infra* Part IV.

Following precedent, the Court's opinion in *McDonald* incorporated the Second Amendment on the basis of the Fourteenth Amendment's Due Process Clause, which protects every "person." Concurring, Justice Thomas preferred to use the Fourteenth Amendment's Privileges or Immunities Clause, which protects "citizens." *McDonald*, 561 U.S. at 850 (Thomas, J., concurring). Because non-citizens who have declared their intent to naturalize are subject to militia duty, they would have to be within the scope of "the militia" and therefore "the people" who are protected by the Second Amendment. *See* 10 U.S.C. § 246 (2019) (including in the militia all able-bodied males from 17 to 45 "who are, or who have made a declaration of intention to become, citizens of the United States.")
[54] *Miller*, 307 U.S. at 179 (emphasis added).

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suited to the Bore of his Musket or Firelock, each Cartridge containing a proper Quantity of Powder and Ball, two spare Flints, a Blanket and Knapsack."[55]

Massachusetts mandated each militiaman to "equip himself, and be constantly provided with a good fire arm, &c."[56]

Under Virginia law,

> The defense and safety of the commonwealth depend upon having its citizens properly armed and taught the knowledge of military duty." So "[e]very officer and soldier shall appear . . . armed, equipped, and accoutred, as follows: * * * every non-commissioned officer and private with a good, clean musket carrying an ounce ball, and three feet eight inches long in the barrel, with a good bayonet and iron ramrod well fitted thereto, a cartridge box properly made, to contain and secure twenty cartridges fitted to his musket, a good knapsack and canteen, and moreover, each non-commissioned officer and private shall have at every muster one pound of good powder, and four pounds of lead, including twenty blind cartridges . . . .And every of the said officers, non-commissioned officers, and privates, *shall constantly keep* the aforesaid arms, accoutrements, and ammunition, ready to be produced whenever called for by his commanding officer.[57]

Recently, in the 2016 *Caetano v. Massachusetts*, the Court reaffirmed that "*Miller* and *Heller* recognized that militiamen traditionally reported for duty carrying 'the sorts of lawful weapons that they possessed at home.'"[58]

Or as the 1990 Court said in *Perpich*, "in the early years of the Republic, Congress . . . command[ed] that every able-bodied male citizen between the ages of 18 and 45 . . . *equip himself* with appropriate weaponry…."[59] The Court wrote that Congress's "choice of a dual enlistment system [for the militia] is just as permissible as the 1792 choice to have the members of the militia arm themselves."[60]

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[55] *Id.* at 180–81 (quoting New York Legislature, an Act passed April 4, 1786 (Laws 1786, c. 25)).

[56] *Id.* at 180 (quoting The General Court of Massachusetts, Jan. sess. 1784 (Laws and Resolves 1784, c. 55, pp. 140, 142)).

As in some other states, militiamen "under the control of parents, masters or guardians" were expected to be supplied with arms by their parents, masters, or guardians. General Court of Massachusetts, *supra*, at 142–43. *See also* Part III (listing statutes that required parents, masters, or guardians to supply arms to their dependents). In a militia where duty began at age 16, there would be plenty of militiamen who were not yet living independently, and who could not afford their own arms. As for young people who were already supporting themselves, they typically had to provide their own arms.

Citing seventeenth century laws from the colony of Massachusetts, *Miller* noted that "[c]lauses intended to insure the possession of arms and ammunition by all who were subject to military service appear in all the important enactments concerning military affairs." *Miller*, 307 U.S. at 180 (citing Osgood, 1 The American Colonies In The 17th Century, ch. XIII).

[57] *Miller*, 307 U.S. at 181-82 (The General Assembly of Virginia, October, 1785 (12 Hening's Statutes c. 1, p. 9 et seq.)) (emphasis added).

[58] Caetano v. Massachusetts, 136 S. Ct. 1027, 1032 (2016).

[59] Perpich v. Dep't of Def., 496 U.S. 334, 341-43 (1990) (emphasis added).

[60] *Id.* at 350. Under the modern dual enlistment system, volunteers in the National Guard dually enlist in the National Guard of their state and in the National Guard of the United States. The Guardsmen are state actors unless called into federal service. In either capacity, their arms are supplied by the federal government. The National Guard is the

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The Court said something similar in *Houston v. Moore* in 1820.[61] The Court stated that the congressional militia statutes were within Congress's enumerated Article I militia power to declare "what arms and accoutrements the officers and privates shall provide themselves with."[62]

In other cases, the Court has confirmed that depriving militiamen of their personal arms would violate their right to keep and bear arms. As discussed above, the *Presser* Court explained that because the Constitution authorizes Congress to call forth the armed citizenry, "the states cannot . . . prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable the people from performing their duty to the general government."[63] Since Congress needs to be able to depend on the people being armed, the states cannot disarm them. The *Presser* Court's vision depends on an armed populace.[64]

In *McDonald*, the Court found

> the 39th Congress' response to proposals to disband and disarm the Southern militias is instructive. Despite recognizing and deploring the abuses of these militias, the 39th Congress balked at a proposal to disarm them. Disarmament, it was argued, would violate the members' right to bear arms, and it was ultimately decided to disband the militias but not to disarm their members.[65]

Thus, the *McDonald* Court suggested what the *Presser* Court flat out said: individual militiamen could not be deprived of their private firearms.

Nothing the Supreme Court has ever written about the militia can be construed to exclude 18-to-20-year-olds. The Court has repeatedly confirmed that militiamen were expected to provide their own private firearms, and to be proficient with those arms. What is more, the Court has twice stated that the militia is a subset of "the people"—the same "people" the Second Amendment

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"organized" part of the militia. 10 U.S.C. § 246 (2019). The "unorganized" militia is all other able-bodied males ages 18 to 45, except for ministers and other exempt persons. 10 U.S.C. § 247 (2019).

[61] Houston v. Moore, 18 U.S. (5 Wheat.) 1 (1820).

[62] *Id.* at 14.

[63] Presser v. Illinois, 116 U.S. 252, 265-66 (1886); U.S. CONST., art I, § 8, cl. 16 ("To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions.") (Calling Forth Clause).

The *Presser* point was reiterated with approval in a 1900 case:

> In *Presser* v. *Illinois*, 116 U. S. 252, 29 L. ed. 615, 6 Sup. Ct. Rep. 580, it was held that the Second Amendment to the Constitution, in regard to the right of the people to bear arms, is a limitation only on the power of Congress and the national government, and not of the states. It was therein said, however, that as all citizens capable of bearing arms constitute the reserved military force of the national government the states could not prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable the people from performing their duty to the general government.

Maxwell v. Dow, 176 U.S. 581, 597 (1900), *abrogated on other grounds by* Williams v. Florida, 399 U.S. 78 (1970). *Presser* had been interpreted to hold that the right to keep and bear arms is not one of the Fourteenth Amendment "privileges or immunities of citizens of the United States" protected from state infringement. Similar holdings applied to most of the rest of the Bill of Rights. The work of incorporating items in the Bill of Rights into the Fourteenth Amendment has instead been accomplished by the Due Process of Law clause of the Fourteenth Amendment. *See, e.g.*, McDonald v. City of Chicago, 561 U.S. 742 (2010) (plurality opinion by Justice Alito relies on Due Process; concurrence by Justice Thomas relies on Privileges or Immunities).

[64] *See also Houston*, 18 U.S. (5 Wheat.) at 52 (Story, J., dissenting) ("Yet what would the militia be without organization, arms, and discipline?").

[65] *McDonald*, 561 U.S. at 780 (citations omitted).

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protects. Finally, the Court has recognized that any law that would disarm "the people"—and especially the militia—would be unlawful.

The Court's unwavering descriptions of the militia and the young adults therein are solidly supported by the historical record. Besides the colonial period and Founding Era sources quoted by the Court above, we will in Part III examine *every* colonial and state militia statute up to 1800. They demonstrate that young adults are part of the militia.

II. Glossary, and cultural background

Before surveying the early state laws, we provide some background. Part A is a glossary of terms used in colonial and state laws regarding equipment that members of the public were required to possess. As will be detailed in Part III, the requirements often applied beyond militiamen. The arms mandates encompassed the militia, many males not in the militia, and sometimes women.

Previous scholarship has not paid much attention to the particular arms that were required. Because American discussion of the right to keep and bear arms has been so fixated on gun control, scholars have noted that most militiamen needed a long gun, while officers and cavalry needed handguns. This is true as far as it goes, but there was much more. Requirements for a knife, a sword, or both were very common.

Of course ammunition was mandatory Post-*Heller*, courts have readily accepted that ammunition is part of the right to arms and is likewise subject to the arms rights limits that were articulated in *Heller*.[66] In addition to the ammunition that would have to be brought to militia muster, further reserves kept at ammunition were required.[67]

Also mandatory was equipment for the cleaning and carrying of arms and ammunition. Horsemen had to have certain horse tack, and everyone needed various field gear, such as knapsacks and blankets.

Next, in Part B, we explain the American attitude that prevailed during the seventeenth and eighteenth centuries: part of what makes America different from—and better than—Europe, is that Americans start becoming proficient with arms when they are children.

A. Glossary of arms and accoutrements in militia laws

[66] *See, e.g.*, Jackson v. City & Cty. of San Francisco, 746 F.3d 953, 967-68 (9th Cir. 2014) ("the right to possess firearms for protection implies a corresponding right to obtain the bullets necessary to use them") (internal quotations omitted); United States v. Pruess, 703 F.3d 242, 245 (4th Cir. 2012) (treating Supreme Court legal rules about guns as having the same meaning for ammunition); Ezell v. City of Chicago, 651 F.3d 684, 704 (7th Cir. 2011) ("The right to possess firearms for protection implies a corresponding right to acquire and maintain proficiency in their use; the core right wouldn't mean much without the training and practice that make it effective."); Herrington v. United States, 6 A.3d 1237, 1243 (D.C. 2010) (right to ammunition is coextensive with the right to firearms); Andrews v. State, 50 Tenn. (3 Heisk.) 165, 178 (1871) ("The right to keep arms, necessarily involves the right . . . to purchase and provide ammunition suitable for such arms").

[67] A muster is a periodic assembly of militiamen; the militiamen must prove that they have the certain requisite arms by bringing them the muster. To "pass muster" is to pass the inspection. A muster would not necessarily involve drill or practice. As detailed in Part III, some militia statutes required militiamen (and others) to possess reserves of bullets and gunpowder at home, beyond the quantity that would have to be brought to muster.

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English spelling did not begin to become standardized until the late eighteenth century, so the reader will find that the statutes spell many of the words below in diverse ways.

The militia statutes required possession of arms (e.g., guns, swords), ammunition, and also equipment for arms—including repair, maintenance, carrying, storage, and home manufacture. The most common term for the other items was *accoutrements*: "Generally defined as a soldier's personal equipment excepting clothes and weapons."[68] These would include "cartridge boxes, pouches, belts, scabbards, canteens, knapsacks, powder horns, etc."[69] They are necessarily part of the Second Amendment right, since they are necessary to the use of arms.[70] In the same sense, "the freedom of the press" is not just about owning printing presses, but also includes the relevant accessories, such as printing ink, ink magazines, moveable type, etc., and indeed the entire system of gathering, publishing, and distributing periodicals, pamphlets, and books.[71]

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[68] GEORGE C. NEUMANN & FRANK J. KRAVIC, COLLECTOR'S ILLUSTRATED ENCYCLOPEDIA OF THE AMERICAN REVOLUTION 8 (1975); *see also Accoutrements Definition*, CHARLES JAMES, AN UNIVERSAL MILITARY DICTIONARY (4th ed. 1816) ("ACCOUTREMENTS, in a military sense, signify habits, equipage, or furniture of a soldier, such as buffs, belts, pouches, cartridge boxes, &c.").

An older, similar term was "furniture," in the sense of furnishing. For example, the first written guarantee of arms rights in Anglo-American law was the 1606 Virginia charter. It gave settlers the perpetual right to import "the Goods, Chattels, Armour, Munition, and Furniture, needful to be used by them, for their said Apparel, Food, Defence or otherwise." 7 Federal and State Constitutions Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America 3783, 3786 (Francis Newton Thorpe ed., 1909). As of 1606 (and for long after), the word "armor" included arms. The word "apparel" in the Virginia Charter had the narrow meaning of equipment for fighting, including defensive clothing, and the broader meaning of other necessities, such as ordinary clothing.

[69] NEUMANN & KRAVIC, *supra* note 68, at 8.

[70]

> Constitutional rights thus implicitly protect those closely related acts necessary to their exercise. "There comes a point ... at which the regulation of action intimately and unavoidably connected with [a right] is a regulation of [the right] itself." Hill v. Colorado, 530 U.S. 703, 745, 120 S.Ct. 2480, 147 L.Ed.2d 597 (2000) (Scalia, J., dissenting). The right to keep and bear arms, for example, "implies a corresponding right to obtain the bullets necessary to use them," Jackson v. City and County of San Francisco, 746 F.3d 953, 967 (C.A.9 2014) (internal quotation marks omitted), and "to acquire and maintain proficiency in their use," Ezell v. Chicago, 651 F.3d 684, 704 (C.A.7 2011). See District of Columbia v. Heller, 554 U.S. 570, 617-618, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008) (citing T. Cooley, General Principles of Constitutional Law 271 (2d ed. 1891) (discussing the implicit right to train with weapons)); United States v. Miller, 307 U.S. 174, 180, 59 S.Ct. 816, 83 L.Ed. 1206 (1939) (citing 1 H. Osgood, The American Colonies in the 17th Century 499 (1904) (discussing the implicit right to possess ammunition)); Andrews v. State, 50 Tenn. 165, 178 (1871) (discussing both rights). Without protection for these closely related rights, the Second Amendment would be toothless. Likewise, the First Amendment "right to speak would be largely ineffective if it did not include the right to engage in financial transactions that are the incidents of its exercise." McConnell v. Federal Election Comm'n, 540 U.S. 93, 252, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) (Scalia, J., concurring in part, concurring in judgment in part, and dissenting in part).
>
> The same goes for the Sixth Amendment and the financial resources required to obtain a lawyer…

Luis v. United States, 136 S. Ct. 1083, 1097-98 (2016) (Thomas, J., concurring).

[71] In the Bill of Rights, "the press" and "arms" are synecdoches. That is, they use a part of a term to refer to the whole—like calling an automobile "my wheels." "The press" refers not only to printing presses, but also to communications that do not involve a printing press, such as handwritten flyers or television broadcasting. Likewise, "arms" includes defensive devices (armor) and devices that raise an alarm (literally, a call to arms). *See* David B. Kopel, *The First Amendment Guide to the Second Amendment*, 81 TENN. L. REV. 417, 448 (2014).

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1. Firearms ignition systems

Matchlock. When the English settlers began arriving in Virginia in 1607, the predominant ignition system for firearms was the matchlock. When the trigger is pulled, a slow-burning cord is lowered to a small pan (the *priming pan* or *firing pan*). The lit end of the cord ignites a small quantity of gunpowder in the firing pan. The flame from the gunpowder travels along a narrow channel to the touch-hole—a small hole next to the main charge of gunpowder, in the gun's barrel. The flame that enters via the touchhole ignites the main powder charge.

The matchlock was the main type of ignition system in Great Britain during the seventeenth century.[72] Although the first English settlers came to America with matchlocks, Americans upgraded to more sophisticated guns (flintlocks) much earlier than the British did, because the burning cord makes it much more difficult to have a firearm always ready for immediate use. The matchlock's burning cord also impeded concealment in the woods.[73] Matchlocks usually did not work at all in the rain, and only sometimes in the damp.[74] The safety problem of burning rope near gunpowder is apparent.

The slow-burning cord is called the *match* or *match rope*.[75] The cord burns on both ends.[76] When matchlocks were the predominant firearm, militia statutes might also specify the requirement for a sufficient quantity of match, expressed by the total length of match rope.

Firelock or *flintlock*.[77] In a flintlock, the gunpowder is ignited by flint striking a piece of steel and producing sparks. The steel is a part of the gun. The flint (which eventually wears out and must be replaced) is held in the jaws of a movable vise that is a part of the gun.

Flintlocks are faster to reload and to fire than matchlocks. And they are much less likely to *misfire* (fail to ignite).[78]

Many militia statutes from the latter eighteenth century specify that the firearm must be a firelock *or* some more specific type of firearm (e.g., musket, rifle). This is a violation of the rule against surplusage, since the other type of firearm would still be a flintlock. The rule against surplusage was not as prominent in eighteenth century drafting as it is today.

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[72] JOHNSON ET AL., *supra* note 18, at 140–42.
[73] *Id.* at 220.
[74] *Id.*
[75] GEORGE C. NEUMANN, BATTLE WEAPONS OF THE AMERICAN REVOLUTION 6 (2011).
[76] *Id.* at 6-7. The rope was usually made from flax tow or hemp tow. *Id.* "Tow" is defined *infra*, text at note 140. It was soaked in saltpeter (a gunpowder ingredient). The two ends of the cord would be ignited the same way that any other fire was ignited at the time, such as by striking two pieces of metal against each other, or rubbing two sticks to create a spark. What we call "matches" in the twenty-first century are paper or wood sticks with sesquisulfide of phosphorus attached to the tip. As common consumer items, they were preceded in the nineteenth century by matchsticks with white phosphorus tips. The principle was discovered in 1669, but it was not practical to apply due to the difficulty in obtaining phosphorus. *See* Anne Marie Helmenstine, *History of Chemical Matches*, THOUGHTCO. (Jan. 3, 2018), https://www.thoughtco.com/history-of-chemical-matches-606805
[77] RICHARD M. LEDERER, JR., COLONIAL AMERICAN ENGLISH 88 (1985).
[78] A well-trained user could fire up to five shots per minute, depending on the gun. W.W. GREENER, THE GUN AND ITS DEVELOPMENT 66-67 (9th ed. 2010); CHARLES C. CARLTON, THIS SEAT OF MARS: WAR AND THE BRITISH ISLES 1585-1746, at 171-73 (2011). Because ignition time (the interval from when the trigger is pressed until the shot is fired) is shorter for flintlocks, shooting at a moving target became much easier. TOM GRINSLADE, FLINTLOCK FOWLERS: THE FIRST GUNS MADE IN AMERICA 13 (2005).

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Lock, gun lock. What we today call the *action* of a firearm. It is the part of the gun that performs the mechanical work of firing the ammunition. It has small moving parts that must be carefully fitted to each other. The distinction between a matchlock and a flintlock was the difference in the lock.

All of the types of guns described in the next section could be either matchlocks or flintlocks (except when specifically noted otherwise). Matchlocks were the most common in the early seventeenth century, but were subsequently displaced by flintlocks. As noted above, Americans were much quicker to adopt flintlocks than were their British cousins. This is one of the many ways that Americans and British arms cultures have diverged since the earliest times.[79]

By the time of the Revolution, the large majority of American and British guns were flintlocks, although presumably there may have been some poorer people whose only gun was an old matchlock.

2. Types of firearms

Guns that can fire more than one shot without reloading are called *repeaters*. They were invented in the late sixteenth century, but they were much less common than single-shot guns.[80] Until the second quarter of the nineteenth century, repeaters were much more expensive to produce than single-shot guns. All the guns described below (except for the *blunderbuss*) could be repeaters, but relatively few of them were.

Musket. The musket is a long gun which has a smooth *bore* (the interior of the barrel). If the bore is not smooth, but instead has grooves, the firearm is a *rifle*, not a classic musket.[81] Muskets are not highly accurate, but they did not need to be. The standard European fighting method of the time was massed lines of infantry, so a high rate of fire in the enemy's general direction was sufficient.

Bastard musket. Shorter and lighter than a standard musket.

Snaphaunce. An early version of the flintlock.[82] "During the 17th century, *snaphaunce*

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[79] *See* JOHNSON ET AL., *supra* note 18, at 171-74, 239-40 (summarizing divergence of American and British arms cultures, in part because Americans adopted much of Indian arms culture).

[80] *Id.* at 142–44, 223–24; David B. Kopel, *Firearms Technology and the Original Meaning of the Second Amendment*, REASON (Apr. 3, 2017, 9:34 PM), https://reason.com/volokh/2017/04/03/firearms-technology-and-the-or.

[81] Rifled muskets were invented in the latter part of the 18th century but did not see widespread use by Americans in this period.

[82] PATRICK A. MALONE, THE SKULKING WAY OF WAR: TECHNOLOGY AND TACTICS AMONG THE NEW ENGLAND INDIANS 34 (1991) (explaining that "[t]he true snaphaunce, rarely used in New England" differs from the "true" flintlock in how the cover of the firing pan is connected to the rest of the gun lock. American sources often do not use the different terms with precision.).

"Snaphaunce" may derive from the Dutch word for "chicken thief," based on "the occupation of the inventors." GEORGE CAMERON STONE, A GLOSSARY OF THE CONSTRUCTION, DECORATION AND USE OF ARMS AND ARMOR IN ALL COUNTRIES AND IN ALL TIMES 233 (1999). The mechanical action of a snaphaunce (and of a flintlock), "resembled the pecking motion of a bird." BILL AHEARN, MUSKETS OF THE REVOLUTION AND THE FRENCH & INDIAN WARS 98 (2005). The resemblance "appears to be the origin of the term cock which was the English 18th-century word used for this component." *Id.*

The "cock" (sometimes called the "hammer") is the pivoting part of the flintlock that holds the flint in screw-tightened jaws. When the trigger is pressed, the cock falls forward so that the flint strikes an immobile piece of hardened steel (the *frizzen*, *steel*, or *battery*). The collision produces a shower of sparks that fall into the firing pan and ignite the gunpowder. NEUMANN, BATTLE WEAPONS, *supra* note 75, at 7.

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commonly referred to any flintlock system."[83]

Fusee, *fuse*, *fuze*, *fuzee*, *fusil*. Often, a synonym for flintlock.[84] More precisely, "a light, smoothbore shoulder arm of smaller size and caliber than the regular infantry weapon."[85]

Carbine or *carabine*. In the seventeenth century, a long gun with a smaller bore than a musket. By the eighteenth, also shorter and lighter than a musket. Well-suited for horsemen.[86] The word could "denote almost any small-calibre firearm irrespective of barrel length."[87]

Caliver. A matchlock larger than a carbine but smaller than a musket.[88]

The various smaller long guns typically had smaller bores (the empty interior of the barrel). Their smaller bullets were less powerful but were more aerodynamically stable at longer distance. Also, the smaller bore meant that a given quantity of lead could produce more bullets for the particular gun.

Fowling piece. A smoothbore long gun well-suited for bird hunting. In contrast to the classic musket, a fowling piece had a lighter barrel and stock, and its muzzle was slightly flared, to increase the velocity of the birdshot.[89] During the Revolution, many fowling pieces were employed as militia arms. Ideally, although not always in practice, they would be retrofitted to allow for the attachment of a bayonet.[90]

Rifle. A long gun with interior grooves (*rifling*). The grooves make the bullet spin on its axis, greatly improving aerodynamic stability and thus adding considerable range. Little-used in New England prior to the Revolution, but popular elsewhere, especially in frontier areas.

Pistol. Any handgun. (Unlike today, when a semi-automatic pistol is distinct from a revolver.)

To cock a gun is to pull the cock (or today, the hammer) backwards so that it is ready fire. JAMES, *supra* note 68. The *sear* is an internal part that holds the cock in its backwards position. The more advanced sears of the eighteenth century had an intermediate position (half-cock) that facilitated loading, without risk of the gun firing. If the sear malfunctioned and released the cock, then the gun "went off half-cocked."

[83] NEUMANN, *supra* note 75, at 8 (italics in original).

[84] STONE, *supra* note 82, at 242; JIM MULLINS, OF SORTS FOR PROVINCIALS: AMERICAN WEAPONS OF THE FRENCH AND INDIAN WAR 53, 65 (2008) (when matchlock muskets, snaphaunces, and true flintlocks were used by European armies, "fusil" or "fire-lock" meant a flintlock musket; by the mid-eighteenth century, "the term 'fusil', 'fuzee' or 'fusee' came to be used by the English to denote a wide variety of light-weight guns."). "Fusil" was also used to mean "carbines."

[85] NEUMANN, *supra* note 75, at 19.

[86] STONE, *supra* note 82, at 163.

[87] STUART REID, THE FLINTLOCK MUSKET: BROWN BESS AND CHARLEVILLE 1715-1865 (2016).

[88] STONE, *supra* note 82 at 158.

[89] J. N. GEORGE, ENGLISH GUNS AND RIFLES 85 (Palladium Press 1999) (1947); GRINSLADE, *supra* note 78, at 5.

[90] GRINSLADE, *supra* note 78, at 5, 54, 63 ("In times of Indian raids or war, the family fowling-piece served the need for a fighting gun."); MULLINS, *supra* note 84, at 49 (The classic fowling piece lacked the musket's swivels for attachment of a sling.).

The first identifiably American-made arms are fowling pieces built in the seventeenth century by Dutch settlers in the Hudson River Valley. AHEARN, *supra* note 82, at 101. As the American fowler evolved, influenced by the English and by immigrant French Huguenot gunsmiths, "The result was the development of a unique variety of American long fowler. These American long guns served as an all-purpose firearm. When loaded with shot, they were suited to hunt birds and small game, and when loaded with a ball, they could provide venison for the table. In times of emergency, they were needed for militia, and more than a few saw service in the early colonial wars as well as the Revolution." *Id.* As a British officer noted after the battles of Lexington and Concord in 1775, ''These fellows were generally good marksmen, and many of them used long guns made for Duck-Shooting.'' FREDERICK MACKENZIE, A BRITISH FUSILIER IN REVOLUTIONARY BOSTON, BEING THE DIARY OF LIEUTENANT FREDERICK MACKENZIE, ADJUTANT OF THE ROYAL WELCH FUSILIERS, JANUARY 5-APRIL 30, 1775, at 67 (Allen French ed., 1926; rprnt. ed. 1969) (quoting an unnamed officer).

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Most handguns of the time were single-shot, although there were some expensive models that could fire multiple shots without reloading.[91] Handguns ranged from large holster pistols to small pocket pistols.[92] They were often carried by officers.[93]

Blunderbuss. The name perhaps comes from the Dutch "donder-buse" or "thunder gun."[94] The blunderbuss was notable for its flared muzzle, which made reloading easier while riding on a stagecoach or aboard a water vessel. It could be loaded with a single very large bullet, but the more common load was twenty large pellets, or even up to fifty.[95] It was devastating at close range, but not much use beyond twenty yards.[96] In the Revolution, it was most useful for "street control, sentry duty and as personal officer weapons."[97] A blunderbuss could be a very large handgun.[98] Or it could have a short stock attached and be used as a shoulder arm.

Horse-pistols. "[S]o called from being used of horseback, and of a large size."[99]

Case of pistols. Handguns were often sold in matched pairs.[100] A "case of pistols" is such a pair. Also called a "brace of pistols."

Gun. In the usage of the time, any long gun, but not a handgun.

Peece, peice. Today, *piece*. Any firearm.

In the period before the Revolution, most American gunsmiths used imported locks (the moving part of the firearm).[101] The use of recycled parts was also common.[102] So, for example, a damaged fowling piece might be repaired with some lock parts scavenged from a musket. Thus, the above categories of firearms should not be viewed as rigidly divided. There were many hybrids.[103] The variety of American firearms and edged weapons was further increased by the fact that America at all times, including after the Revolution, was a major export market for older, surplus European arms—not only from the United Kingdom, but also from Germany, France, Spain, and the low countries; to these would be added firearms scavenged from the various European armies that fought in colonial wars or the American Revolution.[104]

Whatever the specifics of any state or colony's arms requirements, Americans went to war with a very wide variety of personal arms, not always necessarily in precise compliance with the

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[91] CHARLES WINTHROP SAWYER, FIREARMS IN AMERICAN HISTORY: 1600 TO 1800, at 194-98, 215-16 (1910) (late eighteenth century American pistols with two to four rounds); NEUMANN, *supra* note 75, at 259 (double-barreled pistols used by many French officers).

[92] LEE KENNETT & JAMES LAVERNE ANDERSON, THE GUN IN AMERICA: THE ORIGINS OF NATIONAL DILEMMA 208-11 (1975).

[93] NEUMANN, *supra* note 75, at 231, 275 (explaining that most pistols were smoothbores, but some models had rifling).

[94] D.R. BAXTER, BLUNDERBUSSES 13 (1970); GEORGE, *supra* note 89, at 59.

[95] GEORGE, *supra* note 89, at 92-93.

[96] *See* BAXTER, *supra* note 94; JAMES D. FORMAN, THE BLUNDERBUSS 1560-1900 (1994).

[97] NEUMANN, *supra* note 75, at 20.

[98] *See, e.g.*, *id.*, at 247 ("blunderbuss holster pistol").

[99] JAMES, *supra* note 68, at 638; *see also* NEUMANN, *supra* note 75, at 263 (American horseman pistol).

[100] Clayton E. Cramer & Joseph Edward Olson, *Pistols, Crime, and Public: Safety in Early America*, 44 WILLAMETTE L. REV. 699, 709, 719 (2008).

[101] GRINSLADE, *supra* note 78, at 1, 5, 15, 23-25.

[102] *Id.*

[103] ERIK GOLDSTEIN & STUART MOWBRAY, THE BROWN BESS 40-41 (2010); GRINSLADE, supra note 78, at 5, 23 ("The distinction between fowlers and muskets in the eighteenth century was not always clear-cut. Those manufactured from existing parts shared a common appearance, often combining aspects of both fowler and musket."). For example, the locks from French muskets that were captured during France's various wars in North America were often recycled into use on American fowlers.

[104] GEORGE G. NEUMANN, SWORDS & BLADES OF THE AMERICAN REVOLUTION 7, 53 (3d ed. 1991).

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narrowest definitions of arms that might appear in a militia equipment statute. At Valley Forge in 1777, Baron Von Steuben was encamped with the Continental Army, most of whose members had brought their personal firearms to service. Von Steuben observed that "muskets, carbines, fowling pieces, and rifles were found in the same company."[105]

3. Edged or bladed weapons and accoutrements

Most firearms could fire only one shot, after which the user might have to take several seconds to reload. So, at close quarters, a firearm would be good for only one shot. If a person carried a pair of pistols (a *brace*), then he or she could fire two shots. But there would be no time to reload anything more against an adversary who was within arm's reach. So edged weapons were essential to self-defense.[106]

Bayonet. A dagger or other straight knife that can be attached to the front of a gun. The word comes from Bayonne, France, the bayonet-manufacturing capital.[107]

The bayonet could be used for all the purposes of any knife. In European-style combat—and much of the combat of the American Revolution—when the two armies met at close quarters, the bayonet would be attached to the end of the long gun, so that the long gun could be used as spear or pole-arm. Compared to muskets, rifles were longer, thinner, and more fragile, and thus poorly suited for use with a bayonet.

Some militiamen who lacked bayonets used daggers for up-close fighting.[108] Typically they had a double-edged blade, about six to ten inches long.[109]

Knife. Same meaning as today.

Jack knife. As today, a folding pocket knife. Blades could range from three to twelve inches.[110] Primarily for use as a tool, although available as a last-resort weapon.

Sword. Same meaning as today. The next four items are types of swords. Some militia statutes required a "sword or hanger" or a "sword or cutlass," or some similar formulation. Again, this is a violation of the rule against surplusage, but that rule was apparently not much in mind when statutes were drafted in the eighteenth century.

Broad sword. Has a straight, wide, single-edged blade. "It was the military sword of the 17th century as distinguished from the civil sword, the rapier. It was also the usual weapon of the common people."[111]

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[105] FRIEDRICH KAPP, THE LIFE OF FREDERICK WILLIAM VON STEUBEN 117 (2d ed. 1859), https://ia802700.us.archive.org/33/items/lifeoffrederickw00kappuoft/lifeoffrederickw00kappuoft.pdf.

[106] HAROLD L. PETERSON, ARMS AND ARMOR IN COLONIAL AMERICA 1526-1783, at 69-101 (Dover 2000) (1956).

[107] Bayonne had long been a manufacturing center for cutlery and weapons. While it is generally agreed that bayonets were invented around 1640, there are several stories about how the invention happened. LOGAN THOMPSON, DAGGERS AND BAYONETS: A HISTORY 61-62 (1998). According to one version, "Some peasants of the Basque provinces, whilst on an expedition against a company of bandits, having used all their ammunition, were driven to the desperate necessity of inserting their long knives into the mouths of their arquebuses [an early type of long gun], by which means they routed their adversaries." W.W. GREENER, THE GUN AND ITS DEVELOPMENT 626 (9th ed. 1910).

[108] NEUMANN, *supra* note 104, at 228.

[109] *Id.* at 229-30.

[110] *Id.* at 231. Some jackknives were multitools, also containing forks, saws, heavy needles, or "bleeders" (used to pierce veins in medical treatment). *Id.* at 231, 248.

[111] STONE, *supra* note 82, at 150-51.

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Hanger. By one definition, a "short sword (blade averaging twenty-five inches) having at least one cutting edge.[112] Alternatively, a lightweight saber.[113] A classic saber has a curved blade, thick back, and a handguard.[114]

Cutlass or *cutlash*. In the seventeenth and early eighteenth century, "used interchangeably with the term 'hanger'."[115]

Simeter. Today, *scimitar*. Precisely speaking, a sword with a very curved blade that is narrow and thick. Often associated with Persia or the Middle East.[116] In usage of the time, "a short sword with a convex edge."[117]

Scabbard or *bucket*. The former remains in modern usage. A container for carrying or storing the sword. Similar to a holster for pistols.

Belt, *girdle*, or *strap*. A sword or bayonet could be carried in a waist belt.[118] A belt could also be used for attaching holsters, scabbards, etc. Some equipment could be held by shoulder belts.[119]

Swivel. Rings on a firearm to which a sling can be attached.[120]

Hatchet. Same meaning as today. "'Axe', 'hatchet', and 'tomahawk' were used interchangeably in America during most of the 18th century."[121]

Tomahawk. In a militia context, similar to a hatchet. Before European contact, Indian tomahawks had a stone attached to the end and were used as clubs, but not as cutting tools. Indian-European trade put steel blades into Indian hands, and led to the development of the bladed tomahawk, familiar to viewers of cinematic Westerns.[122] One popular American innovation was the pipe tomahawk, which could be used for smoking as well as cutting.[123]

4. Ammunition and related accoutrements

Powder. All of the gunpowder of the seventeenth and eighteenth centuries was what we today call *blackpowder*. It is a mixture of sulfur, charcoal, and saltpeter (which comes from decayed animal waste) and can be produced at home.[124]

Bullets. All bullets of the time were spheres. As described above, most of the guns of the seventeenth and eighteenth centuries were smoothbores.[125] They could be loaded with either a single bullet (a *ball*, better for long distances) or several smaller pellets (*shot*, better for bird-

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[112] NEUMANN, *supra* note 104, at 54.
[113] STONE, *supra* note 82, at 280 (also, a Scotch word for dagger).
[114] In the modern sport of fencing, "saber" has a narrower definition. The saber is one of three types of modern fencing swords, the others being épée and foil.
[115] NEUMANN, *supra* note 104, at 58.
[116] STONE, *supra* note 82, at 544 (cross-referencing "scimiter" to "shamshir"), 550-53.
[117] JAMES, *supra* note 68, at 789.
[118] *Id.* at 51.
[119] *Id.* "Girdle" at the time was the same as "belt." LEDERER, *supra* note 77, at 102.
[120] JAMES, *supra note* 68, at 388.
[121] NEUMANN, *supra* note 104, at 253. The "American axe" was smaller than its European ancestor, and better-suited for carrying in a belt. Redesign of the pole, the attachment mechanism, and the blade shape made the American axe sturdier and better suited for chopping. *Id.* at 255-57.
[122] HAROLD L. PETERSON, AMERICAN INDIAN TOMAHAWKS 8-9 (2d ed. 1971).
[123] NEUMANN, *supra* note 104, at 257.
[124] *See generally* DAVID CRESSY, SALTPETER: THE MOTHER OF GUNPOWDER (2012). Modern gunpowder, invented in the latter part of the nineteenth century, burns more efficiently, and thus produces much less smoke and residue.
[125] JOHNSON ET AL., *supra* note 18, at 220-23.

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hunting, and for defense at shorter distances). Many militia statutes required the possession of "sizeable" bullets.[126] At the least, this rules out the tiny pellets that would be used for hunting small birds like partridges or doves.

Swan shot and *goose shot*. Multiple large pellets suitable for hunting the aforesaid birds.[127] Today, used in shotguns. In the seventeenth and eighteenth century, usable in all smoothbore handguns or long guns, which is to say all firearms except rifles.

Buck-shot. Multiple large pellets for deer hunting. Today, one of the largest types of shotgun pellets.[128]

Ramrod. Today, the vast majority of new firearms are breechloaders. They are loaded from the back of the gun, near the firing chamber. Breechloaders were invented in the mid-seventeenth century, but they were very expensive.[129] By far the most common guns at the time were muzzleloaders, which are loaded from the front of the gun, the *muzzle.*

To load a muzzleloader, the user first pours gunpowder down the muzzle. Next, the user uses a pole, the ramrod, to ram the bullet all the way down the barrel.[130]

The ramrod is also used for cleaning a gun and for extracting an unfired bullet, as described below.

Scour or *scowerer*. A ramrod.[131]

Match. The slow-burning cord used to ignite a matchlock. If quantities are specified, one fathom equals six feet.

Wadding. Made of tow, hay, or straw. Rammed into the gun after the powder has been poured, and before the bullet is rammed down, it prevented the powder from scattering.[132]

Patches. Often the bullet would be wrapped in linen or some other fabric.[133] This made it easier to ram the bullet down the barrel. The patch also helped to provide a gas seal around the bullet; the seal kept the expanding gas of the gun powder explosion from escaping the barrel before the bullet did. The expanding gas was thus kept behind the bullet, the better to increase the velocity of the traveling bullet.

Cartouche, *Cartridge*. Paper cartridges were in use by the mid-seventeenth century.[134] These were cylinders that contained a premeasured amount of gunpowder, plus the bullet. The user would tear open the cartridge and then pour the powder into the muzzle. Then the user would ram the bullet down the muzzle. Although paper cartridges were common at the time of the Revolution, some gun users, including riflemen and many militiamen, still poured in gunpowder from a flask or horn, rather than from cartridges.[135]

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[126] *See infra* Parts III.A. (N.J.), B. (Md.), C. (N.C.), E. (N.H.), H. (N.Y.), and J. (Vt.).

[127] *Cf.* R.A. STEINDLER, THE FIREARMS DICTIONARY 250 (1970). "Swan drops" used for hunting swan weigh 29 grains each and are .268 inches in diameter. "Goose drops" were smaller than swan drops. *Id.*

[128] *Id.* at 250 (largest shotgun pellets are "small & large buck shot").

[129] JOHNSON ET AL., *supra* note 18, at 142-44.

[130] STEINDLER, *supra* note 127, at 188 (ramrod is usually wood, but can be metal; also usable as a cleaning tool).

[131] JAMES, *supra* note 68, at 791.

[132] *Id.* at 612.

[133] *See, e.g.*, JOHN G.W. DILLIN, THE KENTUCKY RIFLE 15, 50, 65 (Palladium Press 1998) (1924); William De V. Foulke, Foreword, in *id.* at vi, viii; GREENER, *supra* note 78, at 623-24.

[134] REID, *supra* note 87, at 20 (quoting JOHN VERNON, THE YOUNG HORSEMAN 10 (1644)).

[135] NEUMANN & KRAVIC, *supra* note 68, at 66.

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Flints. For igniting the powder in a flintlock firearm. Since the flint is softer than the steel that the flint strikes, it will eventually need to be replaced.[136] So militia laws often mandated possession of certain quantities of flints.

5. Gun care

To reach all the way down the muzzle and to the bottom of the barrel, cleaning tools would often be attached to the *ramrod* or *scour*, described above.[137]

Worm. A corkscrew-shaped device attached to the end of the ramrod. Used for cleaning and also for extracting an unfired bullet and other ammunition components from a firearm.[138]

Brush. As in modern gun cleaning, a small brush.

Wire or *wier*. Also, *picker*. The priming wire was for cleaning the flashpan and the touch hole—the small hole where the fire from the priming pan connected with the main powder charge.[139]

Tow. Tow is a loose ball of coarse and unspun waste fibers from hemp or linen production.[140] It is used for gun cleaning, for wadding, and for tinder.[141]

Screw driver. This has the same meaning as today. A screw driver is used for cleaning and repairs, especially for the gun lock.[142] Also, it can be used to loosen or tighten the cock's jaws in order to change the flint.[143]

6. Arms carrying and storage

Holster. This has the same modern definition. A holster is used for carrying a handgun or a short long gun, usually attached to the body by a belt or can be attached to a horse saddle.[144] Some later statutes specify that the holsters must have bear skin covers.[145]

Scabbard or *bucket.* Similar to a holster.[146]

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[136] REID, *supra* note 87, at 33. A properly shaped flint (one that had been well-knapped) would need to be replaced after about ten to fifteen shots. *Id*.

[137] GOLDSTEIN & MOWBRAY, *supra* note 103, at 53. The tip of the ramrod would be threaded for attachment of cleaning equipment. *Id.*

[138] NEUMANN & KRAVIC, *supra* note 68, at 264; STEINDLER, *supra* note 127, at 278. Also, "wormer." LEDERER, *supra* note 77, at 246.

[139] NEUMANN & KRAVIC, *supra* note 68, at 264.

[140] *Id.* at 269; MULLINS, *supra* note 82, at 48.

[141] MULLINS, *supra* note 84, at 48; NEUMANN & KRAVIC, *supra* note 68, at 161, 262.

[142] MULLINS *supra* note 84, at 48 (explaining that the screwdriver is necessary to remove the lock for cleaning and oiling).

[143] NEUMANN & KRAVIC, *supra* note 68, at 264.

[144] *Holster Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/holster (last visited Jan. 13, 2019).

[145] *See infra* Parts III.E. (N.H.), F. (Del.), and G. (Penn.)

[146] *Scabbard Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/scabbard#other-words (last visited Jan. 13, 2019); *Bucket Definition*, 1 THE NEW SHORTER OXFORD ENGLISH DICTIONARY 293 (4th ed. 1993) ("4. A (usu. leather) socket or rest for a whip, carbine, or lance.").

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Horn, powderhorn, or *flask*. This is used for gunpowder carrying.[147] For most colonists, the most common horn came from cattle, rams or similar animals.[148]

Charger, *shot bag* (or *pouch*, *badge*). The charger is a bulb-shaped flask for carrying powder, attached to metal components that release a premeasured quantity of powder. [149] *Shot bag/pouch/badge* may refer to this device.[150] The terms may also refer to bags for carrying bullets.[151]

Cover for the lock. As noted above, a *gun lock* (today, it is called the *action*) is the part of the gun that performs the mechanical work of firing the ammunition.[152] A cover protects the gun lock from the elements.[153]

Wax. This is used to protect firearms from rain.[154] For example, it can be used to cover the opening of the muzzle and prevent water from entering.[155]

Cartouche box. This is what we call a cartridge box today. Its purpose is for storage and carrying of cartridges.[156]

Bandelero or *cross belt*. Today, it is referred to as a *bandolier*. A waist or shoulder belt with attachments for carrying units of ammunition or of premeasured powder, usually in the form of a leather strip worn over the chest, containing cartridges in individual loops.[157] The cross belt is a pair of crossing strips, or a single belt "passing obliquely across the breast."[158]

Mould. Today, it is called a *mold*. It is used to cast molten lead into ammunition balls.[159] This shows that militiamen, and all the other persons subject to arms mandates, were expected to be able to produce their own ammunition.

7. Pole arms

Pike. This is a spear with a thrusting or cutting weapon attached to the end.[160] European armies of the seventeenth century were usually a mixture of pikemen and musketmen.[161] The use

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[147] *Powderhorn Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/powder%20horn (last visited Jan. 13, 2019).
[148] RAY RILING, THE POWDER FLASK BOOK 13 (1953). See *id*. at 171 for instructions on how to make a horn.
[149] STONE, *supra* note 82, at 563.
[150] RILING, *supra* note 145, at 256-57, 430-31.
[151] *See* MULLINS, *supra* note 84, at 43-44.
[152] *Glossary of Firearms Related Terms*, THE FIREARMS GUIDE, http://www.thefirearms.guide/glossary (last visited Jan. 13, 2019).
[153] JAMES, *supra* note 68, at 444 (explaining that a "lock-cover" is "a piece of leather or oil-cloth").
[154] Doug Wicklund, *Caring for Your Collectible Firearms*, NAT'L RIFLE ASS'N, 2-3, http://www.nramuseum.org/media/1007361/caring%20for%20your%20collectible%20firearms%20by%20doug%20wicklund.pdf (last visited Jan. 13, 2019).
[155] *Id*.
[156] RILING, *supra* note 145, at 483. "Cartouche" is the French word for "cartridge." Cartouche boxes were used for carrying paper cartridges; these contained the bullet and a measured quantity of gunpowder, wrapped in paper. *Id.*
[157] STONE, *supra* note 82, at 91-92; NEUMANN, *supra* note 75, at 21.
[158] *Crossbelt Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/crossbelt (last visited Jan. 13, 2019).
[159] NEUMANN, *supra* note 75, at 21. Some molds were for a single bullet, while others could cast multiple bullets. *Id.*
[160] STONE, *supra* note 82, at 501.
[161] RODNEY HILTON BROWN, AMERICAN POLEARMS, 1526-1865: THE LANCE, HALBERD, SPONTOON, PIKE, AND NAVAL BOARDING WEAPONS 17-18 (1967).

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of pikes declined during the eighteenth century, especially in America.[162] In the first two years of the Revolution, when some soldiers lacked firearms, pikes were re-introduced for infantry, since they were readily made from locally available materials.[163] The pikes used during the Revolutionary War were usually twelve to sixteen feet long, could be anchored in the ground, and were especially useful for defending entrenched positions.[164]

Espontoon or *spontoon.* This is a six-foot-long pole-arm, similar to a pike but shorter.[165] It was carried by Revolutionary infantry officers.[166] "It was an officer's primary weapon, since it allowed him to keep his eyes on the battle at all times … Furthermore, his signals could be seen from a distance in the din and disorder of the battlefield, when voice commands might be indistinguishable."[167]

Lance. It is a horseman's spear, the same meaning as today.[168]

8. Horses and tack accoutrements

Dragoon or *trooper*. This means a horse-mounted soldier.[169]

Saddle. This has the same meaning as today.[170]

Bridle. This also has the same as today.[171]

Pillion. This refers to a rear extension on a saddle allowing for a second rider.[172]

Valise holsters. These are saddle-mounted holsters, similar to modern *saddlebags*, that could be used for carrying large handguns.[173]

Breastplate. Straps that prevent the saddle or harness from sliding. They attach to the front of the saddle.[174]

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[162] *Id.* at 18, 34.
[163] NEUMANN, *supra* note 104, at 192-93.
[164] *Id.* at 193.
[165] *Id.* at 191.
[166] *Id.* at 191-92.
[167] Joseph Mussulman, *Espontoon*, DISCOVERING LEWIS & CLARK, http://www.lewis-clark.org/article/2366 (last visited Jan. 13, 2019) ("For Lewis and Clark the espontoon also served as a walking-stick on rough or slippery terrain, as a prop to steady a rifle for a long shot, and as a weapon. Lewis killed a rattlesnake with his (May 26, 1805), and Clark killed a wolf (May 29, 1805)."); *see also* STONE, *supra* note 82, at 580. *See generally* MERIWETHER LEWIS AND WILLIAM CLARK, THE JOURNALS OF THE LEWIS & CLARK EXPEDITION (Gary Moulton ed. 1983).
[168] STONE, *supra* note 82, at 407-09. *See generally* BROWN, *supra* note 158.
[169] LEDERER, *supra* note 77, at 72 (dragoon). "Whereas cavalry fought on horseback, dragoons scouted, pursued, and moved on horseback, but dismounted to fight." *Id*. The militia statutes do not appear to have such a precise meaning. Some statutes call anyone with a horse a "dragoon," and other statutes call anyone with a horse a "trooper." The statutes do not distinguish cavalry from dragoons/troopers.
[170] *Saddle Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/saddle (last visited Jan. 13, 2019).
[171] *Bridle Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/bridle (last visited Jan. 13, 2019).
[172] *Pillion Definition*, CAMBRIDGE DICTIONARY, https://dictionary.cambridge.org/us/dictionary/english/pillion (last visited Jan. 13, 2019).
[173] *Valise Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/valise (last visited Jan. 13, 2019).
[174] JANE MYERS, HORSE SAFE: A COMPLETE GUIDE TO EQUINE SAFETY 83 (2005).

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Crupper. This has a similar function to a breastplate, except it attaches to the rear of the saddle or harness.[175] Alternatively, it can be armor for a horse's hind quarters.[176]

Spurs. This definition has remained the same.[177] Militia statutes might also specify boots suitable for being attached to spurs.

Hands. This is the standard unit of measure for a horse's height.[178] Today, one hand is equivalent to four inches.[179] The typical minimum size for a militia horse was 14 or 14 ½ hands (66 or 68 inches).[180] The measure is from the ground to the horse's withers, the top of its shoulders.[181]

9. Armor

In the early decades of American settlement, when Indians with arrows were the principal opponent, many Americans wore armor on at least part of their bodies.[182] For purposes of mobility, leather or quilted jackets became popular; they would not always stop an arrow, but they couldmitigate its damage.[183] Once the Indians acquired firearms in large quantities, armor was generally abandoned.[184] By the time of the Revolution, most soldiers did not wear armor; the exceptions were body armor for some specialized engineers, and metal headgear for cavalry.[185]

10. Other field gear

Knapsack, blanket, and canteen. These are the same as modern definitions.[186]

Haversack. This bag is like a knapsack but carried over only one shoulder.[187]

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[175] *Crupper Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/crupper (last visited Jan. 13, 2019).
[176] STONE, *supra* note 82, at 195.
[177] *Spur Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/spur (last visited Jan. 13, 2019).
[178] *Hand*, ENCYCLOPEDIA BRITANNICA, https://www.britannica.com/science/hand-measurement (last visited Jan. 13, 2019).
[179] *Id.*
[180] *See* 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, BEING THE FIRST SESSION OF THE FIRST CONGRESS-3RD SESSION OF THE 13TH CONGRESS, MARCH 4, 1789–SEPT. 13, 1814, at 814 (1826); Parts III.C. (North Carolina) and III.F. (Delaware) *infra*.
[181] *Hand*, *supra* note 178.
[182] PETERSON, *supra* note 106, at 132-42.
[183] *Id.* at 142-51; *See also id.* at 43 (noting 1645 Massachusetts General Court mandate that every family have "a canvas coat quilted with cotton wool as defense against arrows").
[184] *Id.* at 149.
[185] *Id.* at 307-16.
[186] *Knapsack Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/knapsack (last visited Jan. 13, 2019); *Blanket Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/blanket (last visited Jan. 13, 2019); *Canteen Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/canteen (last visited Jan. 13, 2019).
[187] *Haversack Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/haversack (last visited Jan. 13, 2019).

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B. Types of persons covered by arms mandates

In modern times, when we think about "the militia," we are mainly thinking about males 18 to 45 (or in previous times, 16 to 50 or 60, *infra*). (As used in this article, the ages mean "at least X" and "under Y." In other words, if the militia was males ages 16 to 50, the militia obligation would begin on a person's sixteenth birthday, and end on his fiftieth birthday.) Precisely speaking, these enrolled men were a subset of the whole militia—the whole militia consisting of everyone who was able to fight, as detailed in Part I. The enrolled militiamen had to engage in group drills and might be marched away from home for military service. In the seventeenth and eighteenth centuries, the scope of persons who were required to possess arms was broader than just the enrolled militia.[188]

The arms requirements for other categories of persons were sometimes contained in statutes with the title "militia," and sometimes in other statutes.[189] Likewise, statutes requiring that males 16-60 be armed were often but not always titled as "militia" laws.

The categories below explain the different classes of people who might have to be armed. Examples of the statutory uses of the various terms below will be found in Part III, the survey of seventeenth and eighteenth century militia statutes.

Trained band. This was the term in some states or colonies for the enrolled portion of the militia that is required to participate in training (i.e. males 16 or 18 to 45, 50, or 60).[190] It could be sent away from home for military missions, although deployments outside the colony or state were disfavored.[191]

The phrase was copied from Elizabethan England. There, "trained band" referred to a subset of the enrolled militia who received extra training; membership in the English trained band was based on social class. Yeomen—small farmers who owned their own land—could be in the trained band, while lower classes, such as tenants, were not.[192] In American usage, though, "trained band" or "band," usually refer to the entire enrolled militia. One early statute in Maryland did provide extra training for a subset of the enrolled militia. Unlike in England, this subset was chosen by merit—physical fitness and courage—rather than by class.[193]

Alarm list. This refers to every other male who was capable of fighting. They were required to possess the same specified arms as members of the trained band (i.e., the enrolled militia) but were not required to participate in training or to serve in ordinary expeditions.[194]

Alarm list duty was limited to emergencies, especially, to join in defense of the town or community when under attack. People on the alarm list were primarily: 1. People with an occupational exemption from trained band service (e.g., physicians in some colonies), or 2. People above the age for trained band service.[195] For example, someone who was fifty-two years old. Alarm list duty would usually have some upper limit, such as age sixty or seventy.

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[188] *See infra* Part III.
[189] *Id*.
[190] *Id*.
[191] *Id*.
[192] JOHNSON ET AL., *supra* note 18, at 110.
[193] *See infra* Part III.B (1658 statute).
[194] *See infra* Part III.
[195] *Id*.

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In practice, when a town was under attack, everyone who could fight would fight, including women and children.[196]

State armies. Although sometimes described as part of the militia, state armies were distinctive in several regards. State armies were established for temporary periods during wartime.[197] They fought in Indian Wars, in the numerous wars against the French colonies in America, and the Revolution.[198]

Unlike militia service, state army service was not a universal obligation of every able-bodied male. State armies were select forces with longer enlistment terms than the ordinary militia.[199] They were more willing to be deployed to other states or colonies.[200] To the extent possible, their ranks were filled by volunteers.[201] To the extent necessary, conscription was used, with each town or other locality having an obligation to supply a certain number of men.[202] State armies comprised a considerable fraction of American fighters during the Revolution, fighting alongside the Continental Army and the state militias.[203]

Householder, freeholder, taxable person, titheable person. Many statutes required that these persons possess arms, whether or not they were enrolled in the militia.

A householder is the head of a house, regardless of sex.[204] For example, a widow, or any other woman living independently could be a householder.

A *freeholder* owns real property. A single woman could be a freeholder.

The meaning of "taxable" "titheable" (or tithable) person, varied by jurisdiction; some laws exempted government officials, or "immigrants, indigents, and incapacitated persons."[205] In Virginia, everyone over 16 except for free white women was titheable (that is, taxable under a

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[196] *See, e.g.*, STEVEN C. EAMES, RUSTIC WARRIORS: WARFARE AND THE PROVINCIAL SOLDIERS ON THE NEW ENGLAND FRONTIER, 1689-1748, at 28-29 (2011).

[197] JOHNSON ET AL., *supra* note 18, at 226, 281.

[198] *Id.* at 225, 235, 283. The wars with the French were the War of the League of Augsburg (1689-97) (known in America as King William's War), the War of the Spanish Succession (1701-13) (Queen Anne's War, in America), and the War of Jenkins' Ear (1741-48) (against France's ally Spain; including an attempted Spanish invasion of Georgia). The latter war blended into the War of the Austrian Succession (1744-48) (King George's War). Finally, the French & Indian War (1754-63) (known to the British as the Great War for Empire). *Id.* at 245. For participation by the armies of the various colonies, *see, e.g.*, RENÉ CHARTRAND, COLONIAL AMERICAN TROOPS 1610–1774 (2002) (3 vols.).

[199] JOHNSON ET AL., *supra* note 18, at 226, 281.

[200] *Id.* at 226, 281.

[201] *Id.* at 226-27.

[202] *Id.* at 194, 226-228, 230.

[203] *Id.* at 203, 281, 283.

[204] *Householder Definition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/householder (last visited Jan. 13, 2019).

[205] *See* John Witte, Jr., *Tax Exemption of Church Property: Historical Anomaly or Valid Constitutional Practice?* 64 S. CAL. L. REV. 363, 371-72 (1991).

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head or capitation tax).[206] The revenue could be used for a colony or state's established church[207] or for secular purposes.[208]

A man aged 65 years old might be too old for the enrolled militia, but he could still be taxable or titheable. Depending on the laws of the particular colony, he might still be required to possess arms.

A fifty-two-year-old widow maintaining her own household would not be in the enrolled militia or the alarm list but would be required to keep arms as a householder. Depending on her colony's laws, she might also be a taxable or titheable person.

Accordingly, women were sometimes legally required to possess arms in Massachusetts, Maryland, Delaware, New Hampshire, Vermont, and Connecticut.[209] Although they were never required to serve in the enrolled militia, they were part of the militia in the broadest sense: all able-bodied persons capable of bearing arms.

Servants. The statutes detailed in Part III sometimes have special rules for servants. For example, a statute requiring people to provide their own arms may include an exception requiring a master provide his or her servant with arms. Since the servant was, by definition, not living independently, the servant might be not be able to afford all the necessary arms and accoutrements.

Many servants were free laborers. They were free persons who entered into voluntary contracts to supply services, such as household help or farm work.

Indentured servants were free immigrants who had signed contracts entitling the other party to use or sell their labor for a period of years.[210] For example, a poor Englishman, Irishman, or German who wished to emigrate to America might receive free passage in exchange for an indenture for several years, four years being most common.[211] The indenture contract was assignable; the master might use the indented laborer for a while, and then sell the indenture to someone else.[212] Other indentured servants were convicted criminals who had been given a choice between execution in England, or transportation to America followed by a period of indentured

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[206] *See* Terri L. Snyder, *Marriage on the Margins: Free Wives, Enslaved Husbands, and the Law in Early Virginia*, 30 L. & HIST. REV. 141, 166 (2012):

> Local courts were especially anxious to establish accurate lists of all taxable persons in any given jurisdiction. Throughout the colonial period, definitions of which persons were taxable changed, but by 1723, everyone over the age of 16 was taxable, except for free white women. And it certainly was the case that individuals concealed their dependents in order to reduce their annual tax burden. In order to prevent them from so doing, Virginia law required households to provide a list of tithables to the tax collector.

See also James R. Campbell, *Dispelling the Fog about Direct Taxation*, 1 BRIT. J. AM. LEG. STUD. 109, 163 n. 215 (2012) (Massachusetts "poll taxes were imposed on the same set of tithable persons that Virginia and North Carolina taxed").

[207] *See* Godwin v. Lunan, Jeff. 96, 104, 1771 WL 3, 5 (Va. 1771).

[208] *See* Commonwealth v. Justices of Fairfax Cty. Court, 4 Va. (2 Va. Cas.) 9, 10 (1815) ("to erect the bridges and causeways in the said mandamus mentioned, and to levy the cost of the same on the tithable persons of the said county of Fairfax").

[209] *See* Part III, *infra*.

[210] Mary Sarah Bilder, *The Struggle over Immigration: Indentured Servants, Slaves, and Articles of Commerce*, 61 MO. L. REV. 743, 752-53 (1996).

[211] *Id.* at 754-56.

[212] *Id.* at 758.

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servitude, usually seven years.[213] Like slaves, indentured servants were not legally free; they could not marry, travel, or trade without their master's consent.[214]

At the end of an indenture, the former master was usually required to give the former servant "freedom dues"—land, goods, or money allowing the ex-servant to begin independent life.[215] In Maryland, Virginia, North Carolina, and South Carolina, freedom dues included a gun for male ex-servants.[216]

Bought servants. An indentured servant was also called a "bought servant."[217] Some militias statutes excluded "bought" or "indented" servants or allowed militia service only with the master's consent. Presumably, this was to prevent indentured servants from choosing militia service as a means to evade their indenture contracts. Textually, the "bought servant" statutes did not apply to free laborers, who were hired servants.

Slaves were also called "servants" or sometimes "servants for life."[218] Imported slaves were Africans sold by Africans to trans-Atlantic slave traders, following capture in war or kidnapping.[219] Non-imported slaves were Indians captured in war (often by other Indians, and then sold to the English); their slavery/servitude was not necessarily for life.[220] Although slaves were bought and sold, the term "bought servant" does not seem to encompass them, at least as the term was used in Pennsylvania.[221]

As Part III details, practices varied about whether indentured servants or slave servants were part of the enrolled militia. In general, the former were usually included, and the latter usually excluded, but there were exceptions in both directions.

C. "Trained to arms from their infancy"

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[213] *Id.* at 754, 756-57.
[214] *Id.* at 758.
[215] *Id.* at 759.
[216] JOHNSON ET AL., *supra* note 18, at 185-86.
[217] *See York Freedom Suits (1685-1715)*, VIRTUAL JAMESTOWN, http://www.virtualjamestown.org/yorkfreedomsuits1685_1715.html (last visited Jan. 13, 2019) (Mar. 24, 1686/7 judgement that plaintiff, "having truely served her Limited time as a bought Servant" of decedent, should be paid her freedom dues out of decedent's estate) (quoting 7 York County Deeds, Orders, and Wills 292).
[218] *E.g.*, Respublica v. Betsey, 1 U.S. (1 Dall.) 469, 470 (Pa. 1789) ("The words 'freemen and free-women,' seem to have been used in opposition to the word 'slaves,' or 'servants for life'") (interpreting Pennsylvania's gradual abolition statute in favor of Betsey's freedom).
[219] *The Capture and Sale of Enslaved Africans*, INT'L SLAVERY MUSEUM, http://www.liverpoolmuseums.org.uk/ism/slavery/africa/capture_sale.aspx (last visited Jan. 13, 2019) (also noting that some Africans were sold to European traders as criminal punishment or for default on debt); Sheldon M. Stern, *It's Time to Face the Whole Truth About the Atlantic Slave Trade*, HIST. NEWS NETWORK (Aug. 13, 2007), https://historynewsnetwork.org/article/41431.
[220] *See* Robin v. Hardway, Jeff. 109, 1772 WL 11 (Va. 1772) (noting 1670 Virginia statute "that all servants not being Christians, imported into this country by shipping, shall be slaves for their life time," but "Indians taken in war by any other nation, and by that nation that takes them sold to the English…shall serve, if boys and girls, until thirty years of age, if men and women, twelve years and no longer.").
[221] *See* Gary B. Nash, *Slaves and Slave Owners in Colonial Philadelphia*, in AFRICAN AMERICANS IN PENNSYLVANIA: SHIFTING HISTORICAL PERSPECTIVES 43, 46 (Joe Trotter & Eric Ledell Smith eds. 1997) (quoting 1756 message from Pennsylvania Assembly to the Governor, complaining about British recruitment of Pennsylvania indentured servants for the British army in the French & Indian War: "If the Possession of a bought Servant…is… rendered precarious…the People [will be] driven to the Necessity of providing themselves with Negro Slaves…").

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Firearms were a way of life in early America. It was common for American children to be familiar with firearms, a circumstance that gave the Americans confidence leading up to the Revolutionary War. On July 8, 1775, the Continental Congress warned King George III that the Americans' superiority with arms, due to their training beginning in childhood, would make them a formidable foe: "Men trained to Arms from their Infancy, and animated by the Love of Liberty, will afford neither a cheap or easy Conquest."[222]

This same argument was asserted by John Zubly, a Savannah minister and recent immigrant from Switzerland.[223] He warned the British that "In the strong sense of liberty, and the use of firearms almost from the cradle, the Americans have vastly the advantage over men of their rank almost every where else."[224] He added that American children were "shouldering the resemblance of a gun before they are well able to walk."[225]

Similarly, David Ramsay, a legislator from South Carolina and delegate to the Continental Congress, pointed out that, "Europeans, from their being generally unacquainted with fire arms are less easily taught the use of them than Americans, who are from their youth familiar with these instruments of war."[226] He noted that "[f]or the defence of the colonies, the inhabitants had been, from their early years, enrolled in companies, and taught the use of arms."[227]

Thomas Jefferson, explained what was going on in America to his Scottish friend: "[w]e are all in arms, exercising and training old and young to the use of the gun."[228] Once the Revolution began, Jefferson suggested that the reasons American battle casualties were so much lower than British ones was "our superiority in taking aim when we fire; every soldier in our army having been intimate with his gun from his infancy."[229]

So too was Jefferson. His father, Colonel Peter Jefferson, taught him to use a firearm at a young age.[230] When Thomas was 10 years old, his father was confident enough to send the boy into the wilderness alone with nothing but his firearm, to learn self-reliance.[231] By the time Thomas was 14, his father "had already taught him to sit his horse, fire his gun, boldly stem the Rivanna when the swollen river was 'Rolling red from brae to brae,' and press his way with unflagging foot through the rocky summits of the contiguous hills in pursuit of deer and wild turkeys."[232]

Having valued the firearms training of his childhood, Thomas Jefferson suggested that his 15-year-old cousin, Peter Carr, become similarly acquainted with firearms.[233] Jefferson told Carr that "a strong body makes a strong mind," and recommended two hours of exercise every day. Jefferson

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[222] 1 JOURNALS OF THE AM. CONGRESS FROM 1774-1788, at 106-11 (adopted July 8, 1775) (1823) (emphasis added).
[223] *Zubly, John Joachim*, BIOGRAPHICAL DIRECTORY OF THE U.S. CONGRESS, http://bioguide.congress.gov/scripts/biodisplay.pl?index=Z000015 (last visited Jan. 13, 2019).
[224] PETER A. DORSEY, COMMON BONDAGE: SLAVERY AS METAPHOR IN REVOLUTIONARY AMERICA 53 (2009).
[225] *Id.*
[226] 1 DAVID RAMSAY, THE HISTORY OF THE AMERICAN REVOLUTION 181 (Liberty Fund 1990) (1789).
[227] *Id.* at 178.
[228] 3 Am. Archives 4th Ser. (Clark & Force) 621 (1840).
[229] Letter from Thomas Jefferson to Giovanni Fabbroni (June 8, 1778), *in* THOMAS JEFFERSON, WRITINGS 760 (Merrill D. Peterson, ed.,1984). In precise legal usage, "infancy" meant the same as "minority." The word was not used exclusively in the modern sense, in which an "infant" is younger than a toddler. As the above quotes indicate, toddler age was when some Americans began learning to use arms.
[230] *Id.*
[231] DUMAS MALONE, JEFFERSON THE VIRGINIAN 46-47 (1948) (Vol. 1 of Dumas Malone, Jefferson and His Time).
[232] HENRY S. RANDALL, 1 THE LIFE OF THOMAS JEFFERSON 14-15 (1865). The "brae to brae" quote is a verse popularized by Sir Walter Scott. 1 MEMOIRS OF THE LIFE OF SIR WALTER SCOTT, part 4, ch. 2, at 52 (1838).
[233] THOMAS JEFFERSON, WRITINGS 816-17 (Merrill D. Peterson ed. 1984).

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continued: "[a]s to the species of exercise, I advise the gun. While this gives a moderate exercise to the body, it gives boldness, enterprise and independence to the mind. . . . Let your gun therefore be the constant companion of your walks."[234] "Another nephew tells us that Jefferson believed every boy should be given a gun at the age of ten, as Jefferson himself had been."[235]

The Adamses felt the same way. "Militiamen on the way to Lexington and Concord stopped at a farm in Braintree, Massachusetts. To their amusement, 8-year-old John Quincy Adams, son of Abigail and John Adams, was executing the manual of arms with a musket taller than he was."[236] When John Adams had been a nine-or ten-year-old schoolboy, he loved to engage in sports, "above all, in shooting, to which diversion I was addicted to a degree of ardor which I know not that I ever felt for any other business, study, or amusement."[237] He would leave his gun by the schoolhouse door, so that he could go hunting as soon as classes ended.[238]

Ordinary people were just as determined to teach the young how to use arms. John Andrews, an aid to British General Thomas Gage, recounted an incident in which Redcoats were unsuccessfully trying to shoot at a target on the Boston Common.[239] When an American mocked them, a British officer dared the American to do better. The American repeatedly hit the target.[240] As Andrews noted, "The officers as well as the soldiers star'd, and tho't the Devil was in the man. Why, says the countryman, I'll tell you *naow*. I have got a *boy* at home that will toss up an apple and shoot out all the seeds as its coming down."[241]

Or in the words of the *Boston Gazette*, "[b]esides the regular trained militia in New-England, all the planters sons and servants are taught to use the fowling piece from their youth, and generally fire balls with great exactness at fowl or beast."[242]

Later, during the debates on ratification of the Constitution, Virginia's Richard Henry Lee emphasized: "to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, *especially when young*, how to use them."[243]

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[234] *Id.*

[235] Kates, *supra* note 42, at 229 (1983) (citing T. JEFFERSON RANDOLPH, NOTES ON THE LIFE OF THOMAS JEFFERSON (Edgehill Randolph Collection) (1879)).

[236] DAVID HACKETT FISCHER, PAUL REVERE'S RIDE 289 (1995). A manual of arms is a drill in which the gun user presents the firearm or other arm in a series of positions (e.g., right shoulder arms, left shoulder arms, fix bayonet, unfix bayonet, etc.). *Manual of Arms Definition*, VOCABULARY.COM, https://www.vocabulary.com/dictionary/manual%20of%20arms (last visited Jan. 13, 2019).

[237] 3 DIARY AND AUTOBIOGRAPHY OF JOHN ADAMS 257-59 (Lyman Henry Butterfield ed., 1961).

[238] *Id.* When the schoolmaster told him to stop, he stored the gun at the nearby home of an old woman. *Id.*

[239] Letter dated Oct. 1, 1774, 1 Am. Archives 4th Ser. (Clark & Force) 58-59 (1840).

[240] *Id.*

[241] *Id.*

[242] BOSTON GAZETTE, Dec. 5, 1774, at 4; *See also* HAROLD F. WILLIAMSON: WINCHESTER: THE GUN THAT WON THE WEST 3 (1952) (quoting English visitor to New England in 1774, "in the cities you scarcely find a Lad of 12 years that does not go a Gunning"); DAVID HARSANYI, FIRST FREEDOM: A RIDE THROUGH AMERICA'S ENDURING HISTORY WITH THE GUN 57-58 (2018) (quoting 1760s visitor to the Valley of Virginia: "A well grown boy at the age of twelve or thirteen years was furnished with a small rifle and a shot-pouch. He then became a fort soldier, and has his port-hole assigned him. Hunting squirrels, turkeys and raccoons soon make him expert in the use of his gun.") (citing Daniel Boorstin, *The Therapy of Distance*, 27 AMERICAN HERITAGE (no. 4 June 1976)).

[243] 17 DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION 363 (John P. Kaminski & Gaspare J. Saladino eds. 1995) (emphasis added).

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III. The Colonial and Founding Periods

Before we begin a colony-by-colony survey of militia laws, we can summarize some common characteristics of laws among the colonies and states, from the creation of different colonies in the seventeenth or early eighteenth century, through the end of the eighteenth century.

First, the most common age for militia duty was 16 to 50 years. The maximum often went as high as 60. The minimum was sometimes 18, and never higher (except for one 19-year period in Virginia). In 1792, Congress enacted the Uniform Militia Act (hereinafter UMA), to govern militia when called into federal service. The federal ages were 18 to 45, and several states revised their laws to make the state militia ages conform to the federal militia ages.[244]

The survey below in this Part III includes over 250 different enactments, as colonies and states revised and updated their militia laws. They also include many instances in which the colony or state enacted a militia statute that by its terms would expire in one year or a few years. Then, at the appropriate time, the colony would pass a new militia law, with the same terms as the old law. Because the royal governors, appointed by the king, would control the militia once it was in active service, some colonial legislatures were averse to permanent militia laws, which might give the royal governor too much unilateral power.[245]

The frequent renewals and revisions of colonial and early state militia laws reflect the legislatures' continuing determination that persons over 18-years-old be well-armed. The *only* militia law that did not have a minimum age of 18 or less was from Virginia in 1738–57.[246]

Before discussing militia laws of the colonies and states one-by-one, we should emphasize that the militia was *not* the only institution in which young adults were required to use arms. Three related duties also required young adults (like other adults) to bring their arms to help protect the community. All of these had long-established roots in common law. Sometimes the colonies enacted relevant statutes, but often they simply relied on the common law tradition.

First, all able-bodied men from 15 or 16 to 60 were obliged to join in the "hue and cry" (*hutesium et clamor*) to pursue fleeing criminals.[247] Pursuing citizens were allowed to use deadly force if necessary to prevent escape.[248]

Second, there was "watch and ward"—guard duty for towns and villages. "Ward" was the daytime activity, and "watch" the nighttime activity.[249] The patrols would be arranged by a sheriff, constable, justice of the peace, or other official.[250]

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[244] Uniform Militia Act, 1 Stat. 271-72 (1792).

[245] *See*, *e.g.*, Theodore H. Jabbs, The South Carolina Colonial Militia, 1663-1733 (1973) (unpublished Ph.D. dissertation, U. of N.C. Chapel Hill) (available in ProQuest Dissertations & Theses Global).

[246] *See infra* Part III.K.

[247] Statute of Winchester, 13 Edward I, chs. 4-6 (1285) (formalizing hue and cry system; requiring all men aged fifteen to sixty to possess arms and armor according to their wealth; lowest category, having less than "Twenty Marks in Goods," must have swords, knives, bows, and other small arms)

[248] *See* 2 FREDERICK POLLOCK & FREDERIC W. MAITLAND, THE HISTORY OF ENGLISH LAW BEFORE THE TIME OF EDWARD I, at 575-81 (1895); 4 WILLIAM BLACKSTONE, COMMENTARIES *290-91 (describing hue and cry as still in operation); Statute of Winchester, *supra* note 247.

[249] ELIZABETH C. BARTELS, VOLUNTEER POLICE IN THE UNITED STATES 2 (2014).

[250] MICHAEL DALTON, OFFICIUM VICECOMITUM: THE OFFICE AND AUTHORITIE OF SHERIF 6, 40 (Lawbook Exchange 2009) (1923) (sheriff's oath includes supervising the watch and ward, by reference to his oath specifically to uphold the Statute of Winchester); WILLIAM ALFRED MORRIS, THE MEDIEVAL ENGLISH SHERIFF 150, 228-29, 278 (1927); WILLIAM LAMBARDE, EIRENARCHA 185, 341 (London, Newbery & Bynneman 1581); FERDINANDO PULTON, DE PACE REGIS & REGNI 153a-153b (Lawbook Exchange 2007) (1609).

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Third, there was the *posse comitatus*. This is the power of the sheriff, coroner, magistrate, or other officials to summon all able-bodied males to assist in keeping the peace.[251] Posse service could include a few men helping a sheriff serve a writ, or it could include many men helping a sheriff suppress a riot.[252] The traditional minimum age for posse service was 15 or 16 years; some commentators said the upper age limit was 70, while others said there was no limit.[253] Shortly before being appointed to the U.S. Supreme Court by President Washington, James Wilson stated in 1790 that "No man above fifteen and under seventy years of age, ecclesiastical or temporal, is exempted from this service."[254]

The *posse* was a vital institution not only in colonial days, but throughout the nineteenth century. As the Supreme Court explained in 1855, a sheriff "may command the *posse comitatus* or power of the country; and this summons, every one over the age of fifteen years is bound to obey, under pain of fine and imprisonment."[255]

The duties of hue and cry, watch and ward, and *posse comitatus* were male only. However, as will be detailed below, some colonies also required arms possession by any householder, regardless of sex. In addition, most of the colonies required arms carrying under certain circumstances, such as when traveling out of town, or when going to public assemblies, especially to church.[256] Usually these laws applied without age limits (i.e., to any able-bodied traveler), or to anyone able to bear arms. Sometimes they applied to militiamen, whose minimum age was 16 or 18.[257]

In short, the age at which Americans were expected to use their own arms to help enforce the law (including by defending themselves) usually was age 15 or 16. These requirements encompassed the vast majority of males, and also included some females. The age at which Americans were expected to bring their own arms to serve in a military capacity, in the militia, usually was 16 or 18.

In the following survey of militia laws, the states are listed in the order that they ratified the Second Amendment.[258]

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[251] David B. Kopel, *The Posse Comitatus and the Office of Sheriff: Armed Citizens Summoned to the Aid of Law Enforcement*, 104 J. CRIM. L. & CRIMINOLOGY 761, 763 (2015).

[252] See *id.* at 796.

[253] CYRUS HARRELD KARRAKER, THE SEVENTEENTH-CENTURY SHERIFF: A COMPARATIVE STUDY OF THE SHERIFF IN ENGLAND AND IN THE CHESAPEAKE COLONIES, 1607−1689, at 176-77 (1930) (reprinting an April 29, 1643, warrant for summoning the *posse comitatus*, applying to persons above the age of sixteen years and "under the age of three score years and able to travel, with such arms or weapons as they have or can provide"); MORDECAI M'KINNEY, THE UNITED STATES CONSTITUTIONAL MANUAL 260 (Harrisburg, Penn., Hickock & Cantine 1845) (all men above the age of fifteen years, "not aged or decrepid"); GEORGE WEBB, THE OFFICE AND AUTHORITY OF A JUSTICE OF PEACE 252 (Williamsburg, William Parks 1736) ("all Males Persons therein, whether Freemen, or Servants, above the Age of 15 Years, and able to travel") (citing LAMBARDE, *supra* note 250, at 309); EDWARD COKE, 2 INSTITUTES OF THE LAWS OF ENGLAND 194 (Lawbook Exchange 2002) (1628) (ch. 17) ("being above 15 and under 70"); HENRY POTTER, THE OFFICE AND DUTY OF A JUSTICE OF THE PEACE 243 (Raleigh, Joseph Gales 1816); JOHN STEPHEN, SUMMARY OF THE CRIMINAL LAW 46 (Philadelphia, J.S. Littell 1840) (ages fifteen and over, with no upper age limit).

[254] JAMES WILSON, *Lectures on Law*, *in* 2 COLLECTED WORKS OF JAMES WILSON 1017 (Kermit L. Hall & Mark David Hall eds., 2007) (Ch. VII, "The Subject Continued. Of Sheriffs and Coroners").

[255] South v. Maryland *ex rel.* Pottle, 59 U.S. (1 How.) 396, 402 (1856).

[256] NICHOLAS J. JOHNSON, DAVID B. KOPEL, GEORGE A. MOCSARY & MICHAEL P. O'SHEA, FIREARMS LAW AND THE SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY 183-85 (2d ed. 2017).

[257] *Id.*

[258] The colonial and early state laws are available in the Session Laws Library of Hein Online. Many are also available on Google Books or other public Internet sources, as indicated by the URL in the footnote.

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A. New Jersey: "all able-bodied Men, not being Slaves … between the Ages of sixteen and fifty Years"

The English took control of what became New Jersey in 1664, ousting the Dutch from their "New Netherland" colony.[259] New Jersey's first militia act was passed in 1704. It required "[t]hat every Captain within this Province … make a true and perfect List of all the Men … between the Age of Sixteen and Fifty years … Every one of which so listed shall be sufficiently armed with one good sufficient Musquet or Fuzee well fixed, a Sword or Bagonet, a Cartouch-box or Powder-horn, a pound of Powder, and twelve sizeable Bullets."[260] The next militia act, passed roughly a decade later, kept the same requirements for the arms and ages of militiamen.[261]

A 1722 statute retained the sixteen to fifty ages, while revising the ammunition requirements.[262] After the 1722 act expired, it was replaced by a 1730 law with the same ages and arms,[263] which was continued in 1739.[264]

On May 8, 1746, a renewed militia act was necessary because America had been drawn into Great Britain's most recent war with France and Spain. Like earlier statutes, the 1746 act set the militia age "between the Age of Sixteen and Fifty Years" and required that each militiaman "be sufficiently armed with one good sufficient Musket or Fuzee well fixed, a Sword or Bayonet, a Cartouch-Box or Powder-Horn," plus bullets and powder.[265] This act was continued in 1749,[266] 1753,[267] 1766,[268] 1770,[269] and 1771.[270]

Also in 1746, New Jersey passed an act to raise 500 troops for a state army expedition against Canada. [271] This act made it unlawful for an officer "to inlist any young Men under the Age of Twenty One Years, or any Slaves who are so for Term of Life, bought Servants, or Apprentices, without the Express Leave in Writing of their Parents or Guardians, Masters or Mistresses." [272] Similarly, during the French & Indian War, acts to raise small groups of state army soldiers (one

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[259] *A Short History of New Jersey*, NJ.GOV, https://www.nj.gov/nj/about/history/short_history.html (last visited Jan. 13, 2019).

[260] 2 BERNARD BUSH, LAWS OF THE ROYAL COLONY OF NEW JERSEY 49 (1980). The Act provided an exception for "Ministers, Physitians, School-Masters, Civil Officers of the Government, the Representatives of the General assembly, and Slaves." This act was continued in 1711. *Id.* at 96 (Sixth Assembly, First Session 6 Dec. 1710 – 10 Feb. 1710/11).

[261] *Id.* at 133. This Act repeated the exemptions of the 1709 Act and added an exception for "Millers." *Id.*

[262] *Id.* at 289 ("three Charges of Powder and three sizeable Bullets").

The exceptions in the 1722 Act were for "the Gentlemen of his Majestys Council and the Representatives of General Assembly, Ministers of the Gospel, the Civil Officers of the Government, and all Field Officers and Captains that here-to-fore bore Commission in the Militia of this Province, and all that now do or shall hereafter bear such Commission, Physitians, School-Masters, Millers, and Slaves." *Id.*

[263] *Id.* at 410 (limited to seven years).

[264] 1738/9 N.J. Laws ch. 165 (limited to seven years).

[265] 3 BERNARD BUSH, LAWS OF THE ROYAL COLONY OF NEW JERSEY 5 (1980).

[266] 1749 N.J. Laws ch. 232.

[267] 1753 N.J. Laws ch. 257.

[268] 1766 N.J. Laws ch. 422.

[269] 1770 N.J. Laws ch. 520.

[270] 1771 N.J. Laws ch. 539.

[271] 3 BUSH, *supra* note 265, at 15.

[272] *Id.*

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in 1755[273] and two in 1756[274]) set the minimum age at twenty-one for enlistment for out-of-colony service without consent of a parent, guardian, or master.

Permission from parents or masters was necessary for enlistment in the state army, but not the in-state militia. A 1757 supplement to the militia act kept the age for militia "between the Age of Sixteen and Fifty Years."[275]

Two decades later, in the midst of the Revolutionary War, New Jersey passed a 1777 militia act, "to defeat the Designs of the *British* Court, and to preserve and defend the Freedom and Independence of the United States of *America*."[276] "[A]ll able-bodied Men, not being Slaves … between the Ages of sixteen and fifty Years … and [] capable of bearing Arms" constituted the militia.[277] This act was set to automatically expire after one year.[278] The following year a new act was put in place. Again, the militia was "all effective Men between the Ages of sixteen and fifty Years."[279]

Near the end of the war, in 1781, New Jersey passed its militia law that would be in place when it ratified the Second Amendment on November 20, 1789:[280]

> And Be It Enacted, That the Captain or Commanding Officer of each Company shall keep a true and perfect List or Roll of all effective Men between the Ages of sixteen and fifty Years, residing within the District of such Company . . . And Be It Enacted, That every Person enrolled as aforesaid shall constantly keep himself furnished with a good Musket, well fitted with a Bayonet, a Worm, a Cartridge-Box, twenty-three Rounds of Cartridges sized to his Musket, a Priming Wire, Brush, six Flints, a Knapsack and Canteen, under the Forfeiture of Seven Shillings and Sixpence for Want of a Musket, and One Shilling for Want of any other of the aforesaid Articles, whenever called out to Training or Service . . . Provided always, That if any Person be furnished as aforesaid with a good Rifle-Gun, the Apparatus necessary for the same, and a Tomahawk, it shall be accepted in Lieu of the Musket and the Bayonet and other Articles belonging thereto.[281]

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[273] *Id.* at 307.
[274] *Id.* at 385, 425.
[275] *Id.* at 502. The Act excepted "the Gentlemen of his Majesty's Council, the Representatives of the General Assembly, Protestant Ministers of the Gospel of every Denomination and Persuasion, Magistrates, Sheriffs, Coroners, Constables, and all Field Officers, and Captains, who heretofore have, now do, or hereafter shall bear such Commissions; Ferry Men, one Miller to each Grist Mill, bought Servants, and Slaves."
[276] 1776 N.J. Laws 26.
[277] *Id.*
[278] *Id.*
[279] 1778 N.J. Laws 44-45. This Act excluded "the Delegates representing this State in the Congress of the United States, the Members of the Legislative-Council and General Assembly, the Judges and Justices of the Supreme and Inferior Courts, the Judge of the Court of Admiralty, the Attorney-General, the Secretary, the Treasurer, the Clerks of the Council and General Assembly, the Clerks of the Courts of Record, the Governor's private Secretary, Ministers of the Gospel of every Denomination, the Presidents, Professors and Tutors of Colleges, Sheriffs and Coroners, one Constable for each Township, to be selected by the Court of Quarter-Sessions of the County, two Ferrymen for each publick Ferry on the *Delaware*, below the Falls at *Trenton*, and one for every other publick Ferry in this State, and Slaves."
[280] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, BEING THE FIRST SESSION OF THE FIRST CONGRESS-3RD SESSION OF THE 13TH CONGRESS, MARCH 4, 1789–SEPT. 13, 1814, at 313-14 (1826).
[281] 1780 N.J. Laws 42-43.

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The act further required that "each Person enrolled…also keep at his Place of Abode one Pound of good merchantable Gunpowder and three Pounds of Ball sized to his Musket or Rifle…"[282] At least three times a year, a Sergeant would inspect the home of every man between sixteen and fifty to ensure he had the proper "Arms, Accoutrements, and Ammunition."[283]

In 1792, Congress enacted the UMA, organizing the militia of the United States, pursuant to enumerated powers under Article I, section 8, clause 16.[284] It provided a detailed list of equipment and defined the federal militia as free white males aged 18 to 45.[285] (The Act is discussed in Part IV, *infra*.) Over the next several years, most states revised their militia statutes to bring their state militias into conformity with the federal militia. Since individuals were subject to a militia summons from their state or the federal government, the state governments were making it easier for state militiamen to simultaneously comply with federal requirements.

New Jersey was one of the first states to take account of the federal law, enacting a new militia law in 1792.[286] The minimum age was raised to 18, and maximum age lowered to 45.[287] Copying the federal law, New Jersey required that "every non-commissioned Officer and Private of the Infantry (including Grenadiers, Light Infantry and Artillery) until supplied with Ordnance and Field Artillery, shall have a good Musket or Firelock, a sufficient Bayonet and Belt, two spare Flints and a Knapsack, a Pouch with a Box not less than twenty-four Cartridges suited to the Bore of his Musket or Firelock, each Cartridge containing a proper Quantity of Powder and Ball; or with a good Rifle, Knapsack, Pouch and Powder-Horn, twenty Balls suited to the Bore of his Rifle, and a Quarter of a Pound of Powder; and shall appear so armed, accoutred and provided, when called out to exercise or into Service."[288]

As for commissioned officers, they had to be "armed with a Sword or Hanger and Espontoon."[289] And for "those of Artillery . . . with a Sword or Hanger, a fuzee, bayonet and belt, and a Cartridge-Box containing twelve Cartridges."[290] Troops of Horse had to provide themselves with "a Sword and Pair of Pistols."[291] Light-Horsemen and Dragoons had to provide themselves with "a Pair of Pistols, a Sabre and Cartouch-Box containing twelve Cartridges for Pistols."[292]

A 1797 supplement required the assessor of each town to compare the list of 18-to-45-year-olds in the community to the list of persons enrolled for military duty, and to ensure that everyone 18 and older who was not exempted was keeping the proper arms and fulfilling his militia duties.[293]

A 1799 revision eliminated non-whites from the militia.[294] Persons who were granted militia exemptions (e.g., physicians, clergy) had to pay a three-dollar annual fee.[295] In case the militia were "called into actual service," exempted persons too would be liable to serve.[296]

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[282] *Id.*
[283] 1780 N.J. Laws 43.
[284] Uniform Militia Act, 1 Stat. 271 (1792).
[285] *Id.*
[286] 1792 N.J. Laws 850.
[287] *Id.* at 853.
[288] *Id.* at 852.
[289] *Id.*
[290] *Id.*
[291] *Id.*
[292] *Id.* at 852–53.
[293] 1797 N.J. Laws 219-20.
[294] 1799 N.J. Laws 609.
[295] WILLIAM PATERSON, LAWS OF THE STATE OF NEW JERSEY 441 (1800).
[296] *Id.*

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As with all militia acts, there was financial punishment for people who neglected their duties to acquire requisite arms, to meet for training, and to serve.[297] For militiamen who were "minors, living with their parents, and others having the proper care of charge of them, and those of apprentices," the fines were to "be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels."[298]

Military forces of the period used music for morale and for signals during the heat of combat. New Jersey provided rules for voluntary enlistment of military musicians: "any youth of the age of twelve years, and not exceeding the age of eighteen years, shall, with the consent of approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife or blow the trumpet."[299]

B. Maryland: "his her or their house"

Maryland's arms mandate extended to every head of a house, regardless of sex or age. A 1638/9 act required

> that every house keeper or housekeepers within this Province shall have ready continually upon all occasions within his her or their house for him or themselves and for every person within his her or their house able to bear armes one Serviceable fixed gunne of bastard muskett boare one pair of bandeleers or shott bagg one pound of good powder foure pound of pistol or muskett shott and Sufficient quantity of match for match locks and of flints for firelocks and before Christmas next shall also find a Sword and Belt for every such person as aforesaid.[300]

Further, "every householder of every hundred haveing in his family three men or more able to beare armes shall Send one man completely armed for every such three men and two men for every five and so proportionately."[301] The act contemplated many persons within a family, including minors, bearing arms.[302]

A 1654 act mandated "that all persons from 16 yeares of age to Sixty shall be provided with Serviceable Armes & Sufficient Amunition of Powder and Shott ready upon all occasions."[303]

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[297] *Id.* at 440.
[298] *Id.*
[299] *Id.* at 448.
[300] 1 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND JANUARY 1637/8—SEPTEMBER 1664, at 77 (William Hand Browne ed, 1883). For dates in this article, readers should be aware that in the English-speaking countries, the calendar changed from Old Style (Julian) to New Style (Gregorian) in 1752. Under the Old Style, the New Year began on March 25 (the traditional date of the Annunciation to the Virgin Mary), not January 1. So, the people of Maryland considered the above date to be 1638, not 1639. We have generally rendered dates in New Style. Scholars using Western European date citations between 1582 (when France adopted the New Style calendar) and 1752 should be aware that the days between January 1 and March 24 may be assigned to a different year, depending on the country. The shift can also move the calendar date as far forward as 11 days; for example, July 1 Old Style can become July 12 New Style. The shift occurs because New Style remedied the incorrect number of leap year days in Old Style. New Style omits leap years every 100 years, except for every 400th year. So, under New Style, there was no leap year day in 1800 or 1900, but there was one in 2000.
[301] *Id.* at 77-78.
[302] *Id.*
[303] *Id.* at 347.

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In 1658, the Council of Maryland adopted "Instructions directed by the Governor and Councell to the severall Captaines of the respective Commissions."[304] Captains had to make "a perfect list" of "all persons able to beare Armes within theyr respective divisions that is of all men betweene 16 and 60 yeares of Age." From that list, the "fittest" people were to be selected to form the "constant Trayned Band."[305] In addition, every householder had to provide himself and "every man able to beare Armes in his house" with sufficient ammunition and a well-fixed gun.[306]

Twenty years later, a new militia act kept the ages "between sixteen and sixty yeares of age."[307] Like its predecessors, it required that each "appeare and bring with him one good serviceable fixed Gunn and six shoots of Powder."[308] Troopers were required to bring their own horses, and "to find themselves with sword Carbine Pistolls Holsters & Amunition."[309]

[304] 3 PROCEEDINGS OF THE COUNCIL OF MARYLAND, 1636-1667, at 345 (reprint 1965), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000003/html/am3--345.html (last visited Jan. 13, 2019).
[305] *Id.* (basing fitness on "theyr Ability of Body, Estate, & Courage.")
[306] *Id.*
[307] 7 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, OCTOBER 1678-NOVEMBER 1683, at 53 (1889), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000007/html/am7--53.html (last visited Jan. 13, 2019).
[308] *Id.* at 54.
[309] *Id.* at 55.

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The 1681 militia law retained the age and arms requirements,[310] and was continued in 1682.[311] Ages and arms remained the same in successor acts of 1692,[312] 1695,[313] 1698,[314] 1699,[315] 1704,[316] 1708,[317] 1709,[318] 1711,[319] 1714,[320] 1715,[321] 1719,[322] 1722,[323] and 1733.[324]

In 1756, Maryland passed another militia act, and kept the militia age at 16 to 60.[325] This act changed the ammunition requirement to "nine Charges of Gun-powder and nine Sizeable Bulletts." Troopers needed to provide themselves with "a pair of good Pistols a good Sword or Hanger half a pound of Gun-powder and twelve Sizeable Bulletts and a Carbine --well fixed with a good Belt Swivel and Buckett."[326]

The Conventions of the Province of Maryland that took place in Annapolis in 1775 and 1776 produced two militia laws. Both Conventions determined "[t]hat every able bodied effective freeman within this province, between sixteen and fifty years of age . . . enroll himself in some

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[310] *Id.* at 188.
[311] *Id.* at 438.
[312] 13 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, APRIL 1684-JUNE 1692, at 554 (1894), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000013/html/am13--554.html (last visited Jan. 13, 2019).
[313] Also, in 1695, Maryland took an additional step to ensure that militiamen maintained the arms they were required to provide themselves, by marking them so they could be identified and so that potential buyers knew not to purchase those arms. 38 ACTS OF THE GENERAL ASSEMBLY HITHERTO UNPUBLISHED 1694-1698, 1711-1729, at 55 (1918), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000038/html/am38--55.html (last visited Jan. 13, 2019).
[314] 1698 Md. Acts 99, https://quod.lib.umich.edu/e/evans/N29557.0001.001/1:9.44?rgn=div2;view=fulltext.
[315] 22 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, MARCH 1697/8-JULY 1699, at 562-63 (1883), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000022/html/am22--562.html (last visited Jan. 13, 2019).
[316] 26 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, SEPTEMBER, 1704-APRIL, 1706, at 269-70 (1906), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000026/html/am26--269.html (last visited Jan. 13, 2019).
[317] 27 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, MARCH, 1707-NOVEMBER, 1710, at 370 (1907), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000027/html/am27--370.html (last visited Jan. 13, 2019).
[318] *Id.* at 483.
[319] 38 ARCHIVES OF MARYLAND, *supra* note 313, at 128.
[320] 29 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, OCT. 25, 1711-OCT. 9, 1714, at 437 (1909).
[321] 30 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, APRIL 26, 1715-AUGUST 10, 1716, at 277 (1910), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000030/html/am30--277.html (last visited Jan. 13, 2019).
[322] 36 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, JULY 1727-AUGUST 1729 WITH AN APPENDIX OF STATUTES PREVIOUSLY UNPUBLISHED ENACTED 1714-1726, at 534 (1916), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000036/html/am36--534.html (last visited Jan. 13, 2019).
[323] 34 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, OCTOBER 1720-1723, at 480 (1914), ARCHIVES MD. ONLINE, https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000034/html/am34--480.html (last visited Jan. 13, 2019).
[324] 39 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, 1733-1736, at 113 (1919), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000039/html/am39--113.html (last visited Jan. 13, 2019).
[325] 52 PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY, 1755-1756, at 450 (1935), ARCHIVES MD. ONLINE, https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000052/html/am52--450.html (last visited Jan. 13, 2019).
[326] *Id.* at 458.

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company of militia."[327] The 1777 convention retained the new maximum of 50 years and excluded non-whites.[328] A 1778 militia act did not change the ages or arms requirements.[329]

Then in 1781, the legislature passed "An Act to raise two battalions of militia for reinforcing the continental army, and to complete the number of select militia." The minimum age remained sixteen.[330] The new law ordered local governments to draft one or two men to serve the Continental Army. It allowed lieutenants to play favorites: "to ease the good people, from the draught, every free male idle person, above 16 years of age, who is able bodied, and hath no visible means of an honest livelihood, may be adjudged a vagrant by the lieutenant, and by such adjudication he is to be considered as an enlisted soldier."[331]

When Maryland ratified the Second Amendment on December 19, 1789,[332] every militia it had ever assembled consisted of men sixteen and older, who provided their own firearms.

The first time Maryland increased its militia age was in 1793, when it modified its laws to align with the federal Uniform Militia Act of 1792. This new militia statute raised the minimum age to eighteen and lowered the maximum age to forty-five.[333]

A 1793 supplement included a provision for a "one complete company of infantry annexed to each regiment within this state, to be furnished with arms and accoutrements at the expense of the state … composed of men between the ages of twenty-one and thirty years."[334] This provision for select companies of infantry did not change the requirement for all other able bodied males between 18 and 45 to enroll in the general militia, and to provide their own personal arms.[335] As

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[327] 78 PROCEEDINGS OF THE CONVENTIONS OF THE PROVINCE OF MARYLAND, 1774-1776, at 20 (1836), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000078/html/am78--20.html (last visited Jan. 13, 2019); *id.* at 74.

[328] An Act to Regulate Militia, 1777 Md. Laws, Ch. XVII, Sec. II (expired in 1785), http://aomol.msa.maryland.gov/megafile/msa/speccol/sc4800/sc4872/003180/html/m3180-0361.html .

[329] 203 HANSON'S LAWS OF MARYLAND 1763-1784, at 192-93 (1787), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000203/html/am203--192.html (last visited Jan. 13, 2019).

[330] MARYLAND HISTORICAL SOCIETY, 18 ARCHIVES OF MARYLAND: MUSTER ROLLS AND OTHER RECORDS OF SERVICE OF MARYLAND TROOPS IN THE AMERICAN REVOLUTION 1775-1783 at 374 (1900).

[331] 203 HANSON'S LAWS OF MARYLAND 1763-1784, at 279 (1787), ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/000001/000203/html/am203--279.html (last visited Jan. 13, 2019).

[332] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 307-09.

[333] WILLIAM KILTY, THE LAWS OF MARYLAND: 1785-1799, ch. LIII, at 455 (1800), https://play.google.com/books/reader?id=SZxaAAAAYAAJ&hl=en&pg=GBS.PT447. There were exemptions for "quakers, menonists and tunkers, and persons conscientiously scrupulous of bearing arms, and the apprentices of their trade." Excusal on grounds of disability required a certificate from "the surgeon of the regiment to which he shall belong, or some reputable physician in his neighbourhood." *Id.* at 460. Quakers, Mennonites, and Dunkers are pacifist Protestant denominations. The Dunkers are also known as the Church of the Brethren and have Baptist roots.

[334] A Supplement to the Act, Entitled, An Act to Regulate and Discipline the Militia of this State, 1798 Md. Laws, Ch. C, Section XXIII, ARCHIVES MD. ONLINE, http://aomol.msa.maryland.gov/megafile/msa/speccol/sc4800/sc4872/003181/html/m3181-1319.html (last visited Jan. 13, 2019). These state-provided arms were to be used only for militia duty. If used for "hunting, gunning or fowling" or not kept "clean and in neat order," the firearm would be forfeited to the state and the militiaman would be forced to obtain a private firearm, which by comparison, was perfectly legal and expected to be used for non-militia purposes. *Id.* at Ch. C, Section XXX.

[335] Since the supplemental act did not address the arms requirement established in the original act passed earlier that year, the following provision still applied:

> That every citizen so enrolled and notified, shall, within six months thereafter, provide- himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack; a pouch with a box therein, to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and, ball; or with a good rifle,

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the Act explained, "the privates and non-commissioned officers of the said company, as they shall respectively arrive at the age of thirty years, shall be dismissed from the company … and shall be subject to militia duty in the same manner as other citizens above the age of thirty years."[336]

In 1799, Maryland's final militia act of the eighteenth century copied federal law by calling for "all able bodied white male citizens between 18 and 45 years of age."[337]

C. North Carolina: Land grants for properly armed persons "above the age of fourteen years"

In 1663, eight noblemen were granted the Carolina territory—which included what is now North Carolina and South Carolina—as a reward for their support of King Charles II as he was "restored" to the throne. The Charter of Carolina gave these men the authority to "to levy, muster and train all sorts of men, of what condition or wheresoever born … to make war and pursue the enemies."[338]

Pursuant to "Concessions and Agreements" in 1664, "All inhabitants and freemen of Carolina above seventeen years of age and under sixty shall be bound to bear arms and serve as soldiers whenever the grand council shall find it necessary."[339] To encourage settlement and to ensure that the settlers would be able to protect themselves, land grants were given to every properly armed freeman, every freewoman with an armed servant, plus additional land for each armed person produced who was "above the age of fourteen years" and had "a good firelock or matchlock bore, twelve bullets to the pound, ten pounds of powder, and twenty pounds of bullets."[340] The Fundamental Constitutions of Carolina in 1669 repeated the 1664 Concessions and Agreements rules for people 17-60.[341]

A 1712 letter from North Carolina's acting Governor Thomas Pollock to Lord John Carteret recalled that "at the last assembly with much struggling we obtained a law that every person between 16 and 60 years of age able to carry arms that would not go out to the war against the Indians, should forfeit and pay £5."[342]

The minimum militia age of sixteen was maintained in a 1715 act, declaring that "the Militia of this Governmt. shall consist of all the Freemen within the same between the years of Sixteen

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> knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder, and shall appear so armed, accoutred and provided, when called out to exercise or into service.

KILTY, THE LAWS OF MARYLAND: 1785–1799, *supra* note 333, ch. LIII, at 455.

[336] *Id.* at Ch. C, Section XXX.

[337] 1 THOMAS HERTY, A DIGEST OF THE LAWS OF MD. 369 (1799).

[338] CHARTER OF CAROLINA (Mar. 24, 1663), http://avalon.law.yale.edu/17th_century/nc01.asp.

[339] AMERICA'S FOUNDING CHARTERS: PRIMARY DOCUMENTS OF COLONIAL AND REVOLUTIONARY ERA GOVERNANCE 232 (Jon L. Wakelyn ed. 2006) (Concessions and Agreements, Jan. 11, 1664) (available on Google Books).

[340] *Id.* at 210-11.

[341] 1 THE STATE RECORDS OF NORTH CAROLINA 205 (1886).

[342] *Id.* at 877 (letter of Sept. 20, 1712). The war was North Carolina and its Indian allies against the Tuscarora Indians and their Indian allies. *See* DAVID LA VERE, THE TUSCARORA WAR: INDIANS, SETTLERS, AND THE FIGHT FOR THE CAROLINA COLONIES (2016). The Cartaret family were among the proprietors of North Carolina. STEWART E. DUNAWAY, LORD JOHN CARTERET, EARL GRANVILLE: FAMILY HISTORY AND THE GRANVILLE GRANTS IN NORTH CAROLINA 56 (2013).

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years & Sixty."[343] This included free blacks. Each militiaman had to provide himself with "a good Gun well-fixed Sword & at least Six Charges of Powder & Ball."[344]

The enrollment of all freemen of all colors aged 16 to 60 was retained in a 1740 act.[345] These freemen had to appear with "a good Gun well fixed and a Sword or Cutlass and at least twelve Charges of powder and Ball or Swan Shot"[346] (Swan shot is large shotgun pellets.)

The next act in 1746 kept the same ages, but included servants in addition to freemen.[347] It also slightly modified the arms requirement, mandating that each militiaman appear with "a Gun, fit for service, a Cartouch Box, and a Sword, Cutlass, or Hanger [a type of sword], and at least Twelve Charges of Powder and Bail, or Swan Shot, and Six Spare Flints"[348] This act was extended for another five years in 1749,[349] and another three years in 1754.[350] The 1756 act slightly modified the necessary arms and equipment, specifically requiring tools for gun cleaning.[351] When this act was amended and continued in 1759, the arms and ages were unchanged.[352]

The 1760 law introduced different arms mandates for mounted militiamen, including a pair of handguns plus a lightweight long gun. Every trooper (horseman) needed "Holsters, Housing, Breast-Plate and Crupper, a Case of good Pistols, a good Broad Sword, Twelve Charges of Powder, Twelve sizeable Bullets, a Pair of Shoe-Boots, with suitable Spurs, and a Carbine well fixed, with a good Belt, Swivel and Bucket."[353]

The militia act of 1764 had similar age and arms requirements, except that swan shot was now mandatory for infantry.[354] The act was continued in 1766.[355] Then in 1768, "sizeable Bullets" were restored as an acceptable alternative to swan shot.[356]

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[343] 1715 N.C. Sess. Laws 29.
[344] *Id*.
[345] *An Act for the better Regulating the Militia of this Government*, N.C. OFF. ARCHIVES & HIST., http://www.ncpublications.com/Colonial/editions/Acts/militia.htm (last updated Dec. 31, 2000).
[346] *Id*.
[347] An Act for the better Regulating the Militia of this Government, 1746 N.C. Sess. Laws 244, http://docsouth.unc.edu/csr/index.php/document/csr23-0016.
[348] *Id*.
[349] An Act for Altering, Explaining, and Continuing an Act, Intituled, an Act for the better Regulating the Militia in this Government, 1749 N.C. Sess. Laws 330, http://docsouth.unc.edu/csr/index.php/document/csr23-0022.
[350] 1754 N.C. Sess. Laws 266, http://docsouth.unc.edu/csr/index.php/document/csr25-0031.
[351] An Act for the better Regulation of the Militia, and for other Purposes, 1756 N.C. Sess. Laws 334, http://docsouth.unc.edu/csr/index.php/document/csr25-0034 ("a well fixed Gun, and a Cartridge Box, and a Sword, Cutlass or Hanger, and have at least nine Charges of Powder and Ball, or Swan Shot, and three spare Flints, and a Worm and Picker").
[352] An Act to Amend and Continue an Act, Intituled, an Act for the better Regulation of the Militia, and for other Purposes, 1759 N.C. Sess. Laws 393, http://docsouth.unc.edu/csr/index.php/document/csr25-0040.
[353] An Act for Appointing a Militia, 1760 N.C. Sess. Laws 521, http://docsouth.unc.edu/csr/index.php/document/csr23-0040. This act was continued later that same year, and again in 1762. An Act to amend and continue an Act intitled An Act for appointing a Militia, 1760 N.C. Sess. Laws 535, http://docsouth.unc.edu/csr/index.php/document/csr23-0041; 1762 N.C. Sess. Laws 585, http://docsouth.unc.edu/csr/index.php/document/csr23-0043.
[354] An Act for appointing a Militia, 1764 N.C. Sess. Laws 596, http://docsouth.unc.edu/csr/index.php/document/csr23-0044.
[355] An Act to amend & Continue An Act, Intitled An Act for Appointing a Militia, 1766 N.C. Sess. Laws 496, http://docsouth.unc.edu/csr/index.php/document/csr25-0049.
[356] An Act for establishing a Militia in this Province, 1768 N.C. Sess. Laws 761, http://docsouth.unc.edu/csr/index.php/document/csr23-0049.

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The 1770 act eliminated a conscientious objector exemption and ordered "all Male Persons of the people called Quakers, between the age of Sixteen and Sixty" to enlist in the militia.[357] Additionally, the act provided that "the Father or where there is no Father living, the Mother of each and every Person under the age of Twenty One Years, shall be liable to the Payment of the Fines becoming due from their respective sons so under age."[358]

The 1774 militia act retained the age and arm requirements.[359] Perhaps reflecting wartime arms shortages, the 1777 act was less specific about particular firearms, requiring only that "each Militia soldier shall be furnished with a good Gun, shot bag and powder horn, a Cutlass or Tomahawk."[360] The maximum age was reduced: "the Militia of every County shall consist of all the effective men from sixteen to fifty years of age."[361]

With the American Revolution raging, the 1779 act kept the maximum age of 50 and the minimum of 16.[362] Religious exemptions were restored for "Quakers, Menonists, Dunkards, and Moravians."[363] "[E]ach Militia Soldier [had to] be furnished with a Good Gun, Shot bag a Cartouch Box or powder Horn, a Cutlass or Tomahawk."[364]

The 1781 act was more flexible on the requisite arms. Infantry needed "a good gun and shot bag, and powder horn or cartouch box, and havre sack."[365] Cavalry troopers needed "a gun, sword, and cartouch box."[366]

The following year, "An Act for Raising troops to compleat the Continental Battalions of this State, and other purposes" was passed. This was a draft for the Continental Army. Subject to the draft were "all the inhabitants . . . between the ages of sixteen and fifty."[367] To prevent the widespread community practice of filling draft ranks with the most vulnerable and least motivated, the act specified that "no British or Hessian deserter who hath not been a resident of this State twelve months, or orphan or apprentice under eighteen years of age, Indian, sailor or negro slave, shall be received as a substitute for any class volunteer or draft whatever."[368] So a 19-year-old who was drafted could hire an older man to serve as a substitute, but could not hire a 17-year-old orphan.

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[357] An Act for an Addition to, and Amendment of an Act, entitled, An Act for Appointing a Militia, 1770 N.C. Sess. Laws 787, http://docsouth.unc.edu/csr/index.php/document/csr23-0051.

[358] *Id.* at 788. Similarly, "the master, and where there is no master, the mistress of all such Apprentices and Servants shall be liable to the Payment of Fines becoming Due from their respective Apprentices and Servants." *Id.*

[359] An Act to Establish a Militia for the Security and Defence of this Province, 1774 N.C. Sess. Laws. 940-41, http://docsouth.unc.edu/csr/index.php/document/csr23-0054.

[360] An Act to Establish a Militia in this State, 1777 N.C. Sess. Laws 1, http://docsouth.unc.edu/csr/index.php/document/csr24-0001.

[361] *Id.*

[362] An Act to Regulate and Establish a Militia in this State, 1779 N.C. Sess. Laws 190, https://docsouth.unc.edu/csr/index.php/document/csr24-0005.

[363] *Id.* "Menonists" encompasses several Protestant sects who trace their origin to the Dutch pacifist priest Menno Simons. "Dunkards" derived their name from their practice of full-immersion baptism. Moravians descend from the early fifteenth century Czech Protestant reformer Jan Hus. Mainly from central Europe, they became pacifist after failed uprisings in the seventeenth century.

[364] *Id.* at 191.

[365] An Act to regulate and establish a Militia in this State, 1781 N.C. Sess. Laws 359, http://docsouth.unc.edu/csr/index.php/document/csr24-0010.

[366] *Id.* at 366.

[367] An Act for Raising troops to compleat the Continental Battalions of this State, and other purposes, 1782 N.C. Sess. Laws 413, http://docsouth.unc.edu/csr/index.php/document/csr24-0012.

[368] *Id.* at 414.

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After the war was over, the 1785 act raised the minimum militia age to 18. Militiamen included "all freemen and indented servants" (but not servants for life, a/k/a slaves). Militiamen had to arm themselves with "a well fixed gun and cartouch-box, with nine charges of powder made into cartridges and sizeable bullets or swan-shot, and one spare flint, worm and picker."[369]

North Carolina's 1787 militia law[370] was in effect when it ratified the Second Amendment on December 22, 1789.[371] The militia law kept the militia as "all freemen and indented servants within this State, from eighteen to fifty years of age."[372] The required arms and equipment were now more specific and varied by role in the militia.[373]

For commissioned officers in the infantry, "side arms" (handguns) "or a spontoon" (a pole arm). For private and non-commissioned officers, a musket or rifle, plus a cartridge box, powder horn, shot pouch "in good condition," "nine charges of powder made into cartridges with sizeable balls or swan-shot," a spare flint, and one worm and picker.[374] As for artillerymen, they "shall be armed and accoutred with small arms in the same manner of the infantry, except the non-commissioned officers, who shall have swords instead of fire-arms."[375]

Horsemen, whether officers or privates, needed "a strong, serviceable horse, at least fourteen hands high, with a good saddle, bridle, holsters, one pistol, horseman's sword and cap, a pair of shoe boots and spurs," plus "a proper cartouch-box and cartridges all in good order."[376]

North Carolina's next militia bill, passed on December 29, 1792, conformed to the federal Uniform Militia Act of 1792. The minimum age remained 18, while the maximum dropped to 45. The mandatory arms paralleled the federal statute. Each infantryman was required to "provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, a knapsack, a pouch with a box therein to contain not less than 24 cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball ; or with a good rifle, knapsack, shot-pouch and powder-horn, 20 balls suited to the bore of his rifle, and a quarter of a pound of powder." [377]

The state's final militia act of the eighteenth century was passed in 1796. It improved consistency with federal law and kept the previous age and arms requirements.[378]

D. South Carolina: "all male persons in this Province, from the age of sixteen to sixty years"

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[369] An Act for Establishing a Militia in This State, 1785 N.C. Sess. Laws 710, http://docsouth.unc.edu/csr/index.php/document/csr24-0016.

[370] An Act for Establishing a Militia in this State, 1787 N.C. Sess. Laws 813, http://docsouth.unc.edu/csr/index.php/document/csr24-0017.

[371] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 311–12.

[372] An Act for Establishing a Militia in this State, *supra* note 370, at 813.

[373] *Id.* at 814.

[374] *Id.*

[375] *Id.*

[376] *Id.*

[377] 1792 N.C. Sess. Laws 33, https://babel.hathitrust.org/cgi/pt?id=nc01.ark:/13960/t8sb53g1g;view=1up;seq=33.

[378] 1796 N.C. Sess. Laws 57, https://babel.hathitrust.org/cgi/pt?id=nc01.ark:/13960/t6n02562t;view=1up;seq=57.

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South Carolina was formally separated from North Carolina in 1729 but began making its own laws before that. Its first militia statute was enacted in 1703.[379] It included "all and every the inhabitants from the age of sixteen years to sixty."[380] It required "each person or soldier" to appear "with a good sufficient gun, well fixed, a good cover for their lock, one good cartridge box, with at least twenty cartridges of good powder and ball, and one good belt or girdle, one ball of wax sticking at the end of the cartridge box, to defend the arms in rain, one worm, one wier and four good spare flints, also a sword, bayonet or hatchet."[381]

The arms and age requirements were retained in the 1707 militia act.[382] This act was revived and continued in 1721.[383] The 1721 act made only minor changes for arms; militiamen now had to bring at least a quarter pound of powder, and only twelve cartridges instead of twenty.[384] Additionally, troops of horse or dragoons had to provide themselves with "holsters and a pair of pistols, a carbine and sword."[385] The next act, in 1734, was identical to 1721.[386]

South Carolina's 1737/8 militia act is lost.[387] A 1739 supplement did make it clear that militia arms were to be kept at home: "all persons who are liable to bear arms, shall constantly keep in their houses such arms, furniture, ammunition and accoutrements." [388]

A 1747 act affirmed that it was "lawful to . . . call together all male persons in this Province, from the age of sixteen to sixty years." It also made "every person liable to appear and bear arms . . . keep in his house, or at his usual place of residence, and bring with him to such muster, exercise or training, one gun or musket, fit for service, a cover for his lock, one cartridge box," twelve cartridges, horn or flask filled with at least a quarter pound of gun powder, a shot pouch with appropriate bullets, "one girdle or belt, one ball of wax . . . to defend his arms in rain, one worm and picker, four spare flints, a bayonet, sword or hatchet."[389]

The next militia act was passed over four decades later, in 1778.[390] It applied to "all male free inhabitants . . . from the age of sixteen to sixty years."[391] Every militiaman had to "constantly keep in good repair, at his place of abode . . . one good musket and bayonet, or a good substantial smooth bore gun and bayonet, a cross belt and cartouch box" that could hold thirty-six rounds, "twelve rounds of good cartridges," plus "half a pound of spare powder and twenty-four spare rounds of leaden bullets or buck-shot," a cover for the gunlock, wax, worm picker, and "one screw driver or substantial knife." Instead of the musket plus bayonet, a militiaman could choose "one good rifle-gun and tomahawk or cutlass."[392]

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[379] 9 THE STATUTES AT LARGE OF SOUTH CAROLINA: CONTAINING THE ACTS RELATING TO ROADS, BRIDGES AND FERRIES, WITH AN APPENDIX, CONTAINING THE MILITIA ACTS PRIOR TO 1794, at 617 (David J. McCord ed., 1841), https://books.google.com/books/about/The_Statutes_at_Large_of_South_Carolina.html?id=t7Q4AAAAIAAJ.
[380] *Id.*
[381] *Id.* at 618.
[382] *Id.* at 625-26.
[383] *Id.* at 631.
[384] *Id.* at 632.
[385] *Id.* at 639.
[386] *Id.* at 641.
[387] 3 THE STATUTES AT LARGE OF SOUTH CAROLINA 487 (Thomas Cooper, ed., 1838) ("The original not to be found.").
[388] 9 THE STATUTES AT LARGE OF SOUTH CAROLINA, *supra* note 367, at 643.
[389] *Id.* at 645-47. This act was followed in 1760 by an act establishing and regulating the artillery company that was formed out of the Charleston militia. *Id.* at 664.
[390] *Id.* at 666.
[391] *Id.* at 672.
[392] *Id.* at 672-73.

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South Carolina's 1782 militia act kept the minimum age at 16 but lowered the maximum age to 50.[393] A temporary act in 1783 left the age and arms requirements unchanged.[394]

The minimum age was raised for the first time in South Carolina's history in the militia act of 1784, which defined the militia when the state ratified the Second Amendment on January 19, 1790.[395] The 1784 act "excused from militia duty, except in times of alarm . . . all persons under the age of eighteen years or above the age of fifty years."[396] Thus, men under 18 or over 50 could still be forced to serve in an emergency.

The necessary arms were revised in 1791. Firearms were "a good musket and bayonet . . . or other sufficient gun."[397] Edged arms were "a good and sufficient small sword, broad sword, cutlass or hatchet."[398] Along with the usual cartouch box, powder horn or flask, shot bag or pouch, spare flint, and ammunition.[399]

Almost exactly one year later, on December 21, 1792, an act[400] was passed that continued the Acts of 1784 and 1791, until the state could "arrange the militia agreeable to the Act of the United States in Congress."[401] The South Carolina militia expressly included free people of every color within the state: "all free negroes and Indians, (nations of Indians in amity with the State excepted,) Moors, mulattoes and mestizoes,[402] between the ages of eighteen and forty-five, shall be obliged to serve in the said militia."[403]

Finally, in 1794, the state organized its militia "in conformity with the act of Congress."[404] The South Carolina militia was "every citizen who shall, from time to time, arrive at the age of eighteen years."[405] It excluded "all persons under the age of eighteen, and above the age of forty-five years."[406] Additionally, "all free white aliens or transient persons, above the age of eighteen and under the age of forty-five years, who have resided or hereafter shall or may reside in this state for the term of six months [were] subject and liable to do and perform all patrol and militia duty

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[393] *Id.* at 682.
[394] *Id.* at 688.
[395] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 309–11.
[396] 9 THE STATUTES AT LARGE OF SOUTH CAROLINA, *supra* note 379, at 689–90.
[397] *Id.* at 691.
[398] *Id.*
[399] *Id.*
[400] *Id.* at 347-59.
[401] *Id.* at 358.
[402] Mixed-race descent of whites and Indians. The Indian amity language meant that an Indian who lived among South Carolinians was subject to militia duty. Because Indian tribes were legally separate nations, Indians of friendly tribes who lived with the tribe could not be subject to militia duty.
[403] *Id.* at 358.
[404] 8 THE STATUTES AT LARGE OF SOUTH CAROLINA: CONTAINING THE ACTS RELATING TO CORPORATIONS AND THE MILITIA 485 (David J. McCord ed., 1841), https://books.google.com.fj/books?id=4EgUAAAAYAAJ.
[405] *Id.* at 487.
[406] *Id.* at 492.

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which shall or may be required by the commanding officer" of the district."[407] The required arms were the same as the federal Uniform Militia Act.[408]

E. New Hampshire: males under seventy

New Hampshire's first militia act was passed in 1687.[409] It demanded "that no person whatsoever above Sixteene yeares of age remaine unlisted."[410] Equipment was "a well fixed musket" with a barrel at least three feet.[411] The caliber was large: "the bore for a bullett of twelve to the pound."[412] Also necessary were bandoliers and a cartridge box, plus bullets and powder.[413] Officers had the option of allowing their men to have "a good pike and sword" instead of the musket.[414]

As for horsemen, "every soldier belonging to the horse" had to bring "a good serviceable horse covered with a good saddle with holsters breastplate and crupper a case of good pistolls and sword and halfe a pound of powder and twenty sizable bulletts . . . And every trooper have at his usuall place of abode a well fixed Carabine with belt and swivel."[415]

The next act, in 1692, changed the militia from all "persons" over sixteen to all males over 16.[416] For arms, everyone had to be "well provided w'th a well fixed gun or fuse," plus "Sword or hatchet."[417] Along with the typical colonial requirements for gunpowder and bullets, a knapsack, a cartridge box, a powder horn, and flints.[418]

The above had stated how much ammunition the militiaman had to bring when called to muster—the periodic militia inspections for sufficiency of arms. Besides that, every militiaman had to keep more at home: "every Sooilder Shall have at his habitation & abode one pound of good pouder & twenty Sizable bullets."[419]

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[407] *Id.* at 493. The "patrol" was the slave patrol—nighttime patrols to catch slaves who were off their master's land, and to search slave quarters for weapons. The patrol and the militia had separate origins and were legally distinct. However, as the text indicates, below the Mason-Dixon line, the patrol and the militia were related. *See generally* SALLY E. HADDEN, SLAVE PATROLS: LAW AND VIOLENCE IN VIRGINIA AND THE CAROLINAS (2001).

[408] 8 THE STATUTES AT LARGE OF SOUTH CAROLINA: CONTAINING THE ACTS RELATING TO CORPORATIONS AND THE MILITIA, *supra* note 404, at 498. This law was supplemented later in 1794, but the supplement did not affect the age limits nor arms requirements. *Id.* at 501-02.

[409] 1 LAW OF NEW HAMPSHIRE: PROVINCE PERIOD 221 (Albert Stillman Batchellor ed., 1904), https://play.google.com/store/books/details?id=YSgTAAAAYAAJ.

[410] *Id.*

[411] *Id.*

[412] *Id.* That is, one pound of lead would make twelve bullets. This was slightly larger than .75 caliber, which is 13 round bullets per pound. RED RIVER BRIGADE, http://www.redriverbrigade.com/lead-ball-per-pound/ (last visited Jan. 13, 2019).

[413] 1 LAWS OF NEW HAMPSHIRE: PROVINCE PERIOD, *supra* note 397.

[414] *Id.*

[415] *Id.* at 221-22

[416] *Id.* at 537.

[417] *Id.*

[418] *Id.*

[419] *Id.*

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A 1704 act did not change the militia ages or arms.[420] But the following act did. "An Act for the Regulating of the Militia" in 1718 established New Hampshire's first upper militia age limit, providing that "all Male Persons from Sixteen Years of Age to Sixty [] shall bear Arms."[421]

The primary arms mandate applied to "every Listed Souldier and Housholder (except Troopers)."[422] In other words, the head of a house was required to have the specified arms, even if the head were not militia-eligible. These arms were "a well fix'd, Firelock Musket, of Musket or Bastard-Musket bore, the Barrel not less than three foot and a half long; or other good Fire-Arms, to the satisfaction of the Commission Officers of the Company."[423] Now, the mandatory equipment included gun cleaning tools: "a Worm and Priming Wire fit for his Gun."[424] Mandatory edged arms were "a good Sword or Cutlash."[425]

As for horsemen, they needed "a Carbine, the Barrel not less than Two Foot and half long, with a Belt and Swivel, a Case of good Pistols with a Sword or Cutlash, a Flask or Cartouch Box, One Pound of good Powder, Three Pound of sizeable Bullets, Twenty Flints, and a good pair of Boots, and Spurs."[426]

Acts passed in 1719[427] and 1739/40[428] did not affect the age limits or arms requirements. A 1754 revision made the parents over persons under twenty-one liable for fines imposed for their sons' militia delinquency or neglect.[429]

Thus, the social expectation of the time was that parents would ensure that their sons sixteen and older had particular guns, swords, and so on, and that the sons would keep the arms in good condition and practice with them.

In 1773, New Hampshire lowered the maximum militia age from 60 to 50, "it having been found by Experience that persons attending after the Age of Fifty Years was not for the Publick advantage."[430]

After the Revolution began, a comprehensive new militia law was enacted.[431] It retained the recently established age limits of 16 to 50.[432]

Any "good Fire Arm" was acceptable. Also mandatory was a "good Ramrod."[433] The latter was used to ram the bullet down the muzzle, into the firing chamber. It was essential to the use of a muzzle-loading gun. While some militia statutes specified a ramrod, many left it to implication.

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[420] 2 ALBERT STILLMAN BATCHELLOR, LAWS OF NEW HAMPSHIRE, PROVINCE PERIOD 61-62 (1913), https://play.google.com/store/books/details?id=PbxGAQAAIAAJ.
[421] *Id.* at 284.
[422] *Id.* at 285.
[423] *Id.*
[424] *Id.*
[425] *Id.*
[426] *Id.*
[427] *Id.* at 347 ("An Act in Addition to the Act for the Regulating the Militia").
[428] *Id.* at 575 ("An Act in Addition to an Act Entituled, An Act for Regulating the Militia").
[429] 3 LAWS OF NEW HAMPSHIRE, PROVINCE PERIOD 83 (Henry Harrison Metcalf ed., 1915), https://play.google.com/store/books/details?id=n7xGAQAAIAAJ.
[430] *Id.* at 590.
[431] 4 LAWS OF NEW HAMPSHIRE, REVOLUTIONARY PERIOD 39 (Henry Harrison Metcalf ed., 1916) ("An Act for forming and regulating the Militia within the State of New Hampshire in New England, and for repealing all the Laws heretofore made for that purpose"), https://play.google.com/store/books/details?id=P71GAQAAIAAJ.
[432] *Id.*
[433] *Id.* at 42.

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By requiring that a gun be "well fixed" or "good," the less specific statutes implicitly required all appropriate accoutrements, including the ramrod.

For gun cleaning, the worm and priming wire had long been mandated. The new laws had an additional item: a brush.[434]

Two types of edged weapons were needed. First, "a Bayonet fitted to his Gun."[435] In close quarters fighting, an infantryman would attach the bayonet to the front of his gun. Then the gun would be used as a spear. Since there was a bayonet, there had to be "a Scabbard and Belt therefor."[436]

Besides the bayonet, one additional edged weapon was mandatory: "a Cutting Sword, or a Tomahawk or Hatchet."[437]

The ammunition items were: "Pouch containing a Cartridge Box, that will hold fifteen Rounds of Cartridges at least, a Hundred Buck Shot, a Jack Knife and Tow for Wadding, six Flints, one Pound of Powder, forty Leaden Balls fitted to his Gun."[438]

Finally, field supplies: "Knapsack and Blanket, a Canteen or Wooden Bottle sufficient to hold one Quart."[439]

Persons who were self-sufficient had to supply themselves with the required items. As for others, "all Parents, Masters, and Guardians, shall furnish and equip those of the Militia which are under their Care and Command."[440]

In the War of Independence—for national survival—arms duties were expanded even to 65-year-olds. All men "from Sixteen years of Age to Sixty five" who were *not* part of the militia ("the Training Band") were required to provided themselves the same "Arms and Accoutrements." This applied to men "of sufficient Ability" (able-bodied).[441]

Later, four years into the war, in 1780, New Hampshire enacted a new militia law.[442] The militia was ages sixteen and fifty.[443] The militiamen had to attend musters and drills, and sometimes had to march off to fight in distant locations.

Under the 1780 law, all males under 70 who were capable of bearing arms were put on the "alarm list."[444] This meant that they had to have all the same arms and gear as militiamen.[445] If there were an attack on their town, or nearby, they would come forth with their arms.

The New Hampshire statute reflected a common American practice. Whenever a small town was attacked, everybody who was able would fight as needed, including women, children, and the elderly.[446]

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[434] *Id.*
[435] *Id.*
[436] *Id.*
[437] *Id.*
[438] *Id.*
[439] *Id.*
[440] *Id.*
[441] *Id.* at 46.
[442] *Id.* at 273 ("An Act for Forming & Regulating The Militia within this State, and for Repealing All the Laws heretofore made for that Purpose.").
[443] *Id.* at 274.
[444] *Id.* at 276.
[445] *Id.*
[446] *See, e.g.*, STEVEN C. EAMES, RUSTIC WARRIORS: WARFARE AND THE PROVINCIAL SOLDIERS ON THE NEW ENGLAND FRONTIER, 1689-1748, at 28-29 (2011).

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The 1780 firearms requirement was more specific than its 1776 predecessor, requiring "a good Musquet."[447] The bayonet was still mandatory, but a second edged weapon was not.[448] Captains and Subalterns were to be "furnished with a half pike or Espontoon" (pole arms) or a "Fusee [lightweight long gun] and Bayonet and also with a Sword or Hanger."[449]

In 1786, New Hampshire repealed all previous militia laws, and enacted a comprehensive new statute.[450] This was the state's militia law when it ratified the Second Amendment on January 25, 1790.[451] The minimum age remained at 16—where it had been throughout all of New Hampshire's history. The maximum age fell to 40, its lowest yet.[452] Older men were on the alarm list until age 60.[453]

Arms were the same as in 1780.[454] As before, militiamen "under the care of parents masters or Guardians" were "to be furnished by them with such Arms and accoutrements."[455]

A 1792 militia law introduced a racial element; the militia consisted of "every free, able bodied white male citizen of this State resident therein who is, or shall be of the age of eighteen years and under the age of Forty years."[456]

The 1792 arms requirements were mostly the same as before, with some additional details. For example, commissioned officers had to have "a pair of Pistols, the holsters of which to be covered with bear-skin Caps."[457] Commissioned officers might have an espontoon (a pole arm often used for signaling), but field officers would not.[458] Again, "parents, Masters, or Guardians" had to furnish their charges with "Arms and Accoutrements."[459] And again they were "liable for the neglect and non appearance of such persons . . . under their care."[460]

In 1795 the starting militia age was lowered back to sixteen, where it had been until recently.[461] Perhaps the 1792 age-eighteen law was in deference to the federal Uniform Militia Act passed earlier that year. Later, the people decided that they wanted to keep their traditional lower age.

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[447] *Id.* at 276-77.
[448] *Id.*
[449] *Id.* at 277.
[450] 5 LAWS OF NEW HAMPSHIRE, FIRST CONSTITUTIONAL PERIOD 177 (Henry Harrison Metcalf ed., 1916), https://play.google.com/store/books/details?id=iKkwAQAAMAAJ. An addition to this act was passed in September of 1786, but it did not affect the age limits or arms requirements. *Id.* at 197.
[451] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 303-04.
[452] 5 LAWS OF NEW HAMPSHIRE, FIRST CONSTITUTIONAL PERIOD, *supra* note 450, at 177.
[453] *Id.* at 178.
[454] *Id.* at 180.
[455] *Id.* at 179. Also, as usual, "Parents Masters and Guardians shall be liable for the Neglect and Non Appearance of such persons as are under their Care and are liable by Law to train." *Id.* at 181.
[456] 6 LAWS OF NEW HAMPSHIRE, SECOND CONSTITUTIONAL PERIOD 84-85 (N.H. Sec'y of State ed., 1917) (available on Google Books).
[457] *Id.* at 88.
[458] *Id.* at 89.
[459] *Id.*
[460] *Id.*
[461] *Id.* at 263-64 ("[E]very free, able bodied, white male citizen of this State resident therein who is or shall be of the age of sixteen years, and under forty years of age, under such exceptions as are made in this act, shall be enrolled in the Militia, and shall in all other respects be considered as liable to the duties of the Militia, in the same way and manner, as those of the age of eighteen years and upwards. And every citizen enrolled and liable as aforesaid; shall, while under the age of twenty one years be exempt from a poll tax.").

Other additions to the 1792 militia law were enacted in 1793. *Id.* at 110 (assigning certain militia units to regiments), 1795 (*id.* at 279), and 1798 (*id.* at 545).

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F. Delaware: "every Freeholder and taxable Person"

First a colony of Sweden and then the Netherlands, Delaware was taken by the English in 1664. Initially, New York claimed it. A statute New York passed in 1671 to defend against Indian attacks along the Delaware River became Delaware's first militia act. It required "That every Person that can beare Arms from 16 to 60 years of Age, bee allways provided with a convenient proportion of Powder & Bullett fit for Service, and their mutual Defence."[462]

Eventually, Delaware got its own legislature, but the three compact counties were too small to merit a royal governor. Consequently, the Governor of Pennsylvania was also the Governor of Delaware. Delaware did not enact a militia statute until 1740.[463] It required "all the inhabitants and freemen" aged fifteen to sixty-three to "provide and keep . . . a well-fixed firelock or musket," plus ammunition supplies and cleaning tools.[464]

The next year, a new law required males from 17 to 50 years to enlist. Besides that, everyone else who was living self-sufficiently ("every Freeholder and taxable Person") had to have the same arms as militiamen.[465]

Because "the Subjects of the French King, and their Savage Indian Allies . . . in the most cruel and barbarous Manner, attacked and murdered great Numbers" of colonists, the Assembly of the Counties of New Castle, Kent, and Sussex enacted a militia law in 1756.[466] This militia law for the French & Indian War was for the people to "assert the just Rights, and vindicate the Honour, of His Majesty's Crown, but also to defend themselves and their Lives and Properties, and preserve the many invaluable Rights and Privileges that they enjoy under their present Constitution and Government."[467]

The militia law covered every male "above Seventeen and under Fifty Years of Age (except bought Servants, or Servants adjudged to serve their Creditors)."[468] The gun was to be a musket or rifle.[469] The next year the militia act was extended "so long as the War proclaimed by his Majesty against the French King shall continue and no longer."[470]

After the Revolution began, Delaware enacted several militia statutes in 1778. The foundational act "establishing a Militia within this State" included "each and every able-bodied, effective, Male white Person between the Ages of Eighteen and Fifty."[471] Militiamen had to provide their own "Musket or Firelock with a Bayonet," plus the cartridge box, cartridges, priming

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[462] GEORGE H. RYDEN, DELAWARE—THE FIRST STATE IN THE UNION 103-104 (1938), https://archives.delaware.gov/wp-content/uploads/sites/156/2017/05/DE_Terc_Publications.pdf.

[463] 1 LAWS OF THE STATE OF DELAWARE 175 (1797), https://play.google.com/store/books/details?id=GXJKAAAAYAAJ).

[464] *Id.* at 175, 178.

[465] RYDEN, *supra* note 462, at 117. A "freeholder" owned real property. Single women could be freeholders. A tenant was not a freeholder, but could be a taxable person.

[466] ARTHUR VOLLMER, MILITARY OBLIGATION: DELAWARE ENACTMENTS 179 (1947).

[467] *Id.*

[468] *Id.*

[469] *Id.* at 180.

[470] RYDEN *supra* note 462, at 126.

[471] AN ACT of the General Assembly of the Delaware State for establishing a militia within the said state, 1778 Del. Acts, March Adjourned Session 3-4. The several acts from the March 1778 session are separately paginated, so each new act begins on its own page 1.

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wire, brush, and six flints. For 18-to-20-year-olds who could not afford the mandatory arms, the parents had to provide them, if the parents could afford them.[472]

Another law punished people who bought from militiamen the arms or accoutrements that militiamen were supposed to always keep. If the illicit buyer were a man 18 to 50, the punishment could include six months' service in the militia.[473] The third act in 1778 provided regulations for the militia "whilst under Arms or embodied" (i.e., in active service).[474] A 1779 supplement specified the punishment for persons between 18 and 50 who failed to appear for militia duty with the required arms.[475]

A comprehensive new militia act in 1782 included "every able-bodied effective Male white Inhabitant between the Ages of eighteen and fifty years."[476] Again, parents who could afford to had to provide the required arms to persons aged 18-to-20 who could not afford them.[477] Arms were the same as before.[478]

The act that established the militia when Delaware ratified the Second Amendment on January 28, 1790,[479] was passed in 1785.[480] Each white male 18-50 whose taxes were at least twenty shillings a year had to provide equipment "at his own expence."[481] As for apprentices and persons over 18 and under 21, their parent or guardian would provide the arms—*if* the militiaman's estate were at least eighty pounds, or if the parent paid "six pounds annually towards the public taxes."[482]

Arms were "a musket or firelock, with a bayonet," a cartridge box with twenty-three cartridges, "a priming wire, a brush and six flints, all in good order." [483] Fines for neglect were to be paid by militiamen "of full age or by the parent or guardian of such as are under twenty-one years."[484] The guardian could charge his ward for the expense when the time came for "settling the accounts of his guardianship."[485]

Like most states, Delaware enacted a new militia law after the federal Uniform Militia Act passed in 1792. Delaware's 1793 act included "each and every free able bodied white male citizen of this state, who is or shall be of the age of eighteen years, and under the age of forty-five years."[486] However, "all young men under the age of twenty-one years, and all servants purchased *bona fide*, and for a valuable consideration, [were] exempted from furnishing the necessary arms,

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[472] *Id.* at 4-5.
[473] An Act against Desertion, and harboring Deserters, or dealing with them in Certain Cases, 1778 Del. Acts Mar. Adjourned Sess. 1-3.
[474] Rules and Articles, for the better regulating of the militia of this State, whilst under Arms or embodied, 1778 Del. Acts Mar. Adjourned Sess. 1.
[475] A Supplement to an Act, intitled, An Act for establishing a Militia within this State, 1778 Del. Acts Oct. Regular Sess. 14.
[476] AN ACT for establishing a Militia within this State, 1, Jan. Adjourned Sess. 1782, http://heinonline.org/HOL/P?h=hein.ssl/ssde0069&i=1.
[477] *Id.* at 3.
[478] *Id.*
[479] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 307.
[480] An Act for Establishing a Militia, 1785 Del. Acts. May Adjourned Sess. 11.
[481] *Id* at 13.
[482] *Id.*
[483] *Id.*
[484] *Id.*
[485] *Id.*
[486] 2 LAWS OF THE STATE OF DELAWARE 1134 (1797), https://babel.hathitrust.org/cgi/pt?num=1134&u=1&seq=641&view=image&size=100&id=njp.32101042903870&q1=twenty-one.

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ammunition and accoutrements . . . and [were] exempted from militia duties and fines during such minority or servitude, except in cases of rebellion, or an actual or threatened invasion."[487]

In other words, servants and males 18 to 20 would not be fined if they did not participate in drills. Additionally, they would not be fined if they lacked the requisite equipment. Of course, if they wanted to keep arms and train, they could.

Required arms mostly tracked the federal law, with some more detail for horsemen.[488]

A 1796 supplement revised the organization and regulation of the militia, and again included able-bodied white males from 18 to 45.[489] The act also forbade volunteer militias, because there were "a number of free able bodied white men in this state, between the ages of eighteen and forty-five years, who neglect and refuse to muster and do militia duty, in the companies in which they have been enrolled . . . and yet meet together with arms in bodies distinguished and known by the name of Volunteer Companies."[490]

Delaware's hostility to volunteer companies was not the national norm. In fact, the federal Uniform Militia Act expressly recognized independent volunteer companies.[491] The UMA set forth the conditions and regulations for independent militia service in the federal militia.[492]

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[487] *Id.* at 1135. In other words, hired servants were part of the enrolled militia. Indentured servants were not, except in emergencies. Textually, slaves were "purchased…for a valuable consideration," but we are not certain whether they too would be part of the militia during an emergency. *Cf. supra* note 221 (distinguishing "bought" servants from African slaves).

[488] *Id.* at 1136.

> [E]very non-commissioned officer and private of the infantry (including grenadiers and light infantry, and of the artillery shall have a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges suited to the bore of his gun, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; the commissioned officers of the infantry shall be armed with a sword or hanger, and an espontoon, and those of artillery with a sword or hanger, a fuzee, bayonet and belt, and a cartridge box to contain twelve cartridges; the commissioned officers of the troops of horse shall furnish themselves with good horses of at least fourteen hands and a half high, and shall be armed with a sword and pair of pistols, the holsters of which shall be covered with bear skin caps; each light-horseman or dragoon shall furnish himself with a serviceable horse at least fourteen hands and an half high, a good saddle, bridle, mail pillion and valise holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch box to contain twelve cartridges for pistols; the artillery and horse shall be uniformly clothed in regimentals, to be furnished at their own expence.

[489] *Id.* at 1225.

[490] *Id.* at 1234 (noting that besides the concern about the state militia, Delaware also worried about "the assembling of large bodies of armed men, who do not acknowledge, and refuse to submit to, the legal military establishment.").

[491] More effectually to provide for the National Defence by establishing an Uniform Militia throughout the United States (Uniform Militia Act) (UMA), 1 Stat. 271, 274, §§ 10-11.

[492] *Id.* (providing "And whereas sundry corps of artillery, cavalry, and infantry now exist in several of the said states, which by the laws, customs, or usages thereof have not been incorporated with, or subject to the general regulations of the militia: SEC. 11. Be it enacted, That such corps retain their accustomed privileges, subject, nevertheless, to all other duties required by this Act, in like manner with the other militia").

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Delaware passed its final militia act of the eighteenth century in 1799.[493] The scope of the militia remained the same.[494] The arms were mostly the same: for the infantryman, "a good musket" plus a bayonet, or "a good rifle." Commissioned officers needed "a sword or hanger, a fusee, bayonet," and troopers had to be "armed with a sabre and pair of pistols." [495]

Men 18 to 20 were again exempted from fines for non-performance of militia duties "during such minority, except in cases of rebellion or any actual invasion of this State."[496]

G. Pennsylvania: No service "without the consent of his or their parents or guardians, masters or mistresses"

In the days when Pennsylvania was claimed by New York, a 1671 law required "every person that can bear arms from 16 to 60 years of age, be always provided with a convenient proportion of powder and bullet fit for service, and their mutual defence."[497] This meant "at least one pound of powder and two pounds of bullet."[498] As backup to insufficient armament by the people, "his Royal Highness' Governor [N.Y. Gov. Francis Lovelace] is willing to furnish them out of the magazine or stores, they being accountable and paying for what they shall receive, to the Governor or his order."[499]

Five years later, it was mandated that:

> Every Male within this Goverment from Sixteen to Sixty years of age, or not freed by public Allowance, shall if freeholders at their own, if sons or Servants at their Parents and Masters Charge and Cost, be furnished from time to time and so Continue well furnished with Armes and other Suitable provition hereafter mentioned . . . Namely a good Serviceable Gun, allowed Sufficient by his Military Officer to be kept in Constant fitness for present Service, with a good sword bandeleers or horne a worme a Scowerer a priming wire Shott Badge and Charger one pound of good powder, four pounds of Pistol bullets or twenty four bullets fitted to the gunne, four fathom of Serviceable Match for match lock gunn four good flints fitted for a fire lock gunn.[500]

As for horsemen, their mandatory arms were "Holsters, Pistolls, or Carbine, and a good Sword."[501]

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[493] An Act to Establish an Uniform Militia throughout this State, 3 Del. Laws 82 (1798), https://babel.hathitrust.org/cgi/pt?q1=militia;id=njp.32101042904340;view=image;seq=88;start=1;sz=10;page=search;num=82.

[494] *Id.*

[495] *Id.* at 84-85. Unlike muskets or fowling pieces, rifles of the time were too fragile to use with bayonets.

[496] *Id.* at 84.

[497] *Ordinances for Defence*, in DUKE OF YORKE'S BOOK OF LAWS 450 (1664), https://babel.hathitrust.org/cgi/pt?q1=ARMS;id=hvd.32044022680946;view=image;start=1;sz=10;page=root;size=100;seq=466;num=450.

[498] *Id.*

[499] *Id.*

[500] CHARTER TO WILLIAM PENN, AND LAWS OF THE PROVINCE OF PENNSYLVANIA, PASSED BETWEEN THE YEARS OF 1682 AND 1700, PRECEDED BY DUKE OF YORK'S LAWS IN FORCE FROM THE YEAR 1676 TO THE YEAR 1682, at 39 (1676).

[501] *Id.* at 43.

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Pennsylvania became a separate colony in 1681, following a royal grant to the Quaker aristocrat William Penn.[502] Early Pennsylvania was the only colony without an organized functional militia.[503] Political power was in the hands of Quakers, many of whom (not all) were pacifists.[504] Additionally, the Quakers had generally non-violent relations with Indians, and thus less need for collective self-defense.[505]

However, after the French & Indian War began in 1754, George Washington raised and paid for an army of Virginians to fight the French in the Ohio River Valley, and attitudes began to change.[506] Because of non-Quaker immigration, Quaker hegemony over Pennsylvania politics had been challenged in the previous decades.[507] Then in 1755 Pennsylvania passed an act to formalize voluntary militias wanting to defend the colony.[508] The 1755 militia law explained the assembly was respecting the conscience rights of Quakers (most of whom were unwilling to fight) *and* the conscience rights of people of other faiths, who did want to join in associations for community defense.[509]

Minors and indentured servants could not join the new militia without the consent of their superiors: "no youth under the age of twenty-one years nor any bought servant or indented apprentice shall be admitted to enroll himself or be capable of being enrolled in the said companies or regiments without the consent of his or their parents or guardians, masters or mistresses, in writing under their hands first had and obtained."[510] Later in 1755, as the pressures of war were growing, the assembly adopted a non-binding resolution "that it be recommended to all male white persons within this province, between the ages of sixteen and fifty years, who have not already associated, and are not conscientiously scrupulous of bearing arms, to join the said [militia] association immediately."[511]

Five months later, Pennsylvania imposed a special tax on "every male white person capable of bearing arms, between the ages of sixteen and fifty years" who had *not* joined a militia.[512] This

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[502] *Pennsylvania History 1681-1776: The Quaker Province*, PA. HIST. & MUSEUM COMMISSION, http://www.phmc.state.pa.us/portal/communities/pa-history/1681-1776.html (last visited Jan. 13, 2019).
[503] *Id.*
[504] DAVID B. KOPEL, THE MORALITY OF SELF-DEFENSE AND MILITARY ACTION: THE JUDEO-CHRISTIAN TRADITION 384-89 (2017) (describing diverse Quaker views on defense of self and others, during and before the American Revolution).
[505] PAUL A.W. WALLACE, INDIANS IN PENNSYLVANIA 142-46 (2d ed. 2005); *see also*, Thomas J. Sugrue, *The Peopling and Depeopling of Early Pennsylvania: Indians and Colonists, 1680-1720*, 116 PA. MAG. HIST. & BIO. 3 (Jan. 1992) (explaining the relationship of Penn's settlers with the Indians as, although not typically characterized by war, not always idyllic and generous).
[506] WALLACE, *supra* note 505, at 147-59.
[507] JACK D. MARIETTA, THE REFORMATION OF AMERICAN QUAKERISM, 1748-1783, at 132-22 (2007).
[508] 5 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682-1801, at 197 (1898), https://babel.hathitrust.org/cgi/pt?view=image;size=125;id=mdp.39015050623548;q1=militia;page=root;seq=203;num=197;orient=0.
[509] *Id.* (The act began: "Whereas this province was first settled by (and a majority of the assemblies ever since been of) the people called Quakers, who, though they do not, as the world is now circumstanced, condemn the use of arms in others, yet are principled against bearing arms themselves." The militia/associator statute was non-compulsory for everyone: "for them by any law to compel others to bear arms and exempt themselves would be inconsistent and partial").
[510] *Id.* at 200.
[511] 8 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 492 (1902).
[512] *Id.* at 539.

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penalty was reaffirmed by "Resolutions directing the Mode of Levying Taxes on Non-Associators in Pennsylvania" two months later.[513] Finally, the entire militia act was repealed on July 7, 1756.[514]

In 1755, and the first half of 1756, Quakers had been under pressure.[515] They were willing to pay taxes in general, knowing that some of the revenue would be used for military activity.[516] Most of them were pacifists, and they were not only unwilling to fight, but they were also unwilling to pay a special tax levied on them for not fighting, especially because they knew the tax would be used for the military.[517]

During the eighteenth century, Americans grappled with how to deal with conscientious objectors.[518] Sometimes a mutually acceptable accommodation was found.[519]

Once the Revolutionary War began, Pennsylvania had to create a formidable militia. By this time, non-Quakers held the political power.[520] The new militia law of 1777 was for "every male white person usually inhabiting or residing within his township, borough, ward or district between the ages of eighteen and fifty-three years capable of bearing arms."[521]

For conscientious objectors, Pennsylvania adopted a variant of the practice used in some other colonies: the reluctant man subject to militia service could pay for a substitute to serve in his stead. In some states, this would be simply be a negotiated contract between the conscript and the substitute. In Pennsylvania, the fee or penalty was apparently to be paid to the militia itself, which could then hire a substitute.[522] Pennsylvania allowed for appeals if the objector thought the fee too high.[523] For militiamen 18 to 20, the parents could appeal the fee, as could masters of indentured servants who were 18 to 20.[524]

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[513] *Id.* at 512.

[514] 5 STATUTES AT LARGE OF PENNSYLVANIA, *supra* note 508, at 201, https://babel.hathitrust.org/cgi/pt?view=image;size=125;id=mdp.39015050623548;q1=militia;page=root;seq=207;num=201.

[515] MARIETTA, *supra* note 507, at 141-58.

[516] *Id.* at 136-37.

[517] KOPEL, *supra* note 504, at 388.

[518] *See* LIBERTY AND CONSCIENCE: A DOCUMENTARY HISTORY OF CONSCIENTIOUS OBJECTORS IN AMERICA THROUGH THE CIVIL WAR 3-67 (Peter Brock ed. 2002). For example, the constitutions of Vermont, New Hampshire, Kentucky, and Tennessee included specific protections for conscientious objectors. JOHNSON ET AL., *supra* note 18, at 293, 296, 386. When ratifying the Constitution, the states of Maryland, Virginia, North Carolina, and Rhode Island asked for conscientious objector protections for the federal militia power. *Id.* at 313, 322, 327, 328. James Madison included such a protection in his draft of what became the Second Amendment, but the clause was removed in the Senate, based on the argument that that matter was best left to legislative discretion. *Id.* at 335-37.

[519] *See generally* LIBERTY AND CONSCIENCE, *supra* note 518 (describing examples of persecution and tolerance). Accommodations were easier for the non-Quaker pacifists, who did not object to paying war taxes or special fees for exemptions from military duty. *Id.* at 48.

[520] MARIETTA, *supra* note 507, at 219-20 (noting that from 1774 onward the Pennsylvania Assembly was under control of non-Quakers who advocated vigorous confrontation with Great Britain).

[521] 9 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 77 (1903); MARIETTA, *supra* note 507, at 225-29.

[522] 9 STATUTES AT LARGE OF PENNSYLVANIA, *supra* note 521, at 77.

[523] *Id.*

[524] *Id.* at 87 ("[I]f any parent, guardian, master or mistress of any person between the ages of eighteen and twenty-one years or of any other person made liable to serve in the militia by this act shall think him or herself aggrieved by any of the rates, fines or sum or sums of money agreed for in the procuring of substitutes . . . he, she or they may appeal").

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The 1777 Act was non-specific on equipment, requiring only a militiaman's "arms and accoutrements" be "in good order."[525] This Act was supplemented in 1777, without affecting age limits or arms.[526]

A new Act in 1780, five years into the Revolutionary War, kept the ages at 18 to 53, and reiterated the non-specific mandate for arms and accoutrements "in good order."[527] This Act was Pennsylvania's militia act when it ratified the Second Amendment on March 10, 1790.[528] There was a supplement in 1780,[529] repeal and replacement of that supplement in 1783,[530] more supplements in 1783[531] and 1788,[532] and a repeal of parts of those supplements in 1790.[533] None of these changed the ages or the arms.

During the Revolutionary War, not long after the 1780 Militia Act had been enacted, the assembly established the Pennsylvania Volunteers.[534] The Pennsylvania Volunteers were a state army, similar to the armies raised by other states. Every militia company had to "provide or hire one able-bodied man not less than eighteen or more than forty-five years of age" to serve in the Pennsylvania Volunteers.[535] Notably, the whites-only provision from the militia law was omitted. As was true throughout the seventeenth and eighteenth centuries in America, whatever racial limits existed on militia or other military service tended to be repealed or overlooked under the pressure of wartime exigencies.[536]

After Congress passed the federal UMA in 1792, Pennsylvania enacted conforming legislation in 1793.[537] The Act tracked the federal militia definition: free white males 18 to 45.[538] The mandatory arms and accoutrements within the Act copied the extensive federal list.[539]

Like neighboring Delaware, Pennsylvania relaxed the peacetime requirements for young adults.[540] "[A]ll young men under the age of twenty-one years, and all servants purchased bona fide and for a valuable consideration," had to enroll in the militia.[541] But "during such minority or servitude," they were exempt from training and from fines for not having the requisite

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[525] *Id.* at 80.
[526] *Id.* at 131.
[527] 10 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 144-46 (1904).
[528] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 306-07.
[529] 10 STATUTES AT LARGE OF PENNSYLVANIA, *supra* note 527, at 225.
[530] 11 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 91-93 (1906). (The new 1783 supplement stated that it applied to "young men who have arrived to the age of eighteen years.").
[531] *Id.* at 161.
[532] 13 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 41 (1908).
[533] *Id.* at 451, https://books.google.com/books?id=HRxEAAAAYAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q=MILITIA&f=false.
[534] 10 STATUTES AT LARGE OF PENNSYLVANIA, *supra* note 527, at 191.
[535] *Id.*
[536] JOHNSON ET AL., *supra* note 18, at 194.
[537] 14 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 454 (1909), https://babel.hathitrust.org/cgi/pt?q1=militia;id=mdp.39015050623514;view=image;start=1;sz=10;page=root;size=100;seq=460;num=454.
[538] *Id.* at 455.
[539] *Id.* at 457-58.
[540] 2 Laws of the State of Delaware 1135 (1797).
[541] 14 STATUTES AT LARGE OF PENNSYLVANIA, *supra* note 537, at 456.

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equipment.[542] The exception did not apply "in cases of rebellion, or an actual or threatened invasion of this or any of the neighboring states."[543]

Pennsylvania's final militia act of the eighteenth century was passed in 1799.[544] It kept the previous act's age limits of 18 and 45,[545] as well as the peacetime exemptions.[546] However, the new act explicitly allowed "sons who are not subject to the militia law may be admitted as substitutes for their fathers."[547] In other words, if a 42-year-old father were summoned into the militia, the 17-year-old son could choose to serve in his stead. The arms requirements were slightly modified, with more elaboration of accoutrements for horsemen, and making sure handgunners had "bear skin caps" for their holsters.[548]

H. New York: "every able bodied male person Indians and slaves excepted"

New York's first militia act came among The Duke of York's Laws in 1665.[549] It provided that:

> Every Male within this Government from Sixteen to Sixty years of age, or not freed by public Allowance, shall if freeholders at their own, if sons or Servants at their Parents and Masters Charge and Cost, be furnished from time to time and so Continue well furnished with Armes and other Suitable provition hereafter mentioned: under the penalty of five Shillings for the least default therein Namely a good Serviceable Gun, allowed Sufficient by his Military Oficer to be kept in Constant fitness for present Service, with a good sword bandeleers or horne or worme a Scowerer a priming wire Shott Badge and Charger one pound of good powder, four pounds of Pistol bullets or twenty four bullets fitted to the gunne, four fathom of Serviceable Match for match lock gunn four good flints fitted for a fire lock gunn.[550]

Troopers had to "keepe and maintaine a good Horse Fitted with Sadle, bridle, Holsters, Pistolls or Carbine, and a good Sword."[551]

The act additionally provided that: "In defence of himself his wife Father or Mother Children or Servants a man may Lawfully use force to resist any attempt made to that purpose."[552] Thus, the right of 18-to-20-year-olds to use arms in self-defense was expressly guaranteed.

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[542] *Id.*
[543] *Id.*
[544] 16 THE STATUTES AT LARGE OF PENNSYLVANIA FROM 1682 TO 1801, at 276 (1911), https://play.google.com/store/books/details?id=zRtEAAAAYAAJ&rdid=book-zRtEAAAAYAAJ&rdot=1.
[545] *Id.*
[546] *Id.* at 278.
[547] *Id.* at 297.
[548] *Id.* at 281.
[549] 1 THE COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION, INCLUDING THE CHARTERS TO THE DUKE OF YORK, THE COMMISSION AND INSTRUCTIONS TO COLONIAL GOVERNORS, THE DUKES LAWS, THE LAWS OF THE DONAGAN AND LEISLER ASSEMBLIES, THE CHARTERS OF ALBANY AND NEW YORK AND THE ACTS OF THE COLONIAL LEGISLATURES FROM 1691 TO 1775 INCLUSIVE 49-50 (1896).
[550] *Id.*
[551] *Id.* at 54.
[552] *Id.* at 15.

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A 1684 law ensured that persons exempted from the militia still kept the militia arms in their homes.[553]

In 1691, New York lowered the minimum militia age, so that "noe person whatsoever from fiftieen to Sixty years of Age remaine unlisted."[554]

The arms were typical of the time: For every foot soldier, "a well fixed muskett or fuzee" for officers, "a good pike or Sword or lance and pistoll."[555] At home, every foot soldier was to have "one pound of good powder and three pound of Sizeable bulletts," and every Trooper (horseman) had to "have at his usuall place of abode a well fixed Carabine with belt and Swivell and two pounds of fine powder with Six pounds of Sizeable bulletts."[556]

The minimum age for militia service was raised back to 16 in 1702.[557] The militia arms remained unchanged.[558] The 1702 act was continued in 1706,[559] 1708,[560] 1709,[561] 1710,[562] 1711,[563] 1712,[564] 1713,[565] 1715,[566] 1716,[567] 1717,[568] 1718,[569] and 1720.[570]

A new act in 1721 applied to every "[p]erson whatsoever from Sixteen to Sixty Years of Age."[571] Foot soldier equipment was nearly the same as before.[572] Many subsequent acts kept the same age limits and arms requirements. There were new acts (all which had interim continuations) in 1724,[573] 1739,[574] 1743,[575] and 1744.[576] The 1746 act told soldiers to appear with nine rounds of ammunition, rather than the previous minimum of six.[577] The requirement was lowered back to

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[553] *Id.* at 161 ("all persons though freed from Training by the Law yet that they be obliged to Keep Convenient armes and ammunition in Their houses as the Law directs to others").
[554] *Id.* at 231.
[555] *Id.* at 232.
[556] *Id.* "Fine powder" is gunpowder made of very small grains. Small grains burn faster and more uniformly. Hence, "fine powder" propels the bullet faster than does powder with larger grains.
[557] *Id.* at 500.
[558] *Id.* at 500-01.
[559] *Id.* at 591.
[560] *Id.* at 611.
[561] *Id.* at 675.
[562] *Id.* at 706.
[563] *Id.* at 745.
[564] *Id.* at 778.
[565] *Id.* at 781.
[566] *Id.* at 868.
[567] *Id.* at 887.
[568] *Id.* at 917.
[569] *Id.* at 1001.
[570] 2 THE COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION 1 (1894).
[571] *Id.* at 84-85.
[572] *Id.*
[573] *Id.* at 187. The act was continued in 1728, *id.* at 421; and in 1730, *id.* at 657; then in 1731, *id.* at 698; again in 1732, *id.* at 734; and in 1733, *id.* at 858; and 1735, *id.* at 905; and 1736, *id.* at 922; and 1737, *id.* at 947.
[574] 3 COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION 3 (1894), https://babel.hathitrust.org/cgi/pt?id=umn.319510021585399;view=1up;seq=11. The act was continued in 1740, *id.* at 69; in 1741, *id.* at 168; and 1742, *id.* at 224.
[575] *Id.* at 296.
[576] *Id.* at 385. This act was continued in 1745. *Id.* at 510.
[577] *Id.* at 511, 513. This act was continued in 1746, *id.* at 621; then again in 1747, *id.* at 648; then in 1753, *id.* at 962; and again in 1754, *id.* at 1016.

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six in 1755.[578] The age and arms requirements remained the same in the acts of 1764[579] and 1772.[580]

On April 1, 1775, less than three weeks before the Revolutionary War would begin, New York enacted a new militia law.[581] This act retained the same arms requirements as its predecessors, and kept the minimum age at 16, but lowered the maximum age to 50.[582]

The 1775 law was for "every Person."[583] In the middle of the war, in 1778, the 1775 law was narrowed to "every able bodied male person Indians and slaves excepted."[584] The new arms requirement was "a good musket or firelock fit for service," plus the bayonet, sixteen rounds of ammunition, and the usual accoutrements.[585]

In 1778, the British, "adopted terror tactics across upstate New York to divert American forces away from more southern battle fields and to inhibit American's ability to produce food and supplies from the large war effort."[586] A statute that year established "a night watch in the counties of Ulster, Tryon, Charlotte, Dutchess, and Albany."[587] Service on the watch was required of "every able bodied male inhabitant, Indians and slaves excepted…from sixteen years of age till sixty."[588]

A 1780 act "to raise troops for the defence of the frontiers" required "all the male inhabitants (slaves excepted) of the age of sixteen years and upwards" to provide themselves with "a good musket or firelock" plus seventeen rounds of ammunition.[589]

Militia acts of 1780 and 1782 retained the age limits and arms requirements of 1778.[590]

In 1783, New York passed "AN ACT to authorize his excellency the governor to raise troops for the defence of the frontiers."[591] It included "all the male inhabitants and sojourners of the age of sixteen years and upwards . . . excepting slaves," and ordered each of them to possess the usual equipment.[592]

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[578] *Id.* at 1051. This act was continued twice in 1756, 4 COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION 16, 101 (1894), https://babel.hathitrust.org/cgi/pt?id=mdp.39015011398438;view=1up;seq=22; twice in 1757, *id.* at 187, 293; then in 1759, *id.* at 363; in 1760, *id.* at 475; in 1761, *id.* at 553; in 1762, *id.* at 636; and in 1763, *id.* at 698.

[579] *Id.* at 767; continued in 1765, *id.* at 852; in 1766, *id.* at 915; and in 1767, *id.* at 952.

[580] 5 COLONIAL LAWS OF NEW YORK FROM THE YEAR 1664 TO THE REVOLUTION 342 (1894), https://babel.hathitrust.org/cgi/pt?id=mdp.39015011398420;view=1up;seq=348.

[581] *Id.* at 732.

[582] *Id.*

[583] *Id.* at 342.

[584] LAWS OF THE STATE OF NEW YORK: PASSED AT THE SESSIONS OF THE LEGISLATURE HELD IN THE YEARS 1777, 1778, 1779, 1780, 1781, 1782, 1783, AND 1784, INCLUSIVE, BEING THE FIRST SEVEN SESSIONS 62 (1886), https://books.google.com/books?id=D8GwAAAAMAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=snippet&q=%22every%20able%20bodied%20male%20person%20Indians%20and%20slaves%20excepted%22&f=false. (Hereinafter LAWS OF THE STATE OF NEW YORK: PASSED AT THE SESSIONS 165-66.) The act was amended in 1778, *id.* at 86, and 1779, *id.* at 157. The age limits and arms requirements were unaffected.

[585] *Id.*

[586] Stefan Bielinski, *Albany County*, *in* THE OTHER NEW YORK: THE AMERICAN REVOLUTION BEYOND NEW YORK CITY, 1763-1787, at 165-66 (Joseph S. Tiedemann & Edward R. Fingerhut eds. 2006).

[587] LAWS OF THE STATE OF NEW YORK PASSED AT THE SESSIONS, *supra* note 584, at 94.

[588] *Id.* at 95.

[589] *Id* at 232.

[590] *Id.* at 237, 441.

[591] *Id.* at 529.

[592] *Id.*

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In 1786, New York passed the law defining its militia.[593] That was the definition in effect when the state ratified the Second Amendment on February 24, 1790.[594] The law defined the New York militia as "every able-bodied male person, being a citizen of this state, or of any of the United States, and residing in this state (except such persons as are herein after excepted) and who are of the age of sixteen, and under the age of forty-five years."[595]

The arms were "a good musket or firelock," 24 bullets, "a sufficient bayonet" and other standard items."[596] In 1787, New York amended the 1786 law without change to ages or arms.[597]

Finally, in 1793 New York aligned with the federal UMA.[598] The minimum age rose to 18, while the maximum remained at 45—both ages the same as for the federal militia.[599] The arms requirement copied the federal statute.[600]

I. Rhode Island: parents and masters must furnish arms

Rhode Island established a militia in 1673, consisting of persons from 16 to 60 years old.[601] Each militiaman was required to "at all times hereafter have on[e] good gun or muskitt Fitt for Service one pound of good powder & thirty bullits at Least."[602] If a son or servant had no valuable estate of his own, his parents or master would be liable for any fines imposed upon him.[603] A 1677 revision retained the laws for ages and arms.[604]

A 1700 statute specified that persons subject to militia service also had to serve on watch and ward (day and night guard duty in towns).[605] The Act elaborated on the arms requirements, mandating that each militiaman appear with a "Good & Sufficient muskett or Fuze a Sword or

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[593] 1 LAWS OF THE STATE OF NEW YORK: COMPRISING THE CONSTITUTION, AND THE ACTS OF THE LEGISLATURE, SINCE THE REVOLUTION, FROM THE FIRST TO THE FIFTEENTH SESSION, INCLUSIVE 227 (Thomas Greenleaf 1792), https://books.google.com/books?id=9Hs4AAAAIAAJ&pg=PA26&dq=new+york+state+laws+1779&hl=en&sa=X&ved=0ahUKEwiCvauHn_LZAhVEVWMKHSToDG8Q6AEIKTAA#v=onepage&q=militia&f=false.

[594] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 304-06.

[595] *Id.*

[596] *Id.* at 228.

[597] *Id.* at 454.

[598] 3 LAWS OF THE STATE OF NEW YORK: COMPRISING THE CONSTITUTION AND THE ACTS OF THE LEGISLATURE, SINCE THE REVOLUTION, FROM THE FIRST TO THE TWENTIETH SESSION, INCLUSIVE 58 (1797), https://books.google.com/books?id=Mns4AAAAIAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q=militia&f=false.

[599] *Id.*

[600] *Id.*

[601] LAWS AND ACTS OF HER MAJESTIES COLONY OF RHODE ISLAND, AND PROVIDENCE-PLANTATIONS MADE FROM THE FIRST SETTLEMENT IN 1636 TO 1705, at 23 (1896), https://books.google.com/books?id=VZs0AQAAMAAJ&pg=PA48&lpg=PA48&dq=%22an+act+for+ye+better+regulating+ye+militia%22+%2B+%22rhode+island%22&source=bl&ots=HHzuITQDoD&sig=UB5aPjlcOOwaXouze0Dru3PGdUI&hl=en&sa=X&ved=0ahUKEwiT6a3MpL_aAhVq4oMKHb9jB0oQ6AEIKzAA#v=onepage&q=at%20least&f=false.

[602] *Id.*

[603] *Id.*

[604] *Id.* at 25.

[605] *Id.* at 48. The statute was miswritten: "all persons wthn this Colony Above ye Age of Sixteen Years & Under ye Age of Sixteen Yeares as well housekeepers as others Shall be Obliged to watch or ward." Read literally, no one was required for perform watch and ward, since no one can be "Above" and "Under" the "Age of Sixteen Years." Presumably the intended and understood upper age limit remained 60.

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Bayenet, Catooch box or Bandelers wth twelve Bulets fit for his Piece half a Pound of Powder & Six good Flints."[606]

A 1718 law provided that "all male Persons . . . from the Age of Sixteen, to the Age of Sixty Years, shall bear Arms."[607] Arms were "one good Musket, or Fuzee, the Barrel whereof not to be less than three foot and an half in length," plus a sword or bayonet, a pound of gunpowder, thirty bullets, six flints, and a cartridge box.[608]

The next act appeared in 1755, at the beginning of the French & Indian War.[609] It did not revise ages or arms.[610] An addition in 1756 made the parents of militiamen under 21 liable for unpaid fines for neglect of duty.[611] A 1774 amendment left arms and ages unchanged.[612]

Rhode Island created a state army in 1776, a regiment to serve for three months.[613] The Rhode Island army was to be "composed of six Men as Soldiers of every Hundred of the male Inhabitants of Sixteen Years of Age, and upwards."[614] As the quota indicates, at least some of the soldiers were to be raised by conscription, with each town to supply a quota if there were not sufficient volunteers. The soldiers of this regiment had the option of having the town provide their arms, or an enlistment bonus was available for soldiers who furnished their own arms.[615]

This policy of soldiers providing their own arms was typical during the Revolution.[616] The Continental Army generally refused volunteers who could not supply their own arms.[617] State armies sometimes accepted unarmed volunteers, while offering bonuses to recruits with their own arms.[618]

A new militia law was enacted in 1779.[619] The new law would be Rhode Island's militia act when it ratified the Second Amendment on June 7, 1790.[620] The lower age limit remained at 16, but the upper age limit dropped to 50.[621] "[E]ach and every effective Man as aforesaid [had to] provide, and at all times be furnished, at his own Expence (excepting such Persons as the Town-Councils of the Towns in which they respectively dwell or reside shall adjudge unable to purchase the same) with one good Musquet, and a Bayonet fitted thereto, with a Sheath and Belt, or Strap, for the same, one Ram-rod, Worm, Priming-wire and Brush, and one Cartouch-Box."[622]

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[606] *Id.*

[607] THE CHARTER AND THE ACTS AND LAWS OF HIS MAJESTIES COLONY OF RHODE-ISLAND, AND PROVIDENCE-PLANTATIONS IN AMERICA, 1719, at 86 (Sidney S. Rider, ed. 1895), https://archive.org/details/thecharteractsla00rhod/page/86.

[608] *Id.* at 87.

[609] An Act in Addition to the several Acts regulating the Militia in this Colony, 1755 R.I. Laws, Jan. Sess. 71.

[610] *Id.*

[611] An Act in addition to, and Amendment of the several Acts regulating the Militia, 1756 R.I. Laws, Feb. Sess. 73.

[612] An Act in addition to, and amendment of, an Act entitled "An Act regulating the Militia of this Colony," 1774 R.I. Laws, Dec. Sess. 150.

[613] An Act for raising a Regiment, to serve for Three Months, 1776 R.I. Laws, Nov. Called Sess. 6.

[614] *Id.*

[615] *Id.* at 7.

[616] JOHNSON ET AL., *supra* note 18, at 283.

[617] *Id.*

[618] *Id.*

[619] An Act for the better forming, regulating and conducting the military Force of this State, 1779 R.I. Laws, Oct. Regular Sess. 29.

[620] 1 JOURNAL OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, *supra* note 280, at 312-13.

[621] An Act for the better forming, regulating and conducting the military Force of this State, *supra* note 619, at 29.

[622] *Id.* at 32.

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Then in 1781 Rhode Island passed a law to raise a militia force of 1,200 men, with the statutory guarantee that the term of service would be only one month, and they were "not to be marched out of" the state.[623] The number of men each county raised depended on the number of militia-aged men (16 to 50) within that county.[624] "[E]ach of the non-commissioned Officers and Soldiers" had to "furnish himself with a good Musket, Bayonet, Cartouch-Box, Knapsack, and Blanket."[625] Later that year, a similar law aimed to raise another 500 "able-bodied effective Men."[626] Again, the number of required recruits per county was based on the number of militia-aged men within the county.[627] Arms were the same as before, except that "a good Fire-Arm," was sufficient, rather than only a musket.[628]

Following the 1792 federal UMA, a 1794 law adopted the federal ages and arms.[629] More militia laws were passed in 1795, 1796, 1798, and 1799, none of them altering ages or arms.[630]

J. Vermont: "the freemen of this Commonwealth, and their sons"

Vermont declared its independence from the competing claims of New York and New Hampshire in January 1777.[631] A constitution was adopted in July.[632] Because New York and New Hampshire still claimed Vermont, Vermont was rebuffed from its attempt to send delegates to Congress. So, starting in 1777, it operated as something of an independent republic. Vermont had its own currency and postal service, and exchanged ambassadors with France and the Netherlands.[633] In 1791, Vermont applied to join the Union, and was admitted.[634]

The 1777 Vermont Constitution drew on Pennsylvania's 1776 Constitution, which was the first state constitution adopted after the Declaration of Independence.[635] Vermont copied

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[623] An Act for embodying and bringing into the Field Twelve Hundred able-bodied effective Men, of the Militia, to serve within this State for One Month, from the Time of their Rendezvous, and no longer Term, and not to be marched out of the same, 1781 R.I. Laws, Feb. Adjourned Sess. 5.

[624] *Id*.

[625] *Id.* at 8.

[626] An Act for incorporating and bringing into the Field Five Hundred able-bodied effective Men, of the Militia, to serve within this State for one Month, from the Time of their Rendezvous, and no longer, and not to be marched out of the same, 1781 R.I. Laws, May Second Sess. 11.

[627] *Id.*

[628] *Id.* at 15.

[629] An Act to organize the Militia of this State, 1794 R.I. Laws, Mar. Adjourned Sess. 14.

[630] An Act establishing a Company of Horse, by the Name of The Independent Light Dragoons of the Second Regiment of Militia in the County of Newport, 1795 R.I. Laws, Jan. Adjourned Sess. 33; An Act in Addition to, and Amendment of, the Act entitled "An Act to organize the Militia of this State," 1796 R.I. Laws, Feb. Adjourned Sess. 33; An Act for calling out the Militia, 1798 R.I. Laws, June Adjourned Sess. 13; An Act in Addition to an Act, entitled "An Act to organize the Militia of this State," 1799 R.I. Laws, Feb. Sess. 17.

[631] Harvey Strum & Paul G. Pierpaoli, Jr., *Vermont*, in THE ENCYCLOPEDIA OF THE WARS OF THE EARLY AMERICAN REPUBLIC, 1783-1812: A POLITICAL, SOCIAL, AND MILITARY HISTORY 705 (Spencer C. Tucker et al. eds. 2014).

[632] *Id.*; Celise Schnieder, *The Green Mountain Boys Constitute Vermont*, in THE CONSTITUTIONALISM OF AMERICAN STATES 79 (George E. Connor & Christopher W. Hammons eds. 2008); Sanford Levinson, *The 21st Century Rediscovery of Nullification and Secession in American Political Rhetoric: Frivolousness Incarnate, or Serious Arguments to be Wrestled With?* 67 ARK. L. REV. 17, 49 (2014). *See generally* FREDERIC FRANKLYN VAN DE WATER, THE RELUCTANT REPUBLIC: VERMONT, 1724-91 (1941); Peter S. Onuf, *State-Making in Revolutionary America: Independent Vermont as a Case Study*, 67 J. AM. HIST. 797 (1981).

[633] Strum & Pierpaolia, *supra* note 631.

[634] Levinson, *supra* note 631, at 50.

[635] Schneider, *supra* note 632, at 82.

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Pennsylvania's right to hunt: "that the inhabitants of this State, shall have liberty to hunt and fowl, in seasonable times, on the lands they hold, and on other lands (not enclosed)."[636]

Vermont's Declaration of Rights included human rights language, based on models from Pennsylvania, Massachusetts, and Virginia, that would, with variations in wording, become ubiquitous in American state constitutions:

> That all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are the enjoying and defending life and liberty; acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.[637]

and

> That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore, is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto.[638]

This language is irreconcilable with a law that requires a person to contribute his personal service but deprives that person of the right to protect his own life.

The Constitution further provided "[t]hat the people have a right to bear arms for the defence of themselves and the State."[639] This language is irreconcilable with a law that requires a person to bear arms for the defense of the state but would prohibit that person from bearing arms for defense of himself.

The Vermont Constitution's Declaration of Rights was separate from the Plan or Frame of Government.[640] The latter provided that "[t]he freemen of this Commonwealth, and their sons, shall be trained and armed for its defence, under such regulations, restrictions and exceptions, as the General Assembly shall, by law, direct."[641]

In 1779, Vermont enacted a statute "for forming and regulating the militia; and for encouragement of military skill, for the better defence of this state."[642] It provided that "all male persons, from sixteen years of age to fifty, shall bear arms."[643] The arms mandate was not militia-only; it applied to "every listed soldier and other householder."[644]

The firearm could be "a well fixed firelock, the barrel not less than three feet and a half long, or other good fire-arms."[645] The edged arm was to be "a good sword, cutlass, tomahawk or

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[636] VT. CONST. ch. II, art. XXXIX (1777), http://avalon.law.yale.edu/18th_century/vt01.asp.
[637] *Id.* at ch. II, art. I.
[638] *Id.* at ch. I, art. IX.
[639] *Id.* at ch. I, art. XV.
[640] *See id*. at ch. I-II.
[641] *Id.* at ch. II, art. 5.
[642] VERMONT STATE PAPERS, BEING A COLLECTION OF RECORDS AND DOCUMENTS, CONNECTED WITH THE ASSUMPTION AND ESTABLISHMENT OF GOVERNMENT BY THE PEOPLE OF VERMONT; TOGETHER WITH THE JOURNAL OF THE COUNCIL OF SAFETY, THE FIRST CONSTITUTION, THE EARLY JOURNALS OF THE GENERAL ASSEMBLY, AND THE LAWS FROM THE YEAR 1779 TO 1786, INCLUSIVE 305 (1823).
[643] *Id.* at 307.
[644] *Id.*
[645] *Id.*

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bayonet."[646] For cleaning, a soldier or "other householder" needed "a worm, and priming-wire, fit for each gun." Suitable ammunition storage for a solider could be with "a cartouch box, or powder-horn and bullet-pouch."[647] Adequate supplies were at least a pound of gun powder, four pounds of bullets, "and six good flints."[648]

Militia regulations were changed twice in 1780, and again in 1781,[649] but the age limits and arms requirements were not impacted.[650]

In 1786, Vermont wrote a new constitution.[651] The convention entertained and rejected a proposal to change the 1777 language of "a right to bear arms for the defence of themselves and the State" into "a right to bear arms for the defence of the community."[652]

The same year, a new militia act kept the minimum militia age at 16, but lowered the maximum age to 45.[653] The gun mandate was changed to "a good musket or firelock."[654] The bayonet was now mandatory.[655] The new law made separate provisions for horsemen; each dragoon had to provide "a case of good pistols, a sword or cutlass not less than three and one half feet in length," plus a pound of gunpowder, "three pounds of sizeable bullets," and eight flints.[656] Since horsemen would have at least two guns (the pair of handguns) they needed a bigger supply of flints.[657]

Ages and arms were kept the same in the 1787 militia act.[658] This was the act in effect when Vermont ratified the Second Amendment on November 3, 1791.[659]

In 1793, Vermont revised its constitution again and also passed a militia act in response to the federal UMA. Vermont's 1793 constitution kept the same arms guarantees as before.[660] The new militia act repealed all previous militia laws.[661] The new law applied to "each and every free, able-bodied white male citizen . . . who is, or shall be of the age of sixteen years, and under the age of forty-five."[662] Like New Hampshire, Vermont diverged from the federal act by keeping a minimum militia age of sixteen.[663]

Every non-commissioned officer and private had to "constantly keep himself provided with a good musket, with an iron or steel rod, a sufficient bayonet and belt, two spare flints, a priming wire and brush, and a knapsack ; a cartridge box and pouch, with a box therein, sufficient to contain

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[646] *Id.*
[647] *Id.*
[648] *Id.*
[649] 1781 Vt. Acts Feb. Sess. viii.
[650] VERMONT STATE PAPERS, *supra* note 642, at 415; 1780 Vt. Acts Mar. Sess. i.
[651] VERMONT STATE PAPERS, *supra* note 642, at 518; VT. CONST. (1786), http://avalon.law.yale.edu/18th_century/vt02.asp (last visited Jan. 13, 2019).
[652] VERMONT STATE PAPERS, *supra* note 642, at 518.
[653] 1786 Vt. Acts Oct. Sess. 6.
[654] *Id.*
[655] *Id.* at 8.
[656] *Id.* at 7.
[657] *Id.*
[658] 1787 Vt. Acts Feb. & Mar. Sess. 94.
[659] JOURNAL OF THE FIRST SESSION OF THE SENATE OF THE UNITED STATES OF AMERICA, BEGUN AND HELD AT THE CITY OF NEW YORK, MARCH 4, 1789, AND IN THE THIRTEENTH YEAR OF THE INDEPENDENCE OF THE SAID STATES 377-78 (1820).
[660] VT. CONST. (1793).
[661] 1793 Vt. Acts – Oct. Sess. 19.
[662] *Id.* at 20.
[663] 1 LAWS OF NEW HAMPSHIRE: PROVINCE PERIOD, 1679-1702, at 221 (Albert Stillman Batchellor ed., 1904).

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not less than twenty-four cartridges suited to the bore of his musket."[664] Horsemen were required to provide themselves with "a pair of pistols, and sabre, and cartridgebox to contain twelve cartridges for pistols."[665] Cavalry officers needed "a pair of pistols, and sword."[666]

K. Virginia: "ALL men that are fittinge to beare armes, shall bringe their peices to the church"

Virginia enacted a myriad of laws in the seventeenth century regarding firearms ownership, many of which allowed or required 18-to-20-year-olds to bear arms. It was not until 1639 that Virginia enacted a statute expressly requiring arms ownership.[667] Previous statutes simply assumed that everyone already did possess arms, and thus ordered arms-carrying when traveling, going to church, or working in the fields. The church mandate reflected the general risks of travel, and the more specific risk that when a large number of people are densely gathered indoors, they are easy targets for hostiles intent on mass killing.

- 1623: "That no man go or send abroad without a sufficient partie will armed."[668]
- 1624: "That men go not to worke in the ground without their arms (and a centinell upon them)."[669]
- 1624: "That the commander of every plantation take care that there be sufficient of powder and amunition within the plantation under his command and their pieces fixt and their arms compleate."[670]
- 1632: "NOE man shall goe or send abroade without a sufficient party well armed."[671]
- 1632: "NOE man shall goe to worke in the grounds without theire armes, and a centinell uppon them"[672]
- 1632: "ALL men that are fittinge to beare armes, shall bringe their pieces to the church"[673]

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[664] 1793 Vt. Acts – Oct. Sess. at 30.
[665] *Id.* at 26.
[666] *Id.*
[667] 1 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 226 (1809).
[668] *Id.* at 127.
The above dates are listed by the New Style year, whose new year begins on January 1. Until 1752, Englishmen used the Old Style calendar, whose new year begins on March 25. Thus, the above enactment in March is 1624 to the modern reader but was considered 1623 by Virginians of the time.
[669] *Id.*
[670] *Id.*
[671] *Id.* at 173.
[672] *Id.*
[673] *Id.*

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- 1632: "NOE man shall goe to worke in the grounds without theire armes, and a centinell uppon them places where the commander shall require it"[674]

- 1632: "ALL men that are fittinge to beare armes, shall bringe their peices to the church"[675]

- 1639: "ALL persons except negroes to be provided with arms and ammunition or be fined at pleasure of the Governor and Council"[676]

- 1643: "masters of every family shall bring with them to church on Sundays one fixed and serviceable gun with sufficient powder and shott"[677]

- 1645: "all negro men and women, and all other men from the age of 16 to 60" could be drafted to carry on war against the Indians.[678] This indicates that persons over 16 were considered capable of bearing arms.

- 1659: "That every man able to beare armes have in his house a fixt gunn two pounds of powder and eight pound of shott at least"[679]

- 1662: "that every man able to beare armes have in his house a fixed gun, two pound of powder and eight pound of shot at least"[680]

- 1676: "that in goeing to churches and courts in those tymes of danger, all people be enjoyned and required to goe armed for their greate security"[681]

Also in 1676, Virginia enacted a law "for the safeguard and defence of the country against the Indians."[682] The number of militiamen to be supplied by the counties was based on "the number of tytheables of each county."[683] Persons over 16 were considered titheable (required to pay a tax), thus indicating that the minimum age for the militia was 16.[684]

Laws in 1676 expressly authorized persons to carry arms anywhere, but not in large groups. After a short-lived rebellion involving crowds of armed men, the legislature prohibited armed gatherings of more than five people:

> whereas by a branch of an act of assembly made in March last, liberty is granted to all persons to carry their armes wheresoever they goe, which liberty hath beene

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[674] *Id.* at 198.
[675] *Id.*
[676] *Id.* at 226.
[677] *Id.* at 263.
[678] *Id.* at 292.
[679] *Id.* at 525.
[680] 2 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 126 (1823).
[681] *Id.* at 333.
[682] *Id.* at 326.
[683] *Id.* at 350.
[684] *Id.* at 84 (defining what persons are tithable).

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> found to be very prejudiciall to the peace and wellfaire of this colony. Bee it therefore further enacted by this present grand assembly, and the authority thereof, and it is hereby enacted, that if any person or persons shall, from and after publication of this act, presume to assemble together in armes to the number of five or upwards without being legally called together in armes the number of five or upwards, they be held deemed and adjudged as riotous and mutinous, and that they be proceeded against and punished accordingly.[685]

Acts passed in 1679[686] and 1682[687] made no changes to the ages or arms requirements of militiamen. In 1684, arms requirements were made more specific, and separate standards were enacted for mounted militiamen:[688]

> every trooper of the respective colonies of this country, shall furnish and supply himself with a good able horse, saddle, and all arms and furniture, fitt and compleat for a trooper, and that every foot soldier, shall furnish himselfe, with a sword, musquet and other furniture fitt for a soldier, and that each trooper and foot soldier, be provided with two pounds of powder, and eight pounds of shott, and shall continually keep their armes well fixt, cleane, and fitt for the king's service.[689]

These more specific arms requirements were complemented by another law establishing troops of horsemen.[690] Horsemen's arms requirements were now more detailed, requiring three guns: "a case of pistolls, a carbine, sword and all other furniture usuall and necessary for horse souldiers or troopers."[691]

Militia-related acts were passed in 1692,[692] 1693,[693] 1695,[694] and 1699,[695] but none of them addressed age limits or arms requirements.

In 1701, "An act for the better strengthening the frontiers and discovering the approaches of an enemy" was passed.[696] It provided 500-acre land grants, with the proviso that the grantee keep "upon the said land one christian man between sixteen and sixty years of age perfect of limb, able and fitt for service."[697] Such men should be "continually provided with a well fixt musquett or fuzee, a good pistoll, sharp simeter, tomahauk and five pounds of good clean pistoll powder and

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[685] *Id.* at 381. The precipitating event was Bacon's Rebellion, a short-lived uprising of frontiersman who marched on the capital because they were disgruntled with the colonial government's failure to protect them from Indians. *See* JAMES D. RICE, TALES FROM A REVOLUTION: BACON'S REBELLION AND THE TRANSFORMATION OF EARLY AMERICA (2013).
[686] 2 HENING, *supra* note 682, at 433.
[687] *Id.* at 498.
[688] 3 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 13 (1823).
[689] *Id.* at 14.
[690] *Id.* at 17.
[691] *Id.*
[692] *Id.* at 98, 115.
[693] *Id.* at 119.
[694] *Id.* at 126.
[695] *Id.* at 176.
[696] *Id.* at 205.
[697] *Id.*

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twenty pounds of sizable leaden bulletts or swan or goose shott to be kept within the fort directed by this act besides the powder and shott for his necessary or usefull shooting at game..."[698] In other words, the frontier guardians would keep at home small quantities of gunpowder for ordinary use, but their larger reserves of gunpowder would be kept in a fort. The gunpowder of the time was blackpowder, which is volatile, so large quantities often were centrally stored, ideally in reinforced brick buildings.[699]

Virginia's first elaborate militia act was passed in 1705.[700] The militia included "all male persons whatsoever, from sixteen to sixty years of age . . . to serve in horse or foot."[701] An infantryman needed "a firelock, muskett or fusee well fixed, a good sword," cartridge box, and ammunition.[702] He had to bring six rounds of ammunition to muster. Additionally, he had to "have at his place of abode two pounds of powder and eight pounds of shott, and bring the same into the field with him when thereunto specially required."[703]

A horseman needed the usual tack and ammunition accoutrements along with a pair of pistols and a sword.[704] He had to bring eight rounds of ammunition to muster.[705] At his usual place of abode, he also had to keep a well fixed carabine, two pounds of powder and eight pounds of shot.[706]

The act made it unlawful for creditors to seize a militiaman's arms as payment for debts.[707] If a creditor nevertheless took someone's militia equipment, the seizure would "be unlawful and void."[708] Any "officer or person that presumes to make or serve the same" (e.g., a sheriff serving a writ of attachment) would "be lyable to the suit of the party grieved, wherein double damages shall be given upon recovery."[709] Later in the century, the federal UMA would likewise make militia equipment immune from seizure for debts.[710]

Subsequent Virginia acts of 1705[711] and 1711[712] kept the age and arms rules. A 1720 act appropriated one thousand pounds to distribute "to each christian titheable [subject to taxation], one firelock, musket, one socket,[713] bayonet fitted thereto, one cartouch box, eight pounds bullet, two pounds powder, until the whole one thousand pounds be laid out."[714]

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[698] *Id.* at 206-07.
[699] JOHNSON ET AL., *supra* note 18, at 250.
[700] 3 HENING, *supra* note 688, at 335.
[701] *Id.* at 336.
[702] *Id.*
[703] *Id.*
[704] *Id.* at 338.
[705] *Id.*
[706] *Id.*
[707] *Id.* (The required arms and accoutrements were "free and exempted at all times from being impressed upon any account whatsoever, and likewise from being seized or taken by any manner of distress, attachment, or writt of execution.")
[708] *Id.*
[709] *Id.*
[710] 1 Stat. 271, § 1 (1792) ("And every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or for the payment of taxes.").
[711] 3 HENING, *supra* note 688, at 362.
[712] 4 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 9 (1823).
[713] Located near the muzzle of a gun, the socket was used to attach the bayonet to the gun, so that the gun could be used as a pole-arm at close quarters. J.N. GEORGE, ENGLISH GUNS AND RIFLES 80-81 (1947).
[714] 4 HENNIG, *supra* note 712, at 77-78.

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A 1723 act made "the colonel, or chief officer of the militia of every county, have full power and authority to list all free male persons whatsoever, from twenty-one to sixty years of age, within his respective county, to serve in horse or foot."[715] However, "nothing in this act contained, shall hinder or debar any captain from admitting any able-bodied white person, who shall be above the age of sixteen years, to serve in his troop or company, in the place of any person required by this act to be listed."[716] In other words, 16-20-year-olds could be hired or could volunteer as substitutes for older men.

The arms requirements were elaborate. For horsemen, a good serviceable horse, tack accoutrements, "holsters, and a case of pistols, cutting sword, or cutlace, and double cartouch box."[717] At home, they had to keep a carbine, plus "one pound of powder, and four pounds of shot."[718]

Infantry needed "a firelock, musquet, or fuzee, well fixed, and bayonet fitted to such musquet or fuzee, or a good cutting sword or cutlace," along with the cartridge box.[719] Reserves to be kept at home were the same powder and shot as for horsemen.[720]

Again, militiamen's arms were immune from creditors.[721]

Acts passed in 1727,[722] 1732,[723] and 1734[724] made no changes to the militia ages or arms.

Virginia's 1738 act "for the settling and better Regulation of the Militia,"[725] appears to be the only militia act in the colonial or founding era that excluded persons aged 18-to-20. The militia under this act consisted of "all male persons, above the age of one and twenty years."[726]

With the French & Indian War underway, Virginia passed several militia-related acts in 1757. The first act augmented the already-existing forces in the field by allowing officers to add certain men between 18 and 50.[727] Reflecting a still greater need for additional forces, Virginia's 1757 militia act restored the minimum age to 18 and set the maximum age at 60.[728] Soldiers had to

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[715] *Id.* at 118.
[716] *Id.* at 125.
[717] *Id.*
[718] *Id.*
[719] *Id.*
[720] *Id.* at 120.
[721] *Id.* at 121.

> And for an encouragement of every soldier to provide and furnish himself, according to the directions of this act, and his security to keep his horse, arms and ammunition, when provided, *Be it enacted, by the authority aforesaid*, That the horses and furniture, arms and ammunition, provided and kept, in pursuance of this act, be free and exempted at all items from being impressed upon any account whatsoever; and likewise, from being seized or taken by any manner of distress, attachment, or writ of execution. And that every distress, seizure, attachment, or execution, made or served upon any of the premises, be unlawful and void: And that the officer or person that presumes to make or serve the same, be liable to the suit of the party grieved: wherein double damages shall be given upon a recovery.

[722] *Id.* at 197.
[723] *Id.* at 323.
[724] *Id.* at 395.
[725] 5 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 16 (1823).
[726] *Id.*
[727] 7 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 69, 70 (1823).
[728] *Id.* at 93.

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furnish themselves with "a firelock well fixed, a bayonet fitted to the same," and keep an extra pound of powder and "four pounds of ball" at home.[729]

Three other acts were passed in 1757; the first preventing mutiny and desertion,[730] the second preventing invasions and insurrections,[731] and the third protecting against Indian attacks.[732] None addressed militia ages.

Acts passed in 1758[733] and 1759[734] made no changes to the militia's age limits or arms requirements.

Like other colonies, Virginia had various exemptions from militia duty. A 1762 amendment ensured that "every person so exempted shall always keep in his house or place of abode such arms, accoutrements, and ammunition, as are by the [1757] act required to be kept by the militia."[735] The 1757 act was continued in 1771.[736]

The American Revolution began on April 19, 1775, when armed Americans resisted British attempts to seize firearms and gunpowder at Lexington and Concord, Massachusetts. In Virginia, A Convention of Delegates for the Counties and Corporations in the Colony of Virginia was held in the summer of 1775. The first enactment of the Convention was "An ordinance for raising and embodying a sufficient force, for the defence and protection of this colony."[737] The ordinance established militia age limits of 16 and 50.[738] Every militiaman had to "furnish himself with a good rifle, if to be had, or otherwise with a tomahawk, common firelock, bayonet, pouch, or cartouch box, three charges of powder and ball, and appear with the same at the place appointed for mustering, and shall constantly keep by him one pound of powder and four pounds of ball."[739]

In 1777, Virginia passed its first militia act as a state, with Patrick Henry as governor.[740] "An Act for regulating and disciplining the Militia" applied to "all free male persons, hired servants [not indentured], and apprentices, between the ages of sixteen and fifty years."[741] "The county lieutenant, colonels, lieutenant colonels, and major" had to appear "with a sword."[742] Every

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[729] *Id.* at 94. This act was continued in 1759. *Id.* at 274.
[730] *Id.* at 87. This act was continued in 1758, *id.* at 169, and 1759, *id.* at 280.
[731] *Id.* at 106. This act was continued in 1758, *id.* at 237, and 1759, *id.* at 384.
[732] *Id.* at 121.
[733] *Id.* at 171. This act was amended in 1758, but the ages and arms of militiamen remained unchanged. *Id.* at 251.
[734] *Id.* at 279.
[735] *Id.* at 534, 537. The printed volume does not have a page 535 or 536.
[736] 8 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 503 (1823).
[737] 9 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 9 (1823). According to the statutory compiler, "In the original, the title of this ordinance is wanting; nor are any of the chapters numbered. The title is here inserted from the Chancellors' Revisal, edi 1785, p. 30, and the late edition of the Ordinances of 1816, p. 29." *Id.*
[738] *Id.* at 16.
[739] *Id.* at 28. A militia ordinance passed at the Convention held the following year did not change the militia ages. *Id.* at 139. Nor did an act passed in October of 1776. *Id.* at 267.

A report from July 28, 1775, mentioned a British major who was killed in action, and had four balls lodged in his body. "The Americans load their rifle-barrel guns with a ball slit almost in four quarters, which when fired out of those guns breaks into four pieces and generally does great execution." Alexander Purdie, VA. GAZETTE (Oct. 20, 1775), http://research.history.org/DigitalLibrary/va-gazettes/VGSinglePage.cfm?IssueIDNo=75.P.74.
[740] 9 HENNIG, *supra* note 737, at 267.
[741] *Id.* This act was amended in 1781, but the amendment did not change the required arms or ages. 10 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 416 (1823).
[742] 9 HENING, *supra* note 737, at 268.

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captain and lieutenant needed a "firelock and bayonet, a cartouch box, a sword, and three charges of powder and ball."[743] Ensigns needed a sword.[744] Non-commissioned officers and privates had to have

> a rifle and tomahawk, or good fire-lock and bayonet, with a pouch and horn, or a cartouch or cartridge box, and with three charges of powder and ball; and, moreover, each of the said officers and soldiers shall constantly keep one pound of powder and four pounds of ball, to be produced whenever called for by his commanding officer.[745]

Virginia also passed an act in 1777 to raise troops for the Continental Army.[746] "[A]ble bodied young men above the age of sixteen years" were eligible for enlistment.[747]

Another 1777 act required "all free born male inhabitants of this state, above the age of sixteen years" to "renounce and refuse all allegiance to George the third" and swear to "be faithful and bear true allegiance to the commonwealth of Virginia, as a free and independent state."[748] Because 16-year-olds were old enough to fight, they were old enough to decide whether their loyalty lay with the king or the commonwealth.

Another statewide law in 1777 left arms and ages unchanged.[749]

The militia laws had educational exemptions, but these were tightened in May 1777, by "An act for regulating and disciplining the militia of the city of Williamsburg and borough of Norfolk."[750] Its purpose was "FOR forming the citizens of Williamsburg, borough of Norfolk, and the professors and students of William and Mary college, into a militia." The William & Mary militia included "all male persons between the ages of sixteen and fifty years."[751]

Later that year, an October 1777 "Act for speedily recruiting the Virginia Regiments on the continental establishment and for raising additional troops of Volunteers" called for drafting single men above eighteen and with no children for the Continental Army.[752]

Virginia passed many militia laws in 1778, but none of these changed the militia ages or arms.[753] Nor did the militia-related acts passed in 1779.[754]

Three acts regarding the militia were passed in 1781. The first was "to raise two legions for the defence of the state."[755] Neither this act, nor its amendment added that same year, altered the arms or ages of militiamen.[756]

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[743] *Id.*
[744] *Id.*
[745] *Id.* at 268-69.
[746] *Id.* at 275.
[747] *Id.*
[748] *Id.* at 281.
[749] *Id.* at 291.
[750] *Id.* at 313.
[751] *Id.*
[752] *Id.* at 337, 339.
[753] *Id.* at 445, 449, 452, 454, 458.
[754] 10 HENING, *supra* note 741, at 18, 23, 28, 32, 83. One act, entitled "An Act for raising a body of Volunteers for the defence of the commonwealth," allowed two battalions responsible for protecting the western frontiers to furnish themselves "with such clothing, arms, and accoutrements, as are most proper for that service." *Id.* at 20.
[755] *Id.* at 391.
[756] *Id.* at 410.

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The second 1781 act was "for ascertaining the number of militia in this state."[757] It ordered "captains or commanding officers of the respective companies in their several counties," to make "an exact list of each company, distinguishing all such as are under eighteen years of age."[758]

The third 1781 act was "for enlisting soldiers to serve in the continental army."[759] It made no mention of arms or ages, but it did require that a Continental soldier be at least "five feet four inches tall."[760]

A 1782 act added some equipment detail for cavalry: "horseman's sword and cap, one pistol, and a pair of holsters."[761]

In 1784, Virginia increased its militia's minimum age to 18, and kept the maximum age at 50.[762] Militiamen were required to appear "armed, equipped, and accoutred" according to rank.[763] "The county lieutenants, lieutenant colonels commandant, and majors, with a sword; the captains, lieutenants, and ensigns, with a sword and espontoon."[764] Noncommissioned officers and privates needed to supply themselves "with a good clean musket, carrying an ounce ball,[765] and three feet eight inches long in the barrel, with a good bayonet and iron ramrod well fitted thereto."[766] Plus also "a cartridge box properly made, to contain and secure twenty cartridges" and "a good knapsack and canteen."[767]

Previously, militiamen had simply been told to keep an extra pound of powder and four pounds of lead at home, and to bring it with them if they were called into action. Now, to prove that they possessed such quantities, they had to bring to "every muster…twenty blind cartridges."[768] Further "each sergeant shall have a pair of moulds fit [to] cast balls for their respective companies."[769]

Finally, "the militia of the counties westward of the Blue Ridge, and the counties below adjoining thereto," could forego the muskets, and instead choose "good rifles with proper accoutrements."[770]

The following year, Virginia passed the act[771] that defined its militia when it ratified the Second Amendment on December 15, 1791,[772] making the Amendment part of the Constitution. Virginia ratified nine other amendments on the same day, enshrining them in the Constitution, and making December 15 the birthday of the Bill of Rights.[773]

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[757] *Id.* at 396.
[758] *Id.*
[759] *Id.* at 433.
[760] *Id.*
[761] 11 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 173 (1823).
[762] *Id.* at 476.
[763] *Id.* at 478.
[764] *Id.*
[765] That meant 16 balls to the pound of lead. This is slightly smaller than .69 caliber, which is 15 balls to the pound. *Lead ball, per pound*, RED RIVER BRIGADE (Jan. 26, 2014), http://www.redriverbrigade.com/lead-ball-per-pound/.
[766] 11 HENING, *supra* note 761, at 478-79.
[767] *Id.* at 479.
[768] *Id.* The meaning of "blind cartridge" is obscure. It may mean a standard paper cartridge.
[769] *Id.*
[770] *Id.*
[771] 12 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 9 (1823). This act was amended in 1786, but it did not impact the age limits or arms requirements. *Id.* at 234.
[772] JOURNAL OF THE FIRST SESSION OF THE SENATE OF THE UNITED STATES OF AMERICA, *supra* note 659, at 361.
[773] U.S. CONST. amends. I-X.

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The 1785 Virginia act included in the general militia "all free male persons between the ages of eighteen and fifty years."[774] Some young men would get extra training in a

> light company to be formed of young men, from eighteen to twenty-five years old, whose activity and domestic circumstances will admit of a frequency of training, and strictness of discipline, not practical for the militia in general, and returning to the main body, on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result.[775]

These light companies were "in all respects [] subject to the same regulations and orders as the rest of the militia."[776] For all the militia, the requisite arms were the same as before.[777]

On December 22, 1792, Virginia passed a new militia law in response to the federal Uniform Militia Act, to "carry the same into effect."[778] The act provided for the continuation of the same "light company" "of young men from eighteen to twenty-five years age" that had been established in Virginia's previous militia act.[779] The 1792 Virginia law made no changes in the age limits. A 1799 amendment did not address ages or arms.[780]

L. Massachusetts Bay: "from ten yeares ould to the age of sixsteen yeares"

Virginia's ratification of the Second Amendment and of nine other Amendments made the Bill of Rights the supreme law of the land, effective December 15, 1791.[781] The three states that had not yet acted—Massachusetts, Georgia, and Connecticut—therefore had no reason to take up the issue. Yet in all three of these states, ratification of the Second Amendment and the rest of the Bill of Rights was placed on the legislative agenda in early 1939. These 1939 ratifications were apparently enacted to make a statement at a time when right-wing fascists (e.g., Mussolini, Hitler, Franco), and left-wing fascists (e.g., Stalin, Mao) were wantonly murdering disarmed victims. The first state to ratify in 1939 was Massachusetts, on March 2.[782]

In the colonial period and Founding Era, the Bay State had especially strong laws for mass armament. In 1631, Massachusetts Bay enacted a law mandating that all adult males be armed.[783]

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[774] 12 HENING, *supra* note 771, at 10.
[775] *Id.* at 14-15.
[776] *Id.* at 15.
[777] *Id.* at 12.
[778] 13 WILLIAM WALLER HENING, THE STATUTES AT LARGE: BEING A COLLECTION OF ALL THE LAWS OF VIRGINIA, FROM THE FIRST SESSION OF THE LEGISLATURE, IN THE YEAR 1619, at 340 (1823).
[779] *Id.* at 344.
[780] 2 THE STATUTES AT LARGE OF VIRGINIA: FROM OCTOBER SESSION 1792, TO DECEMBER SESSION 1806 [I.E. 1807], INCLUSIVE, IN THREE VOLUMES, (NEW SERIES,) BEING A CONTINUATION OF HENING 141 (1835).
[781] U.S. CONST. amends. I-X.
[782] JOURNAL OF THE SENATE OF THE COMMONWEALTH OF MASSACHUSETTS 369 (1939). For the essential similarity of the totalitarian "fascist," "communist," or "national socalist" regimes, *see, e.g.*, Arthur M. Schlesinger, Jr., The Vital Center: The Politics of Freedom (1949).
[783] KYLE F. ZELNE, A RABBLE IN ARMS: MASSACHUSETTS TOWNS AND MILITIAMEN DURING KING PHILIP'S WAR 28 (2009).

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A 1637 statute required everyone 18 and older to "come to the publike assemblies with their muskets, or other peeces fit for servise, furnished with match, powder, & bullets."[784]

Young people of both sexes were expected to be proficient with arms. A 1645 statute mandated that "all youth within this jurisdiction, from ten yeares ould to the age of sixsteen yeares, shalbe instructed, by some one of the officers of the band,[785] or some other experienced souldier…upon the usuall training dayes, in the exercise of armes, as small guns, halfe pikes, bowes & arrows."[786] There was an exemption for conscientious objectors; youths would not have to train "against their parents minds."[787]

In the 1770 Boston Massacre, British soldiers fired on a crowd that was pelting them with stones and ice balls. John Adams served as defense attorney.[788] Both sides agreed that the soldiers and the crowd each had the right to carry arms for self-defense. "The court's charge to the jury asserted the traditional duty of private persons to respond to the hue and cry and to carry arms: 'It is the duty of all persons (except women, decrepit persons, and infants under fifteen) to aid and assist the peace officers to suppress riots & c. when called upon to do it. They may take with them such weapons as are necessary to enable them effectually to do it.'"[789]

As political tensions mounted, the British tried to suppress political meetings. They could not do so, for the Redcoats were far outnumbered by armed Americans, including teenagers. When British General sent two companies of Redcoats to dissolve an illegal town meeting in Salem, soldiers backed down when swarms of armed patriots began to appear.[790] Gage's aide John Andrews wrote:

> there was upwards of three thousand men assembled there from the adjacent towns, with full determination to rescue the Committee if they should be sent to prison, even if they were Oblig'd to repel force by force, being sufficiently provided for such a purpose; as indeed they are all through the country—every male above the age of 16 possessing a firelock with double the quantity of powder and ball enjoin'd by law.[791]

At the time Massachusetts ratified the Constitution on February 6, 1788, its militia laws provided for "the train-band to contain all able-bodied men, from sixteen to forty years of age, and the alarm-list all other men under fifty years of age."[792]

Every militiaman "not under the control of parents, masters or guardians, and being of sufficient ability therefore in the judgment of the selectmen of the town in which he shall dwell,"

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[784] 1 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 190 (Nathaniel B. Shurtleff ed., 1853).
[785] The "trained band." In American usage, either the militia in general, or an elite militia unit that received extra training. In British usage, only an elite unit.
[786] 2 RECORDS OF THE GOVERNOR AND COMPANY OF THE MASSACHUSETTS BAY IN NEW ENGLAND 99 (Nathaniel B. Shurtleff ed., 1853).
[787] *Id.*
[788] JOHN ADAMS, 3 LEGAL PAPERS OF JOHN ADAMS 5-6 (L. Kinvin Wroth & Hiller B. Zobel eds., 1965).
[789] *Id.* at 285.
[790] RAY RAPHAEL, A PEOPLE'S HISTORY OF THE AMERICAN REVOLUTION: HOW COMMON PEOPLE SHAPED THE FIGHT FOR INDEPENDENCE 55 (2002).
[791] *Id.*
[792] I. THOMAS & E.T. ANDREWS, THE PERPETUAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS FROM THE ESTABLISHMENT OF ITS CONSTITUTION IN THE YEAR 1780 TO THE END OF THE YEAR 1800, at 339 (1801).

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had to "equip himself, and be constantly provided with a good fire-arm," plus a ramrod, cleaning tools, a bayonet and scabbard, a cartridge box to hold "fifteen cartridges at least," plus six flints, one pound of powder, forty leaden balls suitable for this firearm, a haversack, blanket, and canteen."[793] Officers and cavalrymen had to provide themselves with horses plus associated equipment, and a carbine (a shorter, lighter-weight long gun, well-suited for use while mounted).[794]

Militiamen who failed to equip themselves with the required arms could be fined.[795]

Regarding militiamen who *were* "under the control of parents, masters or guardians," the parent, master, or guardian was responsible for providing the equipment, and could be fined for failure to do so.[796] Both servants and young people who were living at home were, presumably, not yet earning enough income to live independently, so they might not be able to afford their own arms.

For older militiamen who were genuinely unable to afford arms, the town would be responsible for providing them.[797] The donated arms remained town property and could not be sold by the militiaman.[798]

M. Plymouth Colony: "each man servant"

By 1939, Plymouth had long ceased to exist as an independent political entity. Even in the early days, it had been overshadowed by its larger and culturally similar neighbor, the Massachusetts Bay Colony. In 1691, Plymouth chose assimilation with Massachusetts; it was a defensive measure, since New York was trying to annex Plymouth.[799] So we cover Plymouth Colony in order with Massachusetts Bay.

Plymouth's first written arms mandate came in 1632.[800] "[E]very freeman or other inhabitant must provide for himselfe and each under him able to beare arms a musket and other serviceable peece with bandeleroes and other apurtanances," plus two pounds of powder and 10 pounds of bullets.[801] This was reenacted in 1636, specifying that it included "each man servant."[802] As in Massachusetts, the master had to provide the arms for the servants, many of whom presumably could not afford their own.[803]

A 1643 update revised the required firearms.[804] A comprehensive recodification in 1671 specified that the militia is "every man from the age sixteen and upwards."[805] It also required smiths to repair arms and to charge the same rates they charged for other work.[806] In 1676, old-

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[793] *Id.* at 340-41.
[794] *Id.* at 347.
[795] *Id.* at 341.
[796] *Id.*
[797] *Id.*
[798] *Id.*
[799] DAVID S. LOVEJOY, THE GLORIOUS REVOLUTION IN AMERICA 347 (1972).
[800] THE COMPACT WITH THE CHARTER AND LAWS OF THE COLONY OF NEW PLYMOUTH 30-31 (William Brigham ed., 1836).
[801] *Id.* at 31.
[802] *Id.* at 44-45.
[803] *Id.*
[804] *Id.* at 74 (service guns should be matchlocks, snaphaunces [an early version of the flintlock], or flintlocks, not longer than four and a half feet, and of a bore at least the size of a caliver or a bastard musket).
[805] *Id.* at 285-86.
[806] *Id.* at 286.

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fashioned matchlocks (ignited by burning cord) were no longer acceptable for the militia; the gun had to be a flintlock or a snaphaunce (ignited by a spark from flint striking steel).[807] A 1681 revision added the requirement to possess a sword or cutlass.[808]

Like the other colonies, Plymouth had many indentured servants. After their term of service was completed, they became legally free. The age of attaining freedom would vary of course, but it could include people in their late teens or early twenties. Former male servants, or other male single persons, could not set up their own households unless they possessed the requisite arms and ammunition.[809] If they did not, they had to work for someone who would buy the arms and ammunition for them.[810]

N. Georgia: No going to church without arms

Georgia did not get around to ratifying the Second Amendment until March 18, 1939.[811] It was only three days after Hitler had invaded Czechoslovakia. As was the typical Nazi practice, one of the first acts of the dictatorship was to confiscate arms from the new subjects.[812]

In 1791, when the Second Amendment became part of the Constitution, Georgia required males between 16 and 50 to serve in the militia and provide their own arms.[813] The arms requirement was "one rifle musket, fowling-piece or fusee fit for action, with a cartridge box or powder-horn answerable for that purpose with six cartridges or powder and lead equal thereto and three flints."[814]

A 1770 Georgia law, copied from South Carolina, imposed fines on those in the militia who came to church unarmed.[815]

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[807] *Id*. at 184.

[808] *Id*. at 192.

[809] *Id*. at 35.

[810] *Id*. On top of the individual requirement to possess arms, towns had to have their own: two flintlocks and two swords per 30 men. *Id*. at 84. These could be available as a reserve in case of breakage during war; they could also be furnished to persons who could not afford their own.

[811] ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1414 (1939).

[812] *See*, *e.g.*, THE TIMES (London), Mar. 16, 1939, at 16b.

> Immediately a proclamation, bordered in red and bearing the German eagle and swastika which is now familiar to every Czech town and village, was posted…Under this proclamation no one was allowed in the streets after 8 p.m. . . .; all popular gatherings were forbidden; and weapons, munitions, and wireless sets were ordered to be surrendered immediately. Disobedience of these orders, the proclamation ended, would be severely punished under military law.

[813] 19 (pt. 2) THE COLONIAL RECORDS OF THE STATE OF GEORGIA 348 (Allen D. Candler ed., 1911), https://books.google.com/books?id=1TMTAAAAYAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

[814] *Id.* at 353.

[815] 19 (pt. 1), *id*. at 137-40. Georgia continued to mandate the carrying of arms in non-militia contexts in the nineteenth century. An 1806 law required "All male white inhabitants . . . from the age of eighteen to forty-five years . . . to appear and work upon the several roads, creeks, causeways, water-passages, and bridges" and to "carry with him one good and sufficient gun or pair of pistols, and at least nine cartridges to fit the same, or twelve loads of powder and ball, or buck shot." OLIVER H. PRINCE, DIGEST OF THE LAWS OF THE STATE OF GEORGIA 407, 409 (1822), https://books.google.com/books?id=9tUtYuEuWC0C&pg=PA339&dq=georgia+1786+laws&hl=en&sa=X&ved=0ahUKEwjj9Ym0nafeAhVhpoMKHaLIC0IQ6AEIRzAF#v=onepage&q=%22gun%22&f=false.

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O. Connecticut: "all persons shall beare Armes that are above the age sixteene yeeres"

The Nutmeg State was also slow in its Second Amendment ratification, finally acting on April 19, 1939.[816] The date was the anniversary of the battles of Lexington and Concord, when the American Revolution had begun in 1775.[817] On that date, American militia and irregulars had repulsed British efforts to confiscate arms. But 164 years later, totalitarianism was on the march. Italian tyrant Mussolini had invaded Albania on Good Friday, April 7, 1939, and conquered the small nation in a few days.[818]

When Connecticut was founded in 1636, its government ordered that "every souldier" should have "in his own howse in a readiness" two pounds of gunpowder and twenty lead bullets.[819] A more detailed law in 1637 ordered "that all persons shall beare Armes that are above the age sixteene yeeres."[820] Commissioners and church officers were exempt.[821] "[E]very military man" had to have "continually in his house" half a pound of powder and two pounds of bullets.[822] Towns were required to have specified reserves of gunpowder and lead bullets.[823]

Central stores of bullets and gunpowder were important in case of extended fighting. The colonists' personal supplies of ammunition might run out. During wartime, roads might be captured by the enemy, so a town might not be able to bring in more gunpowder and lead from outside.

In 1650, the colony ordered "[t]hat all persons that are above the age of sixteene yeares, except magistrates and church officers, shall beare Armes…; and every male person … aboue the said Age, shall have in continuall readines, a good muskitt or other gunn, fitt for service, and allowed by the Clark of the Band."[824]

New Haven, a separate colony until 1662, required males 16 to 60 to have "a good serviceable gun…to be kept in a constant fitness in all Respects for service."[825] Also necessary were a "a good sword," bandoleers, a powder horn, worm, scourer, priming wire, shot bag, charger, "and whatsoever else is necessary for such service."[826] The ammunition minimum was at least "a pound of good powder" plus "four pounds of pistol bullets" or twenty-four long gun bullets, plus match

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[816] JOURNAL OF THE SENATE OF THE STATE OF CONNECTICUT, JAN. SESS., 1939: PART 2, at 1403 (1939), https://babel.hathitrust.org/cgi/pt?id=mdp.39015067981400;view=1up;seq=193.

[817] *See, e.g.*, ALLEN FRENCH, THE DAY OF CONCORD AND LEXINGTON: THE NINETEENTH OF APRIL, 1775 (1984).

[818] Albania had won its independence from the Ottoman Empire, in a 1908-12 war in which Albanians demanded, inter alia, the right to bear arms. But in 1928 King Zog, an authoritarian ruler, had banned arms for all tribes but his own. OWEN PEARSON, ALBANIA AND KING ZOG: INDEPENDENCE, REPUBLIC AND MONARCHY 1908-1939, at 21, 26-27, 299, 304 (2005).

[819] 1 PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 3 (J. Hammond Trumbull ed., 1850).

[820] *Id.* at 15.

[821] *Id.*

[822] *Id.*

[823] *Id.* at 15-16.

[824] *Id.* at 542-43; CODE OF 1650, BEING A COMPILATION OF THE EARLIEST LAWS AND ORDERS OF THE GENERAL COURT OF CONNECTICUT 72-73 (Silas Andrus ed., 1822).

[825] NEW-HAVEN'S SETTLING IN NEW-ENGLAND AND SOME LAWES FOR GOVERNMENT: PUBLISHED FOR THE USE OF THAT COLONY 60-61 (1656).

[826] *Id.* at 61. The worm was a device for cleaning the barrel and for extracting an unfired bullet from a firearm. The priming wire was for cleaning the touch hole—the small hole where the fire from the priming pan connected with the main powder charge in the barrel.

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for a matchlock or flints for a flintlock.[827]

Connecticut ratified the Constitution a week after Georgia on January 9, 1788. Under the state law of the time, "[A]ll male Persons, from sixteen Years of Age to Forty-five, shall constitute the Military Force of this State."[828] Although not part of "the military force," all "Householders under fifty-five Years of Age" had to "be furnished at their own Expence" with the same arms as the militia.[829]

These arms were "a well fixed Musket, the Barrel not less than three Feet and an Half long, and a Bayonet fitted thereto, with a Sheath and Belt or Strap for the same."[830] Militiamen, males under fifty-five, and householders also needed a ramrod, worm, priming-wire, and cartridge box with "fifteen rounds of Cartridges, made with good Musket Powder and Ball, fitting his Gun."[831] Also needed were "six good Flints" and "one Canteen holding not less than three Pints."[832]

Light-Dragoons (horsemen) had to have "a Case of good Pistols…one Pound of good Powder, three Pounds of sizable Bullets, twelve Flints, a good pair of Boots and Spurs."[833]

IV. Federal Laws

The Continental Congress, consisting of delegates from the thirteen colonies,[834] began exercising powers of national sovereignty in 1774.[835] Independence was formally declared in 1776. In 1781, the Continental Congress turned into the Confederation Congress, when the Articles of Confederation were ratified.[836] During the Revolution, the Congress did its best to provide for the Continental Army. But management of the wartime militia was far beyond the administrative capacity of the Congress.

Under the Articles of Confederation, every state was obliged to "always keep up a well regulated and disciplined militia, sufficiently armed and accoutered."[837] While the militias were a state responsibility, the Confederation Congress could requisition the states to supply land forces "for the common defense."[838] Also, Congress could appoint militia officers above the rank of colonel when the state militia forces were in national service.[839] Under a federal requisition, the state legislature had the duty to "raise the men and cloath, arm and equip them in a soldier like manner," with the Confederation Congress paying the expense.[840]

The Confederation Congress drew up a militia plan, putting married men and single men in

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[827] *Id.*
[828] ACTS AND LAWS OF THE STATE OF CONNECTICUT IN AMERICA 144 (1786).
[829] *Id.* at 145.
[830] *Id.* at 150.
[831] *Id.*
[832] *Id.*
[833] *Id.*
[834] Georgia was unrepresented at the 1774 Convention because it was preoccupied by an Indian uprising, and dependent on the British for supplies.
[835] *Documents from the Continental Congress and the Constitutional Convention, 1774 to 1789*, LIBR. CONGRESS, https://www.loc.gov/collections/continental-congress-and-constitutional-convention-from-1774-to-1789/articles-and-essays/timeline/1773-to-1774/ (last visited Jan. 13, 2019).
[836] ARTICLES OF CONFEDERATION OF 1781.
[837] ARTICLES OF CONFEDERATION OF 1781, art. VI.
[838] ARTICLES OF CONFEDERATION OF 1781, art. VII.
[839] *Id.*
[840] ARTICLES OF CONFEDERATION OF 1781, art. IX.

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different classes. The militia were to be "All the free male inhabitants of each state from 20 to fifty, except such as the laws of the State shall exempt, to be divided into two general classes; one class to consist of married and the other class of single men."[841] Required arms for infantry and dragoons were similar to, although less detailed than, the state laws.[842]

The Articles of Confederation gave Congress few powers to legislate directly on the people, instead requiring Congress to act through the state governments. As far as we can tell, the 1783 congressional militia plan did not have much influence.

The United States Constitution, proposed in 1787 and ratified in 1789, was intended to change things. Congress was given a list of enumerated powers, by which it could directly act on the people.[843] Article I, section 8 contained two militia clauses.[844] Clause 15 (the Calling Forth Clause) gave Congress power "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions."[845] Clause 16 (the Arming Clause) gave Congress power:

> To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.[846]

After several years of prodding by President Washington, Congress exercised its power to organize and to provide for arming the federal militia. The Militia Act of 1792 (Uniform Militia Act) was signed into law by President Washington on May 8, 1792.[847] The Act provided:

> That each and every free able-bodied white male citizen of the respective States, resident therein, who is or shall be of age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively

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[841] 25 JOURNALS OF THE CONTINENTAL CONGRESS 741 (Oct. 23, 1783), https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(jc02544).

[842] Each class to be formed into corps of Infantry and Dragoons, organized in the same manner as proposed for regular troops.

> Those who are willing to be at the expense of equipping themselves for Dragoon service to be permitted to enter into that corps, the residue to be formed into the Infantry; this will consult the convenience and inclinations of different classes of citizens.
>
> Each officer of the Dragoons to provide himself with a horse, saddle &c. pistols and sabre, and each non-commissioned officer and private with the preceding articles and these in addition, a carbine and cartouch box, with twelve rounds of powder and ball for his carbine, and six for each pistol.
>
> Each officer of the Infantry to have a sword, and each non-commissioned officer and private, a musket, bayonet and cartouch box, with twelve-rounds of powder and ball.

Id. at 741-42.

[843] U.S. CONST., art. I, § 8.

[844] U.S. CONST., art. I, § 8.

[845] U.S. CONST., art. I, § 8, cl. 15.

[846] U.S. CONST., art. I, § 8, cl. 16.

[847] More effectually to provide for the National Defence by establishing an Uniform Militia throughout the United States,1 Stat. 271 (1792) (Uniform Militia Act) (UMA). The UMA was sometimes called the Second Militia Act, since a statute enacted earlier that year had provided a system for calling forth the militia in times of necessity. To provide for calling forth the Militia to execute the laws of the Union, suppress insurrections and repel invasions, 1 Stat. 264 (1792).

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> be enrolled in the militia, by the Captain or Commanding Officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this Act. And it shall at all time hereafter be the duty of every such Captain or Commanding Officer of a company, to enroll every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of 18 years, or being at the age of 18 years, and under the age of 45 years (except as before excepted) shall come to reside within his bounds; and shall without delay notify such citizen of the said enrollment, by the proper non-commissioned Officer of the company, by whom such notice may be proved. That every citizen, so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein, to contain not less than twenty four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch, and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided, when called out to exercise or into service, except, that when called out on company days to exercise only, he may appear without a knapsack. That the commissioned Officers shall severally be armed with a sword or hanger, and espontoon; and that from and after five years from the passing of this Act, all muskets from arming the militia as is herein required, shall be of bores sufficient for balls of the eighteenth part of a pound; and every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or for the payment of taxes.[848]

The legislative history of the Militia Act reveals why eighteen was selected as the minimum age. Secretary of War Henry Knox had presented an ambitious militia plan to Congress in 1790.[849] Knox wanted to create a national select militia, founded on intensive training of males aged 18 to 20.[850] Even in a Federalist-dominated Congress, the idea was anathema. As opponents pointed out, the nascent federal government did not have the administrative capability to establish an effective national militia.

For the more realistic 1792 statute, Knox explained that "[t]he period of life in which military service shall be required of the citizens of the United States [was] to commence at eighteen."[851] Knox acknowledged that "military age has generally commenced at sixteen," but Knox instead set the bar at 18 because "the youth of sixteen do not commonly attain such a degree of robust strength as to enable them to sustain without injury the hardships incident to the field."[852] Knox also stated that "all men of the legal military age should be armed."[853] Representative Jackson of Georgia agreed "that from eighteen to twenty-one was found to be the best age to make soldiers of."[854]

Knox's first, rejected, plan had implied that the select militia of 18-20 would be armed by the federal government. This brought stern objection:

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[848] *Id*.
[849] 1 ANNALS OF CONG. app. 2141-61 (Jan. 18, 1790).
[850] *Id*. at 2146.
[851] *Id*.
[852] *Id*. at 2153.
[853] *Id*. at 2145-46.
[854] *Id*. at 1860.

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> Representative Wadsworth warned that supporters of the federal arming proposal seemed to be suggesting that large segments of the population would be armed by the government, with the attendant dangers: "At first it appeared to be intended for the benefit of poor men who were unable to spare money enough to purchase a firelock: but the gentleman from Delaware (Mr. Vining) had mentioned apprentices and young men in their non-age: he would be glad to know whether there was a man within these walls, who wished to have so large a proportion of the community by the United States, and liable to be disarmed by the government, whenever it should be thought proper." Masters could be expected to furnish arms to their apprentices. As to other young men, "their parents would rather give them guns of their own, than let them take others from the U.S. which were liable to be taken away at the very moment they were most wanted."[855]

The notion that the federal government might be able to take provided arms away from 18-to-20-year-olds set off alarm bells.

The idea that 18-year-olds should be part of the militia was hardly controversial. They had been part of every colonial and state militia from the very beginning, except for a nineteen-year period in Virginia in the middle of the eighteenth century. George Washington believed that 18 was the ideal age for militia enrollment.[856] Nearly a decade before he signed the Militia Act of 1792, he wrote to Alexander Hamilton that, "the Citizens of America … from 18 to 50 Years of Age should be borne on the Militia Rolls" and "so far accustomed to the use of [arms] that the Total strength of the Country might be called forth at a Short Notice on any very interesting Emergency."[857]

Congress made no changes to the 1792 Militia Act until the Civil War, when an 1862 revision removed the word "white" from the definition of the militia.[858]

By the early twentieth century, the 1792 Act was in obvious need of revision. Muskets, powderhorns, and flints were no longer the appropriate equipment for militiamen. President Theodore Roosevelt, a gun enthusiast and National Rifle Association (NRA) member,[859] declared: "Our militia law is obsolete and worthless."[860]

A new law, the Dick Act (named for its sponsor, Charles Dick) repealed the 1792 Act and replaced it with the modern definition of the militia of the United States.[861] This militia consisted of all able-bodied male citizens between 18 and 45 years of age, and also aliens who have declared intent to naturalize.[862] The "organized militia" was the National Guard of the several States.[863]

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[855] 14 DOCUMENTARY HISTORY OF THE FIRST FEDERAL CONGRESS: DEBATES IN THE HOUSE OF REPRESENTATIVES 62 (1992).
[856] 26 THE WRITINGS OF GEORGE WASHINGTON 389 (John C. Fitzpatrick ed., 1938).
[857] *Id.*
[858] Militia Act of 1862, 12 Stat. 597 (July 17, 1862).
[859] For information on Roosevelt, guns, and the NRA, *see, e.g.*, THEODORE ROOSEVELT, HUNTING TIPS OF A RANCHMAN (NRA Heritage Library 1999) (1885); THEODORE ROOSEVELT, GOOD HUNTING: IN PURSUIT OF BIG GAME IN THE WEST (1907); Ashley Halsey, Jr., *Theodore Roosevelt, Trailblazer among Hunter-Conservationists*, THE AMERICAN RIFLEMAN, June 1972, at 14, 16.
[860] 14 MESSAGES AND PAPERS OF THE PRESIDENTS 6672 (Bureau of National Literature, 1917).
[861] Dick Act, ch. 196, 32 Stat. 775 (1903).
[862] *Id.*
[863] *Id.*

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Everyone else was part of the "reserve militia," which later statutes labeled the "unorganized militia."[864]

There was no mandate for personal possession of arms. Nor, except for the National Guard, was there any provision for the federal government to provide arms.

In the current version of the statute:

> (a) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard.
>
> (b) The classes of the militia are--
>
> (1) the organized militia, which consists of the National Guard and the Naval Militia; and
>
> (2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.[865]

In 1903, Congress created the National Board for the Promotion of Rifle Practice (NBPRR).[866] It did not require citizens to possess arms or to practice with them, but it encouraged them to do so. The NBPRR developed a close relationship with the NRA, which had been founded in 1871, growing from concerns about the poor marksmanship of Union soldiers during the Civil War.[867] By statute, the NBPRR and the NRA were linked.[868] The NRA was the NBPRR's agent for distributing heavily discounted surplus arms to the American public, via NRA gun clubs.[869]

The National Guard Association (an association of state entities), the National Board for the Promotion of Rifle Practice (a federal entity), and the National Rifle Association (a membership organization) developed a close and mutually supportive relationship. Their boards of directors often overlapped.[870]

Through this relationship, over the course of the twentieth century the federal government put millions of military-grade firearms into the hands of private American citizens, including young adults aged 18 to 20. This bore fruit in World War II. With the National Guard federalized and

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[864] *Id*.

[865] 10 U.S.C. § 246 (2019). There are various occupational exemptions; conscientious objectors may be required to perform noncombat duty. 10 U.S.C. § 247 (2019).

[866] *The National Matches History*, CIVILIAN MARKSMANSHIP PROGRAM http://thecmp.org/competitions/cmp-national-matches/the-national-matches-history/ (last visited Jan. 13, 2019).

[867] *A Brief History of the NRA*, NAT'L RIFLE ASS'N (2018), https://home.nra.org/about-the-nra/.

[868] Act of Mar. 3, 1905, ch. 1416, 33 Stat. 986-87.

[869] *Id*.

[870] JEFFREY A. MARLIN, THE NATIONAL GUARD, THE NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, AND THE NATIONAL RIFLE ASSOCIATION: PUBLIC INSTITUTIONS AND THE RISE OF A LOBBY FOR PRIVATE GUN OWNERSHIP 182 (May 10, 2013) (unpublished Ph.D. dissertation, Ga. St. U.), https://scholarworks.gsu.edu/history_diss/33/; RUSSELL S. GILMORE, CRACKSHOTS AND PATRIOTS: THE NATIONAL RIFLE ASSOCIATION AND AMERICA'S MILITARY-SPORTING TRADITION, 1871-1929 (1974) (unpublished Ph.D. dissertation, Univ. of Wisc.) (available in ProQuest Dissertations & Theses Global).

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sent into overseas service, coastal security was provided by the unorganized militia, "whose ages ranged from 16 to 65, served without pay and provided their own arms."[871]

The federal Gun Control Act of 1968 required all persons "engaged in the business" of selling firearms to obtain a Federal Firearms License.[872] ("FFL"; the term is used for both the license and the licensee.) An FFL may not deliver a handgun to a person under 21, or a rifle or shotgun to a person under 18.[873] As the Supreme Court later noted, the 1968 Act aimed to keep guns away from "juveniles, criminals, drug addicts, and mental incompetents."[874]

The FFL rule for handgun deliveries will be discussed in Part V.B., which examines the unsuccessful challenge to the statute in *NRA v. BATF* (5th Cir.).

In 1994, Congress prohibited handgun possession by minors (under 18), with certain exceptions.[875] That law was upheld by the First Circuit in *Rene E.*, which is discussed below in Part V.A.

V. Nineteenth and Early Twentieth Century State Laws and Cases—and Their Role in Modern Litigation

Our article in the previous issue of the *Southern Illinois University Law Journal* surveyed nineteenth and early twentieth century state laws and cases about firearms restrictions on young people.[876] We also examined the five leading post-*Heller* federal circuit cases involving challenges to state or federal arms laws aimed at young people. In this Part, we will summarize the findings from that Article. In the interests of concision, many of the footnotes and many details of the discussion from the original article are omitted in this summary.

A. State Laws and Cases

As in the colonial period and the Founding Era, there were no age-based arms restrictions in the early republic or the Jacksonian period. The first age restrictions appear in the South shortly before the Civil War. In 1856 Alabama prohibited giving handguns to male minors. In 1860 Kentucky outlawed providing handguns to minors, free blacks, or slaves. Other than these two laws, age-based restrictions did not appear until the last quarter of the nineteenth century.

As of 1899, there were forty-six states in the Union. Nineteen of them had some sort of law involving handguns and minors and the other twenty-seven had no such laws. No state criminalized handgun possession by minors. Ten states generally prohibited handgun transfers to

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[871] Don B. Kates, *Handgun Prohibition*, 82 MICH. L. REV. 204, 272, (1983) (citing Office of the Assistant Secretary of Defense, U.S. Dept. of Defense, *U.S. Home Defense Forces Study*, 58, 62-63 (1981)).

[872] Gun Control Act of 1968, Pub. L. No. 99-308, 100 Stat. 449, 450 (1968); 18 U.S.C. § 923, 27 C.F.R. § 478.41.

[873] 18 U.S.C. § 922(b)(1) (2019).

[874] Huddleston v. United States, 415 U.S. 814, 828 (1974). The federal legislation aimed to curb crime by keeping "firearms out of the hands of those not legally entitled to possess them because of age, criminal background, or incompetency." *Id.* at 824.

A study of the 1968 law found that it had no impact on the share of 18-to-20-year-olds arrested for homicide, robbery, or aggravated assault. Gary Kleck, *The Impact of the 1968 Gun Control Act's Restrictions on Handgun Purchases by Persons Age 18 to 20* (2011), https://ssrn.com/abstract=1843526.

[875] 18 U.S.C. 922(x)(2) (2019).

[876] David B. Kopel & Joseph G.S. Greenlee, *History and Tradition in Modern Circuit Cases on the Second Amendment Rights of Young People*, 43 S. ILL. U.LJ. (2018).

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minors; four of those ten had exceptions for self-defense, hunting, or home possession, and Alabama's law was only for males. Of these ten statutes, five expressly prohibited loans, while the other five were phrased in terms that could be construed to refer only to permanent dispositions.

Three other states did not restrict transfers in general, but did restrict sales (Delaware, Mississippi) or dealer sales (Wisconsin). Five states required parental consent for handgun transfers to minors (Illinois, Iowa, Kentucky, Missouri, and Texas). Nevada simply prohibited concealed carry.

No state restricted long gun purchases by minors, long gun loans to minors, or other long gun transfers to minors, such as gifts.

Modern courts have cited about a dozen cases that involved these statutes. We examined each of those cases, as well as precedents used in those cases. The majority of those cases did not involve constitutional issues. Instead, the decisions were about rules for issues on appeal, the facts of tort liability in a particular situation, and so on.

Four cases did have some substantive analysis of the rights of young people. Tennessee's *State v. Callicutt* (1878) upheld a statute against giving handguns to minors.[877] *Callicutt* was explicitly founded on the Tennessee Supreme Court's 1840 *Aymette v. State*.[878] According to *Aymette*, the Second Amendment right to "bear" arms only means bearing arms while actively serving in a militia.[879] The *Heller* Court expressly denounced *Aymette*: "This odd reading of the right is, to be sure, not the one we adopt."[880] Accordingly, *Calicutt* should have little weight as a modern precedent.

The Georgia Supreme Court in 1911 upheld a 1910 statute that prohibited the carrying of firearms without a license and did not make licenses available to persons under 18.[881] The same statute made it illegal to "knowingly sell, or furnish, any minor with 'any pistol, dirk, bowie knife, or sword cane, except under circumstances justifying their use in defending life, limb, or property.'"[882]

The Georgia court in *Glenn v. State* made numerous errors. First, it interpreted the statute as a complete prohibition on persons under 18 from possessing pistols.[883] The interpretation is plainly incorrect, since the statute expressly allowed possession for self-defense.

Second, the Georgia court asserted in dicta that all modern handguns could be banned for everyone.[884] Of course, that assertion is contrary to *Heller*.[885] That assertion was also contrary to the Georgia Supreme Court's 1846 decision in *Nunn v. State*, which struck down a state ban on almost all handguns.[886] The *Nunn* decision is quoted and lauded by *Heller* more than any other

[877] State v. Callicutt, 69 Tenn. 714 (1878).
[878] Aymette v. State, 21 Tenn. (2 Hum.) 154 (1840).
[879] *Id.* at 158.
[880] District of Columbia v. Heller, 554 U.S. 570, 613 (2008).
[881] Glenn v. State, 72 S.E. 927 (Ga. Ct. App. 1911).
[882] *Id.* at 928.
[883] *Id.* ("We conclude, therefore, that the act of 1910 not only prohibits minors under the age of 18 years from obtaining license to have a pistol or revolver on their persons, but that the clear intendment of said act is to prevent minors from having about their persons at all this character of weapons, and this construction is in harmony with the general legislation of the state on the subject of minors.").
[884] *Id.* at 929.
[885] *Heller*, 554 U.S. 570.
[886] Nunn v. State, 1 Ga. 243 (1846).

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precedent.[887] As of 1846, repeating handguns were already well-established and common in the market.

Most egregiously, the *Glenn* court upheld the statute under the theory that minors have *no* rights that the legislature is bound to respect:

> It is entirely within the province of the Legislature, in the exercise of the police power of the state, to prohibit, on the part of minors, the exercise of any right, constitutional or otherwise, although it might only have the right in the case of adults to regulate and restrict such rights.[888]

Glenn's *ratio decidendi* is contrary to modern precedent.[889] It is also plainly wrong under the law of the time. If *Glenn* were correct that minors have no constitutional rights, then the Georgia Constitution of 1877, which was still in effect in 1911, would have been no barrier to the Georgia legislature enacting laws against some or all minors: to take their property without due process of law, to banish them from the state, to inflict cruel and unusual punishments on them, to require Georgia minors to profess belief in an official state religion, to punish their dissent from said religion as heresy, to forbid them from criticizing government officials of Georgia, to search their houses without warrants, to forbid them to petition government, and to punish them with ex post facto laws and bills of attainder.[890] The absurdity of the proposition is self-evident.

The most thorough analysis of the arms rights of young people came from the Kansas Supreme Court in *Parman v. Lemmon*.[891] The case was initially decided one way, then reversed following rehearing, so that the original dissent became the opinion of the court.

The issue was whether a 20-gauge Winchester pump-action shotgun was a "dangerous weapon" prohibited by the Kansas statute that made it a misdemeanor to "sell, trade, give, loan or otherwise furnish any pistol, revolver or toy pistol, by which cartridges or caps may be exploded, or any dirk, bowie knife, brass knuckles, sling shot, or other dangerous weapons, to any minor, or to any person of notoriously unsound mind."[892]

Applying esjudem generis, the court held that long guns are not covered by the phrase "dangerous weapons."[893] The shotgun "is such a common implement that, if the lawmakers intended to include it in the prohibited list, it is extremely unlikely they would have failed to mention it."[894]

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[887] *Heller*, 554 U.S. 570.
[888] *Glenn*, 72 S.E. at 928-29.
[889] *See, e.g.*, Application of Gault, 387 U.S. 1, 13 (1967) (holding that "neither the Fourteenth Amendment nor the Bill of Rights is for adults alone" and that juveniles have the right to counsel, right to notice of charges, right to confront and cross-examine witnesses, and right against self-incrimination); Tinker v. Des Moines Indep. Cty. Sch. Dist., 393 U.S. 503, 511 (1969) ("Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect…").
[890] *See* GA. CONST. of 1877, art. I, § 1, parts 3, 7, 12, 15, 16, 24, § 3, part 2 (enumerating prohibitions on aforesaid types of government action, and not limiting the protections to only adults).
[891] Parman v. Lemmon, 244 P. 227 (Kan. 1925).
[892] *Id.* at 228 (citing R. S. 38-701). R.S. 38–702 made it unlawful for minors to possess these "dangerous weapons." *Id.*
[893] "The rule, 'ejusdem generis' ordinarily limits the meaning of general words to things of the same class as those enumerated under them." *Id.* at 229 (citing 2 Words and Phrases, Second Series, 225).
[894] *Id.* at 232 (Mason, J., dissenting) (later became opinion of the court).

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Moreover, "the right of the people to keep and bear arms … is a basic principle of statecraft of deep concern to all who are clothed with authority and who feel their responsibility to hand on undiminished to future generations those liberties which are our proud American heritage."[895]

The experience from the first days of the Atlantic colonies through the Indian Wars of the late nineteenth century in Kansas had meant that

> the rifle over the fireplace and the shotgun behind the door were imperatively necessary utensils of every rural American household. And it was just as imperative that the members of such household, old and young, should know how to handle them. And it was almost equally true that, unless a man were trained in the use of the rifle and shotgun in his boyhood, he seldom learned to use them.[896]

Announcing the reversal following the petition for rehearing, the Kansas Court explained:

> [I]t is reasonable to conclude that the Legislature did not intend to make law violators of 60 per cent. of the militia of the state, it being estimated that 60 per cent. of the personnel of that body are minors; that it did not intend to prohibit students under 21 years of age in the colleges from taking military training; that it did not intend to prohibit young men under 21 years of age from taking out hunters' licenses and hunting, that it did not intend to prohibit young men who have not yet reached the age of 21, who reside on the farms and ranches, from carrying and using shotguns and rifles when necessity requires.
>
> These suggestions and many others have had the consideration of the court. We do not deem it necessary to discuss the question at length, nor to analyze the cases. We are of the opinion that, if the Legislature of 1883 had intended to include shotguns in the prohibited list of dangerous weapons, it would have specifically mentioned them.
>
> . . .
>
> By a change of view on the part of some of the Justices, the dissenting opinion at the time of the first decision has now become the controlling voice of the court, and further discussion is needless.[897]

None of the Justices in *Parman* seemed to see a problem with the law against giving handguns to minors, which the Justices characterized as being needed occasionally for self-defense; the court's focus was on long guns, which it characterized as the typical arm of rural self-defense, the ordinary arm of the militia, and a daily tool for rural life.

The final case that involved arms and minors was Virginia's *United States v. Blakeney*.[898] It did not involve any law that targeted the arms rights of minors. Instead, the issue was application of the general rule that minors could not enter into enforceable contracts without the consent of their parent or guardian.[899] (In the latter twentieth century, the age of majority for exercise of

[895] *Id.* at 231 (Dawson, J., dissenting) (later became opinion of the court).
[896] *Id.*
[897] *Id.* at 233.
[898] United States v. Blakeney, 44 Va. (3 Gratt.) 405 (1847).
[899] *Id.*

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contract and property rights without parental consent would be lowered to 18 in most states, the age that continues to prevail as the national norm.)

The Supreme Court of Appeals of Virginia held that 18-to-20-year-old "minors" were to be treated as adults in the context of bearing arms.[900] Blakeney was a 19-year-old who volunteered for military duty, and regretting his decision, argued that a minor could not enter into a valid contract.[901] The court held the contract valid, based in part on the fact that as a 19-year-old, Blakeney had the mental and physical capacity to bear arms.[902]

The court explained that "children" were exempted from military service because they are incapable of handling arms:

> No person is naturally exempt from taking up arms in defence of the State; the obligation of every member of society being the same. They only are excepted who are incapable of handling arms, or supporting the fatigues of war. This is the reason why old men, children, and women are exempted.[903]

By contrast, "We know, as a matter of fact, that at the age of eighteen, a man is capable intellectually and physically of bearing arms."[904] And since 18-year-olds were just as capable as 21-year-olds of both carrying arms and consenting to military service, the court held that 18-to-20-year-olds were bound by military enlistments just as adults over 21 were.[905] The general rule about contracts

> has no application to the subject. The capacity of all citizens or subjects able to bear arms to bind themselves to do so by voluntary enlistment, is in itself a high rule of the public law, to which the artificial and arbitrary rule of the municipal law forms no exception.[906]

In sum, the statutory and case law record on the nineteenth and early twentieth centuries provide no support for age-based restrictions on long guns. There were a minority of states with age-based restrictions on handguns. The largest group in the minority would be those that either banned retail sales or required parental permission for sales. Laws broad enough to prohibit parents from letting minors use handguns existed in five states. Few cases from the period address the arms rights of minors, and of those, hardly any can be considered valid precedents in light of *Heller* and other modern doctrine.

B. Modern Circuit Cases

[900] *Id.* at 414-15.
[901] *Id.* at 406-07.
[902] *Id.* at 425.
[903] *Id.* at 408.
[904] *Id.* at 418.
[905] *Id.* at 416.
[906] *Id.* at 409–10.

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Our Article in the previous issue reviewed the nineteenth and early twentieth century history and tradition in the context of their use by the five post-*Heller* Circuit Court of Appeals cases examining the arms rights of young people. We will summarize the analysis of those cases.

1. Rene E.

In *United States v. Rene E.*, the First Circuit upheld the 1994 federal statute (discussed in Part IV) that prohibits handgun possession by persons under 18.[907] The court emphasized the importance of the statute's exceptions, such as self-defense in the home, ranching, hunting, militia service, and so on.[908]

For historical support, *Rene E.* relied primarily on the state cases discussed above.[909] This is thin support, for reasons that we summarized above, and detailed in the previous Article.

Regarding the Founding, *Rene E.* could not cite any original American source—hardly surprising in light of the many statutes detailed in Part III, *supra*. The colonial and early state governments had repeatedly mandated that persons 16 and older (or sometimes 18, 15, or 10) be armed.

Instead, the First Circuit cited some modern law review articles stating that the Founders believed that unvirtuous persons could be disarmed.[910] The paradigmatic examples in these articles were persons who were disloyal to the government during wartime, as well as slaves and hostile Indians. The point of the article is true enough, but nothing from the colonial or founding periods indicates that young people were considered unvirtuous people who should be disarmed. The statutory evidence is quite the opposite.

2. National Rifle Association v. Bureau of Alcohol, Tobacco, Firearms, Explosives

In this case, the Fifth Circuit upheld the 1968 federal statute that prohibits persons 18-20 from buying handguns in retail stores.[911] The statute does not prohibit young adults from acquiring firearms from persons who are *not* "engaged in the business of selling arms."[912] The statute allows persons 18 and older to buy long guns from stores (and from others).

The strongest part of the court's historical analysis was its list of state statutes. As discussed above, by 1899 there were fifteen states that prohibited minors from buying handguns in stores, and three more that required parental permission. These restrictions were not the majority approach, but neither were they eccentric.

For earlier history, the opinion was weaker. As the court stated (without citation), gun control laws did exist at the time of the Second Amendment and before.[913] This was true, but there were no age restrictions on buying, owning, or carrying firearms.

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[907] United States v. Rene E., 583 F.3d 8 (1st Cir. 2009).
[908] *Id.* at 13-14.
[909] *Id.* at 14-15.
[910] *Id.* at 15-16.
[911] Nat'l Rifle Ass'n v. Bureau of Alcohol, Firearms, and Explosives, 700 F.3d 185 (5th Cir. 2012); 18 U.S.C. § 922(x)(2) (2019).
[912] *NRA v. BATF*, *supra* note 911, 700 F.3d at 189.
[913] *Id.* at 200.

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There were laws that "targeted particular groups for public safety reasons."[914] These were laws aimed at slaves, Indians, and, during wartime, "laws that confiscated weapons owned by persons who refused to swear an oath of allegiance to the state or to the nation."[915] The disarmament of persons not considered citizens (slaves and Indians), or who demonstrated disloyalty, should not create precedent for targeting other "particular groups" whose loyalty is unquestioned.[916] The Fifth Circuit also cited William Rawle, whose 1825 constitutional law treatise was cited with approval in *Heller*.[917] Rawle, as fully quoted in *Heller*, wrote that persons who "abused" the right to arms could be disarmed.[918] The Fifth Circuit chopped Rawle to make it appear that he supported disarmament of people who had never abused the right, but whom the government might consider prospectively dangerous.[919]

Like the Georgia Supreme Court in the 1911 *Glenn* case, the Fifth Circuit resorted to the claim that minors lack constitutional rights.[920] As the court pointed out, the age majority at common law was 21.[921] Therefore,

> If a representative citizen of the founding era conceived of a 'minor' as an individual who was unworthy of the Second Amendment guarantee, and conceived of 18–to–20–year–olds as 'minors,' then it stands to reason that the citizen would have supported restricting an 18–to–20–year–old's right to keep and bear arms.[922]

The Fifth Circuit's speculation is contrary to all the evidence. Persons under 21 were certainly minors under the common law of the Founding Era. Thus, their independent exercise of contract and property rights was limited. However, there is no evidence "a representative citizen" (or anyone else) in the Founding Era considered all minors "unworthy of the Second Amendment guarantee."[923] To the contrary, state and federal laws of the Founding Era are unanimous that minors aged 18-to-20 *were* considered worthy of the Second Amendment guarantee. As had been the case from the earliest colonial days, they were part of the militia and were required to possess their own arms. Massive and uncontradicted evidence from the Founding Era shows that 18-to-20-year-olds *did* have the right to keep and bear arms, and indeed were required by law to exercise that right.

Assuming arguendo that young adults have Second Amendment rights, the Fifth Circuit applied intermediate scrutiny. The court chose intermediate scrutiny in part because the federal

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[914] *Id.*
[915] *Id.*
[916] *Id.*
[917] *Id.* at 201.
[918] WILLIAM RAWLE, A VIEW OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA 125-26 (William S. Hein & Co. 2003) (2d ed. 1829), https://books.google.com/books?id=akEbAAAAYAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false; District of Columbia v. Heller, 554 U.S. 570, 607-08 (2008) (quoting RAWLE, A VIEW OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA).
[919] *NRA v. BATF*, *supra* note 918, 700 F.3d at 201 (quoting RAWLE, *supra* note 913).
[920] *Id.*
[921] *Id.*
[922] *Id.* at 202.
[923] *Id.*

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law did not prohibit minors from acquiring handguns for home defense or for other lawful purposes.[924]

The Fifth Circuit found laws against 18-20-year-olds supportable by *Heller*'s emphasis on arms possession by "responsible" citizens.[925] As the Fifth Circuit accurately stated, persons 18-to-20 commit gun crimes at a higher rate than do older people.[926] The same can be said of persons 21-to-25, who commit crimes at a higher rate than do people over 25. The same is true for persons 60-to-65, who commit crimes at a higher rate than do persons over 65. The same point can also be made based on race. Americans of some races commit violent crimes at higher rates than persons of other races. Likewise, males perpetrate violent crimes at a much higher rate than females.

As the Fifth Circuit acknowledged, law-abiding, responsible citizens are at the core of the Second Amendment right.[927] Their rights should not be forfeited because of irresponsible behavior by other persons of the same age, race, or sex.

3. National Rifle Association v. McCraw

Here the Fifth Circuit upheld the Texas statute that prevented 18-to-20-year-olds from applying for a license to carry handguns for lawful protection in public places.[928] Having recently decided *NRA v. BATF*, the Fifth Circuit did not engage in further historical analysis.[929] The court reiterated the *BATF* theory that "the conduct burdened by the Texas scheme likely 'falls outside the Second Amendment's protection.'"[930] Also like the *BATF* court, the *McCraw* court applied intermediate scrutiny in an abundance of caution and upheld the law for similar reasons.[931]

However, the court skipped part of the intermediate scrutiny analysis. In strict scrutiny, the government must prove that there is no "less restrictive alternative." Under the more relaxed standard of intermediate scrutiny, the government must prove that there is no "substantially less burdensome alternative." The plaintiffs had argued that instead of banning licensed carry for young adults, Texas could have a more rigorous licensing system for young adults, compared to applicants over 21. The *McCraw* court dismissed that alternative and said that "less restrictive alternative" is not part of intermediate scrutiny.[932] True enough, but "substantially less burdensome alternative" is part of intermediate scrutiny, and the court offered no explanation for refusing to consider it.

4. Horsley v. Trame

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[924] *Id.* at 206-07 (quoting District of Columbia v. Heller, 554 U.S. 570, 628-30, 635 (2008)).
[925] *Id.* at 206.
[926] *Id.* at 206-07.
[927] *Id.*
[928] Nat'l Rifle Ass'n of Am., Inc. v. McCraw, 719 F.3d 338 (5th Cir. 2013).
[929] *Id.*
[930] *Id.* at 347 (quoting Nat'l Rifle Ass'n v. Bureau of Alcohol, Firearms, and Explosives, *supra* note 911, 700 F.3d at 203).
[931] *Id.*
[932] *Id.* at 349.

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Illinois requires that residents obtain a firearm owner's identification (FOID) card before acquiring or possessing a firearm.[933] In *Horsley v. Trame*, the plaintiff challenged the requirement that FOID card applicants between 18 and 21 obtain the consent of a parent or guardian.[934] The parental permission rule has a safety valve, by which an applicant can instead apply for consent from the Director of the Illinois firearms license office.[935] If the office denies the permission, the applicant can appeal to a court.[936]

The Seventh Circuit decided that it need not decide whether it agreed with the Illinois Attorney General that the Second Amendment does not apply to persons under 21.[937] Regardless, the law was valid since it is not prohibitory, since young adults have a higher crime rate, and since the parental permission law has a safety valve similar to what has been allowed for abortion.[938]

5. Ezell v. City of Chicago

Ezell challenged a Chicago ordinance that prohibited anyone under 18 from entering a shooting range.[939] Chicago argued that persons under 18 have no Second Amendment rights.[940] But the nineteenth century statutes on handgun sales were not much help for a total ban on practice with any firearm. As the Seventh Circuit observed, "There's zero historical evidence that firearm training for this age group is categorically unprotected. At least the City hasn't identified any, and we've found none ourselves."[941]

Chicago was "left to rely on generalized assertions about the developmental immaturity of children, the risk of lead poisoning by inhalation or ingestion, and a handful of tort cases involving the negligent supervision of children who were left to their own devices with loaded firearms."[942] Since the government could address these concerns with "a more closely tailored age restriction—one that does not *completely extinguish* the right of older adolescents and teens in Chicago to learn how to shoot in an appropriately supervised setting at a firing range," the law violated the Second Amendment.[943]

VI. Current State Laws

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[933] 430 ILL. COMP. STAT. 65 (2013).

[934] Horsley v. Trame, 808 F.3d 1126 (7th Cir. 2015). The law, 430 ILL. COMP. STAT. 65/4(a)(2)(i), requires an applicant to submit evidence that "[h]e or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card…"

[935] 430 ILL. COMP. STAT. 65/10 (2013).

[936] *Id.*

[937] *Horsley*, 808 F.3d at 1130.

[938] *See id.* at 1127, 1130-32.

[939] Ezell v. City of Chicago (*Ezell II*), 846 F.3d 888 (7th Cir. 2017). The *Ezell I* case held unconstitutional the city's ban on all shooting ranges within city limits. Ezell v. City of Chicago (*Ezell I*), 651 F.3d 684 (7th Cir. 2011).

[940] *Id.* at 896.

[941] *Id.*

[942] *Id.* at 898.

[943] *Id.* (emphasis in original).

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Part VI surveys current state laws that impose special limits on arms possession or acquisition by young adults. We do not include state statutes that mimic federal law (such as preventing gun stores from selling handguns to young adults). We do not address state laws that apply only to persons under 18. Nor do we address laws, such as the Texas law discussed in the *McCraw* case above, that set the minimum age for a defensive handgun carry license at 21. The majority of states do set 21 as the carry permit age, while a minority set the age at 18. A few states, such as Texas, which have a general rule of 18, allow carry permits for young adults in certain circumstances, such as a young adult who is currently serving in, or has been honorably discharged from, the armed forces.[944]

As has been true throughout American history, state militia laws include 18-to-20-year-olds. Fifteen state constitutions specify that the starting age for militia service is 18.[945] Two state constitutions, Indiana and Wyoming, specify the starting militia age as 17.[946] Uniquely, the Kansas Constitution makes 21 the starting militia age.[947] The constitutions of Illinois and Montana used to declare that the militia was males 18 to 45; the constitutions were revised to broaden the militia obligation to all able-bodied persons, regardless of age or sex.[948] For many other states, the constitution grants the legislature authority to define the militia, and the legislature has passed laws including 18-to-20-year-olds.

Section A of Part VI describes state laws imposing special limits on firearms acquisition or possession by young adults. Section B discusses the varying age limits for different activities, past and present.

A. State laws with special arms restrictions on young adults

California. "No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age."[949] The only circumstance under which a Californian aged 18-20 may purchase a handgun is if the handgun is an antique.[950]

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[944] TEX. CODE ANN. § 411.172(g).

[945] ARIZ. CONST. art. XVI, § 1; ARK. CONST. art. XI, § 10; COLO. CONST. art. XVII, § 1; IDAHO CONST. art. XIV, § 1; IOWA CONST. art. VI, § 1; KY. CONST. § 219; ME. CONST. art. VII, § 5; MISS. CONST., § 214; N.M. CONST. art. XVIII, § 1; N.D. CONST. art. XI, § 16; OHIO CONST. art. IX, § 1; S.C. CONST. art. XIII, § 1; S.D. CONST. art. XV, § 1; UTAH CONST. art. XV, § 1; WASH. CONST. art. X, § 1.

[946] IND. CONST. art. XII, § 1; WYO. CONST. art. XVII, § 1.

[947] KAN. CONST. art. VIII, § 1.

[948] ILL. CONST. of 1870, art. XII, § 1; MONT. CONST. of 1889, art. XIV, § 1. Illinois now provides that "The State militia consists of all able-bodied persons residing in the State except those exempted by law." ILL. CONST. art. XII, § 1; MONT. CONST. art. VI, § 13(2).1.

In both states, current laws show that the newer provisions still include 18-to-20-year-olds. *See* 20 ILL. COMP. STAT. 1805/1 ("All able-bodied citizens of this State . . . between the ages of 18 and 45 . . . shall be subject to military duty and designated as the Illinois State Militia"); MONT. CODE ANN. § 10-1-103(1) ("the organized militia [] consists of the national guard and the Montana home guard"); 32 U.S.C. § 313 ("To be eligible for original enlistment in the National Guard, a person must be at least 17 years of age and under 45").

[949] CAL. PENAL CODE § 27505(a) (West 2011).

[950] *Id.* (b)(1).

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Parents and grandparents (with parental permission) may loan long guns to minors for indefinite periods.[951] Other persons may loan long guns to minors (with parental permission) for up to 30 days.[952]

A parent may loan a handgun to a minor for sporting activities, agriculture, ranching, or theatrical and entertainment events that use firearms props.[953] The loan may last no longer than "the amount of time that is reasonably necessary to engage in" the activity.[954]

Other persons may loan handguns to minors for the same purposes, if written permission from the parent or legal guardian is presented to the lender.[955] The same time limits apply, with the addition proviso that the loan may never exceed ten days.[956]

Thus, a minor may never be transferred a handgun for lawful defense of self and others, even in the parental home, and even in situations of imminent peril.

Connecticut. A state certificate is necessary to own a handgun, and only persons at least 21 years old may apply for the certificate.[957]

Delaware. No person shall sell to someone under 21 "any pistol or revolver, or stiletto, steel or brass knuckles, or other deadly weapon made especially for the defense of one's person."[958] The prohibition does not apply "to toy pistols, pocket knives or knives used for sporting purposes and in the domestic household, or surgical instruments or tools of any kind."[959]

District of Columbia. Persons may only possess firearms that have been registered with the Municipal Police Department.[960] Persons under 18 may not register. Persons 18 to 20 may register if the registrant provides a notarized permission statement from a parent or guardian.[961] In the notarized statement, the parent or guardian must "assume[] civil liability for all damages resulting from the actions of such applicant in the use of the firearm to be registered; provided further, that such registration certificate shall expire on such person's 21st birthday."[962]

Florida. "A person younger than 21 years of age may not purchase a firearm. The sale or transfer of a firearm to a person younger than 21 years of age may not be made or facilitated by a licensed importer, licensed manufacturer, or licensed dealer."[963] Thus, persons under 21 may borrow firearms, or receive them as gifts from private persons. The restrictions on persons under 21 do not apply to servicemembers.[964]

Hawaii. Permits to acquire firearms may be issued "to citizens of the United States of the age of twenty-one years or more."[965] Permits may also be issued to aliens under certain circumstances,

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[951] *Id.* (b)(2), (3).
[952] *Id.* (b)(4).
[953] *Id.* (b)(5)(A).
[954] *Id.* (b)(5)(B).
[955] *Id.* (6)(A), (B).
[956] *Id.* (6)(C), (D).
[957] CONN. GEN. STAT. § 29-36f(a).
[958] DEL. CODE ANN. tit. 24, § 901.
[959] *Id.* § 903.
[960] D.C. CODE § 7-2502.01(a).
[961] *Id.* § 7-2502.03(a)(1)(A).
[962] *Id.* § 7-2502.03(a)(1)(B).
[963] FLA. STAT. § 790.065(13) (2018).
[964] *Id.*
[965] HAW. REV. STAT. § 134-2(d) (2017).

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including to aliens 18 or older "for use of rifles and shotguns for a period not exceeding sixty days, upon a showing that the alien has first procured a hunting license."[966]

Illinois. To purchase or own a firearm, a person must have a Firearm Owner's Identification (FOID) Card.[967] Applicants under 21 must have written permission from a parent or guardian.[968] The parent giving permission must not be someone who is prohibited from owning a firearm (e.g., a convicted felon).[969] The under-21 applicant must, in addition to satisfying generally applicable eligibility requirements, have no misdemeanor convictions other than traffic offenses, and must never have been adjudged delinquent.[970]

As discussed in the section on *Horsely v. Trame*, *supra*, there is a safety valve provision for situations in which parental permission is denied or is unavailable. Any applicant who is denied can petition the Director of State Police for relief.[971] The applicant may present evidence, and the State Attorney must be notified and have an opportunity to oppose the petition for relief. The applicant must prove that "granting relief would not be contrary to the public interest."[972] A rejected applicant may appeal to state court.[973]

Iowa. In 2017, the legislature repealed a law that had forbidden minors under 14 from temporarily possessing a handgun under any circumstances, even while under direct parental supervision at a target range.[974]

Under current law, anyone who "sells, loans, gives, or makes available a rifle or shotgun or ammunition for a rifle or shotgun to a minor" is guilty of a serious misdemeanor.[975] Anyone who does the same for a handgun or handgun ammunition is guilty of a serious misdemeanor.[976]

However, a parent, guardian, spouse (if over 18), or anyone else with express permission from such persons may allow a minor to possess rifles, shotguns, and ammunition therefor.[977]

For handguns, the authorizing parent, guardian, or spouse must be over 21, and the person under 21 may possess the handgun only while under direct supervision.[978] Alternatively, the supervision may be provided by an instructor.[979] Any supervisor or instructor who is intoxicated at the time is guilty of child endangerment.[980]

If the minor with the handgun is under 14, the parent, guardian, or spouse is strictly liable for any resulting damages.[981]

Persons 18-to-20 may possess firearms and ammunition without need for parental or spousal permission "while on military duty or while a peace officer, security guard or correctional officer"

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[966] *Id.*
[967] 430 ILL. COMP. STAT. 65/2.
[968] *Id.* 65/4(a)(2)(i).
[969] *Id.*
[970] *Id.*
[971] *Id.* 65/10(c).
[972] *Id.* 65/10(c)(3).
[973] *Id.*
[974] IOWA CODE § 724.22(8); 2017 Iowa Acts 555.
[975] IOWA CODE, *supra* note 975, § 724.22(1).
[976] *Id.* § 724.22(2). Ammunition in .22 caliber is considered rifle ammunition, not handgun ammunition. *Id.* § 724.22(6).
[977] *Id.* § 724.22(3).
[978] *Id.* § 724.22(5).
[979] *Id.*
[980] *Id.* § 724.22(9).
[981] *Id.* § 724.22(8).

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if the job requires it.[982] They may also possess arms while receiving instruction from an instructor who is at least 21.[983]

It is unlawful to store a loaded gun in such a manner that "a minor under the age of fourteen years is likely to gain access to the firearm" without the permission of the minor's parent.[984] Storage is *per se* compliant with the statute if the gun has a trigger lock or is "placed in a securely locked box or container, or placed in some other location which a reasonable person would believe to be secure from a minor under the age of fourteen years."[985] There is no violation of the law unless a minor does actually access the firearm, and then unlawfully exhibits the firearm in a public place or injures someone by using the firearm unlawfully.[986] There is no violation "if the minor obtains the firearm as a result of an unlawful entry by any person."[987]

Maryland. Under Maryland law, a "regulated firearm" is a handgun or certain long guns that have been labeled "assault weapons."[988] Of course there are still laws for other guns, namely rifles and shotguns that are not "assault weapons," but these laws are less stringent than the laws for "regulated firearms."

In general, a person under 21 may not possess a regulated firearm.[989] Possession is allowed for temporary transfers if the person under 21 will be "under the supervision of another who is at least 21 years old" and the parents or guardian consent.[990] Possession is also allowed if the person needs the firearm for employment.[991] Temporary transfers are also permitted to participants in marksmanship training who are supervised by an instructor.[992] Also lawful is "the possession of a [regulated] firearm for self-defense or the defense of others against a trespasser into the residence of the person in possession or into a residence in which the person in possession is an invited guest."[993]

Massachusetts. A "Class A" license is necessary to possess a handgun or long guns that are dubbed "assault weapons."[994] The Class A license also functions as a license to carry; the issuing law enforcement agency has the discretion to issue the license to allow carrying only for sports and target practice, or to issue as a defensive carry permit.[995] Class A licenses may not be issued to persons under 21.[996]

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[982] *Id.* § 724.22(4).
[983] *Id.*
[984] *Id.* § 724.22(7).
[985] *Id.*
[986] *Id.*
[987] *Id.*
[988] MD. CODE ANN. PUB. SAFETY § 5-101(r) (2018).
[989] *Id.* § 5-133(d)(1).
[990] *Id.* § 5-133(d)(2)(i).
[991] *Id.* § 5-133(d)(2)(v).
[992] *Id.* § 5-133(d)(2)(iv).
[993] *Id.* § 5-133(d)(2)(vi).
[994] MASS. GEN. LAWS ch. 140, § 131(a).
[995] *Id.* § 131(d).
[996] *Id.* § 131(d)(iv).

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New Jersey. In general, persons under 18 may not "purchase, barter or otherwise acquire a firearm" and persons under 21 may not do so for handguns.[997] Further, no one under 18 "shall possess, carry, fire or use a firearm."[998] The same is true for handguns for persons under 21.[999]

Exceptions are for gun use "[i]n the actual presence or under the direct supervision of his father, mother or guardian, or some other person" who has the appropriate gun possession permit from the state.[1000] Also allowed is "competition, target practice, instruction, and training" at a firing range.[1001] Finally, persons can possess the guns "during the regularly designated hunting season," if they have a hunting license and have passed a hunter safety course.[1002]

New York. A license is necessary to possess a handgun.[1003] Licenses may be issued only to persons who are at least 21.[1004] But if the applicant has been honorably discharged from the armed forces, no age restriction applies.[1005]

Ohio. No one shall sell any firearm to a person under 18, or a handgun to a person under 21.[1006] Nor shall anyone "furnish" such guns to such persons, "except for lawful hunting, sporting, or educational purposes, including, but not limited to, instruction in firearms or handgun safety, care, handling, or marksmanship under the supervision or control of a responsible adult."[1007] Persons 18-to-20 may acquire handguns if they are law enforcement officers or active duty members of the armed forces who have received certain training.[1008]

Rhode Island. A permit is necessary to purchase or acquire a handgun.[1009] Permits are not issued to persons under 21.[1010]

B. Policy

In American law, different activities have been subject to different age limits. Under the U.S. and state constitutions, the age for service in elective offices is sometimes 18, but also may be 21, 25, 30, or (for President) 35.[1011] Activities that are considered by some to be vices—such as alcohol, tobacco, recreational marijuana, and gambling—have sometimes been prohibited, sometimes unregulated, and sometimes had age limits of 18 or 21.[1012] The trend of the 1960s and

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[997] N.J. STAT. ANN. § 2C:58–6.1(a).
[998] *Id.* § 2C:58–6.1(b).
[999] *Id.*
[1000] *Id.* § 2C:58–6.1(b)(1).
[1001] *Id.* § 2C:58–6.1(b)(3). The range must have been approved by a local governing body or by the National Rifle Association. *Id.*
[1002] *Id.* § 2C:58–6.1(b)(4).
[1003] N.Y. PENAL LAW § 400.00(15).
[1004] *Id.* § 400.00(1).
[1005] *Id.*
[1006] OHIO REV. CODE ANN. § 2923.21(A)(1)-(2).
[1007] *Id.* (A)(3).
[1008] *Id.* (B).
[1009] 11 R.I. GEN. LAWS ANN. § 11-47-35.
[1010] *Id.* § 11-47-35(a)(1).
[1011] *See, e.g.*, U.S. CONST. art II, § 1 (35 for President); ILL. CONST. art. V, § 3 (25 for statewide constitutional officers); IOWA CONST. art. III, § 4 (21 for the Iowa House of Representatives).
[1012] *See, e.g.*, Michael Phillip Rosenthal, *The Minimum Drinking Age for Young People: An Observation*, 92 DICK. L. REV. 649 (1988).

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the 1970s was for lower age limits for vices, while in recent decades many states have moved to 21.

Perhaps the most important decision a person will ever make is marriage. Certainly, the decision to marry is more momentous than the decision about whether to drink a beer. Today, in every state, the age for marriage *without* parental consent is 16, 17, or 18.[1013] The age is lower (or there is no age limit) when there is parental consent.[1014]

In every state, the age at which a criminal defendant can be prosecuted as an adult is no older than eighteen, and usually younger. Eighteen-year-olds are subject to conscription into the U.S. military, notwithstanding vehement parental objection. With parental consent, persons under 18 may enlist in the U.S. Armed Forces.[1015]

For voting, the usual starting age used to be 21. That was lowered to 18 by the Twenty-Sixth Amendment, ratified in 1971, and applying to all federal and state elections.[1016] That young adults did not have voting rights in the Founding Era is not evidence that young adults lacked arms rights. Some states had property requirements for voting, and higher property requirements for election to the legislature or the governorship.[1017] No one would contend that people who did not own a certain amount of property were excluded from the Second Amendment.

After the Nineteenth Amendment in 1920 guaranteed women the right to vote, Justice Sutherland, writing for the Court, praised "the great—not to say revolutionary—changes which have taken place since that utterance, in the contractual, political, and civil status of women, culminating in the Nineteenth Amendment."[1018] Although laws could still take into account the physical differences between men and women, laws could not treat women like children, by imposing special restrictions on female contract rights that could not constitutionally be imposed on men.[1019]

Although Justice Sutherland's strong defense of the competence and free choices of women was later swept away when the New Deal Supreme Court abandoned nearly all judicial protection of the right of contract, Justice Sutherland turned out to be on the right side of history. Since the 1970s, very few laws that impose special disabilities on account of sex are considered constitutional.

Similar observations can be made about the rights of young adults, and the constitutional guarantee of their voting rights in 1971. The trend over the last half-century has been towards recognizing that people who bear the burdens of adulthood—including military conscription and liability to criminal prosecution as an adult—also have the rights of adulthood. In general, the rights of young adults include the same contract and property rights as of older persons. The only notable exception to the trend of recognizing young adult rights has been re-raising the age for

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[1013] *State-by-State Marriage "Age of Consent" Laws*, FINDLAW (2018), https://family.findlaw.com/marriage/state-by-state-marriage-age-of-consent-laws.html.

[1014] *Id.*

[1015] *Are You Eligible to Join the Military?*, MILITARY.COM (2018), https://www.military.com/join-armed-forces/join-the-military-basic-eligibility.html.

[1016] U.S. CONST. amend. XXVI.

[1017] *See* DONALD S. LUTZ, POPULAR CONSENT AND POPULAR CONTROL: WHIG POLITICAL THEORY IN EARLY STATE CONSTITUTIONS 90-91 (1980) (Ga., S.C., Pa., N.C., and N.H. limited voting to taxpayers; Mass. required £60 of property, N.J. £20, and N.Y. £20; Md. required 50 acres, and Del. a freehold).

[1018] *See* Adkins v. Children's Hospital, 261 U.S. 525, 553 (1923), *overruled by* West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937); U.S. CONST. amend. XIX.

[1019] *Adkins*, *supra* note 1018, at 401 ("nor is there ground for distinction between women and men, for, certainly, if women require a minimum wage to preserve their morals men require it to preserve their honesty").

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various "vices," such as alcohol. Under American law, none of these vices are constitutionally protected; instead, these vices can be—and sometimes have been—prohibited for the entire population, regardless of age.[1020]

The right to arms is just the opposite. While the Twenty-First Amendment affirms very broad state power over alcohol, up to and including prohibition, the Second Amendment guarantees the right to keep and bear arms.[1021] As has been detailed above, the original meaning of the Second Amendment recognized that young adults have a right and duty to keep and bear arms.

VII. Conclusion

If the Second Amendment is interpreted according to the original public meaning, as *Heller* says it must be, the Constitution contains a clear rule for the arms rights of young adults. It is beyond dispute that when the Second Amendment was ratified, young adults had the right to keep and bear arms. State and colonial assemblies collectively legislated on the militia hundreds of times, revising many subjects. The militia entry age was 15-18. Sixteen was the most common. The only 21-year-old law existed for two decades in colonial Virginia; that law was repealed long before the Second Amendment was adopted. From the first federal militia laws to the present, the militia of the United States has always included eighteen-year-olds. During the nineteenth and twentieth centuries, the federal government worked to put arms in their hands.

According to *Heller*, the innermost core of the Second Amendment is the right to keep a handgun in the home for lawful self-defense. Laws that prohibit or nearly prohibit young adults from doing so are unconstitutional.

[1020] *See* Rosenthal, *supra* note 1012.
[1021] U.S. CONST. amends. II, XXI.

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EXHIBIT "18"

SATURDAY JULY 8, 1775

The Congress met according to adjournment.

The Petition to the King being engrossed, was compared, and signed by the several members.[1]

To the king's most excellent Majesty:

MOST GRACIOUS SOVEREIGN,

We, your Majesty's faithful subjects of the colonies of new Hampshire, Massachusetts bay, Rhode island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, the counties of New Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, North Carolina, and South Carolina, in behalf of ourselves, and the inhabitants of these colonies, who have deputed us to represent them in general Congress, entreat your Majesty's gracious attention to this our humble petition.

The union between our Mother country and these colonies, and the energy of mild and just government, produced benefits so remarkably important, and afforded such an assurance of their permanency and increase, that the wonder and envy of other Nations were excited, while they beheld Great Britain riseing to a power the most extraordinary the world had ever known.

Her rivals, observing that there was no probability of this happy connexion being broken by civil dissensions, and apprehending its future effects, if left any longer undisturbed, resolved to prevent her receiving such continual and formidable accessions of wealth and strength, by checking the growth of these settlements from which they were to be derived.

In the prosecution of this attempt, events so unfavourable to the design took place, that every friend to the interests of Great Britain and these colonies, entertained pleasing and reasonable expectations of seeing an additional force and extention[2] immediately given to the operations of the union hitherto experienced, by an enlargement of the dominions of the Crown, and the removal of ancient and warlike enemies to a greater distance.

At the conclusion, therefore, of the late war, the most glorious and

[1] "Congress gave a signal proof of their indulgence to Mr. Dickinson, and of their great desire not to go too fast for any respectable part of our body, in permitting him to draw their second petition to the King according to his own ideas, and passing it with scarcely any amendment." Jefferson, *Autobiography*, in his *Writings* (Ford), I, 17.

[2] In the printed version this word is *exertion*.

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advantageous that ever had been carried on by British arms, your loyal colonists having contributed to its success, by such repeated and strenuous exertions, as frequently procured them the distinguished approbation of your Majesty, of the late king, and of parliament, doubted not but that they should be permitted, with the rest of the empire, to share in the blessings of peace, and the emoluments of victory and conquest. While these recent and honorable acknowledgments of their merits remained on record in the journals and acts of that august legislature, the Parliament, undefaced by the imputation or even the suspicion of any offence, they were alarmed by a new system of statutes and regulations adopted for the administration of the colonies, that filled their minds with the most painful fears and jealousies; and, to their inexpressible astonishment, perceived the dangers of a foreign quarrel quickly succeeded by domestic dangers, in their judgment, of a more dreadful kind.

Nor were their anxieties alleviated by any tendency in this system to promote the welfare of the Mother country. For tho' its effects were more immediately felt by them, yet its influence appeared to be injurious to the commerce and prosperity of Great Britain.

We shall decline the ungrateful task of describing the irksome variety of artifices, practised by many of your Majesty's Ministers, the delusive pretences, fruitless terrors, and unavailing severities, that have, from time to time, been dealt out by them, in their attempts to execute this impolitic plan, or of traceing, thro' a series of years past, the progress of the unhappy differences between Great Britain and these colonies, which have flowed from this fatal source.

Your Majesty's Ministers, persevering in their measures, and proceeding to open hostilities for enforcing them, have compelled us to arm in our own defence, and have engaged us in a controversy so peculiarly abhorrent to the affections of your still faithful colonists, that when we consider whom we must oppose in this contest, and if it continues, what may be the consequences, our own particular misfortunes are accounted by us only as parts of our distress.

Knowing to what violent resentments and incurable animosities, civil discords are apt to exasperate and inflame the contending parties, we think ourselves required by indispensable obligations to Almighty God, to your Majesty, to our fellow subjects, and to ourselves, immediately to use all the means in our power, not incompatible with our safety, for stopping the further effusion of blood, and for averting the impending calamities that threaten the British Empire.

EXHIBIT 18
0483

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Thus called upon to address your Majesty on affairs of such moment to America, and probably to all your dominions, we are earnestly desirous of performing this office, with the utmost deference for your Majesty; and we therefore pray, that your[1] royal magnanimity and benevolence may make the most favourable construction of our expressions on so uncommon an occasion. Could we represent in their full force, the sentiments that agitate the minds of us your dutiful subjects, we are persuaded your Majesty would ascribe any seeming deviation from reverence in our language, and even in our conduct, not to any reprehensible intention, but to the impossibility of reconciling the usual appearances of respect, with a just attention to our own preservation against those artful and cruel enemies, who abuse your royal confidence and authority, for the purpose of effecting our destruction.

Attached to your Majesty's person, family, and government, with all devotion that principle and affection can inspire, connected with Great Britain by the strongest ties that can unite societies, and deploring every event that tends in any degree to weaken them, we solemnly assure your Majesty, that we not only most ardently desire the former harmony between her and these colonies may be restored, but that a concord may be established between them upon so firm a basis as to perpetuate its blessings, uninterrupted by any future dissentions, to succeeding generations in both countries, and to transmit your Majesty's Name to posterity, adorned with that signal and lasting glory, that has attended the memory of those illustrious personages, whose virtues and abilities have extricated states from dangerous convulsions, and, by securing happiness to others, have erected the most noble and durable monuments to their own fame.

We beg leave further to assure your Majesty, that notwithstanding the sufferings of your loyal colonists, during the course of the present controversy, our breasts retain too tender a regard for the kingdom from which we derive our origin, to request such a reconciliation as might in any manner be inconsistent with her dignity or her welfare. These, related as we are to her, honor and duty, as well as inclination, induce us to support and advance; and the apprehensions that now oppress our hearts with unspeakable grief, being once removed, your Majesty will find your faithful subjects on this continent ready and willing at all times, as they ever have been, with their lives and fortunes, to assert and maintain the rights and interests of your Majesty, and of our Mother country.

[1] The word *Majesty's* is here inserted in the printed version.

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We, therefore, beseech your Majesty, that your royal authority and influence may be graciously interposed to procure us relief from our afflicting fears and jealousies, occasioned by the system before mentioned, and to settle peace through every part of your dominions, with all humility submitting to your Majesty's wise consideration whether it may not be expedient for facilitating those important purposes, that your Majesty be pleased to direct some mode, by which the united applications of your faithful colonists to the throne, in pursuance of their common councils, may be improved into a happy and permanent reconciliation; and that, in the mean time, measures may be taken for preventing the further destruction of the lives of your Majesty's subjects; and that such statutes as more immediately distress any of your Majesty's colonies may be repealed.

For by such arrangements as your Majesty's wisdom can form, for collecting the united sense of your American people, we are convinced your Majesty would receive such satisfactory proofs of the disposition of the colonists towards their sovereign and parent state, that the wished for opportunity would soon be restored to them, of evincing the sincerity of their professions, by every testimony of devotion becoming the most dutiful subjects, and the most affectionate colonists.

That your Majesty may enjoy a long and prosperous reign, and that your descendants may govern your dominions with honor to themselves and happiness to their subjects, is our sincere and fervent prayer.

JOHN HANCOCK

colony of New hampshire
John Langdon
colony of Massachusetts bay
Thomas Cushing
Saml Adams
John Adams
Robt Treat Paine
colony of Rhode island and providence plantations
Step Hopkins
Sam: Ward
colony of Connecticut
Elipht Dyer
Roger Sherman
Silas Deane
colony of New York
Phil. Livingston
Ja^{s} Duane
John Alsop
Fran^{s} Lewis
John Jay
Robt R Livingston jun^{r}
Lewis Morris
Wm Floyd
Henry Wisner
New Jersey
Wil: Livingston
John D^{e} Hart
Richd Smith

EXHIBIT 18
0485
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Pennsylvania
John Dickinson
B Franklin
Geo: Ross
James Wilson
Cha[s] Humphreys
Edw[d] Biddle
counties of New Castle Kent and Sussex on delawar
Cæsar Rodney
Tho[s] M[c] Kean
Geo: Read
Maryland
Mat. Tilghman
Th[s] Johnson Jun[r]
W[m] Paca
Samuel Chase
Tho[s] Stone
colony of Virginia
P. Henry J[r]
Richard Henry Lee
Edmund Pendleton
Benj[a] Harrison
Th: Jefferson
North Carolina
Will Hooper
Joseph Hewes
South Carolina
Henry Middleton
Tho Lynch
Christ Gadsden
J. Rutledge
Edward Rutledge.[1]

The committee appoint[ed] to prepare a Letter to the Lord Mayor, reported the same, which was read.

On motion, *Resolved*, That the above Committee prepare a letter to ~~Mr. Bollan, Mr. Lee and Mr.~~ R[ichard] Penn, Esq[r] and the colony Agents by name in England.[2]

The Congress resumed the Consideration of the address to the Inhabitants of Gt Britain, which being read and debated by paragraphs, was approved and ~~ordered to be printed~~ is as follows:

[here insert it]

[1] Endorsed: "Petition of the Congress to The King. Sept[r] 1st 1775—Delivered to the Earl of Dartmouth by Mess[rs] Penn and Lee." The text is taken from the original petition, reproduced in facsimile in Stevens's *Facsimiles of Manuscripts in European Archives relating to America*, No. 454.

[2] Penn sailed for England four days later, and arrived in London August 14. A copy of the petition was not received by Lord Dartmouth until the 26th.

EXHIBIT 18
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The Twelve United Colonies, by their Delegates in Congress, to the Inhabitants of Great Britain.[1]

FRIENDS, COUNTRYMEN, AND BRETHREN!

By these, and by every other Appellation that may designate the Ties, which bind *us* to each other, we entreat your serious Attention to this our second Attempt to prevent their Dissolution. Remembrance of former Friendships, Pride in the glorious Atchievements of our common Ancestors, and Affection for the Heirs of their Virtues, have hitherto preserved our mutual Connexion; but when that Friendship is violated by the grossest Injuries; when the Pride of Ancestry becomes our Reproach, and we are no otherwise allied than as Tyrants and Slaves; when reduced to the melancholy Alternative of renouncing your Favour or our Freedom; can we hesitate about the Choice? Let the Spirit of *Britons* determine.

In a former Address we asserted our Rights, and stated the Injuries we had then received. We hoped, that the mention of our Wrongs would have roused that honest Indignation which has slept too long for your Honor, or the Welfare of the Empire. But we have not been permitted to entertain this pleasing expectation. Every Day brought an accumulation of Injuries, and the Invention of the Ministry has been constantly exercised, in adding to the Calamities of your *American* Brethren.

After the most valuable Right of Legislation was infringed; when the Powers assumed by your Parliament, in which we are not represented, and from our local and other Circumstances cannot properly be represented, rendered our Property precarious; after being denied that mode of Trial, to which we have long been indebted for the safety of our Persons, and the preservation of our Liberties; after being in many instances divested of those Laws, which were transmitted to us by our common Ancestors, and subjected to an arbitrary Code, compiled under the auspices of *Roman* Tyrants; after those Charters, which encouraged our Predecessors to brave Death and Danger in every Shape, on unknown Seas, in Deserts unexplored, amidst barbarous and inhospitable Nations, were annulled; when, without the form of Trial, without a public Accusation, whole Colonies were condemned, their Trade destroyed, their Inhabitants impoverished; when Soldiers were encouraged to embrue their Hands in the Blood of *Americans*, by offers

[1] The Address is not entered in the MS. Journals, and I have used the text given in the first printed edition of the Journal.

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of Impunity; when new modes of Trial were instituted for the ruin of the accused, where the charge carried with it the horrors of conviction; when a despotic Government was established in a neighbouring Province, and its Limits extended to every of our Frontiers; we little imagined that any thing could be added to this black Catalogue of unprovoked Injuries: but we have unhappily been deceived, and the late Measures of the *British* Ministry fully convince us, that their object is the reduction of these Colonies to Slavery and Ruin.

To confirm this Assertion, let us recal your attention to the Affairs of *America*, since our last Address. Let us combat the Calumnies of our Enemies; and let us warn you of the dangers that threaten you in our destruction. Many of your Fellow-Subjects, whose situation deprived them of other Support, drew their Maintenance from the Sea; but the deprivation of our Liberty being insufficient to satisfy the resentment of our Enemies, the horrors of Famine were superadded, and a *British* Parliament, who, in better times, were the Protectors of Innocence and the Patrons of Humanity, have, without distinction of Age or Sex, robbed thousands of the Food which they were accustomed to draw from that inexhaustible Source, placed in their neighbourhood by the benevolent Creator.

Another Act of your Legislature shuts our Ports, and prohibits our Trade with any but those States from whom the great Law of self-preservation renders it absolutely necessary we should at present withhold our Commerce. But this Act (whatever may have been its design) we consider rather as injurious to your Opulence than our Interest. All our Commerce terminates with you; and the Wealth we procure from other Nations, is soon exchanged for your Superfluities. Our remittances must then cease with our trade; and our refinements with our Affluence. We trust, however, that Laws which deprive us of every Blessing but a Soil that teems with the necessaries of Life, and that Liberty which renders the enjoyment of them secure, will not relax our Vigour in their Defence.

We might here observe on the Cruelty and Inconsistency of those, who, while they publicly Brand us with reproachful and unworthy Epithets, endeavour to deprive us of the means of defence, by their Interposition with foreign Powers, and to deliver us to the lawless Ravages of a merciless Soldiery. But happily we are not without Resources; and though the timid and humiliating Applications of a *British* Ministry should prevail with foreign Nations, yet Industry, prompted by necessity, will not leave us without the necessary Supplies.

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We could wish to go no further, and, not to wound the Ear of Humanity, leave untold those rigorous Acts of Oppression, which are daily exercised in the Town of *Boston*, did we not hope, that by disclaiming their Deeds and punishing the Perpetrators, you would shortly vindicate the Honour of the *British* Name, and re-establish the violated Laws of Justice.

That once populous, flourishing and commercial Town is now garrisoned by an Army sent not to protect, but to enslave its Inhabitants. The civil Government is overturned, and a military Despotism erected upon its Ruins. Without Law, without Right, Powers are assumed unknown to the Constitution. Private Property is unjustly invaded. The Inhabitants, daily subjected to the Licentiousness of the Soldiery, are forbid to remove in Defiance of their natural Rights, in Violation of the most solemn Compacts. Or if, after long and wearisome Solicitation, a Pass is procured, their Effects are detained, and even those who are most favoured, have no Alternative but Poverty or Slavery. The Distress of many thousand People, wantonly deprived of the Necessaries of Life, is a Subject, on which we would not wish to enlarge.

Yet, we cannot but observe, that a *British* Fleet (unjustified even by Acts of your Legislature) are daily employed in ruining our Commerce, seizing our Ships, and depriving whole Communities of their daily Bread. Nor will a Regard for your Honour permit us to be silent, while *British* Troops sully your Glory, by Actions, which the most inveterate Enmity will not palliate among civilized Nations, the wanton and unnecessary Destruction of *Charlestown*, a large, ancient, and once populous Town, just before deserted by its Inhabitants, who had fled to avoid the Fury of your Soldiery.

If you still retain those Sentiments of Compassion, by which *Britons* have ever been distinguished, if the Humanity, which tempered the Valour of our common Ancestors, has not degenerated into Cruelty, you will lament the Miseries of their Descendants.

To what are we to attribute this Treatment? If to any secret Principle of the Constitution, let it be mentioned; let us learn, that the Government, we have long revered, is not without its Defects, and that while it gives Freedom to a Part, it necessarily enslaves the Remainder of the Empire. If such a Principle exists, why for Ages has it ceased to operate? Why at this Time is it called into Action? Can no Reason be assigned for this Conduct? Or must it be resolved into the wanton Exercise of arbitrary Power? And shall the Descendants of *Britons* tamely submit to this?—No, Sirs! We never will,

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while we revere the Memory of our gallant and virtuous Ancestors, we never can surrender those glorious Privileges, for which they fought, bled, and conquered. Admit that your Fleets could destroy our Towns, and ravage our Sea-Coasts; these are inconsiderable Objects, Things of no Moment to Men, whose Bosoms glow with the Ardor of Liberty. We can retire beyond the Reach of your Navy, and, without any sensible Diminution of the Necessaries of Life, enjoy a Luxury, which from that Period you will want—the Luxury of being Free.

We know the Force of your Arms, and was it called forth in the Cause of Justice and your Country, we might dread the Exertion: but will *Britons* fight under the Banners of Tyranny? Will they counteract the Labours, and disgrace the Victories of their Ancestors? Will they forge Chains for their Posterity? If they descend to this unworthy Task, will their Swords retain their Edge, their Arms their accustomed Vigour? *Britons* can never become the Instruments of Oppression, till they lose the Spirit of Freedom, by which alone they are invincible.

Our Enemies charge us with Sedition. In what does it consist? In our Refusal to submit to unwarrantable Acts of Injustice and Cruelty? If so, shew us a Period in your History, in which you have not been equally Seditious.

We are accused of aiming at Independence; but how is this Accusation supported? By the Allegations of your Ministers, not by our Actions. Abused, insulted, and contemned, what Steps have we pursued to obtain Redress? We have carried our dutiful Petitions to the Throne. We have applied to your Justice for Relief. We have retrenched our Luxury, and withheld our Trade.

The Advantages of our Commerce were designed as a Compensation for your Protection: When you ceased to protect, for what were we to compensate?

What has been the Success of our Endeavours? The Clemency of our Sovereign is unhappily diverted; our Petitions are treated with Indignity; our Prayers answered by Insults. Our Application to you remains unnoticed, and leaves us the melancholy Apprehension of your wanting either the Will, or the Power, to assist us.

Even under these Circumstances, what Measures have we taken that betray a Desire of Independence? Have we called in the Aid of those foreign Powers, who are the Rivals of your Grandeur? When your Troops were few and defenceless, did we take Advantage of their Distress and expel them our Towns? Or have we permitted them to fortify, to receive new Aid, and to acquire additional Strength?

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Let not *your* Enemies and *ours* persuade you, that in this we were influenced by Fear or any other unworthy Motive. The Lives of *Britons* are still dear to us. They are the Children of our Parents, and an uninterrupted Intercourse of mutual Benefits had knit the Bonds of Friendship. When Hostilities were commenced, when on a late Occasion we were wantonly attacked by your Troops, though we repelled their Assaults and returned their Blows, yet we lamented the Wounds they obliged us to give; nor have we yet learned to rejoice at a Victory over *Englishmen*.

As we wish not to colour our Actions, or disguise our Thoughts, we shall, in the simple Language of Truth, avow the Measures we have pursued, the Motives upon which we have acted, and our future Designs.

When our late Petition to the Throne produced no other Effect than fresh Injuries, and Votes of your Legislature, calculated to justify every Severity; when your Fleets and your Armies were prepared to wrest from us our Property, to rob us of our Liberties or our Lives; when the hostile Attempts of General *Gage* evinced his Designs, we levied Armies for our Security and Defence. When the Powers vested in the Governor of *Canada*, gave us Reason to apprehend Danger from that Quarter; and we had frequent Intimations, that a cruel and savage Enemy was to be let loose upon the defenceless Inhabitants of our Frontiers; we took such Measures as Prudence dictated, as Necessity will justify. We possessed ourselves of *Crown Point* and *Ticonderoga*. Yet give us leave most solemnly to assure you, that we have not yet lost Sight of the Object we have ever had in View, a Reconciliation with you on constitutional Principles, and a Restoration of that friendly Intercourse, which, to the Advantage of both, we till lately maintained.

The Inhabitants of this Country apply themselves chiefly to Agriculture and Commerce. As their Fashions and Manners are similar to yours, your Markets must afford them the Conveniences and Luxuries, for which they exchange the Produce of their Labours. The Wealth of this extended Continent centres with you; and our Trade is so regulated as to be subservient only to your Interest. You are too reasonable to expect, that by Taxes (in Addition to this) we should contribute to your Expence; to believe, after diverting the Fountain, that the Streams can flow with unabated Force.

It has been said, that we refuse to submit to the Restrictions on our Commerce. From whence is this Inference drawn? Not from our

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Words, we have repeatedly declared the Contrary; and we again profess our Submission to the several Acts of Trade and Navigation, passed before the Year 1763, trusting, nevertheless, in the Equity and Justice of Parliament, that such of them as, upon cool and impartial Consideration, shall appear to have imposed unnecessary or grievous Restrictions, will, at some happier Period, be repealed or altered. And we cheerfully consent to the Operation of such Acts of the *British* Parliament, as shall be restrained to the Regulation of our external Commerce, for the Purpose of securing the commercial Advantages of the whole Empire to the Mother Country, and the commercial Benefits of its respective Members; excluding every Idea of Taxation internal or external, for raising a Revenue on the Subjects in *America*, without their Consent.

It is alledged that we contribute nothing to the common Defence. To this we answer, that the Advantages which *Great Britain* receives from the Monopoly of our Trade, far exceed our Proportion of the Expence necessary for that Purpose. But should these Advantages be inadequate thereto, let the Restrictions on our Trade be removed, and we will cheerfully contribute such Proportion when constitutionally required.

It is a fundamental Principle of the *British* Constitution, that every Man should have at least a Representative Share in the Formation of those Laws, by which he is bound. Were it otherwise, the Regulation of our internal Police by a *British* Parliament, who are and ever will be unacquainted with our local Circumstances, must be always inconvenient, and frequently oppressive, working our wrong, without yielding any possible Advantage to you.

A Plan of Accommodation (as it has been absurdly called) has been proposed by your Ministers to our respective Assemblies. Were this Proposal free from every other Objection, but that which arises from the Time of the Offer, it would not be unexceptionable. Can Men deliberate with the Bayonet at their Breast? Can they treat with Freedom, while their Towns are sacked; when daily Instances of Injustice and Oppression disturb the slower Operations of Reason?

If this Proposal is really such as you would offer and we accept, why was it delayed till the Nation was put to useless expence, and we were reduced to our present melancholy Situation? If it holds forth nothing, why was it proposed? Unless indeed to deceive you into a Belief, that we were unwilling to listen to any Terms of Accommodation. But what is submitted to our Consideration? We contend for

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the Disposal of our Property. We are told that our Demand is unreasonable, that our Assemblies may indeed collect our Money, but that they must at the same Time offer, not what your Exigencies or ours may require, but so much as shall be deemed sufficient to satisfy the Desires of a Minister and enable him to provide for Favourites and Dependants. A Recurrence to your own Treasury will convince you how little of the Money already extorted from us has been applied to the Relief of your Burthens. To suppose that we would thus grasp the Shadow and give up the Substance, is adding Insult to Injuries.

We have nevertheless again presented an humble and dutiful Petition to our Sovereign, and to remove every imputation of Obstinacy, have requested his Majesty to direct some Mode, by which the united Applications of his faithful Colonists may be improved into a happy and permanent Reconciliation. We are willing to treat on such Terms as can alone render an accommodation lasting, and we flatter ourselves that our pacific Endeavours will be attended with a removal of ministerial Troops, and a repeal of those Laws, of the Operation of which we complain, on the one part, and a disbanding of our Army, and a dissolution of our commercial Associations, on the other.

Yet conclude not from this that we propose to surrender our Property into the Hands of your Ministry, or vest your Parliament with a Power which may terminate in our Destruction. The great Bulwarks of our Constitution we have desired to maintain by every temperate, by every peaceable Means; but your Ministers (equal Foes to *British* and *American* freedom) have added to their former Oppressions an Attempt to reduce us by the Sword to a base and abject submission. On the Sword, therefore, we are compelled to rely for Protection. Should Victory declare in your Favour, yet Men trained to Arms from their Infancy, and animated by the Love of Liberty, will afford neither a cheap or easy Conquest. Of this at least we are assured, that our Struggle will be glorious, our Success certain; since even in Death we shall find that Freedom which in Life you forbid us to enjoy.

Let us now ask what Advantages are to attend our Reduction? the Trade of a ruined and desolate Country is always inconsiderable, its Revenue trifling; the Expence of subjecting and retaining it in subjection certain and inevitable. What then remains but the gratification of an ill-judged Pride, or the hope of rendering us subservient to designs on your Liberty.

Soldiers who have sheathed their Swords in the Bowels of their *American* Brethren, will not draw them with more reluctance against

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you. When too late you may lament the loss of that freedom, which we exhort you, while still in your Power, to preserve.

On the other hand, should you prove unsuccessful; should that Connexion, which we most ardently wish to maintain, be dissolved; should your Ministers exhaust your Treasures and waste the Blood of your Countrymen in vain Attempts on our Liberty; do they not deliver you, weak and defenceless, to your natural Enemies?

Since then your Liberty must be the price of your Victories; your Ruin, of your Defeat: What blind Fatality can urge you to a pursuit destructive of all that *Britons* hold dear?

If you have no regard to the Connexion that has for Ages subsisted between us; if you have forgot the Wounds we have received fighting by your Side for the extention of the Empire; if our Commerce is not an object below your consideration; if Justice and Humanity have lost their influence on your Hearts; still Motives are not wanting to excite your Indignation at the Measures now pursued; Your Wealth, your Honour, your Liberty are at Stake.

Notwithstanding the Distress to which we are reduced, we sometimes forget our own Afflictions, to anticipate and sympathize in yours. We grieve that rash and inconsiderate Councils should precipitate the destruction of an Empire, which has been the envy and admiration of Ages, and call God to witness! that we would part with our Property, endanger our Lives, and sacrifice every thing but Liberty, to redeem you from ruin.

A Cloud hangs over your Heads and ours; 'ere this reaches you, it may probably burst upon us; let us then (before the remembrance of former Kindness is obliterated) once more repeat those Appellations which are ever grateful in our Ears; let us entreat Heaven to avert our Ruin, and the Destruction that threatens our Friends, Brethren and Countrymen, on the other side of the *Atlantic*.

Ordered, That the Address be published and a number of them sent by Mr Penn to England.[1]

The Letter to the Lord Mayor, &c., being read again and debated, was approved, and is as follows:

My lord,

Permitt the Delegates of the people of twelve antient colonies, to pay y^r^ Lordship, and the very respectable body of which you are head,

[1] This address was printed as a Postscript to the *Pennsylvania Packet*, 17 July, 1775.

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the just tribute of gratitude and thanks, for the virtuous and unsolicited resentment you have shewn to the violated rights of a free people. The city of London, my Lord, having in all ages, approved itself the patron of liberty, and the support of just government, against lawless tyranny and oppression, cannot fail to make us deeply sensible of the powerful aid, our cause must receive from such advocates. A cause, my Lord, worthy the support of the first city in the world, as it involves the fate of a great continent, and threatens to shake the foundations of a flourishing, and, until lately, a happy empire.

North America, my Lord, wishes most ardently for a lasting connection with Great Britain on terms of just and equal liberty; less than which generous minds will not offer, nor brave and free ones be willing to receive.

A cruel war has at length been opened agst us, and whilst we prepare to defend ourselves like the descendants of Britons, we still hope that the mediation of wise and good citizens, will at length prevail over despotism, and restore harmony and peace, on permanent principles, to an oppressed and divided empire.

We have the honor to be, my Lord,
With great esteem, y^{r} Lordship's
Faithful friends and fellow-subjects.

Signed by order of the Congress,

JOHN HANCOCK
President.[1]

Ordered, That the above Letter be fairly transcribed, and signed by the president, and sent by Mr Penn.

The Committee appointed to prepare a letter to Mr Penn and the Colony Agents, bro^{t} in the same, which being read was approved:

GENTLEMEN,

The perseverence of the British ministry in their unjust and cruel system of colony administration, has occasioned the meeting of another Congress.

We have again appealed to the justice of our sovereign for protection agst the destruction which his Ministers meditate for his American subjects. This Petition to his Majesty you will please, Gentlemen, to present to the King with all convenient expedition, after which we

[1] This letter was printed in the *Pennsylvania Packet*, 11 December, 1775.

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desire it may be given to the public. We likewise send you our second application to the equity and interest of our fellow subjects in G B, and also a Declaration setting forth the causes of our taking up arms: Both which we wish may be immediately put to press, and communicated as universally as possible.

The Congress entertain the highest sense of the wise and worthy interposition of the Lord Mayor and Livery of London, in favour of injured America. They have expressed this, their sense, in a letter to his Lordship and the livery, which we desire may be presented in the manner most agreeable to that respectable body.

You will oblige us, Gentlemen, by giving the most early information to the Congress, and to the speakers of our respective assemblies, of your proceeding in this business, and such further intelligence as you may judge to be of importance to America in this great contest.

We are, with great regard, gentlemen, y^r^ most obedient and very humble serv^ts^

By order of the Congress,

[JOHN HANCOCK,
Pres.]

Ordered, That the above be fairly transcribed, and to be signed by the pres^t^, and then by him sent under cover, with the petition to the King, and address to the Inhabitants of G B, and letter to the Ld Mayor of London to R[ichard] Penn, Esqr and to request him, in behalf of the Congress, to join with the Colony Agents in presenting the petition to the King.

Order of the day put off, and adjourned till Monday at 9 o'Clock.[1]

MONDAY, JULY 10, 1775

The Congress met according to adjournment.

It being suggested, that there was a gentleman in town well acquainted with the situation and disposition of the Indians,

[1] A letter from General Schuyler, dated June 30, was received by express and read this day. The letter is in *Papers of the Continental Congress*, No. 153, I, folio 10.

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David Ramsay, ***The History of the American Revolution, vol. 1*** [1789]





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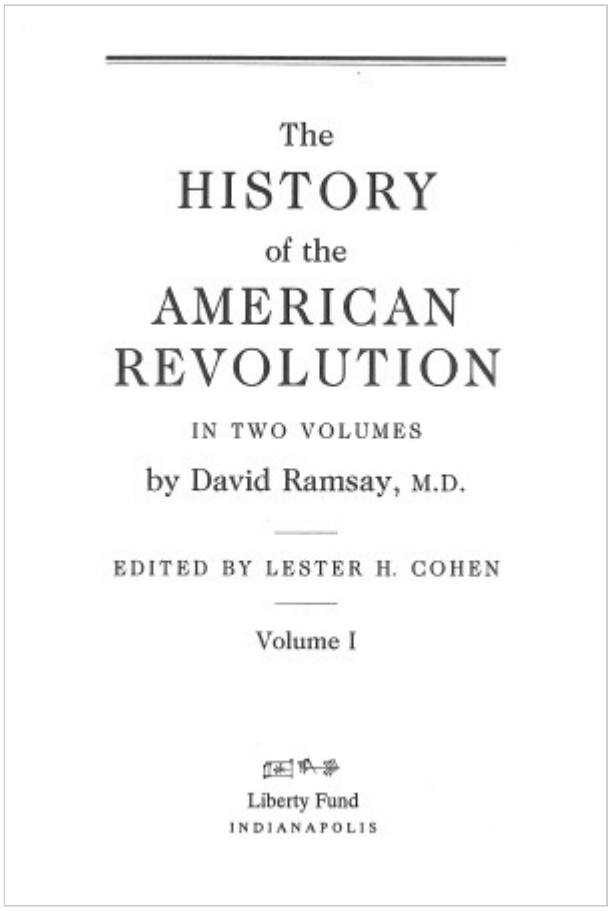
The
HISTORY
of the
AMERICAN
REVOLUTION
IN TWO VOLUMES
by David Ramsay, M.D.
EDITED BY LESTER H. COHEN
Volume I
Liberty Fund
INDIANAPOLIS

Edition Used:

The History of the American Revolution, Foreword by Lester H. Cohen (Indianapolis: Liberty Fund 1990). Vol. 1.

Author: David Ramsay
Editor: Lester H. Cohen

About This Title:

Vol. 1 of a 2 volume work. David Ramsay's *History of the American Revolution* appeared in 1789 during an enthusiastic celebration of nationhood. It is the first American national history written by an American revolutionary and printed in America. Ramsay, a well-known Federalist, was an active participant in many of the events of the period and a member of the Continental Congress from South Carolina. Ramsay discusses the events and ideas of the American Revolution (from the outbreak of turbulence in the 1760s to the onset of Washington's administration) and makes an ardent Federalist defense of the Constitution of 1787. Based on the original and authorized 1789 version, this is the first new modern edition of the work.

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Foreword

David Ramsay's*The History of the American Revolution* appeared in 1789, during an enthusiastic celebration of American nationhood. "Nationhood," moreover, was beginning to take on new cultural and intellectual connotations. The United States had declared its *political* independence more than a decade earlier, and a rising group of "cultural nationalists" was asserting that it was now time to declare *cultural* independence as well. The American people would never be truly autonomous otherwise. "However they may boast of Independence, and the freedom of their government," wrote Noah Webster, lexicographer, historian, and the nationalists' most brilliant spokesman, "yet their opinions are not sufficiently independent." Instead of liberating themselves from the influences of English culture, as they had from England's arms and government, the Americans were continuing to manifest "an astonishing respect for the arts and literature of their parent country, and a blind imitation of its manners." While such "habitual respect" for England was once understandable, even laudable, it had become an impediment to creating an independent American character and therefore posed dangers for the future.1

Cultural nationalism was almost inevitable in the aftermath of a revolution that seemed to require Americans to define not only their political identity, but their spiritual identity as well. Such nationalism manifested itself in a variety of ways in literature and the arts, science, and education. In its superficial manifestations, it testified to an American inferiority complex, consisting mainly of defensive protests against the notion, common in eighteenth-century Europe, that the New World was a physically and morally debased version of the Old, and of mushy effusions of patriotic sentiment over any product of American literature, art, or science. Thus one commentator gushed over Ramsay's *The History of the Revolution of South-Carolina* (1785), saying that it "reflects honour on this country, and gives room for hope that her literary will in time equal her military reputation," and Rev. James Madison enthused that the work's "Dress is altogether American." Another reviewer, praising *The History of the American Resolution,* observed that it is a "necessity that the history of the American revolution be written in our own country, by a person of suitable abilities, who has witnessed the incidents attendant on that great event."2 Thus did patriotism pass for culture, and Ramsay's work obviously measured up.

On a more sophisticated level, some cultural nationalists—Ramsay among them—developed greater insight into the idea of American cultural identity. These nationalists recognized that, along with the richly deserved celebration and self-congratulation, the new nation needed a strong unifying culture. Without a culture that articulated the fundamental tenets of liberty, constitutionalism, virtue, and simplicity, the principles of the American Revolution would soon become corrupted. Such corruption could come from without, through the people's continued reliance on English cultural values; it could also come from within, through the disintegrating forces already operating to dissolve the new nation into a multitude of disparate fragments. This realization prompted the nationalists anxiously to develop a notion of American identity that rested on two major premises: that politics, culture, and society

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were inextricably intertwined, so that a change in any one would subtly alter the others; and that culture was a significant force in shaping human consciousness, an idea which offered a powerful incentive to use literature as a means of exhortation.

Like all the historians of the Revolutionary era, Ramsay saw historical writing as a vehicle for fostering nationhood, an instrument for promoting the kind of unity, even homogeneity, that the cultural nationalists desired.3 Almost all the leading cultural nationalists were also political nationalists, the surest sign of which was that they saw the Constitution as the great vehicle for both creating and preserving American unity. And, although it was possible to be a nationalist culturally while opposing the Constitution for political reasons (as the historian, poet, and playwright Mercy Otis Warren made clear), Ramsay's reasons for writing a peculiarly consensual or national history were intimately tied to his Federalist political views.

Those reasons were motivated by Ramsay's perception that the new nation faced two sorts of danger: on the one hand, the danger of political divisions between the states and within each state, divisions which had already given rise to factions with competing economic interests; and on the other, the threat of social and cultural divisions among the people of the several states and regions, which could readily lead to insularity and hostility.

Thus, for example, he wrote in political terms about his fellow South Carolinians who put local interests ahead of national unity and opposed ratification of the Constitution. "To write, to speak, or even to think of a separation of the states is political blasphemy," he wrote to Jedidiah Morse. " 'One Indivisible' is my motto."4 He even postponed publication of his history of the Revolution until the fate of the Constitution had been decided, for "The revolution cannot be said to be completed till that or something equivalent is established."5 But Ramsay continued to fear the potential for disunity even after the Constitution had been operating for years. "We should, above all things, study to promote the union and harmony of the different states," he cautioned in 1794. "We should consider the people of this country … as forming one whole, the interest of which should be preferred to that of every part."6

While it is impossible to separate his political from his cultural motives, Ramsay was at his best when he spoke of the importance of historical writing with his cultural concerns in mind. In fact, in his Federalist pamphlet, "An Address to the Freemen of South-Carolina (1788)," he cast one of his strongest political arguments for the Constitution in cultural terms. He called upon his fellow Carolinians to "consider the people of all the thirteen states, as a band of brethren, speaking the same language, professing the same religion, inhabiting one undivided country, and designed by heaven to be one people."7 Ramsay was as sensitive as any intellectual of his era to the kinds of divisions, real and potential, that tended to separate Americans and undermine the unity he sought. Even ratification of the Constitution was less a culmination than a beginning, less a sign of unity than a foundation for it. "We are too widely disseminated over an extensive country & too much diversified by different customs & forms of government to feel as one people[,] which we are," he confided to John Eliot in 1795. But through historical writings, such as Jeremy Belknap's *History of New Hampshire* (1792), "we might become better acquainted with each

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other in that intimate familiar manner which would wear away prejudices—rub off asperities & mould us into a homogenous people." Belknap's achievement was all the more remarkable, for Belknap had written about a single state, yet his work breathed a national spirit.8 In short, even in ostensibly local history, it was possible—indeed, necessary—to write of the nation and its character, for such writings tended to unify the people. "I long to see Dr. [Hugh] Williamson's history of North Carolina," Ramsay wrote to Belknap in 1795. "Indeed I wish to see a history of every state in the Union written in the stile and manner of yours & Williams's history of Vermont. We do not know half enough of each other. Enthusiastic as I am for the Unity of our republic[,] I wish for every thing that tends to unite us as one people who know[,] esteem & love each other."9 In 1809, Ramsay's own *The History of South-Carolina* would join the list of nationalistic state histories.

Ramsay's passion for unity and his fear of fragmentation prompted him to invent a national past characterized by consensus. This is not to say that Ramsay was a dissembler or deceiver who created a past out of whole cloth. It is, rather, to emphasize that for Ramsay, as for all the historians of the Revolution, historical writing was not so much an end in itself as it was a means to cultivate the political and moral consciousness of the present and future generations. Sensitive to divisions within America—political, ethnic, racial, religious, economic—Ramsay genuinely feared chaos, and his experience in both state and confederation politics led him to believe that only by generating a constellation of commonly held values and principles could the nation resist the forces that tended to pull it apart. Ramsay did not invent those values and assumptions; he drew them out of the intellectual climate of Revolutionary America and found clues to them in America's past. But he focused upon them and molded them into the story of the new nation, so that his version of the past appeared to be inevitable. Thus, when Ramsay spoke of using history as an instrument of national unity, he meant to incite future generations to commit themselves to the principles of revolutionary republicanism.10

Ramsay, even more than his contemporary historians, was experienced in politics, knowledgeable about world affairs, sensitive to the economic and political interests of his compatriots, and had access to a vast number of historical records. He knew that America's past had been marked by tensions that from time to time had erupted into open conflict. Yet he purposefully created an image of the colonial past that diminished the importance of conflicts and portrayed the colonists as revolutionaries—an image of consensus, unity, and an unfaltering commitment to republican principles. In short, he attempted to create a national future by inventing a consensual past—to provide an instant tradition for a revolutionary people.

Ramsay's principal strategy was to establish a republican lineage, an unbroken succession of American generations that were strenuously committed to the principles of revolutionary republicanism from the moment of settlement in the seventeenth century. The colonists' chief characteristic was that they formed an intellectual, even spiritual, consensus on three major principles: they were politically dedicated to an ordered liberty within the context of law and balanced, representative government; they were ethically committed to the obligations of conscience and the public good, so that social life was simple and felicitous and individual conduct marked by industry

and prudence; and they were convinced philosophically that people are free and efficacious beings who are responsible for their actions and for the consequences their actions bring about. It was this constellation of fundamental principles that constituted the American national character as Ramsay depicted it; and it was to this constellation that he pointed when he exhorted members of his own and future generations to develop cultural unity as a bulwark against division.

Again, Ramsay insisted that these principles were not new to the Revolutionary generation; the conflicts between the Americans and the British during the 1760s and '70s had merely called forth the original settlers' character. The complex coincidence of geography, politics, social arrangements, and values in colonial America had "produced a warm love for liberty, a high sense of the rights of human nature, and a predilection for independence."11

"From their first settlement, the English Provinces received impressions favourable to democratic forms of government." Colonization generally coincided with the struggles in England between Parliament and the crown, so that the issue of popular government based on consent, as contrasted with the divine rights of kings, was a current topic of debate. The colonists who emigrated to the New World consisted mainly of people who were "hostile to the claims of [monarchical] prerogative." They "were from their first settlement in America, devoted to liberty, on English ideas, and English principles." Crucially, these ideas were not mere abstractions. The colonists "not only conceived themselves to inherit the privileges of Englishmen, but though in a colonial situation, actually possessed them."12

By showing that republican principles and practices had been deeply ingrained in the people for generations, Ramsay vivified the image of a revolutionary past so far as to suggest that the colonists had been *independent* from the beginning. "The circumstances under which New-England was planted, would a few centuries ago have entitled them, from their first settlement, to the privileges of independence." The colonists had set out at their own expense, with no prospects other than hard work, to build homes and plant civilization in a wilderness. They purchased their lands from "the native proprietors" and exerted themselves to reap the bounties of nature. One hardly needed John Locke to make the argument that people who expended their own labor, paid for their own lands, and voluntarily formed their own governments owed no obligations to Britain except those that "resulted from their voluntary assent" as revealed in "express or implied compact." And those were manifestly limited. The people knew that government rested upon contracts freely entered; that taxation and representation were indissolubly joined; that they held and alienated their property only by consent; that the end of government was the happiness of the people; that the people were free to assemble and petition the government for redress of grievances; and that, all proximate means failing, the people had the natural right to rebel against tyrannical rule.13 Thus did the colonizing generation consist of proto-revolutionaries.

The colonists were not only republicans in politics, they were also dedicated to personal and social practices that conduced to individual happiness and to the public good. "The state of society in the Colonies favoured a spirit of liberty and independence," Ramsay wrote. Here, the "inhabitants were all of one rank. Kings,

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Nobles, and Bishops, were unknown to them." The people were "unaccustomed to that distinction of ranks" which characterized European society, and they were "strongly impressed with an opinion, that all men are by nature equal." The colonists' religious practices "also nurtured a love for liberty." The majority were Protestants, Ramsay noted, "and all protestantism is founded on a strong claim to natural liberty, and the right of private judgment." There were, of course, numerous sects, but "they all agreed in the communion of liberty, and all reprobated the courtly doctrines of passive obedience, and non-resistance." Nor were the colonists subjected to the pernicious effects of the luxury and opulence indulged in by the courts of Europe. Instead, "inured from their early years to the toils of a country life, they dwelled in the midst of rural plenty."

Colonial American society, in short, was characterized by simplicity of manners, and habits of industry, prudence, and morality. The colonists' experience thus "gave a cast of independence to the manners of the people" and diffused among them "the exalting sentiments" of liberty.14

Given the colonists' ingrained political and social values and their commitment to the principles of liberty and democratic government, it was obvious that the American Revolution was not a sudden upsurge of resentment against particular acts of Parliament. Resistance and revolution were the inevitable and justifiable responses of a people long habituated to such values. "The genius of the Americans"—that is, their original "republican habits and sentiments"—had prepared them to resist encroachments on their rights and to form popular governments during the Revolutionary era. This was the final element in Ramsay's message to future generations: confronted with arbitrary power, the colonists had established a tradition of showing the courage of their convictions, resisting inroads against their liberties, and taking responsibility for the future.15

But why should Ramsay have presented this manifestly one-dimensional image of the colonists as strenuous republicans, committed to simplicity, industry, prudence, equality, and natural rights? To some extent he actually did see them as American revolutionaries in the making, for so powerful was the "republican synthesis" in his own day that it shaped his ideas and experience and predisposed him to see all of history in its terms.16 Yet this will not entirely explain Ramsay's over-simplifications, which seem drastic insofar as his history contains little or no intercolonial rivalry, popular uprisings against proprietary governors, political strife among competing interest groups, ethnic tensions, religious intolerances, or class divisions. Even slavery appears in Ramsay's *History* as a mitigated evil, which, while manifestly wrong, at least had produced sentiments of liberty and independence among the masters.17 If for five or six generations the Americans had held the deeply ingrained political, social, moral, and philosophical principles that Ramsay described and if they had experienced a minimum of conflict, then why did Ramsay have to remind his readers of the American tradition above all else?

The answer contains three parts. First, as noted earlier, there were Ramsay's apprehensions. He feared that disunity would rend the fabric of the new nation—indeed, that without shared assumptions, principles, and values, as well as a

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federal Constitution, America might even separate into thirteen autonomous states or into two or three regional governments. In either case, it would become prey to the great European powers, even if it did not destroy itself from within.18

Second, Ramsay feared that the great tradition, particularly its powerful moral elements, had been badly damaged by the war. Throughout the war years and into the 1780s, Ramsay expressed his doubts whether the people had sufficient moral courage to make a republican experiment work. Within a year of delivering his stirring vision of an American republican future in his "Oration on the Advantages of American Independence" (1778), he wrote to William Henry Drayton that "A spirit of money-making has eaten up our patriotism." To Benjamin Rush he added: "I most devoutly wish for peace. Our morals are more depreciated than our currency, & that is bad enough." By 1783 he was worried that "This revolution has introduced so much anarchy that it will take half a century to eradicate the licentiousness of the people. I wish for the honor of human nature that in these last ages of the world it may appear that mankind are capable of enjoying the blessings of freedom without the extravagancies that usually accompany it." By 1785 the theme of internal corruption had become more insistent and urgent. "I feel with you the declension of our public virtue," he wrote to John Eliot. "Liberty which ought to produce every generous principle has not in our republics been attended with its usual concomitants. Pride[,] Luxury[,] dissipation & a long train of unsuitable vices have overwhelmed our country." And within a year he expressed the ultimate fear: "We have neither honesty nor knowledge enough for republican governments. … During the war we thought the termination of that would end all our troubles. It is now ended three years & our public situation is as bad as ever."19 ~ ~

The third part of the answer is that historical writings, like Fourth of July orations, sermons, and "all the powers of Eloquence" had the capacity to shape thought, and thus historians, like ministers and politicians, had an *obligation* to use their writings "to counter-act that ruinous propensity we have for foreign superfluities & to excite us to the long neglected virtues of Industry & frugality."20 History, in short, was a moral art. That was why Ramsay praised Belknap's and Williams's histories; that was why he believed that John Eliot's *Biographical Dictionary* "rendered an essential service to the living by holding up so many excellent models for their imitation from the illustrious dead"; and that was why he deliberately omitted conflict and strife in the colonial past.21 Indeed, Ramsay once drew an instructive analogy between history and fiction: "Novelists take fiction & make it a vehicle of their opinions on a variety of subjects," he observed. "I take truth & the facts of history for the same purpose."22 Ramsay was well aware that he was using "art" in the service of history and history in the service of morality and national unity. "Had I a voice that could be heard from New Hampshire to Georgia," he said in 1794, "it should be exerted in urging the necessity of disseminating virtue and knowledge among our citizens." His histories represented that voice.

Ramsay's voice was, in fact, heard all over America and over much of Europe as well.23 Between 1785, when he was thirty-six, and his death in 1815, he published three histories—two on South Carolina and *TheHistory of the American Revolution*—that remain significant after two hundred years. He also wrote numerous

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other works, ranging from an analysis of yellow fever and well water in Charleston, to a eulogy on the death of his friend and mentor, Benjamin Rush, to a memoir of his wife, Martha Laurens Ramsay, to two examples of that distinctively American genre, the Fourth of July oration.

Even in an age dominated by such *philosophes* as Benjamin Franklin and Thomas Jefferson, Ramsay is notable for his fertile and restless intellect. He entered the sophomore class of the College of New Jersey (later renamed Princeton) in 1762 and was graduated three years later at age sixteen. For the next five years he taught school in Maryland and Virginia. Deciding finally to pursue a career in medicine, he enrolled in the newly reorganized medical school of the College of Philadelphia, which boasted an excellent faculty that included the brilliant twenty-four-year-old Rush. Ramsay received his Bachelor of Physic in 1773. On Ramsay's graduation Rush summarized the talents of his young friend, whom he esteemed as "far superior to any person we ever graduated at our college; his abilities are not only good, but great; his talents and knowledge are universal; I never saw so much strength of memory and imagination, united to so fine a judgment."24

In 1774, after practicing medicine for a year in Cecil County, Maryland, Ramsay set out for Charleston, where he made his home for the rest of his life. Charleston was then a leading Southern city, with some 12,000 inhabitants, a growing commerce, and a well-defined social hierarchy that divided whites from one another along class lines and whites from blacks along racial lines—clear evidence of the divisions in society to which he was so sensitive and which he deemphasized in his *History.* Yet within a year of his arrival, this outsider from Pennsylvania, the son of immigrants and a Presbyterian in the midst of an Anglican elite, had married Sabina Ellis, daughter of a prominent merchant,25 and within three years, he was elected to the South Carolina assembly. By 1778 Ramsay had a seat on the state's prestigious privy council. He served in the Continental Congress in 1785, returned to his seat in the state assembly in 1786, served as a delegate to the convention that ratified the South Carolina state constitution in 1788. From 1791 to 1797 Ramsay was president of the state senate. His only disappointment in politics was his resounding defeat by William Loughton Smith for a seat in the first federal congress.26

Neither his political nor his medical and scientific careers, however, seemed to satisfy his intellectual curiosity. Ramsay turned to historical writing, he explained to Thomas Jefferson, "when I was in confinement in St. Augustine in the year 1781 and [it] has employed my leisure hours ever since."27 But Ramsay was drawn to history and to his national vision by his political experience, which convinced him that state government was, by turns, too timid and too wild to solve many of the problems that arose in the post-Revolutionary era. "There is a languor in the States that forebodes ruin," he complained to Rush in 1786. He also noted the "temporising" of the Southern states in particular, and feared the disintegration of the United States if the Constitutional Convention did not produce "an efficient federal government."28 Politics and government were no better in South Carolina; they may have been worse:

The eight years of war in Carolina were followed by eight years of disorganization, which produced such an amount of civil distress as diminished with some their

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respect for liberty and independence. Several apprehended that the same scenes which had taken place in England in the seventeenth century after a long and bloody civil war, would be acted over again in America by a fickle people who had neither the fortitude nor the wisdom to govern themselves. … Peace and liberty were found inadequate to promote public happiness without the aid of energetic government.

The state legislature either languished and did nothing or legislated too much. The best and most courageous act performed by state officials, finally, was to agree to the Constitution that would constrain some of their own power! 29

With first-hand experience of the inefficiencies and vacillations of state government and an urge to cultivate eloquence, Ramsay began writing history. He announced optimistically in his "Oration on the Advantages of American Independence" (1778) that the very presence of free, republican institutions was bound to produce an exalted literature. In an oppressive regime, "ignorance," after all, "was better than knowledge," whereas "Eloquence is the child of a free state." America, he predicted, "will produce poets, orators, criticks, and historians, equal to the most celebrated of the ancient commonwealths of Greece and Italy."30

Despite his optimism about the prospects of culture in the new nation, Ramsay soon faced a grim reality. Although he became known as America's "Tacitus" and "Polybius," he learned all too quickly that "the trade of an author is a very poor one in our new world." Concerning *The History of the Revolution of South-Carolina,* he lamented to fellow historian William Gordon: "My advances will not be replaced till I have sold 500 copies & my debts contracted and yet unpaid will require the sale of 700 more. The edition has cost me 5,000 dollars. The printers bill is 2500 dollars. The engravings 800[,] the binding 4/ 10 a copy. In short I have no brilliant pecuniary prospects before me."31

Yet despite the financial failure of his South Carolina history, Ramsay immersed himself in *TheHistory of the American Revolution* during his tenure in the Continental Congress. Here he had access to people prominent on a national level and to an enormous archive. He predicted to Rush that "I can write the general history of the revolution with more ease than I have wrote a part of it. Indeed, I have got the facts already collected." He had ready to hand, he said, a great many documents: "from my access to papers … and the regularity of records in the offices of Congress[,] I have been enabled to do a great deal in a little time."32 His facts may have been substantially collected, but Ramsay made the effort to pose numerous detailed questions to several people about various aspects of the Revolution. He wrote to Rush on several occasions; to Elias Boudinot (commissary general of prisoners for the Continental Army and a member of Congress for five years); to Gouverneur Morris (member of the New York provincial congress and for four years an assistant minister of finance under Robert Morris); to Charles Thomson (secretary of the Continental Congress from 1774 to 1789); and to John Adams. He also sent his manuscript to Charles Thomson, who read it, made comments on it, and promised to circulate it among other knowledgeable readers.33

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No doubt these inquiries made for a better history. But Ramsay fared almost as poorly on this work as he had on the previous one. He had problems with his printer, Robert Aitken, whose work, said Ramsay, "offends against every principle of good printing. The printing[,] the spelling[,] the ink[,] the form of the lines are in many cases execrable." In addition, asked the outraged Ramsay, "What think you of his stopping the work on the pretence of want of money[,] though 760 dollars were advanced in the time of the work[,] the whole of which was only to cost 1200 dollars?"34 He also complained that he had been "cheated by booksellers & printers," who were taking far too much of the proceeds of the sales in advertising. Ramsay was eventually reduced to barter: "If my books that are unsold could be exchanged for a copy of your state laws or of the laws of the neighboring states," he wrote to John Eliot, "I would be most pleased. I would exchange them for any good books rather than [that] they should remain on hand." Finally, Ramsay had to swallow the fact that his *History* had been pirated by John Stockdale in London. It was bad enough that "The errors & blunders of Aitkens edition are many and cannot be corrected," he wrote to John Eliot. Worse yet, "Stockdale has printed one in London without my consent & many of the copies of Aitkens edition are yet on hand." Ramsay had not yet seen the London edition in April 1793, nor had he "any knowledge of it till it was nearly executed." Needless to say, he realized no profit on Stockdale's editions or on the several that were based on it .35

Ramsay's reputation as a historian was excellent throughout his life and for decades afterwards. *The History of the American Resolution* has enjoyed a resurgence of interest in the last twenty-five years. The only significant dissenting voice in the last two centuries was that of Orrin Grant Libby, who showed that Ramsay had plagiarized portions of both it and *The History of the Revolution of South-Carolina* from the *Annual Register*.36 Each issue of the *AnnualRegister,* published continuously from 1758, contained a superb "History of Europe" section which for some years was written by Edmund Burke. This section contained a narrative of the most important events in contemporary English history. Thus, during the years between 1765 and 1783, it was filled with news of American affairs—political, military, economic. Along with the sections known as "State Papers" and "Appendix to the Chronicle," both of which contained the texts of contemporary documents, the "History of Europe" was a comprehensive, beautifully written narrative that had the additional merit of being written from an English Whig (and, therefore, an anti-war or pro-American) standpoint. Each issue of the *Annual Register* went through numerous editions and circulated widely in America.37

Ramsay did, in fact, lift passages verbatim from the *Annual Register*, though Libby certainly exaggerated in suggesting that Ramsay "plagiarized a large part" of his book on the American Revolution either from it or from William Gordon's work.38 But even if all the examples are conceded, they amount to a very small part of the seven hundred pages. More important, the plagiarism has no substantial impact on its value to modern readers; there is no reason for us to agree with Libby's conclusion that, because of the plagiarism, the *History* is "well-nigh worthless."39

First, scholarly citation as we know it was not an issue for eighteenth-century writers, who honored the practice, if at all, only in the most irregular and idiosyncratic

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manner. Second, eighteenth-century American histories were performances, not proofs; they more nearly resemble sermons, which inspire by enunciating principles and applying them to human situations, than scientific or legal discourses, which depend for their cogency and persuasiveness on their marshalling of evidence. Finally, and most importantly, Libby's criticism, which spoke to the advocates of "scientific" historicism at the start of the twentieth century, has become largely irrelevant to most modern readers. While we still learn factual information from some of our "ancient" histories—Cotton Mather's *Magnalia ChristiAmericana* (1702), incredibly rich with detail, leaps to mind—we do not similarly value the factual nature of Ramsay's histories with the possible exception of *TheHistory of South-Carolina* (1809*)*. Hence, we are less concerned with having precise information about Ramsay's sources.

Instead, we learn from Ramsay the *interpreter* of his present and his past. We learn about the intellectual predilections of the eighteenth-century historian: the values, assumptions, principles, and expectations of one who lived and wrote amidst the events he narrated. We learn from the ways in which he shaped *history*: his use of language, his sense of the significance of people and events, his narrative style, his use of history as propaganda, as exhortation, and as fiction. We do not, in short, rely on Ramsay to tell us what happened during the Revolution, any more than we rely on him for medical advice, which included Benjamin Rush's recommended practice: bleeding. In most respects we know a great deal more about what happened than he did, particularly since *we* are now the arbiters of what is significant. We rely on Ramsay not for information, but for the ways in which he reveals the sensibility through which the events of his era were filtered.

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Bibliography

The Writings Of David Ramsay

manuscripts

Ramsay's papers are scattered among almost two dozen repositories. Listed below are institutions with significant holdings:

Library Company of Philadelphia

Historical Society of Pennsylvania

Library of Congress

Massachusetts Historical Society

American Philosophical Society

South Carolina Historical Society

New York Public Library

collections

Robert L. Brunhouse, ed., *David Ramsay, 1749–1815: Selections from His Writings,* American Philosophical Society, *Transactions,* New Series, 55 (1965), Part IV.

publications

"A Sermon on Tea," (Lancaster, Pa., 1774).Reprinted in Brunhouse: 170–182.

"An Oration on the Advantages of American Independence. . ." [July 4, 1778], (Charleston, S.C., 1778).Reprinted in Brunhouse: 182–190.

The History of the Revolution of South-Carolina, from a Britsh Province to an Independent State (2 vols.; Trenton, N.J., 1785).French translations: London, 1787; Paris, 1796.

"An Address to the Freemen of South-Carolina, on the Subject of the Federal Constitution, Proposed by the Convention, which met in Philadelphia, May 1787. By Civis,'' (Charleston, S.C., 1788).*American Museum,* 3 (1788): 413–418.

Paul Leicester Ford, ed., *Pamphlets on the Constitution of the United States, Published During Its Discussion by the People, 1787–1788* (Brooklyn, 1888): 371–380.

The History of the American Revolution (2 vols.; Philadelphia, 1789).London, 1790, 1791, 1793; Dublin, 1793, 1795; Trenton, N.J., 1811; Lexington, Ky., 1815; Campen, Holland, 4 vols., 1792–1794; Berlin, Germany, 4 vols., 1794–1795.

"Observations on the Decision of the House of Representatives of the United States, on the 22d of May, 1789; Respecting the Eligibility of the Hon. William Smith, of South-Carolina, to a Seat in that House," (New York, 1789).

"A Dissertation on the Means of Preserving Health in Charleston, and the Adjacent Low Country. Read Before the Medical Society of South-Carolina, on the 29th of May, 1790," (Charleston, S.C., 1790).*New-York Magazine,* or *Literary Repository, 6* (1795): 514–519, 585–593.

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[Supposed Author], "Observations on the Impolicy of Recommending the Importation of Slaves, Respectfully Submitted to the Consideration of the Legislature of South-Carolina. By a Citizen of South-Carolina," (Charleston, S.C., 1791 [?]).
"An Oration, Delivered in St. Michael's Church, before the Inhabitants of Charleston, South-Carolina, on the Fourth of July, 1794, in commemoration of American Independence … ," (Charleston, S.C., 1794).Reprinted in Brunhouse: 190–196.
"A Review of the Improvements, Progress and State of Medicine in the XVIIIth Century" [Delivered January 1, 1800], (Charleston, S.C., 1800).Reprinted in Brunhouse: 196–217.
"An Oration on the Death of Lieutenant-General George Washington, Late President of the United States, who Died December 14, 1799. Delivered in Saint Michael's Church, January 15, 1800 … ,'' (Charleston, S. C., 1800).
The Life of George Washington, Commander in Chief of the Armies of the United States of America, throughout the War which Established their Independence, and First President of the United States (New York, 1807).London, 1807; Boston, 1811; Baltimore, 1814, 1815, 1818, 1825, 1832.French translation: Paris, 1809.Spanish translations: Paris, 1819, 1825; New York, 1825; Philadelphia, 1826; Barcelona, 1843.
The History of South-Carolina, from its first Settlement in 1607, to the Year 1808 (2 vols.; Charleston, S.C., 1809).Newberry, South Carolina, 1858.Photo-facsimile of 1858 ed. (Spartanburg, S.C., 1959–60).
Memoirs of the Life of Martha Laurens Ramsay. . . (Philadelphia, 1811).Charlestown, Mass., 1812; Boston, 1812, 1814, 1824, 1827; Philadelphia, 1813, 1845, 1895; Glasgow, 1818; Chelmsford, 1827.
Historical and Biographical Chart of the United States (n.p., n.d.).
A Chronological Table of the Principle Events which have taken Place in the English Colonies, now United States, from 1607, til 1810 … (Charleston, S.C., 1811).
"An Eulogium upon Benjamin Rush, M.D. … Delivered … on the 10th of June, 1813 … ," (Philadelphia, 1813).
History of the United States, from their first Settlement, as English Colonies, *in1607, to the Year 1808, or the thirty-third of their Sovereignty ... Continued to the Treaty of Ghent, by S.S. Smith ... and other Literary Gentlemen* (3 vols.; Philadelphia, 1818).
Universal History Americanised; or, an Historical View of the World, from the earliest Records to the Year 1808. With a particular reference to the State of Society, Literature, Religion and Form of Government, in the United States of America . . . (12 vols.; Philadelphia, 1819).
A list of Ramsay's articles published in the *Medical Repository,* 1801–1808, is in Brunhouse, *Selections,* 230–231.

SECONDARY SOURCES

The starting point for Ramsay studies is Robert L. Brunhouse, ed., *David Ramsay, 1749–1815: Selections from His Writings,* American Philosophical Society, *Transactions,* New Series, 55 (1965), Part IV. Brunhouse's superb collection includes

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a biography of Ramsay, some three hundred letters, and reprints of "A Sermon on Tea" (1774), "An Oration on the Advantages of American Independence" (1778), "An Oration … on the Fourth of July, 1794," and "A Review of … Medicine in the XVIIIth Century" (1800). Robert Y. Hayne, Ramsay's friend and the executor of Ramsay's estate, published a view of Ramsay's life and work in "Biographical Memoir of David Ramsay, M.D." *Analectic Magazine,* 6 (1815): 204–224.

Studies of historical writing in the Revolutionary Era include Arthur H. Shaffer, *The Politics of History: Writing the History of the American Revolution, 1783–1815* (Chicago, 1975), in which Ramsay figures prominently; William Raymond Smith, *History as Argument: Three Patriot Histories of the American Revolution* (The Hague, 1966), which focuses on Ramsay, John Marshall, and Mercy Otis Warren; and Lester H. Cohen, *TheRevolutionary Histories: Contemporary Narratives of the American Revolution* (Ithaca, N.Y., 1980); "Creating a Useable Future: The Revolutionary Historians and the National Past," in Jack P. Greene, ed., *The American Revolution: Its Character and Limits* (New York, 1987): 309–330; and Mercy Otis Warren's *History of the Rise, Progress and Termination of the American Revolution* (Indianapolis, 1988): xvi-xxxvii. Wesley Frank Craven's *The Legend of the Founding Fathers* (Ithaca, N.Y., n.d.) remains a lively and provocative study of the image of the founding of America in the writings of successive generations of American histories.

The best interpretation of Ramsay's historical writings and political thought include Page Smith, "David Ramsay and the Causes of the American Revolution," *William and Mary Quarterly,* 3d Series, 17 (January 1960): 51–77 (this was reprinted in Page Smith, *The Historian and History* (New York, 1960), which rescued Ramsay and his work from the pall cast over them by Orrin Grant Libby); Lawrence J. Friedman and Arthur H. Shaffer, "David Ramsay and the Quest for an American Historical Identity,'' *Southern Quarterly,* 14 (July 1976): 351–371, and "History, Politics, and Health in Early American Thought: The Case of David Ramsay," *Journal of American Studies,* 13 (April 1979): 37–56; and Arthur H. Shaffer, "Between Two Worlds: David Ramsay and the Politics of Slavery," *Journal of Southern History,* 50 (May 1984): 175–196.

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Editor'S Note

This edition of Ramsay's*The History of the American Revolution* is the first to reprint the original 1789 edition printed by R. Aitken and Son in Philadelphia. That was the only edition that Ramsay actually authorized. The others, including the popular London edition of 1793, printed by John Stockdale, were pirated before the promulgation of effective copyright laws.

Aitken's and Stockdale's editions vary only minutely. In numbering the pages, Aitken omitted page numbers 321 and 322 of the first volume, so that the text flows directly from page 320 to page 323. Stockdale did not preserve Aitken's error; we did, in order to conform to the pagination of the first edition. Aitken also rendered page 32 of volume I as page "13." We have corrected that error, since it has no bearing on the actual pagination and since preserving it would have no value for modern readers. Stockdale's copy of Aitken's edition, like the one we used here, may have contained a few illegible passages. Stockdale must have interpolated at those points and occasionally misread the text. We have stayed with the wording of the original by comparing it with another printing.

Ramsay was substantially correct about Aitken's "execrable" printing. Aitken's punctuation is wildly irregular and his spelling idiosyncratic. He transposed letters and abbreviated titles inconsistently and, apparently, according to some inner vision. Thus, we were faced with numerous choices. We have tried here to fulfill the ideal of remaining as faithful to the original text as possible while producing a volume that is accessible to modern readers. We have silently corrected the text where errors were obviously the result of the printer—transposed letters, misspelled words—and where to preserve the errors would have no realistic scholarly or aesthetic value. In a number of instances Ramsay's punctuation has been modernized. Most of the time this meant removing dashes erratically placed (by today's standards) and extraneously placed (duplicating a directly preceding or succeeding punctuation mark). In rarer instances, periods and commas were inserted or removed to correct a glaring omission or a usage that strongly clashed with modern conventions of punctuation. As already implied, our policy was to make such alterations in as conservative a manner as possible—and thus a number of the original quirks and errors, which do have the merit of preserving something of the flavor of the first edition, still reside in this one.

We have, in addition, rendered lengthy quotations in block-indented form, rather than run quotation marks down both sides of paragraphs as in the original.

We have preserved the page numbers of the original, which here appear in brackets in the text. We have also preserved Ramsay's and Aitken's marginalia, although we have silently corrected dates appearing in the margins where the originals were clearly erroneous and deleted some of the most redundant of the dates that were repeated. We have added an index for the convenience of modern readers and researchers. Four appendices, interspersed between chapters rather than included together at the end of

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the book, have been kept in the place originally assigned to them by Ramsay and Aitken.

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Acknowledgments

In addition to sharing with me his knowledge and writings on Ramsay, Arthur H. Shaffer graciously read an early version of the introduction and offered useful suggestions. I am currently reviewing Shaffer's authoritative biography of Ramsay, the manuscript of which arrived unfortunately too late for me to borrow from as liberally as I would have liked. Upon publication, Shaffer's biography will be as indispensable as Brunhouse's excellent collection of sources. Linda Levy Peck proved again the value of her friendship and her keen eye for bad writing. She favored the foreword with several readings, helping me to eliminate the gaffes that no longer appear. Dan McInerney and Bruce Kahler, two former Ph.D. students, also read this material and made numerous valuable suggestions. Bill Dennis, Barbara Reynolds, and Chuck Hamilton of Liberty Fund were, as always, a delight to work with. They took a chance on publishing two early American histories—first Mercy Otis Warren's and then David Ramsay's—and made the experiences gratifying for me.

In preparing Ramsay's *History* for publication, I had the extraordinary experience of coming full circle. At the beginning of my graduate career in 1966, I was blessed by having Page Smith as my mentor and friend; at the end of my teaching career, there was David Ramsay, whom Page introduced to me, along with his passion for the beauty and deceptive simplicity of narrative. I have always identified the two, David Ramsay and Page Smith, no doubt because Page has always exemplified for me the finest spirit of the eighteenth century. If these volumes were mine, rather than Ramsay's, to dedicate, I would dedicate them with admiration and respect to Page Smith.

L.H.C.

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Preface [To The First Edition]

The materials for the following sheets were collected in the year 1782, 1783, 1785, and 1786; in which years, as a member of Congress, I had access to all the official papers of the United States. Every letter written to Congress by General Washington, from the day he took the command of the American army till he resigned it, was carefully perused, and it's contents noted. The same was done with the letters of other general officers, ministers of Congress, and others in public stations. It was intended to have enlarged the work by the insertion of state papers, as proofs and illustrations of my positions. This I could easily have done, and shall do at a future time, and in a separate work, if the public require it. At present I thought it prudent to publish little more than a simple narrative of events, without introducing my authorities. Several of these are already in my *History of the Revolution of South-Carolina,* and such as are printed may be found in the periodical publications of the day. I have endeavoured to give much original matter at a small expence. As I write about recent events, known to thousands as well as myself, proofs are at present less necessary than they will be in future.

I appeal to the actors in the great scenes which I have described for the substantial truth of my narrative. Intentional misrepresentations, I am sure there are none. If there are any from other sources, I trust they will be found in small circumstances, not affecting the substance.

October 20, 1789

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CHAPTER I

Of The Settlement Of The English Colonies, And Of The Political Condition Of Their Inhabitants.

[1] The Extensive Continent which is now called America, was three hundred years ago unknown to three quarters of the globe. The efforts of Europe during the fifteenth century to find a new path to the rich countries of the East, brought on the discovery of a new world in the West.

Christopher Columbus acquired this distinguished honor in the year 1492, but a later navigator Americus Vespucius who had been employed to draw maps of the new discoveries, robbed him of the credit he justly merited of having the country called by his name. 1492

In the following year 1493, Pope Alexander the sixth, with a munificence that cost him nothing, gave the whole Continent to Ferdinand and Isabella of Spain. This grant was not because the country was uninhabited, but because the nations existing there were infidels; and therefore in the opinion of the infallible donor not entitled to the possession of the territory in which their Creator had placed them. This extravagant claim of a right to dispose of the countries of heathen nations, was too absurd to be universally regarded, even in that superstitious age. And in defiance of it, several European sovereigns though devoted to the See of Rome undertook and successfully prosecuted further discoveries in the Western hemisphere. 1493

[2]

Henry the seventh of England, by the exertion of an authority similar to that of Pope Alexander, granted to John Cabot and his three sons a commission, “to navigate all parts of the ocean for the purpose of discovering Islands, Countries, Regions or Provinces, either of Gentiles or Infidels, which have been hitherto unknown to all christian people, with power to set up his standard and to take possession of the same as Vassals of the crown of England.” 1496

By virtue of this commission, Sebastian Cabot explored and took possession of a great part of the North American continent, in the name and on behalf of the king of England. 1498

The country thus discovered by Cabot was possessed by numerous tribes or nations of people. As these had been till then unknown to all other Princes or States, they could not possibly have owed either allegiance or subjection to any foreign power on earth; they must have therefore been independent communities, and as such capable of acquiring territorial property, in the same manner as other nations. Of the various principles on which a right to soil has been founded, there is none superior to immemorial occupancy. From what time the Aborigines of America had resided therein, or from what place they migrated thither, were questions of doubtful solution, but it was certain that they had long been sole occupants of the country. In this state no European prince could derive a title to the soil from discovery, because that can

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give a right only to lands and things which either have never been owned or possessed, or which after being owned or possessed have been voluntarily deserted. The right of the Indian nations to the soil in their possession was founded in nature. It was the free and liberal gift of Heaven to them, and such as no foreigner could rightfully annul. The blinded superstition of the times regarded the Deity as the partial God of christians, and not as the common father of saints and savages. The pervading influence of philosophy, reason, and truth, has since that period, given us better notions of the rights of mankind, and of the obligations of morality.

1496

These unquestionably are not confined [3] to particular modes of faith, but extend universally to Jews and Gentiles, to Christians and Infidels.

Unfounded however as the claims of European sovereigns to American territories were, they severally proceeded to act upon them. By tacit consent they adopted as a new law of nations, that the countries which each explored should be the absolute property of the discoverer. While they thus sported with the rights of unoffending nations, they could not agree in their respective shares of the common spoil. The Portuguese and Spaniards, inflamed by the same spirit of national aggrandizement, contended for the exclusive sovereignty of what Columbus had explored. Animated by the rancour of commercial jealousy, the Dutch and Portuguese fought for the Brazils. Contrary to her genuine interests, England commenced a war in order that her contraband traders on the Mexican coast, claimed by the king of Spain might no longer be searched. No farther back than the middle of the present century, a contest concerning boundaries of American territory belonging to neither, occasioned a long and bloody war between, France and England.

Though Queen Elizabeth and James the first denied the authority of the pope of Rome to give away the country of Infidels; yet they so far adopted the fanciful distinction between the rights of heathens and the rights of christians, as to make it the foundation of their respective grants. They freely gave away what did not belong to them with no other proviso, than that “the territories and districts so granted, be not previously occupied and possessed by the subjects of any other christian prince or State.”

1578

The first English patent which was given for the purpose of colonising the country discovered by the Cabots, was granted by Queen Elizabeth to Sir Humphry Gilbert, but this proved abortive.

1584

Soon after she licensed Walter Raleigh, “to search for heathen lands not inhabited by christian people,” and granted to him in fee all the soil “within 200 leagues of the places where his people should make their dwellings and abidings.” [4]

1585

Under his auspices an inconsiderable colony took possession of a part of the American coast, which now forms North-Carolina. In honor of the Virgin Queen his sovereign, he gave to the whole country the name of Virginia. These first settlers and several others who followed them, were either destroyed by the natives, removed by succeeding navigators, or died without leaving any behind to tell their melancholy story, for they were never more heard of. No permanent settlement was effected till the reign of James the first. The national ardor which sprung from the long and vigorous administration of Queen Elizabeth,

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continued to produce its effects for some time after she had ceased to animate the whole. Her successor though of an indolent disposition, possessed a laudable genius for colonisation. Naturally fond of novelty, he was much pleased with a proposal made to him by some of the projectors of that age "for deducing a colony into that part of America commonly called Virginia."

1606

He therefore granted letters patent to Thomas Gates and his associates, by which he conferred on them "all those territories in America, which were not then possessed by other christian princes or people, and which lay between the 34th and 45th degree of north latitude." They were divided into two companies, the first consisting of adventurers of the city of London, was called the London company, the second consisting of merchants of Plymouth and some other Western towns, was called the Plymouth company. The adventurers were empowered to transport thither as many English subjects as should willingly accompany them; and it was declared "that the colonists and their children should enjoy the same liberties as if they had remained, or were born, within the realm."

1607

The month of April 1607, is the epoch of the first permanent settlement on the coast of Virginia, the name then given to all that extent of country which now forms thirteen States. The emigrants took possession of a peninsula on the Northern side of James-river, and erected a town which in honor of their sovereign they called James-Town. They soon experienced the embarrassments [5] which are the usual lot of new settlers. In a few months diseases swept away one half of their number. Those who survived were greatly chagrined by the many vexations incidental to their new and forlorn situation.

1609

In 1609, the Southern or London company surrendered their rights to the crown and obtained a new patent. There were then added to the former adventurers, many of the first nobility and gentry. To them and their successors were granted, in absolute property, the lands extending from Cape Comfort along the sea coast, southward 200 miles, from the same promontory 200 miles northward, and from the Atlantic westward to the South sea. Licence was given to transport to Virginia, all persons willing to go thither. The colonists and their posterity were declared "to be entitled to the rights of subjects, as if they had remained within the realm." The company being thus favoured by their sovereign, were encouraged to proceed with spirit in supporting and extending their settlement, but before this was thoroughly accomplished, a great waste of the human species had taken place. Within 20 years after the foundation of James-Town was laid upwards of 9000 English subjects had, at different times, migrated thither, but diseases, famine, wars with the natives, and the other inconveniences of their new settlement, had made such havoc among these adventurers, that by the end of that period, there remained alive only about 1800 of that large number. The same and other causes continued to operate so forcibly that, notwithstanding frequent accessions from new adventurers, Virginia in 1670, sixty three years after the settlement of James-Town contained no more than 40,000 inhabitants.

1620

Thirteen years elapsed after James-Town began to be built before any permanent establishment was effected in the Northern or second Colony. Various attempts for that purpose had failed, nor was the arduous business accomplished, till it was undertaken by men who were influenced by higher motives than the extension of agriculture or commerce.

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1620

These men had been called Puritans in England, from their earnest desires of farther [6] reformation in the established church, and particularly for their aversion to certain popish habits and ceremonies, which they deemed sinful from their having been abused to idolatry. Such was the intolerance of the times, and so violent the zeal for uniformity, that popular preachers of this sect, though men of learning and piety were suspended, deprived, imprisoned, and ruined, for their not using garments or ceremonies which their adversaries acknowledged to be indifferent. Puritanism nevertheless gained ground. On experiment it was found that no attempts are more fruitless than those which are made with the view of bringing men to think alike on the subject of religion. The leaders both of Church and State were too little acquainted with the genuine principles of policy and christianity, to apply the proper remedy for preserving peace among discording sects. Instead of granting a general liberty of conscience, compulsory methods were adopted for enforcing uniformity.

1593

An act was passed for punishing all who refused to come to church or were present at any conventicle or meeting. The punishment was imprisonment till the convicted agreed to conform, and made a declaration of his conformity. If that was not done in three months, he was to quit the realm, and go into perpetual banishment. In case, he did not depart within the time limited, or returned afterwards without a license, he was to suffer death. Such is the renitency of the human mind to all impositions on conscience, that the more the Puritans were oppressed, the more were they attached to their distinguishing opinions, and the more did their sect prevail. Several of them suffered death, in preference to purchasing an exemption from legal penalties, by doing what, in their opinion, was wrong. It was afterwards resolved to send others, who had equally persevered in their non-conformity, into banishment. Many chose to avoid these evils by voluntarily exiling themselves from their native country.

1606

A congregation of these Puritans, under the pastoral care of Mr. John Robinson, being extremely harassed for their religious opinions, resolved to elude their persecutors by removing to Holland.

1620

They continued there [7] ten years, and by hard labor, earned a living. Though they were much esteemed and kindly received by the Hollanders, they were induced by very cogent reasons to think of a second removal. The morals of the Dutch were in their opinion too dissolute; and they were afraid that their offspring would conform to the bad examples daily before them. They had also an ardent desire of propagating religion in foreign lands, and of separating themselves from all the existing establishments in Europe, that they might have an opportunity without interruption of handing down to future ages the model of a pure church, free from the admixture of human additions. America, the colonising of which, then excited a considerable share of public attention, presented a proper theatre for this purpose. After serious and repeated addresses to Heaven for direction, they resolved to cross the Atlantic. An application on their behalf, was made to their native sovereign King James, for full liberty and freedom of conscience, but nothing more could be obtained than a promise, that he would connive at and not molest them. The hope that, when at the distance of 3000 miles, they would be out of the reach of ecclesiastical courts, induced them nevertheless to venture. They sailed 101 in number from Plymouth, in September and arrived at Cape Cod in the November following.

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Before landing they formed themselves into a body politic, under the crown of England, for the purpose of "framing just and equal laws, ordinances, acts, constitutions and offices," to which forty one of their number subscribed their names, and promised all due submission and obedience. After landing they employed themselves in making discoveries till the 20th of December. They then fixed on a place for settlement, which they afterwards called New-Plymouth and purchased the soil from its native proprietors. 1620

These adventurers were now at the commencement of a long and dreary winter, at an immense distance from their former habitations, on the strange coast of an uncultivated country, without a friend to welcome their arrival, or a house to shelter them. In settling down on bare creation they had every [8] obstacle to surmount that could prove their firmness, or try their patience. The climate was unfavourable; the season cold and pinching. The prospect of obtaining a supply of provisions, by cultivating the stubborn soil, required an immensity of previous labor, and was both distant and uncertain. From the disorders occasioned by their tedious voyage, with insufficient accommodations, together with those brought on them by the fatigues and exertions unavoidable in a new settlement, and the rigor of the season, they buried forty four persons, nearly one half of their original number, within six months after their landing. Animated with a high degree of religious fervor, they supported these various hardships with unabated resolution. The prospect of an exemption from the tyranny of ecclesiastical courts, and of an undisturbed liberty to worship their creator in the way that was agreeable to their consciences, was in their estimation a sufficient counterbalance to all that they underwent. 1620

This handful of people laid the foundation of New-England. From them and their subsequent associates have sprung the many thousands that have inhabited Massachusetts, New-Hampshire, Connecticut and Rhode-Island. The Puritans, to which sect these primitive emigrants belonged, were a plain, frugal, industrious people, who were strict observers of moral and social duties. They held, that the Bible was the sole rule both of faith and practice—that every man was bound to study it and to judge of its meaning for himself, and to follow that line of conduct and mode of worship, which he apprehended to be thereby required. They were also of opinion that no churches or church officers had any power over other churches or officers, so as to control them—that all church members had equal rights and privileges—that the imposition of articles of faith, modes of worship, habits or ceremonies, was subversive of natural rights and an usurpation of power, not delegated to any man or body of men. They viewed church hierarchy, and especially the lordly pomp of Bishops, as opposed to the pure[,] simple, and equal spirit, of christianity. Their sufferings for non-conformity disposed them to reflect on the nature [9] and extent of civil authority, and led to a conviction that tyranny, whether in church or state, was contrary to nature, reason and revelation. There was a similarity between their opinions of government, and those which they held on the subject of religion. Each strengthened the other. Both were favourable to liberty, and hostile to all undue exercise of authority.

It is matter of regret, that these noble principles of liberty ceased to operate on these emigrants soon after they got power into their hands.

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In the eleventh year after their settlement in America they resolved, "that no man should be admitted to the freedom of their body politic, but such as were members of some of their churches," and afterwards, "that none but such should share in the administration of civil government, or have a voice in any election." In a few years more, they had so far forgot their own sufferings, as to press for uniformity in religion, and to turn persecutors, in order to accomplish it. No better apology can be made for this inconsistent conduct, than that the true grounds of liberty of conscience were then neither understood, nor practiced by any sect of christians. Nor can any more satisfactory account of so open a dereliction of former principles be offered, than that human nature is the same in all bodies of men, and that those who are in, and those who are out of power, insensibly exchange opinions with each other on a change of their respective situations. These intemperate proceedings were overruled for good. As the intolerance of England peopled Massachusetts, so the intolerance of that Province made many emigrate from it, and gave rise to various distant settlements, which in the course of years were formed into other Provincial establishments. Connecticut, Rhode-Island, and New-Hampshire, were in a great measure shoots from the old venerable trunk Massachusetts, and their early growth was much accelerated by her impolitic zeal for uniformity. The country which was subdivided into these four Provinces had been called New-England ever since the year 1614. The propriety of classing them under one general name became more evident from their being settled by the same kind of people, who were [10] strongly connected with each other by blood, uniformity of manners, and a similarity of religious and political sentiments. The early population of this Northern country was rapid. The Puritans, harrassed for their non-conformity in England, passed over to it in great numbers. In the short space of twenty years from its first settlement 21,200 settlers arrived in 298 vessels. About the year 1640, from a change of affairs, the emigration from Old to New-England in a great measure ceased. 1631

Maryland was the third English colony settled in North America, but the first which from its beginning, was erected into a Province of the empire. The first and second colonies were many years governed by corporations, and in a manner subversive of natural liberty, but the third was from its first settlement ruled by laws enacted in a provincial legislature. The first emigration to Maryland consisting of about two hundred gentlemen, chiefly of the Roman Catholic religion, sailed from England in November, 1632, and landed near the river Potowmack in the beginning of the subsequent year.

Calvert their leader purchased the right of the Aborigines, and with their consent took possession of a town, which he called St. Mary's. He continued carefully to cultivate their friendship, and lived with them on terms of perfect amity. The lands which had been thus ceded were planted with facility, because they had already undergone the discipline of Indian tillage. Food was therefore easily procured. The Roman Catholics, unhappy in their native land, and desirous of a peaceful asylum, went over in great numbers to Maryland. Lord Baltimore, to whom the Province had been granted, laid the foundation of its future prosperity on the broad basis of security to property, and of freedom in religion. The wisdom of these measures converted a dreary wilderness into a prosperous colony, because men exert themselves in their several pursuits in proportion as they are assured of enjoying in safety those blessings which they wish for most. Never did a 1633

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people enjoy more happiness than the inhabitants of Maryland under Cecilius the founder of the Province. While Virginia persecuted the Puritans, her [11] severity compelled many to pass over into this new Province, the Assembly of which had enacted, “that no persons, professing to believe in Christ Jesus should be molested in respect of their religion, or in the free exercise thereof.” The prudence of the one colony, acquired what the folly of the other had thrown away. Mankind then beheld a new scene on the theatre of English America. They saw in Massachusetts the Puritans persecuting various sects, and the church of England in Virginia, actuated by the same spirit, harassing those who dissented from the established religion, while the Roman Catholics of Maryland tolerated and protected the professors of all denominations. In consequence of this liberal policy, and the other prudent measures adopted by the rulers of this Province, it rapidly increased in wealth and population.

The distractions which convulsed England for 25 years preceding the restoration in 1660, left no leisure for colonising; but no sooner was Charles the Second restored to the throne of his ancestors, than it was resumed with greater spirit than ever.

1662

Soon after that event the restored monarch granted a charter to Connecticut, which had been previously settled by a voluntary association of persons, who held the soil by an Indian title, without any authority from England. By this charter King Charles established a pure democracy. Every power, legislative, judicial and executive, was invested in the freemen of the corporation, or their delegates, and the colony was under no obligation to communicate its legislative acts to the national sovereign.

1663

In the year following, a royal charter, with a grant of similar powers, was conferred on Rhode-Island and Providence plantations. These, like Connecticut, had been previously settled by emigrants chiefly from Massachusetts, who as an independent people had seated themselves on land fairly obtained from the native proprietors, without any authority from the parent state. This colony was originally planted on the Catholic principle, “That every man who submits peaceably to the civil authority, may [12] worship God according to the dictates of his own conscience, without molestation,” and under all the changes it has undergone, there has been no departure from that broad basis of universal toleration.

1663

In the same year a patent was granted to Lord Clarendon and others, comprehending that extent of country, which now forms the States of North Carolina, South Carolina, and Georgia. Carolina though settled originally as one government, was about the year 1728 divided into two. Georgia was, in the year 1732, formed by George the Second into a distinct Province.

In the year 1664, King Charles the Second gave to his brother James Duke of York, a patent which included New-York and New-Jersey. These Provinces had been previously settled by Dutch Colonists, and held as terrirories of the United Netherlands, but they were easily reduced to the obedience of the King of England, who claimed the country by the right of prior discovery.

1664

The Duke of York in the same year, gave a deed of New-Jersey to Lord Berkely and Sir George Carteret.

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Seventeen years afterwards King Charles gave to William Penn, a patent for Pennsylvania. Mr. Penn some time posterior to this, 1681 obtained a farther grant of the land on the Western side of the River Delaware, and South of Pennsylvania, which was formed into a separate Government, and is now the State of Delaware. Notwithstanding these charters Mr. Penn did not think himself invested with the right of the soil, till he had purchased it from the native proprietors. In the charter of Pennsylvania; there was no express stipulation as had been inserted in all other Colonial patents "that the Pennsylvanians and their descendants should be considered as subjects born within the realm." But clauses were inserted, providing that "acts of Parliament concerning trade and navigation, and the customs, should be duly observed." And it was also stipulated, ["]that no custom or other contribution should be laid on the inhabitants or their estates, unless by the consent of the Proprietary, or Governor and Assembly, or *by act of Parliament in England*." The omission of the first clause, the insertion [13] of the second, and the reservation in favor of Parliament, in the last, may have been occasioned by difficulties which had then arisen about the rights of the Colonists and the power of Parliament over them. Massachusetts had before that time questioned the authority of Parliament to tax them and legislate for them. The general clause that the Colonists should retain all the privileges of Englishmen had already been made, the basis of claims against which some in the Mother Country had many objections. Perhaps the ruling powers of England were sensible, that they had previously delegated too much of independence to their Colonies, and intended to be more guarded in future, but their caution was too late. Had it been seriously intended to control the natural order of events, by the feeble force of words and clauses in a charter, the experiment ought to have been tried from the first, and not reserved for that of Pennsylvania, which was one of the last granted to the Colonies. Near a century after, Dr. Franklin, when examined at the Bar of the British House of Commons explained the matter by saying "that the inhabitants from the first settlement of the Province relied, that the Parliament never would or could by virtue of that reservation tax them, till it had qualified itself constitutionally for the exercise of such right, by admitting Representatives from the people to be taxed."

In the rapid manner just related, was the English North American Continent parcelled out into distinct Governments. Little did the wisdom of the two preceding Centuries foresee of the consequences both good and evil, that were to result to the old world from discovering and colonising the new. When we consider the immense floods of gold and silver, which have flowed from it into Europe—the subsequent increase of industry and population, the prodigious extension of commerce, manufactures, and navigation, and the influence of the whole on manners and arts[—]we see such an accumulation of good, as leads us to rank Columbus among the greatest benefactors of the human race: but when we view the injustice done the natives, the extirpation of many of [14] their numerous nations, whose names are no more heard—the havoc made among the first settlers—the slavery of the Africans, to which America has furnished the temptation, and the many long and bloody wars which it has occasioned, we behold such a crowd of woes, as excites an apprehension, that the evil has outweighed the good.

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In vain do we look among ancient nations, for examples of Colonies established on principles of policy, similar to those of the Colonies of Great-Britain. England did not, like the republics of Greece, oblige her sons to form distant communities in the wilds of the earth. Like Rome she did not give lands as a gratuity to soldiers, who became a military force for the defence of her frontiers: She did not, like Carthage, subdue the neighbouring States, in order to acquire an exclusive right to their commerce. No conquest was ever attempted over the Aborigines of America. Their right to the soil was disregarded, and their country looked upon as a waste, which was open to the occupancy and use of other nations. It was considered that settlements might be there formed for the advantage of those who should migrate thither, as well as of the Mother Country. The rights and interests of the native proprietors were, all this time, deemed of no account.

What was the extent of obligations by which Colonies planted under these circumstances, were bound to the Mother Country, is a subject of nice discussion. Whether these arose from nature and the constitution, or from compact, is a question necessarily connected with many others. While the friends of Union contended that the King of England had a property in the soil of America, by virtue of a right derived from prior discovery; and that his subjects by migrating from one part of his dominions to another, did not lessen their obligations to obey the supreme power of the nation, it was inferred, that the emigrants to English America, continued to owe the same obedience to the King and Parliament, as if they had never quitted the land of their nativity. But if as others contended, the Indians were [15] the only lawful proprietors of the country in which their Creator had placed them, and they sold their right to emigrants who, as men, had a right to leave their native country, and as subjects, had obtained chartered permission to do so, it follows from these premises, that the obligations of the Colonists to their parent State, must have resulted more from compact, and the prospect of reciprocal advantage, than from natural obligation. The latter opinions seem to have been adopted by several of the Colonists particularly in New-England. Sundry persons of influence in that country always held, that birth was no necessary cause of subjection, for that the subject of any Prince or State, had a natural right to remove to any other State or quarter of the Globe, especially if deprived of liberty of conscience, and that, upon such removal, his subjection ceased.

The validity of charters about which the emigrants to America were universally anxious, rests upon the same foundation. If the right of the sovereigns of England to the soil of America was ideal, and contrary to natural justice, and if no one can give what is not his own, their charters were on several accounts a nullity. In the eye of reason and philosophy, they could give no right to American territory. The only validity which such grants could have, was that the grantees had from their sovereign, a permission to depart from their native country, and negotiate with the proprietors for the purchase of the soil, and thereupon to acquire a power of jurisdiction subject to his crown. These were the opinions of many of the settlers in New-England. They looked upon their charters as a voluntary compact between their sovereign and themselves, by which they were bound neither to be subject to, nor seek protection from any other Prince, nor to make any laws repugnant to those of England: but did not consider them as inferring an obligation of obedience to a Parliament, in which they were unrepresented. The prospects of advantage which the emigrants to America expected

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from the protection of their native sovereign, and the prospect of aggrandizement which their native sovereign expected from [16] the extension of his empire, made the former very solicitous for charters, and the latter very ready to grant them. Neither reasoned clearly on their nature nor well understood their extent. In less than eight years 1500 miles of the sea coast were granted away, and so little did they who gave, or they who accepted of charters, understand their own transactions, that in several cases the same ground was covered by contradictory grants, and with an absurdity that can only be palliated by the ignorance of the parties, some of the grants extended to the South Sea, over a country whose breadth is yet unknown, and which to this day is unexplored.

Ideal as these charters were, they answered a temporary purpose. The colonists reposed confidence in them, and were excited to industry on their credit. They also deterred foreign European powers from disturbing them, because agreeably to the late law of nations, relative to the appropriation of newly discovered heathen countries, they inferred the protection of the sovereign who gave them. They also opposed a barrier to open and gross encroachments of the mother country on the rights of the colonists; a particular detail of these is not now necessary; some general remarks may, nevertheless, be made on the early periods of colonial history, as they cast light on the late revolution. Long before the declaration of independence, several of the colonies on different occasions, declared, that they ought not to be taxed but by their own provincial assemblies, and that they considered subjection to acts of a British parliament, in which they had no representation, as a grievance. It is also worthy of being noted, that of the 13 colonies, which have been lately formed into States, no one (Georgia excepted) was settled at the expence of government. Towards the settlement of that Southern frontier, considerable sums have at different times been granted by parliament, but the twelve more Northern provinces, have been wholly settled by private adventurers, without any advances from the national treasury. It does not appear, from existing records, that any compensation for their lands was ever made to the [17] Aborigines of America, by the crown or Parliament of England; but policy as well as justice led the colonists to purchase and pay for what they occupied. This was done in almost every settlement, and they prospered most, who by justice and kindness took the greatest pains to conciliate the good will of the natives.

It is in vain to look for well balanced constitutions in the early periods of colonial history. Till the revolution in the year 1688, a period subsequent to the settlement of the colonies, England herself can scarcely be said to have had a fixed constitution. At that eventful era the line was first drawn between the privileges of subjects, and the prerogatives of sovereigns. The legal and constitutional history of the colonies, in their early periods, therefore, affords but little instruction. It is sufficient in general to observe, that in less than eighty years from the first permanent English settlement in North America; the two original patents granted to the Plymouth and London companies were divided, and subdivided, into twelve distinct and unconnected provinces, and in fifty years more a thirteenth, by the name of Georgia, was added to the Southern extreme of previous establishments.

To each of these, after various changes, there was ultimately granted a form of government resembling, in its most essential parts, as far as local circumstances

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would permit, that which was established in the parent state. A minute description of constitutions, which no longer exist, would be both tedious and unprofitable. In general, it may be observed, that agreeably to the spirit of the British constitution, ample provision was made for the liberties of the inhabitants. The prerogatives of royalty and dependence on the Mother Country, were but feebly impressed, on the colonial forms of government. In some of the provinces the inhabitants chose their governors, and all other public officers, and their legislatures were under little or no controul. In others the crown delegated most of its power to particular persons, who were also invested with the property of the soil. In those which were most immediately dependent on the King, he exercised no higher prerogatives over the colonists than over their fellow [18] subjects in England, and his power over the provincial legislative assemblies, was not greater than what he was constitutionally vested with, over the house of commons in the Mother Country. From the acquiescence of the parent state, the spirit of her constitution and daily experience, the colonists grew up in a belief, that their local assemblies stood in the same relation to them, as the parliament of Great Britain, to the inhabitants of that island. The benefits of legislation were conferred on both, only through these constitutional channels.

It is remarkable, that though the English possessions in America were far inferior in natural riches to those which fell to the lot of other Europeans, yet the security of property and of liberty, derived from the English constitution, gave them a consequence to which the colonies of other powers, though settled at an earlier day, have not yet attained. The wise and liberal policy of England towards her colonies, during the first century and [a] half after their settlement, had a considerable influence in exalting them to this pre-eminence. She gave them full liberty to govern themselves, by such laws as their local legislatures thought necessary, and left their trade open to every individual in her dominions. She also gave them the amplest permission to pursue their respective interests in such manner, as they thought proper, and reserved little for herself, but the benefit of their trade, and that of a political union under the same head. The colonies, founded by other powers, experienced no such indulgences. Portugal and Spain burdened theirs with many vexatious regulations, gave encouragement only to what was for their own interest, and punished whatever had a contrary tendency. France and Holland did not adopt such oppressive maxims, but were in fact not much less rigorous and coercive. They parted, as it were, with the propriety of their colonies to mercantile associations, which sold to the colonists the commodities of Europe, at an enormous advance, and took the produce of their lands, at a low price, and, at the same time, discouraged the growth of any more than they could dispose of, at excessive profits. These oppressive regulations were followed [19] with their natural consequences: The settlements thus restricted advanced but slowly in population and in wealth.

The English colonies participated in that excellent form of government, with which their parent isle was blessed, and which had raised it to an admirable height of agriculture, commerce, and manufactures. After many struggles, it had been acknowledged to be essential to the constitution of Great-Britain, that the people could not be compelled to pay any taxes, nor be bound by any laws, but such as had been granted, or enacted, with the consent of themselves, or of their representatives. It was also one of their privileges, that they could not be affected either in their

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property, their liberties or their persons, but by the unanimous consent of twelve of their peers.

From the operation of these general principles of liberty, and the wise policy of Great Britain, her American settlements increased in number, wealth, and resources, with a rapidity which surpassed all previous calculations. Neither antient nor modern history can produce an example of colonies governed with equal wisdom, or flourishing with equal rapidity. In the short space of 150 years their numbers increased to three millions, and their commerce to such a degree, as to be more than a third of that of Great Britain. They also extended their settlements 1500 miles on the sea coast, and 300 miles to the westward. Their rapid population, though partly accelerated by the influx of strangers, was principally owing to internal causes. In consequence of the equality of fortune and simplicity of manners, which prevailed among them, their inhabitants multiplied far beyond the proportion of old nations, corrupted and weakened by the vices of wealth, and above all, of vanity, than which, perhaps, there is no greater enemy to the increase of the human species.

The good effects of a wise policy and equal government, were not only discernible in raising the colonies of England to a pre-eminence over those of other European powers, but in raising some among themselves to greater importance than others. Their relative population and wealth, were by no means correspondent to their respective [20] advantages of soil and climate. From the common disproportion between the natural and artificial wealth of different countries, it seems to be a general rule, that the more nature does for any body of men, the less they are disposed to do for themselves.

The New-England Provinces, though possessed of comparatively a barren country, were improved much faster than others, which were blessed with a superior soil and milder climate. Their first settlers were animated with a high degree of that religious fervor which excites to great undertakings. They also settled their vacant lands on principles of the wisest policy. Instead of granting large tracts to individuals, they sold the soil in small farms, to those who personally cultivated the same. Instead of disseminating their inhabitants over an extensive country, they formed successive settlements, in townships of six miles square. They also made such arrangements, in these townships, as co-extended the blessings of education and of religious instruction, with their settlements. By these means industry and morality were propagated, and knowledge was generally diffused.

In proportion to their respective numbers, it is probable that no other country in the world contained more sober orderly citizens, and fewer who were profligate and abandoned. Those high crimes which are usually punished with death, were so rare in New-England, that many years have elapsed, in large populous settlements, without a single execution. Their less fertile soil disposed them to a spirit of adventure, and their victorious industry rose superior to every obstacle. In carrying on the whale fishery, they not only penetrated the deepest frozen recesses of Hudson’s Bay, and Davis’ straits: But pierced into the opposite regions of polar cold. While some of them were striking the harpoon on the coast of Africa, others pursued their gigantic game, near the shores of Brazil. While they were yet in their infancy as a political society, they

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carried on this perilous business to an extent exceeding all that the perseverance of Holland, the activity of France, or the vigor of English enterprize, had ever accomplished. A spirit of liberty prompted their [21] industry, and a free constitution guarded their civil rights. The country was settled with yeomanry, who were both proprietors, and cultivators, of the soil. Luxury was estranged from their borders. Enervating wealth and pinching poverty, were both equally rare. Early marriages, and a numerous offspring, were common—thence population was rapid, and the inhabitants generally possessed that happy state of mediocrity, which favors the improvement both of mind and body.

New-York adjoined New-England, but did not encrease with equal rapidity. A few by monopolizing large tracts of land, reduced many to the necessity of being tenants, or of removing to other Provinces, where land could be obtained on more favourable terms. The encrease of population, in this Province, was nevertheless great, when compared with that of old countries. This appears from the following statement of their numbers at different periods. In 1756, the Province of New-York contained 83,233 whites, and in 1771, 148,124, an increase of nearly two for one, in the space of fifteen years.

Pennsylvania was at first settled under the auspices of the celebrated William Penn, who introduced a number of industrious inhabitants, chiefly of the sect of Quakers. The population of this country advanced, equally, with that, of the New-England Provinces. Among the inducements operating on foreigners to settle in Pennsylvania, was a most excellent form of provincial government, which secured the religious as well as the civil rights of its inhabitants. While the Mother Country laboured under an oppressive ecclesiastical establishment, and while partialities of the same kind, were sanctioned by law, in some of the American Provinces, perfect liberty of conscience, and an exact equality of all sects was, in every period, a part of the Constitution of Pennsylvania.

Quaker simplicity, industry, and frugality, contributed, in like manner, to the flourishing of that Province. The habits of that plain people correspond, admirably, with a new country, and with republican constitutions. Opposed to idleness and extravagance, they combined the whole [22] force of religion, with customs and laws, to exile these vices, from their society. The first Quaker settlers were soon followed by Germans, whose industry was not inferior to their own. The emigrants from other countries who settled in Pennsylvania, followed these good examples, and industry and frugality became predominant virtues, over the whole Province.

The policy of a Loan-Office was also eminently beneficial. The Proprietaries of Pennsylvania, sold their lands in small tracts, and on long credit. The purchasers were indulged with the liberty of borrowing, on interest, paper bills of credit, out of the Loan-Office, on the mortgage of their lands. Perhaps there never was an institution which contributed more to the happiness of the people, or to the flourishing of a new country, than this land Loan-Office scheme. The Province being enriched by the clear interest of its loaned paper, was thereby enabled to defray the expences of government, with moderate taxes. The industrious farmer was furnished with the means of cultivating and stocking his farm. These improvements, by increasing the

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value of the land, not only established the credit of the paper, but enabled the borrower, in a few years, to pay off the original loan with the productions of the soil. The progressive improvements of Pennsylvania may be estimated from the increase of its trade. In the year 1704, that Province imported goods from the Mother Country, amounting in value only to £11,499 sterling, but in 1772, to the value of £507,909, an encrease of nearly fifty for one, in little more than half a century.

In Maryland and Virginia, a policy less favourable to population, and somewhat different from that of Pennsylvania, took place. The Church of England was incorporated with the first settlement of Virginia, and in the lapse of time, it also became the established religion of Maryland. In both these Provinces, long before the American Revolution, that church possessed a legal preeminence, and was maintained at the expence, not only of its own members, but of all other denominations. These deterred great numbers, especially of the Presbyterian [23] denomination, who had emigrated from Ireland from settling within the limits of these governments, and fomented [a] spirit of discord between those who belonged to, and those who dissented from, the established church.

In these and the other Southern Provinces, domestic slavery was common. Though it was not by law forbidden any where, yet there were comparatively few slaves any where, to the Northward of Maryland. The peaceable and benevolent religion of the Quakers, induced their united opposition to all traffic of the human race. Many individuals of other denominations, in like manner discountenanced it, but the principal ground of difference on this head between the Northern and Southern Provinces, arose, less, from religious principles, than from climate, and local circumstances. In the former, they found it to be for their interest to cultivate their lands with white men, in the latter with those of an opposite colour. The stagnant waters, and low lands, which are so frequent on the shores of Maryland and Virginia, and on the coasts, and near the rivers in the Southern Provinces, generate diseases, which are more fatal to whites than blacks. There is a physical difference in the constitution of these varieties of the human species. The latter secrete less by the kidnies, and more by the glands of the skin than the former. This greater degree of transpiration renders the blacks more tolerant of heat, than the whites. The perspirable matter, thrown off by the former, is more foetid than that of the latter. It is perhaps owing to these circumstances, that blacks enjoy better health, in warm and marshy countries, than whites.

It is certain, that a great part of the low country in several of the provinces must have remained without cultivation, if it had not been cultivated by black men. From imagined necessity, founded on the natural state of the country, domestic slavery seemed to be forced on the Southern provinces. It favored cultivation, but produced many baneful consequences. It was particularly hostile to the proper education of youth. Industry, temperance, and abstinence, virtues essential to the health and vigor of both mind and body, were with difficulty [24] practised, where the labour of slaves procured an abundance, not only of the necessaries, but of the delicacies of life, and where daily opportunities and facilities were offered, for early, excessive, and enervating indulgences. Slavery also led to the engrossing of land, in the hands of a few. It impeded the introduction of labouring freemen, and of course diminished the

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capacity of the country for active defence, and at the same time endangered internal tranquility, by multiplying a species of inhabitants, who had no interest in the soil. For if a slave can have a country in the world, it must be any other in preference to that, in which he is compelled to labour for a master. Such is the force of habit, and the pliancy of human nature, that though degrading freemen to the condition of slaves, would, to many, be more intolerable than death, yet Negroes who have been born and bred in habits of slavery, are so well satisfied with their condition, that several have been known to reject proffered freedom, and as far as circumstances authorize us to judge, emancipation does not appear to be the wish of the generality of them. The peasantry of few countries enjoy as much of the comforts of life, as the slaves, who belong to good masters. Interest concurs with the finer feelings of human nature, to induce slave-holders to treat with humanity and kindness, those who are subjected to their will and power. There is frequently more happiness in kitchens than parlours, and life is often more pleasantly enjoyed by the slave, than his master. The political evils of slavery do not so much arise from the distresses it occasions to slaves, as from its diminishing the incitements to industry, and from its unhappy influence on the general state of society. Where it is common, a few grow rich, and live in ease and luxury, but the community is deprived of many of its resources for independent happiness, and depressed to a low station on the scale of national greatness. The aggregate industry of a country, in which slaves and freemen are intermixed, will always be less than where there is a number of freemen equal to both. Nothing stimulates to industry so much as interest. The man who works for another, will contrive many artifices to make [25] that work as little as possible, but he who has an immediate profit from his labor, will disregard tasks, times and seasons. In settlements where the soil is cultivated by slaves, it soon becomes unfashionable for freemen to labor, than which no greater curse can befal a country. The individuals, who by the industry of their slaves are released from the necessity of personal exertions, will be strongly tempted to many practices injurious to themselves and others. Idleness is the parent of every vice, while labor of all kinds, favours and facilitates the practice of virtue. Unhappy is that country, where necessity compels the use of slaves, and unhappy are the people, where the original decree of heaven “that man should eat his bread in the sweat of his face” is by any means whatever generally eluded.

The influence of these causes was so extensive, that though the Southern Provinces possessed the most fruitful soil and the mildest climate, yet they were far inferior to their neighbours in strength, population, industry, and aggregate wealth. This inferiority, increased or diminished, with the number of Slaves in each Province, contrasted with the number of freemen. The same observation held good between different parts of the same Province. The sea coast which, from necessity, could be cultivated only by black men, was deficient in many of the enjoyments of life, and lay at the mercy of every bold invader, while the Western Country, where cultivation was more generally carried on by freemen, though settled at a later period, sooner attained the means of self defence, and, relatively, a greater proportion of those comforts with which a cultivated country rewards its industrious inhabitants.

In the Southern Provinces, the long credit given by British merchants, was a principal source of their flourishing. The immense capitals of the merchants trading to the

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North American Continent, enabled them to extend credit to the term of several years. They received a profit on their goods, and an annual interest of five per cent on the sums for which they were sold. This enabled the American merchant to extend credit to the [26] planter, from whom he received a higher interest than he paid in Great-Britain. The planters being furnished, on credit, with slaves and every thing necessary for the cultivation of their lands, when careful and industrious, cleared so much more than the legal interest with which they were charged, that in a few years of successful planting, the difference enabled them to pay their debts and clear their capital. By the help of credit, a beneficial intercourse was established, which redounded to the benefit of both parties.

These causes eminently contributed to the prosperity of the English Provinces. Others, besides co-operating, to the same end, produced a warm love for liberty, a high sense of the rights of human nature, and a predilection for independence.

The first emigrants from England for colonising America, left the Mother Country at a time when the dread of arbitrary power was the predominant passion of the nation. Except the very modern charter of Georgia, in the year 1732, all the English Colonies obtained their charters and their greatest number of European settlers, between the years 1603 and 1688. In this period a remarkable struggle between prerogative and privilege commenced, and was carried on till it terminated in a revolution highly favourable to the liberties of the people. In the year 1621, when the English House of Commons claimed freedom of speech, "as their ancient and undoubted right, and an inheritance transmitted to them from their ancestors;" King James the First replied, "that he could not allow of their style, in mentioning their ancient and undoubted rights, but would rather have wished they had said, that their privileges were derived from the grace and permission of their sovereign." This was the opening of a dispute which occupied the tongues, pens and swords, of the most active men in the nation, for a period of seventy years. It is remarkable that the same period is exactly co-incident with the settlement of the English Colonies. James, educated in the arbitrary sentiments of the divine right of Kings, conceived his subjects to be his property, and that their privileges were [27] matters of grace and favour flowing, from his generosity. This high claim of prerogative excited opposition in support of the rights of the people. In the progress of the dispute, Charles the First, son of King James, in attempting to levy ship-money, and other revenues without consent of Parliament, involved himself in a war with his subjects, in which, after various conflicts, he was brought to the block and suffered death as an enemy to the constitution of his country. Though the monarchy was restored under Charles the Second, and transmitted to James the Second, yet the same arbitrary maxims being pursued, the nation, tenacious of its rights, invited the Prince of Orange to the sovereignty of the island, and expelled the reigning family from the throne. While these spirited exertions were made, in support of the liberties of the parent isle, the English Colonies were settled, and chiefly with inhabitants of that class of people, which was most hostile to the claims of prerogative. Every transaction in that period of English history, supported the position that the people have a right to resist their sovereign, when he invades their liberties, and to transfer the crown from one to another, when the good of the community requires it.

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The English Colonists were from their first settlement in America, devoted to liberty, on English ideas, and English principles. They not only conceived themselves to inherit the privileges of Englishmen, but though in a colonial situation, actually possessed them.

After a long war between King and Parliament, and a Revolution—these were settled on the following fundamental principles.

That it was the undoubted right of English subjects, being freemen or freeholders, to give their property, only by their own consent. That the House of Commons exercised the sole right of granting the money of the people of England, because that house alone, represented them. That taxes were the free gifts of the people to their rulers. That the authority of sovereigns was to be exercised only for the good of their subjects. That it was the right of the people to meet together, and peaceably to consider of their grievances—[28] to petition for a redress of them, and finally, when intolerable grievances were unredressed, to seek relief, on the failure of petitions and remonstrances, by forcible means.

Opinions of this kind generally prevailing, produced, among the colonists, a more determined spirit of opposition to all encroachments on their rights, than would probably have taken place, had they emigrated from the Mother Country in the preceding century, when the doctrines of passive obedience, non resistance, and the divine right of kings, were generally received.

That attachment to their sovereign, which was diminished in the first emigrants to America, by being removed to a great distance from his influence was still farther diminished, in their descendants. When the American revolution commenced, the inhabitants of the colonies were for the most part, the third and fourth, and sometimes the fifth or sixth generation, from the original emigrants. In the same degree as they were removed from that parent stock, they were weaned from the partial attachment, which bound their forefathers to the place of their nativity. The affection for the Mother Country, as far as it was a natural passion, wore away in successive generations, till at last it had scarcely any existence.

That mercantile intercourse, which connects different countries, was in the early periods of the English Colonies, far short of that degree, which is necessary to perpetuate a friendly union. Had the first great colonial establishments been made in the Southern Provinces, where the suitableness of native commodities would have maintained a brisk and direct trade with England—the constant exchange of good offices between the two countries, would have been more likely to perpetuate their friendship. But as the Eastern Provinces were the first, which were thickly settled, and they did not for a long time cultivate an extensive trade with England, their descendants speedily lost the fond attachment, which their forefathers felt to their Parent State. The bulk of the people in New England knew little of the Mother Country, having only heard of her as a distant kingdom, the rulers [29] of which, had in the preceding century, persecuted and banished their ancestors to the woods of America.

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The distance of America from Great Britain generated ideas, in the minds of the colonists, favourable to liberty. Three thousand miles of ocean separated them from the Mother Country. Seas rolled, and months passed, between orders, and their execution. In large governments the circulation of power is enfeebled at the extremities. This results from the nature of things, and is the eternal law of extensive or detached empire. Colonists, growing up to maturity, at such an immense distance from the seat of government, perceived the obligation of dependence much more feebly, than the inhabitants of the parent isle, who not only saw, but daily felt, the fangs of power. The wide extent and nature of the country contributed to the same effect. The natural seat of freedom is among high mountains, and pathless deserts, such as abound in the wilds of America.

The religion of the colonists also nurtured a love for liberty. They were chiefly protestants, and all protestantism is founded on a strong claim to natural liberty, and the right of private judgement. A majority of them were of that class of men, who, in England, are called Dissenters. Their tenets, being the protestantism of the protestant religion, are hostile to all interference of authority, in matters of opinion, and predispose to a jealousy for civil liberty. They who belonged to the Church of England were for the most part independents, as far as church government and hierarchy, were concerned. They used the liturgy of that church, but were without Bishops, and were strangers to those systems, which make religion an engine of state. That policy, which unites the lowest curate with the greatest metropolitan, and connects both with the sovereign, was unknown among the colonists. Their religion was their own, and neither imposed by authority, nor made subservient to political purposes. Though there was a variety of sects, they all agreed in the communion of liberty, and all reprobated the courtly doctrines of passive obedience, and non-resistance. The same dispositions were fostered by the usual [30] modes of education in the colonies. The study of law was common and fashionable. The infinity of disputes, in a new and free country, made it lucrative, and multiplied its followers. No order of men has, in all ages, been more favourable to liberty, than lawyers. Where they are not won over to the service of government, they are formidable adversaries to it. Professionally taught the rights of human nature, they keenly and quickly perceive every attack made on them. While others judge of bad principles by the actual grievances they occasion, lawyers discover them at a distance, and trace future mischiefs from gilded innovations.

The reading of those colonists who were inclined to books, generally favoured the cause of liberty. Large libraries were uncommon in the New World. Disquisitions on abstruse subjects, and curious researches into antiquity, did not accord with the genius of a people, settled in an uncultivated country, where every surrounding object impelled to action, and little leisure was left for speculation. Their books were generally small in size, and few in number: A great part of them consisted of those fashionable authors, who have defended the cause of liberty. Catos' letters, the Independent Whig, and such productions, were common in one extreme of the colonies, while in the other, histories of the Puritans, kept alive the remembrance of the sufferings of their forefathers, and inspired a warm attachment, both to the civil and the religious rights of human nature.

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In the Southern Colonies, slavery nurtured a spirit of liberty, among the free inhabitants. All masters of slaves who enjoy personal liberty will be both proud and jealous of their freedom. It is, in their opinion, not only an enjoyment, but a kind of rank and privilege. In them, the haughtiness of domination, combines with the spirit of liberty. Nothing could more effectually animate the opposition of a planter to the claims of Great-Britain, than a conviction that those claims in their extent, degraded him to a degree of dependence on his fellow subjects, equally humiliating with that which existed between his slaves and himself.

[31] The state of society in the Colonies favoured a spirit of liberty and independence. Their inhabitants were all of one rank. Kings, Nobles and Bishops, were unknown among them. From their first settlement, the English Provinces received impressions favourable to democratic forms of government. Their dependent situation forbad any inordinate ambition among their native sons, and the humility of their society, abstracted as they were from the splendor and amusements of the Old World, held forth few allurements to invite the residence of such from the Mother Country as aspired to hereditary honors. In modern Europe, the remains of the feudal system have occasioned an order of men superior to that of the commonality, but, as few of that class migrated to the Colonies, they were settled with the yeomanry. Their inhabitants, unaccustomed to that distinction of ranks, which the policy of Europe has established, were strongly impressed with an opinion, that all men are by nature equal. They could not easily be persuaded that their grants of land, or their civil rights, flowed from the munificence of Princes. Many of them had never heard of Magna Charta, and those who knew the circumstances of the remarkable period of English history, when that was obtained, did not rest their claims to liberty and property on the transactions of that important day. They looked up to Heaven as the source of their rights, and claimed, not from the promises of Kings but, from the parent of the universe. The political creed of an American Colonist was short but substantial. He believed that God made all mankind originally equal: That he endowed them with the rights of life, property, and as much liberty as was consistent with the rights of others. That he had bestowed on his vast family of the human race, the earth for their support, and that all government was a political institution between men naturally equal, not for the aggrandizement of one, or a few, but for the general happiness of the whole community. Impressed with sentiments of this kind, they grew up, from their earliest infancy, with that confidence which is well calculated to inspire a love for liberty, and a prepossession in favour of independence.

[32] In consequence of the vast extent of vacant country, every colonist was, or easily might be, a freeholder. Settled on lands of his own, he was both farmer and landlord—producing all the necessaries of life from his own grounds, he felt himself both free and independent. Each individual might hunt, fish, or fowl, without injury to his neighbours. These immunities which, in old countries, are guarded by the sanction of penal laws, and monopolized by a few, are the common privileges of all, in America. Colonists, growing up in the enjoyment of such rights, felt the restraint of law more feebly than they, who are educated in countries, where long habits have made submission familiar. The mind of man naturally relishes liberty—where from the extent of a new and unsettled country, some abridgements thereof are useless, and

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others impracticable, the natural desire of freedom is strengthened, and the independent mind revolts at the idea of subjection.

The Colonists were also preserved from the contagion of ministerial influence by their distance from the metropolis. Remote from the seat of power and corruption, they were not over-awed by the one, nor debauched by the other. Few were the means of detaching individuals from the interest of the public. High offices, were neither sufficiently numerous nor lucrative to purchase many adherents, and the most valuable of these were conferred on natives of Britain. Every man occupied that rank only, which his own industry, or that of his near ancestors, had procured him. Each individual being cut off from all means of rising to importance, but by his personal talents, was encouraged to make the most of those with which he was endowed. Prospects of this kind excited emulation, and produced an enterprising laborious set of men, not easily overcome by difficulties, and full of projects for bettering their condition.

The enervating opulence of Europe had not yet reached the colonists. They were destitute of gold and silver, but abounded in the riches of nature. A sameness of circumstances and occupations created a great sense of equality, and disposed them to union in any common cause, [33] from the success of which, they might expect to partake of equal advantages.

The colonies were communities of separate independent individuals, under no general influence, but that of their personal feelings and opinions. They were not led by powerful families, nor by great officers, in church or state. Residing chiefly on lands of their own, and employed in the wholesome labours of the field, they were in a great measure strangers to luxury. Their wants were few, and among the great bulk of the people, for the most part, supplied from their own grounds. Their enjoyments were neither far-fetched, nor dearly purchased, and were so moderate in their kind, as to leave both mind and body unimpaired. Inured from their early years to the toils of a country life, they dwelled in the midst of rural plenty. Unacquainted with ideal wants, they delighted in personal independence. Removed from the pressures of indigence, and the indulgence of affluence, their bodies were strong, and their minds vigorous.

The great bulk of the British colonists were farmers, or planters, who were also proprietors of the soil. The merchants, mechanics and manufacturers, taken collectively, did not amount to one fifteenth of the whole number of inhabitants. While the cultivators of the soil depend on nothing but heaven and their own industry, other classes of men contract more or less of servility, from depending on the caprice of their customers. The excess of the farmers over the collective numbers of all the other inhabitants, gave a cast of independence to the manners of the people, and diffused the exalting sentiments, which have always predominated among those, who are cultivators of their own grounds. These were farther promoted by their moderate circumstances, which deprived them of all superfluity for idleness, or effeminate indulgence.

The provincial constitutions of the English colonies nurtured a spirit of liberty. The King and government of Great-Britain held no patronage in America, which could

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create a portion of attachment and influence, sufficient to counteract that spirit in popular assemblies, which, when left to itself, illy brooks any authority, that interferes with its own.

[34] The inhabitants of the colonies from the beginning, especially in New-England, enjoyed a government, which was but little short of being independent. They had not only the image, but the substance of the English constitution. They chose most of their magistrates, and paid them all. They had in effect the sole direction of their internal government. The chief mark of their subordination consisted in their making no laws repugnant to the laws of their Mother Country—their submitting such laws as they made to be repealed by the King, and their obeying such restrictions, as were laid on their trade, by parliament. The latter were often evaded, and with impunity. The other small checks were scarcely felt, and for a long time were in no respects injurious to their interests.

Under these favourable circumstances, colonies in the new world had advanced nearly to the magnitude of a nation, while the greatest part of Europe was almost wholly ignorant of their progress. Some arbitrary proceedings of governors, proprietary partialities, or democratical jealousies, now and then, interrupted the political calm, which generally prevailed among them, but these and other occasional impediments of their prosperity, for the most part, soon subsided. The circumstances of the country afforded but little scope for the intrigues of politicians, or the turbulence of demagogues. The colonists being but remotely affected by the bustlings of the old world, and having but few objects of ambition or contention among themselves, were absorbed in the ordinary cares of domestic life, and for a long time exempted from a great proportion of those evils, which the governed too often experience, from the passions and follies of statesmen. But all this time they were rising higher, and though not sensible of it, growing to a greater degree of political consequence.

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One of the first events, which as an evidence of their increasing importance, drew on the colonies a share of public attention, was the taking of Louisbourg from France, while that country was at war with Great-Britain. This enterprize was projected by Governor Shirley, of Massachusetts, and undertaken by the sole authority of [35] the legislature of that Colony. It was carried by only a single vote to make the attempt, but after the adoption of the measure, there was an immediate union of all parties, and all were equally zealous in carrying it into execution. The expedition was committed to General Pepperell, and upwards of 5000 men were speedily raised for the service, and put under his command. This force arrived at Canso, on the 4th of April: A British marine force from the West-Indies, commanded by Commodore Warren, which arrived in the same month, acted in concert with these land forces. Their combined operations were carried on with so much judgment, that on the 17th of June the fortress capitulated.

The war in which Louisbourg was taken, was scarcely ended when another began, in which the colonies were distinguished parties. The reduction of that fortress, by colonial troops, must have given both to France and England, enlarged ideas of the value of American territory, and might have given rise to that eagerness for extending the boundaries of their respective colonies, which soon after, by a collision of claims

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to the same ground, laid the foundation of a bloody war between the two nations. It is neither possible nor necessary to decide on the rights of either to the lands about which this contest began. It is certain that the prospects of convenience and future advantage, had much more influence on both, than the considerations of equity. As the contending powers considered the rights of the native inhabitants of no account, it is not wonderful that they should not agree in settling their own. The war was brought on in the following manner. About the year 1749, a grant of 600,000 acres of land in the neighbourhood of the Ohio, was made out in favour of certain persons in Westminster, London, and Virginia, who had associated under the title of the Ohio company. At this time France was in possession of the country, on both sides of the mouth of the Mississippi, as well as of Canada, and wished to form a communication between these two extremities of her territories in North-America. She was therefore alarmed at the scheme in agitation by the Ohio company [36] in as much as the land granted to them, lay between her Northern and Southern settlements.

1753

Remonstrances against British encroachments, as they were called, having been made in vain by the Governor of Canada, the French, at length, seized some British subjects who were trading among the Twightwees, a nation of Indians near the Ohio, as intruders on the land of his most Christian Majesty, and sent them to a fort on the South side of Lake Erie. The Twightwees, by way of retaliation for capturing British traders, whom they deemed their allies, seized three French traders and sent them to Pennsylvania. The French persisting in their claims to the country on the Ohio, as part of Canada, strengthened themselves by erecting new forts in its vicinity, and at length began to seize and plunder every British trader, found on any part of that river. Repeated complaints of those violences being made to the Governor of Virginia, it was at length determined to send a suitable person to the French commandant near the Ohio, to demand the reason of his hostile proceedings, and to insist on his evacuating a fort he had lately built. Major Washington, being then but little more than 21 years of age, offered his service, which was thankfully accepted. The distance to the French settlement was more than 400 miles, and one half of the rout led through a wilderness, inhabited only by Indians. He nevertheless set out in an uncommonly severe season, attended only by one companion. From Winchester, he proceeded on foot, with his provisions on his back. When he arrived and delivered his message, the French commandant refused to comply, and claimed the country as belonging to the King his master, and declared that he should continue to seize and send as prisoners to Canada, every Englishman that should attempt to trade on the Ohio, or any of its branches. Before Major Washington returned, the Virginians had sent out workmen and materials, to erect a fort at the conflux of the Ohio, and the Monongahela. While they were engaged in this work, the French came upon them—drove them out of the country, and erected a regular fortification on the same spot. These spirited [37] proceedings overset the schemes of the Ohio company, but its members both in England and America, were too powerful to brook the disappointment. It was therefore resolved to instruct the colonies to oppose with arms, the encroachments of the French on the British territories, as these Western lands were called. In obedience to these instructions, Virginia raised three hundred men, put them under the command of Colonel Washington, and sent them on towards the Ohio.

May 28, 1754

An engagement between them and a party of French, took place, in which the latter were defeated. On this Mr. de Villier, the

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French commandant marched down with 900 men, besides Indians, and attacked the Virginians. Colonel Washington made a brave defence, behind a small unfinished intrenchment; called Fort Necessity; but at length accepted of honorable terms of capitulation.

From the eagerness discovered by both nations for these lands, it occurred to all, that a rupture between France and England, could not be far distant. It was also evident to the rulers of the latter, that the colonies would be the most convenient centre of operation, for repressing French encroachments. To draw forth their colonial resources, in an uniform system of operations, then, for the first time, became an object of public attention.

1754

To digest a plan for this purpose, a general meeting of the Governors, and most influential members of the Provincial Assemblies, was held at Albany. The commissioners, at this Congress, were unanimously of opinion, that an union of the colonies was necessary, and they proposed a plan to the following effect, “that a grand Council should be formed of members, to be chosen by the Provincial Assemblies, which Council, together with a Governor, to be appointed by the Crown, should be authorised to make general laws, and also to raise money from all the colonies for their common defence.[”] The leading members of the Provincial Assemblies, were of opinion, that if this plan was adopted, they could defend themselves from the French, without any assistance from Great-Britain. This plan, when sent to England, was not acceptable to the Ministry, and in lieu thereof, they [38] proposed “that the Governors of all the colonies, attended by one or two members of their respective Councils,” which were for the most part of royal appointment, “should from time to time concert measures for the whole colonies—erect forts, and raise troops with a power to draw upon the British treasury in the first instance: but to be ultimately re-imbursed by a tax to be laid on the colonies by act of Parliament.” This was as much disrelished by the colonists, as the former plan had been by the British Ministry. The principle of some general power, operating on the whole of the colonies, was still kept in mind, though dropped for the present.

The ministerial plan laid down above, was transmitted to Governor Shirley; and by him communicated to Dr. Franklin, and his opinion thereon requested. That sagacious patriot, sent to the Governor an answer in writing, with remarks upon the proposed plan, in which by his strong reasoning powers, on the first view of the new subject, he anticipated the substance of a controversy, which for twenty years employed the tongues, pens and swords, of both countries.

The policy of repressing the encroachments of the French on the British colonies, was generally approved, both in England and America. It was therefore resolved to take effectual measures for driving them from the Ohio, and also for reducing Niagara, Crown-Point, and the other posts, which they held within the limit claimed by the King of Great-Britain.

To effect the first purpose, General Braddock was sent from Ireland to Virginia, with two regiments, and was there joined by as many more, as amounted, in the whole, to 2200 men. He was a brave man, but destitute of the other qualifications of a great

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officer. His haughtiness disgusted the Americans, and his severity made him disagreeable to the regular troops. He particularly slighted the country militia, and the Virginia officers. Colonel Washington begged his permission to go before him, and scour the woods with his provincial troops, who were well acquainted with that service, but this was refused.

1755 June 9

The General with 1400 men pushed on incautiously, till he [39] fell into an ambuscade of French and Indians, by whom he was defeated, and mortally wounded. The regulars, as the British Troops at that time were called, were thrown into confusion, but the Provincials more used to Indian fighting, were not so much disconcerted. They continued in an unbroken body under, Colonel Washington, and by covering the retreat of the regulars, prevented their entirely being cut off.

Notwithstanding these hostilities, war had not yet been formally declared. Previous to the adoption of that measure, Great-Britain, contrary to the usages of nations, made prisoners of 8000 French sailors. This heavy blow for a long time, crippled the naval operations of France, but at the same time, inspired her with a desire, to retaliate, whenever a proper opportunity should present itself. For two or three years, after Braddock's defeat, the war was carried on against France, without vigor or success, but when Mr. Pitt was placed at the head of the ministry, public affairs assumed a new aspect.

1759

Victory, every where, crowned the British arms, and, in a short time, the French were dispossessed, not only of all the British territories, on which they had encroached, but also of Quebec, the capital of their ancient Province, Canada.

In the course of this war, some of the colonies made exertions so far beyond their reasonable quota, as to merit a re-imbursement from the national treasury; but this was not universally the case. In consequence of internal disputes, together with their greater domestic security, the necessary supplies had not been raised in due time, by others, of the Provincial Assemblies. That a British Minister should depend on colony legislatures, for the execution of his plans, did not well accord with the vigorous and decisive genius of Mr. Pitt, but it was not prudent, by any innovation, to irritate the colonies, during a war, in which, from local circumstances, their exertions were peculiarly beneficial. The advantages that would result from an ability, to draw forth the resources of the colonies, by the same authority, which commanded the wealth of the Mother Country, might in these circumstances [40] have suggested the idea of taxing the colonies by authority of the British Parliament. Mr. Pitt is said to have told Mr. Franklin, "that when the war closed, if he should be in the ministry, he would take measures to prevent the colonies from having a power to refuse or delay the supplies that might be wanted for national purposes," but did not mention what those measures should be. As often as money or men were wanted from the colonies, a requisition was made to their legislatures. These were generally and cheerfully complied with. Their exertions with a few exceptions were great, and manifested a serious desire to carry into effect the plans of Great-Britain, for reducing the power of France.

In the prosecution of this war, the advantages which Great-Britain derived from the colonies, were severely felt by her enemies. Upwards of 400 privateers which were

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fitted out of the ports of the British colonies, successfully cruised on French property. These not only ravaged the West-India islands, belonging to his most Christian Majesty, but made many captures on the coast of France. Besides distressing the French nation by privateering, the colonies furnished 23,800 men, to co-operate with the British regular forces, in North-America. They also sent powerful aids, both in men and provisions, out of their own limits, which facilitated the reduction of Martinique, and of the Havannah. The success of their privateers—the cooperation of their land forces—the convenience of their harbours, and their contiguity to the West-India islands, made the colonies great acquisitions to Britain, and formidable adversaries to France. From their growing importance, the latter had much to fear. Their continued union with Great-Britain, threatened the subversion of the commerce, and American possessions, of France.

1763

After hostilities had raged nearly eight years—a general peace was concluded, on terms, by which France ceded Canada to Great-Britain. The Spaniards having also taken part in the war, were, at the termination of it, induced to relinquish to the same power, both East and West-Florida. This peace gave Great-Britain possession [41] of an extent of country equal in dimensions to several of the kingdoms of Europe. The possession of Canada in the North, and of the two Floridas in the South, made her almost sole mistress of the North-American Continent.

This laid a foundation for future greatness, which excited the envy and the fears of Europe. Her navy, her commerce, and her manufactures had greatly increased, when she held but a part of the Continent; and when she was bounded by the formidable powers of France and Spain. Her probable future greatness, when without a rival, and with a growing vent for her manufactures, and increasing employment for her marine, threatened to destroy that balance of power, which European sovereigns have for a long time endeavored to preserve. Kings are republicans with respect to each other, and behold with democratic jealousy, any one of their order towering above the rest. The aggrandizement of one, tends to excite the combination, or at least the wishes of many, to reduce him to the common level. From motives of this kind, a great part of Europe not long since combined against Venice; and soon after against Louis the XIVth of France. With the same suspicious eye, was the naval superiority of Great-Britain, viewed by her neighbours. They were, in general, disposed to favour any convulsion which promised a diminution of her overgrown power.

The addition to the British empire of new provinces, equal in extent to old kingdoms, not only excited the jealousy of European powers, but occasioned doubts in the minds of enlightened British politicians, whether or not, such immense acquisitions of territory would contribute to the felicity of the parent State. They saw, or thought they saw, the seeds of disunion, planted in the too widely extended empire. Power like all things human, has its limits, and there is a point beyond which the longest and sharpest sword fails of doing execution. To combine in one uniform system of Government, the extensive territory then subjected to the British sway appeared to men of reflection, a work of doubtful practicability: [42] Nor were they mistaken in their conjectures.

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The seeds of discord were soon planted, and speedily grew up to the rending of the empire. The high notions of liberty and independence, which were nurtured in the colonies, by their local situation, and the state of society in the new world, were increased by the removal of hostile neighbours. The events of the war, had also given them some experience in military operations, and some confidence in their own ability. Foreseeing their future importance, from the rapid increase of their numbers, and extension of their commerce; and being extremely jealous of their rights, they readily admitted, and with pleasure indulged, ideas and sentiments which were favourable to independence. While combustible materials were daily collecting, in the new world, a spark to kindle the whole was produced in the old. Nor were there wanting those who, from a jealousy of Great-Britain, helped to fan the flame.

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CHAPTER II

The Origin Of The Disputes Between Great-Britain And Her Colonies, In The Year 1764, And Its Progress Till 1773.

From the first settlement of English America, till the close of the war of 1755, the conduct of Great-Britain towards her colonies, affords an useful lesson to those who are disposed to colonisation. From that era, it is equally worthy of the attention of those who wish for the reduction of great empires to small ones. In the first period, Great-Britain regarded the provinces as instruments of commerce. Without charging herself with the care of their internal police, or seeking a revenue from them; she contented herself with a monopoly of their trade. She treated them as a judicious mother does her dutiful children.

1750

They shared in every privilege belonging to her native sons, and but slightly felt the inconveniences of subordination. Small was the catalogue of grievances, with which even democratical jealousy charged the parent state, antecedent to the period before [43] mentioned. The following appear to have been the chief. An act of the British parliament for prohibiting the cutting down pitch and tar trees, not being within a fence or enclosure, and sundry acts which operated against colonial manufactures. By one of these, it was made illegal after the 24th of June, 1750, to erect in the colonies, any mill or other engine for slitting or rolling of iron, or any plating forge, to work with a tilt-hammer, or any furnace for making steel. By another, hatters were restrained from taking more than two apprentices at a time, or any for less than seven years, and from employing negroes in the business. The colonists were also prohibited from transporting hats, and home manufactured woolens, from one province to another. These regulations were for the most part evaded, but if carried into execution, would have been slightly inconvenient, and only to a few. The articles, the manufacturing of which, were thus prohibited, could be purchased, at a cheaper rate, from England, and the hands who made them, could be as well employed in agriculture.

1763

Though these restrictions were a species of affront, by their implying, that the colonists had not sense enough to discover their own interest, and though they seemed calculated to crush their native talents, and to keep them in a constant state of inferiority, without any hope of arriving at those advantages, to which, by the native riches of their country, they were prompted to aspire, yet if no other grievances had been superadded, to what existed in 1763, these would have been soon forgotten, for their pressure was neither great, nor universal. The good resulting to the colonies, from their connection with Great-Britain, infinitely outweighed the evil.

1764

Till the year 1764, the colonial regulations seemed to have no other object, but the common good of the whole empire. Exceptions, to the contrary, were few, and had no appearance of system. When the approach of the colonies to manhood, made them more capable of resisting

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impositions, Great-Britain changed the ancient system, under which her colonies had long flourished. When policy would rather have dictated a relaxation of authority, she rose in her demands, and multiplied her restraints.

[44] From the conquest of Canada, in 1759, some have supposed, that France began secretly to lay schemes, for wresting those colonies from Great-Britain, which she was not able to conquer. Others alledge, that from that period, the colonists, released from all fears of dangerous neighbours, fixed their eyes on independence, and took sundry steps, preparatory to the adoption of the measure. Without recurring to either of these opinions, the known selfishness of human nature is sufficient to account for that demand on the one side, and that refusal on the other, which occasioned the revolution. It was natural for Great-Britain, to wish for an extension of her authority over the colonies, and equally so for them, on their approach to maturity, to be more impatient of subordination, and to resist every innovation, for increasing the degree of their dependence.

The sad story of colonial oppression commenced in the year 1764. Great-Britain, then, adopted new regulations, respecting her colonies, which, after disturbing the ancient harmony of the two countries, for about twelve years, terminated in a dismemberment of the empire.

1764

These consisted in restricting their former commerce, but more especially in subjecting them to taxation, by the British Parliament. By adhering to the spirit of her navigation act, in the course of a century, the trade of Great-Britain had encreased far beyond the expectation of her most sanguine sons, but by rigidly enforcing the strict letter of the same, in a different situation of public affairs, effects, directly the reverse, were produced.

From the enterprising, commercial spirit of the colonists, the trade of America, after filling all its proper channels to the brim, swelled out on every side, overflowed its proper banks, with a rich redundance. In the cure of evils, which are closely connected with the causes of national prosperity, vulgar precaution ought not to be employed. In severely checking a contraband trade, which was only the overflowing of an extensive fair trade, the remedy was worse then the disease.

For some time before and after the termination of the war of 1755, a considerable intercourse had been carried [45] on between the British and Spanish colonies, consisting of the manufactures of Great Britain, imported by the former, and sold to the latter, by which the British colonies acquired gold and silver, and were enabled to make remittances to the Mother Country. This trade, though it did not clash with the spirit of the British navigation laws, was forbidden by their letter. On account of the advantages, which all parties, and particularly Great-Britain, reaped from this intercourse, it had long been winked at, by persons in power, but at the period beforementioned, some new regulations were adopted, by which it was almost destroyed. This was effected by armed cutters, whose commanders were enjoined to take the usual custom-house oaths, and to act in the capacity of revenue officers. So sudden a stoppage of an accustomed and beneficial commerce, by an unusually rigid execution of old laws, was a serious blow to the Northern colonies. It was their

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misfortune, that though they stood in need of vast quantities of British manufactures, their country produced very little, that afforded a direct remittance, to pay for them. They were, therefore, under a necessity of seeking elsewhere, a market for their produce, and by a circuitous route, acquiring the means of supporting their credit, with the Mother Country. This they found, by trading with the Spanish and French colonies, in their neighbourhood. From them they acquired gold, silver, and valuable commodities, the ultimate profits of which, centered in Great-Britain. This intercourse gave life to business of every denomination, and established a reciprocal circulation of money and merchandize, to the benefit of all parties concerned. Why a trade, essential to the colonies, and which, so far from being detrimental, was indirectly advantageous to Great-Britain, should be so narrowly watched, and so severely restrained, could not be accounted for by the Americans, without supposing, that the rulers of Great-Britain were jealous of their adventurous commercial spirit, and of their increasing number of seamen. Their actual sufferings were great, but their apprehensions were greater.

Instead of viewing the parent state, as formerly, in the light of an affectionate [46] mother, they conceived her, as beginning to be influenced by the narrow views of an illiberal stepdame.

1764

After the 29th of September, 1764, the trade between the British, and the French, and Spanish colonies, was in some degree legalised, but under circumstances, that brought no relief to the colonists, for it was loaded with such enormous duties, as were equivalent to a prohibition. The preamble to the act, for this purpose, was alarming. “Whereas it is just and necessary, that a revenue be raised in America, for defraying the expences, of defending, protecting, and securing the same, We, the commons, &c. towards raising the same, give, and grant unto your Majesty, the sum of”’ (here followed a specification of duties upon foreign clayed sugar, indigo, and coffee, of foreign produce, upon all wines, except French, upon all wrought silk, and all calicoes, and upon every gallon of melasses, and syrups, being the produce of a colony, not under the dominion of his Majesty). It was also enacted, that the monies, arising from the importation of these articles, into the colonies, should be paid into the receipt of his Majesty’s exchequer, there to be entered separate, and reserved, to be disposed of by Parliament, toward defraying the necessary expences, of defending, protecting, and securing America. Till that act passed, no act avowedly for the purpose of revenue, and with the ordinary title and recital of such, was to be found in the parliamentary statute book. The wording of it made the colonists fear, that the Parliament would go on, in charging them with such taxes, as they pleased, and for the support of such military force, as they should think proper. The act was the more disgusting, because the monies, arising from it, were ordered to be paid in specie, and regulations were adopted, against colonial paper money. To obstruct the avenues of acquiring gold and silver, and at the same time to interdict the use of paper money, appeared to the colonists as a farther evidence, that their interests were either misunderstood, or disregarded. The imposition of duties, for the purpose of raising a revenue, in America, was considered as a dangerous innovation, but the methods adopted, for securing their collection, [47] were resented as arbitrary and unconstitutional. It was enacted by Parliament, that whenever offences should be committed against the acts, which imposed them, the prosecutor might bring his action for the penalty, in the courts of admiralty, by which means the defendant lost

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the advantage of being tried by a jury, and was subjected to the necessity of having his case decided upon, by a single man, a creature of the crown, whose salary was to be paid out of forfeitures, adjudged by himself; and also according to a course of law, which exempted the prosecutor from the trouble of proving his accusation, and obliged the defendant, either to evince his innocence, or to suffer. By these regulations, the guards, which the constitution had placed round property, and the fences, which the ancestors of both countries had erected, against arbitrary power, were thrown down, as far as they concerned the colonists, charged with violating the laws, for raising a revenue in America.

They who directed public affairs in Great-Britain feared, that if the collection of these duties was enforced, only in the customary way, payment would be often eluded. To obviate that disposition which the colonists discovered to screen one another, in disobeying offensive acts of parliament, regulations were adopted, bearing hard on their constitutional rights. Unwilling as the colonists were to be excluded by the imposition of enormous duties, from an accustomed and beneficial line of business; it is not wonderful that they were disposed to represent these innovations of the Mother Country, in the most unfavourable point of view. The heavy losses to which many individuals were subjected, and the general distress of the mercantile interest, in several of the oldest colonies, soured the minds of many. That the Mother Country should infringe her own constitution, to cramp the commerce of her colonies, was a fruitful subject of declamation: but these murmurings would have evaporated in words, had Great-Britain proceeded to no farther innovations. Instead of this, she adopted the novel idea of raising from the colonies, an efficient revenue, by direct internal taxes, laid by authority of her parliament.

[48] Though all the colonists disrelished, and many, from the pressure of actual sufferings, complained of the British restrictions on their manufactures and commerce, yet a great majority was disposed to submit to both. Most of them acknowledged that the exercise of these powers was incident to the sovereignty of the Mother Country, especially when guarded by an implied contract, that they were to be only used for the common benefit of the empire. It was generally allowed, that as the planting of colonies was not designed to erect an independent government, but to extend an old one, the Parent State had a right to restrain their trade in every way, which conduced to the common emolument.

They for the most part considered the Mother Country as authorised to name ports and nations, to which alone their merchandize should be carried, and with which alone they should trade: but the novel claim of taxing them without their consent, was universally reprobated, as contrary to their natural, chartered, and constitutional rights. In opposition to it, they not only alledged the general principles of liberty, but ancient usage. During the first 150 years of their existence, they had been left to tax themselves and in their own way. If there were any exceptions to this general rule, they were too inconsiderable to merit notice. In the war of 1755, the events of which were fresh in the recollection of every one, the parliament had in no instance attempted to raise either men or money in the colonies, by its own authority. As the claim of taxation on one side, and the refusal of it on the other, was the very hinge on which the revolution turned, it merits a particular discussion.

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Colonies were formerly planted by warlike nations, to keep their enemies in awe, to give vent to a surplus of inhabitants, or to discharge a number of discontented and troublesome citizens. But in modern ages, the spirit of violence, being in some measure sheathed in commerce, colonies have been settled, by the nations of Europe, for the purposes of trade. These were to be attained by their raising, for the Mother Country, such [49] commodities as she did not produce, and supplying themselves from her with such things as they wanted. In subserviency to these views, Great-Britain planted colonies, and made laws, obliging them to carry to her, all their products which she wanted, and all their raw materials which she chose to work up. Besides this restriction, she forbad them to procure manufactures from any other part of the globe, or even the products of European countries, which could rival her, without being first brought to her ports. By a variety of laws, she regulated their trade, in such a manner, as was thought most conducive to their mutual advantage, and her own particular welfare. This principle of commercial monopoly, ran through no less than 29 acts of parliament from 1660, to 1764. In all these acts, the system of commerce was established, as that, from which alone, their contributions to the strength of the empire, were expected. During this whole period, a parliamentary revenue was no part of the object of colonisation. Accordingly, in all the laws which regarded them, the technical words of revenue laws, were avoided. Such have usually a title purporting their being “grants,” and the words “give and grant,” usually precede their enacting clauses. Although duties were imposed on America, by previous acts of parliament, no one title of “giving an aid to his majesty,” or any other of the usual titles to revenue acts, was to be found in any of them. They were intended as regulations of trade, and not as sources of national supplies. Till the year 1764, all stood on commercial regulation, and restraint.

While Great-Britain attended to this first system of colonisation, her American settlements, though exposed in unknown climates, and unexplored wildernesses, grew and flourished, and in the same proportion; the trade and riches of the Mother Country encreased. Some estimate may be made of this increase, from the following statement. The whole export trade of England, including that to the colonies, in the year 1704, amounted to £6,509,000 sterling: but so immensely had the colonies increased, that the exports to them alone [50] in the year 1772, amounted to £6,022,132 sterling, and they were yearly increasing. In the short space of 68 years, the colonies added nearly as much to the export commerce of Great-Britain, as she had grown to by a progressive increase of improvement in 1700 years. And this increase of colonial trade, was not at the expence of the general trade of the kingdom, for that increased in the same time, from six millions, to sixteen millions.

In this auspicious period, the Mother Country contented herself with exercising her supremacy in superintending the general concerns of the colonies, and in harmonising the commercial interest of the whole empire. To this the most of them bowed down with such a filial submission as demonstrated that they, though not subjected to parliamentary taxes, could be kept in due subordination, and in perfect subserviency to the grand views of colonisation.

Immediately after the peace of Paris, 1763, a new scene was opened. The national debt of Great-Britain, then amounted to 148 millions, for which an interest of nearly 5

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millions, was annually paid. While the British minister was digesting plans for diminishing this amazing load of debt, he conceived the idea of raising a substantial revenue in the British colonies, from taxes laid by the parliament of the parent state. On the one hand it was urged that the late war originated on account of the colonies—that it was reasonable, more especially as it had terminated in a manner so favourable to their interest, that they should contribute to the defraying of the expences it had occasioned. Thus far both parties were agreed, but Great-Britain contended, that her parliament as the supreme power, was constitutionally vested with an authority to lay them on every part of the empire. This doctrine, plausible in itself, and conformable to the letter of the British constitution, when the whole dominions were represented in one assembly, was reprobated in the colonies, as contrary to the spirit of the same government, when the empire became so far extended, as to have many distinct representative assemblies. The colonists believed that the chief excellence of the [51] British constitution consisted in the right of subjects to grant, or withhold taxes, and in their having a share in enacting the laws, by which they were to be bound.

They conceived, that the superiority of the British constitution, to other forms of government was, not because their supreme council was called Parliament, but because, the people had a share in it, by appointing members, who constituted one of its constituent branches, and without whose concurrence, no law, binding on them, could be enacted. In the Mother Country, it was asserted to be essential to the unity of the empire, that the British Parliament should have a right of taxation, over every part of the royal dominions. In the colonies, it was believed, that taxation and representation were inseparable, and that they could neither be free, nor happy, if their property could be taken from them, without their consent. The common people in America reasoned on this subject, in a summary way: “If a British Parliament,” said they, “in which we are unrepresented, and over which we have no control, can take from us any part of our property, by direct taxation, they may take as much as they please, and we have no security for any thing, that remains, but a forbearance on their part, less likely to be exercised in our favour, as they lighten themselves of the burthens of government, in the same proportion, that they impose them on us.” They well knew, that communities of mankind, as well as individuals, have a strong propensity to impose on others, when they can do it with impunity, and, especially, when there is a prospect, that the imposition will be attended with advantage to themselves. The Americans, from that jealousy of their liberties, which their local situation nurtured, and which they inherited from their forefathers, viewed the exclusive right of laying taxes on themselves, free from extraneous influence, in the same light, as the British Parliament views its peculiar privilege of raising money, independent of the crown. The parent state appeared to the colonists to stand in the same relation to their local legislatures, as the monarch of Great-Britain, to the British [52] Parliament. His prerogative is limited by that palladium of the people’s liberty, the exclusive privilege of granting their own money. While this right rests in the hands of the people, their liberties are secured. In the same manner reasoned the colonists “in order to be stiled freemen, our local assemblies, elected by ourselves, must enjoy the exclusive privilege of imposing taxes upon us.” They contended, that men settled in foreign parts to better their condition, and not to submit their liberties—to continue the equals, not to become the slave of their less adventurous

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fellow-citizens, and that by the novel doctrine of parliamentary power, they were degraded from being the subjects of a King, to the low condition of being subjects of subjects. They argued, that it was essentially involved in the idea of property, that the possessor had such a right therein, that it was a contradiction to suppose any other man, or body of men, possessed a right to take it from him, without his consent. Precedents, in the history of England, justified this mode of reasoning. The love of property strengthened it, and it had a peculiar force on the minds of colonists, 3000 miles removed from the seat of government, and growing up to maturity, in a new world, where, from the extent of country, and the state of society, even the necessary restraints of civil government, were impatiently born. On the other hand, the people of Great-Britain revolted against the claims of the colonists. Educated in habits of submission to parliamentary taxation, they conceived it to be the height of contumacy for their colonists to refuse obedience to the power, which they had been taught to revere. Not adverting to the common interest, which existed between the people of Great-Britain, and their representatives, they believed, that the same right existed, although the same community of interests was wanting. The pride of an opulent, conquering nation, aided this mode of reasoning. “What,” said they, “shall we, who have so lately humbled France and Spain, be dictated to by our own colonists? Shall our subjects, educated by our care, and defended by our arms, presume to question the rights of Parliament, to which we are obliged to submit.” [53] Reflections of this kind, congenial to the natural vanity of the human heart, operated so extensively, that the people of Great-Britain spoke of their colonies and of their colonists, as of a kind of possession, annexed to their persons. The love of power, and of property, on the one side of the Atlantic, were opposed by the same powerful passions on the other.

The disposition to tax the colonies, was also strengthened by exaggerated accounts of their wealth. It was said, “that the American planters lived in affluence, and with inconsiderable taxes, while the inhabitants of Great-Britain were born down, by such oppressive burdens, as to make a bare subsistence, a matter of extreme difficulty.” The officers who have served in America, during the late war, contributed to this delusion. Their observations were founded on what they had seen in cities, and at a time, when large sums were spent by government, in support of fleets and armies, and when American commodities were in great demand. To treat with attention those, who came to fight for them, and also to gratify their own pride, the colonists had made a parade of their riches, by frequently and sumptuously entertaining the gentlemen of the British army. These, judging from what they saw, without considering the general state of the country, concurred in representing the colonists, as very able to contribute, largely, towards defraying the common expences of the empire.

The charters, which were supposed to contain the principles on which the colonies were founded, became the subject of serious investigation on both sides. One clause was found to run through the whole of them, except that which had been granted to Mr. Penn. This was a declaration, “that the emigrants to America should enjoy the same privileges, as if they had remained, or had been born within the realm;” but such was the subtilty of disputants, that both parties construed this general principle, so as to favour their respective opinions. The American patriots contended, that as English freeholders could not be taxed, but by representatives, in chusing whom they had a

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vote, neither could the colonists: But [54] it was replied, that if the colonists had remained in England, they must have been bound to pay the taxes, imposed by parliament. It was therefore inferred, that, though taxed by that authority, they lost none of the rights of native Englishmen, residing at home. The partizans of the Mother Country could see nothing in charters, but security against taxes, by royal authority. The Americans, adhering to the spirit more than to the letter, viewed their charters, as a shield, against all taxes, not imposed by representatives of their own choice. This construction they contended to be expressly recognized by the charter of Maryland. In that, King Charles bound, both himself and his successors, not to assent to any bill, subjecting the inhabitants to internal taxation, by external legislation.

The nature and extent of the connection between Great-Britain and America, was a great constitutional question, involving many interests, and the general principles of civil liberty. To decide this, recourse was in vain had to parchment authorities, made at a distant time, when neither the grantor, nor grantees, of American territory, had in contemplation, any thing like the present state of the two countries.

Great and flourishing colonies, daily increasing in numbers, and already grown to the magnitude of a nation, planted at an immense distance, and governed by constitutions, resembling that of the country, from which they sprung, were novelties in the history of the world. To combine colonies, so circumstanced, in one uniform system of government, with the parent state, required a great knowledge of mankind, and an extensive comprehension of things. It was an arduous business, far beyond the grasp of ordinary statesmen, whose minds were narrowed by the formalities of law, or the trammels of office. An original genius, unfettered with precedents, and exalted with just ideas of the rights of human nature, and the obligations of universal benevolence, might have struck out a middle line, which would have secured as much liberty to the colonies, and as great a degree of supremacy to the parent state, as their common good required: But [55] the helm of Great-Britain was not in such hands. The spirit of the British constitution on the one hand, revolted at the idea, that the British parliament should exercise the same unlimited authority over the unrepresented colonies, which it exercised over the inhabitants of Great-Britain. The colonists on the other hand did not claim a total exemption from its authority. They in general allowed the Mother Country a certain undefined prerogative over them, and acquiesced in the right of Parliament, to make many acts, binding them in many subjects of internal policy, and regulating their trade. Where parliamentary supremacy ended, and at what point colonial independency began, was not ascertained. Happy would it have been, had the question never been agitated, but much more so, had it been compromised by an amicable compact, without the horrors of a civil war.

The English colonies were originally established, not for the sake of revenue, but on the principles of a commercial monopoly. While England pursued trade and forgot revenue, her commerce increased at least fourfold. The colonies took off the manufactures of Great-Britain, and paid for them with provisions, or raw materials. They united their arms in war, their commerce and their councils in peace, without nicely investigating the terms on which the connection of the two countries depended.

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A perfect calm in the political world is not long to be expected. The reciprocal happiness, both of Great-Britain and of the colonies, was too great to be of long duration. The calamities of the war of 1755, had scarcely ended, when the germ of another war was planted, which soon grew up and produced deadly fruit.

1764

At that time sundry resolutions passed the British parliament, relative to the imposition of a stamp duty in America, which gave a general alarm. By them the right, the equity, the policy, and even the necessity of taxing the colonies was formally avowed. These resolutions being considered as the preface of a system of American revenue, were deemed an introduction of evils of much greater magnitude. They opened a prospect of oppression, [56] boundless in extent, and endless in duration. They were nevertheless not immediately followed by any legislative act. Time, and an invitation, were given to the Americans, to suggest any other mode of taxation, that might be equivalent in its produce to the stamp act: But they objected, not only to the mode, but the principle, and several of their assemblies, though in vain, petitioned against it. An American revenue was in England, a very popular measure. The cry in favour of it was so strong, as to confound and silence the voice of petitions to the contrary. The equity of compelling the Americans to contribute to the common expences of the empire, satisfied many, who, without enquiring into the policy or justice of taxing their unrepresented fellow subjects, readily assented to the measures adopted by the parliament, for this purpose. The prospect of easing their own burdens, at the expence of the colonists, dazzled the eyes of gentlemen of landed interest, so as to keep out of their view, the probable consequences of the innovation.

The omnipotence of parliament was so familiar a phrase on both sides of the Atlantic, that few in America, and still fewer in Great-Britain, were impressed in the first instance, with any idea of the illegality of taxing the colonists.

The illumination on that subject was gradual. The resolutions in favour of an American stamp act, which passed in March, 1764, met with no opposition. In the course of the year, which intervened between these resolutions, and the passing of a law grounded upon them, the subject was better understood and constitutional objections against the measure, were urged by several, both in Great-Britain and America. This astonished and chagrined the British ministry: But as the principle of taxing America, had been for some time determined upon, they were unwilling to give it up.

March, 1765

Impelled by partiality for a long cherished idea, Mr. Grenville brought into the house of commons his long expected bill, for laying a stamp duty in America. By this after passing through the usual forms, it was enacted, that the instruments [57] of writing which are in daily use among a commercial people, should be null and void, unless they were executed on stamped paper or parchment, charged with a duty imposed by the British parliament.

When the bill was brought in, Mr. Charles Townsend concluded a speech in its favour, with words to the following effect, “And now will these Americans, children planted by our care, nourished up by our indulgence, till they are grown to a degree of strength and opulence, and protected by our arms, will they grudge to contribute their

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mite to relieve us from the heavy weight of that burden which we lie under." To which Colonel Barré replied,

They planted by your care? No, your oppressions planted them in America. They fled from tyranny to a then uncultivated and inhospitable country, where they exposed themselves to almost all the hardships to which human nature is liable; and among others to the cruelty of a savage foe the most subtle, and I will take upon me to say, the most formidable of any people upon the face of God's earth; and yet, actuated by principles of true English liberty, they met all hardships with pleasure compared with those they suffered in their own country, from the hands of those that should have been their friends. They nourished up by your indulgence? They grew by your neglect of them. As soon as you began to care about them, that care was exercised in sending persons to rule them in one department and another, who were perhaps the deputies of deputies to some members of this house, sent to spy out their liberties, to misrepresent their actions and to prey upon them. Men, whose behaviour on many occasions, has caused the blood of those sons of liberty to recoil within them. Men promoted to the highest seats of justice, some who to my knowledge were glad by going to a foreign country, to escape being brought to the bar of a court of justice in their own. They protected by your arms? They have nobly taken up arms in your defence, have exerted a valour amidst their constant and laborious industry, for the defence of a country whose frontier was drenched in blood, while its interior parts yielded all its little savings to your emolument. And believe [58] me, remember I this day told you so, that same spirit of freedom which actuated that people at first will accompany them still: but prudence forbids me to explain myself farther. God knows, I do not at this time speak from any motives of party heat, what I deliver are the genuine sentiments of my heart. However superior to me in general knowledge and experience, the respectable body of this house may be, yet I claim to know more of America than most of you, having seen and been conversant in that country. The people I believe are as truly loyal as any subjects the King has, but a people jealous of their liberties, and who will vindicate them, if ever they should be violated: but the subject is too delicate—I will say no more.

During the debate on the bill, the supporters of it insisted much on the colonies being virtually represented in the same manner as Leeds, Halifax, and some other towns were. A recurrence to this plea was a virtual acknowledgment, that there ought not to be taxation without representation. It was replied, that the connexion between the electors and non-electors of parliament in Great-Britain, was so interwoven, from both being equally liable to pay the same common tax, as to give some security of property to the latter: but with respect to taxes laid by the British parliament, and paid by the Americans, the situation of the parties was reversed. Instead of both parties bearing a proportionable share of the same common burden, what was laid on the one, was exactly so much taken off from the other.

The bill met with no opposition in the house of Lords, and on the 22d of March, it received the royal assent.

1765

The night after it passed, Dr. Franklin wrote to Mr. Charles Thomson. "The sun of liberty is set, you must light up the candles of industry and economy." Mr. Thomson answered, "he was apprehensive

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that other lights would be the consequence," and foretold the opposition that shortly took place. On its being suggested from authority, that the stamp officers would not be sent from Great-Britain: but selected from among the Americans, the colony agents were desired to point out proper persons [59] for the purpose. They generally nominated their friends which affords a presumptive proof, that they supposed the act would have gone down. In this opinion they were far from being singular. That the colonists would be ultimately obliged to submit to the stamp act, was at first commonly believed, both in England and America. The framers of it, in particular, flattered themselves that the confusion which would arise upon the disuse of writings, and the insecurity of property, which would result from using any other than that required by law, would compel the colonies, however reluctant, to use the stamp paper, and consequently to pay the taxes imposed thereon. They therefore boasted that it was a law which would execute itself.

1765

By the terms of the stamp act, it was not to take effect till the first day of November, a period of more than seven months after its passing. This give the colonists an opportunity for leisurely canvassing the new subject, and examining it fully on every side. In the first part of this interval, struck with astonishment, they lay in silent consternation, and could not determine what course to pursue. By degrees they recovered their recollection.

May 28, 1765

Virginia led the way in opposition to the stamp act. Mr. Patrick Henry brought into the house of burgesses of that colony, the following resolutions which were substantially adopted.

Resolved, That the first adventurers, settlers of this his Majesty's colony and dominion of Virginia, brought with them and transmitted to their posterity, and all other, his Majesty's subjects, since inhabiting in this, his Majesty's said colony, all the liberties, privileges and immunities, that have at any time been held, enjoyed and possessed by the people of Great-Britain.

Resolved, That by two royal charters, granted by King James the first, the colonies aforesaid are declared, and entitled to all liberties, privileges, and immunities of denizens, and natural subjects, to all intents and purposes, as if they had been abiding, and born within the realm of England,

1765

Resolved, That his Majesty's liege people, of this, his ancient colony, have enjoyed the rights of being thus governed [60] by their own assembly, in the article of taxes, and internal police, and that the same have never been forfeited, or yielded up, but have been constantly recognized by the King and people of Britain.

Resolved, therefore, That the general assembly of this colony, together with his Majesty, or his substitutes, have, in their representative capacity, the only exclusive right and power, to lay taxes and imposts, upon the inhabitants of this colony, and that every attempt to vest such power in any other person or persons, whatsoever, than the general assembly aforesaid, is illegal, unconstitutional, and unjust, and hath a manifest tendency to destroy British, as well as American Liberty.

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Resolved, That his Majesty's liege people, the inhabitants of this colony, are not bound to yield obedience to any law, or ordinance whatever, designed to impose any taxation whatever upon them, other, than the laws or ordinances of the general assembly aforesaid.

Resolved, That any person, who shall, by speaking, or writing, assert, or maintain, that any person, or persons, other than the general assembly of this colony, have any right or power, to impose, or lay any taxation on the people here, shall be deemed an enemy to this, his Majesty's colony.

Upon reading these resolutions, the boldness and novelty of them affected one of the members to such a degree, that he cried out, "Treason! Treason!" They were, nevertheless, well received by the people, and immediately forwarded to the other provinces. They circulated extensively, and gave a spring to all the discontented. Till they appeared, most were of opinion, that the act would be quietly adopted. Murmurs, indeed, were common, but they seemed to be such, as would soon die away. The countenance of so respectable a colony, as Virginia, confirmed the wavering, and emboldened the timid. Opposition to the stamp act, from that period, assumed a bolder face. The fire of liberty blazed forth from the press; some well judged publications set the rights of the colonists, in a plain, but strong point of view. The tongues and the pens of the well informed [61] citizens laboured in kindling the latent sparks of patriotism. The flame spread from breast to breast, till the conflagration, became general. In this business, New-England had a principal share. The inhabitants of that part of America, in particular, considered their obligations to the Mother Country for past favours, to be very inconsiderable. They were fully informed, that their forefathers were driven, by persecution, to the woods of America, and had there, without any expence to the parent state, effected a settlement on bare creation. Their resentment, for the invasion of their accustomed right of taxation, was not so much mitigated, by the recollection of late favours, as it was heightened by the tradition of grievous sufferings, to which their ancestors, by the rulers of England, had been subjected. The descendants of the exiled, persecuted, Puritans, of the last century, opposed the stamp act with the same spirit, with which their forefathers were actuated, when they set themselves against the arbitrary impositions of the House of Stuart.

1765

The heavy burdens, which the operation of the stamp-act would have imposed on the colonists, together with the precedent it would establish of future exactions, furnished the American patriots with arguments, calculated as well to move the passions, as to convince the judgments of their fellow colonists. In great warmth they exclaimed, "If the parliament has a right to levy the stamp duties, they may, by the same authority, lay on us imposts, excises, and other taxes, without end, till their rapacity is satisfied, or our abilities are exhausted. We cannot, at future elections, displace these men, who so lavishly grant away our property. Their seats and their power are independent of us, and it will rest with their generosity, where to stop, in transferring the expences of government, from their own, to our shoulders."

It was fortunate for the liberties of America, that News-papers were the subject of a heavy stamp duty. Printers, when uninfluenced by government, have generally

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arranged themselves on the side of liberty, nor are they less remarkable for attention to the profits of their profession.

A stamp duty, which openly invaded the first, [62] and threatened a great diminution of the last, provoked their united zealous opposition. 1765 They daily presented to the public, original dissertations, tending to prove, that if the stamp-act was suffered to operate, the liberties of America, were at end, and their property virtually transferred, to their Trans-Atlantic fellow-subjects. The writers among the Americans, seriously alarmed for the fate of their country, came forward, with essays, to prove, that agreeably to the British constitution, taxation and representation were inseparable, that the only constitutional mode of raising money from the colonists, was by acts of their own legislatures, that the Crown possessed no farther power, than that of requisition, and that the parliamentary right of taxation was confined to the Mother Country, and there originated, from the natural right of man, to do what he pleased with his own, transferred by consent from the electors of Great-Britain, to those whom they chose to represent them in Parliament. They also insisted much on the mis-application of public money by the British ministry. Great pains were taken, to inform the colonists, of the large sums, annually bestowed on pensioned favorites, and for the various purposes of bribery. Their passions were inflamed, by high coloured representations of the hardship of being obliged to pay the earnings of their industry, into a British treasury, well known to be a fund for corruption.

The writers on the American side were opposed by arguments, drawn from the unity of the empire. The necessity of one supreme head, the unlimited power of Parliament, and the great numbers in the Mother Country, who, though legally disqualified, from voting at elections, were nevertheless bound to pay the taxes, imposed by the representatives of the nation. To these objections it was replied, that the very idea of subordination of parts, excluded the notion of simple undivided unity.

That as England was the head, she could not be the head and the members too—that in all extensive empires, where the dead uniformity of servitude did not prevent, the subordinate parts had many local privileges and immunities—that between these privileges and the supreme [63] common authority, the line was extremely nice; but nevertheless, the supremacy of the head had an ample field of exercise, without arrogating to itself the disposal of the property of the unrepresented subordinate parts. To the assertion, that the power of Parliament was unlimited, the colonists replied, that before it could constitutionally exercise that power, it must be constitutionally formed, and that, therefore, it must at least, in one of its branches, be constituted by the people, over whom it exercised unlimited power. That with respect to Great-Britain, it was so constituted—with respect to America, it was not. They therefore inferred, that its power ought not to be the same over both countries. They argued also, that the delegation of the people was the source of power, in regard to taxation, and as that delegation was wanting in America, they concluded the right of Parliament, to grant away their property, could not exist. That the defective representation in Great-Britain, should be urged as an argument for taxing the Americans, without any representation at all, proved the encroaching nature of power. Instead of convincing the colonists of the propriety of their submission, it demonstrated the wisdom of their resistance; for, said they, “one

1765

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invasion of natural right is made the justification of another, much more injurious and oppressive."

The advocates for parliamentary taxation laid great stress on the rights, supposed to accrue to Great-Britain, on the score of her having reared up and protected the English settlements, in America, at great expence. It was, on the other hand, contended by the colonists, that in all the wars which were common to both countries, they had taken their full share, but in all their own dangers, in all the difficulties belonging separately to their situation, which did not immediately concern Great-Britain, they were left to themselves, and had to struggle through a hard infancy; and in particular, to defend themselves without any aid from the Parent State, against the numerous savages in their vicinity. That when France had made war upon them, it was not on their own account, but as appendages to Great-Britain.

1765

That confining their trade [64] for the exclusive benefit of the Parent State, was an ample compensation for her protection, and a sufficient equivalent for their exemption from parliamentary taxation. That the taxes imposed on the inhabitants of Great-Britain, were incorporated with their manufactures, and ultimately fell on the colonists, who were the consumers.

The advocates for the stamp act, also contended that as the parliament was charged with the defence of the colonies, it ought to possess the means of defraying the expences incurred thereby. The same argument had been used by King Charles the 1st, in support of ship money; and it was now answered in the same manner, as it was by the patriots of that day. "That the people who were defended or protected, were the first to judge of and to provide the means of defraying the expences incurred on that account." In the mean time, the minds of the Americans underwent a total transformation. Instead of their late peaceable and steady attachment to the British nation, they were dayly advancing to the opposite extreme. A new mode of displaying resentment against the friends of the stamp act, began in Massachusetts, and was followed by the other colonies.

1765 Aug. 14

A few gentlemen hung out, early in the morning, on the limb of a large tree, towards the enterance of Boston, two effigies, one designed for the stamp master, the other for a jack boot, with a head and horns peeping out at the top. Great numbers both from town and country came to see them. A spirit of enthusiasm was diffused among the spectators. In the evening the whole was cut down and carried in procession by the populace shouting "liberty and property forever, no stamps." They next pulled down a new building, lately erected by Mr. Oliver, the stamp master. They then went to his house, before which they beheaded his effigy, and at the same time broke his windows. Eleven days after similar violences were repeated. The mob attacked the house of Mr. William Story, deputy register of the court of admiralty—broke his windows—forced into his dwelling house, and destroyed the books and files belonging to the said court, and ruined a great part of his furniture. They [65] next proceeded to the house of Benjamin Hallowell, comptroller of the customs, and repeated similar excesses, and drank and destroyed his liquors. They afterwards proceeded to the house of Mr. Hutchinson, and soon demolished it. They carried off his plate, furniture and apparel, and scattered or destroyed manuscripts and other curious and useful papers, which for thirty years he had been collecting. About half a dozen of the meanest of the mob

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were soon after taken up and committed, but they either broke jail, or otherwise escaped all punishment. The town of Boston condemned the whole proceeding, and for some time, private gentlemen kept watch at night, to prevent further violences.

Similar disturbances broke out in the adjacent colonies, nearly about the same time. On the 27th August, the people of New-Port in Rhode-Island, exhibited three effigies intended for Messieurs Howard, Moffatt, and Johnson, in a cart with halters about their necks, and after hanging them on a gallows for some time, cut them down and burnt them, amidst the acclamations of thousands. On the day following, the people collected at the house of Mr. Martin Howard, a lawyer, who had written in defence of the right of Parliament to tax the Americans, and demolished every thing, that belonged to it. They proceeded to Dr. Moffatt's, who, in conversation, had supported the same right, and made a similar devastation of his property. 1765

In Connecticut they exhibited effigies in sundry places, and afterwards committed them to the flames.

In New-York, the stamp master having resigned, the stamp papers were taken into Fort George, by Lieutenant Governor Colden. The people, disliking his political sentiments, broke open his stable, took out his coach, and carried it in triumph, through the principal streets, to the gallows. On one end of this they suspended the effigy of the Lieut. Governor, having in his right hand a stamped bill of lading, and in the other a figure of the devil. After some time, they carried the apparatus to the gate of the fort, and from thence to the bowling green, under the muzzles of the guns, and burned the [66] whole amid the acclamations of many thousands. They went thence to Major James' house, stripped it of every article, and consumed the whole, because he was a friend to the stamp act. Nov. 1, 1765

The next evening the mob re-assembled, and insisted upon the Lieutenant Governor delivering the stamped papers into their hands, and threatened, in case of a refusal, to take them by force. After some negotiation, it was agreed that they should be delivered to the corporation, and they were deposited in the city hall. Ten boxes of the same, which came by another conveyance, were burned.

The stamp-act was not less odious to many of the inhabitants of the British West-India islands, than to those on the continent of North America. The people of St. Kitts obliged the stamp officer, and his deputy, to resign. Barbadoes, Canada, and Halifax, submitted to the act.

When the ship, which brought the stamp papers to Philadelphia, first appeared round Gloucester point, all the vessels in the harbour hoisted their colours half mast high. The bells were rung muffled till evening, and every countenance added to the appearance of sincere mourning. A large number of people assembled, and endeavoured to procure the resignation of Mr. Hughes, the stamp distributor. He heId out long, but at length found it necessary to comply.

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As opportunities offered, the assemblies generally passed resolutions, asserting their exclusive right, to lay taxes on their constituents. The people, in their town meetings, instructed their representatives to oppose the stamp act. As a specimen of these, the instructions given to Thomas Forster, their representative, by the freeholders and other inhabitants of the town of Plymouth, are subjoined. In these the yeomanry of the country spoke the determined language of freemen.

October, 1765

After expressing the highest esteem for the British constitution, and setting forth their grievances, they proceeded as follows:

You, Sir, represent a people, who are not only descended from the first settlers of this country, but inhabit the very spot they first possessed. Here was first laid [67] the foundation of the British empire, in this part of America, which, from a very small beginning, has increased and spread, in a manner very surprising, and almost incredible, especially, when we consider, that all this has been effected, without the aid or assistance of any power on earth; that we have defended, protected and secured ourselves against the invasions and cruelty of savages, and the subtlety and inhumanity of our inveterate and natural enemies, the French; and all this without the appropriation of any tax by stamps, or stamp acts, laid upon our fellow subjects, in any part of the King's dominions, for defraying the expence thereof. This place, Sir, was at first the asylum of liberty, and we hope, will ever be preserved sacred to it, though it was then no more than a barren wilderness, inhabited only by savage men and beasts. To this place our Fathers (whose memories be revered) possessed of the principles of liberty in their purity, disdaining slavery, fled to enjoy those privileges, which they had an undoubted right to, but were deprived of, by the hands of violence and oppression, in their native country. We, Sir, their posterity, the freeholders, and other inhabitants of this town, legally assembled for that purpose, possessed of the same sentiments, and retaining the same ardour for liberty, think it our indispensable duty, on this occasion, to express to you these our sentiments of the stamp-act, and its fatal consequences to this country, and to enjoin upon you, as you regard not only the welfare, but the very being of this people, that you (consistent with our allegiance to the King, and relation to the government of Great Britain) disregarding all proposals for that purpose, exert all your power and influence in opposition to the stamp act, at least till we hear the success of our petitions for relief. We likewise, to avoid disgracing the memories of our ancestors, as well as the reproaches of our own consciences, and the curses of posterity, recommend it to you, to obtain, if possible, in the honorable house of representatives of this province, a full and explicit assertion of our rights, and to have the same entered on their public records, that all generations yet to come, may be convinced, that we have [68] not only a just sense of our rights and liberties, but that we never, with submission to Divine Providence, will be slaves to any power on earth.

The expediency of calling a continental Congress to be composed of deputies from each of the provinces, had early occurred to the people of Massachusetts.

1765 June 6

The assembly of that province passed a resolution in favour of that measure, and fixed on New-York as the place, and the second Tuesday of October, as the time, for holding the same. Soon after, they sent circular letters to the speakers of the several assemblies, requesting their concurrence. This first advance towards continental union was seconded in South-Carolina, before

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it had been agreed to by any colony to the southward of New England. The example of this province had a considerable influence in recommending the measure to others, who were divided in their opinions, on the propriety of it.

The assemblies of Virginia, North-Carolina, and Georgia, were prevented, by their governors, from sending a deputation to this Congress. Twenty eight deputies from Massachusetts, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, and South-Carolina met at New-York; and after mature deliberation agreed on a declaration of their rights, and on a statement of their grievances. They asserted in strong terms, their exemption from all taxes, not imposed by their own representatives. They also concurred in a petition to the King, and memorial to the House of Lords, and a petition to the House of Commons. The colonies that were prevented from sending their representatives to this Congress, forwarded petitions, similar to those which were adopted by the deputies which attended.

While a variety of legal and illegal methods were adopted to oppose the stamp act, the first of November, on which it was to commence its operation, approached. This in Boston was ushered in by a funeral tolling of bells. Many shops and stores were shut. The effigies of the planners and friends of the stamp act, were carried [69] about the streets in public derision, and then torn in pieces, by the enraged populace. It was remarkable that though a large crowd was assembled, there was not the least violence, or disorder.

Nov. 1

At Portsmouth in New-Hampshire, the morning was ushered in, with tolling all the bells in town. In the course of the day, notice was given to the friends of liberty, to attend her funeral. A coffin, neatly ornamented inscribed with the word *Liberty* in large letters, was carried to the grave. The funeral procession began from the state house, attended with two unbraced drums. While the inhabitants who followed the coffin were in motion, minute guns were fired, and continued till the corpse arrived at the place of interment. Then an oration in favour of the deceased was pronounced. It was scarcely ended before the corpse was taken up, it having been perceived that some remains of life were left, at which the inscription was immediately altered to “Liberty revived.” The bells immediately exchanged their melancholy, for a more joyful sound, and satisfaction appeared in every countenance. The whole was conducted with decency, and without injury or insult, to any man’s person or property.

In Maryland, the effigy of the stamp master, on one side of which was written, “Tyranny” on the other “Oppression,” and across the breast, “Damn my country I’ll get money,” was carried through the streets, from the place of confinement, to the whipping post, and from thence to the pillory. After suffering many indignities, it was first hanged and than burnt.

The general aversion to the stamp act, was, by similar methods, in a variety of places, demonstrated. It is remarkable that the proceedings of the populace, on these occasions, were earned on with decorum, and regularity. They were not ebullitions of a thoughtless mob, but for the most part, planned by leading men of character and

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influence, who were friends to peace and order. These, knowing well that the bulk of mankind, are more led by their senses, than by their reason, conducted the public [70] exhibitions on that principle, with a view of making the stamp act, and its friends, both ridiculous, and odious.

1765

Though the stamp act was to have operated from the first of November; yet legal proceedings in the courts, were carried on as before. Vessels entered and departed without stamped papers. The printers boldly printed and circulated their news-papers, and found a sufficient number of readers, though they used common paper, in defiance of the act of parliament. In most departments, by common consent, business was carried on, as though no stamp act had existed. This was accompanied by spirited resolutions to risque all consequences, rather than submit to use the paper required by law. While these matters were in agitation, the colonists entered into associations against importing British manufactures, till the stamp act should be repealed. In this manner British liberty was made to operate against British tyranny. Agreeably to the free constitution of Great Britain, the subject was at liberty to buy, or not to buy, as he pleased. By suspending their future purchases on the repeal of the stamp act, the colonists made it the interest of merchants, and manufacturers, to solicit for that repeal. They had usually taken off so great a proportion of British manufactures, that the sudden stoppage of all their orders, amounting, annually, to several millions sterling, threw some thousands in the Mother Country out of employment, and induced them, from a regard to their own interest, to advocate the measures wished for by America. The petitions from the colonies were seconded by petitions from the merchants and manufacturers of Great-Britain. What the former prayed for as a matter of right, and connected with their liberties, the latter also solicited from motives of immediate advantage. In order to remedy the deficiency of British goods, the colonists betook themselves to a variety of necessary domestic manufactures. In a little time, large quantities of course and common clothes were brought to market, and these though dearer, and of a worse quality, were cheerfully preferred to similar articles, imported from Britain. That wool might not be wanting, they entered into resolutions [71] to abstain from eating lambs. Foreign elegancies were generally laid aside. The women were as exemplary as the men, in various instances of self denial. With great readiness, they refused every article of decoration for their persons, and of luxury for their tables. These restrictions, which the colonists had voluntarily imposed on themselves, were so well observed, that multitudes of artificers in England, were reduced to great distress, and some of their most flourishing manufactories, were, in a great measure, at a stand. An association was entered into by many of the sons of liberty, the name given to those who were opposed to the stamp act, by which they agreed “to march with the utmost expedition at their own proper costs and expence, with their whole force to the relief of those that should be in danger from the stamp act, or its promoters and abettors, or any thing relative to it, on account of any thing that may have been done, in opposition to its obtaining.” This was subscribed by so many in New-York and New-England, that nothing but a repeal could have prevented the immediate commencement of a civil war.

From the decided opposition to the stamp act, which had been by the colonies adopted, it became necessary for Great Britain to enforce, or to repeal it. Both

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methods of proceeding had supporters. The opposers of a repeal urged arguments, drawn from the dignity of the nation, the danger of giving way to the clamours of the Americans, and the consequences of weakening parliamentary authority over the colonies. On the other hand it was evident, from the determined opposition of the colonies, that it could not be enforced without a civil war, by which, in every event, the nation must be a loser. In the course of these discussions, Dr. Franklin was examined at the bar of the House of Commons, and gave extensive information on the state of American affairs, and the impolicy of the stamp act, which contributed much to remove prejudices, and to produce a disposition that was friendly to a repeal.

Some speakers of great weight, in both houses of parliament, denied their right of taxing the colonies. The [72] most distinguished supporters of this opinion were Lord Camden, in the House of Peers, and Mr. Pitt, in the House of Commons. The former, in strong language, said, “My position is this, I repeat it, I will maintain it to my last hour. Taxation and representation are inseparable. This position is founded on the laws of nature. It is more, it is itself an eternal law of nature. For whatever is a man’s own, is absolutely his own. No man has a right to take it from him without his consent. Whoever attempts to do it, attempts an injury, whoever does it, commits a robbery.” Mr. Pitt, with an original boldness of expression, justified the colonists, in opposing the stamp-act. “You have no right,” said he, “to tax America. I rejoice, that America has resisted. Three millions of our fellow subjects so lost to every sense of virtue, as tamely to give up their liberties, would be fit instruments to make slaves of the rest.” He concluded with giving his advice, that the stamp-act be repealed absolutely, totally, and immediately, that the reason for the repeal be assigned, that it was founded on an erroneous principle. “At the same time,” said he, “let the sovereign authority of this country, over the colonies, be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever; that we may bind their trade, confine their manufactures, and exercise every power, except that of taking their money out of their pockets, without their consent.” The approbation of this illustrious statesman, whose distinguished abilities had raised Great Britain to the highest pitch of renown, inspired the Americans with additional confidence, in the rectitude of their claims of exemption from parliamentary taxation, and emboldened them to farther opposition, when at a future day, as shall be hereafter related, the project of an American revenue was resumed. After much debating, and two protests in the House of Lords, and passing an act “for securing the dependence of America on Great Britain” the repeal of the stamp act was finally carried.

March 18

This event gave great joy in London. Ships in the river Thames displayed their colours, and houses were illuminated all [73] over the city. It was no sooner known in America, than the colonists rescinded their resolutions, and recommenced their mercantile intercourse with the Mother Country. They presented their homespun clothes to the poor, and imported more largely than ever. The churches resounded with thanksgivings, and their public and private rejoicings knew no bounds. By letters, addresses, and other means, almost all the colonies shewed unequivocal marks of acknowledgment, and gratitude. So sudden a calm recovered after so violent a storm, is without a parallel in history. By the judicious sacrifice of one law, the parliament of Great Britain procured an acquiescence, in all that remained.

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There were enlightened patriots, fully impressed with an idea, that the immoderate joy of the colonists was disproportioned to the advantage they had gained.

The stamp act, though repealed, was not repealed on American principles. The preamble assigned as the reason thereof, “That the collecting the several duties and revenues, as by the said act was directed, would be attended with many inconveniencies, and productive of consequences, dangerous to the commercial interests of these kingdoms.” Though this reason was a good one in England, it was by no means satisfactory in America. At the same time that the stamp act was repealed, the absolute, unlimited supremacy of parliament was, in words, asserted. The opposers of the repeal contended for this as essential, the friends of that measure acquiesced in it to strengthen their party, and make sure of their object. Many of both sides thought, that the dignity of Great Britain required something of the kind to counterbalance the loss of authority, that might result from her yielding to the clamours of the colonists. The act for this purpose was called the declaratory act, and was in principle more hostile to American rights, than the stamp act; for it annulled those resolutions and acts of the provincial assemblies, in which they had asserted their right to exemption from all taxes, not imposed by their own representatives; and also enacted, “That the parliament [74] had, and of right ought to have, power to bind the colonies, in all cases whatsoever. ”

The bulk of the Americans, intoxicated with the advantage they had gained, overlooked this statute, which in one comprehensive sentence, not only deprived them of liberty and property, but of every right, incident to humanity. They considered it as a salvo for the honor of parliament, in repealing an act, which had so lately received their sanction, and flattered themselves it would remain a dead letter, and that although the right of taxation was in words retained, it would never be exercised. Unwilling to contend about paper claims of ideal supremacy, they returned to their habits of good humour, with the parent state.

The repeal of the stamp act, in a relative connexion with all its circumstances and consequences, was the first direct step to American independency. The claims of the two countries were not only left undecided, but a foundation was laid for their extending at a future period, to the impossibility of a compromise. Though for the present Great-Britain receded from enforcing her claim of American revenue, a numerous party, adhering to that system, reserved themselves for more favourable circumstances to enforce it; and at the same time the colonists, more enlightened on the subject, and more fully convinced of the rectitude of their claims, were encouraged to oppose it, under whatsoever form it should appear, or under whatsoever disguise it should cover itself.

Elevated with the advantage they had gained, from that day forward, instead of feeling themselves dependent on Great-Britain, they conceived that, in respect to commerce, she was dependent on them. It inspired them with such high ideas of the importance of their trade, that they considered the Mother Country to be brought under greater obligations to them, for purchasing her manufactures, than they were to her for protection and the administration of civil government. The freemen of British America, impressed with the exalting sentiments of patriotism and of liberty,

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conceived it to be within their power, by future combinations, at any time to [75] convulse, if not to bankrupt the nation, from which they sprung.

Opinions of this kind were strengthened by their local situation, favouring ideas, as extensive as the unexplored continent of which they were inhabitants. While the pride of Britons revolted at the thought of their colonies refusing subjection to that parliament which they obeyed, the Americans with equal haughtiness exclaimed, "shall the petty island of Great-Britain, scarce a speck on the map of the world, controul the free citizens of the great continent of America?"

These high sounding pretensions would have been harmless, or at most, spent themselves in words, had not a ruinous policy, untaught by recent experience, called them into serious action. Though the stamp act was repealed, an American revenue was still a favourite object with many in Great-Britain. The equity and the advantage of taxing the colonists by parliamentary authority were very apparent to their understandings, but the mode of effecting it, without hazarding the public tranquility, was not so obvious. Mr. Charles Townsend, afterwards chancellor of the exchequer, pawned his credit to accomplish what many so earnestly desired.
He accordingly brought into parliament a bill for granting duties in the British colonies on glass, paper, painters colours, and tea, 1767
which was afterwards enacted into a law. If the small duties imposed on these articles, had preceded the stamp act, they might have passed unobserved: but the late discussions occasioned by that act, had produced among the colonists, not only an animated conviction of their exemption from parliamentary taxation, but a jealousy of the designs of Great-Britain. The sentiments of the Americans on this subject, bore a great resemblance to those of their British countrymen of the preceding century, in the case of ship money. The amount of that tax was very moderate, little exceeding twenty thousand pounds. It was distributed upon the people with equality, and expended for the honour and advantage of the kingdom, yet all these circumstances could not reconcile the people of England to the imposition. [76] It was entirely arbitrary. "By the same right," said they, "any other tax may be imposed." In like manner the Americans considered these small duties, in the nature of an entering wedge, designed to make way for others, which would be greater and heavier. In a relative connection with late acts of parliament, respecting domestic manufactures and foreign commerce, laws for imposing taxes on British commodities exported to the colonies, formed a complete circle of oppression, from which there was no possibility of escaping. The colonists had been, previously, restrained from manufacturing certain articles, for their own consumption. Other acts confined them to the exclusive use of British merchandize. The addition of duties, put them wholly in the power and discretion of Great-Britain "We are not" said they,

permitted to import from any nation, other than our own parent state, and have been in some cases by her restrained from manufacturing for ourselves, and she claims a right to do so in every instance which is incompatible with her interest. To these restrictions we have hitherto submitted, but she now rises in her demands, and imposes duties on those commodities, the purchasing of which, elsewhere than at her market, her laws forbid, and the manufacturing of which for our own use, she may any moment she pleases restrain. If her right is valid to lay a small tax, it is equally so

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to lay a large one, for from the nature of the case, she must be guided exclusively by her own opinions of our ability, and of the propriety of the duties she may impose. Nothing is left for us but to complain, and, pay.

They contended that there was no real difference between the principle of these new duties and the stamp act, they were both designed to raise a revenue in America, and in the same manner. The payment of the duties, imposed by the stamp act, might have been eluded by the total disuse of stamped paper, and so might the payment of these duties, by the total disuse of those articles on which they were laid, but in neither case, without great difficulty. The colonists were therefore reduced to the hard alternative of being obliged totally to disuse articles of the greatest necessity in human [77] life, or to pay a tax without their consent. The fire of opposition, which had been smothered by the repeal of the stamp act, burned afresh against the same principle of taxation, exhibited in its new form. Mr. Dickenson, of Pennsylvania, on this occasion presented to the public a series of letters signed a Farmer, proving the extreme danger which threatened the liberties of America, from their acquiescence in a precedent which might establish the claim of parliamentary taxation. They were written with great animation, and were read with uncommon avidity. Their reasoning was so convincing, that many of the candid and disinterested citizens of Great-Britain, acknowledged that the American opposition to parliamentary taxation was justifiable. The enormous sums which the stamp act would have collected, had thoroughly alarmed the colonists for their property. It was now demonstrated by several writers, especially by the Pennsylvania Farmer, that a small tax, though more specious, was equally dangerous, as it established a precedent which eventually annihilated American property. The declaratory act which at first was the subject of but a few comments, was now dilated upon, as a foundation for every species of oppression; and the small duties, lately imposed, were considered as the beginning of a train of much greater evils.

Had the colonists admitted the propriety of raising a parliamentary revenue among them, the erection of an American board of commissioners for managing it, which was about this time instituted at Boston, would have been a convenience, rather than an injury; but united as they were in sentiments, of the contrariety of that measure to their natural and constitutional rights, they illy brooked the innovation. As it was coeval with the new duties, they considered it as a certain evidence that the project of an extensive American revenue, notwithstanding the repeal of the stamp act, was still in contemplation. A dislike to British taxation naturally produced a dislike to a board which was to be instrumental in that business, and occasioned many insults to its commissioners.

[78] The revenue act of 1767 produced resolves, petitions, addresses, and remonstrances, similar to those, with which the colonists opposed the stamp act. It also gave rise to a second association for suspending farther importations of British manufactures, till these offensive duties should be taken off. Uniformity, in these measures, was promoted by a circular letter from the assembly of Massachusetts to the speakers of the other assemblies.
This stated the petitions, and representations, which they had forwarded against the late duties, and strongly pointed out the

1768

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great difficulties, that must arise to themselves and their constituents, from the operation of acts of parliament, imposing duties on the unrepresented American colonies, and requesting a reciprocal free communication, on public affairs. Most of the provincial assemblies, as they had opportunities of deliberating on the subject, approved of the proceedings of the Massachusetts assembly, and harmonised with them in the measures, which they had adopted. In resolves, they stated their rights, in firm but decent language, and, in petitions, they prayed for a repeal of the late acts, which they considered as infringements on their liberties.

It is not unreasonable to suppose, that the minister, who planned these duties, hoped, that they would be regarded as regulations of trade. He might also presume, that as they amounted only to an inconsiderable sum, they would not give any alarm. The circular letter of the Massachusetts assembly, which laid the foundation for united petitions against them, gave therefore great offence. Lord Hillsborough, who had lately been appointed Secretary of State, for the American department, wrote letters to the governors of the respective provinces, urging them to exert their influence, to prevent the assemblies from taking any notice of it, and he called on the Massachusetts assembly, to rescind their proceedings on that subject. This measure was both injudicious and irritating. To require a public body to rescind a resolution, for sending a letter, which was already sent, answered, and acted upon, was a bad specimen of the wisdom of the new minister. To call a vote, for sending a circular [79] letter to invite the assemblies of the neighbouring colonies to communicate together in the pursuit of legal measures to obtain a redress of grievances, “a flagitious attempt to disturb the public peace,” appeared to the colonists a very injudicious application of harsh epithets to their constitutional right of petitioning. To threaten a new house of Assembly with dissolution, in case of their not agreeing to rescind an act of a former assembly, which was not executory, but executed, clashed no less with the dictates of common sense, than the constitutional rights of British colonists. The proposition for rescinding was negatived, by a majority of 97 to 17. The assembly was immediately dissolved, as had been threatened. This procedure of the new secretary was considered, by the colonists, as an attempt to suppress all communication of sentiments between them, and to prevent their united supplications, from reaching the royal ear. It answered no one valuable purpose, but naturally tended to mischief.

The bad humour, which from successive irritation already too much prevailed, was about this time wrought up to a high pitch of resentment and violence, on occasion of the seizure of Mr. Hancock’s sloop Liberty, for not having entered all the wines she had brought from Madeira.

1768 June 10

The popularity of her owner, the name of the sloop, and the general aversion to the board of commissioners, and parliamentary taxation, concurred to inflame the minds of the people. They resented the removal of the sloop from the wharf, as implying an apprehension of a rescue. They used every means in their power to interrupt the officers, in the execution of their business; and numbers swore that they would be revenged. Mr. Harrison the collector, Mr. Hallowell the comptroller, and Mr. Irwine the inspector of imports and exports, were so roughly handled, as to bring their lives in danger. The windows of some of their houses were broken, and the boat of the collector was dragged through

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the town, and burned on the common. Such was the temper and disposition of many of the inhabitants, that the commissioners of the customs thought [80] proper to retire on board the Romney man of war; and afterwards to Castle William. The commissioners, from the first moment of their institution, had been an eye sore to the people of Boston. This, though partly owing to their active zeal in detecting smugglers, principally arose from the association which existed in the minds of the inhabitants, between that board and an American revenue. The declaratory act of 1766, the revenue act of 1767; together with the pomp and expence of this board, so disproportionate to the small income of the present duties, conspired to convince not only the few who were benefited by smuggling, but the great body of enlightened freemen, that farther and greater impositions of parliamentary taxes were intended. In proportion as this opinion gained ground, the inhabitants became more disrespectful to the executive officers of the revenue, and more disposed, in the frenzy of patriotism, to commit outrages on their persons and property. The constant bickering that existed between them and the inhabitants, together with the steady opposition given by the latter, to the discharge of the official duties of the former, induced the commissioners and friends of an American revenue, to solicit the protection of a regular force, to be stationed at Boston. In compliance with their wishes, his Majesty ordered two regiments and some armed vessels to repair thither, for supporting and assisting the officers of the customs in the execution of their duty. This restrained the active exertion of that turbulent spirit, which since the passing of the late revenue laws had revived, but it added to the pre-existing causes thereof.

When it was reported in Boston, that one or more regiments were ordered there, a meeting of the inhabitants was called, and a committee appointed, to request the governor, to issue precepts, for convening a general assembly. He replied, “that he could not comply with their request, till he had received his Majesty’s commands for that purpose.” This answer being reported, some spirited resolutions were adopted.

Sept. 13

In particular it was voted, that the select men of Boston should write [81] to the select men of other towns, to propose, that a convention be held, of deputies from each, to meet at Faneuil hall, in Boston, on the 22d instant.

Sept. 22

It was afterwards voted, “That as there is apprehension in the minds of many, of an approaching war with France, those inhabitants, who are not provided, be requested to furnish themselves forthwith with arms.”

Ninety six towns, and eight districts, agreed to the proposal made by the inhabitants of Boston, and appointed deputies, to attend a convention, but the town of Hatfield refused its concurrence. When the deputies met, they conducted with moderation, disclaimed all legislative authority, advised the people to pay the greatest deference to government, and to wait patiently for a redress of their grievances, from his Majesty’s wisdom and moderation. After stating to the world the causes of their meeting, and an account of their proceedings, they dissolved themselves, after a short session, and went home.

Within a day after the convention broke up, the expected regiments arrived, and were peaceably received. Hints had been thrown out by some idle people, that they should

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not be permitted to come on shore. Preparations were made by the captains of the men of war in the harbour, to fire on the town, in case opposition had been made to their landing, but the crisis for an appeal to arms was not yet arrived. It was hoped by some, that the folly and rage of the Bostonians would have led them to this rash measure, and thereby have afforded an opportunity for giving them some naval and military correction, but both prudence and policy induced them to adopt a more temperate line of conduct.

While the contention was kept alive, by the successive irritations, which have been mentioned, there was, particularly in Massachusetts, a species of warfare carried on between the royal governors, and the provincial assemblies. Each watched the other with all the jealousy, which strong distrust could inspire. The latter regarded the former as instruments of power, wishing to pay their court to the Mother Country, by curbing the spirit of [82] American freedom, and the former kept a strict eye on the latter, lest they might smooth the way to independence, at which they were charged with aiming. Lieut. Governor Hutchinson, of Massachusetts, virtually challenged the assembly to a dispute, on the ground of the controversy between the two countries. This was accepted by the latter, and the subject, discussed with all the subtilty of argument, which the ingenuity of either party could suggest.

The war of words was not confined to the colonies. While the American assemblies passed resolutions, asserting their exclusive right to tax their constituents, the parliament by resolves, asserted their unlimited supremacy in and over the colonies. While the former, in their public acts, disclaimed all views of independence, they were successively represented in parliamentary resolves, royal speeches, and addresses from Lords and commons, as being in a state of disobedience to law and government, and as having proceeded to measures subversive of the constitution, and manifesting a disposition to throw off all subordination to Great Britain.

1769

In February 1769, both houses of parliament went one step beyond all that had preceded. They then concurred in a joint address to his majesty, in which they expressed their satisfaction in the measures his majesty had pursued—gave the strongest assurances, that they would effectually support him in such farther measures as might be found necessary, to maintain the civil magistrates in a due execution of the laws, in Massachusett's Bay, and beseeched him

to direct the governor to take the most effectual methods of procuring the fullest information, touching all treasons or misprisions of treason, committed within the government, since the 30th day of December, 1767; and to transmit the same together with the names of the persons who were most active in the commission of such offences, to one of the secretaries of state, in order that his majesty might issue a special commission for enquiring of, hearing, and determining, the said offences, within the realm of Great-Britain, pursuant to the provision of the statute of the 35th [83] of King Henry the 8th.

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The latter part of this address, which proposed the bringing of delinquents from Massachusetts, to be tried at a tribunal in Great-Britain, for crimes committed in America, underwent many severe animadversions.

It was asserted to be totally inconsistent with the spirit of the constitution, for in England a man charged with a crime, had a right to be tried in the county in which his offence was supposed to have been committed. “Justice is regularly and impartially administered in our courts,” said the colonists “and yet by direction of parliament, offenders are to be taken by force, together with all such persons as may be pointed out as witnesses and carried to England, there to be tried in a distant land, by a jury of strangers, and subject to all the disadvantages which result from want of friends, want of witnesses and want of money.”

The house of burgesses of Virginia met, soon after official accounts of the joint address of lords and commons on this subject reached America; and in a few days after their meeting, passed resolutions expressing

their exclusive right to tax their constituents, and their right to petition their sovereign for redress of grievances, and the lawfulness of procuring the concurrence of the other colonies in praying for the royal interposition, in favour of the violated rights of America: and that all trials for treason, or for any crime whatsoever, committed in that colony, ought to be before his majesty’s courts, within the said colony; and that the seizing any person residing in the said colony, suspected of any crime whatsoever, committed therein, and sending such person to places beyond the sea to be tried, was highly derogatory of the rights of British subjects.

The next day lord Botetourt the governour of Virginia, sent for the house of burgesses and addressed them as follows. “Mr. Speaker and gentlemen of the house of burgesses. I have heard of your resolves, and augur ill of their effects. You have made it my duty to dissolve you, and you are dissolved accordingly.”

[84] The assembly of North-Carolina adopted resolutions, similar to those of Virginia, for which Tryon their governour dissolved them. The members of the house of burgesses in Virginia, and of the assembly of North-Carolina, after their dissolution, met as private gentlemen, chose their late speakers moderators, and adopted resolutions against importing British goods. The non-importation agreement, was in this manner forwarded by the very measures which were intended to curb the spirit of American freedom, from which it sprung. Meetings of the associators were regularly held in the various provinces. Committees were appointed to examine all vessels arriving from Britain. Censures were freely passed on such as refused to concur in these associations, and their names published in the news-papers as enemies to their country. The regular acts of the provincial assemblies were not so much respected and obeyed as the decrees of these committees, the associations were in general, as well observed as could be expected; but nevertheless there were some collusions. The fear of mobs, of public resentment and contempt, co-operating with patriotism, preponderated over private interest and convenience. One of the importing merchants of Boston, who hesitated in his compliance with the determination of the inhabitants, was waited upon by a committee of tradesmen, with an axeman and a carpenter at

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their head, who informed him, “that 1000 men were waiting for his answer, and that if he refused to comply, they could not tell what might be the consequence. ” He complied, and the newspapers soon after published, that he did it voluntarily.

In Boston, Lieut. Governor Hutchinson endeavoured to promote a counter association, but without effect. The friends of importation objected, that till parliament made provision for the punishment of the confederacies against importation, a counter association would answer no other purpose, than to expose the associators to popular rage.

The Bostonians, about this time, went one step farther. They reshipped goods to Great Britain, instead of [85] storing them as formerly. This was resolved upon in a town meeting, on the information of an inhabitant, who communicated a letter he had lately received from a member of parliament, in which it was said, “that shipping back ten thousand pounds worth of goods would do more, than storing a hundred thousand.” This turned the scale, and procured a majority of votes for reshipping. Not only in this, but in many other instances, the violences of the colonists were fostered by individuals in Great Britain. A number of these were in principle with the Americans, in denying the right of parliament, to tax them, but others were more influenced by a spirit of opposition to the ministerial majority, than by a regard to the constitutional liberties of either country.

The non-importation agreement had now lasted some time, and by degrees had become general. Several of the colonial assemblies had been dissolved, or prorogued, for asserting the rights of their constituents. The royal governours, and other friends to an American revenue, were chagrined. The colonists were irritated. Good men, both in England and America, deplored these untoward events, and beheld with concern an increasing ill humour between those, who were bound by interest and affection, to be friends to each other.

In consequence of the American non-importation agreement, founded in opposition to the duties of 1767, the manufacturers of Great Britain experienced a renewal of the distresses, which followed the adoption of similar resolutions, in the year 1765, the repeal of these duties was therefore solicited by the same influence, which had procured the repeal of the stamp act. The rulers of Great Britain acted without decision. Instead of persevering in their own system of coercion or indeed in any one uniform system of colonial government, they struck out a middle line, embarrassed with the consequences, both of severity and of lenity, and which was without the complete benefits of either.

1769

Soon after the spirited address to his Majesty, last mentioned, had passed both houses of parliament, assurances were given for [86] repealing all the duties, imposed in 1767, excepting that of three-pence per pound on tea.

Anxious on the one hand to establish parliamentary supremacy, and on the other, afraid to stem the torrent of opposition, they conceded enough to weaken the former, and yet not enough to satisfy the latter. Had Great Britain generously repealed the whole, and for ever relinquished all claim to the right, or even the exercise of the right

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of taxation, the union of the two countries, might have lasted for ages. Had she seriously determined to compel the submission of the colonies, nothing could have been more unfriendly to this design, than her repeated concessions to their reiterated associations. The declaratory act, and the reservation of the duty on tea, left the cause of contention between the two countries, in full force, but the former was only a claim on paper, and the latter might be evaded, by refusing to purchase any tea, on which the parliamentary tax was imposed. The colonists, therefore, conceiving that their commerce might be renewed, without establishing any precedent, injurious to their liberties, relaxed in their associations, in every particular, except tea, and immediately recommenced the importation of all other articles of merchandise. A political calm once more took place. The parent state might now have closed the dispute for ever, and honorably receded, without a formal relinquishment of her claims. Neither the reservation of the duty on tea, by the British parliament, nor the exceptions made by the colonists, of importing no tea, on which a duty was imposed, would, if they had been left to their own operation, have disturbed the returning harmony of the two countries. Without fresh irritation, their wounds might have healed, and not a scar been left behind.

Unfortunately for the friends of union, so paltry a sum as 3 [pence for] so insignificant an article as tea, in consequence of a combination between the British ministry and East-India company, revived the dispute to the rending of the empire.

[87] These two abortive attempts to raise a parliamentary revenue in America, caused a fermentation in the minds of the colonists, and gave birth to many enquiries respecting their natural rights. Reflections and reasonings on this subject produced a high sense of liberty, and a general conviction that there could be no security for their property, if they were to be taxed at the discretion of a British parliament, in which they were unrepresented, and over which they had no controul. A determination not only to oppose this new claim of taxation, but to keep a strict watch, least it might be established in some disguised form, took possession of their minds.

It commonly happens in the discussion of doubtful claims between States, that the ground of the original dispute insensibly changes. When the mind is employed in investigating one subject, others associated with it, naturally present themselves. In the course of enquiries on the subject of parliamentary taxation, the restriction on the trade of the colonists—the necessity that was imposed on them to purchase British and other manufactures, loaded with their full proportion of all taxes paid by those who made or sold them, became more generally known. While American writers were vindicating their country from the charge of contributing nothing to the common expences of the empire, they were led to set off to their credit, the disadvantage of their being confined exclusively to purchase such manufactures in Britain. They instituted calculations by which they demonstrated that the monopoly of their trade, drew from them greater sums for the support of government, than were usually paid by an equal number of their fellow citizens of Great-Britain; and that taxation, superadded to such a monopoly, would leave them in a state of perfect uncompensated slavery. The investigation of these subjects brought matters into view which the friends of union ought to have kept out of sight. These circumstances, together with the extensive population of the Eastern States, and their adventurous

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spirit of commerce, suggested to some bold spirits that not only British taxation, but British navigation laws were unfriendly to the interests of [88] America. Speculations of this magnitude suited well with the extensive views of some capital merchants, but never would have roused the bulk of the people, had not new matter brought the dispute between the two countries to a point, in which every individual was interested.

On reviewing the conduct of the British ministry, respecting the colonies, much weakness as well as folly appears. For a succession of years there was a steady pursuit of American revenue, but great inconsistence in the projects for obtaining it. In one moment the parliament was for enforcing their laws, the next for repealing them. Doing and undoing, menacing and submitting, straining and relaxing, followed each other, in alternate succession. The object of administration, though twice relinquished as to any present efficiency, was invariably pursued, but without any unity of system.

On the 9th of May, 1769, the King in his speech to parliament, highly applauded their hearty concurrence, in maintaining the execution of the laws, in every part of his dominions. Five days after this speech, lord Hillsborough, secretary of state for the colonies, wrote to lord Botetourt, governor of Virginia:

I can take upon me to assure you, notwithstanding information to the contrary, from men, with factious and seditious views, that his Majesty's present administration have at no time entertained a design to propose to parliament, to lay any farther taxes upon America, for the purpose of raising a revenue, and that it is at present their intention to propose the next session of parliament, to take off the duties upon glass, paper, and colours, upon consideration of such duties having been laid contrary to the true principles of commerce.

The governor was also informed, that "his Majesty relied upon his prudence and fidelity, to make such an explanation of his Majesty's measures, as would tend to remove prejudices, and to re-establish mutual confidence and affection between the Mother Country and the colonies." In the exact spirit of his instructions, lord Botetourt addressed the Virginia assembly as follows:

It may possibly be objected, that as his [89] Majesty's present administration are not immortal, their successors may be inclined to attempt to undo what the present ministers shall have attempted to perform, and to that objection I can give but this answer, that it is my firm opinion, that the plan I have stated to you, will certainly take place, and that it will never be departed from; and so determined am I forever to abide by it, that I will be content to be declared infamous, if I do not to the last hour of my life, at all times, in all places, and upon all occasions, exert every power, with which I either am, or ever shall be, legally invested, in order to obtain and maintain for the continent of America, that satisfaction, which I have been authorised to promise this day, by the confidential servants of our gracious sovereign, who, to my certain knowledge, rates his honor so high, that he would rather part with his crown, than preserve it by deceit.

These assurances were received with transports of joy by the Virginians. They viewed them as pledging his Majesty for security, that the late design for raising a revenue in

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America was abandoned, and never more to be resumed. The Assembly of Virginia, in answer to lord Botetourt, expressed themselves thus:

We are sure our most gracious sovereign, under whatever changes may happen in his confidential servants, will remain immutable in the ways of truth and justice, and that he is incapable of deceiving his faithful subjects; and we esteem your lordship's information not only as warranted, but even sanctified by the royal word.

How far these solemn engagements with the Americans were observed, subsequent events will demonstrate. In a perfect reliance on them, most of the colonists returned to their ancient habits of good humour, and flattered themselves that no future parliament would undertake to give, or grant away their property.

From the royal and ministerial assurances given in favour of America, in the year 1769, and the subsequent repeal in 1770, of five sixths of the duties which had been imposed in 1767; together with the consequent renewal of the mercantile intercourse between Great-Britain [90] and the colonies: Many hoped that the contention between the two countries was finally closed. In all the provinces, excepting Massachusetts, appearances seemed to favour that opinion. Many incidents operated there to the prejudice of that harmony, which had begun, elsewhere, to return. The stationing a military force among them, was a fruitful source of uneasiness. The royal army had been brought thither, with the avowed design of enforcing submission to the Mother Country. Speeches from the throne, and addresses from both houses of parliament, had taught them to look upon the inhabitants as a factious turbulent people, who aimed at throwing off all subordination to Great-Britain.
They, on the other hand were accustomed to look upon the soldiery as instruments of tyranny, sent on purpose to dragoon them out of their liberties.

1770

Reciprocal insults soured the tempers, and mutual injuries embittered the passions, of the opposite parties: besides, some fiery spirits who thought it an indignity to have troops quartered among them, were constantly exciting the towns-people to quarrel with the soldiers.

On the second of March, a fray took place near Mr. Gray's ropewalk, between a private soldier of the 29th regiment, and an inhabitant. The former was supported by his comrades, the latter by the rope makers, till several on both sides were involved in the consequences. On the 5th a more dreadful scene was presented. The soldiers, when under arms, were pressed upon, insulted and pelted by a mob armed with clubs, sticks, and snowballs covering stones. They were also dared to fire. In this situation, one of the soldiers who had received a blow, in resentment fired at the supposed aggressor. This was followed by a single discharge from six others. Three of the inhabitants were killed, and five were dangerously wounded. The town was immediately in commotion. Such was the temper, force, and number of the inhabitants, that nothing but an engagement to remove the troops out of the town; together with the advice of moderate men, prevented the townsmen from falling on the soldiers. The killed were buried in one vault, and in a most respectful, [91] manner to express the indignation of the inhabitants at the slaughter of their brethren, by

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soldiers quartered among them, in violation of their civil liberties. Preston the captain who commanded the party, which fired on the inhabitants [was] committed to jail, and afterwards tried. The captain, and six of the men, were acquitted. Two were brought in guilty of man-slaughter. It appeared on the trial, that the soldiers were abused, insulted, threatened, and pelted, before they fired. It was also proved, that only seven guns were fired by the eight prisoners. These circumstances induced the jury to make a favourable verdict. The result of the trial reflected great honour on John Adams, and Josiah Quincy, the council for the prisoners, and also on the integrity of the jury, who ventured to give an upright verdict, in defiance of popular opinions.

The events of this tragical night, sunk deep in the minds of the people, and were made subservient to important purposes. The anniversary of it was observed with great solemnity. Eloquent orators, were successively employed to deliver an annual oration, to preserve the rememberance of it fresh in their minds. On these occasions the blessings of liberty—the horrors of slavery—the dangers of a standing army—the rights of the colonies, and a variety of such topics were presented to the public view, under their most pleasing and alarming forms. These annual orations administered fuel to the fire of liberty, and kept it burning, with an incessant flame.

The obstacles to returning harmony, which have already been mentioned, were increased, by making the governor and judges in Massachusetts, independent of the province. Formerly, they had been paid by yearly grants from the assembly, but about this time provision was made for paying their salaries by the crown. This was resented as a dangerous innovation, as an infraction of their charter, and as destroying that balance of power, which is essential to free governments. That the crown should pay the salary of the chief justice, was represented by the assembly, as a species of bribery, tending to bias his judicial determinations. They made it the foundation for [92] impeaching Mr. Justice Oliver, before the governor, but he excepted to their proceedings, as unconstitutional. The assembly, nevertheless, gained two points. They tendered the governor more odious to the inhabitants, and increased the public respect for themselves, as the counterpart of the British house of commons, and as guardians of the rights of the people.

A personal animosity, between Lieut. Governor Hutchinson, and some distinguished patriots, in Massachusetts, contributed to perpetuate a flame of discontent in that province, after it had elsewhere visibly abated. This was worked up, in the year 1773, to a high pitch, by a singular combination of circumstances. Some letters had been written, in the course of the dispute, by governor Hutchinson, lieut. governor Oliver, and others, in Boston, to persons in power and office, in England, which contained a very unfavourable representation of the state of public affairs, and tended to shew the necessity of coercive measures, and of changing the chartered system of government, to secure the obedience of the province. These letters fell into the hands of Dr. Franklin, agent of the province, who transmitted them to Boston. The indignation and animosity, which was excited on the receipt of them, knew no bounds. The house of assembly agreed on a petition and remonstrance to his Majesty, in which they charged their governor and lieut. governor with being betrayers of their trusts, and of the people they governed, and of giving private, partial, and false information. They also

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declared them enemies to the colonies, and prayed for justice against them, and for their speedy removal from their places.
These charges were carried through by a majority of 82 to 12. Jan. 29, 1774

This petition and remonstrance being transmitted to England, the merits of it were discussed before his Majesty's privy council. After a hearing before that board, in which Dr. Franklin represented the province of Massachusetts, the governor and lieut. governor were acquitted. Mr. Wedderburne, who defended the accused royal servants, in the course of his pleadings, inveighed against Dr. Franklin, in the severest language, as the fomenter of the disputes between the two countries. It [93] was no protection to this venerable sage, that being the agent of Massachusetts, he conceived it his duty to inform his constituents, of letters, written on public affairs, calculated to overturn their chartered constitution. The age, respectability, and high literary character of the subject of Mr. Wedderburne's philippic, turned the attention of the public, on the transaction. The insult offered to one of their public agents, and especially to one, who was both the idol and ornament of his native country, sunk deep in the minds of the Americans. That a faithful servant, whom they loved, and almost adored, should be insulted, for discharging his official duty, rankled in their hearts. Dr. Franklin was also immediately dismissed from the office of deputy postmaster general, which he held under the crown. It was not only by his transmission of these letters, that he had given offence to the British ministry, but by his popular writings, in favor of America. Two pieces of his, in particular, had lately attracted a large share of public attention, and had an extensive influence on both sides of the Atlantic. The one purported to be an edict from the King of Prussia, for taxing the inhabitants of Great-Britain, as descendants of emigrants from his dominions. The other was entitled, "Rules for reducing a great empire to a small one." In both of which he had exposed the claims of the Mother Country, and the proceedings of the British ministry, with the severity of poignant satire.

For ten years, there had now been but little intermission to the disputes between Great-Britain and her colonies. Their respective claims had never been compromised on middle ground. The calm which followed the repeal of the stamp act, was in a few months disturbed, by the revenue act of the year 1767. The tranquility which followed the repeal of five sixths of that act in the year 1770, was nothing more than a truce. The reservation of the duty on tea, made as an avowed evidence of the claims of Great-Britain to tax her colonies, kept alive the jealousy of the colonists, while at the same time the stationing of a standing army in Massachusetts—the continuance of a board of commissioners in Boston—the constituting the governors and judges of that province [94] independent of the people, were constant sources of irritation. The altercations which, at this period, were common between the royal governors and the provincial assemblies, together with numerous vindications of the claims of America, made the subject familiar to the colonists. The ground of the controversy was canvassed in every company. The more the Americans read, reasoned, and conversed on the subject, the more were they convinced of their right to the exclusive disposal of their property. This was followed by a determination to resist all encroachments on that palladium of British liberty. They were as strongly convinced of their right to refuse and resist parliamentary taxation, as the ruling powers of Great-Britain, of their right to demand and enforce their submission to it.

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The claims of the two countries, being thus irreconcilably opposed to each other, the partial calm which followed the concession of parliament in 1770, was liable to disturbance, from every incident. Under such circumstances, nothing less than the most guarded conduct on both sides could prevent a renewal of the controversy. Instead of following those prudential measures which would have kept the ground of the dispute out of sight, an impolitic scheme was concerted, between the British ministry and the East-India company, which placed the claims of Great-Britain and of her colonies in hostile array against each other.

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CHAPTER III

Tea Is Sent By The East India Company To America, And Is Refused, Or Destroyed, By The Colonists. Boston Port Act, &C.

In the year 1773, commenced a new era of the American controversy. To understand this in its origin, it is necessary to recur to the period, when the solitary duty on tea, was excepted from the partial repeal of the revenue act of 1767. When the duties which had been laid on glass, paper and painters colours, were taken off, a [95] respectable minority in parliament contended, that the duty on tea should also be removed. To this it was replied, “That as the Americans denied the legality of taxing them, a total repeal would be a virtual acquiescence in their claims; and that in order to preserve the rights of the Mother Country, it was necessary to retain the preamble, and at least one of the taxed articles.” It was answered, that a partial repeal would be a source of endless discontent—that the tax on tea would not defray the expences of collecting it. The motion in favour of a total repeal, was thrown out by a great majority. As the parliament thought fit to retain the tax on tea for an evidence of their right of taxation, the Americans in like manner, to be consistent with themselves, in denying that right, discontinued the importation of that commodity. While there was no attempt to introduce tea into the colonies against this declared sense of the inhabitants, these opposing claims were in no danger of collision. In that case the Mother Country might have solaced herself, with her ideal rights, and the colonies, with their favorite opinion of a total exemption from parliamentary taxes, without disturbing the public peace. This mode of compromising the dispute, which seemed at first designed as a salvo for the honor and consistency of both parties, was, by the interference of the East-India Company, in combination with the British ministry, completely overset.

The expected revenue from tea failed, in consequence of the American association to import none, on which a duty was charged. This, though partially violated in some of the colonies, was well observed in others, and particularly in Pennsylvania, where the duty was never paid on more than one chest of that commodity. This proceeded as much from the spirit of gain as of patriotism. The merchants found means of supplying their countrymen with tea, smuggled from countries to which the power of Britain did not extend. They doubtless conceived themselves to be supporting the rights of their country, by refusing to purchase tea from Britain, but they also reflected that if they could bring the same commodity to market, free of duty, their profits would be proportionably greater.

[96] The love of gain was not peculiar to the American merchants. From the diminished exportation to the colonies, the ware-houses of the British East-India company had in them about seventeen millions of pounds of tea, for which a market could not readily be procured. The ministry and East-India company unwilling to lose, the one the expected revenue from the sale of tea in America—the other, their usual

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commercial profits, agreed on a measure by which they supposed both would be secured.

The East-India company were by law authorized to export their tea free of duties to all places whatsoever. By this regulation, tea, though loaded with an exceptionable duty, would come cheaper to the colonies, than before it had been made a source of revenue: For the duty when taken off it, when exported from Great-Britain, was greater than what was to be paid on its importation into the colonies. Confident of success in finding a market for their tea, thus reduced in its price, and also of collecting a duty on its importation and sale in the colonies, the East-India company freighted several ships, with teas for the different colonies, and appointed agents for the disposal thereof. This measure united several interests in opposition to its execution. The patriotism of the Americans was corroborated by several auxiliary aids, no ways connected with the cause of liberty.

The merchants in England were alarmed at the losses that must accrue to themselves, from the exportations of the East-India company, and from the sales going through the hands of consignees. Letters were written from that country, to colonial patriots, urging that opposition to which they of themselves were prone.

The smugglers who were both numerous and powerful, could not relish a scheme which by underselling them, and taking a profitable branch of business, out of their hands, threatened a diminution of their gains. The colonists were too suspicious of the designs of Great-Britain to be imposed upon.

The cry of endangered liberty once more excited an alarm from New-Hampshire to Georgia. The first opposition [97] to the execution of the scheme adopted by the East-India company began with the American merchants. They saw a profitable branch of their trade likely to be lost, and the benefits of it to be transferred to people in Great-Britain. They felt for the wound that would be inflicted on their country's claim of exemption from parliamentary taxation, but they felt with equal sensibility for the losses they would sustain by the diversion of the streams of commerce, into unusual channels. Though the opposition originated in the selfishness of the merchants, it did not end there. The great body of the people, from principles of the purest patriotism, were brought over to second their wishes. They considered the whole scheme, as calculated to seduce them into an acquiescence with the views of parliament, for raising an American revenue. Much pains were taken to enlighten the colonists on this subject, and to convince them of the eminent hazard to which their liberties were exposed.

The provincial patriots insisted largely on the persevering determination of the parent state to establish her claim of taxation, by compelling the sale of tea in the colonies against the solemn resolutions and declared sense of the inhabitants, and that at a time when the commercial intercourse of the two countries was renewed, and their ancient harmony fast returning. The proposed venders of the tea were represented as revenue officers, employed in the collection of an unconstitutional tax, imposed by Great-Britain. The colonists reasoned with themselves, that as the duty and the price of the commodity were inseparably blended, if the tea was sold, every purchaser would pay

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a tax imposed by the British parliament, as part of the purchase money. To obviate this evil, and to prevent the liberties of a great country from being sacrificed by inconsiderate purchasers, sundry town meetings were held in the capitals of the different provinces, and combinations were formed to obstruct the sales of the tea, sent by the East-India company.

[98] The resolutions entered into by the inhabitants of Philadelphia, on October the 18th 1773, afford a good specimen of the whole—these were as follows:

> 1. That the disposal of their own property is the inherent right of freemen; that there can be no property in that which another can, of right, take from us without our consent; that the claim of parliament to tax America, is in other words, a claim of right to levy contributions on us at pleasure.
> 2. That the duty imposed by parliament upon tea landed in America, is a tax on the Americans, or levying contributions on them without their consent.
> 3. That the express purpose for which the tax is levied on the Americans—namely, for the support of government, administration of justice, and defence of his Majesty's dominions in America, has a direct tendency to render assemblies useless, and to introduce arbitrary government and slavery.
> 4. That a virtuous and steady opposition to this ministerial plan of governing America, is absolutely necessary to preserve even the shadow of liberty, and is a duty which every freeman in America owes to his country, to himself, and to his posterity.
> 5. That the resolution lately entered into by the East-India company, to send out their tea to America, subject to the payment of duties on its being landed here, is an open attempt to enforce this ministerial plan, and a violent attack upon the liberties of America.
> 6. That it is the duty of every American to oppose this attempt.
> 7. That whoever shall directly or indirectly, countenance this attempt, or in any wise aid or abet in unloading, receiving, or vending the tea sent, or to be sent out by the East-India company, while it remains subject to the payment of a duty here, is an enemy to his country.
> 8. That a committee be immediately chosen to wait on those gentlemen, who, it is reported, are appointed by the East-India company, to receive and sell said tea, and request them, from a regard to their own character [99] and the peace and good order of the city and province, immediately to resign their appointment.

As the time approached when the arrival of the tea ships might be soon expected, such measures were adopted as seemed most likely to prevent the landing of their cargoes. The tea consignees, appointed by the East-India company, were in several places compelled to relinquish their appointments, and no others could be found hardy enough to act in their stead. The pilots in the river Delaware, were warned not to conduct any of the tea ships into their harbour. In New-York, popular vengeance was denounced against all who would contribute, in any measure, to forward the views of the East-India company. The captains of the New-York and Philadelphia ships, being apprized of the resolution of the people, and fearing the consequences of landing a commodity, charged with an odious duty, in violation of their declared public

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sentiments, concluded to return directly to Great-Britain, without making any entry at the custom house.

It was otherwise in Massachusetts. The tea ships designed for the supply of Boston, were consigned to the sons, cousins, and particular friends, of governor Hutchinson. When they were called upon to resign, they answered, "That it was out of their power." The collector refused to give a clearance, unless the vessels were discharged of dutiable articles. The governor refused to give a pass for the vessels, unless properly qualified from the custom-house. The governor likewise requested Admiral Montague to guard the passages out of the harbour, and gave orders to suffer no vessels, coasters excepted, to pass the fortress from the town, without a pass signed by himself. From a combination of these circumstances, the return of the tea vessels from Boston, was rendered impossible. The inhabitants then, had no option, but to prevent the landing of the tea, or to suffer it to be landed, and depend on the unanimity of the people not to purchase it, or to destroy the tea, or to suffer a deep laid scheme against their sacred liberties to take effect. The first would have required incessant [100] watching by night, as well as by day, for a period of time, the duration of which no one could compute. The second would have been visionary to childishness, by suspending the liberties of a growing country, on the self denial and discretion of every tea drinker in the province. They viewed the tea as the vehicle of an unconstitutional tax, and as inseparably associated with it. To avoid the one, they resolved to destroy the other. About seventeen persons, dressed as Indians, repaired to the tea ships, broke open 342 chests of tea, and without doing any other damage, discharged their contents into the water.

Thus by the inflexibility of the governor, the issue of this business was different, at Boston, from what it was elsewhere. The whole cargoes of tea were returned from New-York and Philadelphia. That which was sent to Charleston was landed and stored, but not offered for sale. Mr. Hutchinson had repeatedly urged government, at home, to be firm and persevering, he could not therefore consistent with his honour depart from a line of conduct, he had so often and so strongly recommended to his superiors. He also believed that the inhabitants would not dare to perfect their engagements, and flattered himself that they would desist, when the critical moment arrived.

Admitting the rectitude of the American claims of exemption, from parliamentary taxation, the destruction of the tea by the Bostonians, was warranted by the great law of self preservation, for it was not possible for them, by any other means, within the compass of probability, to discharge the duty they owed to their country.

The event of this business was very different from what had been expected in England. The colonists acted with so much union and system, that there was not a single chest of any of the cargoes sent out by the East-India company, on this occasion, sold for their benefit.

Intelligence of these proceedings was, on the 7th of March 1774, communicated, in a message from the throne, to both houses of parliament. In this communication the conduct of the colonists was represented as [101] not only obstructing the commerce

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of Great-Britain, but as subversive of its constitution. The message was accompanied with a number of papers, containing copies and extracts of letters, from the several royal governors and others, from which it appeared that the opposition to the sale of the tea was not peculiar to Massachusetts, but common to all the colonies. These papers were accompanied with accounts setting forth, that nothing short of parliamentary interference was capable of re-establishing order among the turbulent colonists, and that therefore decisive measures should be immediately adopted for securing the dependence of the colonies. If the right of levying taxes on the Americans was vested in the parent state, these inferences were well founded; but if it was not, their conduct in resisting an invasion of their rights was justified, not only by many examples in the history of Britain, but by the spirit of the constitution of that country which they were opposing.

By the destruction of the tea, the people of Boston had incurred the sanction of penal laws. Those in Great-Britain who wished for an opportunity to take vengeance on that town, commonly supposed by them to be the mother of sedition and rebellion, rejoiced that her inhabitants had laid themselves open to castigation.

It was well known that the throwing of the tea into the river, did not originate with the persons who were the immediate instruments of that act of violence. That the whole had been concerted at a public meeting, and was, in a qualified sense, the act of the town. The universal indignation which in Great-Britain was excited against the people of Boston, pointed out to the ministry the suitableness of the present moment for humbling them. Though the ostensible ground of complaint was nothing more than a trespass on private property, committed by private persons, yet it was well known to be part of a long digested plan of resistance to parliamentary taxation. Every measure that might be pursued on the occasion seemed to be big with the fate of the empire. To proceed in the usual forms of law, appeared to the rulers in Great-Britain to be a departure from their [102] dignity. It was urged by the ministry that parliament, and parliament only, was capable of re-establishing tranquility among these turbulent people, and of bringing order out of confusion. To stifle all opposition from the merchants, the public papers were filled with writings which stated the impossibility of carrying on a future trade to America, if this flagrant outrage on commerce should go unpunished.

It was in vain urged by the minority that no good could arise from coercion, unless the minds of the Americans were made easy on the subject of taxation. Equally vain was a motion for a retrospect into the conduct of the ministry, which had provoked their resistance.

The parliament discovered an aversion from looking back to the original ground of the dispute, and confined themselves solely to the late misbehavior of the Americans, without any enquiry into the provoking causes thereof.

The violence of the Bostonians in destroying an article of commerce, was largely insisted upon, without any indulgence for the jealous spirit of liberty, in the descendants of Englishmen. The connexion between the tea and the unconstitutional duty imposed thereon, was overlooked, and the public mind of Great-Britain solely

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fixed on the obstruction given to commerce, by the turbulent colonists. The spirit raised against the Americans became as high, and as strong, as their most inveterate enemies could desire. This was not confined to the common people, but took possession of legislators, whose unclouded minds ought to be exalted above the mists of prejudice or partiality. Such, when they consult on public affairs, should be free from the impulses of passion, for it rarely happens that resolutions adopted in anger, are founded in wisdom. The parliament in Great-Britain, transported with indignation against the people of Boston, in a fit of rage resolved to take legislative vengeance, on that devoted town.

Disregarding the forms of her own constitution by which none are to be condemned unheard, or punished without a trial, a bill was finally passed, on the 17th day [103] after it was first moved for, by which the port of Boston was virtually blocked up, for it was legally precluded from the privilege of landing and discharging, or of lading and shipping of goods, wares and merchandise. The minister who proposed this measure, stated in support of it, that the opposition to the authority of parliament, had always originated in that colony, and had always been instigated by the seditious proceedings of the town of Boston: that it was therefore necessary to make an example of that town, which by an unparalleled outrage had violated the freedom of commerce; that Great-Britain would be wanting in the protection she owed to her peaceable subjects, if she did not punish such an insult, in an exemplary manner. He therefore proposed, that the town of Boston should be obliged to pay for the tea which had been destroyed. He was farther of opinion, that making a pecuniary satisfaction for the injury committed, would not alone be sufficient, but that in addition thereto, security must be given in future, that trade may be safely carried on—property protected—laws obeyed—and duties paid. He urged, therefore that it would be proper to take away from Boston the privilege of a port, until his Majesty should be satisfied in these particulars, and publicly declare in council, on a proper certificate, of the good behaviour of the town, that he was so satisfied. Until this should happen he proposed that the custom house officers should be removed to Salem. The minister hoped that this act would execute itself, or at most, that a few frigates would secure its execution. He also hoped, that the prospect of advantage to the town of Salem, from its being made the seat of the custom house, and from the occlusion of the port of Boston, would detach them from the interest of the latter, and dispose them to support a measure, from which they had so much to expect. It was also presumed that the other colonies would leave Boston to suffer the punishment due to her demerits. The abettors of parliamentary supremacy flattered themselves that this decided conduct of Great-Britain would, forever, extinguish all opposition from the refractory colonists to the claims of [104] the Mother Country; and the apparent equity of obliging a delinquent town to make reparation for an injury occasioned by the factious spirit of its inhabitants, silenced many of the friends of America. The consequences resulting from this measure, were the reverse of what were wished for by the first, and dreaded by the last.

By the operation of the Boston port act, the preceding situation of its inhabitants, and that of the East-India company was reversed. The former had more reason to complain of the disproportionate penalty to which they were indiscriminately subjected, than the latter of that outrage on their property, for which punishment had

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been inflicted. Hitherto the East-India company were the injured party, but from the passing of this act, the balance of injury was on the opposite side. If wrongs received entitled the former to reparation, the latter had a much stronger title on the same ground. For the act of seventeen or eighteen individuals, twice as many thousands were involved in one general calamity.

Both parties viewed the case on a much larger scale than that of municipal law. The people of Boston alledged, in vindication of their conduct, that the tea was a weapon aimed at their liberties, and that the same principles of self preservation which justify the breaking of the assassins sword uplifted for destruction, equally authorised the destruction of that tea which was the vehicle of an unconstitutional tax subversive of their liberties. The parliament of Great-Britain considered the act of the people of Boston, in destroying the tea, as an open defiance of that country. The demerit of the action as an offence against property, was lost, in the supposed superior demerit of treasonable intention to emancipate themselves from a state of colonial dependence. The Americans conceived the case to be intimately connected with their liberties; the inhabitants of Great-Britain with their supremacy, the former considered it as a duty they owed their country, to make a common cause with the people of Boston, the latter thought themselves under equal obligations to support the privileges of parliament.

[105] On the third reading of the Boston port bill, a petition was presented by the lord mayor, in the name of several natives and inhabitants of North America, then residing in London. It was drawn with great force of language, and stated that “the proceedings of parliament against Boston were repugnant to every principle of law and justice, and established a precedent by which no man in America could enjoy a moment’s security.” The friends of parliamentary supremacy had long regretted the democratic constitutions of the provinces as adverse to their schemes. They saw with concern the steady opposition that was given to their measures by the American legislatures. These constitutions were planned when Great-Britain neither feared nor cared for her colonies. Not suspecting that she was laying the foundation of future states, she granted charters that gave to the people so much of the powers of government as enabled them to make not only a formidable, but a regular, constitutional, opposition, to the country from which they sprung.

Long had her rulers wished for an opportunity to revoke these charters, and to new model these governments. The present moment seemed favourable to this design. The temper of the nation was high, and the resentment against the province of Massachusetts general and violent. The late outrages in Boston furnished a tolerable pretence for the attempt. An act of the British parliament speedily followed the one for shutting up the port of Boston, entitled, an act for the better regulating the government of Massachusetts. The object of this was to alter the charter of the province in the following particulars: The council or second branch of the legislature heretofore elected by the general court, was to be from the first of August 1774, appointed by the crown. The royal governor was also by the same act, invested with the power of appointing and removing all judges of the inferior courts of common pleas—commissioners of oyer and terminer—the attorney general—provost marshal—justices—sheriffs, &c. The town meetings which were sanctioned by the

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charter, were with a few exceptions [106] expressly forbidden to be held, without the leave of the governor or lieutenant governor in writing, expressing the special business of said meeting, first had and obtained; and with a farther restriction, that no matter should be treated of at these meetings, excepting the election of public officers, and the business expressed in the leave given by the governor or lieutenant governor. Jurymen which had been before elected by the freeholders and inhabitants of the several towns, were to be, by this new act, all summoned and returned, by the sheriffs of the respective counties. The whole executive government was taken out of the hands of the people, and the nomination of all important officers vested in the king or his governor.

This act excited a greater alarm than the port act. The one effected only the metropolis, the other the whole province. The one had the appearance of being merited, as it was well known that an act of violence had been committed by its inhabitants, under the sanction of a town meeting; but the other had no stronger justifying reason than that the proposed alterations were, in the opinion of the parliament, become absolutely necessary, in order to the preservation of the peace and good order of the said province. In support of this bill, the minister who brought it in alledged, that an executive power was wanting in the country. The very people, said he, who commit the riots are the posse comitatus in which the force of the civil power consists. He farther urged the futility of making laws, the execution of which, under the present form of government in Massachusetts, might be so easily evaded, and therefore contended for a necessity to alter the whole frame of their constitution, as far as related to its executive and judicial powers. In opposition it was urged, that the taking away the civil constitution of a whole people, secured by a solemn charter, upon general charges of delinquencies and defects, was a stretch of power of the most arbitrary and dangerous nature.

By the English constitution charters were sacred, and only revokable by a due course of law, and on a conviction [107] of misconduct. They were solemn compacts between the prince and the people, and without the constitutional power of either party. The abettors of the British schemes reasoned in a summary way. Said they,

the colonies, particularly Massachusetts, by their circular letters; associations and town meetings, have for years past thwarted all the measures of government, and are meditating independency. This turbulent spirit of theirs is fostered by their constitution, which invests them with too much power to be consistent with their state of subordination. Let us therefore lay the axe at the root—new model their charter, and lop off those privileges which they have abused.

When the human mind is agitated with passion it rarely discerns its own interest, and but faintly foresees consequences. Had the parliament stopped short with the Boston port act, the motives to union and to make a common cause with that metropolis, would have been feeble, perhaps ineffectual to have roused the other provinces; but the arbitrary mutilation of the important privileges contained in a solemn charter, without a trial—without a hearing, by the will of parliament, convinced the most moderate that the cause of Massachusetts was the cause of all the provinces.

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It readily occurred to those who guided the helm of Great-Britain, that riots would probably take place, in attempting the execution of the acts just mentioned. They also discerned that such was the temper of the people, that trials for murders committed in suppressing riots, if held in Massachusetts, would seldom terminate in favour of the parties, who were engaged on the side of government. To make their system compleat, it was necessary to go one step farther, and to screen their active friends from the apprehended partiality of such trials. It was therefore provided by law, that if any person was indicted for murder, or for any capital offence committed in aiding magistracy, that the governor might send the person so indicted to another colony, or to Great-Britain to be tried. This law was the subject of severe comments. It was considered as an act of indemnity to those who should [108] embrue their hands in the blood of their fellow citizens. It was asked how the relations of a murdered man could effectually prosecute, if they must go three thousand miles to attend that business. It was contended that the act by stopping the usual course of justice, would probably give rise to assassinations and dark revenge among individuals, and encourage all kinds of lawless violence. The charge of partiality was retorted. For said they, “If a party spirit against the authority of Great-Britain would condemn an active officer in Massachusetts as a murderer, the same party spirit for preserving the authority of Great-Britain, would, in that country, acquit a murderer as a spirited performer of his duty.[”] The case of captain Preston was also quoted as a proof of the impartial administration of justice in Massachusetts.

The same Natives of America who had petitioned against the Boston port bill, presented a second one against these two bills. With uncommon energy of language, they pointed out many constitutional objections against them, and concluded with fervently beseeching, “that the parliament would not, by passing them, reduce their countrymen to an abject state of misery and humiliation, or drive them to the last resource of despair.” The lords of the minority entered also a protest against the passing of each of these bills.

It was fortunate for the people of Boston, and those who wished to promote a combination of the colonies against Great-Britain, that these three several laws passed nearly at the same time. They were presented in quick progression, either in the form of bills or of acts, to the consideration of the inflamed Americans, and produced effects on their minds, infinitely greater than could have been expected from either, especially from the Boston port act alone.

When the fire of indignation, excited by the first, was burning, intelligence of these other acts, operated like fuel, and made it flame out with increasing vehemence. The three laws were considered as forming a complete system of tyranny, from the operation of which, there was no chance of making a peaceable escape.

[109] “By the first,” said they, “the property of unoffending thousands is arbitrarily taken away, for the act of a few individuals; by the second our chartered liberties are annihilated; and by the third, our lives may be destroyed with impunity. Property, liberty, and life, are all sacrificed on the altar of ministerial vengeance.” This mode of reasoning was not peculiar to Massachusetts. These three acts of parliament, contrary to the expectation of those who planned them, became a cement of a firm union

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among the colonies, from New-Hampshire to Georgia. They now openly said, "our charters and other rights and immunities must depend on the pleasure of parliament." They were sensible that they had all concurred, more or less, in the same line of opposition which had provoked these severe statutes against Massachusetts; and they believed that vengeance, though delayed, was not remitted, and that the only favour the least culpable could expect, was to be the last that would be devoured. The friends of the colonies contended, that these laws were in direct contradiction to the letter, and the spirit of the British constitution. Their opposers could support them on no stronger grounds than those of political necessity and expedience. They acknowledged them to be contrary to the established mode of proceeding, but defended them as tending ultimately to preserve the constitution, from the meditated independency of the colonies.

Such was the temper of the people in England, that the acts hitherto passed were popular. A general opinion had gone forth in the Mother Country, that the people of Massachusetts, by their violent opposition to government, had drawn on themselves merited correction.

The parliament did not stop here, but proceeded one step farther, which inflamed their enemies in America, and lost them friends in Great-Britain. The general clamor in the provinces was, that the proceedings in the parliament were arbitrary, and unconstitutional. Before they completed their memorable session in the beginning of the year 1774, they passed an act respecting the government of Quebec, which in the opinion of their friends merited these appellations. By this act the government of that [110] province was made to extend southward to the Ohio, and westward to the banks of the Mississippi, and northward, to the boundary of the Hudson's Bay company. The principal objects of the act were to form a legislative council, for all the affairs of the province, except taxation, which council should be appointed by the crown; the office to be held during pleasure, and his Majesty's Roman Catholic subjects to be entitled to a place therein—to establish the French laws, and a trial without jury, in civil cases, and the English laws, with a trial by jury, in criminal—to secure to the Roman Catholic clergy, except the regulars, the legal enjoyment of their estates, and their tythes, from all who were of their own religion. Not only the spirit but the letter of this act were so contrary to the English constitution, that it diminished the popularity of the measures which had been formed against the Americans.

Among the more southern colonists, it was conceived that its evident object was to make the inhabitants of Canada fit instruments, in the hands of power, to reduce them to a state of slavery.

They well remembered the embarrassments occasioned to them in the late war between France and England, by the French inhabitants of Canada—they supposed that the British administration meant, at this time, to use these people in the same line of attack, for their subjugation. As Great-Britain had new modelled the chartered government of Massachusetts, and claimed an authority so to do in every province, the colonists were apprehensive, that in the plenitude of her power, she would impose on each of them, in their turns, a constitution similar to what she had projected, for the province of Canada.

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They foresaw, or thought they foresaw, the annihilation of their ancient assemblies, and their whole legislative business transferred to creatures of the crown. The legal parliamentary right to a maintenance conferred on the clergy of the Roman Catholic religion, gave great offence to many in England, but the political consequences expected to result from it, were most dreaded by the colonists.

[111] They viewed the whole act as an evidence that hostilities were intended against them, and that part of it which respected religion, as calculated to make Roman Catholicks subservient to the purposes of military coercion.

The session of parliament which passed these memorable acts, had stretched far into summer. As it drew near a close, the most sanguine expectations were indulged, that from the resolution and great unanimity of parliament on all American questions, the submission of the colonies would be immediate, and their future obedience and tranquility effectually secured. The triumphs and congratulations of the friends of the ministry, were unusually great.

In passing the acts which have been just mentioned, dissentients in favour of America, were unusually few. The ministerial majority, believing that the refractory colonists depended chiefly on the countenance of their English abettors, were of opinion, that as soon as they received intelligence of the decrease of their friends, and of the decisive conduct of parliament, they would acquiesce in the will of Great-Britain—the fame and grandeur of the nation was such, that it was never imagined they would seriously dare to contend with so formidable a people. The late triumphs of Great-Britain had made such an impression on her rulers, that they believed the Americans, on seeing the ancient spirit of the nation revive, would not risque a trial of prowess with those fleets and armies, which the combined force of France and Spain, were unable to resist. By an impious confidence in their superior strength, they precipitated the nation into rash measures, from the dire effects of which, the world may learn a useful lesson.

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CHAPTER IV

Proceedings Of The Colonies In 1774, In Consequence Of The Boston Port Act, Viz.

The winter which followed the destruction of the tea in Boston, was an anxious one to those of the [112] colonists who were given to reflection. Many conjectures were formed about the line of conduct, Great-Britain would probably adopt, for the support of her dignity. The fears of the most timid were more than realized by the news of the Boston port bill.
This arrived on the 10th of May, and its operation was to commence the first of the next month. Various town meetings were called to deliberate on the state of public affairs. On the 13th of May, the town of Boston passed the following vote. 1774

That it is the opinion of this town, that if the other colonies come into a joint resolution to stop all importation from Great-Britain and the West-Indies, till the act for blocking up this harbour be repealed, the same will prove the salvation of North-America, and her liberties. On the other hand if they continue their exports and imports, there is high reason to fear that fraud, power, and the most odious oppression, will rise triumphant over justice, right, social happiness, and freedom. And moreover that this vote, be transmitted by the moderator, to all our sister colonies, in the name and behalf of this town.

Copies of this vote were transmitted to each of the colonies. The opposition to Great-Britain, had hitherto called forth the pens of the ingenious, and in some instances imposed the self denial of non-importation agreements: but the bulk of the people, had little to do with the dispute. The spirited conduct of the people of Boston, in destroying the tea, and the alarming precedents set by Great-Britain, in consequence thereof, brought subjects into discussion, with which every peasant and day labourer was concerned.

The patriots who had hitherto guided the helm, knew well, that if the other colonies did not support the people of Boston, they must be crushed, and it was equally obvious, that in their coercion a precedent, injurious to liberty, would be established. It was therefore the interest of Boston to draw in the other colonies. It was also the interest of the patriots in all the colonies, to bring over the bulk of the people, to adopt such efficient measures as were likely to extricate the inhabitants of [113] Boston from the unhappy situation in which they were involved. To effect these purposes much prudence as well as patriotism was necessary. The other provinces were but remotely affected by the fate of Massachusetts. They were happy, and had no cause, on their own account, to oppose the government of Great-Britain. That a people so circumstanced, should take part with a distressed neighbour, at the risque of incurring the resentment of the Mother Country, did not accord with the selfish maxims by which states, as well as individuals, are usually governed. The ruled are, for the most

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part, prone to suffer as long as evils are tolerable, and in general they must feel before they are roused to contend with their oppressors; but the Americans acted on a contrary principle.

They commenced an opposition to Great-Britain, and ultimately engaged in a defensive war, on speculation. They were not so much moved by oppression actually felt, as by a conviction that a foundation was laid, and a precedent about to be established for future oppressions. To convince the bulk of the people, that they had an interest in foregoing a present good, and submitting to a present evil, in order to obtain a future greater good, and to avoid a future greater evil, was the task assigned to the colonial patriots. But it called for the exertion of their utmost abilities. They effected it in a great measure, by means of the press. Pamphlets, essays, addresses and news paper dissertations were daily presented to the public, proving that Massachusetts was suffering in the common cause, and that interest and policy, as well as good neighbourhood, required the united exertions of all the colonies, in support of that much injured province. It was inculcated on the people, that if the ministerial schemes were suffered to take effect in Massachusetts, the other colonies must expect the loss of their charters, and that a new government would be imposed upon them, like that projected for Quebec. The king and parliament held no patronage in America, sufficient to oppose this torrent. The few who ventured to write in their favour found a difficulty in communicating their sentiments to the public. [114] No pensions or preferments awaited their exertions. Neglect and contempt were their usual portion, but popularity, consequence, and fame, were the rewards of those who stepped forward in the cause of liberty. In order to interest the great body of people, the few who were at the helm, disclaimed any thing more decisive, than convening the inhabitants, and taking their sense on what was proper to be done. In the mean time great pains were taken to prepare them for the adoption of vigorous measures.

The words whigs and tories, for want of better, were now introduced, as the distinguishing names of parties. By the former, were meant those who were for making a common cause with Boston, and supporting the colonies in their opposition to the claims of parliament. By the latter those who were at least so far favourers of Great-Britain, that they wished, either that no measures, or only palliative measures, should be adopted in opposition to her schemes.

These parties were so nearly balanced in New-York, that nothing more was agreed to at the first meeting of the inhabitants, than a recommendation to call a Congress.

At Philadelphia the patriots had a delicate part to act. The government of the colony being proprietary, a multitude of officers connected with that interest, had much to fear from convulsions, and nothing to expect from a revolution. A still greater body of people called Quakers, denied the lawfulness of war, and therefore could not adopt such measures for the support of Boston, as naturally tended to produce an event so adverse to their system of religion.

The citizens of Boston, not only sent forward their public letter, to the citizens of Philadelphia; but accompanied it with private communications to individuals of known patriotism and influence, in which they stated the impossibility of their

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standing alone, against the torrent of ministerial vengeance, and the indispensable necessity, that the leading colony of Pennsylvania, should afford them its support and countenance. The advocates in Philadelphia, for making a common cause [115] with Boston, were fully sensible of the state of parties in Pennsylvania. They saw the dispute with Great-Britain, brought to a crisis, and a new scene opening, which required exertions different from any heretofore made. The success of these they well knew, depended on the wisdom with which they were planned, and the union of the whole people, in carrying them into execution.

May 20

They saw the propriety of proceeding with the greatest circumspection; and therefore resolved at their first meeting, on nothing more than to call a general meeting of the inhabitants, on the next evening.

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At this second meeting the patriots had so much moderation and policy, as to urge nothing decisive, contenting themselves with taking the sense of the inhabitants, simply on the propriety of sending an answer to the public letter from Boston. This was universally approved. The letter agreed upon was firm but temperate.

They acknowledged the difficulty of offering advice on the present occasion, sympathized with the people of Boston in their distress, and observed that all lenient measures, for their relief, should be first tried. That if the making restitution for the tea destroyed, would put an end to the unhappy controversy, and leave the people of Boston upon their ancient footing of constitutional liberty, it could not admit of a doubt what part they should act. But that it was not the value of the tea, it was the indefeasible right of giving and granting their own money, which was the matter in consideration. That it was the common cause of America; and therefore necessary in their opinion, that a congress of deputies from the several colonies should be convened to devise means for restoring harmony between Great-Britain and the colonies, and preventing matters from coming to extremities. Till this could be brought about, they recommended firmness, prudence, and moderation to the immediate sufferers, assuring them, that the people of Pennsylvania would continue to evince a firm adherence to the cause of American liberty.

In order to awaken the attention of the people, a series of letters was published well calculated to rouse [116] them to a sense of their danger, and point out the fatal consequences of the late acts of parliament. Every newspaper teemed with dissertations in favour of liberty—with debates of the members of parliament, especially with the speeches of the favourers of America, and the protests of the dissenting lords. The latter had a particular effect on the colonists, and were considered by them as irrefragable proofs, that the late acts against Massachusetts were unconstitutional and arbitrary.

The minds of the people being thus prepared, the friends of liberty promoted a petition to the governor, for convening the assembly. This they knew would not be granted, and that the refusal of it, would smooth the way for calling the inhabitants together.

Jun. 18

The governor having refused to call the assembly, a general meeting of the inhabitants was requested. About 8000 met and adopted sundry spirited resolutions. In these they declared, that the Boston port act

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was unconstitutional—that it was expedient to convene a continental congress—to appoint a committee for the city and county of Philadelphia, to correspond with their sister colonies and the several counties of Pennsylvania, and to invest that committee with power, to determine on the best mode for collecting the sense of the province, and appointing deputies to attend a general congress.

Under the sanction of this last resolve, the committee appointed for that purpose, wrote a circular letter to all the counties of the Province, requesting them to appoint deputies to a general meeting, proposed to be held on the 15th of July, part of this letter was in the following words:

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We would not offer such an affront to the well known public spirit of Pennsylvanians, as to question your zeal on the present occasion. Our very existence in the rank of freemen, and the security of all that ought to be dear to us, evidently depends on our conducting this great cause to its proper issue, by firmness, wisdom, and magnanimity. It is with pleasure we assure you, that all the colonies from South-Carolina to New-Hampshire, are animated with one spirit, in the common cause, and consider that as the proper crisis for having our differences with the Mother Country [117] brought to some certain issue, and our liberties fixed upon a permanent foundation, this desirable end can only be accomplished by a free communication of sentiments, and a sincere and fervent regard for the interests of our common country.

The several counties readily complied with the request of the inhabitants of Philadelphia, and appointed deputies, who met at the time appointed, and passed sundry resolves, in which they reprobated the late acts of parliament—expressed their sympathy with Boston, as suffering in the common cause—approved of holding a congress, and declared their willingness to make any sacrifices that might be recommended by a congress, for securing their liberties.

Thus, without tumult, disorder, or divided counsels, the whole province of Pennsylvania was, by prudent management and temperate proceedings, brought into the opposition with its whole weight and influence. This is the more remarkable as it is probable, that if the sentiments of individuals had been separately taken, there would have been a majority against involving themselves in the consequences of taking part with the destroyers of the tea, at Boston.

While these proceedings were carrying on in Pennsylvania, three of the most distinguished patriots of Philadelphia, under color of an excursion of pleasure, made a tour throughout the province, in order to discover the real sentiments of the common people. They were well apprized of the consequences of taking the lead in a dispute which every day became more serious, unless they could depend on being supported by the yeomanry of the country. By freely associating and conversing with many of every class and denomination; they found them unanimous in that fundamental principle of the American controversy, “That the parliament of Great-Britain had no right to tax them.” From their general determination on this subject, a favourable prognostic was formed, of a successful opposition to the claims of Great-Britain.

In Virginia the house of burgesses on the 26th of May, 1774, resolved, that the first of June, the day on which [118] the operation of the Boston port bill was to commence,

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should be set apart by the members as a day of fasting, humiliation and prayer, "devoutly to implore the divine interposition, for averting the heavy calamities which threatened destruction to their civil rights, and the evils of a civil war—to give them one heart and one mind, to oppose by all just and proper means, every injury to American rights." On the publication of this resolution, the royal governor, the Earl of Dunmore dissolved them. The members notwithstanding their dissolution, met in their private capacities, and signed an agreement, in which, among other things, they declared, "that an attack made on one of their sister colonies, to compel submission to arbitrary taxes, was an attack made on all British America, and threatened ruin to the rights of all, unless the united wisdom of the whole be applied."

In South-Carolina the vote of the town of Boston of the 13th of May, being presented to a number of the leading citizens in Charleston, it was unanimously agreed to call a meeting of the inhabitants.

That this might be as general as possible, letters were sent to every parish and district in the province, and the people were invited to attend, either personally, or by their representatives at a general meeting of the inhabitants.

July 18, 1774

A large number assembled, in which were some, from almost every part of the province. The proceedings of the parliament against the province of Massachusetts were distinctly related to this convention. Without one dissenting voice, they passed sundry resolutions, expressive of their rights, and of their sympathy with the people of Boston. They also chose five delegates to represent them in a continental Congress, and invested them "with full powers, and authority, in behalf of them and their constituents, to concert, agree to, and effectually to prosecute such legal measures as in their opinion, and the opinion of the other members, would be most likely to obtain a redress of American grievances."

The events of this time may be transmitted to posterity, but the agitation of the public mind can never be fully comprehended, but by those who were witnesses of it.

[119] In the counties and towns of the several provinces, as well as in the cities, the people assembled and passed resolutions, expressive of their rights, and of their detestation of the late American acts of parliament. These had an instantaneous effect on the minds of thousands. Not only the young and impetuous, but the aged and temperate, joined in pronouncing them to be unconstitutional and oppressive. They viewed them as deadly weapons aimed at the vitals of that liberty, which they adored; as rendering abortive the generous pains taken by their forefathers, to procure for them in a new world, the quiet enjoyment of their rights. They were the subjects of their meditation when alone, and of their conversation when in company.

Within little more than a month, after the news of the Boston port bill reached America, it was communicated from state to state, and a flame was kindled, in almost every breast, through the widely extended provinces.

In order to understand the mode by which this flame was spread with such rapidity over so great an extent of country, it is necessary to observe, that the several colonies

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were divided into counties, and these again subdivided into districts, distinguished by the names of towns, townships, precincts, hundreds or parishes. In New-England the subdivisions which are called towns, were by law, bodies corporate—had their regular meetings, and might be occasionally convened by their proper officers. The advantages derived from these meetings, by uniting the whole body of the people in the measures taken to oppose the stamp act, induced other provinces to follow the example. Accordingly under the association which was formed to oppose the revenue act of 1767, committees were established not only in the capitals of every province, but also in most of the subordinate districts. Great-Britain, without designing it, had by her two preceding attempts at American revenue, taught her colonies not only the advantages, but the means of union. The system of committees, which prevailed in 1765, and also in 1767, was revived in 1774. By them there was a quick transmission of intelligence from the capital towns through [120] the subordinate districts to the whole body of the people, and a union of counsels and measures was effected among widely disseminated inhabitants.

It is perhaps impossible for human wisdom, to contrive any system more subservient to these purposes, than such a reciprocal exchange of intelligence, by committees. From the want of such a communication with each other, and consequently of union among themselves, many states have lost their liberties, and more have been unsuccessful in their attempts to regain them, after they have been lost.

What the eloquence and talents of Demosthenes could not effect among the states of Greece, might have been effected by the simple device of committees of correspondence. The few have been enabled to keep the many in subjection in every age, from the want of union among the latter. Several of the provinces of Spain complained of oppression under Charles the 5th, and in transports of rage took arms against him; but they never consulted or communicated with each other. They resisted separately, and were therefore separately subdued.

The colonists sympathizing with their distressed brethren in Massachusetts, felt themselves called upon, to do something for their relief; but to determine on what was proper to be done, did not so obviously occur. It was a natural idea, that for harmonising their measures, a Congress of deputies from each province should be convened. This early occurred to all, and being agreed to by all, was the means of procuring union and concert among inhabitants, removed several hundred miles from each other. In times less animated, various questions about the place and legality of their meeting, and about the extent of their power, would have produced a great diversity of sentiments; but on this occasion, by the special agency of providence, there was the same universal bent of inclination in the great body of the people. A sense of common danger, extinguished selfish passions. The public attention was fixed on the great cause of liberty. Local attachments and partialities, were sacrificed on the altar of patriotism.

There were not wanting moderate men, who would [121] have been willing to pay for the tea destroyed, if that would have put an end to the controversy, for it was not the value of the tea nor of the tax, but the indefeasible right of giving and granting their money, for which the colonists contended. The act of parliament was so cautiously

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worded, as to prevent the opening of the port of Boston, even though the East-India company had been reimbursed for all damages, "until it was made [to] appear to his majesty in council, that peace and obedience to the laws were so far restored in the town of Boston, that the trade of Great-Britain might be safely earried on there and his majesty's customs duly collected." The latter part of this limitation, "the due collection of his majesty's customs," was understood to comprehend submission to the late revenue laws. It was therefore inferred, that payment for the tea destroyed, would produce no certain relief, unless they were willing to give operation to the law, for raising a revenue on future importations of that commodity, and also to acquiesce in the late mutilation of their charter. As it was deliberately resolved, never to submit to either the most lukewarm of well informed patriots, possessing the public confidence, neither advised nor wished for the adoption of that measure. A few in Boston, who were known to be in the royal interest, proposed a resolution for that purpose, but they met with no support. Of the many who joined the British in the course of the war, there was scarcely an individual to be found in this early stage of the contriversy, who advocated the right of parliamentary taxation. There were doubtless many timid persons, who fearing the power of Britain, would rather have submitted to her encroachments, than risque the vengeance of her arms, but such for the most part suppressed their sentiments. Zeal for liberty, being immediately rewarded with applause, the patriots had every inducement to come forward, and avow their principles; but there was something so unpopular in appearing to be influenced by timidity, interest or excessive caution, when essential interests were attacked, that such persons shunned public notice, and sought the shade of retirement.

[122] In the three first months, which followed the shutting up of the port of Boston, the inhabitants of the colonies in hundreds of small circles, as well as in their provincial assemblies and congresses, expressed their abhorrence of the late proceedings of the British parliament against Massachusetts—their concurrence in the proposed measure of appointing deputies for a general congress, and their willingness to do and suffer whatever should be judged conducive to the establishment of their liberties.

A patriotic flame, created and diffused by the contagion of sympathy, was communicated to so many breasts, and reflected from such a variety of objects, as to become too intense to be resisted.

While the combination of the other colonies to support Boston, was gaining strength, new matter of dissention daily took place in Massachusetts. The resolution for shutting the port of Boston, was no sooner taken, than it was determined to order a military force to that town. General Gage, the commander in chief of the royal forces in North-America, was also sent thither, in the additional capacity of Governor of Massachusetts. He arrived in Boston on the third day after the inhabitants received the first intelligence of the Boston port bill. Though the people were irritated by that measure, and though their republican jealousy was hurt by the combination of the civil and military character in one person, yet the general was received with all the honours which had been usually paid to his predecessors. Soon after his arrival, two regiments of foot, with a detachment of artillery and some cannon, were landed in

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Boston. These troops were by degrees re-inforced, with others from Ireland, New-York, Halifax and Quebec.

The governor announced that he had the king's particular command, for holding the general court at Salem, after the first of June. When that eventful day arrived, the act for shutting up the port of Boston commenced its operation. It was devoutly kept at Williamsburgh, as a day of fasting and humiliation. In Philadelphia it was solemnized with every manifestation of public calamity and grief. The inhabitants shut up their houses. After [123] divine service a stillness reigned over the city, which exhibited an appearance of the deepest distress.

In Boston a new scene opened on the inhabitants. Hitherto, that town had been the seat of commerce and of plenty. The immense business carried on therein, afforded a comfortable subsistence to many thousands. The necessary—the useful, and even some of the elegant arts were cultivated among them. The citizens were polite and hospitable. In this happy state they were sentenced on the short notice of twenty one days, to a total deprivation of all means of subsisting. The blow reached every person. The rents of the landholders, either ceased or were greatly diminished. The immense property in stores and wharfs, was rendered comparatively useless. Labourers, artifices and others, employed in the numerous occupations created by an extensive trade, partook in the general calamity. They who depended on a regular income, flowing from previous acquisitions of property, as well as they who with the sweat of their brow, earned their daily subsistence, were equally deprived of the means of support; and the chief difference between them, was that the distresses of the former were rendered more intolerable by the recollection of past enjoyments. All these inconveniences and hardships, were born with a passive, but inflexible fortitude. Their determination to persist in the same line of conduct, which had been the occasion of their suffering was unabated.

The authors and advisers of the resolution for destroying the tea, were in the town, and still retained their popularity and influence. The execrations of the inhabitants fell not on them, but on the British parliament. Their countrymen acquitted them of all selfish designs, and believed that in their opposition to the measures of Great-Britain, they were actuated by an honest zeal for constitutional liberty. The sufferers in Boston had the consolation of sympathy from the other colonists. Contributions were raised in all quarters for their relief. Letters and addresses came to them from corporate bodies, town meetings and provincial conventions, applauding their conduct, and exhorting them to perseverance.

[124] The people of Marblehead, who by their proximity were likely to reap advantage from the distresses of Boston, generously offered the merchants thereof, the use of their harbour, wharfs, warehouses, and also their personal attendance on the lading or unlading of their goods free of all expence.

The inhabitants of Salem in an address to governor Gage, concluded with these remarkable words,

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By shutting up the port of Boston, some imagine that the course of trade might be turned hither, and to our benefit: But nature in the formation of our harbour, forbid, our becoming rivals in commerce with that convenient mart; and were it otherwise, we must be dead to every idea of justice, lost to all feelings of humanity, could we indulge one thought to seize on wealth, and raise our fortunes on the ruins of our suffering neighbours.

The Massachusetts general court met at Salem, according to adjournment, on the 7th of June. Several of the popular leaders took, in a private way, the sense of the members on what was proper to be done. Finding they were able to carry such measures as the public exigencies required, they prepared resolves and moved for their adoption. But before they went on the latter business, their door was shut.

One member nevertheless contrived means of sending information to governor Gage of what was doing. His secretary was sent off to dissolve the general court, but was refused admission. As he could obtain no entrance, he read the proclamation at the door, and immediately after in council, and thus dissolved the general court. The house while sitting with their doors shut, appointed five of the most respectable inhabitants as their committee, to meet committees from other provinces, that might be convened the first of September at Philadelphia—voted them 75 pounds sterling each, and recommended to the several towns and districts to raise the said sum by equitable proportions. By these means the designs of the governor were disappointed. His situation in every respect was truly disageeable. It was his duty to forward the execution of laws which were universally execrated. Zeal for [125] his master's service, prompted him to endeavour that they should be earned into full effect, but his progress was retarded by obstacles from every quarter. He had to transact his official business with a people who possessed a high sense of liberty, and were uncommonly ingenious in evading disagreeable acts of parliament. It was a part of his duty to prevent the calling of the town meetings after the first of August, 1774. These meetings were nevertheless held. On his proposing to exert authority for the dispersion of the people, he was told by the select men, that they had not offended against the act of parliament, for that only prohibited the calling of town meetings, and that no such call had been made: A former constitutional meeting before the first of August, having only adjourned themselves from time to time. Other evasions, equally founded on the letter, of even the late obnoxious laws, were practised.

As the summer advanced, the people of Massachusetts received stronger proofs of support from the neighbouring provinces. They were therefore encouraged to farther opposition. The inhabitants of the colonies, at this time, with regard to political opinions, might be divided into three classes; of these, one was for rushing precipitately into extremities. They were for immediately stopping all trade, and could not even brook the delay of waiting till the proposed continental congress should meet. Another party, equally respectable, both as to character, property, and patriotism, was more moderate, but not less firm. These were averse to the adoption of any violent resolutions, till all others were ineffectually tried. They wished that a clear statement of their rights, claims, and grievances, should precede every other measure. A third class disapproved of what was generally going on. A few from principle, and a persuasion that they ought to submit to the Mother Country; some

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from the love of ease, others from self-interest, but the bulk from fear of the mischievous consequences likely to follow: All these latter classes, for the most part, lay still, while the friends of liberty acted with spirit. If they, or any of them, ventured to oppose popular measures, they [126] were not supported, and therefore declined farther efforts. The resentment of the people was so strong against them, that they sought for peace by remaining quiet. The same indecision that made them willing to submit to Great-Britain, made them apparently acquiesce in popular measures which they disapproved. The spirited part of the community, being on the side of liberty, the patriots had the appearance of unanimity; though many either kept at a distance from public meetings, or voted against their own opinion, to secure themselves from resentment, and promote their present ease and interest.

Under the influence of those who were for the immediate adoption of efficacious measures, an agreement by the name of the solemn league and covenant, was adopted by numbers. The subscribers of this, bound themselves to suspend all commercial intercourse with Great-Britain, until the late obnoxious laws were repealed, and the colony of Massachusetts restored to its chartered rights.

June 29

General Gage published a proclamation, in which he stiled this solemn league and covenant, “An unlawful, hostile, and traitorous combination.” And all magistrates were charged, to apprehend and secure for trial, such as should have any agency in publishing or subscribing the same, or any similar covenant. This proclamation had no other effect, than to exercise the pens of the lawyers, in shewing that the association did not come within the description of legal treason, and that therefore the governor’s proclamation was not warranted by the principles of the constitution.

The late law, for regulating the government of the provinces, arrived near the beginning of August, and was accompanied with a list of 36 new counsellors, appointed by the crown, and in a mode, variant from that prescribed by the charter. Several of these in the first instance, declined an acceptance of the appointment. Those, who accepted of it, were every where declared to be enemies to their country. The new judges were rendered incapable of proceeding in their official duty. Upon opening the courts, the juries refused to be sworn, or to act in any manner, either under them, or in conformity to the late [127] regulations.

Aug. 4

In some places, the people assembled, and filled the court-houses and avenues to them in such a manner, that neither the judges, nor their officers could obtain entrance; and upon the sheriff’s commanding them, to make way for the court, they answered, “That they knew no court independent of the ancient laws of their country, and to none other would they submit.”

In imitation of his royal master, governor Gage issued a proclamation “for the encouragement of piety and virtue, and for the prevention and punishing vice, prophaneness and immorality.” In this proclamation, hypocrisy was inserted as one of the immoralities against which the people were warned. This was considered by the inhabitants, who had often been ridiculed for their strict attention to the forms of religion, to be a studied insult, and as such was more resented than an actual injury. It greatly added to the inflammation which had already taken place in their minds.

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The proceedings and apparent dispositions of the people, together with the military preparations which were daily made through the province, induced general Gage to fortify that neck of land which joins Boston to the continent.

He also seized upon the powder which was lodged in the arsenal at Charlestown.

Sept. 1

This excited a most violent and universal ferment. Several thousands of the people assembled at Cambridge, and it was with difficulty they were restrained from marching directly to Boston, to demand a delivery of the powder, with a resolution in case of refusal to attack the troops.

The people thus assembled, proceeded to lieutenant governor Oliver's house, and to the houses of several of the new counsellors, and obliged them to resign, and to declare that they would no more act under the laws lately enacted. In the confusion of these transactions a rumor went abroad, that the royal fleet and troops were firing upon the town of Boston. This was probably designed by the popular leaders, on purpose to ascertain what aid they might expect from the country in case of extremities. The result exceeded their most sanguine expectations. [128] In less than twenty four hours, there were upwards of 30,000 men in arms, and marching towards the capital. Other risings of the people took place in different parts of the colony, and their violence was such, that in a short time the new counsellors, the commissioners of the customs, and all who had taken an active part in favour of Great-Britain, were obliged to skreen themselves in Boston. The new seat of government at Salem was abandoned, and all the officers connected with the revenue were obliged to consult their safety, by taking up their residence in a place which an act of parliament had proscribed from all trade.

About this time, delegates from every town and district in the county of Suffolk, of which Boston is the county town, had a meeting, at which they prefaced a number of spirited resolutions, containing a detail of the particulars of their intended opposition to the late acts of parliament, with a general declaration, "That no obedience was due from the province to either, or any part of the said acts, but that they should be rejected as the attempts of a wicked administration to enslave America." The resolves of this meeting were sent on to Philadelphia, for the information and opinion of the Congress, which, as shall be hereafter related, had met there about this time.

The people of Massachusetts rightly judged, that from the decision of congress on these resolutions, they would be enabled to determine what support they might expect. Notwithstanding present appearances they feared that the other colonies, who were no more than remotely concerned, would not hazard the consequences of making a common cause with them, should subsequent events make it necessary to repel force by force. The decision of Congress exceeded their expectations. They "most thoroughly approved the wisdom and fortitude with which opposition to wicked ministerial measures had been hitherto conducted in Massachusetts, and recommended to them perseverance in the same firm and temperate conduct as expressed in the resolutions of the delegates from the county of Suffolk."

1774

By this approbation and advice, the [129] people of Massachusetts were encouraged to resistance, and the other

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colonies became bound to support them. The former, more in need of a bridle than a spur, proceeded as they had begun, but with additional confidence.

Oct. 4

Governor Gage had issued writs for holding a general assembly at Salem; but subsequent events, and the heat and violence which every where prevailed, made him think it expedient to counteract the writs by a proclamation for suspending the meeting of the members. The legality of a proclamation for that purpose was denied, and in defiance thereof 90 of the newly elected members met at the time and place appointed. They soon after resolved themselves into a provincial congress, and adjourned to Concord, about 20 miles from Charlestown. On their meeting there, they chose Mr. Hancock president, and proceeded to business. One of their first acts was to appoint a committee to wait on the governor, with a remonstrance, in which they apologized for their meeting, from the distressed state of the colony; complained of their grievances, and, after stating their apprehensions, from the hostile preparations on Boston neck, concluded with an earnest request, "That he would desist from the construction of the fortress at the entrance into Boston, and restore that pass to its natural state." The governor found some difficulty in giving them an answer, as they were not, in his opinion, a legal body, but the necessity of the times over-ruled his scruples. He replied, by expressing his indignation at the supposition, "That the lives, liberties or property of any people, except enemies, could be in danger, from English troops." He reminded them, that while they complained of alterations made in their charter, by acts of parliament, they were by their own acts subverting it altogether. He therefore warned them of the rocks they were upon; and to desist from such illegal and unconstitutional proceedings. The governor's admonitions were unavailing. The provincial congress appointed a committee to draw up a plan for the immediate defence of the province. It was resolved to inlist a number of the inhabitants under the name of minute men, who were to be under obligations to turn out at a [130] minute's warning. Jedediah Pribble, Artemas Ward and Seth Pomeroy, were elected general officers to command those minute men and the militia, in case they should be called out to action. A committee of safety, and a committee of supplies were appointed. These consisted of different persons and were intended for different purposes. The first were invested with an authority to assemble the militia when they thought proper, and were to recommend to the committee of supplies the purchase of such articles as the public exigencies required; the last were limited to the small sum of £15,627.15s. sterl. which was all the money at first voted to oppose the power and riches of Great Britain. Under this authority, and with these means, the committees of safety and of supplies, acting in concert, laid in a quantity of stores, partly at Worcester and partly at Concord.

Nov. 23

The same congress met again, and soon after resolved to get in readiness twelve thousand men to act on any given emergency; and that a fourth part of the militia should be inlisted as minute men, and receive pay. John Thomas and William Heath were appointed general officers. They also sent persons to New-Hampshire, Rhode-Island and Connecticut, to inform them of the steps they had taken and to request their co-operation in making up an army of 20,000 men. Committees from these several colonies met with a committee from the provincial congress of Massachusetts, and settled their plans. The proper period of commencing opposition to general Gage's troops, was determined to be whenever they marched out with their baggage, ammunition and artillery. The aid of the clergy

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was called in upon this occasion, and a circular letter was addressed to each of the several ministers in the province, requesting their assistance "in avoiding the dreadful slavery with which they were threatened."

As the winter approached, general Gage ordered barracks for his troops to be erected, but such was the superior influence of the popular leaders, that on their recommendation the workmen desisted from fulfilling the general's wishes, though the money for their labour would have been paid by the crown.

An application to New-York was equally unsuccessful, [131] and it was with difficulty that the troops could be furnished with winter lodgings. Similar obstructions were thrown in the way of getting winter covering for the soldiery. The merchants of New-York on being applied to, answered, "That they would never supply any article for the benefit of men who were sent as enemies to the country." The inhabitants of Massachusetts encouraged the desertion of the soldiers; and acted systematically in preventing their obtaining any other supplies but necessary provisions. The farmers were discouraged from selling them straw, timber, boards and such like articles of convenience. Straw, when purchased for their service, was frequently burnt. Vessels, with bricks intended for their use, were sunk, and carts with wood were overturned, and the king's property by one contrivance or other, was daily destroyed. 1774

A proclamation had been issued by the king, prohibiting the exportation of military stores from Britain, which reached America in the latter end of the year 1774. On receiving intelligence thereof, in Rhode-Island, the people seized upon and removed from the public battery about 40 pieces of cannon; and the assembly passed resolutions for obtaining arms and military stores by every means, and also for raising and arming the inhabitants: soon after 400 men beset his majesty's castle at Portsmouth. They sustained a fire from three four-pounders and small arms, but before they could be ready for a second fire, the assailants stormed the fort, and secured and confined the garrison till they broke open the powder house, and took the powder away. The powder being secured, the garrison was released from confinement. Dec. 14

Throughout this whole season, civil government, legislation, judicial proceedings and commercial regulations were in Massachusetts, to all appearance, annihilated. The provincial Congress exercised all the semblance of government which existed. From their coincidence, with the prevailing disposition, of the people, their resolutions had the weight and efficacy of laws.
Under the simple stile of recommendation, they organized the militia, made ordinances respecting public monies and such farther regulations [132] as were necessary for preserving order, and for defending themselves against the British troops. 1774

In this crisis it seemed to be the sense of the inhabitants of Massachusetts to wait events. They dreaded every evil that could flow from resistance, less than the operation of the late acts of parliament, but at the same time were averse to be the aggressors in bringing on a civil war. They chose to submit to a suspension of regular

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government, in preference to permitting the streams of justice to flow in the channel prescribed by the late acts of parliament, or to conducting them forcibly in the old one, sanctioned by their charter. From the extinction of the old, and the rejection of the new constitution, all regular government was for several months abolished. Some hundred thousands of people, were in a state of nature without legislation, magistrates or executive officers: there was nevertheless a surprising degree of order. Men of the purest morals were among the most active opposers of Great-Britain. While municipal laws ceased to operate, the laws of reason, morality and religion, bound the people to each other as a social band, and preserved as great a degree of a decorum as had at any time prevailed. Even those who were opposed to the proceedings of the populace when they were prudent and moderate, for the most part enjoyed safety both at home and abroad.

Though there were no civil officers, there was an abundance of military ones. These were chosen by the people, but exercised more authority than any who had been honoured with commissions from the governor. The inhabitants in every place devoted themselves to arms. Handling the musket, and training, were the fashionable amusements of the men, while the women by their presence, encouraged them to proceed. The sound of drums and fifes was to be heard in all directions. The young and the old were fired with a martial spirit. On experiment it was found, that to force on the inhabitants, a form of government, to which they were totally averse, was not within the fancied omnipotence of parliament.

1774

During these transactions in Massachusetts effectual [133] measures had been taken by the colonies for convening a continental Congress, though there was no one entitled to lead in this business, yet in consequence of the general impulse on the public mind, from a sense of common danger, not only the measure itself, but the time and place of meeting, were with surprising unanimity agreed upon. The colonies though formerly agitated with local prejudices, jealousies and aversions, were led to assemble together in a general diet, and to feel their weight and importance in a common union. Within four months from the day on which the first intelligence of the Boston port bill reached America, the deputies of eleven provinces had convened in Philadelphia, and in four days more, by the arrival of delegates from North-Carolina, there was a complete representation of twelve colonies, containing three millions of people, disseminated over 260,000 square miles of territory. Some of the delegates were appointed by the constitutional assemblies[;] in other provinces, where they were embarrassed by royal governors, the appointments were made in voluntary meetings of the people. Perhaps there never was a body of delegates more faithful to the interest of their constituents than the Congress of 1774. The public voice elevated none to a seat in that august assembly, but such as in addition to considerable abilities, possessed that ascendancy over the minds of their fellow citizens, which can neither be acquired by birth nor purchased by wealth. The instructions given to these deputies were various, but in general they contained strong professions of loyalty, and of constitutional dependence on the Mother Country: the framers of them acknowledged the prerogatives of the crown, and disclaimed every wish of separation from the Parent State. On the other hand, they were firm in declaring that they were entitled to all the rights of British born

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subjects, and that the late acts respecting Massachusetts were unconstitutional and oppressive.

1774

They particularly stated their grievances, and for the most part concurred in authorising their deputies to concert and agree to such measures in behalf of their constituents [134], as in their joint opinion would be most likely to obtain a redress of American grievances, ascertain American rights, on constitutional principles, and establish union and harmony between Great-Britain and the colonies. Of the various instructions, on this occasion, those which were drawn up by a convention of delegates, from every county in the province of Pennsylvania, and presented by them in a body to the constitutional assembly, were the most precise and determinate. By these it appears, that the Pennsylvanians were disposed to submit to the acts of navigation, as they then stood, and also to settle a certain annual revenue on his majesty, his heirs and successors, subject to the control of parliament, and to satisfy all damages done to the East-India company, provided their grievances were redressed, and an amicable compact was settled, which, by establishing American rights in the manner of a new Magna Charta, would have precluded future disputes.

Of the whole number of deputies, which formed the Continental Congress, of 1774, one half were lawyers. Gentlemen of that profession had acquired the confidence of the inhabitants by their exertions in the common cause. The previous measures in the respective provinces had been planned and carried into effect, more by lawyers than by any other order of men. Professionally taught the rights of the people, they were among the foremost to decry every attack made on their liberties. Bred in the habits of public speaking, they made a distinguished figure in the meetings of the people, and were particularly able to explain to them the tendency of the late acts of parliament. Exerting their abilities and influence in the cause of their country, they were rewarded with its confidence.

On the meeting of Congress, they chose Peyton Randolph their president, and Charles Thomson their secretary. They agreed as one of the rules of their doing business, that no entry should be made on their journals of any propositions discussed before them, to which they did not finally assent.

1774

This august body, to which all the colonies looked up [135] for wisdom and direction, had scarcely convened, when a dispute arose about the mode of conducting business, which alarmed the friends of union. It was contended by some, that the votes of the small provinces should not count as much as those of the larger ones. This was argued with some warmth and invidious comparisons were made between the extensive dominion of Virginia, and the small colonies of Delaware and Rhode-Island. The impossibility of fixing the comparative weight of each province, from the want of proper materials, induced Congress to resolve, that each should have one equal vote. The mode of conducting business being settled, two committees were appointed. One, to state the rights of the colonies, the several instances in which these rights had been violated, and the means most proper to be pursued for obtaining a restoration of them; the other, to examine and report the several statutes which affected the trade and manufactures of the colonies. The first

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committee were farther instructed to confine themselves to the consideration of such rights as had been infringed since the year 1763.

Congress soon after their meeting, agreed upon a declaration of their rights, by which it was among other things declared, that the inhabitants of the English colonies in North-America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, were entitled to life, liberty and property; and that they had never ceded to any sovereign power whatever, a right to dispose of either, without their consent.

1774

That their ancestors, who first settled the colonies were entitled to all the rights, liberties and immunities of free and natural born subjects within the realm of England, and that by their migrating to America, they by no means forfeited, surrendered or lost any of those rights; that the foundation of English liberty, and of all free government was, a right in the people to participate in their legislative council, and that as the English colonists were not, and could not be properly represented in the British parliament, they were entitled to a free and exclusive power of legislation in their [136] several provincial legislatures, in all cases of taxation and internal polity, subject only to the negative of their sovereign. They then run the line, between the supremacy of parliament, and the independency of the colonial legislatures by provisoes and restrictions, expressed in the following words.

But from the necessity of the case, and a regard to the mutual interests of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are *bona fide*, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the Mother Country, and the commercial benefits of its respective members, excluding every idea of taxation; internal and external for raising a revenue on the subjects in America without their consent.

This was the very hinge of the controversy. The absolute unlimited supremacy of the British parliament, both in legislation and taxation, was contended for on one side; while on the other, no farther authority was conceded than such a limited legislation, with regard to external commerce, as would combine the interest of the whole empire. In government, as well as in religion, there are mysteries from the close investigation of which little advantage can be expected. From the unity of the empire it was necessary, that some acts should extend over the whole. From the local situation of the colonies it was equally reasonable that their legislatures should at least in some matters be independent. Where the supremacy of the first ended and the independency of the last began, was to the best informed a puzzling question. Happy would it have been for both countries, had the discussion of this doubtful point never been attempted.

Congress also resolved, that the colonists were entitled to the common law of England, and more especially to the privilege of being tried by their peers of the vicinage. That they were entitled to the benefit of such of the English statutes as existed at the time of their colonization, and which they had found to be applicable to

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their local circumstances, and also to the immunities and privileges granted and confirmed to them by royal charters or secured [137] by provincial laws.

1774

That they had a right peaceably to assemble, consider of their grievances, and petition the king; that the keeping a standing army in the colonies, without the consent of the legislature of the colony where the army was kept, was against law. That it was indispensibly necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be independent of each other, and that therefore, the exercise of legislative power, in several colonies by a council, appointed during pleasure by the crown, was unconstitutional, dangerous and destructive to the freedom of American legislation. All of these liberties, Congress in behalf of themselves and their constituents, claimed, demanded and insisted upon as their indubitable rights, which could not be legally taken from them, altered or abridged by any power whatever, without their consent. Congress then resolved, that sundry acts, which had been passed in the reign of George the Third, were infringements and violations of the rights of the colonists, and that the repeal of them was essentially necessary, in order to restore harmony between Great-Britain and the colonies. The acts complained of, were as follow: The several acts of 4 George III. ch. 15 and ch. 34; 5 Geo. III. ch. 25; 6 Geo. III. ch. 52; 7 Geo. III. ch. 41 and ch. 46; 8 Geo. III. ch. 22 which imposed duties for the purpose of raising a revenue in America, extended the power of the admiralty courts beyond their ancient limits, deprived the American subject of trial by jury, authorized the judges certificate to indemnify the prosecutor from damages, that he might otherwise be liable to requiring oppressive security from a claimant of ships and goods seized before he was allowed to defend his property.

1774

Also 12 Geo. III. ch. 24 entitled, “An act for the better securing his majesty’s dock yards, magazines, ships, ammunition and stores,” which declares a new offence in America, and deprives the American subject of a constitutional trial by jury of the vicinage, by authorizing the trial of any person charged with the committing any offence described in the said act out of the realm, to be indicted [138] and tried for the same in any shire or county within the realm.

Also the three acts passed in the last session of parliament for stopping the port and blocking up the harbour of Boston, for altering the charter and government of Massachusetts Bay, and that which is entitled, “An act for the better administration of justice, &c.”

Also the act passed in the same session, for establishing the Roman Catholic religion in the province of Quebec, abolishing the equitable system of English laws, and erecting a tyranny there to the great danger (from so total a dissimilarity of religion, law and government) of the neighbouring British colonies, by the assistance of whose blood and treasure the said country had been conquered from France.

Also the act passed in the same session, for the better providing suitable quarters for officers and soldiers in his majesty’s service in North-America.

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Also that the keeping a standing army in several of these colonies in time of peace, without the consent of the legislature of that colony in which such army was kept, was against law.

Congress declared, that they could not submit to these grievous acts and measures. In hopes that their fellow subjects in Great-Britain would restore the colonies to that state in which both countries found happiness and prosperity, they resolved for the present only to pursue the following peaceable measures: 1st, To enter into a non-importation, non-consumption and non-exportation agreement or association; 2d, To prepare an address to the people of Great-Britain, and a memorial to the inhabitants of British America; and 3dly, to prepare a loyal address to his majesty.

By the association they bound themselves and their constituents, 1774

from and after the 1st day of December next, not to import into British America, from Great-Britain or Ireland, any goods, wares or merchandize, whatsoever; not to purchase any slave, imported after the said first day of December; not to purchase or use any tea, imported on account of the East-India company, or [139] any on which a duty hath been or shall be paid; and from and after the first day of the next ensuing March, neither to purchase or use any East-India tea whatever. That they would not after the tenth day of the next September, if their grievances were not previously redressed, export any commodity whatsoever, to Great-Britain, Ireland or the West-Indies, except rice to Europe. That the merchants should, as soon as possible, write to their correspondents in Great-Britain and Ireland, not to ship any goods to them on any pretence whatever; and if any merchant there, should ship any goods for America, in order to contravene the non-importation agreement, they would not afterwards have any commercial connexion with such merchant; that such as were owners of vessels, should give positive orders to their captains and masters, not to receive on board their vessels, any goods prohibited by the said non-importation agreement; that they would use their endeavors to improve the breed of sheep and increase their numbers to the greatest extent; that they would encourage frugality, oeconomy and industry, and promote agriculture, arts and American manufactures; that they would discountenance and discourage every species of extravagance and dissipation, and that on the death of relations or friends, they would wear no other mourning than a small piece of black crape or ribbon; that such as were venders of goods, should not take any advantage of the scarcity so as to raise their prices; that if any person should import goods after the first day of December, and before the first day of February, then next ensuing, the same ought to be immediately reshipped or delivered up to a committee to be stored or sold: in the last case, all the clear profits to be applied towards the relief of the inhabitants of Boston; and that if any goods should be imported after the first day of February, then next ensuing, they should be sent back without breaking any of the packages; that committees be chosen in every county, city and town, to observe the conduct of all persons touching the association, and to publish in gazettes, the names of the violaters of it, as foes to the rights of British America; that the committees of correspondence [140] in the respective colonies frequently inspect the entries of their custom houses, and inform each other from time to time of the true state thereof; that all manufactures of America should be sold at reasonable prices; and no advantages be taken of a future scarcity of goods; and lastly, that they would have no dealings or

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intercourse whatever, with any province or colony of North-America, which should not accede to, or should violate the aforesaid associations.

These several resolutions, they bound themselves and their constituents, by the sacred ties of virtue, honour and love of their country, to observe till their grievances were redressed.

In their address to the people of Great-Britain they complimented them for having at every hazard maintained their independence, and transmitted the rights of man and the blessings of liberty to their posterity, and requested them not to be surprised, that they who were descended from the same common ancestors, should refuse to surrender their rights, liberties and constitution. They proceeded to state their rights and their grievances, and to vindicate themselves from the charges of being seditious, impatient of government and desirous of independency. They summed up their wishes in the following words, "Place us in the same situation that we were, at the close of the last war, and our former harmony will be restored."

In the memorial of Congress to the inhabitants of the British colonies, they recapitulated the proceedings of Great-Britain against them, since the year 1763, in order to impress them with a belief, that a deliberate system was formed for abridging their liberties. They then proceeded to state the measures they had adopted to counteract this system, and gave the reasons which induced them to adopt the same. They encouraged them to submit to the inconveniences of non-importation and non-exportation by desiring them "to weigh in the opposite balance the endless miseries, they and their descendants must endure from an established arbitrary power." They concluded with informing them "that the schemes agitated against the colonies, had been so conducted as to render it prudent [141] to extend their views to mournful events, and to be in all respects prepared for every contingency." 1774

In the petition of Congress to the king, they begged leave to lay their grievances before the throne. After a particular enumeration of these, they observed that they wholly arose from a destructive system of colony administration, adopted since the conclusion of the last war. They assured his majesty that they had made such provision for defraying the charges of the administration of justice, and the support of civil government, as had been judged just and suitable to their respective circumstances, and that for the defence, protection and security of the colonies, their militia would be fully sufficient in time of peace, and in case of war they were ready and willing, when constitutionally required, to exert their most strenuous efforts in granting supplies and raising forces. They said, "we ask but for peace, liberty and safety. We wish not a diminution of the prerogative, nor do we solicit the grant of any new right in our favour. Your royal authority over us, and our connexion with Great-Britain, we shall always carefully and zealously endeavour to support and maintain." They then solicited for a redress of their grievances, which they had enumerated, and appealing to that Being, who searches thoroughly the hearts of his creatures, they solemnly professed, "that their counsels had been influenced by no other motives, than a dread of impending destruction." They concluded with imploring his majesty, "for the honor of Almighty God, for his own glory, for the interests of his family, for

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the safety of his kingdoms and dominions, that as the loving father of his whole people, connected by the same bonds of law, loyalty, faith and blood, though dwelling in various countries, he would not suffer the transcendent relation formed by these ties, to be farther violated by uncertain expectation of effects, that if attained never could compensate for the calamities through which they must be gained."

The Congress also addressed the French inhabitants of Canada. In this they stated the right they had on becoming English subjects, to the benefits of the English [142] constitution.

1774

They explained what these rights were, and pointed out the difference between the constitution imposed on them by act of parliament, and that to which as British subjects they were entitled. They introduced their countryman Montesquieu, as reprobating their parliamentary constitution, and exhorting them to join their fellow colonists in support of their common rights. They earnestly invited them to join with the other colonies in one social compact, formed on the generous principles of equal liberty, and to this end recommended, that they would chuse delegates to represent them in Congress.

All these addresses were written with uncommon ability. Coming from the heart, they were calculated to move it. Inspired by a love of liberty, and roused by a sense of common danger, the patriots of that day spoke, wrote and acted, with an animation unknown in times of public tranquility; but it was not so much on the probable effect of these addresses, that Congress founded their hopes of obtaining a redress of their grievances, as on the consequences which they expected from the operation of their non-importation, and non-exportation agreement. The success that had followed the adoption of a measure similar to the former, in two preceding instances, had encouraged the colonists to expect much from a repetition of it. They indulged, in extravagant opinions of the importance of their trade to Great-Britain. The measure of a non-exportation of their commodities was a new expedient, and from that, even more was expected than from the non-importation agreement. They supposed that it would produce such extensive distress among the merchants and manufacturers of Great-Britain, and especially among the inhabitants of the British West-India islands, as would induce their general co-operation in procuring a redress of American grievances. Events proved that young nations, like young people, are prone to over rate their own importance.

October 26

Congress having finished all this important business, in less than eight weeks, dissolved themselves, after giving their opinion,

"that another Congress should be held on the 10th of May next ensuing at Philadelphia, unless [143] the redress of their grievances should be previously obtained,"

1774

and recommended "to all the colonies to chuse deputies as soon as possible, to be ready to attend at that time and place, should events make their meeting necessary."

On the publication of the proceedings of Congress, the people obtained that information which they desired. Zealous to do something for their country, they patiently waited for the decision of that body, to whose direction they had resigned

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themselves. Their determinations were no sooner known, than they were cheerfully obeyed. Though their power was only advisory, yet their recommendations were more generally and more effectually carried into execution, than the laws of the best regulated states. Every individual felt his liberties endangered, and was impressed with an idea, that his safety consisted in union. A common interest in warding off a common danger, proved a powerful incentive to the most implicit submission; provincial congresses and subordinate, committees were every where instituted. The resolutions of the Continental Congress, were sanctioned with the universal approbation of these new representative bodies, and institutions were formed under their direction to carry them into effect.

The regular constitutional assemblies also gave their assent to the measures recommended. The assembly of New-York, was the only legislature which withheld its approbation. Their metropolis had long been head quarters of the British army in the colonies, and many of their best families were connected with people of influence in Great-Britain. The unequal distribution of their land, fostered an aristocratic spirit. From the operation of these and other causes, the party for royal government, was both more numerous and respectable in New-York, than in any of the other colonies.

The assembly of Pennsylvania, though composed of a majority of Quakers, or of those who were friendly to their interests, was the first legal body of representatives that ratified unanimously the acts of the general Congress.
They not only voted their approbation of what that [144] body had done, but appointed members to represent them in the new Congress, proposed to be held on the 10th day of May next ensuing, and took sundry steps to put the province in a posture of defence.

1774

To relieve the distresses of the people of Boston, liberal collections were made throughout the colonies, and forwarded for the supply of their immediate necessities. Domestic manufactures were encouraged, that the wants of the inhabitants from the non-importation agreement might be diminished, and the greatest zeal was discovered by a large majority of the people, to comply with the determinations of these new made representative bodies. In this manner, while the forms of the old government subsisted, a new and independent authority was virtually established. It was so universally the sense of the people, that the public good required a compliance with the recommendations of Congress, that any man who discovered an anxiety about the continuance of trade and business, was considered as a selfish individual, preferring private interest to the good of his country. Under the influence of these principles, the intemperate zeal of the populace, transported them frequently so far beyond the limits of moderation, as to apply singular punishments to particular persons, who contravened the general sense of the community.

The British ministry were not less disappointed than mortified at this unexpected combination of the colonies. They had flattered themselves with a belief, that the malcontents in Boston were a small party headed by a few factious men, and that the majority of the inhabitants would arrange themselves on the side of government, as soon as they found Great-Britain determined to support her authority, and should even Massachusetts take part with its offending capital, they could not believe that the

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other colonies would make a common cause in supporting so intemperate a colony: but should even that expectation fail, they conceived that their association must be founded on principles so adverse to the interests and feelings of individuals, that it could not be of long duration.

They were encouraged in these ill founded opinions by [145] the recollection that the colonies were frequently quarrelling about boundaries, clashing in interest, differing in policy, manners, customs, forms of government and religion, and under the influence of a variety of local prejudices, jealousies and aversions. They also remembered the obstacles which prevented the colonies from acting together, in the execution of schemes, planned for their own defence, in the late war against the French and Indians. The failure of the expected co-operation of the colonies in one uniform system at that time, was not only urged by the British ministry, as a reason for parliamentary control over the whole, but flattered them with a delusive hope, that they never could be brought to combine their counsels and their arms. Perhaps the colonists apprehended more danger from British encroachments on their liberties, than from French encroachment on Indian territories, in their neighbourhood: or more probably the time to part being come, the Governor of the Universe, by a secret influence on their minds, disposed them to union. From whatever cause it proceeded, it is certain, that a disposition to do, to suffer, and to accommodate, spread from breast to breast, and from colony to colony, beyond the reach of human calculation. It seemed as though one mind inspired the whole. The merchants put far behind them the gains of trade, and cheerfully submitted to a total stoppage of business, in obedience to the recommendations of men, invested with no legislative powers. The cultivators of the soil, with great unanimity assented to the determination, that the hard earned produce of their farms, should remain unshipped, although in case of a free exportation, many would have been eager to have purchased it from them, at advanced prices. The sons and daughters of ease, renounced imported conveniences, and voluntarily engaged to eat, drink, and wear, only such articles as their country afforded. These sacrifices were made, not from the pressure of present distress, but on the generous principle of sympathy, with an invaded sister colony, and the prudent policy of guarding against a precedent which might, in a future day, operate against their liberties.

1774

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This season of universal distress, exhibited a striking proof, how practicable it is for mankind to sacrifice ease, pleasure, and interest, when the mind is strongly excited by its passions. In the midst of their sufferings, cheerfulness appeared in the face of all the people. They counted every thing cheap in comparison with liberty, and readily gave up whatever tended to endanger it. A noble strain of generosity and mutual support was generally excited. A great and powerful diffusion of public spirit took place. The animation of the times, raised the actors in these scenes above themselves, and excited them to deeds of self denial, which the interested prudence of calmer seasons can scarcely credit.

1774

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CHAPTER V

Transactions In Great-Britain, In Consequence Of The Proceedings Of Congress, In 1774.

Some time before the proceedings of Congress reached England, it was justly apprehended that a non-importation agreement would be one of the measures they would adopt. The ministry apprehending that this event, by distressing the trading and manufacturing towns, might influence votes against the court, in the election of a new parliament, which was of course to come on in the succeeding year, suddenly dissolved the parliament, and immediately ordered a new one to be chosen. It was their design to have the whole business of elections over, before the inconveniences of a non-importation agreement could be felt. The nation was thus surprised into an election without knowing that the late American acts, had driven the colonies into a firm combination, to support, and make a common cause, with the people of Massachusetts. A new parliament was returned, which met in thirty-four days after the proceedings of Congress were first published in Philadelphia, and before they were known in Great-Britain.

This, for the most part consisted, either of the former members, or of those who held similar sentiments. 1774

[147] On the 30th of November, the king in his speech to his new parliament informed them,

that a most daring spirit of resistance and disobedience to the laws, unhappily prevailed in the province of Massachusetts, and had broke forth in fresh violences of a very criminal nature, and that these proceedings had been countenanced and encouraged in his other colonies, and unwarrantable attempts had been made to obstruct the commerce of his kingdoms by unlawful combinations, and that he had taken such measures, and given such orders as he judged most proper and effectual, for carrying into execution the laws which were passed in the last session of the late parliament, relative to the province of Massachusetts.

An address which was proposed in the house of commons in answer to this speech, produced a warm debate. The minister was reminded of the great effects he had predicted from the late American acts. “They were to humble that whole continent, without further trouble, and the punishment of Boston, was to strike so universal a panic on all the colonies, that it would be totally abandoned, and instead of obtaining relief, a dread of the same fate would awe the other provinces to a most respectful submission.” An address re-echoing the royal speech, was nevertheless carried by a great majority. A similar address was carried, after a spirited debate, in the upper house, but the lords Richmond, Portland, Rockingham, Stamford, Stanhope, Torrington, Ponsonby, Wycombe and Camden, entered a protest against it, which concluded with these remarkable words.

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Whatever may be the mischievous designs, or the inconsiderate temerity which leads others to this desperate course, we wish to be known as persons who have disapproved of measures so injurious in their past effects, and future tendency, and who are not in haste, without enquiry or information, to commit ourselves in declarations, which may precipitate our country into all the calamities of a civil war.

Soon after the meeting of the new parliament, the proceedings of the Congress reached Great-Britain.

1774

The first impression made by them, was in favour of [148] America. Administration seemed to be staggered, and their opposers triumphed, in the eventual truth of their prediction, that an universal confederacy to resist Great-Britain, would be the consequence of the late American acts. The secretary of state, after a days perusal, during which a council was held, said that the petition of Congress to the King, was a decent and proper one. He also cheerfully undertook to present it, and afterwards reported, that his majesty was pleased very graciously to receive it, and to promise to lay it before his two houses of parliament. From these favourable circumstances, the sanguine friends of America, concluded that it was intended to make the petition, the foundation of a change of measures, but these hopes were of short duration.

The warmer partisans of administration, placed so much confidence in the efficacy of the measures, they had lately taken to bring the Americans to obedience, that they regarded the boldest resolutions of Congress, as the idle clamors of an unruly multitude, which proper exertions on the part of Great-Britain would speedily silence. So much had been asserted and contradicted by both parties, that the bulk of the people could form no certain opinion, on the subject.

The parliament adjourned for the christmas holidays, without coming to any decision on American affairs.

1775

As soon as they met in January, a number of papers, containing information, were laid before them. These were mostly letters from governors, and other servants of his majesty, which detailed the opposition of the colonists, in language calculated to give a bad impression of their past conduct, and an alarming one of their future intentions.

It was a circumstance unfavourable to the lovers of peace, that the rulers of Great-Britain received almost the whole of their American intelligence from those, who had an interest in deceiving them. Governors, judges, revenue-officers, and other royal servants, being both appointed and paid by Great-Britain, fancied that zeal for the interest of that country, would be the most likely way to ensure their farther promotion. They were therefore, [149] in their official dispatches, to government, often tempted to abuse the colonists, with a view of magnifying their own watchfulness and recommending themselves to Great-Britain. The plain, simple language of truth, was not acceptable to courtly ears. Ministers received and caressed those, and those only, whose representations coincided with their own views and wishes. They who contended that by the spirit of the English constitution British subjects, residing on one side of the Atlantic, were entitled to equal privileges with

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those who resided on the other, were unnoticed, while the abettors of ministerial measures were heard with attention.

Jan. 20

In this hour of national infatuation lord Chatham, after a long retirement, resumed his seat in the house of lords, and exerted his unrivalled eloquence, in sundry attempts to dissuade his countrymen from attempting to subdue the Americans by force of arms. The native dignity of his superior genius, and the recollection of his important services, entitled him to distinguished notice. His language, voice, and gesture, were calculated to force conviction on his hearers. Though venerable for his age, he spoke with the fire of youth. He introduced himself with some general observations on the importance of the American quarrel. He enlarged on the dangerous events that were coming on the nation, in consequence of the present dispute. He arraigned the conduct of ministers with great severity, and reprobated their whole system of American politics, and moved that an humble address, be presented to his majesty, most humbly to advise and beseech him to dispatch orders to general Gage, to remove his majesty's forces from the town of Boston. His lordship supported this motion in a pathetic animated speech, but it was rejected by a great majority. From this and other circumstances it soon became evident, that the Americans could expect no more favour from the new parliament, than they had experienced from the late one.

1775

A majority in both houses was against them, and resolved to compel them to obedience; but a respectable minority in their favour was strongly seconded by petitions from the merchants and manufacturers, [150] throughout the kingdom, and particularly by those of London and Bristol. As these were well apprised of the consequences that must follow from a prosecution of coercive measures, and deeply interested in the event, they made uncommon exertions to prevent their adoption. They circumstantially pointed out the various evils that would result from them, and faithfully warned their countrymen of the danger, to which their commercial interests were exposed.

When the petition from the merchants of London was read in the house of commons, it was moved to refer it to the committee appointed to take into consideration the American papers; but it was moved by way of amendment on the ministerial side, that it should be referred to a separate committee, to meet on the 27th, the day succeeding that appointed for the consideration of American papers. This, though a dishonorable evasion, was carried by a majority of more than two to one.

A similar fate attended the petitions from Bristol, Glasgow, Norwich, Liverpool, Manchester, Birmingham, Woolverhampton, Dudley, and some other places. These on their being presented, were in like manner consigned to what the opposition humorously termed, the committee of oblivion.

About the same time a petition was offered from Mr. Bollan, Dr. Franklin, and Mr. Lee, stating that they were authorized by Congress to present their petition to the king, which his majesty had referred to that house, and that they were enabled to throw great light on the subject, and praying to be heard at the bar, in support of the said petition. The friends of the ministry alledged, that as Congress was not a legal body, nothing could be received from them. It was in vain replied, that the Congress,

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however illegal as to other purposes, was sufficiently legal for presenting a petition, and that as it was signed by the individual members of Congress, it might be received as a petition from individuals. That the signers of it were persons of great influence in America, and it was the right of all subjects to have their petitions heard.

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1775

In the course of the debate on Lord Chatham's motion for addressing his majesty to withdraw his troops from Boston, it had been observed by some lords in administration, that it was common and easy to censure their measures, but those who did so, proposed nothing better.

Feb. 1st

Lord Chatham answered, that he should not be one of those idle censurers, that he had thought long and closely upon the subject, and purposed soon to lay before their lordships the result of his meditations, in a plan for healing the differences between Great-Britain and the colonies, and for restoring peace to the empire. When he had matured his plan, he introduced it into the house, in the form of a bill for settling the troubles in America. In this he proposed that the colonists should make a full acknowledgement of the supremacy of the legislature, and the superintending power of the British parliament. The bill did not absolutely decide on the right of taxation, but partly as a matter of grace, and partly as a compromise, declared and enacted, "that no tollage tax, or other charge, should be levied in America, except by common consent in their provincial assemblies." It asserted the right of the king to send a legal army to any part of his dominions at all times, but declared, "that no military force could ever be lawfully employed to violate or destroy the just rights of the people." It also legalised the holding a Congress in the ensuing May for the double purpose "of recognising the supreme legislative authority, and superintending power of parliament over the colonies, and for making a free grant to the king, his heirs and successors, of a certain and perpetual revenue, subject to the disposition of parliament, and applicable to the alleviation of the national debt." On these conditions the bill proposed, "to restrain the powers of the admiralty courts to their ancient limits, and suspended for a limited time, those acts which had been complained of by Congress." It proposed to place the judges in America on the same footing, as to the holding of their salaries and offices, with those in England, and secured to the colonies all the privileges, franchises, and immunities, granted by their several charters and constitutions.

1775

His lordship introduced this [152] plan with a speech, in which he explained and supported every part of it. When he sat down, lord Dartmouth rose and said, "it contained matter of such magnitude as to require consideration, and therefore hoped, that the noble Earl did not expect their lordships to decide upon it by an immediate vote, but would be willing it should lie on the table for consideration." Lord Chatham answered, "that he expected no more," but lord Sandwich rose, and in a petulant speech opposed its being received at all, and gave his opinion, "that it ought immediately to be rejected with the contempt it deserved. That he could not believe it to be the production of any British peer—that it appeared to him rather the work of some American," and turning his face towards Dr. Franklin, who was leaning on the bar, said, "he fancied he had in his eye the person who drew it up, one of the bitterest and most mischievous enemies this country had ever known." This turned the eyes of many lords on the insulted American, who, with that self command, which is peculiar to great minds, kept his countenance unmoved. Several

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other lords of the administration gave their sentiments also, for rejecting lord Chatham's conciliatory bill, urging that it not only gave a sanction to the traiterous proceedings of the Congress already held, but legalised their future meeting. They enlarged on the rebellious temper and hostile disposition of the Americans, and said, "that, though the duty on tea was the pretence, the restrictions on their commerce, and the hopes of throwing them off, were the real motives of their disobedience, and that to concede now, would be to give up the point forever."

The Dukes of Richmond and Manchester, lord Camden, lord Lyttleton and others, were for receiving lord Chatham's conciliatory bill—some from approbation of its principles, but others only from a regard to the character and dignity of the house.

Lord Dartmouth who, from indecision rarely had any will or judgment of his own, and who with dispositions for the best measures, could be easily prevailed upon to join in support of the worst, finding the opposition from [153] his coadjutors in administration unexpectedly strong, turned round and gave his voice with them for immediately rejecting the plan; lord Chatham, in reply to lord Sandwich, declared, 1775

the bill proposed by him to be entirely his own, but he made no scruple to declare, that if he were the first minister of the country, and had the care of settling this momentous business, he should not be ashamed of publicly calling to his assistance a person so perfectly acquainted with the whole of the American affairs as the gentleman alluded to, and so injuriously reflected upon [(]Dr. Franklin). One whom all Europe held in high estimation for his knowledge and wisdom, and ranked with her Boyles and her Newtons—who was an honour, not only to the English nation, but to human nature.

The plan proposed by lord Chatham was rejected, by a majority of 64 to 32, and without being admitted to lie on the table. That a bill on so important a subject, offered by one of the first men of the age, and who, as prime minister of the nation, had but a few years before taken up Great-Britain when in the lowest despondency, and conducted her to victory and glory, through a war with two of the most powerful kingdoms of Europe, should be rejected without any consideration, or even a second reading, was not only a breach of decency, but a departure from that propriety of conduct which should mark the proceedings of a branch of the national legislature. It could not but strike every thinking American, that such legislators, influenced by passion, prejudice, and party spirit, many of whom were totally ignorant of the subject, and who would not give themselves an opportunity by a second reading, or farther consideration, to inform themselves better, were very unfit to exercise unlimited supremacy over three millions of virtuous, sensible people, inhabiting the other side of the globe.

On the day after the rejection of lord Chatham's bill, a petition was presented to the house of commons, from the planters of the sugar colonies residing in Great-Britain, and the merchants of London trading to the colonies.
In this they stated, that the British property in [154] the West-India islands amounted to upwards of 30 millions, and that a 1775

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further property of many millions was employed in the commerce created by the said islands, and that the profits and produce of these immense capitals which ultimately centered in Great-Britain, would be deranged and endangered by the continuance of the American troubles. The petitioners were on the 16th of the next month admitted to a hearing, when Mr. Glover, as their agent, ably demonstrated the folly and danger of persevering in the contest, but without any effect. The immediate coercion of the colonies was resolved upon, and the ministry would not suffer themselves to be diverted from its execution. They were confident of success, if they could once bring the controversy to the decision of arms. They expected more from conquest than they could promise themselves by negotiation or compromise. The free constitutions of the colonies and their rapid progress in population, were beheld with a jealous eye, as the natural means of independence. They conceived the most effectual method of retaining them long, would be to reduce them soon. They hoped to be able to extinguish remonstrance and debate by such a speedy and decisive conquest, as would give them an opportunity to new model the colonial constitutions, on such principles as would have prevented future altercations on the subject of their chartered rights. Every representation that tended to retard or obstruct the coercion of the colonies, was therefore considered as tending only to prolong the controversy. Confident of victory, and believing that nothing short of it would restore the peace of the empire, the ministry turned a deaf ear to all petitions and representations. They even presumed that the petitioners, when they found Great-Britain determined on war, would assist in carrying it on with vigour, in order to expedite the settlement of the dispute. They took it for granted, that when the petitioning towns were convinced that a renewal of the commercial intercourse between the two countries would be sooner obtained by going on, than turning back, that the same interest which led them at first to petition, would lead them afterwards to support coercive [155] measures, as the most effectual and shortest way of securing commerce from all future interruptions.

1775

The determination of ministers to persevere was also forwarded by hopes of the defection of New-York from her sister colonies. They flattered themselves, that when one link of the continental chain gave way, it would be easy to make an impression on the disjointed extremities.

Every attempt to close the breach which had been opened by the former parliament, having failed, and the ministry having made up their minds on the mode of proceeding with the colonists, their proposed plan was briefly unfolded. This was to send a greater force to America, and to bring in a temporary act to put a stop to all the foreign trade of the New England colonies, till they should make proper submissions and acknowledgments. An address to his majesty was at the same time moved for, to "beseech him to take the most effectual measures, to enforce due obedience to the laws and authority of the supreme legislature."

Truly critical was that moment to the union of the empire. A new parliament might, without the charge of inconsistency, have repealed acts, passed by a former one, which had been found inconvenient on experiment; but pride and passion, under the specious names of national dignity and zeal for the supremacy of parliament, induced the adoption of measures, for immediately compelling the submission of the colonies.

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The repeal of a few acts of parliament would, at this time, have satisfied America. Though she had been extending her claims, yet she was still willing that Great-Britain should monopolize her trade, and that the parliament should regulate it for the common benefit of the empire; nor was she disposed to abridge his majesty of any of his usual prerogatives. This authority was sufficient for the Mother Country to retain the colonists in a profitable state of subordination, and yet not so much as to be inconsistent with their claims, or the security of their most important interests. Britain viewed the matter in a different light.

1775

To recede at this time, would be to acknowledge, that the ministry had hitherto been in the [156] wrong, a concession rarely made by private persons, but more rarely still by men in public stations. The leading members in parliament, not distinguishing the opposition of freemen to unconstitutional innovations, from the turbulence of licentious mobs breaking over the bounds of law and constitution, supposed that to redress grievances, was to renounce sovereignty. This inference, in some degree, resulted from the broad basis which they had assigned to the claims of the Mother Country. If, as was contended, on the part of Great-Britain, they had a right to bind the colonies in all cases whatsoever, and the power of parliament over them was absolute and unlimited, they were precluded from rescinding any act of theirs, however oppressive, when demanded as a matter of right. They were too highly impressed with ideas of their unlimited authority to repeal any of their laws, on the principle, that they had not a constitutional power to enact them, and too unwise to adopt the same measure on the ground of political expediency. Unfortunately for both countries, two opinions were generally believed, neither of which was perhaps true in its utmost extent, and one of which was most assuredly false. The ministry and parliament of England proceeded on the idea, that the claims of the colonists amounted to absolute independence, and that a fixed resolution to renounce the sovereignty of Great-Britain was concealed, under the specious pretext of a redress of grievances. The Americans on the other hand, were equally confident that the Mother Country not only harboured designs unfriendly to their interests, but seriously intended to introduce arbitrary government. Jealousies of each other were reciprocally indulged to the destruction of all confidence, and to the final dismemberment of the empire.

In discussing the measures proposed by the minister for the coercion of the colonies, the whole ground of the American controversy was traversed.

1775

The comparative merits of concession and coercion were placed in every point of view. Some of the minority in both houses of parliament, pointed out the dangers that would attend a war with America—the likelihood of the interference of [157] other powers—the probability of losing, and the impossibility of gaining any thing more than was already possessed. On the other hand, the friends of the ministry asserted that the Americans had been long aiming at independence—that they were magnifying pretended grievances to cover a premeditated revolt—that it was the business and duty of Englishmen, at every hazard to prevent its completion, and to bring them back to a rememberance that their present greatness was owing to the Mother Country; and that even their existence had been purchased at an immense expence of British blood and treasure. They acknowledged the danger to be great, but said “it must be encountered; that every day’s delay increased the evil, and that it would be base and cowardly to shift off for the present

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an unavoidable contest, which must fall with accumulated weight on the heads of their posterity." The danger of foreign interference was denied, and it was contended that an appearance of vigorous measures, with a farther reinforcement of troops at Boston, would be sufficient to quell the disturbances; and it was urged, that the friends of government were both strong and numerous, and only waited for proper support, and favourable circumstances, to declare themselves.

After long and warm debates, and one or two protests, the ministerial plans were carried by great majorities. In consequence thereof, on the 9th of February, 1775, a joint address, from both lords and commons, was presented to his majesty, in which

they returned thanks for the communication of the papers relative to the state of the British colonies in America, and gave it as their opinion, that a rebellion actually existed in the province of Massachusetts, and beseeched his majesty that he would take the most effectual measures to enforce due obedience to the laws and authority of the supreme legislature, and begged in the most solemn manner to assure his majesty that it was their fixed resolution, at the hazard of their lives and properties, to stand by his majesty against all rebellious attempts, in the maintenance of the just rights of his majesty, and the two houses of parliament.

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The lords, Richmond, Craven, Archer, Abergaveny, Rockingham, Wycombe, Courtenay, Torrington, Ponsonby, Cholmondeley, Abingdon, Rutland, Camden, Effingham, Stanhope, Scarborough, Fitzwilliam and Tankerville, protested against this address, 1775

as founded on no proper parliamentary information, being introduced by refusing to suffer the presentation of petitions against it (though it be the undoubted right of the subject to present the same)—as following the rejection of every mode of conciliation—as holding out no substantial offer of redress of grievances, and as promising support to those ministers who had inflamed America, and grossly misconducted the affairs of Great-Britain.

By the address, against which this protest was entered, the parliament of Great-Britain passed the Rubicon. In former periods, it might be alledged that the claims of the colonies were undefined, and that their unanimous resolution to defend them was unknown; but after a free representation from twelve provinces had stated their rights, and pledged themselves to each other to support them, and their determinations were known, a resolution that a rebellion actually existed, and that at the hazard of their lives and properties, they would stand by his majesty against all rebellious attempts, was a virtual declaration of war. Both parties were now bound in consequence of their own acts, to submit their controversy to the decision of arms. Issue was joined by the approbation Congress had given to the Suffolk resolves, and by this subsequent joint address of both houses of parliament to his majesty. It is probable that neither party, in the beginning, intended to go thus far, but by the inscrutable operations of providence, each was permitted to adopt such measures as not only rent the empire, but involved them both, with their own consent, in all the calamities of a long and bloody war. The answer from the throne to the joint address of parliament, contained

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assurances of taking the most speedy and effectual measures for enforcing due obedience to the laws, and authority of the supreme legislature.

1775

This answer was accompanied with a message to the commons, in [159] which they were informed that some augmentation to the forces by sea and land would be necessary. An augmentation of 4383 men to the land forces, and of 2000 seamen, to be employed for the ensuing year, was accordingly asked for, and carried without difficulty. By the first it was stated, that the force at Boston would be ten thousand men, a number supposed to be sufficient for enforcing the laws. Other schemes, in addition to a military force, were thought advisable for promoting the projected coercion of the colonies.

Feb. 10

With this view a punishment was proposed, so universal in its operation, that it was expected the inhabitants of the New-England colonies, to obtain a riddance of its heavy pressure, would interest themselves in procuring a general submission to parliament. Lord North moved for leave to bring in a bill to restrain the trade and commerce of the provinces of Massachusetts Bay, and New-Hampshire, the colonies of Connecticut and Rhode-Island, and Providence Plantations in North-America, to Great-Britain, Ireland, and the British islands in the West-Indies, and to prohibit such provinces and colonies from carrying on any fishery on the banks of Newfoundland, or other places therein to be mentioned, under certain conditions, and for a limited time. The motion for this bill was supported, by declaring that as the Americans had refused to trade with the Mother Country, they ought not to be permitted to trade with any other. It was known that the New-England colonies earned on a circuitous trade and fishing, on the banks of Newfoundland, to a great extent. To cut them off from this resource, they were legislatively forbidden to fish, or to carry on foreign trade. It was presumed that the wants of a large body of people, deprived of employment, would create a clamor in favour of reconciliation.

The British ministry expected to excite the same temper in the unemployed New-England men, that Congress meant to raise by the non-importation agreement, among the British merchants and manufacturers. The motion for this bill brought into view, the whole of the American controversy.

1775

The opposers of it said, that its cruelty [160] exceeded the examples of hostile rigour with avowed enemies; for that in the most dangerous wars, the fishing craft was universally spared—they desired the proposer of the bill to recollect, that he had often spoken of the multitude of friends he had in those provinces, and that now he confounded the innocent with the guilty—friends with enemies, and involved his own partizans in one common ruin with his opposers. They alledged farther, that the bill would operate against the people of Great-Britain, as the people of New England were in debt to them, and had no other means of paying that debt, but through the fishery, and the circuitous trade dependent on it. It was observed, that the fishermen being cut off from employment must turn soldiers, and that therefore while they were provoking the Americans to resistance by one set of acts, they were furnishing them with the means of recruiting an army by another. The favourers of the bill denied the charge of severity, alledging that the colonists could not complain of any distress the bill might bring on them, as they not only deserved it, but had set the example, that they had entered into lawful combinations to ruin the merchants and manufacturers of Great-Britain. It was said,

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that if any foreign power had offered a similar insult or injury, the whole nation would have demanded satisfaction. They contended that it was a bill of humanity and mercy; for, said they, the colonists have incurred all the penalties of rebellion, and are liable to the severest military execution. Instead of inflicting the extent of what they deserved, the bill only proposes to bring them to their senses, by restricting their trade. They urged farther that the measure was necessary, for said they, "the Americans have frequently imposed on us, by threatening to withdraw their trade, hoping through mercantile influence to bend the legislature to their demands—that this was the third time they had thrown the commerce of Great-Britain into a state of confusion. That both colonies and commerce were better lost than preserved on such terms.["] They added farther, that they must either relinquish their connexion with America, or fix it on such a basis as would prevent [161] a return of these evils.

1775

They admitted the bill to be coercive, but said, "That the coercion which put the speediest end to the dispute, was eventually the most merciful."

In the progress of the bill, a petition from the merchants and traders of London, who were interested in the American commerce, was presented against it. They were heard by their agent, Mr. David Barclay, and a variety of witnesses were examined before the house. In the course of their evidence it appeared that in the year 1764, the four provinces of New-England employed in their several fisheries no less than 45,880 ton of shipping, and 6002 men; and that the produce of their fisheries that year, in foreign markets, amounted to 322,220£. 16s. sterling. It also appeared that the fisheries had very much increased since that time—that all the materials used in them, except salt, and the timber of which the vessels were built, were purchased from Great-Britain; and that the net proceeds of the whole were remitted thither. All this information was disregarded.

March 30

After much opposition in both houses, and a protest in the house of lords, the bill was, by a great majority, finally ratified. So intent was the ministry and parliament on the coercion of the colonists, that every other interest was sacrificed to its accomplishment. They conceived the question between the two countries to be simply whether they should abandon their claims, and at once give up all the advantages arising from sovereignty and commerce, or resort to violent measures for their security.

Since the year 1769, when a secretary of state officially disclaimed all views of an American revenue, little mention had been made of that subject, but the decided majority which voted with the ministry on this occasion, emboldened lord North once more to present it to the view of his countrymen; he therefore brought into parliament a scheme which had the double recommendation of holding forth the semblance of conciliation, and the prospect of an easement of British taxes, by a productive revenue from the colonies. This was a resolution which passed on the 20th of February.

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1775

Resolved, That when the governor, council, and assembly, or general court, of any of his majesty's provinces or colonies in America, shall propose to make provision according to the condition, circumstances, and situations of such province or colony, for contributing their proportion for the

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common defence, (such proportion to be raised under the authority of the general court or general assembly of such province or colony, and disposable by parliament) and shall engage to make provision also for the support of the civil government, and the administration of justice in such province or colony, it will be proper, if such proposal shall be approved by his majesty and the two houses of parliament, and for so long as such provision shall be made accordingly, to forbear, in respect of such province or colony, to levy any duty, tax, or assessment, except only such duties as it may be expedient to continue to levy or to impose for the regulation of commerce, the net produce of the duties last mentioned, to be carried to the account of such province or colony respectively.

This was introduced by the minister in a long speech, in which he asserted that it would be an infallible touch stone to try the Americans; "if" said he, "their opposition is only founded on the principles which they pretend, they must agree with this proposition, but if they have designs in contemplation different from those they avow, their refusal will convict them of duplicity." The oppositions to the minister's motion originated among those who had supported him in previous questions. They objected to the proposal that in effect it was an acknowledgment of something grievous in the idea of taxing America by parliament, and that it was therefore a departure from their own principles. They contended that it was improper to make concessions to rebels with arms in their hands, or to enter into any measures for a settlement with the Americans, in which they did not, as a preliminary, acknowledge the supremacy of parliament.

1775

The minister was likely to be deserted by some of his partizans, till others explained the consistency of the scheme with their former declarations. [163] It was asked, "what shall parliament lose by acceding to this resolution? Not the right of taxing America, for this is most expressly reserved. Not the profitable exercise of this right, for it proposed to enforce the only essential part of taxation, by compelling the Americans to raise not only what they, but what we, think reasonable. We are not going to war for trifles and a vain point of honor, but for substantial revenue." The minister farther declared, that he did not expect his proposition to be generally relished by the Americans. But said he, if it does no good in the colonies, it will do good here, it will unite the people of England, by holding out to them a distinct object of revenue. He added farther, as it tends to unite England, it is likely to disunite America, for if only one province accepts the offer, their confederacy, which only makes them formidable, will be broken.

The opposers of ministry attacked the proposition with the combined force of wit and argument. They animadverted on the inconsistency of holding forth the same resolution as a measure of concession, and as an assertion of authority. They remarked that hitherto it had been constantly denied that they had any contest about an American revenue—that the whole had been a dispute about obedience to trade-laws, and the general legislative authority of parliament, but now ministers suddenly changed their language, and proposed to interest the nation—console the manufacturers and animate the soldiery, by persuading them that it is not a contest for empty honour, but for the acquisition of a substantial revenue. It was said that the Americans would be as effectually taxed, without their consent, by being compelled to pay a gross sum, as by an aggregate of small duties to the same amount. That this

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scheme of taxation exceeded in oppression any that the rapacity of mankind had hitherto devised. In other cases a specific sum was demanded, and the people might reasonably presume that the remainder was their own; but here they were wholly in the dark as to the extent of the demand.

1775

This proposition, however for conciliation, though illy [164] relished by many of the friends of ministry, was carried on a division of 274 to 88. On its transmission to the colonies, it did not produce the effects of disunion expected from it. It was unanimously rejected. The reason for this cannot be expressed better than in the act of Congress on that subject, which after a recital of the said conciliatory motion, proceeded in the following words,

The Congress took the said resolution into consideration, and are thereupon of opinion,

That the colonies of America are entitled to the sole and exclusive privilege of giving and granting their own money. That this involves a right of deliberating whether they will make any gift, for what purposes it shall be made, and what shall be its amount; and that it is a high breach of this privilege for any body of men, extraneous to their Constitutions, to prescribe the purposes for which money shall be levied on them, to take to themselves the authority of judging of their conditions, circumstances, and situations, and of determining the amount of the contribution to be levied.

That as the colonies possess a right of appropriating their gifts, so are they entitled at all times to enquire into their application, to see that they be not wasted among the venal and corrupt for the purpose of undermining the civil rights of the givers, nor yet be diverted to the support of standing armies, inconsistent with their freedom and subversive of their quiet. To propose therefore, as this resolution does, that the monies given by the colonies shall be subject to the disposal of parliament alone, is to propose that they shall relinquish this right of enquiry, and put it in the power of others to render their gifts ruinous, in proportion as they are liberal.

That this privilege of giving, or of withholding our monies, is an important barrier against the undue exertion of prerogative, which, if left altogether without controul, may be exercised to our great oppression; and all history shews how efficacious is its intercession for redress of grievances, and re-establishment of rights, and how improvident it would be to part with so powerful a mediator.

1775

We are of opinion that the proposition contained in [165] this resolution is unreasonable and insidious: Unreasonable, because, if we declare we accede to it, we declare without reservation, we will purchase the favour of parliament, not knowing at the same time at what price they will please to estimate their favour; it is insidious, because, individual colonies, having bid and bidden again, till they find the avidity of the seller too great for all their powers to satisfy, are then to return into opposition, divided from their sister colonies whom the minister will have previously detached by a grant of easier terms, or by an artful procrastination of a definitive answer.

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That the suspension of the exercise of their pretended power of taxation being expressly made commensurate with the continuance of our gifts, these must be perpetual to make that so. Whereas no experience has shewn that a gift of perpetual revenue secures a perpetual return of duty or of kind disposition. On the contrary, the parliament itself, wisely attentive to this observation, are in the established practice of granting their supplies from year to year only.

Desirous, and determined as we are to consider, in the most dispassionate view, every seeming advance towards a reconciliation made by the British parliament, let our brethren of Britain reflect what would have been the sacrifice to men of free spirits had even fair terms been proffered, as these insidious proposals were, with circumstances of insult and defiance. A proposition to give our money; accompanied with large fleets and armies, seems addressed to our fears rather than to our freedom. With what patience would Britons have received articles of treaty from any power on earth when born on the point of a bayonet by military Plenipotentiaries?

We think the attempt unnecessary to raise upon us by force or by threats our proportional contributions to the common defence, when all know, and themselves acknowledge, we have fully contributed, whenever called upon to do so in the character of freemen.

We are of opinion it is not just that the colonies should be required to oblige themselves to other contributions, while Great-Britain possesses a Monopoly of their trade. [166]
This of itself lays them under heavy contribution. To demand, therefore, additional aids in the form of a tax, is to demand the double of their equal proportion, if we are to contribute equally with the other parts of the empire, let us equally with them, enjoy free commerce with the whole world. But while the restrictions on our trade shut to us the resources of wealth, is it just we should bear all other burthens, equally with those to whom every resource is open?

1775

We conceive that the British parliament has no right to intermeddle with our provisions for the support of civil government, or administration of justice. The provisions we have made are such as please ourselves, and are agreeable to our own circumstances: They answer the substantial purposes of government and of justice, and other purposes than these should not be answered. We do not mean that our people shall be burthened with oppressive taxes, to provide sinecures for the idle or the wicked, under colour of providing for a civil list. While parliament pursue their plan of civil government within their own jurisdiction, we also hope to pursue ours without molestation.

We are of opinion the proposition is altogether unsatisfactory; because it imports only a suspension of the mode, not a renunciation of the pretended right to tax us: Because too it does not propose to repeal the several acts of parliament, passed for the purposes of restraining the trade, and altering the form of government of one of our colonies; extending the boundaries and changing the government of Quebec; enlarging the jurisdiction of the courts of admiralty and vice-admiralty; taking from us the rights of a trial by jury of the vicinage, in cases affecting both life and property;

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transporting us into other countries to be tried for criminal offences; exempting by mock-trial the murderers of colonists from punishment; and quartering soldiers on us in times of profound peace. Nor do they renounce the power of suspending our own legislatures, and for legislating for us themselves, in all cases whatsoever. On the contrary, to shew they mean no discontinuance of injury, they pass acts, at the very [167] time of holding out this proposition, for restraining the commerce and fisheries of the provinces of New-England, and for interdicting the trade of other colonies with all foreign nations, and with each other. This proves unequivocally they mean not to relinquish the exercise of indiscriminate legislation over us.

Upon the whole, this proposition seems to have been held up to the world, to deceive it into a belief that there was nothing in dispute between us but the mode of levying taxes; and that the parliament having now been so good as to give up this, the colonies are unreasonable if not perfectly satisfied: whereas, in truth, our adversaries still claim a right of demanding *adlibitum*, and of taxing us themselves to the full amount of their demand, if we do comply with it. This leaves us without any thing we can call property. But, what is of more importance, and what in this proposal they keep out of sight, as if no such point was now in contest between us, they claim a right to alter our charters and establish laws, and leave us without any security for our lives or liberties. The proposition seems also to have been calculated more particularly to lull into fatal security, our well affected fellow subjects on the other side of the water, till time should be given for the operation of those arms, which a British minister pronounced would instantaneously reduce the "cowardly" sons of America to unreserved submission. But when the world reflects, how inadequate to justice are these vaunted terms; when it attends to the rapid and bold succession of injuries, which, during a course of eleven years, have been aimed at these colonies; when it reviews the pacific and respectful expostulations, which, during that whole time, were the sole arms we opposed to them; when it observes that our complaints were either not heard at all, or were answered with new and accumulated injuries; when it recollects that the minister himself on an early occasion declared, "that he would never treat with America, till he had brought her to his feet," and that an avowed partisan of ministry has more lately denounced against us the dreadful sentence "*delenda est Carthago*," that this was done [168] in presence of a British senate, and being unreproved by them, must be taken to be their own sentiment, (especially as the purpose has already in part been carried into execution, by their treatment of Boston and burning of Charlestown); when it considers the great Armaments with which they have invaded us, and the circumstances of cruelty with which these have commenced and prosecuted hostilities; when these things, we say, are laid together and attentively considered, can the world be deceived into an opinion that we are unreasonable, or can it hesitate to believe with us, that nothing but our own exertions may defeat the ministerial sentence of death or abject submission.

1775

Other plans for conciliation with the colonies, founded on principles very different from those which were the basis of lord North's conciliatory motion, were brought forward in the house of commons, but without receiving its approbation. The most remarkable of these was proposed by Mr. Edmund Burke, in a speech which for strength of argument, extent of information, and sublimity of language, would bear a comparison with the most

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finished performance that ancient or modern times have produced. In his introduction to this admirable speech, he examined and explained the natural and accidental circumstances of the colonies, with respect to situation, resources, number, population, commerce, fisheries and agriculture, and from those considerations shewed their importance. He then enquired into their unconquerable spirit of freedom; and he traced it to its original sources; from these circumstances he inferred the line of policy which should be pursued with regard to America—he shewed that all proper plans of government must be adapted to the feelings, established habits, and received opinions of the people. On these principles he reprobated all plans of governing the colonies by force; and proposed as the ground work of his plan, that the colonists should be admitted to an interest in the constitution.

1775

He then went into an historical detail of the manner in which British privileges had been extended to Ireland, Wales, and the counties palatine of Chester and Durham—the [169] state of confusion previously to that event—and the happy consequences which followed it. He contended that a communication to the members of an interest in the constitution, was the great ruling principle of British government. He therefore proposed to go back to the old policy for governing the colonies. He was for a parliamentary acknowledgment of the legal competency of the colony assemblies for the support of their government in peace, and for public aids in time of war—and of the futility of parliamentary taxation as a method of supply. He stated that much had been given in the old way of colonial grant, that from the year 1748 to 1763, the journals of the house of commons repeatedly acknowledged that the colonies not only gave, but gave to satiety; and that from the time in which parliamentary imposition had superseded the free gifts of the provinces, there was much discontent, but little revenue. He therefore moved six resolutions affirmatory of these facts, and grounded on them resolutions for repealing the acts complained of by the Americans, trusting to the liberality of their future voluntary contributions. This plan of conciliation, which promised immediate peace to the whole empire, and a lasting obedience of the colonies, though recommended by the charms of the most persuasive eloquence, and supported by the most convincing arguments, was by a great majority rejected.

March 27

Mr. D. Hartley, not discouraged by the negative which had been given to Mr. Burke's scheme, came forward with another for the same purpose. This proposed that a letter of requisition should be sent to the colonies by a secretary of state, on a motion from the house for a contribution to the expences of the whole empire. He meant to leave to the provincial assemblies the right to judge of the expedience of the grant—its amount and application. In confidence that the colonies would give freely when called on in this constitutional way, he moved to suspend the acts complained of by the Americans. This was also rejected. Another plan which shall be more particularly explained was digested in private by Dr. Franklin, on the part of the Americans, and Dr. Fothergill and David [170] Barclay on behalf of the British ministry.

1775

There appeared a disposition to concede some thing considerable on both sides, but the whole came to nothing, in consequence of an inflexible determination to refuse a repeal of the act of parliament for altering the chartered government of Massachusetts; Dr. Franklin agreed, that the tea destroyed should be paid for—the British ministers, that the Boston port act should be repealed,

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but the latter contended, “that the late Massachusetts acts being real amendments of their constitution, must for that reason be continued as well as to be a standing example of the power of parliament.” On the other hand it was declared by Dr. Franklin, “that while the parliament claimed and exercised a power of internal legislation for the colonies, and of altering American constitutions at pleasure, there could be no agreement, as that would render the Americans unsafe in every privilege they enjoyed, and would leave them nothing in which they could be secure.”

This obstinate adherence to support parliament in a power of altering the laws and charters of the provinces, particularly to enforce their late laws for new modelling the chartered constitution of Massachusetts, was the fatal rock by dashing on which the empire broke in twain; for every other point, in dispute between the two countries, seemed in a fair way for an amicable compromise.

The fishery bill was speedily followed by another, for restraining the trade and commerce of the colonies and provinces of New-Jersey, Pennsylvania, Maryland, Virginia and South-Carolina: The reasons assigned for this were the same with those offered for the other. These provinces had adopted the continental association. The British minister thought it proper, that as they had voluntarily interdicted themselves from trade with Great-Britain, Ireland, and the West-Indies, they should be restrained from it with all other parts of the world. He contended that the inhabitants of the colonies might render this act a dead letter, by relinquishing their own resolutions, as then they would meet with no restraint in carrying on trade in its ancient legal channel.

1775

It is remarkable, that three of the associated colonies, viz. New-York, [171] Delaware and North-Carolina, were omitted in this restraining bill. Whatever might be the view of the British ministry for this discrimination, it was considered in the colonies as calculated to promote disunion among them. It is certain, that the colonies which were exempted from its operation, might have reaped a golden harvest from the exemption in their favour, had they been disposed to avail themselves of it. But such was the temper of the times, that a renunciation of immediate advantage in favour of the public was fashionable. The selfish passions which in seasons of peace are too often the cause of quarrels, were hushed by the pressure of common danger. The exempted colonies spurned the proffered favour, and submitted to the restraints imposed on their less favoured neighbours, so as to be equal sharers of their fate. The indulgence granted to New-York, in being kept out of this restraining bill, was considered by some as a premium for her superior loyalty. Her assembly had refused to approve the proceedings of the Congress, and had, in some other instances, discovered less warmth than the neighbouring legislatures. Much was expected from her moderation. At the very time the British parliament was framing the restraining acts just mentioned, the constitutional assembly of New-York petitioned the British parliament for a redress of their grievances. Great stress had been laid on the circumstance that Congress was not a legal assembly, and the want of constitutional sanction had been assigned as a reason for the neglect with which their petition had been treated. Much praise had been lavished on the colony of New-York for its moderation, and occasion had been taken, from their refusing to approve the proceedings of the Congress to represent the

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resolutions and claims of that body to be more the ebullitions of incendiaries, than the sober sentiments of the temperate citizens.

1775

It was both unexpected and confounding to those who supported these opinions, that the representation and remonstrance of the very loyal assembly of New-York stated, “that an exemption from internal taxation, and the exclusive right of providing for their own civil government, and the administration of justice in [172] the colony, were esteemed by them as their undoubted and unalienable rights.”

A motion being made in the house of commons for bringing up this representation and remonstrance of the assembly of New-York, it was amended on the suggestion of lord North, by adding, “in which the assembly claim to themselves rights derogatory to, and inconsistent with the legislative authority of parliament, as declared by the declaratory act.” The question, so amended, being put, it passed in the negative. The fate of this representation extinguished the hopes of those moderate persons, both in the parent state and the colonies, who flattered themselves that the disputes subsisting between the two countries might be accommodated by the mediation of the constitutional assemblies. Two conclusions were drawn from this transaction, both of which were unfriendly to a reconciliation. The decided language with which the loyal assembly of New-York claimed exemption from parliamentary taxation, proved to the people of Great-Britain that the colonists, however they might differ in modes of opposition, or in degrees of warmth, were nevertheless, united in that fundamental principle. The rejection of their representation proved that nothing more was to be expected from proceeding in the constitutional channel of the legal assemblies, than from the new system of a continental Congress. Solid revenue and unlimited supremacy were the objects of Great-Britain, and exemption from parliamentary taxation that of the most moderate of the colonies. So wide were the claims of the two countries from each other, that to reconcile them on any middle ground seemed to be impossible.

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APPENDIX NO. I

Some Special Transactions Of Dr. Franklin In London, In Behalf Of America.

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While the breach between Great-Britain and the colonies, was daily increasing, the enlightened and liberal, who loved peace, 1775
and the extension of human happiness, saw with regret the approaching horrors of a civil war, and wished to avert them. With these views Dr. Fothergill, Mr. David Barclay and Dr. Franklin, held sundry conferences in London on American affairs. The two former were English gentlemen of most amiable characters, and highly esteemed by the British ministry. The last was by birth an American, but a citizen of the world, who loved and was beloved by all good men. He was also agent for several of the colonies. At one of their conferences held at the house of Dr. Fothergill on the 4th December, 1774, before the proceedings of Congress had reached England—a paper drawn up by the last, at the request of the two first, was submitted to their joint consideration, which with a few additions proposed and agreed to by common consent was as follows.

Hints for conversation upon the subjects of terms, that might probably produce a durable union between Britain and the colonies.

1st. The tea destroyed to be paid for.

2d. The tea duty act to be repealed, and all the duties that have been received upon it to be repaid into the treasuries of the several provinces from which they have been collected.

3d. The acts of navigation to be all re-enacted in the colonies.

4th. A naval officer to be appointed by the crown to see that these acts are observed.

5th. All the acts restraining manufactories in the colonies to be reconsidered.

6th. All duties arising on the acts for regulating trade with the colonies to be for the public use of the respective colonies and paid into their treasuries.

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The collectors and custom house officers to be appointed by each 1775
governor and not sent from England.

7th. In consideration of the Americans maintaining their own peace establishment, and the monopoly Britain is to have of their commerce, no requisition is to be made from them in time of peace.

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8th. No troops to enter and quarter in any colony, but with the consent of its legislature.

9th. In time of war on requisition by the king with consent of parliament, every colony shall raise money by the following rules in proportion, viz. If Britain on account of the war, raises three shillings in the pound to its land tax, then the colonies to add to their last general provincial peace tax, a sum equal to one fourth part thereof, and if Britain on the same account pays four shillings in the pound, then the colonies to add to their last peace tax, a sum equal to the half thereof, which additional tax is to be granted to his majesty, and to be employed in raising and paying men for land or sea service, and furnishing provisions, transports, or for such other purposes as the king shall require and direct, and though no colony may contribute less, each may add as much by voluntary grant as it shall think proper.

10th. Castle William to be restored to the province of Massachusetts Bay, and no fortress to be built by the crown in any province, but with the consent of its legislature.

11th. The late Massachusetts and Quebec acts to be repealed, and a free government granted to Canada.

12th. All judges to be appointed during good behavior, with equally permanent salaries to be paid out of the province revenues by appointment of the assemblies, or if the judges are to be appointed during the pleasure of the crown, let the salaries be during the pleasure of the assemblies as heretofore.

13th. Governors to be supported by the assemblies of each province.

14th. If Britain will give up her monopoly of the American commerce, then the aid above mentioned to be given in time of peace, as well as in time of war.

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15th. The extension of the act of Henry the 8th, concerning treasons to the colonies to be formally disowned by parliament. 1775

16th. The American admiralty courts to be reduced to the same powers they have in England, and the acts establishing them to be re-enacted in America.

17th. All power of internal legislation in the colonies to be disclaimed by parliament.

On reading this paper a second time, Dr. Franklin gave his reasons at length for each article. Some of his reasons were as follows.

On the first article he observed, that when the tea was destroyed at Boston, Great-Britain had a right to reparation, and would certainly have had it on demand, as was the case when injuries were done by mobs in the time of the stamp act, or she might have a right to return an equal injury if she rather chose to do that; but Great-Britain could not have a right both to reparation and to return an equal injury, much less had she a right to return the injury ten or twenty fold, as she had done by blocking up the

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port of Boston. All which extra injury ought to be repaired by Great-Britain. That therefore if paying for the tea was agreed to, as an article fit to be proposed, it was merely from a desire of peace, and in compliance with the opinions of Dr. Fothergill and David Barclay, expressed at their first meeting; that this was indispensible, that the dignity of Great-Britain required it, and that if this was agreed to, every thing else would be easy.

On the second, it was observed that the tea duty act should be repealed as having never answered any good purpose, as having been the cause of the present mischief, and never likely to be executed. That the act being considered as unconstitutional by the Americans, and what parliament had no right to enact they must consider all the money extorted by it as so much wrongfully taken, and of which therefore restitution ought to be made, and the rather as it would furnish a fund out of which the tea destroyed would be best defrayed.

On the third and fourth articles it was observed, that the Americans were frequently charged with views of abolishing 1775
[176] the navigation act, but that in truth those parts of it, which were of most importance to Britain, as tending to increase its naval strength, were as acceptable to the colonists as they could be to the inhabitants of the Parent State, since they wished to employ their own ships in preference to those of foreigners, and they had no desire to see foreign ships enter their ports. That it would prevent disputes if they were re-enacted in the colonies, as that would demonstrate their consent to them, and then if all the duties arising on them were to be collected by officers appointed and paid in the respective governments, and the produce paid into their treasuries, the acts would be better and more faithfully executed, and at much less expence, and a great source of misunderstanding between the two countries removed—that the extension of the admiralty jurisdiction so much complained of would then no longer be necessary.

In support of the 7th article it was observed, that if every distinct part of the king's dominions supported its own government in time of peace, it was all that could justly be required of it. That all the other confederated colonies had done so from their beginning, that their taxes for that purpose were very considerable, that new countries had many expences which old ones were free from, the work being done to their land by their ancestors, such as making roads and bridges, erecting churches, courthouses, forts, quays and other public buildings, founding schools and places of education, hospitals and almshouses—that the voluntary subscriptions and legal taxes for such purposes taken together amounted to more than was paid by equal estates in Great-Britain; that it would be best not to take money from the Americans as a contribution to its public expence in time of peace, first for that just so much less would be got from them in commerce, and secondly, that coming into the hands of British ministers accustomed to prodigality of public money, it would be squandered and dissipated without answering any general good purposes.
That on the whole it would be best for both countries, that no 1775
aids should be asked from the colonies in time of peace, [177] that it would then be their interest to grant bountifully, and exert themselves, in time of war, the sooner to put an end to it.

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In support of the 8th article, it was said, that if the king could bring into any one part of his dominions troops raised in any other part of them, without the consent of the legislature of the part to which they were brought, he might bring armies raised in America to England without the consent of parliament.

The 9th article was drawn in compliance with an idea of Dr. Fothergill, that the British government would probably not be satisfied with the promise of voluntary grants in time of war from the American assemblies, of which the quantity must be uncertain, that therefore it would be best to proportion them in some way to the shilling in the pound raised in England.

In support of the 10th article, was urged the injustice of seizing that fortress which had been built at an immense charge by the province, for the defence of their port against national enemies, and turning it into a citadel for awing the town, restraining their trade, blocking up their port, and depriving them of their privileges. That a great deal had been said of their injustice in destroying the tea, but here was a much greater injustice uncompensated, that castle having cost the province £300,000.

In support of the 11th article, it was said, that as the Americans had assisted in the conquest of Canada, at a great expence of blood and treasure, they had some right to be considered in the settlement of it; that the establishing an arbitrary government on the bank of their settlements would be dangerous to them all. That as to amending the Massachusetts government, though it might be shewn that every one of these pretended amendments were real mischiefs, yet, that as charters were compacts between two parties, the king and the people, no alteration could be made in them even for the better, but by the consent of both parties; that the parliamentary claim and exercise of power to alter American charters, had rendered all their constitutions uncertain and set them [178] quite afloat.
That by this claim of altering laws and charters at will they deprived the colonists of all rights and privileges whatever, but what they should hold at their pleasure. That this was a situation they could not be in and must risque life and every thing rather than submit to it.

1775

The 12th article was explained by stating the former situation of the judges in most of the colonies, viz. that they were appointed by the crown and paid by the assemblies, that the appointment being during the pleasure of the crown, the salary had been during the pleasure of the assembly; that when it was urged against the assemblies that their making judges dependent on them for their salaries, was aiming at an undue influence over the courts of justice, the assemblies usually replied, that making them dependent on the crown for continuance in their places was also retaining an undue influence over those courts, and that one undue influence was a proper balance for another; but that whenever the crown would consent to the appointment of judges only during good behaviour, the assemblies would at the same time grant their salaries to be permanent during their continuance in office; that instead of agreeing to this equitable offer the crown now claimed to make the judges in the colonies dependant on its favour for place, as well as salary, and both to be continued at its pleasure. This the colonies must oppose as inequitable, as putting both the weights into one of the scales of justice.

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In favour of the 123th it was urged that the governors sent to the colonies were often men of no estate or principle, who came merely to make fortunes, and had no natural regard for the country they were to govern. That to make them quite independent of the people, was to make them careless of their conduct, and giving a loose to their rapacious and oppressive dispositions. That the dependence of the governors on the people for their salaries could never operate to the prejudice of the king's service, or to the disadvantage of Britain, since each governor was bound by a particular set of instructions which he had given surety to observe, and all the laws he assented [179] to were subject to be repealed by the crown.

That the payment of the salaries by the people was more satisfactory to them, and was productive of a good understanding between governors and governed, and that therefore the innovations lately made at Boston and New-York, should be laid aside.

1775

The 14th article was expunged on the representation of Dr. Fothergill and David Barclay, that the monopoly of the American commerce would never be given up, and that the proposing of it would only give offence, without answering any good purpose.

The 15th article was readily agreed to.

The 16th was thought to be of little consequence, if the duties were given to the colony treasuries.

The 17th it was thought could hardly be obtained, but it was supported by Dr. Franklin, alleging that without it, any compact made with the Americans, might be evaded by acts of the British parliament, restraining the intermediate proceedings, which were necessary for carrying it into effect.

This paper of hints was communicated to lord Dartmouth by Dr. Fothergill, who also stated the arguments which in conversation had been offered in support of them. When objections were made to them, as being humiliating to Great-Britain Dr. Fothergill replied "that she had been unjust, and ought to bear the consequences, and alter her conduct—that the pill might be bitter, but it would be salutary and must be swallowed; that sooner or later these or similar measures must be followed, or the empire would be divided and ruined."

These hints were handed about amongst ministers, and conferences were held on them. The result was on the 4th of February 1775 communicated to Dr. Franklin, in the presence of Dr. Fothergill and David Barclay, which as far as concerned the leading articles, was as follows:

1. The first article was approved.

2. The second agreed to so far as related to the tea act, but repayment of the duties that had been collected, was refused.

3. The third not approved, as it implied a deficiency of power in the parliament that made the acts. [180]

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4. The fourth approved.

5. The fifth agreed to, but with a reserve that no change prejudicial to Britain was to be expected.

6. The sixth agreed to, so far as related to the appropriation of the duties, but the appointment of the officers and of their salaries to remain as at present.

7. The seventh relating to aids in time of war, agreed to.

8. The eighth relating to troops, was inadmissible.

9. The ninth could be agreed to with this difference, that no proportion should be observed with regard to preceding taxes, but each colony should give at pleasure.

10. The tenth agreed to as to the restitution of Castle William, but the restriction on the crown in building fortresses refused.

11. The eleventh refused absolutely, except as to the Boston port bill which would be repealed, and the Quebec act might be so far amended, as to reduce that province to its ancient limits. The other massachusetts acts being real amendments of their constitution, must for that reason be continued, as well as to be a standing example of the power of parliament.

12. The twelfth agreed to, that the judges should be appointed during good behaviour, on the assemblies providing permanent salaries, such as the Crown should approve of.

13. The thirteenth agreed to, provided the assemblies make provision, as in the preceding article.

15. The fifteenth agreed to.

16. The sixteenth agreed to, supposing the duties paid to the colony treasuries.

17. The seventeenth inadmissible.

At this interview the conversation was shortened by Dr. Franklin's observing, that while the parliament claimed and exercised a power of internal legislation for the colonies, and of altering American constitutions, at pleasure, there could be no agreement, as that would render the Americans unsafe in every privilege they enjoyed, [181] and would leave them nothing, in which they could be secure. It being hinted how necessary an agreement was for America, since it was so easy for Britain to burn all her seaport towns, Dr. Franklin replied, 1775

that the chief part of his little property consisted of houses in such towns, that they might make bonfires of them whenever they pleased. That the fear of losing them would never alter his resolution of resisting to the last extremity, that claim of parliament, and that it behoved Great-Britain to take care what mischief she did to

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America, for that sooner or later she would certainly be obliged to make good all damages with interest.

On the 16th of February, 1775, the three before mentioned gentlemen met, when a paper was produced by David Barclay entitled, "A plan which it is believed would produce a permanent union between Great-Britain and her colonies.["] This, in the first article, proposed a repeal of the tea act, on payment being made for the tea destroyed. Dr. Franklin agreed to the first part, but contended that all the other Massachusetts acts should also be repealed, but this was deemed inadmissible. Dr. Franklin declared that the people of Massachusetts would suffer all the hazards and mischiefs of war, rather than admit the alteration of their charters and laws, by parliament. He was for securing the unity of the empire, by recognising the sanctity of charters, and by leaving the provinces to govern themselves, in their internal concerns, but the British ministry could not brook the idea of relinquishing their claim to internal legislation for the colonies, and especially to alter and amend their charters. The first was for communicating the vital principles of liberty to the provinces, but the latter though disposed to redress a few of their existing grievances, would by no means consent to a repeal of the late act of parliament, for altering the chartered government of Massachusetts, and least of all to renounce all claim to future amendments of charters, or of internal legislation for the colonies.

1775

Dr. Franklin laboured hard to prevent the breach from becoming irreparable, and candidly stated the outlines [182] of a compact which he supposed would procure a durable union of the two countries, but his well meant endeavors proved abortive, and in the mean time he was abused as the fomenter of those disturbances which he was anxiously endeavouring to prevent. That the ministry might have some opening to proceed upon, and some salvo for their personal honor, he was disposed to engage, that pecuniary compensation should be made for the tea destroyed, but he would not give up essential liberty, for the purpose of procuring temporary safety. Finding the ministry bent on war, unless the colonists would consent to hold their rights, liberties and charters at the discretion of a British parliament, and well knowing that his countrymen would hazard every thing, rather than consent to terms so degrading as well as inconsistent with the spirit of the British constitution, he quitted Great-Britain in March 1775, and returned to Philadelphia. Dr. Fothergill, his worthy coadjutor in the great business of peace, wrote to him on the evening before he left London. "That whatever specious pretences were offered, they were all hollow, and that to get a larger field on which to fatten a herd of worthless parasites, was all that was intended." With this conviction founded on personal observations, as well as the testimony of his esteemed friend, who in the course of his daily visits among the great, in the practice of his profession, had an opportunity of knowing their undisguised sentiments, Dr. Franklin joined his countrymen, and exerted his great abilities in conducting them through a war he had in vain laboured to prevent.

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CHAPTER VI

Consequences In America, Resulting From The Preceding Transactions Of Parliament; And Of The Commencement Of Hostilities.

The year 1774 terminated in america, with an expectation that a few months would bring them a redress of their grievances; but the probability of that event [183] daily diminished.

1775

The colonists had indulged themselves in an expectation that the people of Great-Britain, from a consideration of the dangers and difficulties of a war with their colonies, would in their election have preferred those who were friends to peace and a reconciliation; but when they were convinced of the fallacy of these hopes, they turned their attention to the means of self defence. It had been the resolution of many never to submit to the operation of the late acts of parliament. Their number daily increased, and in the same proportion that Great-Britain determined to enforce, did they determine to oppose. Intelligence of the rejection of lord Chatham's bill, of the address of both houses of parliament to the king of the 9th of February, and of the fishery bill, all arrived among the colonists, about the same time, and diminished what remained of their first hopes of a speedy accommodation. The fishery bill excited a variety of emotions. The obvious tendency of it was to starve thousands. The severity of it did not strike an Englishman, for he viewed it as a merited correction for great provincial offences; but it appeared in the blackest colours to an American, who felt no consciousness of guilt, and who fancied that heaven approved his zeal in defence of liberty. It alienated the affections of the colonists, and produced in the breasts of thousands, a hatred of Great-Britain.

The penal acts of parliament in 1774, were all levelled against Massachusetts, but the fishery bill extended to New-Hampshire, Connecticut and Rhode-Island. The reasons assigned for this by lord North were, that they had aided and abetted their offending neighbours, and were so near to them that the intentions of parliament would be frustrated, unless they were in like manner comprehended in the proposed restraints. The extension of this penal statute to three additional provinces, operated powerfully in favour of union, and convinced the most moderate, of the increasing necessity for all the provinces to make a common cause of their opposition. Whatever might be the designs of parliament, their acts had a natural tendency to enlarge the demands of the Americans, [184] and to cement their confederacy, by firm principles of union.

1775

At first they only claimed exemption from internal taxation, but by the combination of the East-India company and the British ministry, an external tax was made to answer all the purposes of a direct internal tax. They therefore in consistence with their own principles, were constrained to deny the right of taxing in any form for a supply. Nothing could more contribute to make the colonists deny the parliamentary claim of internal legislation, than the manner in which it was exercised, in depriving them of their charters, and passing an act relative

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to trials, which promised indemnity to murderers. This convinced them that an opposition to so injurious a claim was essentially necessary to their security. But they still admitted the power of parliament to bind their trade. This was conceded by Congress but a few months before an act passed that they should have no foreign trade, nor be allowed to fish on their own coasts. The British ministry by their successive acts, impelled the colonists to believe, that while the Mother Country retained any authority over them, that authority would, in some shape or other, be exerted so as to answer all the purposes of a power to tax. While Great-Britain stretched that portion of controlling supremacy which the colonists were disposed to allow her, to such an extent as covered oppression equally grievous with that which they would not allow, the way was fast opening for a total renunciation of her sovereignty. The coercive measures adopted by the Parent State, produced a disposition in the colonies to extend their claims, and the extension of their claims produced an increasing disposition in Great-Britain to coerce them still more. The jealousy of liberty on one side, and the desire of supremacy on the other, were reciprocally cause and effect; and urged both parties, the one to rise in their demands, and the other to enforce submission. In the contest between Great-Britain and her colonies, there had been a fatal progression from small to greater grounds of dissention. The trifling tax of 3d per pound on tea, roused the jealous inhabitants of Boston to throw 340 chests of it into the ocean. [185]

1775

This provoked the British parliament to shut up their port, and to new model their charter. Statutes so unconstitutional and alarming, excited a combination in twelve of the colonies, to stop all trade with Great-Britain, Ireland, and the West-Indies. Their combination gave birth to the restraining acts of parliament, by which nine of the colonies were interdicted all other trade but that from which they had voluntarily excluded themselves; and four of these nine were farther devoted to famine, by being forbidden to fish on their coasts. Each new resolution on the one side, and new act on the other, reciprocally gave birth to something from the opposite party, that was more irritating or oppressive, than what had preceded.

The beginning of strife between the Parent State and her colonies, was like the letting out of waters. From inconsiderable causes love was changed into suspicion that gradually ripened into ill will, and soon ended in hostility. Prudence, policy, and reciprocal interest, urged the expediency of concession; but pride, false honour, and misconceived dignity, drew in an opposite direction. Undecided claims and doubtful rights, which under the influence of wisdom and humility might have been easily compromised, imperceptibly widened into an irreconcileable breach. Hatred at length took the place of kind affections, and the calamities of war were substituted, in lieu of the benefits of commerce.

From the year 1768, in which a military force had been stationed in Boston, there was a constant succession of insulting words, looks, and gestures. The inhabitants were exasperated against the soldiers, and they against the inhabitants. The former looked on the latter as the instruments of tyranny, and the latter on the former as seditious rioters, or fraudulent smugglers. In this irritable state, every incident however trifling, made a sensible impression. The citizens apprehended constant danger from an armed force, in whose power they were; the soldiers on the other hand, considered

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themselves as in the midst of enemies, and exposed to attacks from within and from without.

1775

In proportion [186] as the breach between Great-Britain and her colonies widened, the distrust and animosity between the people and the army increased. From the latter end of 1774, hostile appearances daily threatened that the flames of war would be kindled from the collision of such inflammable materials. Whatsoever was done by either party by way of precaution, for the purposes of self defence, was construed by the other as preparatory to an intended attack. Each disclaimed all intentions of commencing hostilities, but reciprocally manifested suspicion of the others sincerity. As far as was practicable without an open rupture, the plans of the one were respectively thwarted by the other. From every appearance it became daily more evident that arms must ultimately decide the contest. To suffer an army that was soon expected to be an enemy, quietly to fortify themselves, when the inhabitants were both able and willing to cut them off, appeared to some warm spirits the height of folly; but the prudence and moderation of others, and especially the advice and recommendation of Congress, restrained their impetuosity. It was a fortunate circumstance for the colonies that the royal army was posted in New-England. The people of that northern country have their passions more under the command of reason and interest, than in the southern latitudes, where a warmer sun excites a greater degree of irascibility. One rash offensive action against the royal forces at this early period, though successful, might have done great mischief to the cause of America. It would have lost them European friends, and weakened the disposition of the other colonies to assist them. The patient and the politic New-England men, fully sensible of their situation, submitted to many insults, and bridled their resentment. In civil wars or revolutions it is a matter of much consequence who strikes the first blow. The compassion of the world is in favour of the attacked, and the displeasure of good men on those who are the first to imbrue their hands in human blood. For the space of nine months after the arrival of general Gage, the behaviour of the people of Boston is particularly worthy of imitation, by those who wish to [187] overturn established governments.

1775

They conducted their opposition with exquisite address. They avoided every kind of outrage and violence, preserved peace and good order among themselves, successfully engaged the other colonies to make a common cause with them, and counteracted general Gage so effectually as to prevent his doing any thing for his royal master, while by patience and moderation they skreened themselves from censure. Though resolved to bear as long as prudence and policy dictated, they were all the time preparing for the last extremity. They were furnishing themselves with arms and ammunition, and training their militia.

Provisions were also collected and stored in different places, particularly at Concord, about 20 miles from Boston. General Gage, though zealous for his royal master's interest, discovered a prevailing desire after a peaceable accommodation. He wished to prevent hostilities by depriving the inhabitants of the means necessary for carrying them on. With this view he determined to destroy the stores which he knew were collected for the support of a provincial army. Wishing to accomplish this without bloodshed, he took every precaution to effect it by surprise, and without alarming the country.

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April 18

At eleven o'clock at night 800 grenadiers and light infantry, the flower of the royal army, embarked at the Common, landed at Phipps's farm, and marched for Concord, under the command of lieutenant colonel Smith. Neither the secrecy with which this expedition was planned—the privacy with which the troops marched out, nor an order that no one inhabitant should leave Boston, were sufficient to prevent intelligence from being sent to the country militia, of what was going on. About two in the morning 130 of the Lexington militia had assembled to oppose them, but the air being chilly and intelligence respecting the regulars uncertain, they were dismissed, with orders to appear again at beat of drum.

19th

They collected a second time to the number of 70, between 4 and 5 o'clock in the morning, and the British regulars soon after made their appearance. Major Pitcairn, who led the advanced corps, rode up to them and called out, "Disperse you [188] rebels, throw down your arms and disperse."

1775

They still continued in a body, on which he advanced nearer—discharged his pistol—and ordered his soldiers to fire. This was done with a huzza. A dispersion of the militia was the consequence, but the firing of the regulars was nevertheless continued. Individuals finding they were fired upon, though dispersing, returned the fire. Three or four of the militia were killed on the green. A few more were shot after they had begun to disperse. The royal detachment proceeded on to Concord, and executed their commission. They disabled two 24 pounders—threw 500 lb. of ball into rivers and wells, and broke in pieces about 60 barrels of flour. Mr. John Butterick of Concord, major of a minute regiment, not knowing what had passed at Lexington, ordered his men not to give the first fire, that they might not be the aggressors. Upon his approaching near the regulars, they fired, and killed captain Isaac Davis, and one private of the provincial minute men. The fire was returned, and a skirmish ensued. The king's troops having done their business, began their retreat towards Boston. This was conducted with expedition, for the adjacent inhabitants had assembled in arms, and began to attack them in every direction. In their return to Lexington they were exceedingly annoyed, both by those who pressed on their rear, and others who pouring in from all sides, fired from behind stone walls, and such like coverts, which supplied the place of lines and redoubts. At Lexington the regulars were joined by a detachment of 900 men, under lord Piercy, which had been sent out by general Gage to support lieutenant colonel Smith. This reinforcement having two pieces of cannon awed the provincials, and kept them at a greater distance, but they continued a constant, though irregular and scattering fire, which did great execution. The close firing from behind the walls by good marksmen, put the regular troops in no small confusion, but they nevertheless kept up a brisk retreating fire on the militia and minute men.

1775

A little after sunset the regulars reached Bunkers-hill, worn down with excessive fatigue, having marched that day between thirty and forty miles. On [189] the next day they crossed Charlestown ferry, and returned to Boston.

There never were more than 400 provincials engaged at one time, and often not so many. As some tired and gave out, others came up and took their places. There was scarcely any discipline observed among them. Officers and privates fired when they were ready, and saw a royal uniform without waiting for the word of command. Their knowledge of the country enabled them to gain opportunities by crossing fields and

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fences, and to act as flanking parties against the king's troops who kept to the main road.

The regulars had 65 killed, 180 wounded, and 28 made prisoners. Of the provincials 50 were killed, and 38 wounded and missing.

As arms were to decide the controversy, it was fortunate for the Americans that the first blood was drawn in New-England. The inhabitants of that country are so connected with each other by descent, manners, religion, politics, and a general equality, that the killing of a single individual interested the whole, and made them consider it as a common cause. The blood of those who were killed at Lexington and Concord proved the firm cement of an extensive union.

April 22

To prevent the people within Boston from co-operating with their countrymen without in case of an assault which was now daily expected, General Gage agreed with a committee of the town, that upon the inhabitants lodging their arms in Faneuil-hall or any other convenient place, under the care of the selectmen, all such inhabitants as were inclined, might depart from the town, with their families and effects. In five days after the ratification of this agreement, the inhabitants had lodged 1778 fire arms, 634 pistols, 273 bayonets and 38 blunderbusses. The agreement was well observed in the beginning, but after a short time obstructions were thrown in the way of its final completion, on the plea that persons who went from Boston to bring in the goods of those who chose to continue within the town, were not properly treated. Congress remonstrated on the infraction of [190] the agreement, but without effect. The general, on a farther consideration of the consequences of moving the whigs out of Boston, evaded it in a manner not consistent with good faith. He was in some measure compelled to adopt this dishonourable measure, from the clamor of the tories, who alleged that none but enemies to the British government were disposed to remove, and that when they were all safe with their families and effects, the town would be set on fire. To prevent the provincials from obtaining supplies which they much wanted, a quibble was made on the meaning of the word effects, which was construed by the general as not including merchandize. By this construction, unwarranted by every rule of genuine interpretation, many who quitted the town were deprived of their usual resources for a support. Passports were not universally refused, but were given out very slowly, and the business was so conducted that families were divided—wives were separated from their husbands, children from their parents, and the aged and infirm from their relations and friends. The general discovered a disinclination to part with the women and children, thinking that, on their account, the provincials would be restrained from making an assault on the town. The select-men gave repeated assurances that the inhabitants had delivered up their arms, but as a cover for violating the agreement, general Gage issued a proclamation, in which he asserted that he had full proof to the contrary. A few might have secreted some favourite arms, but nearly all the training arms were delivered up. On this flimsy pretence the general sacrificed his honour, to policy and the clamors of the tories. Contrary to good faith he detained many, though fairly entitled by agreement to go out, and when he admitted the departure of others he would not allow them to remove their families and effects.

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The provincial congress of Massachusetts, which was in session at the time of the Lexington battle, dispatched an account of it to Great-Britain, accompanied with many depositions, to prove that the British troops were the aggressors.
They also made an address to the inhabitants [191] of Great-Britain, in which, after complaining of their sufferings, they say, 1775
"these have not yet detached us from our royal sovereign; we profess to be his loyal and dutiful subjects, and though hardly dealt with, as we have been, are still ready with our lives and fortunes, to defend his person, crown, and dignity. Nevertheless, to the persecution and tyranny of his evil ministry, we will not tamely submit. Appealing to heaven for the justice of our cause, we determine to die or be free." From the commencement of hostilities, the dispute between Great-Britain and the colonies took a new direction.

Intelligence that the British troops had marched out of Boston into the country on some hostile purpose, being forwarded by expresses from one committee to another, great bodies of the militia, not only from Massachusetts but the adjacent colonies, grasped their arms and marched to oppose them. The colonies were in such a state of irritability, that the least shock in any part was, by a powerful and sympathetic affection, instantaneously felt throughout the whole. The Americans who fell were revered by their countrymen, as martyrs who had died in the cause of liberty. Resentment against the British burned more strongly than ever. Martial rage took possession of the breasts of thousands. Combinations were formed and associations subscribed, binding the inhabitants to one another by the sacred ties of honour, religion, and love of country, to do whatever their public bodies directed for the preservation of their liberties. Hitherto the Americans had no regular army. From principles of policy they cautiously avoided that measure, least they might subject themselves to the charge of being aggressors. All their military regulations were carried on by their militia, and under the old established laws of the land. For the defence of the colonies, the inhabitants had been, from their early years, enrolled in companies, and taught the use of arms. The laws for this purpose had never been better observed than for some months previous to the Lexington battle.
These military arrangements, which had been previously adopted 1775
for defending the colonies from hostile French and Indians, [192] were on this occasion turned against the troops of the Parent State. Forts, magazines, and arsenals, by the constitution of the country, were in the keeping of his majesty. Immediately after the Lexington battle, these were for the most part taken possession of throughout the colonies, by parties of the provincial militia. Ticonderoga, in which was a small royal garrison, was surprised and taken by adventurers from different states. Public money which had been collected in consequence of previous grants, was also seized for common services. Before the commencement of hostilities these measures would have been condemned by the moderate even among the Americans, but that event justified a bolder line of opposition than had been adopted. Sundry citizens having been put to death by British troops, self preservation dictated measures which, if adopted under other circumstances, would have disunited the colonists. One of the most important of this kind was the raising an army. Men of warm tempers, whose courage exceeded their prudence, had for months urged the necessity of raising troops; but they were restrained by the more moderate, who wished that the colonies might avoid extremities, or at least that they might not lead in

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bringing them on. The provincial congress of Massachusetts being in session at the time the battle of Lexington was fought, voted that "an army of 30,000 men be immediately raised, that 13,600 be of their own province, and that a letter and delegate be sent to the several colonies of New-Hampshire, Connecticut and Rhode Island." In consequence of this vote, the business of recruiting was begun, and in a short time a provincial army was paraded in the vicinity of Boston, which though far below what had been voted by the provincial congress, was much superior in numbers to the royal army. The command of this force was given to general Ward.

1775

Had the British troops confined themselves to Boston, as before the 18th of April, the assembling an American army, though only for the purpose of observation and defence, would have appeared in the nature of a challenge, and would have made many less willing to support [193] the people of Massachusetts, but after the British had commenced hostilities the same measure was adopted without subjecting the authors of it to censure, and without giving offence or hazarding the union. The Lexington battle not only furnished the Americans with a justifying apology for raising an army, but inspired them with ideas of their own prowess. Amidst the most animated declarations of sacrificing fortune, and risquing life itself for the security of American rights, a secret sigh would frequently escape from the breasts of her most determined friends, for fear that they could not stand before the bravery and discipline of British troops. Hoary sages would shake their heads and say, "Your cause is good and I wish you success, but I fear that your undisciplined valour must be overcome, in the unequal contest. After a few thousands of you have fallen, the provinces must ultimately bow to that power which has so repeatedly humbled France and Spain." So confident were the British of their superiority in arms, that they seemed desirous that the contest might be brought to a military decision. Some of the distinguished speakers in parliament had publicly asserted that the natives of America had nothing of the soldier in them, and that they were in no respect qualified to face a British army. European philosophers had published theories, setting forth that not only vegetables and beasts, but that even men degenerated in the western hemisphere. Departing from the spirit of true philosophy, they overlooked the state of society in a new world, and charged a comparative inferiority, on every production that was American. The colonists themselves had imbibed opinions from their forefathers, that no people on earth were equal to those with whom they were about to contend. Impressed with high ideas of British superiority, and dissident of themselves, their best informed citizens, though willing to run all risques, feared the consequence of an appeal to arms. The success that attended their first military enterprize, in some degree banished these suggestions. Perhaps in no subsequent battle did the Americans appear to greater advantage than in their first essay at Lexington.

1775

It is almost without parallel [194] in military history, for the yeomanry of the country to come forward in a single disjointed manner, without order, and for the most part without officers, and by an irregular fire to put to flight troops equal in discipline to any in the world. In opposition to the bold assertions, of some, and the desponding fears of others, experience proved that Americans might effectually resist British troops. The dissident grew bold in their country's cause, and indulged in chearful hopes that heaven would finally crown their labours with success.

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Soon after the Lexington battle, and in consequence of that event, not only the arms, ammunition, forts and fortifications in the colonies were secured for the use of the provincials, but regular forces were raised, and money struck for their support. These military arrangements were not confined to the New-England states, but were general throughout the colonies. The determination of the king and parliament to enforce submission to their acts, and the news of the Lexington battle, came to the distant provinces nearly about the same time. It was supposed by many that the latter was in consequence of the former, and that general Gage had recent orders to proceed immediately to subdue the refractory colonists.

From a variety of circumstances the Americans had good reason to conclude that hostilities would soon be carried on vigorously in Massachusetts, and also to apprehend that, sooner or later, each province would be the theatre of war. “The more speedily therefore said they, we are prepared for that event, the better chance we have for defending ourselves.” Previous to this period, or rather to the 19th of April 1775, the dispute had been carried on by the pen, or at most by associations and legislative acts; but from this time forward it was conducted by the sword. The crisis was arrived when the colonies had no alternative, but either to submit to the mercy, or to resist the power of Great-Britain. An unconquerable love of liberty could not brook the idea of submission, while reason more temperate in her decisions, suggested to the people their insufficiency to make effectual opposition.

1775

They were fully apprized of the power [195] of Britain—they knew that her fleets covered the ocean, and that her flag had waved in triumph through the four quarters of the globe; but the animated language of the time was, “It is better to die freemen, than to live slaves.” Though the justice of their cause, and the inspiration of liberty gave, in the opinion of disinterested judges a superiority to the writings of Americans, yet in the latter mode of conducting their opposition, the candid among themselves acknowledged an inferiority. Their form of government was deficient in that decision, dispatch, and coercion, which are necessary to military operations.

Europeans, from their being generally unacquainted with fire arms are less easily taught the use of them than Americans, who are from their youth familiar with these instruments of war; yet on other accounts they are more susceptible of military habits. The proportion of necessitous men in the new world is small to that in the old.

To procure subsistence is a powerful motive with an European to enlist, and the prospect of losing it makes him afraid to neglect his duty; but these incitements to the punctual discharge of military services, are wanting in America. In old countries the distinction of ranks and the submission of inferiors to superiors, generally takes place, but in the new world an extreme sense of liberty and equality indisposes to that implicit obedience which is the soul of an army. The same causes which nurtured a spirit of independence in the colonies, were hostile to their military arrangements. It was not only from the different state of society in the two countries, but from a variety of local causes, that the Americans were not able to contend in arms, on equal terms, with their Parent State. From the first settlement of the British colonies, agriculture and commerce, but especially the former, had been the favourite pursuits of their inhabitants. War was a business abhorrent from their usual habits of life. They had

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never engaged in it from their own motion, nor in any other mode than as appendages to British troops, and under British establishments. By these means the military spirit of the colonies had no opportunity of expanding itself.

1775

At the commencement of hostilities, the British [196] troops possessed a knowledge of the science and discipline of war, which could be acquired only by a long series of application, and substantial establishments. Their equipments, their artillery, and every other part of their apparatus for war approached perfection. To these important circumstances was added a high national spirit of pride, which had been greatly augmented by their successes in their last contest with France and Spain. On the other hand the Americans were undisciplined, without experienced officers, and without the shadow of military establishments. In the wars which had been previously carried on, in or near the colonies, the provincials had been, by their respective legislatures, frequently added to the British troops, but the pride of the latter would not consider the former, who were without uniformity of dress, or the pertness of military airs, to be their equals. The provincial troops were therefore for the most part, assigned to services which, though laborious, were not honourable.

The ignorance of British generals commanding in the woods of America, sometimes involved them in difficulties from which they had been more than once relieved by the superior local knowledge of the colonial troops. These services were soon forgotten, and the moment the troops who performed them could be spared, they were disbanded. Such like obstacles had hitherto depressed military talents in America, but they were now overcome by the ardor of the people.

In the year 1775, a martial spirit pervaded all ranks of men in the colonies. They believed their liberties to be in danger, and were generally disposed to risque their lives for their establishment. Their ignorance of the military art, prevented their weighing the chances of war with that exactness of calculation which, if indulged, might have damped their hopes. They conceived that there was little more to do than fight manfully for their country. They consoled themselves with the idea, that though their first attempt might be unsuccessful; their numbers would admit of a repetition of the experiment, till the invaders were finally exterminated.

1775

Not considering [197] that in modern war the longest purse decides oftener than the longest sword, they feared not the wealth of Britain. They both expected and wished that the whole dispute would be speedily settled in a few decisive engagements. Elevated with the love of liberty, and buoyed above the fear of consequences, by an ardent military enthusiasm, unabated by calculations about the extent, duration, or probable issue of the war, the people of America seconded the voice of their rulers, in an appeal to heaven for the vindication of their rights. At the time the colonies adopted these spirited resolutions, they possessed not a single ship of war, nor so much as an armed vessel of any kind. It had often been suggested that their seaport towns lay at the mercy of the navy of Great-Britain; this was both known and believed, but disregarded. The love of property was absorbed in the love of liberty. The animated votaries of the equal rights of human nature, consoled themselves with the idea that though their whole sea coast should be laid in ashes, they could retire to the western wilderness, and enjoy the luxury of being free; on this occasion it was observed in Congress by Christopher Gadsden, one

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of the South-Carolina delegates, “Our houses being constructed of brick, stone, and wood, though destroyed may be rebuilt, but liberty once gone is lost forever.”

The sober discretion of the present age will more readily censure than admire, but can more easily admire than imitate the fervid zeal of the patriots of 1775, who in idea sacrificed property in the cause of liberty, with the ease that they now sacrifice almost every other consideration for the acquisition of property.

The revenues of Britain were immense, and her people were habituated to the payment of large sums in every form which contributions to government have assumed; but the American colonies possess neither money nor funds, nor were their people accustomed to taxes equal to the exigences of war. The contest having begun about taxation, to have raised money by taxes for carrying it on, would have been impolitic.

The temper of the times precluded the necessity of attempting the dangerous [198] expedient, for such was the enthusiasm of the day, that the colonists gave up both their personal services and their property to the public, on the vague promises that they should at a future time be reimbursed. Without enquiring into the solidity of funds, or the precise period of payment, the resources of the country were commanded on general assurances, that all expences of the war should ultimately be equalised. The Parent State abounded with experienced statesmen and officers, but the dependent form of government exercised in the colonies, precluded their citizens from gaining that practical knowledge which is acquired from being at the head of public departments. There were very few in the colonies who understood the business of providing for an army, and still fewer who had experience and knowledge to direct its operations. The disposition of the finances of the country, and the most effectual mode of drawing forth its resources, were subjects with which scarce any of the inhabitants were acquainted. Arms and ammunition were almost wholly deficient; and though the country abounded with the materials of which they are manufactured, yet there was neither time nor artists enough to supply an army with the means of defence. The country was destitute both of fortifications and engineers. Amidst so many discouragements there were some flattering circumstances. The war could not be carried on by Great-Britain, but to a great disadvantage, and at an immense expence. It was easy for ministers at St. James’s to plan campaigns, but hard was the fate of the officer from whom the execution of them in the woods of America was expected. The country was so extensive, and abounded so much with defiles; that by evacuating and retreating, the Americans though they could not conquer, yet might save themselves from being conquered. The authors of the acts of parliament for restraining the trade of the colonies, were most excellent recruiting officers for the Congress. They imposed a necessity on thousands to become soldiers. All other business being suspended, the whole resources of the country were applied in supporting an army.

1775

Though [199] the colonists were without discipline, they possessed native valour. Though they had neither gold nor silver, they possessed a mine in the enthusiasm of their people. Paper for upwards of two years produced to them more solid advantages than Spain derived from her superabounding precious metals. Though they had no ships to protect their trade or their towns, they had simplicity enough to live without the former, and enthusiasm

1775

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enough to risque the latter, rather than submit to the power of Britain. They believed their cause to be just, and that heaven approved their exertions in defence of their rights. Zeal originating from such motives, supplied the place of discipline, and inspired a confidence and military ardor which overleaped all difficulties.

Resistance being resolved upon by Americans—the pulpit—the press—the bench and the bar, severally laboured to unite and encourage them. The clergy of New-England were a numerous, learned and respectable body, who had a great ascendancy over the minds of their hearers. They connected religion and patriotism, and in their sermons and prayers, represented the cause of America as the cause of heaven. The synod of New-York and Philadelphia, also sent forth a pastoral letter, which was publicly read in their churches. This earnestly recommended such sentiments and conduct as were suitable to their situation. Writers and printers followed in the rear of the preachers, and next to them had the greatest hand in animating their countrymen. Gentlemen of the bench and of the bar denied the charge of rebellion, and justified the resistance of the colonists. A destinction founded on law, between the king and his ministry, was introduced. The former, it was contended, could do no wrong. The crime of treason was charged on the latter, for using the royal name to varnish their own unconstitutional measures. The phrase of a ministerial war became common, and was used as a medium for reconciling resistance with allegiance.

Coeval with the resolutions for organizing an army, was one appointing the 20th day of July, 1775, a day of public humiliation, fasting and prayer to Almighty God, [200] ["]to bless their rightful sovereign king George, and to inspire him with wisdom to discern and pursue the true interest of his subjects; and that the British nation might be influenced to regard the things that belonged to her peace, before they were hid from her eyes—that the colonies might be ever under the care and protection of a kind providence, and be prospered in all their interests—that America might soon behold a gracious interposition of heaven, for the redress of her many grievances; the restoration of her invaded rights, a reconciliation with the Parent State, on terms constitutional and honourable to both." The forces which had been collected in Massachusetts, were stationed in convenient places for guarding the country from farther excursions of the regulars from Boston. Breast works were also erected in different places for the same purpose. While both parties were attempting to carry off stock from the several islands with which the bay of Boston is agreeably diversified, sundry skirmishes took place. These were of real service to the Americans. They habituated them to danger, and perhaps much of the courage of old soldiers, is derived from an experimental conviction, that the chance of escaping unhurt from engagements is much greater than young recruits suppose.

About the latter end of May a great part of the reinforcements ordered from Great-Britain, arrived at Boston.

May 25

Three British generals, Howe, Burgoyne and Clinton, whose behaviour in the preceding war had gained them great reputation, also arrived about the same time. General Gage, thus reinforced, prepared for acting with more decision, but before he proceeded to extremities he conceived it due to ancient forms to issue a proclamation, holding forth to the inhabitants the alternative of peace or war.

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June 12

He therefore offered pardon in the king's name to all who should forthwith lay down their arms, and return to their respective occupations and peaceable duties, excepting only from the benefit of that pardon "Samuel Adams, and John Hancock, whose offences were said to be of too flagitious a nature to admit of any other consideration than that of condign punishment."

1775

He also [201] proclaimed that not only the persons above named and excepted, but also their adherents, associates, and correspondents, should be deemed guilty of treason and rebellion, and treated accordingly. By this proclamation it was also declared "that as the courts of judicature were shut, martial law should take place, till a due course of justice should be re-established." It was supposed that this proclamation was a prelude to hostilities, and preparations were accordingly made by the Americans. A considerable height, by the name of Bunkers-hill, just at the entrance of the peninsula of Charlestown, was so situated as to make the possession of it a matter of great consequence, to either of the contending parties.

June 16

Orders were therefore issued by the provincial commanders that a detachment of a thousand men should intrench upon this height. By some mistake Breed's-hill, high and large like the other, but situated nearer Boston, was marked out for the intrenchments, instead of Bunkers-hill. The provincials proceeded to Breed's-hill and worked with so much diligence, that between midnight and the dawn of the morning, they had thrown up a small redoubt about 8 rods square. They kept such a profound silence that they were not heard by the British, on board their vessels, though very near. These having derived their first information of what was going on from the sight of the work near completion, began an incessant firing upon them. The provincials bore this with firmness, and though they were only young soldiers continued to labour till they had thrown up a small breastwork, extending from the east side of the redoubt to the bottom of the hill. As this eminence overlooked Boston general Gage thought it necessary to drive the provincials from it.

June 17

About noon therefore he detached major general Howe and brig. general Pigot, with the flower of his army, consisting of four battalions, ten companies of the grenadiers and ten of light infantry, with a proportion of field artillery, to effect this business. These troops landed at Moreton's point, and formed after landing, but remained in that position till they were reinforced by a second detachment of light infantry and grenadier companies, a battalion of land forces and a battalion of marines, [202] making in the whole nearly 3000 men.

1775

While the troops who first landed were waiting for this reinforcement, the provincials for their farther security, pulled up some adjoining post and rail fences, and set them down in two parallel lines at a small distance from each other, and filled the space between with hay, which having been lately mowed, remained on the adjacent ground.

The king's troops formed in two lines, and advanced slowly, to give their artillery time to demolish the American works. While the British were advancing to the attack, they received orders to burn Charlestown. This was not done because they were fired upon from the houses in that town, but from the military policy of depriving enemies of a cover in their approaches. In a short time this ancient town, consisting of about 500 buildings, chiefly of wood, was in one great blaze. The lofty steeple of the

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meeting house formed a pyramid of fire above the rest, and struck the astonished eyes of numerous beholders with a magnificent but awful spectacle. In Boston the heights of every kind were covered with the citizens, and such of the king's troops as were not on duty. The hills around the adjacent country which afforded a safe and distinct view, were occupied by the inhabitants of the country.

Thousands, both within and without Boston, were anxious spectators of the bloody scene. The honour of British troops beat high in the breasts of many, while others with a keener sensibility, felt for the liberties of a great and growing country. The British moved on but slowly, which gave the provincials a better opportunity for taking aim. The latter in general reserved themselves till their adversaries were within ten or twelve rods, but then began a furious discharge of small arms. The stream of the American fire was so incessant, and did so great execution that the king's troops retreated in disorder and precipitation. Their officers rallied them and pushed them forward with their swords, but they returned to the attack with great reluctance. The Americans again reserved their fire till their adversaries were near, and then put them a second time to flight.

1775

General Howe and the officers redoubled their exertions, and were again [203] successful, though the soldiers discovered a great aversion to going on. By this time the powder of the Americans began so far to fail that they were not able to keep up the same brisk fire as before. The British also brought some cannon to bear which raked the inside of the breast work from end to end. The fire from the ships, batteries, and field artillery was redoubled—the soldiers in the rear were goaded on by their officers. The redoubt was attacked on three sides at once. Under these circumstances a retreat from it was ordered, but the provincials delayed, and made resistance with their discharged muskets as if they had been clubs, so long that the king's troops who easily mounted the works had half filled the redoubt before it was given up to them.

While these operations were going on at the breast work and redoubt, the British light infantry were attempting to force the left point of the former, that they might take the American line in flank. Though they exhibited the most undaunted courage, they met with an opposition which called for its greatest exertions. The provincials here, in like manner, reserved their fire till their adversaries were near, and then poured it upon the light infantry, with such an incessant stream, and in so true a direction as mowed down their ranks. The engagement was kept up on both sides with great resolution. The persevering exertions of the king's troops could not compel the Americans to retreat, till they observed that their main body had left the hill. This, when begun, exposed them to new danger, for it could not be effected but by marching over Charlestown neck, every part of which was raked by the shot of the Glasgow man of war, and of two floating batteries. The incessant fire kept up across this neck prevented any considerable reinforcement from joining their countrymen who were engaged; but the few who fell on their retreat, over the same ground proved, that the apprehensions of those provincial officers who declined passing over to succour their companions, were without any solid foundation.

The number of Americans engaged, amounted only to 1500.

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1775

It was apprehended that the conquerors would [204] push the advantage they had gained, and march immediately to American head quarters at Cambridge, but they advanced no farther than Bunker's-hill. There they threw up works for their own security. The provincials did the same on Prospect-hill in front of them. Both were guarding against an attack, and both were in a bad condition to receive one. The loss of the peninsula depressed the spirits of the Americans, and their great loss of men produced the same effect on the British. There have been few battles in modern wars, in which all circumstances considered, there was a greater destruction of men than in this short engagement. The loss of the British, as acknowledged by general Gage, amounted to 1054. Nineteen commissioned officers were killed, and 70 more were wounded. The battle of Quebec in 1759, which gave Great-Britain the province of Canada, was not so destructive to British officers as this affair of a slight intrenchment, the work only of a few hours. That the officers suffered so much, must be imputed to their being aimed at. None of the provincials in this engagement were riflemen, but they were all good marksmen. The whole of their previous military knowledge had been derived, from hunting, and the ordinary amusements of sportsmen. The dexterity which by long habit they had acquired in hitting beasts, birds, and marks, was fatally applied to the destruction of British officers. From their fall much confusion was expected. They were therefore particularly singled out. Most of those who were near the person of general Howe were either killed or wounded, but the general, though he greatly exposed himself, was unhurt. The light infantry and grenadiers lost three-fourths of their men. Of one company not more than five, and of another, not more than fourteen escaped. The unexpected resistance of the Americans was such as wiped away the reproaches of cowardice, which had been cast on them by their enemies in Britain.

1775

The spirited conduct of the British officers merited and obtained great applause, but the provincials were justly entitled to a large portion of the same, for having made the utmost exertions of their adversaries necessary to dislodge them [205] from lines, which were the work only of a single night.

The Americans lost five pieces of cannon. Their killed amounted to 139. Their wounded and missing to 314. Thirty of the former fell into the hands of the conquerors. They particularly regretted the death of general Warren. To the purest patriotism and most undaunted bravery, he added the virtues of domestic life, the eloquence of an accomplished orator, and the wisdom of an able statesman. Nothing but a regard to the liberty of his country induced him to oppose the measures of government. He aimed not at a separation from, but a coalition with the Mother Country. He took an active part in defence of his country, not that he might be applauded and rewarded for a patriotic spirit, but because he was, in the best sense of the word, a real patriot. Having no interested or personal views to answer the friends of liberty, confided in his integrity. The soundness of his judgment, and his abilities as a public speaker, enabled him to make a distinguished figure in public councils, but his intrepidity and active zeal, induced his countrymen to place him in the military line. Within four days after he was appointed a major general, he fell a noble sacrifice to a cause which he had espoused from the purest principles. Like Hambden he lived and like Hambden he died, universally beloved and universally regretted. His many virtues were celebrated in an elegant eulogium written by Dr. Rush, in language equal

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to the illustrious subject. The burning of Charlestown, though a place of great trade did not discourage the provincials. It excited resentment and execration, but not any disposition to submit. Such was the high toned state of the public mind, and so great the indifference for property when put in competition with liberty, that military conflagrations, though they distressed and impoverished, had no tendency to subdue the colonists. They might answer in the old world, but were not calculated for the new, where the war was undertaken, not for a change of masters, but for securing essential rights. The action at Breed's-hill, or Bunker's-hill, as it has been commonly called, produced many and very important [206] consequences.

1775

It taught the British so much respect for Americans intrenched behind works, that their subsequent operations were retarded with a caution that wasted away a whole campaign, to very little purpose. It added to the confidence the Americans began to have in their own abilities, but inferences, very injurious to the future interests of America, were drawn from the good conduct of the new troops on that memorable day. It inspired some of the leading members of Congress, with such high ideas of what might be done by militia, or men engaged for a short term of enlistment, that it was long before they assented to the establishment of a permanent army. Not distinguishing the continued exertions of an army through a series of years, from the gallant efforts of the yeomanry of the country, led directly to action, they were slow in admitting the necessity of permanent troops. They conceived the country might be defended by the occasional exertions of her sons, without the expence and danger of an army engaged for the war. In the progress of hostilities, as will appear in the sequel, the militia lost much of their first ardor, while leading men in the councils of America, trusting to its continuance, neglected the proper time of recruiting for a series of years. From the want of perseverance in the militia, and the want of a disciplined standing army, the cause for which arms were at first taken up, was more than once brought to the brink of destruction.

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CHAPTER VII

The Second Congress Meets And Organises A Regular Continental Army—Makes Sundry Public Addresses, And Petitions The King, &C. Transactions In Massachusetts.

1775

It has already been mentioned, that Congress previous to its dissolution, on the 26th of October, 1774, recommended to the colonies, to chuse members for another to meet on the tenth of May 1775, unless the redress of their grievances was previously obtained. A circular letter had been addressed by lord Dartmouth, to the [207] several colonial governors, requesting their interference to prevent the meeting of this second Congress: but ministerial requisitions had lost their influence, delegates were elected not only for the twelve colonies that were before represented, but also for the parish of St. John's in Georgia, and in July following, for the whole province. The time of the meeting of this second Congress was fixed at so distant a day, that an opportunity might be afforded for obtaining information of the plans adopted by the British parliament in the winter of 1774, 1775. Had these been favourable, the delegates would either not have met, or dispersed after a short session, but as the resolution was then fixed to compel the submission of the colonies, and hostilities had already commenced, the meeting of Congress on the tenth of May, which was at first eventual, became fixed.

May 10

On their meeting, they chose Peyton Randolph for their President, and Charles Thomson for their secretary. On the next day Mr. Hancock laid before them a variety of depositions, proving that the king's troops were the aggressors in the late battle at Lexington, together with sundry papers relative to the great events which had lately taken place in Massachusetts: Whereupon Congress resolved itself into a committee of the whole, to take into consideration the state of America. They proceeded in the same line of moderation and firmness, which marked the acts of their predecessors in the past year.

May 15

The city and county of New-York having applied to Congress for advice, how they should conduct themselves with regard to the troops expected to land there, they were advised "to act on the defensive so long as might be consistent with their safety—to permit the troops to remain in the barracks, so long as they behaved peaceably, but not to suffer fortifications to be erected, or any steps to be taken for cutting off the communication between the town and country."

May 17

Congress also resolved, "That exportation to all parts of British America, which had not adopted their association, should immediately cease;" and that, "no provision of any kind, or other necessaries be furnished to the British fisheries on the American [208] coasts."

1775

And

June 2

that no bill of exchange, draught, or order, of any officer in the British army or navy, their agents or contractors, be received or

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negociated, or any money supplied them, by any person in America—that no provisions or necessaries of any kind, be furnished or supplied, to or for the use of the British army or navy, in the colony of Massachusetts Bay—that no vessel employed in transporting British troops to America, or from one part of North-America to another, or warlike stores or provisions for said troops, be freighted or furnished with provisions or any necessaries.

These resolutions may be considered as the counterpart of the British acts for restraining the commerce, and prohibiting the fisheries of the colonies. They were calculated to bring distress on the British islands in the West-Indies, whose chief dependence for subsistance, was on the importation of provision from the American continent. They also occasioned new difficulties in the support of the British army and fisheries. The colonists were so much indebted to Great-Britain, that government bills for the most part found among them a ready market. A war in the colonies was therefore made subservient to commerce, by increasing the sources of remittance. This enabled the Mother Country, in a great degree, to supply her troops without shipping money out of the kingdom. From the operation of these resolutions, advantages of this nature were not only cut off, but the supply of the British army rendered both precarious and expensive. In consequence of the interdiction of the American fisheries, great profits were expected by British adventurers in that line. Such frequently found it most convenient to obtain supplies in America for carrying on their fisheries; but as Great-Britain had deprived the colonists of all benefits from that quarter, they now in their turn, interdicted all supplies from being furnished to British fishermen. To obviate this unexpected embarrassment, several of the vessels employed in this business, were obliged to return home, to bring out provisions for their associates. These restrictive resolutions, were not so much the effect of resentment as of policy.

1775

The colonists conceived, that [209] by distressing the British commerce, they would encrease the number of those who would interest themselves in their behalf.

The new Congress had convened but a few days when their venerable president Peyton Randolph, was under a necessity of returning home. On his departure John Hancock was unanimously chosen his successor. The objects of deliberation presented to this new Congress were, if possible, more important than those which in the preceding year, had engaged the attention of their predecessors. The colonists had now experienced the inefficacy of those measures, from which relief had been formerly obtained. They found a new parliament disposed to run all risques in inforcing their submission. They also understood that administration was united against them, and its members firmly established in their places. Hostilities were commenced. Reinforcements had arrived, and more were daily expected. Added to this, they had information that their adversaries had taken measures to secure the friendship and co-operation of the Indians; and also of the Canadians.

The coercion of the colonies being resolved upon, and their conquest supposed to be inevitable, the British ministry judged that it would be for the interest of both countries to proceed in that vigorous course, which bid fairest for the speediest

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attainment of their object. They hoped by pressing the colonists on all quarters, to intimidate opposition, and ultimately to lessen the effusion of human blood.

In this awful crisis Congress had but a choice of difficulties. The New-England states had already organized an army and blockaded general Gage. To desert them would have been contrary to plighted faith and to sound policy. To support them would make the war general, and involve all the provinces in one general promiscuous state of hostility. The resolution of the people in favour of the latter was fixed, and only wanted public sanction for its operation.

May 26

Congress therefore resolved, "that for the express purpose of defending and securing the colonies, and preserving them in safety, against [210] all attempts to carry the late acts of a parliament into execution, by force of arms,

1775

they be immediately put in a state of defence; but as they wished for a restoration of the harmony formerly subsisting between the Mother Country and the colonies, to the promotion of this most desirable reconciliation, an humble and dutiful petition be presented to his majesty." To resist and to petition were coeval resolutions. As freemen they could not tamely submit, but as loyal subjects, wishing for peace as far as was compatible with their rights, they once more, in the character of petitioners, humbly stated their grievances to the common father of the empire. To dissuade the Canadians from co-operating with the British, they again addressed them, representing the pernicious tendency of the Quebec act, and apologizing for their taking Ticonderoga and Crown-Point, as measures which were dictated by the great law of self preservation. About the same time Congress took measures for warding off the danger that threatened their frontier inhabitants from Indians. Commissioners to treat with them were appointed, and a supply of goods for their use was ordered. A talk was also prepared by Congress, and transmitted to them, in which the controversy between Great-Britain and her colonies was explained, in a familiar Indian style. They were told that they had no concern in the family quarrel, and were urged by the ties of ancient friendship and a common birth place, to remain at home, keep their hatchet buried deep, and to join neither side.

The novel situation of Massachusetts made it necessary for the ruling powers of that province to ask the advice of Congress on a very interesting subject, "The taking up and exercising the powers of civil government." For many months they had been kept together in tolerable peace and order by the force of ancient habits, under the simple style of recommendation and advice from popular bodies, invested with no legislative authority. But as war now raged in their borders, and a numerous army was actually raised, some more efficient form of government became necessary.

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At this early day it neither [211] comported with the wishes nor the designs of the colonists to erect forms of government independent of Great-Britain, Congress therefore recommended only such regulations as were immediately necessary, and these were conformed as near as possible to the spirit and substance of the charter, and were only to last till a governor of his majesty's appointment would consent to govern the colony according to its charter.

On the same principles of necessity, another assumption of new powers became unavoidable. The great intercourse that daily took place throughout the colonies,

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pointed out the propriety of establishing a general post-office. This was accordingly done, and Dr. Franklin, who had by royal authority been dismissed from a similar employment about three years before, was appointed by his country, the head of the new department.

While Congress was making arrangements for their proposed continental army, it was thought expedient once more to address the inhabitants of Great-Britain, and to publish to the world a declaration setting forth their reasons for taking up arms—to address the speaker and gentlemen of the assembly of Jamaica, and the inhabitants of Ireland, and also to prefer a second humble petition to the king. In their address to the inhabitants of Great-Britain, they again vindicated themselves from the charge of aiming at independency, professed their willingness to submit to the several acts of trade and navigation which were passed before the year 1763, recapitulated their reasons for rejecting lord North's conciliatory motion—stated the hardships they suffered from the operations of the royal army in Boston, and insinuated the danger the inhabitants of Britain would be in of losing their freedom, in case their American brethren were subdued.

In their declaration, setting forth the causes and necessity of their taking up arms, they enumerated the injuries they had received, and the methods taken by the British ministry to compel their submission, and then said,
"We are reduced to the alternative of choosing an unconditional submission to the tyranny of irritated ministers, or [212] resistance by force. The latter is our choice. We have counted the cost of this contest, and find nothing so dreadful as voluntary slavery." They asserted "that foreign assistance was undoubtedly attainable." This was not founded on any private information, but was an opinion derived from their knowledge of the principles of policy, by which states usually regulate their conduct towards each other.

1775

In their address to the speaker and gentlemen of the assembly of Jamaica, they dilated on the arbitrary systems of the British ministry, and informed them that in order to obtain a redress of their grievances, they had appealed to the justice, humanity, and interest of Great-Britain. They stated, that to make their schemes of non-importation and non-exportation produce the desired effects, they were obliged to extend them to the islands. "From that necessity, and from that alone, said they, our conduct has proceeded." They concluded with saying, "the peculiar situation of your island forbids your assistance, but we have your good wishes—from the good wishes of the friends of liberty and mankind we shall always derive consolation."

In their address to the people of Ireland they recapitulated their grievances, stated their humble petitions, and the neglect with which they had been treated. "In defence of our persons and properties under actual violations, said they, we have taken up arms. When that violence shall be removed, and hostilities cease on the part of the aggressors, they shall cease on our part also."

These several addresses were executed in a masterly manner, and were well calculated to make friends to the colonies. But their petition to the king, which was drawn up at the same time, produced more solid advantages in favour of the American

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cause, than any other of their productions. This was in a great measure carried through Congress by Mr. Dickinson.

1775

Several members, judging from the violence with which parliament proceeded against the colonies, were of opinion that farther petitions were nugatory; but this worthy citizen, a friend to both countries, and devoted to a reconciliation on [213] constitutional principles, urged the expediency and policy of trying once more the effect of an humble, decent, and firm petition, to the common head of the empire. The high opinion that was conceived of his patriotism and abilities, induced the members to assent to the measure, though they generally conceived it to be labour lost. The petition agreed upon was the work of Mr. Dickinson's pen. In this, among other things, it was stated,

July 8

that notwithstanding their sufferings, they had retained too high a regard for the kingdom from which they derived their origin, to request such a reconciliation as might in any manner be inconsistent with her dignity and welfare. Attached to his majesty's person, family, and government, with all the devotion that principle and affection can inspire, connected with Great-Britain by the strongest ties that can unite society, and deploring every event that tended in any degree to weaken them, they not only most fervently desired the former harmony between her and the colonies to be restored, but that a concord might be established between them, upon so firm a basis as to perpetuate its blessings, uninterrupted by any future dissentions, to succeeding generations, in both countries. They therefore beseeched that his majesty would be pleased to direct some mode by which the united applications of his faithful colonists to the throne, in pursuance of their common councils, might be improved into a happy and permanent reconciliation.

By this last clause Congress meant that the Mother Country should propose a plan for establishing by compact, something like Magna Charta for the colonies. They did not aim at a total exemption from the controul of parliament, nor were they unwilling to contribute in their own way, to the expences of government; but they feared the horrors of war less than submission to unlimited parliamentary supremacy. They wished for an amicable compact, in which doubtful, undefined points, should be ascertained so as to secure that proportion of authority and liberty which would be for the general good of the whole empire. They fancied themselves in the condition of the barons at Runnymede; but with this difference, that in [214] addition to opposing the king, they had also to oppose the parliament.

1775

This difference was more nominal than real, for in the latter case the king and parliament stood precisely in the same relation to the people of America, which subsisted in the former between the king and people of England. In both, popular leaders were contending with the sovereign for the privileges of subjects. This well meant petition was presented on September 1st, 1775, by Mr. Penn and Mr. Lee, and on the 4th lord Dartmouth informed them, "that to it no answer would be given." This slight contributed not a little to the union and perseverance of the colonists. When pressed by the calamities of war, a doubt would sometimes arise in the minds of scrupulous persons, that they had been too hasty in their opposition to their protecting Parent State. To such it was usual to present the second petition of Congress to the king, observing thereon, that all the blood and all the guilt of the war, must be charged on British, and not on American counsels.

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Though the colonists were accused in a speech from the throne, as meaning only, "to amuse by vague expressions of attachment to the Parent State, and the strongest protestations of loyalty to their king, while they were preparing for a general revolt, and that their rebellious war was manifestly carried on for the purpose of establishing an independent empire." Yet at that time, and for months after, a redress of grievances was their ultimate aim. Conscious of this intention, and assenting in the sincerity of their souls to the submissive language of their petition, they illy brooked the contempt with which their joint supplication was treated, and still worse, that they should be charged from the throne with studied duplicity. Nothing contributes more to the success of revolutions than moderation. Intemperate zealots overshoot themselves, and soon spend their force, while the calm and dispassionate persevere to the end. The bulk of the people in civil commotions are influenced to a choice of sides, by the general complexion of the measures adopted by the respective parties. When these appear to be dictated by justice and prudence, and to be [215] uninfluenced by passion, ambition or avarice, they are disposed to favour them. Such was the effect of this second petition, through a long and trying war, in which men of serious reflection were often called upon to examine the rectitude of their conduct.

Oct. 26

Though the refusal of an answer to this renewed application of Congress to the king, was censured by numbers in Great-Britain, as well as in the colonies, yet the partisans of ministry varnished the measure as proper and expedient. They contended that the petition, as it contained no offers of submission, was unavailing, as a ground work of negociation. Nothing was farther from the thoughts of Congress than such concessions as were expected in Great-Britain. They conceived themselves to be more sinned against than sinning. They claimed a redress of grievances as a matter of right, but were persuaded that concessions for this purpose were acts of justice and not of humiliation, and therefore could not be disgraceful to those by whom they were made. To prevent future altercations they wished for an amicable compact to ascertain the extent of parliamentary supremacy. The Mother Country wished for absolute submission to her authority, the colonists for a repeal of every act that imposed taxes, or that interfered in their internal legislation. The ministry of England being determined not to repeal these acts, and the Congress equally determined not to submit to them, the claims of the two countries were so wide of each other as to afford no reasonable ground to expect a compromise. It was therefore concluded, that any notice taken of the petition would only afford an opportunity for the colonies to prepare themselves for the last extremity.

A military opposition to the armies of Great-Britain being resolved upon by the colonies, it became an object of consequence to fix on a proper person to conduct that opposition.

1775

Many of the colonists had titles of high rank in the militia, and several had seen something of real service, in the late war between France and England; but there was no individual of such superior military experience as to entitle him to a decided pre-eminence, or even [216] to qualify him, on that ground, to contend on equal terms with the British masters of the art of war. In elevating one man, by the free voice of an invaded country, to the command of thousands of his equal fellow citizens, no consideration was regarded but the interest

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of the community. To bind the uninvaded provinces more closely to the common cause, policy directed the views of Congress to the south.

Among the southern colonies Virginia, for numbers, wealth, and influence, stood pre-eminent. To attach so respectable a colony to the aid of Massachusetts, by selecting a commander in chief from that quarter, was not less warranted by the great military genius of one of her distinguished citizens, than dictated by sound policy.

June 15

George Washington was, by an unanimous vote appointed, commander in chief of all the forces raised, or to be raised, for the defence of the colonies. It was a fortunate circumstance attending his election, that it was accompanied with no competition, and followed by no envy. That same general impulse on the public mind, which led the colonists to agree in many other particulars, pointed to as the most proper person for presiding over the military arrangements of America. Not only Congress but the inhabitants in the east and the west, in the north and, the south, as well before as at the time of embodying a continental army were in a great degree unanimous in his favour. An attempt to draw the character of this truly great man would look like flattery. Posterity will doubtless do it justice. His actions, especially now, while fresh in remembrance, are his amplest panegyric. Suffice it, in his life time, only to particularise those qualities, which being more common, may be mentioned without offending the delicate sensibility of the most modest of men.

General Washington was born on the 11th of February 1732. His education was such as favoured the production of a solid mind and a vigorous body. Mountain air, abundant exercise in the open country—the wholesome toils of the chace, and the delightful scenes of rural life, expanded his limbs to an unusual but graceful [217] and well proportioned size.

1775

His youth was spent in the acquisition of useful knowledge, and in pursuits, tending to the improvement of his fortune, or the benefit of his country. Fitted more for active, than for speculative life, he devoted the greater proportion of his time to the latter, but this was amply compensated by his being frequently in such situations, as called forth the powers of his mind, and strengthened them by repeated exercise. Early in life, in obedience to his country's call, he entered the military line, and began his career of fame in opposing that power in concert with whose troops, he acquired his last and most distinguished honours. He was with general Braddock in 1755, when that unfortunate officer from an excess of bravery, chose rather to sacrifice his army than retreat from an unseen foe. The remains of that unfortunate corpse were brought off the field of battle chiefly by the address and good conduct of colonel Washington. After the peace of Paris 1763, he retired to his estate, and with great industry and success pursued the arts of peaceful life. When the proceedings of the British parliament alarmed the colonists with apprehensions that a blow was levelled at their liberties, he again came forward into public view, and was appointed a delegate to the Congress, which met in September 1774. Possessed of a large proportion of common sense directed by a sound judgment, he was better fitted for the exalted station to which he was called, than many others who to a greater brilliancy of parts frequently add the eccentricity of original genius. Engaged in the busy scenes of life, he knew human nature, and the most proper method of accomplishing proposed objects. His passions were subdued and kept in subjection to reason. His soul superior to party spirit, to prejudice and illiberal views,

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moved according to the impulses it received from an honest heart, a good understanding, common sense, and a sound judgment. He was habituated to view things on every side, to consider them in all relations, and to trace the possible and probable consequences of proposed measures. Much addicted to close thinking, his mind was constantly employed.

By frequent exercise, [218] his understanding and judgment expanded so as to be able to discern truth, and to know what was proper to be done in the most difficult conjunctures. 1775

Soon after general Washington was appointed commander in chief of the American army. Four major generals, one adjutant general, with the rank of a brigadier, and eight brigadiers general were appointed in subordination to him which were as follows.

lst. Major General	Artemas Ward
2d.	Charles Lee
3d.	Philip Schuyler
4th.	Israel Putnam
Adjutant General	Horatio Gates

The 8 Brigadiers were

1st. Seth Pomeroy
2d. Richard Montgomery
3d. David Wooster
4th. William Heath
5th. Joseph Spencer
6th. John Thomas
7th. John Sullivan
8th. Nathaniel Greene

General Washington replied to the president of Congress, announcing his appointment in the following words.

Mr. President,

Though I am truly sensible of the high honour done me in this appointment, yet, I feel great distress from a consciousness, that my abilities and military experience may not be equal to the extensive and important trust: however as the Congress desire it, I will enter upon the momentous duty, and exert every power I possess in their service, and for support of the glorious cause. I beg they will accept my most cordial thanks for this distinguished testimony of their approbation.

But, lest some unlucky event should happen unfavourable to my reputation, I beg it may be remembered by every gentleman in the room, that I this day declare with the utmost sincerity, I do not think myself equal to the command I am honoured with.

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As to pay sir, I beg leave to assure the Congress, that as no pecuniary consideration could have tempted me to accept this arduous employment, at the expence of my domestic ease and happiness, I do not wish to make any profit from it. I will keep an exact account of my expences. Those I doubt not they will discharge, and that is all I desire.

A special commission was drawn up and presented to him, and at the same time an unanimous resolution was adopted by Congress, "That they would maintain and assist him, and adhere to him with their lives and fortunes in the cause of American liberty." Instructions were also given him for his government, by which after reciting various particulars he was directed, "to destroy or make prisoners of all persons who now are, or who hereafter shall appear in arms against the good people of the colonies:" but the whole was summed up in authorizing him "to order and dispose of the army under his command as might be most advantageous for obtaining the end for which it had been raised, making it his special care in discharge of the great trust committed to him, that the liberties of America received no detriment."

June 14–22

About the same time twelve companies of riflemen were ordered to be raised in Pennsylvania, Maryland and Virginia. The men to the amount of 1430 were procured and forwarded with great expedition. They had to march from 4 to 700 miles, and yet the whole business was compleated and they joined the American army at Cambridge, in less than two months from the day on which the first resolution for raising them was agreed to.

June 22

Coeval with the resolution for raising an army, was another for emitting a sum not exceeding two millions of Spanish milled dollars in bills of credit for the defence of America, and the colonies were pledged for the redemption of them. This sum was increased from time to time by farther emissions. The colonies having neither money nor revenues at their command, were forced to adopt this expedient, the only one which was in their power for supporting an army.

1775

No one delegate [220] opposed the measure. So great had been the credit of the former emissions of paper in the greater part of the colonies, that very few at that time foresaw or apprehended the consequences of unfunded paper emissions, but had all the consequences which resulted from this measure in the course of the war been forseen, it must notwithstanding have been adopted, for it was a less evil, that there should be a general wreck of property, than that the essential rights and liberties of a growing country should be lost. A happy ignorance of future events combined with the ardor of the times, prevented many reflections on this subject, and gave credit and circulation to these bills of credit.

General Washington soon after his appointment to the command of the American army set out for the camp at Cambridge. On his way thither, he received an address from the provincial congress of New-York, in which they expressed their joy at his appointment. They also said, "we have the fullest assurances that whenever this important contest shall be decided by that fondest wish of each American soul, an accommodation with our Mother Country, you will chearfully resign the important

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deposit committed into your hands, and re-assume the character of our worthiest citizen.[”] The general after declaring his gratitude for the regard shewn him, added,

Be assured that every exertion of my worthy colleagues and myself, will be extended to the re-establishment of peace and harmony between the Mother Country and these colonies. As to the fatal but necessary operations of war, when we assumed the soldier, we did not lay aside the citizen, and we shall most sincerely rejoice with you in that happy hour, when the re-establishment of American liberty, on the most firm and solid foundations shall enable us to return to our private stations, in the bosom of a free, peaceful, and happy country.

The general on his way to camp was treated with the highest honours in every place through which he passed. Large detachments of volunteers composed of private gentlemen turned out to escort him.

1775

A committee from the Massachusetts Congress received him about 100 miles [221] from Boston, and conducted him to the army. He was soon after addressed by the Congress of that colony in the most affectionate manner, in his answer he said,

Gentlemen, your kind congratulations on my appointment and arrival, demand my warmest ackowledgements, and will ever be retained in grateful remembrance. In exchanging the enjoyments of domestic life for the duties of my present honourable but arduous station, I only emulate the virtue and public spirit of the whole province of Massachusetts, which, with a firmness and patriotism without example, has sacrificed all the comforts of social and political life, in support of the rights of mankind and the welfare of our common country. My highest ambition is to be the happy instrument of vindicating these rights, and to see this devoted province again restored to peace, liberty and safety.

July 3

When general Washington arrived at Cambridge, he was received with the joyful acclamations of the American army. At the head of his troops he published a declaration, previously drawn up by Congress, in the nature of a manifesto, setting forth the reasons for taking up arms. In this, after enumerating various grievances of the colonies, and vindicating them from a premeditated design of establishing independent states, it was added,

In our own native land, in defence of the freedom which is our birthright, and which we ever enjoyed till the late violation of it—for the protection of our property, acquired solely by the industry of our forefathers and ourselves, against violence actually offered, we have taken up arms, we shall lay them down when hostilities shall cease on the part of the aggressors, and all danger of their being renewed shall be removed, and not before.

When general Washington joined the American army, he found the British intrenched on Bunker’s-hill, having also three floating batteries in Mystic river, and a twenty gun ship below the ferry, between Boston and Charlestown. They had also a battery on Copse’s hill, and were strongly fortified on the neck.

1775

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The Americans were intrenched at Winter-hill, Prospect-hill, and Roxbury, communicating with one another by small posts, [222] over a distance of ten miles. There were also parties stationed in several towns along the sea coast. They had neither engineers to plan suitable works, nor sufficient tools for their erection.

In the American camp was collected a large body of men, but without those conveniencies which ancient establishments have introduced for the comfort of regular armies. Instead of tents, sails now rendered useless by the obstructions of commerce, were applied for their covering; but even of them, there was not a sufficiency. The American soldiers having joined the camp in all that variety of clothing which they used in their daily labour, were without uniformity of dress. To abolish provincial distinctions, the hunting shirt was introduced. They were also without those heads of departments in the line of commissaries or quarter masters, which are necessary for the regular and economical supply of armies. The troops from Connecticut had proper officers appointed to procure them supplies, but they who came from the other colonies were not so well furnished. Individuals brought to camp their own provisions on their own horses. In some parts committees of supplies were appointed, who purchased necessaries at public expence, sent them on to camp, and distributed them to such as were in want, without any regularity or system; the country afforded provisions, and nothing more was wanting to supply the army than proper systems for their collection and distribution. Other articles, though equally necessary, were almost wholly deficient, and could not be procured but with difficulty. On the 4th of August the whole stock of powder in the American camp, and in the public magazines of the four New-England provinces, would make but little more than nine rounds a man. The continental army remained in this destitute condition for a fortnight or more. This was generally known among themselves, and was also communicated to the British, by a deserter, but they suspecting a plot would not believe it. A supply of a few tons was sent on to them from the committee of Elizabeth-town, but this was done privately, lest the adjacent inhabitants, who were equally destitute [223] should stop it for their own use.

1775

The public rulers in Massachusetts issued a recommendation to the inhabitants, not to fire a gun at beast, bird or mark, in order that they might husband their little stock for the more necessary purpose of shooting men. A supply of several thousand pounds weight of powder, was soon after obtained from Africa in exchange for New-England rum. This was managed with so much address, that every ounce for sale in the British forts on the African coasts, was purchased up and brought off for the use of the Americans.

Embarrassments from various quarters occurred in the formation of a continental army. The appointment of general officers made by Congress, was not satisfactory. Enterprising leaders had come forward with their followers on the commencement of hostilities, without scrupulous attention to rank. When these were all blended together, it was impossible to assign to every officer the station which his services merited, or his vanity demanded. Materials for a good army were collected. The husbandmen who flew to arms were active, zealous, and of unquestionable courage, but to introduce discipline and subordination, among free men who were habituated to think for themselves, was an arduous labour.

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The want of system and of union, under proper heads, pervaded every department. From the circumstance that the persons employed in providing necessaries for the army were unconnected with each other, much waste and unnecessary delays were occasioned. The troops of the different colonies came into service under variant establishments—some were enlisted with the express condition of choosing their officers. The rations promised by the local legislatures varied both as to quantity, quality and price. To form one uniform mass of these discordant materials, and to subject the licentiousness of independent freemen to the controul of military discipline, was a delicate and difficult business.

The continental army put under the command of general Washington, amounted to about 14,500 men.

1775

These had been so judiciously stationed round Boston, as [224] to confine the British to the town, and to exclude them from the forage and provisions which the adjacent country and islands in Boston-bay afforded. This force was thrown into three grand divisions. General Ward commanded the right wing at Roxbury. General Lee the left at Prospect-hill, and the centre was commanded by general Washington. In arranging the army, the military skill of adjutant-general Gates was of great service. Method and punctuality were introduced. The officers and privates were taught to know their respective places, and to have the mechanism and movements as well as the name of an army.

When some effectual pains had been taken to discipline the army, it was found that the term for which enlistments had taken place, was on the point of expiring. The troops from Connecticut and Rhode-Island were only engaged till the 1st day of December 1775, and no part of the army longer than the first day of January 1776. Such mistaken apprehensions respecting the future conduct of Great-Britain prevailed, that many thought the assumption of a determined spirit of resistance would lead to a redress of all their grievances.

Oct. 10

Towards the close of the year, general Gage sailed for England, and the command devolved on general Howe.

Nov.

The Massachusetts assembly and continental Congress both resolved, to fit out armed vessels to cruise on the American coast, for the purpose of interrupting warlike stores and supplies designed for the use of the British army. The object was at first limited, but as the prospect of accommodation vanished, it was extended to all British property afloat on the high seas. The Americans were diffident of their ability to do any thing on water in opposition to the greatest naval power in the world, but from a combination of circumstances, their first attempts were successful.

Nov. 29

The Lee privateer, captain Manly, took the brig Nancy, an ordnance ship from Woolwich, containing a large brass mortar, several pieces of brass cannon, a large quantity of arms and ammunition, with all manner of tools, [225]

1775

utensils and machines, necessary for camps and artillery. Had Congress sent an order for supplies, they could not have made

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out a list of articles more suitable to their situation, than what was thus providentially thrown into their hands.

Dec. 8

In about 9 days after three ships, with various stores for the British army, and a brig from Antigua with rum, were taken by capt. Manly. Before five days more had elapsed, several other store ships were captured. By these means the distresses of the British troops, in Boston, were increased, and supplies for the continental army were procured. Naval captures, being unexpected, were matter of triumph to the Americans, and of surprize to the British. The latter scarcely believed that the former would oppose them by land with a regular army, but never suspected that a people, so unfurnished as they were with many things necessary for arming vessels, would presume to attempt any thing on water. A spirit of enterprize, invigorated by patriotic zeal, prompted the hardy New Englandmen to undertake the hazardous business, and their success encouraged them to proceed.

Dec. 13

Before the close of the year, Congress determined to build 5 vessels of 32 guns, 5 of 28, and 3 of 24. While the Americans were fitting out armed vessels, and before they had made any captures, an event took place which would have disposed a less determined people to desist from provoking the vengeance of the British navy. This was the burning of Falmouth in the northern parts of Massachusetts.

Oct. 18

Captain Mowat, in the Canceaux of sixteen guns, destroyed 139 houses and 278 stores, and other buildings in that town.

This spread an alarm on the coast, but produced no disposition to submit, many moved from the sea ports with their families and effects, but no solicitations were preferred for the obtaining of British protection.

In a few days after the burning of Falmouth, the old south meeting house in Boston, was taken into possession by the British, and destined for a riding school, and the service of the light dragoons. These proceedings produced, in the minds of the colonists, a more determined spirit of resistance, and a more general aversion to Great-Britain.

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CHAPTER VIII

Ticonderoga Taken, And Canada Invaded.

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1775

It early occurred to many, that if the sword decided the controversy between Great-Britain and her colonies, the possession of Ticonderoga would be essential to the security of the latter. Situated on a promontory, formed at the junction of the waters of lake George and lake Champlain, it is the key of all communication between New-York and Canada. Messrs. Deane, Wooster, Parsons, Stevens, and others of Connecticut, planned a scheme for obtaining possession of this valuable post. Having procured a loan of 1800 dollars of public money, and provided a sufficient quantity of powder and ball, they set off for Bennington, to obtain the co-operation of colonel Allen of that place. Two hundred and seventy men, mostly of that brave and hardy people, who are called green mountain boys, were speedily collected at Castleton, which was fixed on as the place of rendezvous. At this place colonel Arnold, who, though attended only with a servant, was prosecuting the same object, unexpectedly joined them. He had been early chosen a captain of a volunteer company, by the inhabitants of New-Haven, among whom he resided. As soon as he recieved news of the Lexington battle, he marched off with his company for the vicinity of Boston, and arrived there, though 150 miles distant, in a few days. Immediately after his arrival he waited on the Massachusetts committee of safety, and informed them, that there were at Ticonderoga many pieces of cannon and a great quantity of valuable stores, and that the fort was in a ruinous condition, and garrisoned only by about 40 men. They appointed him a colonel, and commissioned him to raise 400 men, and to take Ticonderoga. The leaders of the party which had previously rendezvoused at Castleton, admitted colonel Arnold to join them, and it was agreed that colonel Allen should be the commander in chief of the expedition, and that colonel Arnold should be his assistant. They proceeded without delay, and arrived in the night at lake Champlain, opposite to Ticonderoga. [227] Allen and Arnold crossed over with 83 men, and landed near the garrison. They contended who should go in first, but it was at last agreed that they should both go in together.

May 9

They advanced abreast, and entered the fort at the dawning of day.

May 10

A sentry snapped his piece at one of them, and then retreated through the covered way to the parade. The Americans followed and immediately drew up. The commander surprised in his bed, was called upon to surrender the fort. He asked, by what authority? Colonel Allen replied, “I demand it in the name of the great Jehovah, and the Continental Congress.” No resistance was made, and the fort with its valuable stores, and forty-eight prisoners, fell into the hands of the Americans. The boats had been sent back for the remainder of the men, but the business was done before they got over. Colonel Seth Warner was sent off with a party to take possession of Crown-point, where a serjeant and 12 men performed garrison duty. This was speedily effected. The next object, calling for the

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attention of the Americans, was to obtain the command of lake Champlain, but to accomplish this, it was necessary for them to get possession of a sloop of war, lying at St. John's, at the northern extremity of the lake. With the view of capturing this sloop it was agreed to man and arm a schooner lying at South Bay, and that Arnold should command her, and that Allen should command some batteaux on the same expedition. A favourable wind carried the schooner a-head of the batteaux, and colonel Arnold got immediate possession of the sloop by surprise. The wind again favouring him, he returned with his prize to Ticonderoga, and rejoined colonel Allen. The latter soon went home, and the former with a number of men agreed to remain there in garrison. In this rapid manner the possession of Ticonderoga, and the command of lake Champlain was obtained, without any loss, by a few determined men. Intelligence of these events was in a few days communicated to Congress, which met for the first time, at 10 o'clock of the same day, in the morning of which, Ticonderoga was taken. They rejoiced in the spirit of enterprise, displayed by their [228] countrymen, but feared the charge of being aggressors, or of doing any thing to widen the breach between Great-Britain and the colonies; for an accommodation was at that time, nearly their unanimous wish. They therefore recommended to the committees of the cities and counties of New-York and Albany, to cause the cannon and stores to be removed from Ticonderoga to the south end of lake George, and to take an exact inventory of them, "in order that they might be safely returned when the restoration of the former harmony between Great-Britain and the colonies, so ardently wished for by the latter, should render it prudent and consistent with the overruling law of self-preservation. "

1775

Colonel Arnold having begun his military career with a series of successes, was urged by his native impetuosity to project more extensive operations. He wrote a letter to Congress, strongly urging an expedition into Canada, and offering with 2000 men to reduce the whole province. In his ardent zeal to oppose Great-Britain, he had advised the adoption of offensive war, even before Congress had organised an army or appointed a single military officer. His importunity was at last successful, as shall hereafter be related, but not till two months had elapsed, subsequent to his first proposition of conducting an expedition against Canada. Such was the increasing fervor of the public mind in 1775, that what, in the early part of the year, was deemed violent and dangerous, was in its progress pronounced both moderate and expedient.

June 13

Sir Guy Carleton, the king's governor in Canada no sooner heard that the Americans had surprised Ticonderoga and Crown-point, and obtained the command of lake Champlain, than he planned a scheme for their recovery. Having only a few regular troops under his command, he endeavored to induce the Canadians and Indians to co-operate with him, but they both declined. He established martial law that he might compel the inhabitants to take arms. They declared themselves ready to defend the province, but refused to march out of it, or to commence hostilities on their neighbors. Colonel Johnston had, on the same occasion, repeated conferences with the [229] Indians, and endeavored to influence them to take up the hatchet, but they steadily refused. In order to gain their co-operation he invited them to feast on a Bostonian, and to drink his blood. This, in the Indian style, meant no more than to partake of a roasted ox and a pipe of wine, at a

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public entertainment, which was given on design to influence them to co-operate with the British troops. The colonial patriots, affected to understand it in its literal sense. It furnished, in their mode of explication, a convenient handle for operating on the passions of the people.

These exertions in Canada, which were principally made with a view to recover Ticonderoga, Crown-point, and the command of lake Champlain, induced Congress to believe that a formidable invasion of their northwestern frontier was intended, from that quarter. The evident tendency of the Quebec act favoured this opinion. Believing it to be the fixed purpose of the British ministry to attack the united colonies on that side, they conceived that they would be inexcusable if they neglected the proper means for warding off so terrible a blow. They were also sensible that the only practicable plan to effect this purpose, was to make a vigorous attack upon Canada, while it was unable to resist the unexpected impression. Their success at Ticonderoga and Crown-point, had already paved the way for this bold enterprize, and had broken down the fences which guarded the entrance into that province. On the other hand, they were sensible that by taking this step, they changed at once the whole nature of the war. From defensive it became offensive, and subjected them to the imputation of being the aggressors. They were well aware that several who had espoused their cause in Britain, would probably be offended at this measure, and charge them with heightening the mischiefs occasioned by the dispute. They knew that the principles of resistance, as far as they had hitherto acted upon them, were abetted by a considerable party even in Great-Britain; and that to forfeit their good opinion, might be of great disservice. Considerations of this kind made them weigh well the important step before [230] they ventured upon it.

1775

They on the other hand reflected that the eloquence of the minority in parliament, and the petitions and remonstrances of the merchants in Great-Britain, had produced no solid advantages in their favour; and that they had no chance of relief, but from the smiles of heaven on their own endeavors. The danger was pressing. War was not only inevitable, but already begun. To wait till they were attacked by a formidable force at their backs, in the very instant when their utmost exertions would be requisite, perhaps insufficient, to protect their cities and sea coast against an invasion from Britain, would be the summit of folly. The laws of war and of nations justified the forestalling of an enemy. The colonists argued that to prevent known hostile intentions, was a matter of self defence; they were also sensible they had already gone such lengths as could only be vindicated by arms; and that if a certain degree of success did not attend their resistance, they would be at the mercy of an irritated government, and their moderation in the single instance of Canada, would be an unavailing plea for indulgence. They were also encouraged to proceed, by certain information that the French inhabitants of Canada, except the noblesse and the clergy, were as much discontented with their present system of government as even the British settlers. It seemed therefore probable, that they would consider the provincials, rather as friends than as enemies. The invasion of that province was therefore determined upon, if found practicable, and not disagreeable to the Canadians.

Congress had committed the management of their military arrangements, in this northern department, to general Schuyler and general Montgomery. While the former

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remained at Albany, to attend an Indian treaty, the latter was sent forward to Ticonderoga, with a body of troops from New-York and New-England. Soon after reaching Ticonderoga, he made a movement down Lake Champlain. General Schuyler overtook him at Cape le Motte; from thence they moved on to Isle aux Noix.

1775

About this time general Schuyler addressed the inhabitants informing them, "that the only views of [231] Congress were to restore to them those rights which every subject of the British empire, of whatever religious sentiments he may be, is entitled to; and that in the execution of these truths he had received the most positive orders to cherish every Canadian, and every friend to the cause of liberty, and sacredly to guard their property."

Sep. 10

The Americans, about 1000 in number, effected a landing at St. John's, which being the first British post in Canada, lies only 115 miles to the northward of Ticonderoga. The British piquets were driven into the fort. The environs were then reconnoitered, and the fortifications were found to be much stronger than had been suspected. This induced the calling of a council of war, which recommended a retreat to Isle aux Noix, twelve miles south of St. John's, to throw a boom across the channel, and to erect works for its defence. Soon after this event, an extreme bad state of health induced general Schuyler to retire to Ticonderoga, and the command devolved on general Montgomery.

This enterprising officer in a few days returned to the vicinity of St. John's, and opened a battery against it. Ammunition was so scarce, that the siege could not be carried on with any prospect of speedy success. The general detached a small body of troops, to attempt the reduction of fort Chamblee, only six miles distant. Success attended this enterprize. By its surrender six tons of gun powder were obtained, which enabled the general to prosecute the siege of St. John's with vigor. The garrison, though straitened for provisions, persevered in defending themselves with unabating fortitude. While general Montgomery was prosecuting this siege, the governor of the province collected, at Montreal, about 800 men chiefly militia and Indians. He endeavored to cross the river St. Lawrence, with this force, and to land at Lonqueil, intending to proceed thence to attack the besiegers, but colonel Warner with 300 green mountain boys, and a four pounder, prevented the execution of the design. The governor's party was suffered to come near the shore, but was then fired upon with such effect as to make them retire after sustaining great loss.

[232] An account of this affair being communicated to the garrison in St. John's, major Preston, the commanding officer surrendered, on receiving honorable terms of capitulation. By these it was agreed, that the garrison should march out with the honors of war, that the officers and privates should ground their arms on the plain—the oficers keep their side arms and their fire arms, be reserved for them, and that the people of the garrison should retain their effects. About 500 regulars and 100 Canadians became prisoners to the provincials. They also acquired 39 pieces of cannon, seven mortars, and two howitzers, and about 800 stand of arms. Among the cannon were many brass field pieces, an article of which the Americans were nearly destitute.

While the siege of St. John's was pending, colonel Allen, who was returning with about 80 men from a tour on which he had been sent by his general, was captured by

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the British near Montreal, loaded with irons, and in that condition sent to England. Major Brown proposed that colonel Allen should return to Lonqueil, procure canoes, and cross the river St. Lawrence, a little to the north of Montreal, while he with a force of about 200 men crossed a little to the south of it. The former crossed in the night, but the latter by some means failed on his part. Colonel Allen found himself the next morning unsupported, and exposed to immediate danger, but nevertheless concluded on maintaining his ground. General Carleton, knowing his weakness, marched out against him with a superior force. The colonel defended himself with his wonted bravery, but being deserted by several of his party, and having lost fifteen of his men, he was compelled to surrender with the remainder amounting to 38.

After the reduction of St. John's, general Montgomery proceeded towards Montreal. The few British forces there, unable to stand their ground, repaired for safety on board the shipping in hopes of escaping down the river, but they were prevented by colonel Easton, who was stationed at the point of Sorel river, with a number of continental troops, some cannon, and an armed gondola. [233]

1775

General Prescot, who was on board with several officers, and about 120 privates, having no chance of escape, submitted to be prisoners on terms of capitulation. Eleven sail of vessels, with all their contents, consisting of ammunition, provision, and entrenching tools, became the property of the provincials. Governor Carleton, was about this time conveyed in a boat with muffled paddles, by a secret way to the Three Rivers, and from thence to Quebec in a few days.

When Montreal was evacuated by the troops, the inhabitants applied to general Montgomery for capitulation. He informed them, that as they were defenseless, they could not expect such a concession, but he engaged upon his honour to maintain the individuals and religious communities of the city, in the peaceable enjoyment of their property, and the free exercise of their religion. In all his transactions, he spoke, wrote, and acted, with dignity and propriety, and in particular treated the inhabitants with liberality and politeness.

Montreal which at this time surrendered to the provincials carried on an extensive trade, and contained many of those articles, which from the operation of the resolutions of Congress, could not be imported into any of the united colonies. From these stores the American soldiers, who had hitherto suffered from the want of suitable clothing, obtained a plentiful supply.

General Montgomery, after leaving some troops in Montreal, and sending detachments into different parts of the province to encourage the Canadians, and to forward provisions, advanced towards the capital. His little army arrived with expedition before Quebec. Success had hitherto crowned every attempt of general Montgomery, but notwithstanding, his situation was very embarrassing. Much to be pitied is the officer, who having been bred to arms, in the strict discipline of regular armies, is afterwards called to command men who carry with them the spirit of freedom into the field.

1775

The greater part of the Americans, officers as well as soldiers, having never seen any service, were ignorant of their duty, and

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but feebly impressed with the military ideas of union, subordination [234] and discipline. The army was continental in name and pay, but in no other respect. Not only the troops of different colonies conceived themselves independent of each other, but in some instances the different regiments of the same colony, were backward to submit to the orders of officers in a higher grade of another line. They were also soon tired of a military life. Novelty and the first impulse of passion had led them to camp; but the approaching cold season, together with the fatigues and dangers incident to war, induced a general wish to relinquish the service. Though by the terms of their enlistment, they were to be discharged in a few weeks, they could not brook an absence from their homes for that short space of time. The ideas of liberty and independence, which roused the colonists to oppose the claims of Great-Britain, operated against that implicit obedience which is necessary to a well regulated army.

Even in European states, where long habits have established submission to superiors as a primary duty of the common people, the difficulty of governing recruits, when first led to the field from civil occupations, is great; but to exercise discipline over freemen, accustomed to act only from the impulse of their own minds, required not only a knowledge of human nature, but an accommodating spirit, and a degree of patience which is rarely found among officers of regular armies. The troops under the immediate command of general Montgomery, were from their usual habits, averse to the ideas of subordination, and had suddenly passed from domestic ease, to the numberless wants and distresses which are incident to marches through strange and desert countries. Every difficulty was increased by the short term for which they were enlisted. To secure the affections of the Canadians, it was necessary for the American general to restrain the appetites, and control the licentiousness of his soldiery, while the appearance of military harshness was dangerous, lest their good will might be forfeited. In this choice of difficulties, the genius of Montgomery surmounted many obstacles.

1775

During his short but glorious [235] career, he conducted with so much prudence, as to make it doubtful whether we ought to admire most the goodness of the man, or the address of the general.

About the same time that Canada was invaded, in the usual route from New-York, a considerable detachment from the American army at Cambridge, was conducted into that royal province by a new and unexpected passage.

Sep. 13

Colonel Arnold, who successfully conducted this bold undertaking, thereby acquired the name of the American Hannibal. He was detached with a thousand men, from Cambridge to penetrate into Canada, by ascending the river Kennebeck, and descending by the Chaundiere to the river St. Lawrence. Great were the difficulties these troops had to encounter in marching by an unexplored route, 300 miles through an uninhabited country. In ascending the Kennebeck, they were constantly obliged to work upwards against an impetuous current. They were often compelled by cataracts or other impediments, to land and to haul their batteaux up rapid streams, and over falls of rivers. Nor was their march by land more eligible than this passage by water. They had deep swamps, thick woods, difficult mountains, and craggy precipices alternatively to encounter. At some places they had to cut their way for miles together through forests so embarrassed, that their progress was only four or five miles a day. The constant fatigue caused

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many men to fall sick. One third of the number which set out, were from want of necessaries obliged to return; the others proceeded with unabated fortitude and constancy. Provisions grew at length so scarce, that some of the men ate their dogs, cartouch boxes, breeches and shoes. When they were an hundred miles from any habitation or prospect of a supply their whole store was divided, which yielded four pints of flour for each man. After they had baked and eaten their last morsel, they had thirty miles to travel before they could expect any farther supply. The men bore up under these complicated distresses with the greatest fortitude. They gloried in the hope of completing a march which would rival the fame of similar expeditions undertaken by the heroes of antiquity. [236]

1775

Having spent thirty one days in traversing a hideous wilderness, without ever seeing anything human, they at length reached the inhabited parts of Canada. They were there well received, and supplied with every thing necessary for their comfort. The Canadians were struck with amazement when they saw this armed force emerging from the wilderness. It had never entered their conceptions that it was possible for human beings to traverse such immense wilds. The most pointed instructions had been given to this corps, to conciliate the affections of the Canadians. It was particularly enjoined upon them, if the son of lord Chatham, then an officer in one of the British regiments in that province, should fall into their hands, to treat him with all possible attention, in return for the great exertions of his father in behalf of American liberty. A manifesto subscribed by general Washington, which had been sent from Cambridge with this detachment, was circulated among the inhabitants of Canada. In this they were invited to arrange themselves under the standard of general liberty; and they were informed that the American army was sent into the province, not to plunder but to protect them.

Nov. 8

While general Montgomery lay at Montreal, colonel Arnold arrived at Point Levy, opposite to Quebec. Such was the consternation of the garrison and inhabitants at his unexpected appearance, that had not the river intervened, an immediate attack in the first surprize and confusion, might have been successful. The bold enterprise of one American army marching through the wilderness, at a time when success was crowning every undertaking of another invading in a different direction, struck terror into the breasts of those Canadians who were unfriendly to the designs of Congress. The embarrassments of the garrison were increased by the absence of sir Guy Carleton. That gallant officer, on hearing of Montgomery's invasion, prepared to oppose him in the extremes of the province. While he was collecting a force to attack invaders in one direction, a different corps, emerging out of the depths of an unexplored wilderness, suddenly appeared from another.

1775

In a few days after colonel Arnold [237] had arrived at Point Levy, he crossed the river St. Lawrence, but his chance of succeeding by a coup de main was in that short space greatly diminished. The critical moment was past. The panic occasioned by his first appearance had abated, and solid preparations for the defence of the town were adopted. The inhabitants, both English and Canadians as soon as danger pressed, united for their common defence. Alarmed for their property, they were, at their own request, embodied for its security. The sailors were taken from the shipping in the harbour, and put to the batteries on shore. As colonel Arnold had no artillery, after parading some days on the heights near

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Quebec, he drew off his troops, intending nothing more until the arrival of Montgomery, than to cut off supplies from entering the garrison.

So favourable were the prospects of the united colonies at this period, that general Montgomery set on foot a regiment of Canadians, to be in the pay of Congress. James Livingston, a native of New York, who had long resided in Canada, was appointed to the command thereof, and several recruits were engaged for the term of twelve months. The inhabitants on both sides of the river St. Laurence, were very friendly. Expresses in the employ of the Americans, went without molestation, backwards and forwards, between Montreal and Quebec. Many individuals performed signal services in favour of the invading army. Among a considerable number Mr. Price stands conspicuous, who advanced 5000£. in specie, for their use.

Various causes had contributed to attach the inhabitants of Canada, especially those of the inferior classes, to the interest of Congress, and to alienate their affections from the government of Great-Britain. The contest was for liberty, and there is something in that sound, captivating to the mind of man in a state of original simplicity. It was for the colonies, and Canada was also a colony. The objects of the war were therefore supposed to be for their common advantage. The form of government lately imposed on them by act of parliament, was far from being so free as the constitutions of the other [238] colonies, and was in many respects particularly oppressive.
The common people had no representative share in enacting the laws by which they were to be governed, and were subjected to the arbitrary will of persons, over whom they had no constitutional control. Distinctions so degrading were not unobserved by the native Canadians, but were more obvious to those who had known the privileges enjoyed in the neighbouring provinces. Several individuals educated in New-England and New-York, with the high ideas of liberty inspired by their free constitutions, had in the interval between the peace of Paris 1763, and the commencement of the American war, migrated into Canada. Such, sensibly felt the difference between the governments they had left, and the arbitrary constitution imposed on them, and both from principle and affection, earnestly persuaded the Canadians to make a common cause with the United Colonies.

1775

Though motives of this kind induced the peasantry of the country to espouse the interest of Congress, yet sundry individuals, and some whole orders of men, threw the weight of their influence into the opposite scale. The legal privileges which the Roman Catholic clergy enjoyed, made them averse to a change, lest they should be endangered by a more intimate connection with their protestant neighbours. They used their influence in the next world, as an engine to operate on the movements of the present. They refused absolution to such of their flocks as abetted the Americans. This interdiction of the joys of heaven, by those who were supposed to hold the keys of it, operated powerfully on the opinions and practices of the superstitious multitude. The seigneurs had also immunities unknown in the other colonies. Such is the fondness for power in every human breast, that revolutions are rarely favoured by any order of men who have reason to apprehend that their future situation will, in case of a change, be less pre-eminent than before. The sagacious general Montgomery, no less

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a man of the world than an officer, discovered great address in accommodating himself to these clashing interests.

1775

Though he knew the part the popish clergy had acted in opposition [239] to him, yet he conducted towards them as if totally ignorant of the matter; and treated them and their religion with great respect and attention. As far as he was authorised to promise, he engaged that their ecclesiastical property should be secured, and the free exercise of their religion continued. To all he held forth the flattering idea of calling a convention of representatives, freely chosen, to institute by its own will, such a form of government as they approved. While the great mind of this illustrious man, was meditating schemes of liberty and happiness, a military force was collecting and training to oppose him, which in a short time put a period to his valuable life.

At the time the Americans were before Montreal, general Carleton, as has been related, escaped through their hands, and got safe to Quebec. His presence was itself a garrison. The confidence reposed in his talents, inspired the men under his command to make the most determined resistance. Soon after his arrival he issued a proclamation, setting forth, "That all persons liable to do militia duty, and residing in Quebec, who refused to arm in conjunction with the royal army, should in four days quit Quebec with their families, and withdraw themselves from the limits of the district by the first of December, on pain of being treated afterwards as spies or rebels." All who were unwilling to co-operate with the British army, being thus disposed of, the remaining inhabitants, though unused to arms, became in a little time so far acquainted with them as to be very useful in defending the town. They supported fatigues and submitted to command with a patience and chearfulness, that could not be exceeded by men familiarized to the hardships and subordination of a military life.

Dec. 1

General Montgomery having effected at Point aux Trembles, a junction with colonel Arnold, commenced the siege of Quebec. Upon his arrival before the town, he wrote a letter to the British governor, recommending an immediate surrender, to prevent the dreadful consequences of a storm.

1775

Though the flag which conveyed this letter was fired upon, and all communication refused, [240] general Montgomery found other means to convey a letter of the same tenor into the garrison, but the inflexible firmness of the governor could not be moved either by threats or dangers. The Americans soon after commenced a bombardment with five small mortars, but with very little effect. In a few days general Montgomery opened a six gun battery, at the distance of seven hundred yards from the walls, but his metal was too light to make any impression.

The news of general Montgomery's success in Canada had filled the colonies with expectations, that the conquest of Quebec would soon add fresh lustre to his already brilliant fame. He knew well the consequences of popular disappointment, and was besides of opinion that unless something decisive was immediately done, the benefit of his previous acquisitions would in a great degree be lost to the American cause. On both accounts, he was strongly impelled to make every exertion for satisfying the

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expectations and promoting the interest of a people, who had honoured him with so great a share of their confidence. The government of Great-Britain, in the extensive province of Canada, was at that time reduced to the single town of Quebec. The astonished world saw peaceable colonists suddenly transformed into soldiers, and these marching through unexplored wildernesses, and extending themselves by conquests, in the first moment after they had assumed the profession of arms. Towards the end of the year, the tide of fortune began to turn. Dissentions broke out between colonel Arnold and some of his officers, threatening the annihilation of discipline. The continental currency had no circulation in Canada, and all the hard money furnished for the expedition, was nearly expended. Difficulties of every kind were daily increasing. The extremities of fatigue were constantly to be encountered. The American general had not a sufficient number of men to make the proper reliefs in the daily labours they underwent; and that inconsiderable number, worn down with toil, was constantly exposed to the severities of a Canada winter.

1775

The period for which a great part of his men had enlisted, being on the point of expiration, [241] he apprehended that they who were entitled to it, would insist on their discharge. On the other hand, he saw no prospect of staggering the resolution of the garrison. They were well supplied with every thing necessary for their defence, and were daily acquiring additional firmness. The extremity of winter was fast approaching. From these combined circumstances, general Montgomery was impressed with a conviction, that the siege should either be raised, or brought to a summary termination. To storm the place was the only feasible method of effecting the latter purpose. But this was an undertaking, in which success was but barely possible. Great minds are seldom exact calculators of danger. Nor do they minutely attend to the difficulties which obstruct the attainment of their objects. Fortune, in contempt of the pride of man, has ever had an influence in the success or failure of military enterprises. Some of the greatest achievements, of that kind, have owed their success to a noble contempt of common forms.

The upper part of Quebec was surrounded with very strong works, and the access from the lower town was excessively difficult, from its almost perpendicular steepness. General Montgomery, from a native intrepidity, and an ardent thirst for glory, overlooked all these dangers, and resolved at once either to carry the place or perish in the attempt. Trusting much to his good fortune—confiding in the bravery of his troops, and their readiness to follow whithersoever he should lead; and depending somewhat on the extensiveness of the works, he determined to attempt the town by escalade.

The garrison of Quebec at this time consisted of about 1520 men, of which 800 were militia, and 450 were seamen, belonging to the king’s frigates, or merchant ships in the harbour. The rest were marines, regulars, or colonel Maclean’s new raised emigrants. The American army consisted of about 800 men. Some had been left at Montreal, and near a third of Arnold’s detachment, as has been related, had returned to Cambridge.

General Montgomery having divided this little force into four detachments, ordered two feints to be made [242] against the upper town, one by colonel Livingston, at the head of the Canadians against St. John’s gate; and the other by major Brown, against

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cape Diamond, reserving to himself and colonel Arnold the two principal attacks, against the lower town.

Dec. 31

At five o'clock in the morning general Montgomery advanced against the lower town. He passed the first barrier, and was just opening to attack the second, when he was killed, together with his aid de camp, captain John M'Pherson, captain Cheesman, and some others. This so dispirited the men that colonel Campbell, on whom the command devolved, thought proper to draw them off. In the mean time colonel Arnold, at the head of about 350 men, passed through St. Roques, and approached near a two gun battery, without being discovered. This he attacked, and though it was well defended, carried it, but with considerable loss. In this attack colonel Arnold received a wound, which made it necessary to carry him off the field of battle. His party nevertheless continued the assault, and pushing on, made themselves masters of a second barrier. These brave men sustained the force of the whole garrison for three hours, but finding themselves hemmed in, and without hopes either of success, relief or retreat, they yielded to numbers, and the advantageous situation of their adversaries. The loss of the Americans in killed and wounded, was about 100, and 300 were taken prisoners. Among the slain were captain Kendricks, lieutenant Humphries, and lieutenant Cooper. The behaviour of the provincial troops was such as might have silenced those who had reproached them for being deficient in courage. The most experienced veterans could not have exceeded the firmness they displayed in their last attack. The issue of this assault relieved the garrison of Quebec from all apprehensions for its safety. The provincials were so much weakened, as to be scarcely equal to their own defence. However, colonel Arnold had the boldness to encamp within three miles of the town, and had the address, even with his reduced numbers, to impede the conveyance of refreshments and provisions into the garrison. His situation was extremely difficult.

1775

He was [243] at an immense distance from those parts where effectual assistance could be expected. On his first entrance into the province, he had experienced much kind treatment from the inhabitants. The Canadians, besides being fickle in their resolutions, are apt to be biassed by success. Their disposition to aid the Americans, became therefore daily more precarious. It was even difficult to keep the provincial troops from returning to their respective homes. Their sufferings were great. While their adversaries were comfortably housed in Quebec, they were exposed in the open air to the extreme rigour of the season. The severity of a Canada winter was far beyond any thing with which they were acquainted. The snow lay above four feet deep on a level.

This deliverance of Quebec may be considered as a proof how much may be done by one man for the preservation of a country. It also proves that soldiers may in a short time be formed out of the mass of citizens.

The conflict being over, the ill will which had subsisted, during the siege, between the royal and provincial troops gave way to sentiments of humanity. The Americans, who surrendered, were treated with kindness. Ample provisions were made for their wounded, and no unnecessary severity shewn to any. Few men have ever fallen in battle, so much regretted by both sides, as general Montgomery. His many amiable qualities had procured him an uncommon share of private affection, and his great abilities an equal proportion of public esteem. Being a sincere lover of liberty, he had

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engaged in the American cause from principle, and quitted the enjoyment of an easy fortune, and the highest domestic felicity, to take an active share in the fatigues and dangers of a war, instituted for the defence of the community of which he was an adopted member. His well known character was almost equally esteemed by the friends and foes of the side which he had espoused. In America he was celebrated as a martyr to the liberties of mankind; in Great-Britain as a misguided, good man, sacrificing to what he supposed to be the rights of his country. His name was mentioned in parliament with singular respect.

1775

Some of the most [244] powerful speakers in that illustrious assembly, displayed their eloquence in sounding his praise and lamenting his fate. Those in particular who had been his fellow soldiers in the late war, expatiated on his many virtues. The minister himself acknowledged his worth, while he reprobated the cause for which he fell. He concluded an involuntary panegyric, by saying, “Curse on his virtues, they have undone his country.”

Though the invasion of Canada was finally unsuccessful, yet the advantages which the Americans gained in the months of September and October, gave fresh spirits to their army and people. The boldness of the enterprise, might have taught Great-Britain the folly of persisting in the design of subjugating America. But instead of preserving the union, and restoring the peace of the empire by repealing a few of her laws, she from mistaken dignity, resolved on a more vigorous prosecution of the war.

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CHAPTER IX

Transactions In Virginia, The Carolinas, Georgia, And The General State Of Public Affairs In The Colonies.

It has already been mentioned, that the colonists from the rising of Congress in October 1774, and particularly after the Lexington battle, were attentive to the training their militia, and making the necessary preparations for their defence.

The effects of their arrangements, for this purpose, varied with circumstances.

Where there were no royal troops, and where ordinary prudence was observed, the public peace was undisturbed. In other cases, the intemperate zeal of governors, and the imprudent warmth of the people, anticipated the calamities of war before its proper time. Virginia, though there was not a single British soldier within its limits, was, by the indiscretion of its governor, lord Dunmore, involved, for several months, in difficulties, but little short of those to which the inhabitants of Massachusetts were [245] subjected.

1775

His lordship was but illy fitted to be at the helm in this tempestuous season. His passions predominated over his understanding, and precipitated him into measures injurious both to the people whom he governed, and to the interest of his royal master. The Virginians from the earliest stages of the controversy, had been in the foremost line of opposition to the claims of Great-Britain, but at the same time treated lord Dunmore with the attention that was due to his station. In common with the other provinces they had taken effectual measures to prepare their militia for the purposes of defence.

Apr. 20

While they were pursuing this object, his lordship engaged a party belonging to a royal vessel in James' river, to convey some public powder from a magazine in Williamsburg on board their ship. The value or quantity of the powder was inconsiderable, but the circumstances attending its removal begat suspicions that lord Dunmore meant to deprive the inhabitants of the means of defence. They were therefore alarmed, and assembled with arms to demand its restitution. By the interposition of the mayor and corporation of Williamsburg, extremities were prevented. Reports were soon after spread that a second attempt to rob the magazine was intended. The inhabitants again took arms, and instituted nightly patroles, with a determined resolution to protect it. The governor was irritated at these commotions, and in the warmth of his temper threatened to set up the royal standard–franchise the negroes, and arm them against their masters. This irritated, but did not intimidate. Several public meetings were held in the different counties, in all of which the removal of the powder from the magazine, and the governor's threats, were severely condemned. Some of the gentlemen of Hanover and the neighbouring counties assembled in arms, under the conduct of Mr. Patrick Henry, and marched towards Williamsburg, with an avowed design to obtain restitution of the powder, and to take measures for securing the public treasury. This ended in a negotiation, by

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which it was agreed that payment for the powder, by [246] the receiver general of the colony, should be accepted in lieu of restitution; and that upon the engagement of the inhabitants of Williamsburg to guard both the treasury and the magazine, the armed parties should return to their habitations.

The alarm of this affair induced lord Dunmore to send his lady and family on board the Fowey man of war in James' river. About the same time his lordship, with the assistance of a detachment of marines, fortified his palace and surrounded it with artillery. He soon after issued a proclamation, in which Mr. Henry and his associates were charged with rebellious practices, and the present commotions were attributed to a desire in the people of changing the established form of government. Several meetings were held in the neighbouring counties, in which the conduct of Mr. Henry and of his associates was applauded, and resolutions were adopted, that at every risque he and they should be indemnified. About this time copies of some letters from governor Dunmore to the minister of the American department were made public. These in the opinion of the Virginians contained unfair and unjust representations of facts, and also of their temper and disposition. Many severe things were said on both sides, and fame as usual, magnified or misrepresented whatever was said or done. One distrust begat another. Every thing tended to produce a spirit of discontent, and the fever of the public mind daily increased.

In this state of disorder the governor convened the general assembly. The leading motive for this unexpected measure, was to procure their approbation and acceptance of the terms of the conciliatory motion agreed to in parliament, on the 20th of the preceding February. His lordship introduced this to their consideration, in a long and plausible speech. In a few days they presented their address in answer, in which, among other grounds of rejection they stated that, "the proposed plan only changed the form of oppression, without lessening its burthen;" but they referred the papers for a final determination, to Congress. For themselves they declared,

[247]
1775
We have exhausted every mode of application which our invention could suggest, as proper and promising. We have decently remonstrated with parliament. They have added new injuries to the old. We have wearied our king with supplications; he has not deigned to answer us. We have appealed to the native honour and justice of the British nation. Their efforts in our favour have been hitherto ineffectual.

The assembly, among their first acts, appointed a committee to enquire into the causes of the late disturbances, and particularly to examine the state of the magazine. They found most of the remaining powder buried; the muskets deprived of their locks, and spring guns planted in the magazine. These discoveries irritated the people, and occasioned intemperate expressions of resentment.
May 8
Lord Dunmore quitted the palace privately, and retired on board the Fowey man of war, which then lay near York-town. He left a message for the house of burgesses, acquainting them

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that he thought it prudent to retire to a place of safety, having reason to believe that he was in constant danger of falling a sacrifice to popular fury; he nevertheless, hoped they would proceed in the great business before them; and he engaged to render the communication between him and the house as easy and as safe as possible. He assured them that he would attend as heretofore, to the duties of his office, and that he was well disposed to restore that harmony which had been unhappily interrupted.

This message produced a joint address from the council and house of burgesses, in which they represented his lordship's fears to be groundless, and declared their willingness to concur in any measure he would propose for the security of himself and family; and concluded by entreating his return to the palace. Lord Dunmore in a reply, justified his apprehensions of danger from the threats which had been repeatedly thrown out. He charged the house of burgesses with countenancing the violent proceedings of the people, and with a design to usurp the executive power, and subvert the constitution. This produced a reply fraught with recrimination and defensive [248] arguments. Every incident afforded fresh room for altercation.

1775

There was a continued intercourse by addresses, messages and answers, between the house of burgesses and the Fowey, but little of the public business was completed. His lordship was still acknowledged as the lawful governor of the province, but did not think proper to set his foot on shore, in the country over which his functions were to be exercised.

At length, when the necessary bills were ready for ratification, the council and burgesses jointly intreated the governor's presence, to give his assent to them and finish the session. After several messages and answers, lord Dunmore peremptorily refused to meet the assembly at the capital, their usual place of deliberation; but said he would be ready to receive them on the next Monday, at his present residence on board the Fowey, for the purpose of giving his assent to such bills as he should approve of. Upon receiving this answer, the house of burgesses passed resolutions in which they declared, that the message requiring them to attend the governor on board a ship of war, was a high breach of their rights and privileges—that they had reason to fear a dangerous attack was meditated against the colony, and it was therefore their opinion, that they should prepare for the preservation of their rights and liberties. After strongly professing loyalty to the king, and amity to the Mother Country, they broke up their session.

July 18

The royal government in Virginia, from that day ceased. Soon after, a convention of delegates was appointed, to supply the place of the assembly. As these had an unlimited confidence reposed in them, they became at once possessed of undefined discretionary powers, both legislative and executive. They exercised this authority for the security of their constituents. They raised and embodied an armed force, and took other measures for putting the colony in a state of defence. They published a justification of their conduct, and set forth the necessity of the measures they had adopted.

1775

They concluded with professions of loyalty, and declared that though they were determined at every hazard, to maintain their rights and privileges, [249] it was also their fixed resolution to disband such forces as were raised for the defence of the colony, whenever their dangers were removed. The headstrong passions of lord Dunmore precipitated him into farther follies. With the

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aid of the loyalists, run away negroes, and some frigates that were on the station, he established a marine force. By degrees, he equipped and armed a number of vessels of different kinds and sizes, in one of which he constantly resided, except when he went on shore in a hostile manner. This force was calculated only for depredation, and never became equal to any essential service. Obnoxious persons were seized and taken on board. Negroes were carried off—plantations ravaged—and houses burnt. These proceedings occasioned the sending of some detachments of the new raised provincial forces to protect the coasts. This produced a predatory war, from which neither honour nor benefit could be acquired, and in which every necessary from on shore was purchased at the risque of blood.

Oct. 25

The forces under his lordship attempted to burn Hampton; but the crews of the royal vessels employed in that business, though they had begun to cannonade it, were so annoyed by riflemen from on shore, that they were obliged to quit their station.

Nov. 7

In a few days after this repulse, a proclamation was issued by the governor, dated on board the ship William, off Norfolk, declaring, that as the civil law was at present insufficient to punish treason and traitors, martial law should take place and be executed throughout the colony; and requiring all persons capable of bearing arms, to repair to his majesty's standard, or to be considered as traitors. He also declared all indented servants, negroes and others, appertaining to rebels, who were able and willing to bear arms, and who joined his majesty's forces, to be free.

Among the circumstances which induced the rulers of Great-Britain to count on an easy conquest of America, the great number of slaves had a considerable weight. On the sea coast of five of the most southern provinces, the number of slaves exceeded that of freemen.

1775

It was supposed that the proffer of freedom would detach them [250] from their master's interest, and bind them by strong ties to support the royal standard. Perhaps, under favourable circumstances, these expectations would in some degree have been realised; but lord Dunmore's indiscretion deprived his royal master of this resource. Six months had elapsed since his lordship first threatened its adoption. The negroes had in a great measure ceased to believe, and the inhabitants to fear. It excited less surprize, and produced less effect, than if it had been more immediate and unexpected. The country was now in a tolerable state of defence, and the force for protecting the negroes, in case they had closed with his lordship's offer, was far short of what would have been necessary for their security. The injury done the royal cause by the bare proposal of the scheme, far outweighed any advantage that resulted from it. The colonists were struck with horror, and filled with detestation of a government which was exercised in loosening the bands of society, and destroying domestic security. The union and vigor which was given to their opposition, was great, while the additional force, acquired by his lordship, was inconsiderable. It nevertheless produced some effect in Norfolk and the adjoining country, where his lordship was joined by several hundreds, both whites and blacks. The governor having once more got footing on the main, amused himself with hopes of acquiring the glory of reducing one part of the province by means of the other. The provincials had now an object against which they might direct their arms. An expedition was therefore concerted against the force which had taken post at

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Norfolk. To protect his adherents lord Dunmore constructed a fort at the great bridge, on the Norfolk side, and furnished it with artillery. The provincials also fortified themselves near to the same place, with a narrow causeway in their front. In this state both parties continued quiet for some days.

Dec. 9

The royalists commenced an attack. Captain Fordyce, at the head of about 60 British grenadiers, passed the causeway, and boldly marched up to the provincial entrenchments with fixed bayonets. They were exposed without cover to the fire of the provincials [251] in front, and enfiladed by another part of their works. The brave captain and several of his men fell. The lieutenant, with others, were taken, and all who survived were wounded. The slaves in this engagement were more prejudicial to their British employers than to the provincials. Captain Fordyce was interred by the victors, with military honors. The English prisoners were treated with kindness, but the Americans who had joined the king's standard, experienced the resentment of their countrymen.

1775

The royal forces, on the ensuing night, evacuated their post at the great bridge, and lord Dunmore shortly after abandoned Norfolk, and retired with his people on board his ships. Many of the tories, a name which was given to those who adhered to the royal interest, sought the same asylum, for themselves and moveable effects. The provincials took possession of Norfolk, and the fleet, with its new incumberances, moved to a greater distance. The people on board, cut off from all peaceable intercourse with the shore, were distressed for provisions and necessaries of every kind. This occasioned sundry unimportant contests between the provincial forces and the armed ships and boats. At length, on the arrival of the Liverpool man of war from England, a flag was sent on shore to put the question, whether they would supply his majesty's ships with provisions. An answer was returned in the negative. It was then determined to destroy the town.

Jan. 1, 1776

This was carried into effect, and Norfolk was reduced to ashes. The whole loss was estimated at 300,000£. sterling. The provincials, to deprive the ships of every resource of supply, destroyed the houses and plantations that were near the water, and obliged the people to move their cattle, provisions, and effects, farther into the country. Lord Dunmore, with his fleet, continued for several months on the coast and in the rivers of Virginia. His unhappy followers suffered a complication of distresses. The scarcity of water and provisions, the closeness and filth of the small vessels, produced diseases which were fatal to many, especially to the negroes. Though his whole force was trifling when compared with [252] the resources of Virginia, yet the want of suitable armed vessels made its expulsion impracticable. The experience of that day evinced the inadequacy of land forces for the defence of a maritime country; and the extensive mischief which may be done, by even an inconsiderable marine, when unopposed in its own way. The want of a navy was both seen and felt. Some arrangements to procure one, were therefore made. Either the expectation of an attack from this quarter, or the sufferings of the crews on board, induced his lordship in the summer 1776 to burn the least valuable of his vessels, and to send the remainder, amounting to 30 or 40 sail, to Florida, Bermuda, and the West-Indies. The hopes which lord Dunmore had entertained of subduing Virginia by the cooperation of the negroes, terminated with

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this movement. The unhappy Africans who had engaged in it, are said to have almost universally perished.

While these transactions were carrying on, another scheme, in which lord Dunmore was a party, in like manner miscarried. It was in contemplation to raise a considerable force at the back of the colonies, particularly in Virginia and the Carolinas. One Connelly, a native of Pennsylvania, was the framer of the design. He had gained the approbation of lord Dunmore, and had been sent by him to general Gage at Boston, and from him he received a commission to act as colonel commandant. It was intended that the British garrisons at Detroit, and some other remote posts, with their artillery and ammunition, should be subservient to this design. Connelly also hoped for the aid of the Canadians and Indians. He was authorised to grant commissions, and to have the supreme direction of the new forces. As soon as they were in readiness he was to penetrate through Virginia, and to meet lord Dunmore near Alexandria, on the river Potowmac. Connelly was taken up on suspicion, by one of the committees in Maryland, while on his way to the scene of action. The papers found in his possession betrayed the whole. Among these was a general sketch of the plan, and a letter from lord Dunmore to one of the Indian chiefs.

He was imprisoned, [253] and the papers published. So many fortunate escapes induced a belief among serious Americans, that their cause was favoured by heaven. The various projects which were devised and put in operation against them, pointed out the increasing necessity of union, while the havock made on their coasts—the proffer of freedom to their slaves, and the encouragement proposed to Indians for making war on their frontier inhabitants, quickened their resentment against Great-Britain.

1776

North-Carolina was more fortunate than Virginia. The governors of both were perhaps equally zealous for the royal interest, and the people of both equally attached to the cause of America, but the former escaped with a smaller portion of public calamity. Several regulations were at this time adopted by most of the provinces. Councils of safety, committees, and conventions, were common substitutes for regular government. Similar plans for raising, arming and supporting troops, and for training the militia, were from north to south generally adopted. In like manner royal governors throughout the provinces, were exerting themselves in attaching the people to the schemes of Great-Britain. Governor Martin, of North-Carolina, was particularly zealous in this business. He fortified and armed his palace at Newbern, that it might answer the double purpose of a garrison and magazine. While he was thus employed, such commotions were excited among the people, that he thought it expedient to retire on board a sloop of war in Cape Fear river. The people on examining, found powder and various military stores which had been buried in his garden and yard. Governor Martin, though he had abandoned his usual place of residence, continued his exertions for reducing North-Carolina to obedience. He particularly addressed himself to the regulators and Highland emigrants. The former had acquired this name from their attempting to regulate the administration of justice in the remote settlements, in a summary manner subversive of the public peace.

They had suffered the consequences of opposing royal government, and from obvious principles of human nature, were disposed to [254] support the authority whose power to punish they had recently

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experienced. The Highland emigrants had been but a short time in America, and were yet more under the influence of European ideas than those which their new situation was calculated to inspire. Governor Martin sent commissions among these people for raising and commanding regiments; and he granted one to Mr. M'Donald to act as their general. He also sent them a proclamation commanding all persons, on their allegiance, to repair to the royal standard. This was erected by general M'Donald, about the middle of February. Upon the first intelligence of their assembling brigadier general Moore, with some provincial troops and militia, and some pieces of cannon, marched to oppose them. He took possession of Rock fish bridge and threw up some works. He had not been there many days when M'Donald approached, and sent a letter to Moore, enclosing the governor's proclamation, and advising him and his party to join the king's standard; and adding, that in case of refusal they must be treated as enemies. To this Moore replied, that he and his officers considered themselves as engaged in a cause the most glorious and honourable in the world, the defence of mankind; and in his turn offered, that if M'Donald's party laid down their arms they should be received as friends, but, otherwise they must expect consequences similar to those which they threatened. Soon after this, general M'Donald with his adherents pushed on to join governor Martin, but colonels Lillington and Caswell, with about 1000 militia men, took possession of Moore's creek bridge, which lay in their way, and raised a small breast work to secure themselves.

1776 Feb. 27

On the next morning the Highland emigrants attacked the militia posted at the bridge, but M'Cleod, the second in command, and some more of their officers being killed at the first onset, they fled with precipitation. General M'Donald was taken prisoner, and the whole of his party broken and dispersed. This overthrow produced consequences very injurious to the British interest. A royal fleet and army was expected on the coast. A [255] junction formed between them and the Highland emigrants in the interior country, might have made a sensible impression on the province. From an eagerness to do something, the insurgents prematurely took arms, and being crushed before the arrival of proper support, their spirits were so entirely broken, that no future effort could be expected from them.

While the war raged only in Massachusetts, each province conducted as under the expectation of being next attacked. Georgia, though a majority of its inhabitants were at first against the measures, yet about the middle of this year, joined the other colonies. Having not concurred in the petitions from Congress to the king, they petitioned by themselves, and stated their rights and grievances, in firm and decided language. They also adopted the continental association, and sent on their deputies to Congress.

In South-Carolina there was an eagerness to be prepared for defence, which was not surpassed in any of the provinces. Regiments were raised—forts were built—the militia trained, and every necessary preparation made for that purpose. Lord William Campbell, the royal governor, endeavoured to form a party for the support of government, and was in some degree successful. Distrusting his personal safety on

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shore, about the middle of September, he took up his residence on board an armed vessel, then in the harbour.

The royal government still existed in name and form; but the real power which the people obeyed, was exercised by a provincial congress, a council of safety, and subordinate committees. To conciliate the friendship of the Indians, the popular leaders sent a small supply of powder into their country. They who were opposed to Congress embodied, and robbed the waggons which were employed in its transportation. To inflame the minds of their adherents, they propagated a report that the powder was intended to be given to the Indians, for the purpose of massacring the friends of royal government. The inhabitants took arms, some to support royal government, but others to support the American measures.
The royalists [256] acted feebly and were easily overpowered. 1776
They were disheartened by the superior numbers that opposed them. They every where gave way and were obliged either to fly or feign submission. Solicitations had been made about this time for royal forces to awe the southern provinces, but without effect till the proper season was over. One scheme for this purpose was frustrated by a singular device. Private intelligence had been received of an express being sent from Sir James Wright, governor of Georgia, to general Gage. By him the necessity of ordering a part of the royal army to the southward was fully stated. The express was waylaid, and compelled by two gentle men to deliver his letters. One to general Gage was kept back, and another one forwarded in its room. The seal and hand writing were so exactly imitated that the deception was not suspected. The forged letter was received and acted upon. It stated such a degree of peace and tranquility as induced an opinion that there was no necessity of sending royal troops to the southward. While these states were thus left to themselves, they had time and opportunity to prepare for extremities, and in the mean time the friends of royal government were severally crushed. A series of disasters followed the royal cause in the year 1775. General Gage's army was cooped up in Boston, and rendered useless. In the southern states, where a small force would have made an impression, the royal governors were unsupported. Much was done to irritate the colonists and to cement their union, but very little, either in the way of conquest or concession, to subdue their spirits or conciliate their affections.

In this year the people of America generally took their side. Every art was made use of by the popular leaders to attach the inhabitants to their royal cause; nor were the votaries of the royal interest inactive. But little impression was made by the latter, except among the uninformed. The great mass of the wealth, learning, and influence, in all the southern colonies, and in most of the northern, was in favour of the American cause. Some aged persons were exceptions to the contrary.
Attached to ancient habits, and enjoying the fruits of their 1776
industry, [257] they were slow in approving new measures subversive of the former, and endangering the latter. A few who had basked in the sunshine of court favour, were restrained by honour, principle and interest, from forsaking the fountain of their enjoyments. Some feared the power of Britain, and others doubted the perseverance of America; but a great majority resolved to hazard every thing in preference to a tame submission. In the beginning of the year, the colonists were farmers, merchants and mechanics; but in its close they had assumed

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the profession of soldiers. So sudden a transformation of so numerous, and so dispersed a people, is without a parallel.

This year was also remarkable for the general termination of royal government. This was effected without any violence to its executive officers. The new system was not so much forcibly imposed or designedly adopted, as introduced through necessity, and the imperceptible agency of a common danger, operating uniformly on the mind of the public. The royal governors, for the most part, voluntarily abdicated their governments, and retired on board ships of war. They assigned for reason, that they apprehended personal danger, but this, in every instance, was unfounded. Perhaps these representatives of royalty thought, that as they were constitutionally necessary to the administration of justice, the horrors of anarchy would deter the people from prosecuting their opposition. If they acted from this principle, they were mistaken. Their withdrawing from the exercise of their official duties, both furnished an apology, and induced a necessity, for organising a system of government independent of royal authority. By encouraging opposition to the popular measures, they involved their friends in great distress. The unsuccessful insurrections which they fomented, being improperly timed, and unsupported, were easily overthrown, and actually strengthened the popular government, which they meant to destroy.

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CHAPTER X

Transactions In Massachusetts, And Evacuation Of Boston.

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1776

As the year 1775 drew near to a close, the friends of Congress were embarrassed with a new difficulty. Their army was temporary, and only engaged to serve out the year. The object for which they had taken up arms was not yet obtained. Every reason which had previously induced the provinces to embody a military force still existed, and with increasing weight. It was therefore resolved to form a new army. The same flattering hopes were indulged, that an army for the ensuing year would answer every purpose. A committee of Congress, consisting of Dr. Franklin, Mr. Lynch, and Mr. Harrison, repaired to head quarters at Cambridge, and there in conjunction with general Washington made arrangements for organizing an army for the year 1776. It was presumed that the spirit which had hitherto operated on the yeomanry of the country, would induce most of the same individuals to engage for another twelve-month, but on experiment it was found that much of their military ardor had already evaporated. The first impulse of passion, and the novelty of the scene, had brought many to the field, who had great objections against continuing in the military line. They found, that to be soldiers required sacrifices of which, when they assumed that character, they had no idea. So unacquainted were the bulk of the people with the mode of carrying on modern war, that many of them flew to arms with the delusive expectation of settling the whole dispute by a few decisive and immediate engagements. Experience soon taught them to risque life in open fighting, was but a part of the soldier's duty. Several of the inferior officers retired—the men frequently refused to enlist, unless they were allowed to chuse their officers. Others would not engage unless they were indulged with furloughs. Fifty would apply together for leave of absence; indulgence threatened less ruinous consequences than a refusal would probably have produced. On the whole enlistments went on slowly.

1776

Though the recruits [259] for the new army had not arrived, yet the Connecticut troops, whose time expired on the first of December, could not be persuaded to continue in service. On their way home several of them were stopped by the country people and compelled to return. When every thing seemed to be exposed, by the departure of so great a part of the late army, the militia was called on for a temporary aid. A new difficulty obstructed, as well the recruiting of the army, as the coming in of the militia. Sundry persons infected with the small pox, were sent out of Boston and landed at Point Shirley. Such was the dread of that disease, that the British army scarcely excited equal terror. So many difficulties retarded the recruiting service, that on the last day of the year 1775, the whole American army amounted to no more than 9650 men. Of the remarkable events with which this important year was replete, it was not the least, that within musket shot of twenty British regiments, one army was disbanded and another enlisted.

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All this time the British troops at Boston were suffering the inconvenience of a blockade. From the 19th of April they were cut off from those refreshments which their situation required. Their supplies from Britain did not reach the coast for a long time after they were expected. Several were taken by the American cruisers, and others were lost at sea. This was in particular the fate of many of their coal ships. The want of fuel was peculiarly felt in a climate where the winter is both severe and tedious. They relieved themselves in part from their sufferings on this account, by the timber of houses which they pulled down and burnt. Vessels were dispatched to the West-Indies to procure provisions; but the islands were so straitened, that they could afford but little assistance. Armed ships and transports were ordered to Georgia with an intent to procure rice, but the people of that province, with the aid of a party from South-Carolina, so effectually opposed them, that of eleven vessels, only two got off safe with their cargoes.

It was not till the stock of the garrison was nearly exhausted that the transports from England entered the port of [260] Boston, and relieved the distresses of the garrison. 1776

While the troops within the lines were apprehensive of suffering from want of provisions, the troops without were equally uneasy for want of employment. Used to labour and motion on their farms, they but illy relished the inactivity and confinement of a camp life. Fiery spirits declaimed in favour of an assault. They preferred a bold spirit of enterprize, to that passive fortitude which bears up under present evils, while it waits for favorable junctures. To be in readiness for an attempt of this kind, a council of war recommended to call in 7280 militia men, from New-Hampshire or Connecticut.

This number added to the regular army before Boston, would have made an operating force of about 17,000 men. January 17–18

The provincials laboured under great inconveniences from the want of arms and ammunition. Very early in the contest, the king of Great-Britain, by proclamation, forbad the exportation of warlike forces to the colonies. Great exertions had been made to manufacture salt petre and gun powder, but the supply was slow and inadequate. A secret committee of Congress had been appointed, with ample powers to lay in a stock of this necessary article. Some swift sailing vessels had been dispatched to the coast of Africa to purchase what could be procured in that distant region. A party from Charleston forcibly took about 17000 lbs. of powder from a vessel near the bar of St. Augustine. Some time after, commodore Hopkins stripped Providence, one of the Bahama islands of a quantity of artillery and stores; but the whole, procured from all these quarters, was far short of a sufficiency. In order to supply the new army before Boston with the necessary means of defence, an application was made to Massachusetts for arms, but on examination it was found that their public stores afforded only 200. Orders were issued to purchase firelocks from private persons, but few had any to sell, and fewer would part with them. In the month of February, there were 2000 of the American infantry, who were destitute of arms.

Powder was equally scarce, and yet daily applications were made for dividends of the small quantity [261] which was on hand, for the defence of various parts threatened with invasion. The eastern colonies presented an unusual sight. A powerful enemy safely intrenched in their first city, while a fleet 1776

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was ready to transport them to any part of the coast. A numerous body of husbandmen was resolutely bent on opposition, but without the necessary arms and ammunition for self defence. The eyes of all were fixed on general Washington, and from him it was unreasonably expected that he would by a bold exertion, free the town of Boston from the British troops. The dangerous situation of public affairs led him to conceal the real scarcity of arms and ammunition, and with that magnanimity which is characteristical of great minds, to suffer his character to be assailed, rather than vindicate himself by exposing his many wants. There were not wanting persons, who judging from the superior numbers of men in the American army, boldly asserted, that if the commander in chief was not desirous of prolonging his importance at the head of an army, he might by a vigorous exertion gain possession of Boston. Such suggestions were reported and believed by several, while they were uncontradicted by the general, who chose to risque his fame, rather than expose his army and his country.

Agreeably to the request of the council of war, about 7000 of the militia had rendezvoused in February. General Washington stated to his officers that the troops in camp, together with the reinforcements which had been called for, and were daily coming in, would amount nearly to 17,000 men—that he had not powder sufficient for a bombardment, and asked their advice whether, as reinforcements might be daily expected to the enemy, it would not be prudent before that event took place, to make an assault on the British lines. The proposition was negatived; but it was recommended to take possession of Dorchester heights. To conceal this design, and to divert the attention of the garrison, a bombardment of the town from other directions commenced, and was carried on for three days with as much briskness as a deficient stock of powder would admit.

1776

In this first essay, [262] three of the mortars were broken, either from a defect in their construction, or more probably from ignorance of the proper mode of using them.

The night of the 4th of March was fixed upon for taking possession of Dorchester heights. A covering party of about 800 men led the way. These were followed by the carts with the intrenching tools, and 1200 of a working party, commanded by general Thomas. In the rear there were more than 200 carts, loaded with fascines, and hay in bundles. While the cannon were playing in other parts, the greatest silence was kept by this working party. The active zeal of the industrious provincials completed lines of defence by the morning, which astonished the garrison. The difference between Dorchester heights on the evening of the 4th, and the morning of the 5th, seemed to realise the tales of romance. The admiral informed general Howe, that if the Americans kept possession of these heights, he would not be able to keep one of his majesty’s ships in the harbour. It was therefore determined in a council of war, to attempt to dislodge them. An engagement was hourly expected. It was intended by general Washington, in that case, to force his way into Boston with 4000 men, who were to have embarked at the mouth of Cambridge river. The militia had come forward with great alertness, each bringing three days provision, in expectation of an immediate assault. The men were in high spirits, and impatiently waiting for the appeal.

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They were reminded that it was the 5th of March, and were called upon to avenge the death of their countrymen killed on that day. The many eminences in and near Boston, which overlooked the ground on which it was expected that the contending parties would engage, were crouded with numerous spectators. But general Howe did not intend to attack till the next day. In order to be ready for it, the transports went down in the evening towards the castle. In the night a most violent storm, and towards morning a heavy flood of rain, came on.

1776

A carnage was thus providentially prevented, that would probably have equalled, if not exceeded, the fatal [263] 17th of June, at Bunker's-hill. In this situation it was agreed by the British, in a council of war, to evacuate the town as soon as possible.

In a few days after, a flag came out of Boston, with a paper signed by four select men, informing,"that they had applied to general Robertson, who, on application to general Howe, was authorised to assure them, that he had no intention of burning the town, unless the troops under his command were molested, during their embarkation, or at their departure, by the armed force without." When this paper was presented to general Washington, he replied, "that as it was an unauthenticated paper, and without an address, and not obligatory on general Howe, he could take no notice of it;" but at the same time intimated his good wishes for the security of the town.

A proclamation was issued by general Howe, ordering all woollen and linen goods to be delivered to Crean Brush, Esq. Shops were opened and stripped of their goods. A licentious plundering took place. Much was carried off, and more was wantonly destroyed. These irregularities were forbidden in orders, and the guilty threatened with death, but nevertheless every mischief which disappointed malice could suggest, was committed.

March 17

The British amounting to more than 7000 men, evacuated Boston, leaving their barracks standing, and also a number of pieces of cannon spiked, four large iron sea mortars, and stores, to the value of £ 30,000. They demolished the castle, and knocked off the trunnions of the cannon. Various incidents caused a delay of nine days after the evacuation, before they left Nantasket road.

This embarkation was attended with many circumstances of distress and embarrassment. On the departure of the royal army from Boston, a great number of the inhabitants attached to their sovereign, and afraid of public resentment, chose to abandon their country. From the great multitude about to depart, there was no possibility of procuring purchasers for their furniture, neither was there a sufficiency of vessels for its convenient transportation. Mutual jealousy subsisted between the [264] army and navy; each charging the other as the cause of some part of their common distress. The army was full of discontent. Reinforcements though long promised, had not arrived. Both officers and soldiers thought themselves neglected. Five months had elapsed since they had received any advice of their destination. Wants and inconveniencies increased their ill humour. Their intended voyage to Halifax subjected them to great dangers. The coast at all times hazardous, was eminently so at that tempestuous equinoctial season. They had reason to fear they

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would be blown off to the West-Indies, and without a sufficient stock of provisions. They were also going to a barren country. To add to their difficulties, this dangerous voyage when completed, was directly so much out of their way. Their business lay to the southward, and they were going northward. Under all these difficulties, and with all these gloomy prospects, the fleet steered for Halifax. Contrary to appearances, the voyage thither was both short and prosperous. They remained there for some time, waiting for reinforcements and instructions from England. When the royal fleet and army departed from Boston, several ships were left behind for the protection of vessels coming from England, but the American privateers were so alert that they nevertheless made many prizes. Some of the vessels which they captured, were laden with arms and warlike stores. Some transports, with troops on board, were also taken. These had run into the harbour, not knowing that the place was evacuated. The boats employed in the embarkation of the British troops, had scarcely completed their business when general Washington, with his army, marched into Boston. He was received with marks of approbation more flattering than the pomps of a triumph. The inhabitants released from the severities of a garrison life, and from the various indignities to which they were subjected, hailed him as their deliverer. Reciprocal congratulations between those who had been confined within the British lines, and those [who] were excluded from entering them, were exchanged with an ardor which cannot be discribed.

1776

General Washington [265] was honoured by Congress with a vote of thanks. They also ordered a medal to be struck, with suitable devices to perpetuate the remembrance of the great event. The Massachusetts council and house of representatives complimented him in a joint address, in which they expressed their good wishes in the following words, “May you still go on approved by heaven—revered by all good men, and dreaded by those tyrants, who claim their fellow men as their property.” His answer was modest and proper.

The evacuation of Boston had been previously determined upon by the British ministry, from principles of political expedience. Being resolved to carry on the war for purposes affecting all the colonies, they conceived a central position to be preferable to Boston. Reasoning of this kind had induced the adoption of the measure, but the American works on Roxbury expedited its execution. The abandonment of their friends, and the withdrawing their forces from Boston, was the first act of a tragedy in which evacuations and retreats were the scenes which most frequently occurred, and the epilogue of which was a total evacuation of the United States.

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CHAPTER XI

Transactions In Canada.

The tide of good fortune which in the autumn of 1775 flowed in upon general Montgomery, induced Congress to reinforce the army under his command. Chamblee, St. Johns, and Montreal having surrendered to the Americans, a fair prospect opened of expelling the British from Canada, and of annexing that province to the united colonies. While they were in imagination anticipating these events, the army in which they confided was defeated, and the general whom they adored was killed.

Jan. 8, 1776

The intelligence transmitted from general Montgomery, previous to his assault on Quebec, encouraged Congress to resolve that nine battalions should be kept up and maintained in Canada. The repulse of their army, [266] though discouraging, did not extinguish the ardor of the Americans. It was no sooner known, at headquarters in Cambridge, than general Washington convened a council of war by which it was resolved, "That as no troops could be spared from Cambridge, the colonies of Massachusetts, Connecticut and New-Hampshire, should be requested to raise three regiments and forward them to Canada."]

Jan. 19

Congress also resolved to forward the reinforcements previously voted, and to raise four battalions in New-York, for the defence of that colony, and to garrison Crown-Point, and the several posts to the southward of that fortress. That the army might be supplied with blankets for this winter expedition, a committee was appointed to procure from householders, such as could be spared from their families. To obtain a supply of hard money for the use of the army in Canada, proper persons were employed to exchange paper money for specie. Such was the enthusiasm of the times that many thousand Mexican dollars were freely exchanged at par, by individuals for the paper bills of Congress. It was also resolved, to raise a corps of artillery for this service, and to take into the pay of the colonies one thousand Canadians, in addition to colonel Livingston's regiment. Moses Hazen, a native of Massachusetts, who had resided many years in Canada, was appointed to the command of this new corps.

Jan. 24

Congress addressed a letter to the Canadians in which they observed, "Such is the lot of human nature, that the best of causes are subject to vicissitudes; but generous souls, enlightened and warmed with the fire of liberty, become more resolute as difficulties increase."] They stated to them, "that eight battalions were raising to proceed to their province, and that if more force was necessary it should be sent." They requested them to seize with eagerness the favourable opportunity then offered to co-operate in the present glorious enterprise, and they advised them to establish associations in their different parishes—to elect deputies for forming a provincial assembly, and for representing them in Congress.

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The cause of the Americans had received such powerful aid from many patriotic publications in their gazettes, [267] and from the fervent exhortations of popular preachers, connecting the cause of liberty with the animating principles of religion, that it was determined to employ these two powerful instruments of revolutions—printing and preaching, to operate on the minds of the Canadians. A complete apparatus for printing, together with a printer and a clergyman, were therefore sent into Canada.

1776

Congress also appointed Dr. Franklin, Mr. Chase and Mr. Carrol, the two first of whom were members of their body, and the last a respectable gentleman of the Roman catholic persuasion to proceed to Canada with the view of gaining over the people of that colony to the cause of America, and authorised them to promise on behalf of the united colonies, that Canada should be received into their association on equal terms, and also that the inhabitants thereof should enjoy the free exercise of their religion, and the peaceable possession of all their ecclesiastical property.

The desire of effecting something decisive in Canada before the approaching spring, would permit relief to ascend the river St. Lawrence, added to the enthusiasm of the day, encountered difficulties which, in less animated times, would be reckoned unsurmountable. Arthur St. Clair who was appointed colonel of one of the Pennsylvania regiments received his recruiting orders on the 10th of January, and notwithstanding the shortness of the period, his regiment was not only raised, but six companies of it had, in this extreme cold season, completed their march from Pennsylvania to Canada, a distance of several hundred miles, and on the eleventh of April following, joined the American army before Quebec.

Though Congress and the states made great exertions to support the war in Canada, yet from the fall of Montgomery their interest in that colony daily declined. The reduction of Quebec was an object to which their resources were inadequate. Their unsuccessful assault on Quebec made an impression both on the Canadians and Indians unfavorable to their views.

1776

A woman infected with the small-pox had either been sent out, or voluntarily came out of Quebec, and by mixing with the American soldiers [268] propagated that scourge of the new world to the great diminution of the effective force of their army. The soldiers inoculated themselves, though their officers issued positive orders to the contrary. By the first of May so many new troops had arrived that the American army, in name, amounted to 3000, but from the prevalence of the small-pox there were only 900 fit for duty. The increasing number of invalids retarded their military operations, and discouraged their friends, while the opposite party was buoyed up with the expectation that the advancing season would soon bring them relief. To these causes of the declining interest of Congress, it must be added that the affections of the Canadians were alienated. They had many and well founded complaints against the American soldiers. Unrestrained by the terror of civil law and refusing obedience to a military code, the hope of impunity and the love of plunder, led many of the invading army to practices not less disgraceful to themselves, than injurious to the cause in which they had taken arms. Not only the common soldiers but the officers of the American army deviated, in their intercourse with the Canadians, from the maxims of sound policy. Several of them

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having been lately taken from obscure life were giddy with their exaltation. Far from home they were unawed by those checks which commonly restrain the ferocity of man.

The reduction of Chamblee, St. Johns', and Montreal, together with the exposed situation of Quebec, being known in England, measures were without delay adopted by the British ministry to introduce into Canada, as soon as possible, a force sufficient for the double purpose of recovering what they had lost, and of prosecuting offensive operations from that quarter against the revolted colonies.

May 5

The van of this force made good its passage, very early in the spring, through the ice up the river St. Lawrence. The expectation of their coming had for some time damped the hopes of the besiegers, and had induced them to think of a retreat. The day before the first of the British reinforcements arrived, that measure was resolved upon by a council of war, and arrangements were made for carrying it into execution.

[269]

1776

Governor Carleton was too great a proficient in the art of war, to delay seizing the advantages which the consternation of the besiegers, and the arrival of a reinforcement, afforded. A small detachment of soldiers and marines from the ships which had just ascended the river St. Lawrence, being landed and joined to the garrison in Quebec, he marched out at their head to attack the Americans. On his approach, he found every thing in confusion. The late besiegers abandoning their artillery and military stores, had in great precipitation retreated. In this manner at the expiration of five months, the mixed siege and blockade of Quebec was raised. The fortitude and perseverance of the garrison reflected honour on both officers and privates.

The reputation acquired by general Carleton in his military char acter, for bravely and judiciously defending the province committed to his care, was exceeded by the superior applause, merited from his exercise of the virtues of humanity and generosity. Among the numerous sick in the American hospitals, several incapable of being moved were left behind.

May 10

The victorious general proved himself worthy of success by his treatment of these unfortunate men, he not only fed and cloathed them, but permitted them when recovered to return home, apprehending that fear might make some conceal themselves in the woods, rather than by applying for relief, make themselves known, he removed their doubts by a proclamation, in which he engaged, "that as soon as their health was restored, they should have free liberty of returning to the respective provinces." This humane line of conduct was more injurious to the view of the leaders in the American councils, than the severity practised by other British commanders. The truly politic, as well as humane general Carleton, dismissed these prisoners after liberally supplying their wants with a recommendation, "to go home, mind their farms, and keep themselves and their neighbours from all participation in the unhappy war."

1776

The small force which arrived at Quebec early in May, was followed by several British regiments; together with [270] the

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Brunswic troops in such a rapid succession, that in a few weeks the whole was estimated at 13,000 men.

The Americans retreated forty five miles before they stopped. After a short halt, they proceeded to the Sorel, at which place they threw up some slight works for their safety. They were there joined by some battalions coming to reinforce them. About this time general Thomas, the commander in chief in Canada was seized with the small pox and died, having forbidden his men to inoculate, he conformed to his rule, and refused to avail himself of that precaution. On his death, the command devolved at first on general Arnold, and afterwards on general Sullivan. It soon became evident, that the Americans must abandon the whole province of Canada.

From a desire to do something which might counterbalance in the minds of the Canadians, the unfavorable impression which this farther retreat would communicate, General Thomson projected an attack on the British post at the Three Rivers. This lies about half way between Quebec and Montreal, and is so called from the vicinity of one of the branches of a large river, whose waters are discharged through three mouths into the St. Lawrence. With this view a detachment of six hundred men was put under the command of colonel St. Clair. At their head he advanced to the village of Nicolette. When every thing was ready for the enterprise, intelligence was received that six transports escorted by two frigates from Quebec, had arrived and brought a large addition to the late force at the Three Rivers. This caused some new movements, and a delay till more troops could be brought forward. General Thomson then came on with a reinforcement and took the command of the whole. It was determined to make the proposed attack in four different places at the same time. One division commanded by colonel Wayne was to gain the eastern extremity of the town. One commanded by colonel Maxwell was to enter from the northward about the center, and the other two divisions commanded by colonels Sinclair and Irvine were to enter from the westward.

1776

The whole [271] having embarked at midnight, landed at the Point du Lac, about three hours before day. At some distance from this point, there are two ways of approaching Three Rivers, one by a road that leads along the banks of the St. Lawrence, the other by a road almost parallel, but at a considerable distance. It had been determined to advance on the last. Intelligence was brought to general Thomson, soon after his landing that a party of 3 or 400 men were posted at three miles distance. The troops were instantly put in motion to dislodge them. The intelligence proved to be false but it had carried the detachment, some distance beyond the point, where the roads separated. To have returned, would have consumed time that could not be spared as the day was fast approaching. It was therefore resolved to proceed in a diagonal direction towards the road they had left. After being much retarded by very difficult grounds, they arrived at a morass which seemed impassable. Here the day broke, when they were six miles from the object. General Thomson suspecting the fidelity of his guides, put them under arrest—reversed the order of his march, and again reached the road by the river. He had advanced but a small distance before he was fired upon by two armed vessels. All expectation of succeeding by surprise, was now at an end. It was therefore instantly determined to make an open attack. The sun was rising. The drums were ordered to beat, and the troops moved on with the greatest alacrity. Having advanced three miles

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farther, the ships of war began to fire on them. The American officer who led the advance, struck into a road on the left, which also led to the town, and was covered from the fire of the ships. This last road was circuitous and led through a vast tract of woodland at that season almost impassable. He nevertheless entered the wood, and the rest of the detachment followed. After incredible labour, and wading a rivulet breast deep, they gained the open country north of the village. A party of the British were soon discovered about a mile to the left of the Americans, and between them and the town. Colonel Wayne, ardent for action immediately attacked them. The onset was gallant [272] and vigorous, but the contest was unequal.

1776

The Americans were soon repulsed and forced to retreat. In the beginning of the action general Thomson left the main body of his corps to join that which was engaged. The woods were so thick, that it was difficult for any person in motion, after losing sight of an object to recover it. The general therefore never found his way back. The situation of colonel St. Clair, the next in command became embarrassing. In his opinion a retreat was necessary, but not knowing the precise situation of his superior officer, and every moment expecting his return, he declined giving orders for that purpose. At last when the British were discovered on the river road, advancing in a direction to gain the rear of the Americans, colonel St. Clair in the absence of gen. Thomson, ordered a retreat. This was made by treading back their steps through the same dismal swamp by which they had advanced. The British marched directly for the point du Lac with the expectation of securing the American batteaux. On their approach major Wood, in whose care they had been left, retired with them to the Sorel. At the point du Lac, the British halted and took a very advantageous position. As soon as it was discovered that the Americans had retired, a party of the British pursued them. When the former arrived near the place of their embarkation, they found a large party of their enemies posted in their front, at the same time that another was only three quarters of a mile in their rear. Here was a new and trying dilemma, and but little time left for consideration. There was an immediate necessity, either to lay down their arms or attempt by a sudden March to turn the party in front and get into the country beyond it. The last was thought practicable. Colonel St. Clair having some knowledge of the country from his having served in it in the preceding war, gave them a route by the Acadian village where the river de Loups is fordable. They had not advanced far when colonel St. Clair found himself unable to proceed from a wound, occasioned by a root which had penetrated through his shoe.

1776

His men offered to carry him, but this generous proposal was declined. [273] He and two or three officers, who having been worn down with fatigue, remained behind with him, found an asylum under cover of a large tree which had been blown up by the roots. They had not been long in this situation when they heard a firing from the British in almost all directions. They nevertheless lay still, and in the night stole off from the midst of surrounding foes. They were now pressed with the importunate cravings of hunger, for they were entering on the third day without food. After wandering for some time, they accidentally found some peasants, who entertained them with great hospitality. In a few days they joined the army at Sorel, and had the satisfaction to find that the greatest part of the detachment had arrived safe before them. In their way through the country, although they might in almost every step of it have been made prisoners, and had reason to fear that the inhabitants from the prospect of reward, would have been

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tempted to take them, yet they met with neither injury nor insult. General Thomson was not so fortunate. After having lost the troops and falling in with colonel Irwine, and some other officers, they wandered the whole night in thick swamps, without being able to find their way out. Failing in their attempts to gain the river, they had taken refuge in a house, and were there made prisoners.

The British forces having arrived, and a considerable body of them having rendezvoused at the Three Rivers, a serious pursuit of the American army commenced. Had Sir Guy Carleton taken no pains to cut off their retreat, and at once attacked their post, or rather their fortified camp at Sorel, it would probably have fallen into his hands; but either the bold, though unsuccessful attack, at the Three rivers had taught him to respect them, or he wished to reduce them without bloodshed. In the pursuit he made three divisions of his army, and arranged them so as to embrace the whole American encampment, and to command it in every part. The retreat was delayed so long that the Americans evacuated Sorel, only about two hours before one division of the British made its appearance.

[274]
While the Americans were retreating, they were daily assailed by the remonstrances of the inhabitants of Canada, who had either joined or befriended them. Great numbers of Canadians had taken a decided part in their favour, rendered them essential services, and thereby incurred the heavy penalties annexed to the crime of supporting rebellion. These, though Congress had assured them but a few months before “that they would never abandon them to the fury of their common enemies” were from the necessity of the case left exposed to the resentment of their provincial rulers. Several of them with tears in their eyes, expostulated with the retreating army, and bewailing their hard fate prayed for support. The only relief the Americans could offer was an assurance of continued protection, if they retreated with them, but this was a hard alternative to men who had wives, children and immovable effects. They generally concluded, that it was the least of two evils to cast themselves on the mercy of that government, against which they had offended. 1776

The distresses of the retreating army were great. The British were close on their rear and threatening them with destruction. The unfurnished state of the colonies in point of ordnance, imposed a necessity of preserving their cannon. The men were obliged to drag their loaded batteaus up the rapids by mere strength, and when they were to the middle in water. The retreating army was also incumbered with great numbers labouring under the small-pox, and other diseases. Two regiments, at one time, had not a single man in health. Another had only six, and a fourth only forty, and two more were in nearly the same condition.

To retreat in face of an enemy is at all times hazardous; but on this occasion it was attended with an unusual proportion of embarrassments. General Sullivan, who conducted the retreat, nevertheless acted with so much judgment and propriety, that the baggage and public stores were saved, and the numerous sick brought off. The American army reached Crown-Point on the first of July, and at that place made their first stand.

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1776

A short time before the Americans evacuated the province of Canada, General Arnold convened the merchants of Montreal, and proposed to them to furnish a quantity of specified articles, for the use of the army in the service of Congress. While they were deliberating on the subject, he placed centinels at their shop doors, and made such arrangements, that what was at first only a request, operated as a command. A great quantity of goods were taken on pretence that they were wanted for the use of the American army, but in their number were many articles only serviceable to women, and to persons in civil life. His nephew soon after opened a store in Albany, and publicly disposed of goods which had been procured at Montreal.

The possession of Canada so eminently favoured the plans of defence adopted by Congress, that the province was evacuated with great reluctance. The Americans were not only mortified at the disappointment of their favourite scheme, of annexing it as a fourteenth link in the chain of their confederacy, but apprehended the most serious consequences from the ascending of the British power in that quarter. Anxious to preserve a footing there, they had persevered for a long time in stemming the tide of unfavorable events.

Jun. 17

General Gates was about this time appointed to command in Canada, but on coming to the knowledge of the late events in that province, he concluded to stop short within the limits of New-York. The scene was henceforth reversed. Instead of meditating the recommencement of offensive operations, that army which had lately excited so much terror in Canada, was called upon to be prepared for repelling an invasion threatened from that province.

The attention of the Americans being exclusively fixed on plans of defence, their general officers commanding in the northern department, were convened to deliberate on the place and means most suitable for that purpose. To form a judgment on this subject, a recollection of the events of the late war, between France and England, was of advantage. The same ground was to be fought over, [276] and the same posts to be again contended for. On the confines of Lake George and Lake Champlain two inland seas, which stretch almost from the sources of Hudson’s river to the St. Lawrence, are situated the famous posts of Ticonderoga and Crown-Point. These are of primary necessity to any power which contends for the possession of the adjacent country, for they afford the most convenient stand either for its annoyance or defence. In the opinion of some American officers, Crown-Point to which the army on the evacuation of Canada had retreated, was the most proper place for erecting works of defence, but it was otherwise determined, by the council convened, on this occasion. It was also by their advice resolved, to move lower down, and to make the principal work on the strong ground east of Ticonderoga, and especially by every means to endeavour to maintain a naval superiority in Lake Champlain. In conformity to these resolutions general Gates with about 12,000 men, which collected in the course of the summer, was fixed in command of Ticonderoga, and a fleet was constructed at Skenesborough.

August 22

This was carried on with so much rapidity, that in a short time there were afloat, in Lake Champlain, one sloop, three schooners, and six gondolas, carrying in the whole 58 guns, 86 swivels, and 440 men.

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Six other vessels were also nearly ready for launching at the same time. The fleet was put under the command of general Arnold, and he was instructed by general Gates, to proceed beyond Crown-Point, down Lake Champlain, to the Split Rock; but most peremptorily restrained from advancing any farther, as security against an apprehended invasion was the ultimate end of the armament.

The expulsion of the American invaders from Canada, was but a part of the British designs in that quarter. They urged the pursuit no farther than St. John's, but indulged the hope of being soon in a condition for passing the lakes, and penetrating through the country to Albany, so as to form a communication with New-York. The objects they had in view were great, and the obstacles in the way of their accomplishment equally so. [277]

1776

Before they could advance with any prospect of success, a fleet superior to that of the Americans on the lakes, was to be constructed. The materials of some large vessels were, for this purpose, brought from England, but their transportation, and the labour necessary to put them together required both time and patience. The spirit of the British commanders rose in proportion to the difficulties which were to be encountered. Nevertheless it was so late as the month of October, before their fleet was prepared to face the American naval force, on Lake Champlain. The former consisted of the ship Inflexible, mounting 18 twelve pounders, which was so expeditiously constructed, that she sailed from St. John's 28 days after laying her keel. One schooner mounting 14 and another 12 six pounders. A flat bottomed radeau carrying six 24 and six 12 pounders, besides howitzers, and a gondola with seven nine pounders. There were also twenty smaller vessels with brass field pieces, from 9 to 24 pounders, or with howitzers. Some long boats were furnished in the same manner. An equal number of large boats acted as tenders. Besides these vessels of war, there was a vast number destined for the transportation of the army, its stores, artillery, baggage and provisions. The whole was put under the command of captain Pringle. The naval force of the Americans, from the deficiency of means, was far short of what was brought against them. Their principal armed vessel was a schooner, which mounted only 12 six and four pounders, and their whole fleet in addition to this, consisted of only fifteen vessels of inferior force.

No one step could be taken towards accomplishing the designs of the British, on the northern frontiers of New-York, till they had the command of Lake Champlain.

Oct. 11

With this view their fleet proceeded up the lake, and engaged the Americans. The wind was so unfavorable to the British, that their ship Inflexible, and some other vessel of force, could not be brought to action. This lessened the inequality between the contending fleets so much, that the principal damage sustained by the Americans, was the loss of a schooner and gondola.

1776

At the [278] approach of night the action was discontinued. The vanquished took the advantage, which the darkness afforded to make their escape. This was effected by general Arnold, with great judgment and ability. By the next morning the whole fleet under his command was out of sight. The British pursued with all the sail they could croud. The wind having become more favorable, they overtook the Americans, and brought them to action near Crown-Point.

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A smart engagement ensued and was well supported on both sides for about two hours. Some of the American vessels which were most ahead escaped to Ticonderoga. Two gallies and five gondolas remained and resisted an unequal force, with a spirit approaching to desperation. One of the gallies struck and was taken. General Arnold, though he knew that to escape was impossible, and to resist unavailing, yet instead of surrendering, determined that his people should not become prisoners, nor his vessels a re-inforcement to the British. This spirited resolution was executed with a judgment, equal to the boldness, with which it had been adopted. He ran the Congress galley, on board of which he was, together with the five gondolas on shore, in such a position, as enabled him to land his men and blow up the vessels. In the execution of this perilous enterprise, he paid a romantic attention to a point of honour. He did not quit his own galley till she was in flames, lest the British should board her, and strike his flag. The result of this action, though unfavorable to the Americans, raised the reputation of general Arnold, higher than ever. In addition to the fame of a brave soldier, he acquired that of an able sea officer. Oct. 13

The American naval force being nearly destroyed, the British had undisputed possession of Lake Champlain. On this event a few continental troops which had been at Crown-Point, retired to their main body at Ticonderoga. General Carleton took possession of the ground from which they had retreated, and was there soon joined by his army. He sent out several reconnoitering parties, and at one time pushed forward a strong detachment on both sides of the lake, which approached near [279] to Ticonderoga.

Some British vessels appeared at the same time, within cannon shot of the American works, at that place. It is probable he had it in contemplation, if circumstances favoured to reduce the post, and that the apparent strength of the works, restrained him from making the attempt, and induced his return to Canada. 1776

Such was the termination of the northern campaign in 1776. Though after the surrender of Montreal evacuations, defeats, and retreats, had almost uninterruptedly been the portion of the Americans, yet with respect to the great object of defence on the one side, and of conquest on the other, a whole campaign was gained to them, and lost to their adversaries.

The British had cleared Canada of its invaders, and destroyed the American fleet on the lakes, yet from impediments thrown in their way, they failed in their ulterior designs. The delays contrived by general Gates, retarded the British for so great a part of the summer, that by the time they had reached Ticonderoga, their retreat on account of the approaching winter, became immediately necessary. On the part of the Americans, some men, and a few armed vessels were lost, but time was gained, their army saved, and the frontier of the adjacent states secured from a projected invasion. On the part of the British, the object of a campaign, in which 13,000 men were employed, and near a million of money expended, was rendered in a great measure abortive.

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CHAPTER XII

The Proceedings Of Parliament, Against The Colonies, 1775–6. Operations In South-Carolina, New-York, And New-Jersey.

The operations carried on against the united colonies, in the year 1775, were adapted to cases of criminal combination among subjects not in arms. The military arrangements for that year, were therefore made on the idea of a trifling addition to a peace establishment. [280]

1776

It was either not known, that a majority of the Americans had determined to resist the power of Great-Britain, rather than submit to the late coercive laws, or it was not believed that they had spirit sufficient to act in conformity to that determination. The propensity in human nature, to believe that to be true, which is wished to be so, had deceived the royal servants in America, and the British ministry in England, so far as to induce their general belief, that a determined spirit on the part of government, and a few thousand troops to support that determination, would easily compose the troubles in America. Their military operations in the year 1775, were therefore calculated on the small scale of strengthening the civil power, and not on the large one of resisting an organised army. Though it had been declared by parliament in February, 1775, that a rebellion existed in Massachusetts, yet it was not believed that the colonists would dare to abet their opposition by an armed force. The resistance made by the militia at Lexington, the consequent military arrangements adopted, first by Massachusetts, and afterwards by Congress, together with the defence of Bunker's-hill, all conspired to prove that the Americans were far from being contemptible adversaries. The nation finding itself, by a fatal progression of the unhappy dispute, involved in a civil war, was roused to recollection. Though several corporate bodies, and sundry distinguished individuals in Great-Britain, were opposed to coercive measures, yet there was a majority for proceeding. The pride of the nation was interested in humbling the colonists, who had dared to resist the power which had lately triumphed over the combined force of France and Spain. The prospect of freeing their own estates from a part of the heavy taxes charged thereon, induced numbers of the landed gentlemen in Great-Britain to support the same measures. They conceived the coercion of the colonies to be the most direct mode of securing their contribution towards sinking the national debt.

1775

Influenced by these opinions, such not only justified the adoption of rigorous measures, but chearfully consented to present additional taxes with the same spirit [281] which induces litigants in private life to advance money for forwarding a lawsuit, from the termination of which great profits are expected. Lord North, the prime minister of England, finding himself supported by so many powerful interests, was encouraged to proceed. He had already subdued a powerful party in the city of London, and triumphed over the East-India company. The submission of the colonies was only wanting to complete the glory of his administration. Previous success emboldened him to attempt the arduous business. He flattered himself that the accomplishment of it would, not only restore peace to the

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empire, but give a brilliancy to his name, far exceeding that of any of his predecessors.

Such was the temper of a great part of the nation, and such the ambitious views of its prime minister, when the parliament was convened, on the 24th of October 1775. In the speech from the throne great complaints were made of the leaders in the colonies, who were said by their misrepresentatives to have infused into the minds of the deluded multitude opinions, repugnant to their constitutional subordination, and afterwards to have proceeded to the commencement of hostilities, and the usurpation of the whole powers of government. His majesty also charged his subjects in America with "meaning only to amuse by vague expressions of attachment to the Parent State, while they were preparing for a general revolt." And he farther asserted "that the rebellious war now levied by them was become more general, and manifestly carried on for the purpose of establishing an independent empire, and that it was become the art of wisdom, and in its effects, of clemency to put a speedy end to these disorders, by the most decisive exertions."

Information was also given, that "the most friendly offers of foreign assistance had been received, and that his majesty's electoral troops were sent to the garrison of Gibraltar and Port Mahon, in order that a large number of the established forces of the kingdom might be applied to the maintenance of its authority."
The severity of these assertions was mitigated by a declaration, 1775
"that when the unhappy and deluded multitude against [282]
whom this force should be directed, would become sensible of their error, his majesty would be ready to receive the misled with tenderness and mercy," "and that to prevent inconveniences, he should give authority to certain persons on the spot, to grant general or particular pardons and indemnities to such as should be disposed to return to their allegiance." The sentiments expressed in this speech and the heavy charges therein laid against the colonists, were re-echoed in addresses to the king from both houses of parliament, but not without a spirited protest in the house of lords. In this, nineteen dissenting members asserted the American war to be "unjust and impolitic in its principles, and fatal in its consequences." They also declared, that they could not consent to an address, "which might deceive his majesty and the public into a belief of the confidence of their house in the present ministers, who had disgraced parliament, deceived the nation—lost the colonies, and involved them in a civil war against their clearest interests, and upon the most unjustifiable grounds wantonly spilling the blood of thousands of their fellow subjects."

The sanction of parliament being obtained for a vigorous prosecution of the American war, estimates for the public service, were agreed to on the idea of operating against the colonies as an hostile armed foreign power. To this end it was voted to employ 28,000 sea-men, and 55,900 land forces, and the sanction of authority was not long after given to measures for engaging foreign mercenaries. No ministry had in any preceding war exerted themselves more to prosecute military operations against alien enemies, than the present to make the ensuing campaign decisive of the dispute between the Mother Country and the colonies.
One legislative act was still wanting to give full efficacy to the Nov. 20, 1775
intended prosecution of hostilities. This was brought into

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parliament in a bill interdicting all trade and intercourse with the thirteen united colonies. By it all property of Americans, whether of ships or goods, on the high seas, or in harbour, was declared "to be forfeited to the captors, being the officers and crews of his majesty's ships of war." It farther enacted [283] "that the masters, crews and other persons found on board captured American vessels, should be entered on board his majesty's vessels of war, and there considered to be in his majesty's service to all intents and purposes, as if they had entered of their own accord." This bill also authorised the crown to appoint commissioners, who over and above granting pardons to individuals were empowered to "enquire into general and particular grievances, and to determine whether any colony or part of a colony was returned to that state of obedience, which might entitle it to be received within the king's peace and protection." In that case upon a declaration from the commissioners "the restrictions of the proposed law were to cease."

It was said in favour of this bill,

that as the Americans were already in a state of war, it became necessary that hostilities should be carried on against them, as was usual against alien enemies. That the more vigorously and extensively military operations were prosecuted, the sooner would peace and order be restored. That as the commissioners went out with the sword in one hand, and terms of conciliation in the other, it was in the power of the colonists to prevent the infliction of any real or apparent severities, in the proposed statute.

In opposition to it, it was said, "that treating the Americans as a foreign nation, was chalking out the way for their independence." One member observed, that as the indiscriminate rapine of property authorised by the bill, would oblige the colonists to coalesce as one man, its title ought to be "A bill for carrying more effectually into execution the resolves of Congress." The clause for vesting the property of the seizures in the captors, was reprobated as tending to extinguish in the breasts of seamen the principles of patriotism—of national pride and glory, and to substitute in their room habits of cruelty, of piracy and robbery. But of all parts of this bill none was so severely condemned as that clause by which persons taken on board the American vessels, were indiscriminately compelled to serve as common sailors in British ships of war. This was said to be "a refinement of [284] tyranny worse than death."

It was also said, "That no man could be despoiled of his goods as a foreign enemy, and at the same time obliged to serve as a citizen, and that compelling captives to bear arms against their families, kindred, friends and country—and after being plundered themselves to become accomplices in plundering their brethren, was unexampled, except among pirates, the outlaws and enemies of human society." To all these high charges the ministry replied, "that the measure was an act of grace and favour, for" said they, "the crews of American vessels, instead of being put to death, the legal punishment of their demerits, as traitors and rebels, are by this law to be rated on the king's books, and treated as if they were on the same footing with a great body of his most useful and faithful subjects." It was also said, "that their pay and emoluments in the service of their

1776

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0700

lawful sovereign would be a compensation for all scruples that might arise from the supposed violation of their principles."

In the progress of the debates on this bill, lord Mansfield declared, "that the questions of original right and wrong were no longer to be considered—that they were engaged in a war, and must use their utmost efforts to obtain the ends proposed by it, that they must either fight or be pursued, and that the justice of the cause must give way to their present situation." Perhaps no speech in or out of parliament operated more extensively on the irritated minds of the colonists than this one.

The great abilities and profound legal knowledge of lord Mansfield were both known and admired in America. That this illustrious oracle of law should declare from the seat of legislation, that the justice of the cause was no longer to be regarded, excited the astonishment, and cemented the union of the colonists. "Great-Britain, said they, has commenced war against us for maintaining our constitutional liberties, and her lawgivers now declare they must proceed without any retrospect to the merits of the original ground of dispute. Our peace and happiness must be sacrificed to British honour and consistency, in their continuing to prosecute [285] an unjust invasion of our rights."

Dec. 21, 1775

A number of lords, as usual, entered a spirited protest against the bill, but it was carried by a great majority in both houses of parliament, and soon after received the royal assent.

This law arrived in the colonies in March 1776. The effects resulting from it were such as had been predicted by its opposers. It not only united the colonies in resisting Great-Britain, but produced a favorable opinion of independence in the minds of thousands, who previously reprobated that measure. It was considered from New-Hampshire to Georgia, as a legal discharge from allegiance to their native sovereign. What was wanting to produce a decided majority of the party for breaking off all connexion with Great-Britain, was speedily obtained from the irritation excited by the hiring of foreign troops to fight against the colonists. This measure was nearly coincident with the ratification of the prohibitory law just mentioned, and intelligence of both arrived in the colonies about the same time.

The treaties which had been lately concluded with the Landgrave of Hesse Cassel, the duke of Brunswic, and the hereditary prince of Hesse Cassel for hiring their troops to the king of Great-Britain, to be employed in the American service being laid before the house of commons, a motion was made thereon for referring them to the committee of supply.

Feb. 29, 1776

This occasioned a very interesting debate on the propriety of employing foreign troops against the Americans. The measure was supported on the necessity of prosecuting the war, and the impracticability of raising a sufficient number of domestic levies. It was also urged "that foreign troops inspired with the military maxims, and ideas of implicit submission, would be less apt to be biassed by that false lenity, which native soldiers might indulge, at the expence of national interest." It was said,

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Are we to sit still and suffer an unprovoked rebellion to terminate in the formation of an independent hostile empire? Are we to suffer our colonies, the object of the great national expence, and of two bloody wars to be lost forever to us, and given away to strangers from a scruple of [286]
employing foreign troops to preserve our just rights, over colonies for which we have paid so dear a purchase? As the Americans by refusing the obedience and taxes of subjects, deny themselves to be a part of the British empire, and make themselves foreigners, they cannot complain that foreigners are employed against them.

1775

On the other side the measure was severely condemned. The necessity of the war was denied, and the nation was represented as disgraced by applying to the petty princes of Germany, for succours against her own rebellious subjects. The tendency of the example to induce the Americans to form alliances with foreign powers, was strongly urged. It was said,

hitherto the colonists have ventured to commit themselves singly in this arduous contest, without having recourse to foreign aid, but it is not to be doubted, that in future they will think themselves fully justified both by our example, and the laws of self preservation, to engage foreigners to assist them in opposing those mercenaries, whom we are about to transport for their destruction. Nor is it doubtful that in case of their application, European powers of a rank far superior to that of those petty princes, to whom we have so abjectly sued for aid, will consider themselves to be equally entitled to interfere in the quarrel between us and our colonies.

The supposition of the Americans receiving aid from France or Spain, was on this and several other occasions ridiculed, on the idea that these powers would not dare to set to their own colonies the dangerous example of encouraging those of Great-Britain, in opposing their sovereign. It was also supposed, that they would be influenced by considerations of future danger to their American possessions, from the establishment of an independent empire in their vicinity.

In this session of parliament between the 26th of October, 1775, and the 23d, of May 1776, the ultimate plan for reducing the colonies was completely fixed. The Americans were declared out of the royal protection, and 16,000 foreign mercenaries, employed by national authority, to effect their subjugation.
These measures [287] induced Congress in the following summer to declare themselves independent, and to seek for foreign aid: Events which shall be hereafter more fully explained.

1776

Parliamentary sanction for carrying on the war against the colonists, as against alien enemies being obtained, it became necessary to fix on a commander of the royal forces to be employed on this occasion. This as a matter of right was, in the first instance, offered to general Oglethorpe, as being the first on the list of general officers. To the surprise of the minister that respectable veteran, readily accepted the command, on condition of his being properly supported. A numerous well appointed army and a powerful fleet were promised him, to which he replied, “I will undertake the business without a man or a ship of war, provided you will authorise me to assure

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the colonists on my arrival among them, that you will do them justice." He added farther, "I know the people of America well, and am satisfied, that his majesty has not in any part of his dominions, more obedient, or more loyal subjects. You may secure their obedience by doing them justice, but you will never subdue them by force of arms." These opinions so favourable to the Americans, proved general Oglethorpe to be an improper person for the purpose intended by the British ministry. He was therefore passed over, and the command given to Sir William Howe.

It was resolved to open the campaign, with such a powerful force as "would look down all opposition, and effectuate submission without bloodshed," and to direct its operations to the accomplishment of three objects. The first was the relief of Quebec, and the recovery of Canada, which also included a subsequent invasion of the northwestern frontiers of the adjacent provinces. The second was a strong impression on some of the southern colonies. The third and principal, was to take possession of New-York, with a force sufficiently powerful to keep possession of Hudson's-River, and form a line of communication with the royal army in Canada, or to over-run the adjacent country.

The partial success of the first part of this plan, has been in the preceding chapter explained. The execution [288] of the second part was committed to general Clinton, and Sir Peter Parker. The former with a small force having called at New-York, and also visited in Virginia lord Dunmore, the late royal governor of that colony, and finding that nothing could be done at either place, proceeded to Cape-Fear-River. At that place he issued a proclamation from on board the Pallas transport, offering free pardon to all such as should lay down their arms, excepting Cornelius Hasnett, and Robert Howe, but the recent defeat of the regulators and Highlanders, restrained even their friends from paying any attention to this act of grace.

At Cape-Fear a junction was formed between Sir Henry Clinton, and Sir Peter Parker, the latter of whom had sailed with his squadron directly from Europe. They concluded to attempt the reduction of Charleston as being, of all places within the line of their instructions, the object at which they could strike with the greatest prospect of advantage. They had 2,800 land forces, which they hoped, with the co-operation of their shipping, would be fully sufficient.

For some months past every exertion had been made to put the colony of South-Carolina, and especially its capital Charleston, in a respectable posture of defence. In subserviency to this view, works had been erected on Sullivan's island, which is situated so near the channel leading up to the town, as to be a convenient post for annoying vessels approaching it.

Sir Peter Parker attacked the fort on that island, with two fifty gun ships, the Bristol and Experiment, four frigates, the Active, Acteon, Solebay and Syron, each of 28 guns. The Sphynx of 20 guns, the Friendship armed vessel of 22 guns, Ranger sloop, and Thunder bomb, each of 8 guns. On the fort were mounted 26 cannon, 26, 18 and 9 pounders. The attack commenced between ten and eleven in the forenoon, and was continued for upwards of ten hours. The garrison consisting of 375 regulars and a few

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militia, under the command of colonel Moultrie, made a most gallant defence. They fired deliberately, for the most part took [289] aim and seldom missed their object. The ships were torn almost to pieces, and the killed and wounded on board exceeded 200 men. The loss of the garrison was only ten men killed, and 22 wounded. The fort being built of palmetto, was little damaged. The shot which struck it were ineffectually buried in its soft wood. General Clinton had some time before the engagement, landed with a number of troops on Long-Island, and it was expected that he would have co-operated with Sir Peter Parker, by crossing over the narrow passage, which divides the two islands, and attacking the fort in its unfinished rear; but the extreme danger to which he must unavoidably have exposed his men, induced him to decline the perilous attempt. Colonel Thomson with 7 or 800 men was stationed at the east end of Sullivan's island, to oppose their crossing. No serious attempt was made to land either from the fleet, or the detachment commanded by Sir Henry Clinton. The firing ceased in the evening, and soon after the ships slipped their cables. Before morning they had retired about two miles from the island. Within a few days more the troops re-embarked and the whole sailed from New-York. The thanks of Congress were given to general Lee, who had been sent on by Congress to take the command in Carolina, and also to colonels Moultrie and Thomson, for their good conduct on this memorable day. In compliment to the commanding officer the fort from that time was called Fort Moultrie. 1776

During the engagement the inhabitants stood with arms in their hands at their respective posts, prepared to receive the enemy wherever they might land. Impressed with high ideas of British power and bravery, they were apprehensive that the fort would be either silenced or passed, and that they should be called to immediate action. They were cantoned in the various landing places near Charleston, and their resolution was fixed to meet the invaders at the water's edge, and dispute every inch of ground, trusting the event to heaven.

By the repulse of this armament the southern states obtained a respite from the calamities of war for two years and a half.

The defeat the British met with at Charleston, [290] seemed in some measure to counterbalance the unfavourable impression made, by their subsequent successes, to the northward. Throughout the whole summer, and till the close of the year, Congress had little else than the victory on Sullivan's island, to console them under the various evacuations, retreats, and defeats, to which, as shall hereafter be related, their armies were obliged to submit in every other part of the union. The event of the expedition contributed greatly to establish the cause which it was intended to overset. In opposition to the bold assertions of some, and the desponding fears of others, experience proved that America might effectually resist a British fleet and army. Those, who from interested motives had abetted the royal government, ashamed of their opposition to the struggles of an infant people for their dearest rights, retired into obscurity. 1776

The effects of this victory, in animating the Americans, were much greater than could be warranted, by the circumstances of the action. As it was the first attack made by the British navy, its unsuccessful issue inspired a confidence which a more exact knowledge of military calculations would have corrected. The circumstance of its

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happening in the early part of the war, and in one of the weaker provinces, were happily instrumental in dispelling the gloom which overshadowed the minds of many of the colonists, on hearing of the powerful fleets and numerous armies which were coming against them.

The command of the force which was designed to operate against New-York in this campaign, was given to admiral lord Howe, and his brother Sir William, officers who, as well from their personal characters, as the known bravery of their family, stood high in the confidence of the British nation. To this service was allotted a very powerful army, consisting of about 30,000 men. This force was far superior to any thing that America had heretofore seen. The troops were amply provided with artillery, military stores, and warlike materials of every kind, and were supported by a numerous fleet. The admiral and general, in addition to their military powers, were appointed commissioners for restoring peace to the colonies.

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1776

General Howe having in vain waited two months at Halifax for his brother, and the expected re-inforcements from England, impatient of farther delays, sailed from that harbour, with the force which he had previously commanded in Boston,

Jun. 10

and directing his course towards New-York, arrived in the latter end of June, off Sandy-Hook. Admiral lord Howe, with part of the re-inforcement from England, arrived at Halifax, soon after his brother's departure.

Jun. 12

Without dropping anchor he followed, and soon after joined him near Staten-Island. The British general, on his approach, found every part of New-York island, and the most exposed parts of Long-Island fortified and well defended by artillery. About fifty British transports anchored near Staten-Island, which had not been so much the object of attention. The inhabitants thereof, either from fear, policy, or affection, expressed great joy on the arrival of the royal forces. General Howe was there met by Tryon, late governor of the province, and by several of the loyalists, who had taken refuge with him in an armed vessel. He was also joined by about sixty persons from New-Jersey, and 200 of the inhabitants of Staten-Island were embodied, as a royal militia. From these appearances, great hopes were indulged that as soon as the army was in a condition to penetrate into the country, and protect the loyalists, such numbers would flock to their standard as would facilitate the attainment of the objects of the campaign.

On the fourth day after the British transports appeared off Sandy-Hook. Congress, though fully informed of the numbers and appointment of the force about to be employed against the colonies, ratified their famous declaration of independence. This was publicly read to the American army, and received by them with unfeigned acclamations of joy. Though it was well known, that Great-Britain had employed a force of 55,000 men, to war upon the new-formed states, and that the continental army was not near equal to half that number, and only engaged for a few months, and that Congress was without any assurance of foreign aid, yet both the American [292] officers and privates gave every evidence

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of their hearty approbation of the decree which severed the colonies from Great-Britain, and submitted to the decision of the sword, whether they should be free states, or conquered provinces. Now, said they, "we know the ground on which we stand. Now we are a nation. No more shall the opprobrious term of rebel, with any appearance of justice, be applied to us. Should the fortune of war throw us into the hands of our enemies, we may expect the treatment of prisoners, and not the punishment of rebels. The prize for which we contend is of such magnitude that we may freely risque our lives to obtain it." 1776

It had early occurred to general Washington, that the possession of New-York, would be with the British a favourite object. Its central situation and contiguity to the ocean, enabled them to carry with facility the war to any part of the sea coast. The possession of it was rendered still more valuable by the ease with which it could be maintained. Surrounded on all sides by water, it was defensible by a small number of British ships, against adversaries whose whole navy consisted only of a few frigates. Hudson's river, being navigable for ships of the largest size to a great distance, afforded an opportunity of severing the eastern from the more southern states, and of preventing almost any communication between them.

From these well known advantages, it was presumed by the Americans, that the British would make great exertions to effect the reduction of New-York. General Lee, while the British were yet in possession of the capital of Massachusetts had been detached from Cambridge, to put Long-Island and New-York into a posture of defence. As the departure of the British from Boston became more certain, the probability of their instantly going to New-York, increased the necessity of collecting a force for its safety.

It had been therefore agreed in a council of war, that five regiments, together with a rifle battalion should march without delay to New-York, and that the states of New-York and New-Jersey should be requested to furnish the former two thousand, and the [293] latter one thousand men for its immediate defence. March 13

General Washington soon followed, and early in April fixed his head quarters in that city. A new distribution of the American army took place. Part was left in Massachusetts. Between two and three thousand were ordered to Canada: But the greater part rendezvoused at New-York. 1776

Experience had taught the Americans the difficulty of attacking an army, after it had effected a lodgment. They therefore made strenuous exertions to prevent the British from enjoying the advantages in New-York, which had resulted from their having been permitted to land and fortify themselves in Boston. The sudden commencement of hostilities in Massachusetts, together with the previous undisturbed landing of the royal army, allowed no time for deliberating on a system of war. A change of circumstances indicated the propriety of fixing on a plan for conducting the defence of the new formed states. On this occasion general Washington, after much thought, determined on a war of posts. This mode of conducting military operations gave confidence to the Americans, and besides, it both retarded and alarmed their adversaries. The soldiers in the American army were new levies, and had not yet learned to stand uncovered, before the instruments of death. Habituating them to the

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sound of fire arms, while they were sheltered from danger, was one step towards inspiring them with a portion of mechanical courage. The British remembered Bunker's-hill, and had no small reverence for even slight fortifications, when defended by freemen. From views of this kind, works were erected in and about New-York, on Long Island, and the heights of Haerlem. These, besides batteries, were field redoubts, formed of earth with a parapet and ditch. The former were sometimes fraised, and the latter palisadoed, but they were in no instance formed to sustain a siege. Slight as they were, the campaign was nearly wasted away before they were so far reduced, as to permit the royal army to penetrate into the country.

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1776

The war having taken a more important turn than in the preceding year had been foreseen, Congress at the opening of the campaign, found themselves distitute of a force sufficient for their defence. They therefore in June determined on a plan to reinforce their continental army by bringing into the field, a new species of troops, that would be more permanent than the common militia, and yet more easily raised than regulars. With this view they instituted a flying camp, to consist of an intermediate corps, between regular soldiers and militia.

June 3

Ten thousand men were called for from the states of Pennsylvania, Maryland, and Delaware, to be in constant service to the first day of the ensuing December. Congress at the same time called for 13,800 of the common militia from Massachusetts, Connecticut, New-York, and New-Jersey. The men for forming the flying camp were generally procured, but there were great deficiencies of the militia, and many of those who obeyed their country's call, so far as to turn out, manifested a reluctance to submit to the necessary discipline of camps.

The difficulty of providing the troops with arms while before Boston, was exceeded by the superior difficulty of supplying them, in their new position. By the returns of the garrison at fort Montgomery, in the Highlands in April, it appeared that there were 208 privates, and only forty one guns fit for use. In the garrison at fort Constitution, there were 136 men, and only 68 guns fit for use. Flints were also much wanted. Lead would have been equally deficient, had not a supply for the musquetry been obtained by stripping dwelling houses.

The uncertainty of the place, where the British would commence their operations, added much to the imbarrassment of general Washington. Not only each colony, but each seaport town, supposed itself to be the object of the British, and was ardent in its supplications, to the commander in chief for his puculiar attention. The people of Massachusetts were strongly impressed with an idea, that the evacuation of Boston was only a feint, and that the British army would soon return.

1776

They were for that reason very desirous, that the continental troops should not be withdrawn [295] from their state. The inhabitants of Rhode-Island urged in a long petition, that their maritime situation exposed them to uncommon danger, while their great exertions in fitting out armed vessels, had deprived them of many of their citizens. They therefore prayed for a body of continental soldiers, to be stationed for their constant and peculiar defence. So various were the applications for troops, so numerous the calls for arms, that a

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decided conduct became necessary to prevent the feeble American force, and the deficient stock of public arms from being divided and subdivided, so as to be unequal to the proper defence of any one place.

In this crisis of particular danger, the people of New-York acted with spirit. Though they knew they were to receive the first impression of the British army, yet their convention resolved, "that all persons residing within the state of New-York, and claiming protection from its laws, owed it allegiance, and that any person owing it allegiance and levying war against the state, or being an adherent to the king of Great-Britain, should be deemed guilty of treason and suffer death." They also resolved ["]that one fourth of the militia of West-Chester, Dutchess and Orange counties, should be forthwith drawn out for the defence of the liberties, property, wives and children, of the good people of the state, to be continued in service till the last day of December," and, "that as the inhabitants of King's county, had determined not to oppose the enemy, a committee should be appointed to enquire into the authenticity of these reports, and to disarm and secure the disaffected. To remove or destroy the stock of grain, and if necessary to lay the whole country waste."

The two royal commissioners, admiral and general Howe, thought proper, before they commenced their military operations, to try what might be done in their civil capacity, towards effecting a re-union between Great-Britain and the colonies. It was one of the first acts of lord Howe, to send on shore a circular letter to several of the royal governors in America, informing them of the late act of parliament, "for restoring peace to the colonies, [296] and granting pardon to such as should deserve mercy," and desiring them to publish a declaration which accompanied the same. In this he informed the colonists of the power with which his brother and he were intrusted "of granting general or particular pardons to all those who though they had deviated from their allegiance, were willing to return to their duty," and of declaring "any colony, province, county or town, port, district or place to be at the peace of his majesty." Congress, impressed with a belief, that the proposals of the commissioners, instead of disuniting the people, would have a contrary effect, ordered them to be speedily published in the several American news-papers. Had a redress of grievances been at this late hour offered, though the honour of the states was involved in supporting their late declaration of independence, yet the love of peace, and the bias of great numbers to their Parent State, would in all probability have made a powerful party for rescinding the act of separation, and for re-uniting with Great-Britain. But when it appeared that the power of the royal commissioners was little more than to grant pardons, Congress appealed to the good sense of the people, for the necessity of adhering to the act of independence. The resolution for publishing the circular letter, and the declaration of the royal commissioners, assigned as a reason thereof,

1776

that the good people of the United States may be informed of what nature are the commissioners, and what the terms, with expectation of which the insidious court of Great-Britain had endeavoured to amuse and disarm them, and that the few who still remain suspended by a hope, founded either in the justice or moderation of their late king, may now at length be convinced that the valour alone of their country is to save its liberties.

EXHIBIT 19
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About the same time flags were sent ashore by lord Howe, with a letter directed to George Washington, Esq. which he refused to receive as not being addressed to him with the title due to his rank.

1776

In his letter to Congress on this subject, he wrote as follows, "I would not on any occasion sacrifice essentials to punctilio, but in this instance I deemed it a duty to my country and appointment, to insist [297] on that respect, which in any other than a public view, I would willingly have waved. "Congress applauded his conduct in a public resolution, and at the same time directed ["]that no letter or message should be received on any occasion whatever, from the enemy, by the commander in chief, or others the commanders of the American army, but such as were directed to them in the characters they severally sustained."

Some time after, adjutant general Patterson was sent to New-York, by general Howe, with a letter addressed to George Washington, &c. &c. &c. On an interview the adjutant general, after expressing his high esteem for the person and character of the American general, and declaring, that it was not intended to derogate from the respect due to his rank, expressed his hopes, that the *et ceteras* would remove the impediments to their correspondence. General Washington replied, "That a letter directed to any person in a public character, should have some description of it, otherwise it would appear a mere private letter. That it was true the *et ceteras* implied every thing, but they also implied any thing, and that he should therefore decline the receiving any letter directed to him as a private person, when it related to his public station.["] A long conference ensued, in which the adjutant general observed, that "the commissioners were armed with great powers, and would be very happy in effecting an accommodation." He received for answer, "that from what appeared, their powers were only to grant pardon, that they who had committed no fault, wanted no pardon." Soon after this interview, a letter from Howe, respecting prisoners, which was properly addressed to Washington was received.

While the British, by their manifestoes and declarations, were endeavouring to separate those who preferred a reconciliation with Great-Britain from those who were the friends of independence, Congress, by a similiar policy, was attempting to detach the foreigners, who had come with the royal troops from the service of his Britannic majesty. Before hostilities had commenced, the following resolution was adopted and circulated among those [298] on whom it was intended to operate.

August 14

Resolved, that these states will receive all such foreigners who shall leave the armies of his Britannic majesty in America, and shall chuse to become members of any of these states, and they shall be protected in the free exercise of their respective religions, and be invested with the rights, privileges and immunities of natives, as established by the laws of these states, and moreover, that this congress will provide for every such person, fifty acres of unappropriated lands in some of these states, to be held by him and his heirs, as absolute property.

The numbers which were prepared to oppose the British, when they should disembark, made them for some time cautious of proceeding to their projected land

EXHIBIT 19
0709

operations, but the superiority of their navy enabled them to go by water, whithersoever they pleased.

July 12

A British forty gun ship, with some smaller vessels, sailed up North-River, without receiving any damage of consequence, though fired upon from the batteries of New-York, Paules-Hook, Red-Bank, and Governor's Island. An attempt was made, not long after, with two fire ships, to destroy the British vessels in the North-River, but without effecting any thing more than the burning of a tender. They were also attacked with row gallies, but to little purpose. After some time the Phoenix and Rose men of war, came down the river, and joined the fleet. Every effort of the Americans from their batteries on land, as well as their exertions on the water, proved ineffectual. The British ships passed with less loss than was generally expected, but nevertheless the damage they received was such as deterred them from frequently repeating the experiment. In two or three instances they ascended the North-River, and in one or two the East-River, but those which sailed up the former, speedily returned, and by their return, a free communication was opened through the upper part of the state.

The American army in and near New-York amounted to 17,225 men. These were mostly new troops, and were divided in many small and unconnected posts, some of which were fifteen miles removed from others.

1776

The [299] British force before New-York was increasing by frequent successive arrivals from Halifax, South-Carolina, Florida, the West-Indies and Europe. But so many unforeseen delays had taken place, that the month of August was far advanced, before they were in a condition to open the campaign.

When all things were ready, the British commanders resolved to make their first attempt on Long-Island. This was preferred to New-York, as it abounded with those supplies which their forces required.

The British landed without opposition, between two small towns, Utrecht and Gravesend. The American works protected a small peninsula having Wallabout-Bay to the left, and stretching over to Red-Hook on the right, and the East-River being in their rear. General Sullivan, with a strong force, was encamped within these works at Brooklyne. From the east-side of the narrows runs a ridge of hills covered with thick wood, about five or six miles in length, which terminates near Jamaica. There were three passes through these hills, one near the narrows, a second on the Flatbush road, and a third on the Bedford road, and they are all defensible. These were the only roads which could be passed from the southside of the hills to the American lines, except a road which led round the easterly end of the hills to Jamaica. The Americans had 800 men on each of these roads, and colonel Miles was placed with his battalion of riflemen, to guard the road from the south of the hills to Jamaica, and to watch the motions of the British.

August 26

General de Heister, with his Hessians, took post at Flatbush, in the evening. In the following night the greater part of the British army, commanded by general Clinton, marched to gain the road leading round the

EXHIBIT 19
0710

easterly end of the hills to Jamaica, and to turn the left of the Americans. He arrived about two hours before day, within half a mile of this road. One of his parties fell in with a patrol of American officers, and took them all prisoners, which prevented the early transmission of intelligence.

1776

Upon the first appearance of day general Clinton advanced, and took possession of the heights over [300] which the road passed. General Grant, with the left wing, advanced along the coast by the west road, near the narrows; but this was intended chiefly as a feint.

The guard which was stationed at this road, fled without making any resistance. A few of them were afterwards rallied, and lord Stirling advanced with 1500 men, and took possession of a hill, about two miles from the American camp, and in front of general Grant.

Aug. 27

An attack was made very early in the morning by the Hessians from Flatbush, under general de Heister, and by general Grant on the coast, and was well supported for a considerable time by both sides. The Americans who opposed general de Heister were first informed of the approach of general Clinton, who had come round on their left. They immediately began to retreat to their camp, but were intercepted by the right wing under general Clinton, who got into the rear of their left, and attacked them with his light infantry and dragoons, while returning to their lines. They were driven back till they were met by the Hessians. They were thus alternately chased and intercepted, between general de Heister and general Clinton. Some of their regiments nevertheless found their way to the camp. The Americans under lord Stirling, consisting of colonel Miles' two battalions, colonel Atlee's, colonel Smallwood's, and colonel Hatche's, regiments, who were engaged with general Grant, fought with great resolution for about six hours. They were uninformed of the movements made by general Clinton, till some of the troops under his command, had traversed the whole extent of country in their rear. Their retreat was thus intercepted, but several notwithstanding, broke through and got into the woods. Many threw themselves into the marsh, some were drowned, and others perished in the mud, but a considerable number escaped by this way to their lines.

The king's troops displayed great valour throughout the whole day. The variety of the ground occasioned a succession of small engagements, pursuits and slaughter, which lasted for many hours.

1776

British discipline in every instance, triumphed over the native valour of raw troops, [301] who had never been in action, and whose officers were unacquainted with the stratagems of war.

The loss of the British and Hessians was about 450. The killed, wounded and prisoners of the Americans, including those who were drowned or perished in the woods or mud, considerably exceeded a thousand. Among the prisoners of the latter were two of their general officers, Sullivan and lord Stirling. Three Colonels, 4 lieutenant colonels, 3 majors, 18 captains, 43 lieutenants, and 11 ensigns. Smallwood's regiment, the officers of which were young men of the best families in the state of Maryland, sustained a loss of 259 men. The British after their victory were

EXHIBIT 19
0711

so impetuous, that it was with difficulty, they could be restrained from attacking the American lines.

In the time of, and subsequent to the engagement, General Washington drew over to Long-Island, the greatest part of his army. After he had collected his principal force there, it was his wish and hope, that Sir William Howe, would attempt to storm the works on the island. These though insufficient to stand a regular siege, were strong enough to resist a coup de main. The rememberance of Bunker's-hill, and a desire to spare his men, restrained the British general from making an assault. On the contrary he made demonstrations of proceeding by siege, and broke ground within three hundred yards to the left at Putnam's redoubt.

Aug. 30

Though general Washington wished for an assault, yet being certain that his works would be untenable, when the British batteries should be fully opened, he called a council of war, to consult on the measures proper to be taken. It was then determined that the objects in view were in no degree proportioned to the dangers to which, by a continuation on the island, they would be exposed. Conformably to this opinion, dispositions were made for an immediate retreat. This commenced soon after it was dark from two points, the upper and lower ferries, on East river. General M'Dougal, regulated the embarkation at one, and colonel Knox at the other.

1776

The intention of evacuating the island, had been so prudently concealed [302] from the Americans, that they knew not whither they were going, but supposed to attack the enemy. The field artillery, tents, baggage, and about 9000 men were conveyed to the city of New-York over East River, more than a mile wide, in less than 13 hours, and without the knowledge of the British, though not six hundred yards distant. Providence, in a remarkable manner favoured the retreating army. For some time after the Americans began to cross the state of the tide, and a strong north-east wind made it impossible for them to make use of their sail boats, and their whole number of row boats was insufficient for completing the business, in the course of the night. But about eleven o'clock, the wind died away, and soon after sprung up at south-east, and blew fresh, which rendered the sail boats of use, and at the same time made the passage from the island to the city, direct, easy and expeditious. Towards morning an extreme thick fog came up, which hovered over Long-Island, and by concealing the Americans, enabled them to complete their retreat without interruption, though the day had begun to dawn some time before it was finished. By a mistake in the transmission of orders, the American lines were evacuated for about three quarters of an hour, before the last embarkation took place, but the British though so near, that their working parties could be distinctly heard, being enveloped in the fog knew nothing of the matter. The lines were repossessed and held till six o'clock in the morning, when every thing except some heavy cannon was removed. General Mifflin, who commanded the rear guard left the lines, and under the cover of the fog got off safe. In about half an hour the fog cleared away, and the British entered the works which had been just relinquished. Had the wind not shifted, the half of the American army could not have crossed, and even as it was, if the fog had not concealed their rear, it must have been discovered, and could hardly have escaped. General Sullivan, who was taken prisoner on Long-Island, was immediately sent on parole, with the following verbal message from lord Howe to Congress,

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0712

that though he could not at present treat [303] with them in that character, yet he was very desirous of having a conference with some of the members, whom he would consider as private gentlemen; that he with his brother the general, had full powers to compromise the dispute between Great-Britain and America, upon terms advantageous to both—that he wished a compact might be settled, at a time when no decisive blow was struck, and neither party could say it was compelled to enter into such agreement. That were they disposed to treat, many things which they had not yet asked, might and ought to be granted, and that if upon conference they found any probable ground of accommodation, the authority of Congress would be afterwards acknowledged to render the treaty complete. 1776

Three days after this message was received, general Sullivan was requested to inform lord Howe,

that Congress being the representatives of the free and independent states of America, they cannot with propriety send any of their members to confer with his lordship in their private characters, but that ever desirous of establishing peace on reasonable terms, they will send a committee of their body, to know whether he has any authority to treat with persons authorised by Congress, for that purpose, on behalf of America, and what that authority is; and to hear such propositions as he shall think fit to make respecting the same.

They elected Dr. Franklin, John Adams, and Edward Rutledge their committee, for this purpose. In a few days they met lord Howe on Staten-Island, and were received with great politeness. On their return they made a report of their conference, which they summed up by saying,

It did not appear to your committee that his lordship's commission contained any other authority than that expressed in the act of parliament—namely, that of granting pardons, with such exceptions as the commissioners shall think proper to make, and of declaring America, or any part of it, to be in the king's peace, on submission: For as to the power of enquiring into the state of America, which his lordship mentioned to us, and of conferring and consulting with any persons the commissioners might think proper,
and representing the result [304] of such conversation to the ministry, who, provided the colonies would subject themselves, might after all, or might not, at their pleasure, make any alterations in the former instructions to governors, or propose in parliament, any amendment of the acts complained of, we apprehended any expectation from the effect of such a power, would have been too uncertain and precarious, to be relied on by America, had she still continued in her state of dependence. 1776

Lord Howe, had ended the conference on his part, by expressing his regard for America, and the extreme pain he would suffer in being obliged to distress those whom he so much regarded. Dr. Franklin, thanked him for his regards, and assured him, ["]that the Americans would shew their gratitude, by endeavouring to lessen as much as possible, all pain he might feel on their account, by exerting their utmost abilities, in taking good care of themselves."

EXHIBIT 19
0713

The committee in every respect maintained the dignity of Congress. Their conduct and sentiments were such as became their character. The friends to independence rejoiced that nothing resulted from this interview, that might disunite the people. Congress, trusting to the good sense of their countrymen, ordered the whole to be printed for their information. All the states would have then rejoiced at less beneficial terms than they obtained about seven years later. But Great-Britain counted on the certainty of their absolute conquest, or unconditional submission. Her offers therefore comported so little with the feelings of America, that they neither caused demur nor disunion, among the new formed states.

The unsuccessful termination of the action on the 27th, led to consequences more seriously alarming to the Americans, than the loss of their men. Their army was universally dispirited. The militia ran off by companies. Their example infected the regular regiments. The loose footing on which the militia came to camp, made it hazardous to exercise over them that discipline, without which, an army is a mob. To restrain one part of an army, while another claimed and exercised the right of doing as they pleased, was no less impracticable than absurd.

[305]

1776

Sept. 7

A council of war, recommended to act on the defensive, and not to risque the army for the sake of New-York.
To retreat, subjected the commander in chief to reflections painful to bear, and yet impolitic to refute. To stand his ground, and by suffering himself to be surrounded, to hazard the fate of America on one decisive engagement, was contrary to every rational plan of defending the wide extended states committed to his care. A middle line between abandoning and defending was therefore for a short time adopted. The public stores were moved to Dobbs' ferry, about 26 miles from New-York. 12,000 men were ordered to the northern extremity of New-York island, and 4500 to remain for the defence of the city, while the remainder occupied the intermediate space, with orders, either to support the city or Kingsbridge, as exigencies might require. Before the British landed, it was impossible to tell what place would be first attacked. This made it necessary to erect works for the defence of a variety of places, as well as of New-York. Though every thing was abandoned when the crisis came that either the city must be relinquished, or the army risqued for its defence, yet from the delays, occasioned by the redoubts and other works, which had been erected on the idea of making the defence of the states a war of posts, a whole campaign was lost to the British, and saved to the Americans. The year began with hopes, that Great-Britain would recede from her demands, and therefore every plan of defence was on a temporary system. The declaration of independence, which the violence of Great-Britain forced the colonies to adopt in July, though neither foreseen nor intended at the commencement of the year, pointed out the necessity of organising an army, on new terms, correspondent to the enlarged objects for which they had resolved to contend.

Sep. 16

Congress accordingly determined to raise 88 battalions, to serve during the war. Under these circumstances to wear away the campaign, with as little misfortune as possible, and thereby to gain time for raising a

EXHIBIT 19
0714

permanent army against the next year, was to the Americans a matter of the last importance.

1776

Though the commander in chief abandoned those works, [306] which had engrossed much time and attention yet the advantage resulting from the delays they occasioned, far overbalanced the expence incurred by their erection.

The same shortsighted politicians, who had before censured general Washington, for his cautious conduct, in not storming the British lines at Boston, renewed their clamors against him, for adopting this evacuating and retreating system. Supported by a consciousness of his own integrity, and by a full conviction that these measures were best calculated for securing the independence of America, he for the good of his country, voluntarily subjected his fame to be overshadowed by a temporary cloud.

Sep. 15

General Howe having prepared every thing for a descent on New-York island, began to land his men under cover of ships of war, between Kepps'-bay and Turtle bay. A breast work had been erected in the vicinity, and a party stationed in it to oppose the British, in case of their attempting to land. But on the first appearance of danger, they ran off in confusion. The commander in chief came up, and in vain attempted to rally them. Though the British in sight, did not exceed sixty, he could not either by example, intreaty, or authority, prevail on a superior force to stand their ground, and face that inconsiderable number. Such dastardly conduct raised a tempest in the usually tranquil mind of general Washington. Having embarked in the American cause from the purest principles, he viewed with infinite concern this shameful behaviour, as threatening ruin to his country. He recollected the many declarations of Congress, of the army, and of the inhabitants, preferring liberty to life, and death to dishonour, and contrasted them with their present scandalous flight. His soul was harrowed up with apprehensions that his country would be conquered—her army disgraced, and her liberties destroyed. He anticipated, in imagination, that the Americans would appear to posterity in the light of high sounding boasters, who blustered when danger was at a distance, but shrunk at the shadow of opposition. Extensive confiscations and numerous attainders presented, themselves in full view to his agitated mind.

1776

He saw, in imagination, new formed states, with [307] the means of defence in their hands, and the glorious prospects of liberty before them, levelled to the dust, and such constitutions imposed on them as were likely to crush the vigour of the human mind, while the unsuccessful issue of the present struggle would for ages to come, deter posterity from the bold design of asserting their rights. Impressed with these ideas he hazarded his person for some considerable time in rear of his own men, and in front of the enemy with his horse's head towards the latter, as if in expectation, that by an honourable death he might escape the infamy he dreaded from the dastardly conduct of troops on whom he could place no dependance. His aids and the confidential friends around his person, by indirect violence, compelled him to retire. In consequence of their address and importunity, a life was saved for public service, which otherwise from a sense of honour, and a gust of passion, seemed to be devoted to almost certain destruction.

EXHIBIT 19
0715

On the day after this shameful flight of part of the American army, a skirmish took place between two battalions of light infantry and highlanders commanded by brigadier Leslie, and some detachments from the American army, under the command of lieutenant colonel Knowlton of Connecticut, and major Leitch of Virginia. The colonel was killed and the major badly wounded. Their men behaved with great bravery, and fairly beat their adversaries from the field. Most of these were the same men, who had disgraced themselves the day before, by running away[;] struck with a sense of shame for their late misbehaviour, they had offered themselves as volunteers, and requested the commander in chief to give them an opportunity to retrieve their honour. Their good conduct, at this second engagement, proved an antidote to the poison of their example on the preceding day. It demonstrated that the Americans only wanted resolution and good officers to be on a footing with the British, and inspired them with hopes that a little more experience would enable them to assume, not only the name and garb, but the spirit and firmness of soldiers.

The Americans having evacuated the city of New-York, [308] a brigade of the British army marched into it.

1776

They had been but a few days in possession, when a dreadful fire, most probably occasioned by the disorderly conduct of some British sailors, who had been permitted to regale themselves on shore, broke out, and consumed about a thousand houses. Dry weather, and a brisk wind, spread the flames to such an extent, that had it not been for great exertions of the troops and sailors, the whole city must have shared the same fate. After the Americans had evacuated New-York, they retired to the north end of the island, on which that city is erected. In about four weeks general Howe began to execute a plan for cutting off general Washington's communication with the eastern states, and enclosing him so as to compel a general engagement on the island. With this view, the greater part of the royal army passed through Hellgate, entered the sound, and landed on Frog's neck, in West-Chester county.

Oct. 12

Two days after they made this movement, general Lee arrived from his late successful command to the southward.

Oct. 14

He found that there was a prevailing disposition among the officers in the American army for remaining on New-York island.

Oct. 16

A council of war was called, in which general Lee gave such convincing reasons for quitting it, that they resolved immediately to withdraw the bulk of the army. He also pressed the expediency of evacuating Fort Washington, but in this he was opposed by general Greene, who argued that the possession of that post would divert a large body of the enemy, from joining their main force, and in conjunction with Fort Lee, would be of great use in covering the transportation of provisions and stores up the North-River, for the service of the American troops. He added farther, that the garrison could be brought off at any time, by boats from the Jersey side of the river. His opinion prevailed. Though the system of evacuating and retreating was in general adopted, an exception was made in favour of Fort Washington, and near 3000 men were assigned for its defence.

Oct. 18

EXHIBIT 19
0716

1776

The royal army, after a halt of six days, at Frog's neck, advanced near to New-Rochelle. On their march they [309] sustained a considerable loss by a party of Americans, whom general Lee posted behind a wall.

Oct. 21

After three days, general Howe moved the right and centre of his army two miles to the northward of New Rochelle, on the road to the White Plains, and there he received a large reinforcement.

General Washington, while retreating from New-York island, was careful to make a front towards the British, from East-Chester, almost to White Plains, in order to secure the march of those who were behind, and to defend the removal of the sick, the cannon and stores of his army. In this manner his troops made a line of small detached and intrenched camps, on the several heights and strong grounds, from Valentine's hill, on the right, to the vicinity of the White Plains, on the left.

Oct. 25

The royal army moved in two columns, and took a position with the Brunx in front, upon which the Americans assembled their main force at White Plains, behind entrenchments. A general action was hourly expected, and a considerable one took place, in which several hundreds fell.

Oct. 28

The Americans were commanded by general M'Dougal, and the British by general Leslie. While they were engaged, the American baggage was moved off, in full view of the British army. Soon after this, general Washington changed his front, his left wing stood fast, and his right fell back to some hills. In this position, which was an admirable one in a military point of view, he both desired and expected an action; but general Howe declined it, and drew off his forces towards Dobbs' ferry. The Americans afterwards retired to North-Castle.

General Washington, with part of his army, crossed the North-River, and took post in the neighborhood of Fort-Lee. A force of about 7500 men was left at North-Castle, under general Lee.

Nov. 12

The Americans having retired, Sir William Howe determined to improve the opportunity of their absence, for the reduction of Fort Washington. This, the only post the Americans then held on New-York island, was under the command of colonel Magaw. The royal army made four attacks upon it. The first on the north [310] side, was led on by general Kniphausen. The second on the east by general Mathews, supported by lord Cornwallis.

Nov. 16

The third was under the direction of lieutenant colonel Stirling, and the fourth was commanded by lord Piercy. The troops under Kniphausen, when advancing to the fort, had to pass through a thick wood, which was occupied by colonel Rawling's regiment of riflemen, and suffered very much from their well directed fire. During this attack, a body of the British light infantry advanced against a party of the Americans, who were annoying them from behind rocks and trees, and obliged them to disperse. Lord Piercy, carried an advance work on his side, and lieutenant colonel Stirling, forced his way up a steep height, and took 170 prisoners. Their outworks being carried, the Americans left their lines, and crouded into the fort. Colonel Rahl, who led the right column of Kniphausen's attack, pushed forward, and lodged his column within a hundred yards of the fort, and was there soon joined by the left column—the garrison surrendered on terms of

EXHIBIT 19
0717

capitulation, by which the men were to be considered as prisoners of war, and the officers to keep their baggage and side arms. The number of prisoners amounted to 2700. The loss of the British, inclusive of killed and wounded, was about 1200. Shortly after Fort Washington had surrendered.

Nov. 18

Lord Cornwallis, with a considerable force passed over to attack Fort Lee, on the opposite Jersey shore.

The garrison was saved by an immediate evacuation, but at the expense of their artillery and stores. General Washington, about this time retreated to New-Ark. Having abundant reason from the posture of affairs, to count on the necessity of a farther retreat he asked colonel Reed—"Should we retreat to the back parts of Pennsylvania, will the Pennsylvanians support us?" The colonel replied, if the lower counties are subdued and give up, the back counties will do the same. The general replied, ["]we must retire to Augusta county, in Virginia. Numbers will be obliged to repair to us for safety, and we must try what we can do in carrying on a predatory war, and if overpowered, we must cross the Allegany mountains."

[311]

1776

While a tide of success, was flowing in upon general Howe, he and his brother, as royal commissioners, issued a proclamation, in which they commanded, "All persons assembled in arms against his majesty's government to disband, and all general or provincial congresses to desist from their treasonable actings, and to relinquish their usurped power." They also declared "that every person who within sixty days should appear before the governor, lieutenant governor, or commander in chief of any of his majesty's colonies, or before the general, or commanding officer of his majesty's forces, and claim the benefit of the proclamation; and testify his obedience to the laws, by subscribing a certain declaration, should obtain a full and free pardon of all treasons by him committed, and of all forfeitures, and penalties for the same." Many who had been in office, and taken an active part in support of the new government, accepted of these offers, and made their peace by submission. Some who had been the greatest blusterers in favour of independence, veered round to the strongest side. Men of fortune generally gave way. The few who stood firm, were mostly to be found in the middle ranks of the people.

The term of time for which the American soldiers had engaged to serve, ended in November or December, with no other exception, than that of two companies of artillery, belonging to the state of New-York, which were engaged for the war. The army had been organized at the close of the preceding year, on the fallacious idea, that an accommodation would take place, within a twelve month. Even the flying camp, though instituted after the prospect of that event had vanished, was enlisted only till the first of December, from a presumption that the campaign would terminate by that time.

When it was expected that the conquerors would retire to winter quarters, they commenced a new plan of operations more alarming, than all their previous conquests. The reduction of Fort Washington, the evacuation of Fort Lee, and the diminution of the American army, by the departure of those whose time of service had expired, encouraged the British,

EXHIBIT 19
0718

notwithstanding the [312] severity of the winter, and the badness of the roads, to pursue the remaining inconsiderable continental force, with the prospect of annihilating it. By this turn of affairs, the interior country was surprised into confusion, and found an enemy within its bowels, without a sufficient army to oppose it. To retreat, was the only expedient left. This having commenced, lord Cornwallis followed, and was close in the rear of general Washington, as he retreated successively to New-Ark, to Brunswick, to Princeton, to Trenton, and to the Pennsylvania side of the Delaware. The pursuit was urged with so much rapidity, that the rear of the one army, pulling down bridges was often within sight, and shot off the van of the other, building them up. 1776

This retreat into, and through New-Jersey, was attended with almost every circumstance that could occasion embarrassment, and depression of spirits. It commenced in a few days, after the Americans had lost 2700 men in Fort Washington. In fourteen days after that event, the whole flying camp claimed their discharge. This was followed by the almost daily departure of others, whose engagements terminated nearly about the same time. A farther disappointment happened to general Washington at this time. Gates had been ordered by Congress to send two regiments from Ticonderoga, to reinforce his army. Two Jersey regiments were put under the command of general St. Clair, and forwarded in obedience to this order, but the period for which they were enlisted was expired, and the moment they entered their own state, they went off to a man. A few officers without a single private, were all that general St. Clair brought off these two regiments, to the aid of the retreating American army. The few who remained with general Washington were in a most forlorn condition. They consisted mostly of the troops which had garrisoned Fort Lee, and had been compelled to abandon that post so suddenly, that they commenced their retreat without tents or blankets, and without any utensils to dress their provisions. In this situation they performed a march of about ninety miles, and had the address to prolong it to [313] the space of nineteen days.

As the retreating Americans marched through the country, scarcely one of the inhabitants joined them, while numbers were daily flocking to the royal army, to make their peace and obtain protection. They saw on the one side a numerous well appointed and full clad army, dazzling their eyes with the elegance of uniformity; on the other a few poor fellows, who from their shabby cloathing were called ragamuffins, fleeing for their safety. Not only the common people changed sides in this gloomy state of public affairs, but some of the leading men in New-Jersey and Pennsylvania adopted the same expedient. Among these Mr. Galloway, and the family of the Allens of Philadelphia, were most distinguished. The former, and one of the latter, had been members of Congress. In this hour of adversity they came within the British lines, and surrendered themselves to the conquerors, alledging in justification of their conduct, that though they had joined with their countrymen, in seeking for a redress of grievances in a constitutional way, they had never approved of the measures lately adopted, and were in particular, at all times, averse to independence. 1776

On the day general Washington retreated over the Delaware, the British took possession of Rhode-Island without any loss, and at the same time blocked up commodore Hopkins' squadron, and a number of privateers at Providence.

EXHIBIT 19
0719

In this period, when the American army was relinquishing its general—the people giving up the cause, some of their leaders going over to the enemy, and the British commanders succeeding in every enterprise, general Lee was taken prisoner at Baskenridge, by lieutenant colonel Harcourt. This caused a depression of spirits among the Americans, far exceeding any real injury done to their essential interests. He had been repeatedly ordered to come forward with his division and join general Washington, but these orders were not obeyed.

1776

This circumstance, and the dangerous crisis of public affairs, together with his being alone at some distance, from the troops which he commanded, begat suspicions that he chose to [314] fall into the hands of the British. Though these apprehensions were without foundation, they produced the same extensive mischief, as if they had been realities. The Americans had reposed extravagant confidence in his military talents, and experience of regular European war. Merely to have lost such an idol of the states at any time, would have been distressful, but losing him under circumstances, which favoured an opinion that, despairing of the American cause, he chose to be taken a prisoner, was to many an extinguishment of every hope.

By the advance of the British into New-Jersey, the neighbourhood of Philadelphia became the seat of war. This prevented that undisturbed attention to public business which the deliberations of Congress required.

Dec. 12 20

They therefore adjourned themselves to meet in eight days at Baltimore, resolving at the same time, “that general Washington should be possessed of full powers to order and direct all things relative to the department, and the operations of war.”

The activity of the British in the close of the campaign, seemed in some measure to compensate for their tardiness, in the beginning of it.

Hitherto they had succeeded in every scheme. They marched up and down the Jersey side of the river Delaware, and through the country, without any molestation. All opposition to the re-establishment of royal government, seemed to be on the point of expiring. The Americans had thus far acted without system, or rather feebly executed what had been tardily adopted. Though the war was changed from its first ground, a redress of grievances to a struggle for sovereignty, yet some considerable time elapsed, before arrangements, conformable to this new system were adopted, and a much longer before they were carried into execution.

With the year 1776, a retreating, half naked army, was to be dismissed, and the prospect of a new one was both distant and uncertain. The recently assumed independence of the States, was apparently on the verge of dissolution. It was supposed by many, that the record of their existence would have been no more than that

1776

a fickle people, impatient of the restraints of regular government, [315] had in a fit of passion abolished that of Great-Britain, and established in its room free constitutions of their own, but these new establishments, from want of wisdom in their rulers, or of spirit in their people, were no sooner

EXHIBIT 19
0720

formed than annihilated. The leading men, in their respective governments, and the principal members of Congress, (for by this name the insurgents distinguished their supreme council) were hanged, and their estates confiscated. Washington, the gallant leader of their military establishments—worthy of a better fate—deserted by his army—abandoned by his country—rushing on the thickest battalions of the foe, provoked a friendly British bayonet to deliver him from an ignominious death.

To human wisdom it appeared probable, that such a paragraph would have closed some small section in the history of England, treating of the American troubles, but there is in human affairs an ultimate point of elevation or depression, beyond which they neither grow better nor worse, but turn back in a contrary course.

In proportion as difficulties increased, Congress redoubled their exertions to oppose them.

Dec. 10

They addressed the states in animated language, calculated to remove their despondency—renew their hopes—and confirm their resolutions.

They at the same time dispatched gentlemen of character and influence, to excite the militia to take the field. General Mifflin was, on this occasion, particularly useful. He exerted his great abilities in rousing his fellow citizens, by animated and affectionate addresses, to turn out in defence of their endangered liberties.

11

Congress also recommended to each of the United States "to appoint a day of solemn fasting and humiliation, to implore of Almighty God the forgiveness of their many sins, and to beg the countenance and assistance of his providence, in the prosecution of the present just and necessary war."

In the dangerous situation to which every thing dear to the friends of independence was reduced, Congress transferred extraordinary powers to general Washington, by a resolution, expressed in the following words:

[316]

1776

The unjust, but determined purposes of the British court to enslave these free states, obvious through every delusive insinuation to the contrary,

Dec. 27

having placed things in such a situation that the very existence of civil liberty now depends on the right execution of military powers, and the vigorous decisive conduct of these being impossible to distant, numerous, and deliberative bodies. This Congress, having maturely considered the present crisis; and having perfect reliance on the wisdom, vigour, and uprightness of general Washington, do hereby,

Resolve, That general Washington shall be, and he is hereby vested with full, ample, and complete powers, to raise and collect together, in the most speedy and effectual manner, from any or all of these United States, sixteen battalions of infantry, in addition to those already voted by Congress; to appoint officers for the said battalions of infantry; to raise, officer, and equip 3000 light-horse; three regiments of artillery,

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0721

and a corps of engineers, and to establish their pay; to apply to any of the states for such aid of the militia as he shall judge necessary; to form such magazines of provisions, and in such places as he shall think proper; to displace and appoint all officers under the rank of brigadier general, and to fill up all vacancies in every other department in the American armies; to take, wherever he may be, whatever he may want, for the use of the army, if the inhabitants will not sell it, allowing a reasonable price for the same; to arrest and confine persons who refuse to take the continental currency, or are otherwise disaffected to the American cause; and return to the states, of which they are citizens, their names, and the nature of their offences, together with the witnesses to prove them: That the foregoing powers be vested in general Washington for and during the term of six months, from the date hereof, unless sooner determined by Congress.

In this hour of extremity, the attention of the Congress was employed, in devising plans to save the states from sinking under the heavy calamities which were bearing them down.

1776

It is remarkable, that, neither in the present condition, though trying and severe, nor in any other [317] since the declaration of independence, was Congress influenced either by force, distress, artifice, or persuasion, to entertain the most distant idea of purchasing peace, by returning to the condition of British subjects. So low were they reduced in the latter end of 1776, that some members, distrustful of their ability to resist the power of Great-Britain, proposed to authorise their commissioners at the court of France (whose appointment shall be hereafter explained) to transfer to that country the same monopoly of their trade, which Great-Britain had hitherto enjoyed. On examination it was found, that concessions of this kind would destroy the force of many arguments heretofore used in favour of independence, and probably disunite their citizens. It was next proposed to offer a monopoly of certain enumerated articles of produce. To this the variant interests of the different states were so directly opposed, as to occasion a speedy and decided negative. Some proposed offering to France, a league offensive and defensive, in case she would heartily support American independence; but this was also rejected. The more enlightened members of Congress argued, “Though the friendship of small states might be purchased, that of France could not.” They alledged, that if she would risque a war with Great-Britain, by openly espousing their cause, it would not be so much from the prospect of direct advantages, as from a natural desire to lessen the overgrown power of a dangerous rival. It was therefore supposed, that the only inducement, likely to influence France to an interference, was an assurance that the United States were determined to persevere in refusing a return to their former allegiance. Instead of listening to the terms of the royal commissioners, or to any founded on the idea of their resuming their character of British subjects, it was therefore again resolved, to abide by their declared independence, and proffered freedom of trade to every foreign nation, trusting the event to Providence, and risquing all consequences. Copies of these resolutions were sent to the principal courts of Europe, and proper persons were appointed to solicit their friendship to the new formed states.

1776

These despatches fell into the hands of the British, [318] and were by them published. This was the very thing wished for by Congress. They well knew, that an apprehension of their making up all differences

EXHIBIT 19
0722

with Great-Britain was the principal objection to the interference of foreign courts, in what was represented to be no more than a domestic quarrel. A resolution adopted in the deepest distress, and the worst of times that Congress would listen to no terms of reunion with their Parent State, convinced those, who wished for the dismemberment of the British empire, that it was sound policy to interfere, so far as would prevent the conquest of the United States.

These judicious determinations in the cabinet, were accompanied with vigorous exertions in the field. In this crisis of danger 1500 of the Pennsylvania militia, embodied to re-inforce the continental army. The merchant, the farmer, the tradesman and the labourer, cheerfully relinquished the conveniences of home, to perform the duties of private soldiers, in the severity of a winter campaign. Though most of them were accustomed to the habits of a city life, they slept in tents, barns, and sometimes in the open air, during the cold months of December and January. There were, nevertheless, only two instances of sickness, and only one of death in that large body of men in the course if six weeks. The delay so judiciously contrived on the retreat through Jersey, afforded time for these volunteer reinforcements to join general Washington. The number of troops under his command at that time, fluctuated between two and three thousand men. To turn round and face a victorious and numerous foe, with this inconsiderable force was risquing much; but the urgency of the case required that something should be attempted. The recruiting business for the proposed new continental army was at a stand, while the British were driving the Americans before them. The present regular soldiers could, as a matter of right, in less than a week claim their discharge, and scarce a single recruit offered to supply their place. Under these circumstances, the bold resolution was formed of recrossing into the state of Jersey, and attacking that part of the enemy, which was posted at Trenton.

[319]
When the Americans retreated over the Delaware, the boats in the vicinity were removed out of the way of their pursuers—this arrested their progress: But the British commanders in the security of conquest cantoned their army in Burlington, Bordenton, Trenton, and other towns of New-Jersey, in daily expectation of being enabled to cross into Pennsylvania, by means of ice, which is generally formed about that time. 1776

Of all events, none seemed to them more improbable, than that their late retreating half naked enemies, should in this extreme cold season, face about and commence offensive operations. They indulged themselves in a degree of careless inattention to the possibility of a surprise, which in the vicinity of an enemy, however contemptible, can never be justified. It has been said that colonel Rahl, the commanding officer in Trenton, being under some apprehension for that frontier post, applied to general Grant for a reinforcement, and that the general returned for answer. “Tell the colonel, he is very safe, I will undertake to keep the peace in New-Jersey with a corporal’s guard.”

In the evening of Christmas day, general Washington, made arrangements for recrossing the Delaware in three divisions; at M. Konkey’s ferry, at Trenton ferry, and at or near Bordenton. The troops which were to have crossed at the two last places,

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were commanded by generals Ewing, and Cadwallader, they made every exertion to get over, but the quantity of ice was so great, that they could not effect their purpose. The main body which was commanded by general Washington crossed at M. Konkey's ferry, but the ice in the river retarded their passage so long, that it was three o'clock in the morning, before the artillery could be got over. On their landing in Jersey, they were formed into two divisions, commanded by general Sullivan, and Greene, who had under their command brigadiers, lord Stirling, Mercer and St. Clair: one of these divisions was ordered to proceed on the lower, or river road, the other on the upper or Pennington road. Col. Stark, with some light troops, was also directed to advance near to the river, and to possess himself [320] of that part of the town, which is beyond the bridge. The divisions having nearly the same distance to march, were ordered immediately on forcing the out guards, to push directly into Trenton, that they might charge the enemy before they had time to form. Though they marched different roads, yet they arrived at the enemy's advanced post, within three minutes of each other. The out guards of the Hessian troops at Trenton soon fell back, but kept up a constant retreating fire. Their main body being hard pressed by the Americans, who had already got possession of half their artillery, attempted to file off by a road leading towards Princeton, but were checked by a body of troops thrown in their way. Finding they were surrounded, they laid down their arms. The number which submitted, was 23 officers, and 885 men. Between 30 and 40 of the Hessians were killed and wounded. Colonel Rahl, was among the former, and seven of his officers among the latter. Captain Washington of the Virginia troops, and five or six of the Americans were wounded. Two were killed, and two or three were frozen to death. The detachment in Trenton consisted of the regiments of Rahl, Losberg, and Kniphausen, amounting in the whole to about 1500 men, and a troop of British light horse. All these were killed or captured, except about 600, who escaped by the road leading to Bordenton.

The British had a strong battalion of light infantry at Princeton, and a force yet remaining near the Delaware, superior to the American army. General Washington, therefore in the evening of the same day, thought it most prudent to recross into Pennsylvania, with his prisoners.

The effects of this successful enterprize were speedily felt in recruiting the American army. About 1400 regular soldiers whose time of service was on the point of expiring, agreed to serve six weeks longer, on a promised gratuity of ten paper dollars to each. Men of influence were sent to different parts of the country to rouse the militia. The rapine, and impolitic conduct of the British, operated more forcibly on the inhabitants, to expel them [323 (the original paging errs, skipping over 321–22)] from the state, than either patriotism or persuasion to prevent their overrunning it.

1776

The Hessian prisoners taken on the 26th being secured, general Washington re-crossed the Delaware, and took possession of Trenton. The detachments which had been distributed over New-Jersey, previous to the capture of the Hessians, immediately, after that event, assembled at Princeton, and were joined by the army from Brunswick under lord Cornwallis.

Dec. 28

EXHIBIT 19
0724

From this position they came forward towards Trenton in great force, hoping by a vigorous onset to repair the injury their cause had sustained by the late defeat. 1777

Truly delicate was the situation of the feeble American army. To retreat was to hazard the city of Philadelphia, and to destroy every ray of hope which had begun to dawn from their late success. To risque an action with a superior force in front, and a river in rear, was dangerous in the extreme. To get round the advanced party of the British, and by pushing forwards to attack in their rear, was deemed preferable to either. Jan. 2d

The British on their advance from Princeton, about 4 P.M. attacked a body of Americans which were posted with four field pieces, a little to the northward of Trenton, and compelled them to retreat. The pursuing British, being checked at the bridge over Sanpink creek, which runs through that town, by some field pieces, which were posted on the opposite banks of that rivulet, fell back so far as to be out of reach of the cannon, and kindled their fires. The Americans were drawn up on the other side of the creek, and in that position remained till night, cannonading the enemy and receiving their fire. In this critical hour, two armies on which the success or failure of the American revolution, materially depended, were crouded into the small village of Trenton, and only separated by a creek in many places fordable. The British believing they had all the advantages they could wish for, and that they could use them when they pleased, discontinued all further operations, and kept themselves in readiness to make the attack next morning. Sir William Erskine is reported to have advised an immediate attack, or at least to place a strong [324] guard at a bridge over Sanpink creek, which lay in the route the Americans took to Princeton, giving for reason that, otherwise, Washington if a good general, would make a move to the left of the royal army, and attack the post at Princeton in their rear. The next morning presented a scene as brilliant on the one side, as it was unexpected on the other. Soon after it became dark, gen. Washington ordered all his baggage to be silently removed, and having left guards for the purpose of deception, marched with his whole force, by a circuitous route to Princeton. This manoeuvre was determined upon in a council of war, from a conviction that it would avoid the appearance of a retreat, and at the same time the hazard of an action in a bad position, and that it was the most likely way to preserve the city of Philadelphia, from falling into the hands of the British. General Washington also presumed, that from an eagerness to efface the impressions, made by the late capture of Hessians at Trenton, the British commanders had pushed forward their principal force, and that of course the remainder in the rear at Princeton was not more than equal to his own. The event verified this conjecture. The more effectually to disguise the departure of the Americans from Trenton, fires were lighted up in front of their camp. These not only gave an appearance of going to rest, but as flame cannot be seen through, concealed from the British, what was transacting behind them. In this relative position they were a pillar of fire to the one army, and a pillar of a cloud to the other. Providence favoured this movement of the Americans. The weather had been for some time so warm and moist, that the ground was soft and the roads so deep as to be scarcely passable: but the wind suddenly changed to the northwest, and the ground in a short time was frozen so hard, that when the Americans took up their line of march, they were no more retarded, than if they had been upon a solid pavement.

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General Washington reached Princeton, early in the morning, Jan. 3
and would have completely surprised the British, had not a party, 1776
which was on their way to Trenton, [325] descried his troops, when they were about two miles distant, and sent back couriers to alarm their unsuspecting fellow soldiers in their rear. These consisted of the 17th, the 40th, & 55th regiments of British infantry and some of the royal artillery with two field pieces, and three troops of light dragoons. The center of the Americans, consisting of the Philadelphia militia, while on their line of march, was briskly charged by a party of the British, and gave way in disorder. The moment was critical. General Washington pushed forward, and placed himself between his own men, and the British, with his horse's head fronting the latter. The Americans encouraged by his example, and exhortations, made a stand, and returned the British fire. The general, though between both parties, was providentially uninjured by either. A party of the British fled into the college and were there attacked with field pieces which were fired into it. The seat of the muses became for some time the scene of action. The party which had taken refuge in the college, after receiving a few discharges from the American field pieces came out and surrendered themselves prisoners of war. In the course of the engagement, sixty of the British were killed, and a greater number wounded, and about 300 of them were taken prisoners. The rest made their escape, some by pushing on towards Trenton, others by returning towards Brunswick. The Americans lost only a few, but colonels Haslet and Potter, and capt. Neal of the artillery, were among the slain. General Mercer received three bayonet wounds of which he died in a short time. He was a Scotchman by birth, but from principle and affection had engaged to support the liberties of his adopted country, with a zeal equal to that of any of its native sons. In private life he was amiable, and his character as an officer stood high in the public esteem.

While they were fighting in Princeton, the British in Trenton were under arms, and on the point of making an assault on the evacuated camp of the Americans. With so much address had the movement to Princeton been conducted, that though from the critical situation of the two armies, every ear may be supposed to have been [326] open, and every watchfulness to have been employed,
yet General Washington moved completely off the ground, with 1776
his whole force, stores, baggage and artillery unknown to, and unsuspected by his adversaries. The British in Trenton, were so entirely deceived, that when they heard the report of the artillery at Princeton, though it was in the depth of winter, they supposed it to be thunder.

That part of the royal army, which having escaped from Princeton, retreated towards New-Brunswick, was pursued for three or four miles. Another party which had advanced as far as Maidenhead, on their way to Trenton, hearing the frequent discharge of fire arms in their rear, wheeled round and marched to the aid of their companions. The Americans by destroying bridges, retarded these, though close in their rear, so long as to gain time for themselves, to move off, in good order, to Pluckemin.

So great was the consternation of the British at these unexpected movements, that they instantly evacuated both Trenton and Princeton, and retreated with their whole

EXHIBIT 19
0726

force to New-Brunswick. The American militia, collected and forming themselves into parties, waylaid their enemies, and cut them off whensoever an opportunity presented. In a few days they over-ran the Jerseys. General Maxwell surprised Elisabeth-town, and took near 100 prisoners. Newark was abandoned, and the late conquerors were forced to leave Woodbridge. The royal troops were confined to Amboy and Brunswick, which held a water communication with New-York. Thus, in the short space of a month, that part of Jersey, which lies between New-Brunswick and Delaware, was both overrun by the British, and recovered by the Americans. The retreat of the continental army, the timid policy of the Jersey farmers, who chose rather to secure their property by submission, than defend it by resistance, made the British believe their work was done, and that little else remained, but to reap a harvest of plunder as the reward of their labours.

1776

Unrestrained by the terrors of civil law, uncontrolled by the severity of discipline, and elated with their success, the soldiers of the royal army, and particularly [327] the Hessians, gave full scope to the selfish and ferocious passions of human nature. A conquered country, and submitting inhabitants presented easy plunder, equal to their unbounded rapacity. Infants, children, old men and women were stripped of their blankets and cloathing. Furniture was burnt or otherwise destroyed. Domestic animals were carried off, and the people robbed of their necessary household provisions. The rapes and brutalities committed on women, and even on very young girls, would shock the ears of modesty, if particularly recited. These violences were perpetrated on inhabitants who had remained in their houses, and received printed protections, signed by order of the commander in chief. It was in vain, that they produced these protections as a safeguard. The Hessians could not read them, and the British soldiers thought they were entitled to a share of the booty, equally with their foreign associates.

Such, in all ages, has been the complexion of the bulk of armies, that immediate and severe punishments are indispensably necessary, to keep them from flagrant enormities. That discipline, without which an army is a band of armed plunderers, was as far, as respected the inhabitants, either neglected, or but feebly administered in the royal army. The soldiers finding, they might take with impunity what they pleased, were more strongly urged by avarice, than checked by policy or fear. Had every citizen been secured in his rights, protected in his property, and paid for his supplies, the consequences might have been fatal to the hopes of those who were attached to independence. What the warm recommendations of Congress, and the ardent supplications of general Washington could not effect, took place of its own accord, in consequence of the plundering and devastations of the royal army.

The whole country became instantly hostile to the invaders. Sufferers of all parties rose as one man, to revenge their personal injuries. Those, who from age, or infirmities, were incapable of bearing arms, kept a strict watch on the movements of the royal army, and from time to time, communicated information to their countrymen [328] in arms.

1777

Those who lately declined all military opposition, though called upon by the sacred tie of honour pledged to each other on the declaration of independence, chearfully embodied, when they found submission to be unavailing for the security of their estates. This was not done originally in

EXHIBIT 19
0727

consequence of the victories of Trenton and Princeton. In the very moment of these actions, or before the news of them had circulated, sundry individuals unknowing of general Washington's movements, were concerting private insurrections, to revenge themselves on the plunderers. The dispute originated about property, or in other words, about the right of taxation. From the same source at this time, it received a new and forcible impulse. The farmer, who could not trace the consequences of British taxation, nor of American independence, felt the injuries he sustained from the depredation of licentious troops. The militia of New-Jersey, who had hitherto behaved most shamefully, from this time forward redeemed their character, and throughout a tedious war, performed services with a spirit and discipline in many respects, equal to that of regular soldiers.

The victories of Trenton and Princeton, seemed to be like a resurrection from the dead, to the desponding friends of independence. A melancholy gloom, had in the first 25 days of December overspread the United States; but from the memorable era of the 26th of same month, their prospects began to brighten. The recruiting service, which for some time had been at a stand, was successfully renewed, and hopes were soon indulged, that the commander in chief would be enabled to take the field in the spring, with a permanent regular force. General Washington retired to Morristown, that he might afford shelter to his suffering army. The American militia had sundry successful skirmishes with detachments of their adversaries. Within four days after the affair at Princeton, between forty and fifty Waldeckers were killed, wounded, or taken at Springfield, by an equal number of the same New-Jersey militia, which but a month before, suffered the British to overrun their country [329] without opposition. This enterprise was conducted by colonel Spencer, whose gallantry, on the occasion, was rewarded with the command of a regiment.

1777

During the winter movements, which have been just related, the soldiers of both armies underwent great hardships, but the Americans suffered by far the greater. Many of them were without shoes, though marching over frozen ground, which so gashed their naked feet, that each step was marked with blood. There was scarcely a tent in their whole army. The city of Philadelphia had been twice laid under contribution, to provide them with blankets. Officers had been appointed, to examine every house, and, after leaving a scanty covering for the family to bring off the rest, for the use of the troops in the field; but notwithstanding these exertions, the quantity procured was far short of decency, much less of comfort.

The officers and soldiers of the American army were about this time inoculated in their cantonment at Morristown. As very few of them had ever had the small pox, the inoculation was nearly universal. The disorder had previously spread among them in the natural way, and proved mortal to many: but after inoculation was introduced though whole regiments were inoculated, in a day, there was little or no mortality from the small pox, and the disorder was so slight, that from the beginning to the end of it, there was not a single day in which they could not, and if called upon, would not have turned out and fought the British. To induce the inhabitants to accommodate officers and soldiers in their houses, while under the small pox, they and their families were inoculated gratis by the military surgeons. Thus in a short time, the whole army

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and the inhabitants in and near Morristown were subjected to the small pox, and with very little inconvenience to either.

Three months, which followed the actions of Trenton and Princeton, passed away without any important military enterprise on either side. Major general Putnam was directed to take post at Princeton, and cover the country in the vicinity. He had only a few hundred troops, though he was no more than eighteen miles distant from [330] the strong garrison of the British at Brunswick.

1777

At one period he had fewer men for duty than he had miles of frontier to guard. The situation of general Washington at Morristown was not more eligible. His force was trifling, when compared with that of the British, but the enemy, and his own countrymen, believed the contrary. Their deception was cherished, and artfully continued by the specious parade of a considerable army. The American officers took their station in positions of difficult access, and kept up a constant communication with each other. This secured them from insult and surprise. While they covered the country, they harassed the foraging parties of the British, and often attacked them with success. Of a variety of these, the two following are selected as most worthy of notice.

Jan. 20

General Dickenson, with four hundred Jersey militia, and fifty of the Pennsylvania riflemen, crossed Millstone-river, near Somerset courthouse, and attacked a large foraging party of the British, with so much spirit that they abandoned their convoy, and fled. Nine of them were taken prisoners. Forty waggons, and upwards of one hundred horses, with a considerable booty, fell into the hands of the general. While the British were loading their waggons, a single man began to fire on them from the woods. He was soon joined by more of his neighbors, who could not patiently see their propertys carried away. After the foragers had been annoyed for some time by these unseen marksmen, they fancied on the appearance of general Dickenson, that they were attacked by a superior force, and began a precipitate flight.

Feb. 18

In about a month after the affair of Somerset courthouse, colonel. Nelson, of Brunswick, with a detachment of 150 militiamen, surprised and captured at Lawrence's Neck, a major, and fifty-nine privates, of the refugees, who were in British pay.

Throughout the campaign of 1776, an uncommon degree of sickness raged in the American army. Husbandmen, transferred at once from the conveniences of domestic life, to the hardships of a field encampment, could not accommodate themselves to the sudden change.

1777

The southern troops, sickened from the [331] want of salt provisions. Linen shirts were too generally worn, in contact with the skin. The salutary influence of flannel, in preventing the diseases of camps, was either unknown or disregarded. The discipline of the army was too feeble to enforce those regulations which experience has proved to be indispensably necessary, for preserving the health of large bodies of men collected together. Cleanliness was also too much neglected. On the 8th of August the whole American army before New-York, consisted of 17,225 men, but of that number only 10,514 were fit for duty. These numerous sick suffered much, from the want of necessaries. Hurry and

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confusion added much to their distresses. There was besides a real want of the requisites for their relief.

A proper hospital establishment was beyond the abilities of Congress, especially as the previous arrangements were not entered upon till the campaign had begun. Many, perhaps some thousands in the American army, were swept off in a few months by sickness. The country every where presented the melancholy sight of soldiers suffering poverty and disease, without the aid of medicine or attendance. Those who survived gave such accounts of the sufferings of the sick, as greatly discouraged the recruiting service. A rage for plundering, under the pretence of taking tory property, infected many of the common soldiery, and even some of the officers. The army had been formed on such principles, in some of the states, that commissions were, in several instances, bestowed on persons who had no pretensions to the character of gentlemen. Several of the officers were chosen by their own men, and they often preferred those from whom they expected the greatest indulgences. In other cases, the choice of the men was in favour of those who had consented to throw their pay into a joint stock with the privates, from which officers and men drew equal shares.

The army, consisting mostly of new recruits and unexperienced officers, and being only engaged for a twelve month, was very deficient in that mechanism and discipline which time and experience bestow on veteran troops. General Washington was unremitting in his [332] representations to Congress, favouring such alterations as promised permanency, order and discipline, in the army, but his judicious opinions on these subjects were slowly adopted. The sentiments of liberty, which then generally prevailed, made some distinguished members of Congress so distrustful of the future power and probable designs of a permanent domestic army, that they had well nigh sacrificed their country to their jealousies.

The unbounded freedom of the savage who roams the woods must be restrained when he becomes a citizen of orderly government, and from the necessity of the case must be much more so, when he submits to be a soldier. The individuals composing the army of America, could not at once pass over from the full enjoyment of civil liberty to the discipline of a camp, nor could the leading men in Congress for some time be persuaded, to adopt energetic establishments. “God forbid, would such say, that the citizen should be so far lost in the soldiers of our army, that they should give over longing for the enjoyments of domestic happiness. Let frequent furloughs be granted, rather than the endearments of wives and children should cease to allure the individuals of our army from camps to farms. ” The amiableness of this principle, veiled the error of the sentiment. The minds of the civil leaders in the councils of America were daily occupied in contemplating the rights of human nature, and investigating arguments on the principles of general liberty, to justify their own opposition to Great-Britain. Warmed with these ideas, they trusted too much to the virtue of their countrymen, and were backward to enforce that subordination and order in their army, which, though it intrenches on civil liberty, produces effects in the military line unequaled by the effusions of patriotism, or the exertions of undisciplined valor.

EXHIBIT 19
0730

The experience of two campaigns evinced the folly of trusting the defence of the country to militia, or to levies raised only for a few months, and had induced a resolution for recruiting an army for the war. The good effects of this measure will appear in the sequel.

The campaign of 1776 did not end, till it had been [333] protracted into the first month of the year 1777.
The British had counted on the complete and speedy reduction of their late colonies, but they found the work more difficult of execution, than was supposed. They wholly failed in their designs on the southern states. In Canada they recovered what, in the preceding year, they had lost—drove the Americans out of their borders, and destroyed their fleet on the lakes, but they failed in making their intended impression on the northwestern frontier of the states. They obtained possession of Rhode-Island, but the acquisition was of little service—perhaps was of detriment. For near three years several thousand men stationed thereon for its security, were lost to every purpose of active cooperation with the royal forces in the field, and the possession of it secured no equivalent advantages. The British completely succeeded against the city of New-York, and the adjacent country, but when they pursued their victories into New-Jersey, and subdivided their army, the recoiling Americans soon recovered the greatest part of what they had lost.

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Sir William Howe, after having nearly reached Philadelphia, was confined to limits so narrow, that the fee simple of all he commanded would not reimburse the expence incurred by its conquest.

The war, on the part of the Americans, was but barely begun. Hitherto they had engaged with temporary forces, for a redress of grievances, but towards the close of this year they made arrangements for raising a permanent army to contend with Great-Britain, for the sovereignty of the country. To have thus far stood their ground, with their new levies, was a matter of great importance, because of them, delay was victory, and not to be conquered was to conquer.

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CHAPTER XIII

Of Independence, State Constitutions, And The Confederation.

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In former ages it was common for a part of a community to migrate, and erect themselves into an independent society. Since 1777
the earth has been more fully peopled, and especially since the principles of Union have been better understood, a different policy has prevailed. A fondness for planting colonies has, for three preceding centuries, given full scope to a disposition for emigration, and at the same time the emigrants have been retained in a connexion with their Parent State. By these means Europeans have made the riches both of the east and west, subservient to their avarice and ambition. Though they occupy the smallest portion of the four quarters of the globe, they have contrived to subject the other three to their influence or command.

The circumstances under which New-England was planted, would a few centuries ago have entitled them from their first settlement, to the privileges of independence. They were virtually exiled from their native country, by being denied the rights of men—they set out on their own expence, and after purchasing the consent of the native proprietors, improved an uncultivated country, to which, in the eye of reason and philosophy, the king of England had no title.

If it is lawful for individuals to relinquish their native soil, and pursue their own happiness in other regions and under other political associations, the settlers of New-England were always so far independent, as to owe no obedience to their Parent State, but such as resulted from their voluntary assent. The slavish doctrine of the divine right of kings, and the corruptions of christianity, by undervaluing heathen titles, favoured an opposite system. What for several centuries after the christian era would have been called the institution of a new government, was by modern refinement denominated only an extension of the old, in the form of a dependent colony.
Though the prevailing ecclesiastical and political creeds [335] 1777
tended to degrade the condition of the settlers in New-England, yet there was always a party there which believed in their natural right to independence. They recurred to first principles, and argued, that as they received from government nothing more than a charter, founded on ideal claims of sovereignty, they owed it no other obedience than what was derived from express, or implied compact. It was not till the present century had more than half elapsed, that it occurred to any number of the colonists, that they had an interest in being detached from Great-Britain. Their attention was first turned to this subject, by the British claim of taxation. This opened a melancholy prospect, boundless in extent, and endless in duration. The Boston port act, and the other acts, passed in 1774, and 1775, which have been already the subject of comment, progressively weakened the attachment of the colonists to the birth place of their forefathers. The commencement of hostilities on the 19th of April, 1775, exhibited the Parent State in an odious point of view, and

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abated the original dread of separating from it. But nevertheless at that time, and for a twelve month after, a majority of the colonists wished for no more than to be re-established as subjects in their antient rights. Had independence been their object even at the commencement of hostilities, they would have rescinded these associations, which have been already mentioned and imported more largely than ever. Common sense revolts at the idea, that colonists unfurnished with military stores, and wanting manufactures of every kind, should at the time of their intending a serious struggle for independence, by a voluntary agreement, deprive themselves of the obvious means of procuring such foreign supplies as their circumstances might make necessary. Instead of pursuing a line of conduct, which might have been dictated by a wish for independence, they continued their exports for nearly a year after they ceased to import. This not only lessened the debts they owed to Great-Britain, but furnished additional means for carrying on the war against themselves.

To aim at independence, and at the same time to transfer their resources to their enemies, could not have been [336] the policy of an enlightened people. It was not till some time in 1776, that the colonists began to take other ground, and contend that it was for their interest to be forever separated from Great-Britain. In favour of this opinion it was said, that in case of their continuing subjects, the Mother country, though she redressed their present grievances, might at pleasure repeat similar oppressions. That she ought not to be trusted, having twice resumed the exercise of taxation, after it had been apparently relinquished. The favourers of separation also urged, that Great-Britain was jealous of their increasing numbers, and rising greatness—that she would not exercise government for their benefit, but for her own. That the only permanent security for American happiness, was to deny her the power of interfering with their government or commerce. To effect this purpose they were of opinion, that it was necessary to cut the knot, which connected the two countries, by a public renunciation of all political connections between them. 1777

The Americans about this time began to be influenced by new views. The military arrangements of the preceding year—their unexpected union, and prevailing enthusiasm, expanded the minds of their leaders, and elevated the sentiments of the great body of their people. Decisive measures which would have been lately reprobated, now met with approbation.

The favourers of subordination under the former constitution urged the advantages of a supreme head, to control the disputes of interfering colonies, and also the benefits which flowed from union. That independence was untried ground, and should not be entered upon, but in the last extremity.

They flattered themselves that Great-Britain was so fully convinced of the determined spirit of America, that if the present controversy was compromised, she would not at any future period, resume an injurious exercise of her supremacy. They were therefore for proceeding no farther than to defend themselves in the character of subjects, trusting that ere long the present hostile measures would be relinquished, and the harmony [337] of the two countries reestablished. The favourers of this system were embarrassed, and all their arguments weakened, by the perseverance of Great-Britain in her schemes of 1777

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coercion. A probable hope of a speedy repeal of a few acts of parliament, would have greatly increased the number of those who were advocates for reconciliation. But the certainty of intelligence to the contrary gave additional force to the arguments of the opposite party. Though new weight was daily thrown into the scale, in which the advantages of independence were weighed, yet it did not preponderate till about that time in 1776, when intelligence reached the colonists of the act of parliament passed in December 1775, for throwing them out of British protection, and of hiring foreign troops to assist in effecting their conquest. Respecting the first it was said, "that protection and allegiance were reciprocal, and that the refusal of the first was a legal ground of justification for withholding the last." They considered themselves to be thereby discharged from their allegiance, and that to declare themselves independent, was no more than to announce to the world the real political state, in which Great-Britain had placed them. This act proved that the colonists might constitutionally declare themselves independent, but the hiring of foreign troops to make war upon them, demonstrated the necessity of their doing it immediately. They reasoned that if Great-Britain called in the aid of strangers to crush them, they must seek similar relief for their own preservation. But they well knew this could not be expected, while they were in arms against their acknowledged sovereign. They had therefore only a choice of difficulties, and must either seek foreign aid as independent states, or continue in the awkward and hazardous situation of subjects, carrying on war from their own resources both against their king, and such mercenaries as he chose to employ for their subjugation. Necessity not choice forced them on the decision. Submission without obtaining a redress of their grievances was advocated by none who possessed the public confidence.

Some of the popular leaders may have [338] secretly wished for independence from the beginning of the controversy, but their number was small and their sentiments were not generally known.

1777

While the public mind was balancing on this eventful subject, several writers placed the advantages of independence in various points of view. Among these Thomas Paine in a pamphlet, under the signature of Common Sense, held the most distinguished rank. The stile, manner, and language of this performance were calculated to interest the passions, and to rouse all the active powers of human nature. With the view of operating on the sentiments of a religious people, scripture was pressed into his service, and the powers, and even the name of a king was rendered odious in the eyes of the numerous colonists who had read and studied the history of the Jews, as recorded in the Old Testament. The folly of that people in revolting from a government, instituted by Heaven itself, and the oppressions to which they were subjected in consequence of their lusting after kings to rule over them, afforded an excellent handle for prepossessing the colonists in favour of republican institutions, and prejudicing them against kingly government. Hereditary succession was turned into ridicule. The absurdity of subjecting a great continent to a small island on the other side of the globe, was represented in such striking language, as to interest the honor and pride of the colonists in renouncing the government of Great-Britain. The necessity, the advantages, and practicability of independence, were forcibly demonstrated. Nothing could be better timed than this performance. It was addressed to freemen, who had just received convincing proof, that Great-Britain had thrown them out of her protection, had engaged foreign mercenaries to make war upon them,

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and seriously designed to compel their unconditional submission to her unlimited power. It found the colonists most thoroughly alarmed for their liberties, and disposed to do and suffer any thing that promised their establishment. In union with the feelings and sentiments of the people, it produced surprising effects.

Many thousands were convinced, and were led to approve [339] and long for a separation from the Mother Country. Though that measure, a few months before, was not only foreign from their wishes, but the object of their abhorrence, the current suddenly became so strong in its favour, that it bore down all opposition. The multitude was hurried down the stream, but some worthy men could not easily reconcile themselves to the idea of an eternal separation from a country, to which they had been long bound by the most endearing ties. They saw the sword drawn, but could not tell when it would be sheathed. They feared that the dispersed individuals of the several colonies would not be brought to coalesce under an efficient government, and that after much anarchy some future Caesar would grasp their liberties, and confirm himself in a throne of despotism. They doubted the perseverance of their countrymen in effecting their independence, and were also apprehensive that in case of success, their future condition would be less happy than their past. Some respectable individuals whose principles were pure, but whose souls were not of that firm texture which revolutions require, shrunk back from the bold measures proposed by their more adventurous countrymen. To submit without an appeal to Heaven, though secretly wished for by some, was not the avowed sentiment of any. But to persevere in petitioning and resisting was the system of some misguided honest men. The favourers of this opinion were generally wanting in that decision which grasps at great objects, and influenced by that timid policy, which does its work by halves. Most of them dreaded the power of Britain. A few, on the score of interest or an expectancy of favours from royal government, refused to concur with the general voice. Some of the natives of the Parent State who, having lately settled in the colonies, had not yet exchanged European for American ideas, together with a few others, conscientiously opposed the measures of Congress: but the great bulk of the people, and especially of the spirited and independent part of the community, came with surprising unanimity into the project of independence.

1777

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The eagerness for independence resulted more from feeling than reasoning. The advantages of an unfettered trade, the prospect of honours and emoluments in administering a new government, were of themselves insufficient motives for adopting this bold measure. But what was wanting from considerations of this kind, was made up by the perseverance of Great-Britain, in her schemes of coercion and conquest. The determined resolution of the Mother Country to subdue the colonists, together with the plans she adopted for accomplishing that purpose, and their equally determined resolution to appeal to Heaven rather than submit, made a declaration of independence as necessary in 1776, as was the non-importation agreement of 1774, or the assumption of arms in 1775. The last naturally resulted from the first. The revolution was not forced on the people by ambitious leaders grasping at supreme power, but every measure of it was forced on Congress, by the necessity of the case, and the voice of the people. The change of the public mind of America respecting connexion with Great-Britain, is without a parallel. In the

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short space of two years, nearly three millions of people passed over from the love and duty of loyal subjects, to the hatred and resentment of enemies.

June 7

The motion for declaring the colonies free and independent, was first made in Congress, by Richard Henry Lee of Virginia. He was warranted in making this motion by the particular instructions of his immediate constituents, and also by the general voice of the people of all the states. When the time for taking the subject under consideration arrived, much knowledge, ingenuity and eloquence were displayed on both sides of the question. The debates were continued for some time, and with great animation. In these John Adams, and John Dickinson, took leading and opposite parts. The former began one of his speeches, by an invocation of the god of eloquence, to assist him in defending the claims, and in enforcing the duty of his countrymen. He strongly urged the immediate dissolution of all political connexion of the colonies with Great-Britain, from the voice of the [341] people,

1776

from the necessity of the measure in order to obtain foreign assistance, from a regard to consistency, and from the prospects of glory and happiness, which opened beyond the war, to a free and independent people. Mr. Dickinson replied to this speech. He began by observing that the member from Massachusetts (Mr. Adams) had introduced his defence of the declaration of independence by invoking an heathen god, but that he should begin his objections to it, by solemnly invoking the Governor of the Universe, so to influence the minds of the members of Congress, that if the proposed measure was for the benefit of America, nothing which he should say against it, might make the least impression. He then urged that the present time was improper for the declaration of independence, that the war might be conducted with equal vigor without it, that it would divide the Americans, and unite the people of Great-Britain against them. He then proposed that some assurance should be obtained of assistance from a foreign power, before they renounced their connexion with Great-Britain, and that the declaration of independence should be the condition to be offered for this assistance. He likewise stated the disputes that existed between several of the colonies, and proposed that some measures for the settlement of them should be determined upon, before they lost sight of that tribunal, which had hitherto been the umpire of all their differences.

After a full discussion, the measure of declaring the colonies free and independent was approved, by nearly an unanimous vote. The anniversary of the day on which this great event took place, has ever since been consecrated by the Americans to religious gratitude, and social pleasures. It is considered by them as the birth day of their freedom.

The act of the united colonies for separating themselves from the government of Great-Britain, and declaring their independence, was expressed in the following words:

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When, in the course of human events, it becomes necessary for one people to dissolve the political bands [342] which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle

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them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness—That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its power in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great-Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their [343] operation till his assent should be obtained; and when so suspended he has utterly neglected to attend to them.

1776

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the mean-time exposed to all the danger of invasion from without, and convulsions within.

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He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

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For quartering large bodies of armed troops among us: 1776

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

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He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned [345] for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people. 1776

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts made by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown; and that all political connection between them and the state of Great-Britain is and ought to be totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honour.

John Hancock, President

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New-Hampshire, Josiah Bartlett, William Whipple, Matthew Thornton. *Massachusetts-Bay,* Samuel Adams, John Adams, Robert-Treat Paine, Elbridge [346] Gerry. *Rhode-Island*, &c. Stephen Hopkins, William Ellery. *Connecticut,* Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott. *New-York,* William Floyd, Philip Livingston, Francis Lewis, Lewis Morris. *New-Jersey*, Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark. *Pennsylvania,* Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross. *Delaware*, Caesar Rodney, George Read. *Maryland,* Samuel Chase, William Paca, Thomas Stone, Charles Carroll, of Carrollton. *Virginia,* George Wythe, Richard Henry-Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, jun. Francis Lightfoot Lee, Carter Braxton. *North-Carolina,* William Hooper, Joseph Hewes, John Penn. *South-Carolina,* Edward Rutledge, Thomas Heyward, jun. Thomas Lynch, jun. Arthur Middleton. *Georgia,* Button Gwinnett, Lyman Hall, George Walton.

From the promulgation of this declaration, every thing assumed a new form. The Americans no longer appeared in the character of subjects in arms against their sovereign, but as an independent people, repelling the attacks of an invading foe. The propositions and supplications for reconciliation were done away. The dispute was brought to a single point, whether the late British colonies should be conquered provinces, or free and independent states.

The declaration of independence was read publicly in all the states, and was welcomed with many demonstrations of joy. The people were encouraged by it to bear up under the calamities of war, and viewed the evils they suffered, only as the thorn that ever accompanies the rose. The army received it with particular satisfaction. As far as it had validity, so far it secured them from suffering as rebels, and held out to their view an object, the attainment of which would be an adequate recompense for the [347] toils and dangers of war. They were animated by the consideration that they were no longer to risque their lives for the trifling purpose of procuring a repeal of a few oppressive acts of parliament, but for a new organization of government, that would forever put it out of the power of Great-Britain to oppress them. The flattering prospects of an extensive commerce, freed from British restrictions, and the honours and emoluments of office in independent states now began to glitter before the eyes of the colonists, and reconciled them to the difficulties of their situation. What was supposed in Great-Britain to be their primary object, had only a secondary influence. While they were charged with aiming at independence from the impulse of avarice and ambition, they were ardently wishing for a reconciliation. But, after they had been compelled to adopt that measure, these powerful principles of human actions opposed its retraction, and stimulated to its support. That separation which the colonists at first dreaded as an evil, they soon gloried in as a national blessing. While the rulers of Great-Britain urged their people to a vigorous prosecution of the American war, on the idea that the colonists were aiming at independence, they imposed on them a necessity of adopting that very measure, and actually effected its accomplishment. By repeatedly charging the Americans with aiming at the erection of a new government, and by proceeding on that idea to subdue them, predictions which were originally false, eventually became true. When the declaration of independence reached Great-Britain the

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partisans of ministry triumphed in their sagacity. “The measure, said they, we have long foreseen, is now come to pass.” They inverted the natural order of things. Without reflecting that their own policy had forced a revolution contrary to the original design of the colonists, the declaration of independence was held out to the people of Great-Britain as a justification of those previous violences, which were its efficient cause.

The act of Congress for dissevering the colonies from their Parent State, was the subject of many animadversions.

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The colonists were said to have been precipitate in adopting a measure, from which there was no honourable ground of retreating. They replied that for eleven years they had been incessantly petitioning the throne for a redress of their grievances. Since the year 1765, a continental Congress had at three sundry times stated their claims, and prayed for their constitutional rights. That each assembly of the thirteen colonies had also, in its separate capacity, concurred in the same measure. That from the perseverance of Great-Britain in her schemes for their coercion, they had no alternative, but a mean submission, or a vigorous resistance; and that as she was about to invade their coasts with a large body of mercenaries, they were compelled to declare themselves independent, that they might be put into an immediate capacity for soliciting foreign aid. 1776

The virulence of those who had been in opposition to the claims of the colonists, was increased by their bold act in breaking off all subordination to the Parent State.“Great-Britain, said they, has founded colonies at great expence—has incurred a load of debt by wars on their account—has protected their commerce, and raised them to all the consequence they possess, and now in the insolence of adult years, rather than pay their proportion of the common expences of government, they ungratefully renounce all connexion with the nurse of their youth, and the protectress of their riper years.’’ The Americans acknowledged that much was due to Great-Britain, for the protection which her navy procured to the coasts, and the commerce of the colonies, but contended that much was paid by the latter, in consequence of the restrictions imposed on their commerce by the former. “The charge of ingratitude would have been just,” said they, “had allegiance been renounced while protection was given, but when the navy, which formerly secured the commerce and seaport towns of America, began to distress the former, and to burn the latter, the previous obligations to obey or be grateful, were no longer in force.”

That the colonists paid nothing, and would not pay to the support of government, was confidently asserted, and [349] no credit was given for the sums indirectly levied upon them, in consequence of their being confined to the consumption of British manufactures. By such illfounded observations were the people of Great-Britain inflamed against their fellow subjects in America. The latter were represented as an ungrateful people, refusing to bear any part of the expences of a protecting government, or to pay their proportion of a heavy debt, said to be incurred on their account. Many of the inhabitants of Great-Britain deceived in matters of fact, considered their American brethren as deserving the severity of 1776

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military coercion. So strongly were the two countries rivetted together, that if the whole truth had been known to the people of both, their separation would have been scarcely possible. Any feasible plan by which subjection to Great-Britain could have been reconciled with American safety, would at any time, previous to 1776, have met the approbation of the colonists. But while the lust of power and of gain, blinded the rulers of Great-Britain, mistated facts and uncandid representations brought over their people to second the infatuation. A few honest men properly authorised, might have devised measures of compromise, which under the influence of truth, humility and moderation, would have prevented a dismemberment of the empire; but these virtues ceased to influence, and falsehood, haughtiness and blind zeal usurped their places. Had Great-Britain, even after the declaration of independence, adopted the magnanimous resolution of declaring her colonies free and independent states, interest would have prompted them to form such a connexion as would have secured to the Mother Country the advantages of their commerce, without the expence or trouble of their governments. But misguided politics continued the fatal system of coercion and conquest. Several on both sides of the Atlantic, have called the declaration of independence, “a bold, and accidentally, a lucky speculation,” but subsequent events proved, that it was a wise measure. It is acknowledged, that it detatched some timid friends from supporting the Americans in their opposition to Great-Britain, but it increased the [350] vigour and union of those, who possessed more fortitude and perseverance. Without it, the colonists would have had no object adequate to the dangers to which they exposed themselves, in continuing to contend with Great-Britain. If the interference of France was necessary to give success to the resistance of the Americans, the declaration of independence was also necessary, for the French expressly founded the propriety of their treaty with Congress on the circumstance, “that they found the United States in possession of independence.”

1776

All political connexion between Great-Britain and her colonies being dissolved, the institution of new forms of government became unavoidable. The necessity of this was so urgent that Congress, before the declaration of independence, had recommended to the respective assemblies and conventions of the United States, to adopt such governments as should, in their opinion, best conduce to the happiness and safety of their constituents. During more than twelve months the colonists had been held together by the force of antient habits, and by laws under the simple stile of recommendations. The impropriety of proceeding in courts of justice by the authority of a sovereign, against whom the colonies were in arms, was self-evident. The impossibility of governing, for any length of time, three millions of people, by the ties of honour, without the authority of law, was equally apparent. The rejection of British sovereignty therefore drew after it the necessity of fixing on some other principle of government. The genius of the Americans, their republican habits and sentiments, naturally led them to substitute the majesty of the people, in lieu of discarded royalty. The kingly office was dropped, but in most of the subordinate departments of government, antient forms and names were retained. Such a portion of power had at all times been exercised by the people and their representatives, that the change of sovereignty was hardly perceptible, and the revolution took place without violence or

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convulsion. Popular elections elevated private citizens to the same offices, which formerly had been conferred by royal appointment.

1776

The people felt an uninterrupted continuation of the blessings [351] of law and government under old names, though derived from a new sovereignty, and were scarcely sensible of any change in their political constitution. The checks and balances which restrained the popular assemblies under the royal government, were partly dropped, and partly retained, by substituting something of the same kind. The temper of the people would not permit that any one man, however exalted by office, or distinguished by abilities, should have a negative on the declared sense of a majority of their representatives, but the experience of all ages had taught them the danger of lodging all power in one body of men. A second branch of legislature, consisting of a few select persons, under the name of senate, or council, was therefore constituted in eleven of the thirteen states, and their concurrence made necessary to give the validity of law to the acts of a more numerous branch of popular representatives. New-York and Massachusetts went one step farther. The former constituted a council of revision, consisting of the governor and the heads of judicial departments, on whose objecting to any proposed law, a reconsideration became necessary, and unless it was confirmed by two thirds of both houses, it could have no operation. A similar power was given to the governor of Massachusetts. Georgia and Pennsylvania were the only states whose legislature consisted of only one branch. Though many in these states, and a majority in all the others, saw and acknowledged the propriety of a compounded legislature, yet the mode of creating two branches out of a homogeneous mass of people, was a matter of difficulty. No distinction of ranks existed in the colonies, and none were entitled to any rights, but such as were common to all. Some possessed more wealth than others, but riches and ability were not always associated. Ten of the eleven states, whose legislatures consisted of two branches, ordained that the members of both should be elected by the people. This rather made two co-ordinate houses of representatives than a check on a single one, by the moderation of a select few. Maryland adopted a singular plan for constituting an independent senate.

1776

By her constitution the members of that body [352] were elected for five years, while the members of the house of delegates held their seats only for one. The number of senators was only fifteen, and they were all elected indiscriminately from the inhabitants of any part of the state, excepting that nine of them were to be resident on the west, and six on the east side of the Chesapeak Bay. They were elected not immediately by the people, but by electors, two from each county, appointed by the inhabitants for that sole purpose. By these regulations the senate of Maryland consisted of men of influence, integrity and abilities, and such as were a real and beneficial check on the hasty proceedings of a more numerous branch of popular representatives. The laws of that state were well digested, and its interest steadily pursued with a peculiar unity of system; while elsewhere it too often happened in the fluctuation of public assemblies; and where the legislative department was not sufficiently checked, that passion and party predominated over principle and public good.

Pennsylvania instead of a legislative council or senate, adopted the expedient of publishing bills after the second reading, for the information of the inhabitants. This had its advantages and disadvantages. It prevented the precipitate adoption of new

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regulations, and gave an opportunity of ascertaining the sense of the people on those laws by which they were to be bound; but it carried the spirit of discussion into every comer, and disturbed the peace and harmony of neighbourhoods. By making the business of government the duty of every man, it drew off the attention of many from the steady pursuit of their respective businesses.

The state of Pennsylvania also adopted another institution peculiar to itself, under the denomination of a council of censors. These were to be chosen once every seven years, and were authorised to enquire whether the constitution had been preserved—whether the legislative and executive branch of government, had performed their duty, or assumed to themselves, or exercised other or greater powers, than those to which they were constitutionally entitled.
To enquire whether the public taxes had [353] been justly laid and collected, and in what manner the public monies had been disposed of, and whether the laws had been duly executed. However excellent this institution may appear in theory, it is doubtful whether in practice it will answer any valuable end. It most certainly opens a door for discord, and furnishes abundant matter for periodical altercation. Either from the disposition of its inhabitants, its form of government, or some other cause, the people of Pennsylvania have constantly been in a state of fermentation. The end of one public controversy, has been the beginning of another. From the collision of parties, the minds of the citizens were sharpened, and their active powers improved, but internal harmony has been unknown. They who were out of place, so narrowly watched those who were in, that nothing injurious to the public could be easily effected, but from the fluctuation of power, and the total want of permanent system, nothing great or lasting could with safety be undertaken, or prosecuted to effect. Under all these disadvantages, the state flourished, and from the industry and ingenuity of its inhabitants acquired an unrivalled ascendancy in arts and manufactures. This must in a great measure be ascribed to the influence of habits, of order and industry, that had long prevailed.

1776

The Americans agreed in appointing a supreme executive head to each state, with the title either of governor or president. They also agreed in deriving the whole powers of government, either mediately or immediately from the people. In the eastern states, and in New York, their governors were elected by the inhabitants, in their respective towns or counties, and in the other states by the legislatures: but in no case was the smallest title of power exercised from hereditary right. New-York was the only state which invested its governor with executive authority without a council. Such was the extreme jealousy of power which pervaded the American states, that they did not think proper to trust the man of their choice with the power of executing their own determinations, without obliging him in many cases to take the advice of such counsellors as they thought proper to nominate. [354] The disadvantages of this institution far outweighed its advantages. Had the governors succeeded by hereditary right, a council would have been often necessary to supply the real want of abilities, but when an individual had been selected by the people as the fittest person for discharging the duties of this high department, to fetter him with a council was either to lessen his capacity of doing good, or to furnish him with a skreen for doing evil. It destroyed the secrecy, vigor and dispatch, which the executive power ought to possess, and by making governmental acts the acts of a body, diminished individual

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responsibility. In some states it greatly enhanced the expences of government, and in all retarded its operations, without any equivalent advantages.

New-York in another particular, displayed political sagacity superior to her neighbors. This was in her council of appointment, consisting of one senator from each of her four great election districts, authorised to designate proper persons for filling vacancies in the executive departments of government. Large bodies are far from being the most proper depositaries of the power of appointing to offices. The assiduous attention of candidates is too apt to biass the voice of individuals in popular assemblies. Besides in such appointments, the responsibility for the conduct of the officer, is in a great measure annihilated. The concurrence of a select few on the nomination of one, seems a more eligible mode for securing a proper choice, than appointments made either by one, or by a numerous body. In the former case there would be danger of favoritism, in the latter that modest unassuming merit would be overlooked, in favour of the forward and obsequious.

A rotation of public officers made a part of most of the American constitutions. Frequent elections were required by all, but several still farther, and deprived the electors of the power of continuing the same office in the same hands, after a specified length of time. Young politicians suddenly called from the ordinary walks of life, to make laws and institute forms of government, turned their attention to the histories of ancient republics [355] and the writings of speculative men on the subject of government.
This led them into many errors and occasioned them to adopt sundry opinions, unsuitable to the state of society in America, and contrary to the genius of real republicanism.

1776

The principle of rotation was carried so far, that in some of the states, public officers in several departments scarcely knew their official duty, till they were obliged to retire and give place to others, as ignorant as they had been on their first appointment. If offices had been instituted for the benefit of the holders, the policy of diffusing these benefits would have been proper, but instituted as they were for the convenience of the public, the end was marred by such frequent changes. By confining the objects of choice, it diminished the privileges of electors, and frequently deprived them of the liberty of choosing the man who, from previous experience, was of all men the most suitable. The favourers of this system of rotation contended for it, as likely to prevent a perpetuity of office and power in the same individual or family, and as a security against hereditary honours. To this it was replied, that free, fair and frequent elections were the most natural and proper securities, for the liberties of the people. It produced a more general diffusion of political knowledge, but made more smatterers than adepts in the science of government.

As a farther security for the continuance of republican principles in the American constitutions, they agreed in prohibiting all hereditary honours and distinction of ranks.

It was one of the peculiarities of these new forms of government, that all religious establishments were abolished. Some retained a constitutional distinction between

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Christians and others, with respect to eligibility to office, but the idea of supporting one denomination at the expence of others, or of raising any one sect of protestants to a legal pre-eminence, was universally reprobated. The alliance between church and state was completely broken, and each was left to support itself, independent of the other.

1776

The far famed social compact between the people and their rulers, did not apply to the United States. The [356] sovereignty was in the people. In their sovereign capacity by their representatives, they agreed on forms of government for their own security, and deputed certain individuals as their agents to serve them in public stations agreeably to constitutions, which they prescribed for their conduct.

The world has not hitherto exhibited so fair an opportunity for promoting social happiness. It is hoped for the honor of human nature, that the result will prove the fallacy of those theories, which suppose that mankind are incapable of self government. The ancients, not knowing the doctrine of representation, were apt in their public meetings to run into confusion, but in America this mode of taking the sense of the people, is so well understood, and so completely reduced to system, that its most populous states are often peaceably convened in an assembly of deputies, not too large for orderly deliberation, and yet representing the whole in equal proportions. These popular branches of legislature are miniature pictures of the community, and from the mode of their election are likely to be influenced by the same interests and feelings with the people whom they represent. As a farther security for their fidelity, they are bound by every law they make for their constituents. The assemblage of these circumstances gives as great a security that laws will be made, and government administered for the good of the people, as can be expected from the imperfection of human institutions.

In this short view of the formation and establishment of the American constitutions, we behold our species in a new situation. In no age before, and in no other country, did man ever possess an election of the kind of government, under which he would choose to live. The constituent parts of the antient free governments were thrown together by accident. The freedom of modern European governments was, for the most part, obtained by the concessions, or liberality of monarchs, or military leaders. In America alone, reason and liberty concurred in the formation of constitutions.

1776

It is true, from the infancy of political knowledge in the United States, there were [357] many defects in their forms of government. But in one thing they were all perfect. They left the people in the power of altering and amending them, whenever they pleased. In this happy peculiarity they placed the science of politics on a footing with the other sciences, by opening it to improvements from experience, and the discoveries of future ages. By means of this power of amending American constitutions, the friends of mankind have fondly hoped that oppression will one day be no more, and that political evil will at least be prevented or restrained with as much certainty, by a proper combination or separation of power, as natural evil is lessened or prevented by the application of the knowledge or ingenuity of man to domestic purposes. No part of the history of antient or modem Europe, can furnish a single fact that militates against this opinion, since in none of its

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governments have the principles of equal representation and checks been applied, for the preservation of freedom. On these two pivots are suspended the liberties of most of the states. Where they are wanting, there can be no security for liberty, where they exist they render any farther security unnecessary.

The rejection of British sovereignty not only involved a necessity of erecting independent constitutions, but of cementing the whole United States by some common bond of union. The act of independence did not hold out to the world thirteen sovereign states, but a common sovereignty of the whole in their united capacity. It therefore became necessary to run the line of distinction, between the local legislatures, and the assembly of the states in Congress. A committee was appointed for digesting articles of confederation between the states or united colonies, as they were then called, at the time the propriety of declaring independence was under debate, and some weeks previously to the adoption of that measure, but the plan was not for sixteen months after so far digested, as to be ready for communication to the states. Nor was it finally ratified by the accession of all the states, till nearly three years more had elapsed.

1776

In discussing its articles, many difficult questions occurred. One was to ascertain the ratio of [358] contributions from each state. Two principles presented themselves, numbers of people, and the value of lands. The last was preferred as being the truest barometer of the wealth of nations, but from an apprehended impracticability of carrying it into effect, it was soon relinquished, and recurrence had to the former. That the states should be represented in proportion to their importance, was contended for by those who had extensive territory, but they who were confined to small dimensions, replied, that the states confederated as individuals, in a state of nature, and should therefore have equal votes. From fear of weakening their exertions against the common enemy, the large states for the present yielded the point, and consented that each state should have an equal suffrage.

It was not easy to define the power of the state legislatures, so as to prevent a clashing between their jurisdiction, and that of the general government. On mature deliberation it was thought proper, that the former should be abridged of the power of forming any other confederation or alliance—of laying on any imposts or duties that might interfere with treaties made by Congress—or keeping up any vessels of war, or granting letters of marque or reprisal. The powers of Congress were also defined. Of these the principle were as follows: To have the sole and exclusive right of determining on peace and war—of sending and receiving ambassadors—of entering into treaties and alliances,—of granting letters of marque and reprisal in times of peace.—To be the last resort on appeal, in all disputes between two or more states—to have the sole and exclusive right of regulating the alloy and value of coin, of fixing the standard of weights and measures—regulating the trade and managing all affairs with the Indians—establishing and regulating post offices—to borrow money or emit bills on the credit of the United States—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota of men, in proportion to the number of its white inhabitants.

1776

No coercive power was given to the general government, nor was it invested with any legislative power over [359] individuals,

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but only over states in their corporate capacity. As at the time the articles of confederation were proposed for ratification, the Americans had little or no regular commercial intercourse with foreign nations, a power to regulate trade or to raise a revenue from it, though both were essential to the welfare of the union, made no part of the federal system. To remedy this and all other defects, a door was left open for introducing farther provisions, suited to future circumstances.

The articles of confederation were proposed at a time when the citizens of America were young in the science of politics, and when a commanding sense of duty, enforced by the pressure of a common danger, precluded the necessity of a power of compulsion. The enthusiasm of the day gave such credit and currency to paper emissions, as made the raising of supplies an easy matter. The system of federal government was therefore more calculated for what men then were, under these circumstances, than for the languid years of peace, when selfishness usurped the place of public spirit, and when credit no longer assisted, in providing for the exigencies of government.

The experience of a few years after the termination of the war, proved, as will appear in its proper place, that a radical change of the whole system was necessary, to the good government of the United States.

the end of the first volume

[1.]Noah Webster, *Dissertations on the English Language* (Boston, 1789), pp. 397–398. See Lawrence J. Friedman, *Inventors of the Promised Land* (New York, 1975) and Richard M. Rollins, *The Long Journey of Noah Webster* (Philadelphia, 1980).

[2.]*Columbian Magazine, or Monthly Miscellany*, 1 (1786): 22–25; Rev. James Madison to Thomas Jefferson, March 27, 1786, in Robert H. Brunhouse, ed., *David Ramsay, 1749–1815: Selections from His Writings,* American Philosophical Society, *Transactions,* New Series, 55 (1965), Part IV, p. 226; *Columbian Magazine,* 4 (1790): 373–377.

[3.]See Arthur H. Shaffer, *The Politics of History: Writing the History of the American Revolution, 1783–1815* (Chicago, 1975); Lester H. Cohen, *The Revolutionary Histories: Contemporary Narratives of the American Revolution* (Ithaca, 1980), Chapter 6.

[4.]Ramsay to Jedidiah Morse, May 5, 1813, in Brunhouse, pp. 118–119, 174. See Ramsay to Benjamin Lincoln, January 29, 1788.

[5.]Ramsay to Benjamin Rush, February 17, 1788, in Brunhouse, p. 119. Ramsay was a staunch Federalist delegate to his state's constitution-ratifying convention; he wrote to Rush, April 21, 1788, exulting: "I hope in my next [letter] to congratulate you on South Carolina being the 7th pillar of the new Government." Ibid., p. 120.

[6.]Ramsay's "An Oration," for July 4, 1794. Ibid., p. 195. However, Ramsay's was not a naive vision of homogeneity, for he also thought that "Even the prejudices,

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peculiarities, and local habits of the different states, should be respected and tenderly dealt with." Ibid. He emphasized unity of vision—an intellectual consensus—rather than a bland uniformity of customs or conduct.

[7.]"An Address to the Freemen of South-Carolina, on the Subject of the Federal Constitution," (Charleston, S.C., 1788), p. 13; rpt. Paul Leicester Ford, ed., *Pamphlets on the Constitution of the United States, Published During Its Discussion by the People, 1787–1788* (Brooklyn, 1888), p. 379.

[8.]Ramsay to Eliot, March 11, 1795, in Brunhouse, p. 139.

[9.]Ramsay to Belknap, March 11, 1795, in Brunhouse, pp. 139–140.

[10.]See Lester H. Cohen, "Creating a Useable Future: The Revolutionary Historians and the National Past," in Jack P. Greene, ed., *The American Revolution: Its Character and Limits* (New York, 1987), pp. 309–330.

[11.]David Ramsay, *The History of the American Revolution* (hereafter *HAR),* I, p. *26.*

[12.]*HAR,* I, pp. 31, 27.

[13.]*HAR*, I, pp. 334–337, 27–33.

[14.]*HAR,* I, pp. 29–33. Even the colonists' readings, though few in number, "generally favoured the cause of liberty." They included *Cato's Letters,* the *Independent Whig,* and, in New England, histories of the Puritans, which "kept alive the remembrance of the sufferings of their forefathers, and inspired a warm attachment, both to the civil and the religious rights of human nature." Ibid., p. 30. Ramsay, who wrote of the powerful unifying force exerted by New England histories, was no doubt influenced by them in his own writings.

[15.]*HAR*, I, p. 350.

[16.]The major sources are Bernard Bailyn, *The Ideological Origins ofthe American Revolution* (Cambridge, Mass., 1967) and *The Originsof American Politics* (New York, 1971); Gordon S. Wood, *The Creation of the American Republic, 1776–1787* (Chapel Hill, N.C., 1969); and J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, N.J., 1975). Three excellent historiographical essays are Robert Shalhope, "Toward a Republican Synthesis: The Emergence of an Understanding of Republicanism in American Historiography," *William and Mary Quarterly,* 3d Series, 29 (1972): 49–80, and "Republicanism and Early American Historiography," ibid., 39 (1982): 334–356; and Linda K. Kerber, "The Republican Ideology of the Revolutionary Generation," *American Quarterly,* 37 (1985): 474–495. I have discussed the impact of republicanism on one historian in "Mercy Otis Warren: The Politics of Language and the Aesthetics of Self," *American Quarterly,* 35 (1983): 481–498.

[17.]In fact, Ramsay publicly opposed slavery and branded the slave trade an "infamous traffic." [See Ramsay to Rush, August 22, 1783, September 9, 1783,

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January 31, 1785, December 14, 1785, April 12, 1786, in Brunhouse, pp. 76, 77, 86–87, 94, 99.] According to Winthrop Jordan, moreover, Ramsay was the only Southerner who, upon receipt of a copy of Thomas Jefferson's *Notes on the State of Virginia,* wrote that he thought Jefferson had "depressed the negroes too low." Ramsay was as strong a proponent of the Lockean principle that environment shapes human nature as one could find in eighteenth-century America. He believed that "all mankind [is] originally the same & only diversified by accidental circumstances." [Ramsay to Jefferson, May 3, 1786, in Brunhouse, p. 101. Jordan, *White Over Black: American Attitudes Toward the Negro, 1550–1812* (Chapel Hill, N.C., 1968), p. 456.] While Ramsay's attitudes toward slavery are beyond the scope of this essay, it is useful to note that his failure to condemn slavery more vehemently in his *History* was integral to his strategy of diminishing the importance of the forces that could tear the nation apart. For a fine discussion of Ramsay and slavery, see Arthur H. Shaffer, "Between Two Worlds: David Ramsay and the Politics of Slavery," *Journalof Southern History,* 50 (1984): 175–196.

[18.]See Ramsay to Jefferson, April 7, 1787, in Brunhouse, p. 110; "An Oration" for July 4, 1794, Ibid., p. 195.

[19.]Ramsay to Drayton, September 1, 1779; to Rush, July 18, 1779; to Rush, July 11, 1783; to Eliot, August 6, 1785; to Rush, August 6, 1786; in Brunhouse, pp. 64, 62, 75, 90, 105.

[20.]Ramsay to Eliot, August 6, 1785, in Brunhouse, pp. 90–91.

[21.]Ramsay to Eliot, April 7, 1810, in Brunhouse, p. 166.

[22.]Ramsay to John Coakley Lettsom, October 29, 1808, in Brunhouse, p. 163. This analogy raises the issue of "truth" in historical writing, which I have addressed in "Creating a Useable Future," and *TheRevolutionary Histories,* particularly chapters 6 and 8.

[23.]*The History of the Revolution of South-Carolina* was, thanks to Jefferson's brokering, translated into French. The fascinating story of Jefferson's efforts is contained in several letters: Ramsay to Jefferson, June 15, 1785; Ramsay to Jefferson, July 13, 1785; Ramsay to Jefferson, August 8, 1785; Jefferson to Ramsay, August 31, 1785; Jefferson to Ramsay, October 12, 1785; Ramsay to Jefferson, December 10, 1785; Jefferson to Ramsay, January 26, 1786; Jefferson to Ramsay, January 27, 1786; Ramsay to Jefferson, May 3, 1786; Jefferson to Ramsay, July 10, 1786; Ramsay to Jefferson, November 8, 1786; Jefferson to Ramsay, August 4, 1786; Jefferson to Ramsay, May 7, 1788; Ramsay to Jefferson, October 8, 1788, in Brunhouse, pp. 88–94, 97, 101, 104, 107, 112–113, 121, 123. *The History of the American Revolution* was translated into Dutch and German, and *The Life of George Washington* was translated into French and Spanish.

[24.]Rush quoted in Robert Y. Hayne, "Biographical Memoir of David Ramsay, M.D.," *Analectic Magazine,* 6 (1815): 206. I have relied on Brunhouse, pp. 12–48 for biographical material.

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[25.]Ramsay was married three times: first, in February 1775, to Sabina Ellis, who died in June 1776; then in March 1783 to Frances Witherspoon—daughter of John Witherspoon, president of the College of New Jersey (Princeton)—who died while delivering their child December 9, 1784; and finally in January 1787 to Martha Laurens—daughter of Henry Laurens, one of the giants of South Carolina politics and commerce; this marriage lasted some twenty-five years.

[26.]Ramsay's loss to Smith was almost certainly related to his anti-slavery sentiments. See Shaffer, "Between Two Worlds"; George C. Rogers, Jr., *Evolution of a Federalist: William Loughton Smith of Charleston (1758–1812)* (Columbia, S.C., 1962), especially pp. 162–171.

[27.]Ramsay to Jefferson, June 15, 1785, in Brunhouse, p. 88. Ramsay, along with other prominent Charlestonians, was arrested by the British on May 12, 1780, upon the capitulation of the city. On August 27 he was exiled to St. Augustine; a year later he was released.

[28.]Ramsay to Rush, February 11, 1786 and Ramsay to Jefferson, April 7, 1787, in Brunhouse, pp. 98, 110.

[29.]David Ramsay, *The History of South-Carolina,* II, pp. 238–240, 83–84.

[30.]"An Oration on the Advantages of American Independence … ," in Brunhouse, pp. 184–185.

[31.]Ramsay was referred to as the "Tacitus" of America by J. Kingston, in *The New American Biographic Dictionary* (Baltimore, 1810), and as America's "Polybius" in *Niles' Weekly Register,* 11 (October 5, 1816), both quoted in Brunhouse, p. 220; Ramsay to Gordon, January 18, 1786, in Brunhouse, p. 96.

[32.]Ramsay to Rush, May 3, 1786, in Brunhouse, pp. 101–102. He added: "For some months past I have spent from five to 8 hours every day at this work. The drudery is nearly done. I have got my facts & I shall put them together in Carolina."

[33.]Ramsay to Rush, April 13, 1786, September 26, 1786, May 1, 1787, and August 18, 1787, in Brunhouse, pp. 99–100, 105–106, 112, 113–114; Ramsay to Boudinot, April 13, 1786, to Morris, May 12, 1786, to Thomson, November 4, 1786, to Adams, September 20, 1787, in Brunhouse, pp. 100, 102, 107, 114. Thomson's lengthy letter responding to Ramsay's manuscript has been reprinted by Paul H. Smith, *Quarterly Journal of the Library of Congress,* 28 (1971): 158–172.

[34.]Ramsay to Ashbel Green, October 4, 1791, in Brunhouse, p. 130. Aitken had a very good reputation, and he attempted to explain his procedures to the irate author. See Brunhouse's index for several references to Aitken; Isaiah Thomas, *The History of Printing in America* (1810), rev. ed., by Marcus A. McCorison (New York, 1970).~ ~~~~~~

[35.]Ramsay to Eliot, October 19, 1789, April 13, 1792, April 7, 1810, and April 12, 1793, in Brunhouse, pp. 126, 131, 166, 135.

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[36.]Orrin Grant Libby, "Ramsay as a Plagiarist," *American Historical Review* 7 (1901–02): 697–703. Libby also demonstrated that William Gordon had plagiarized from the same source in "A Critical Examination of William Gordon's History of the American Revolution," American Historical Association, *Annual Report* (1899), I: 367–388. Brunhouse has pointed out that two other historians followed Libby's lead: Josephine Fitts, "David Ramsay . . ." (Unpub. M.A. thesis, Columbia University, 1936); and Elmer D. Johnson, "David Ramsay: Historian or Plagiarist?" *South Carolina Historical Magazine,* 57 (1956).

[37.]Burke's role on the *Annual Register* is still, apparently, a matter of controversy. See Thomas W. Copeland, "Burke and Dodsley's Annual Register," *PMLA*, 54 (1939): 223–245; Bertram D. Sarason, "Edmund Burke and the Two Annual Registers," *PMLA,* 68 (1953): 496–508.

[38.]Libby adduced eight examples of plagiarism in Ramsay's *The History of the American Revolution.* Fitts added ten more, Brunhouse six. Ironically, Libby searched only the *Annual Register,* whereas Ramsay himself mentioned that the *Remembrancer,* another English periodical, also was available to him. See Ramsay to Rush, May 3, 1786, in Brunhouse, p. 102. Brunhouse lists the examples of plagiarism at p. 219.

[39.]Libby, "Ramsay as a Plagiarist," p. 703.

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Isaac Lytle,	John McNeale,	John White,
David Getty,	Jonathan Baker,	John Reed,
Robert Getty,	George Fowler	John McKinsey,
Isaac Hopkins,	John Duncan,	James Burns,
James Gamel,	Jonathan Barber,	John McMullen,
George McKnight,	Daniel McCloud,	Peter Garey,
Adam Getty,	John Munson,	Ananias Cormac,
Samuel Gamel,	John McDonal,	Josiah Parrish, Jr.,
David Wheden,	Oliver Fowler,	Nathaniel Munson,
Solomon Weede,	Alexander Gamel,	John Peck,
David Wilson,	Norman McCloud,	John Gary,
Josiah Parrish,	Alexander Simpson,	Duncan McCloud.

SIGNERS IN SPRINGFIELD, CUMBERLAND COUNTY.

Simon Stevens,	John Nott,	John Barrett,
George Hall,	Noah Porter,	Daniel Sartwell,
Samuel Scott,	Emanuel Case,	Robert Millard,
Abner Bisbee,	Anthony Sheldon,	Jerahmeel Powers,
Josiah Johnson,	John Hammond,	Platt Parker,
Asahel Mighell,	William Kellog,	Nicholas Bragg,
Timothy Spencer,	Joseph Little,	Jacob Sartwell,
Hezekiah Holmes,	Nicholas Bragg,	Coumes House,
Simon Spencer,	Jacob Lockwood,	William McClellan,
James Martin, Jr.,	John Griswold,	Thomas Corten,
James Martin,	Daus Goodwin,	Simeon Bradford,
Nathaniel Weston,	John M. Roberts,	John Weeams,
Taylor Spencer,	Isaac Lockwood,	Robert Tavers,
Ichabod Woddams,	Jesse Richardson,	Ebenezer Hildrith,
Joseph Lockwood,	Oliver Sartwell,	George Hall, Jr.,
Abraham Lockwood,	Joseph Webb,	James Dunghy,
Nathaniel Sheldon,	Thomas Edwards,	John Barrett.

Signed by order of the Committee of Safety in *Springfield*.

JOHN BARRETT.

December 21, 1775.

Province of New-York, Cumberland County, Townshend, July 12, 1775.

We, the subscribers, heartily and sincerely adhere to the proceedings of the Continental Congress, held at *Philadelphia* on the 5th day of *September*, 1775, more especially the Association Agreement; as witness our hands:

John Hazeltine,	Amos Holbrook,	John Burt,
Timothy Holbrook,	John Wright,	Paul Hazeltine,
William Hayward,	John How,	John Hazeltine, Jr.,
Silas Hayward,	John How, Jr.,	Thomas Walker,
Caleb Hayward,	James Watkins,	Jesman Walker,
Peter Hazeltine,	Jonathan Claton,	Samuel Wisell,
Paul Hayward,	William Christopher,	John Dyer,
Joseph How,	Ezra Holbrook,	Benjamin Dyer,
Benjamin How,	William Johnson,	Isaac Harhart,
Daniel Blanchard,	Joseph Tyler,	John Barns,
Benjamin Hayward,	Ebenezer Ober,	Epherim Barns,
Amariah Tost,	Matthew Martin,	Lemuel Robings,
Calvin Hayward,	Abraham Martin,	William Robings,
Eli Hayward,	David Linsey,	Benjamin Fletcher,
Josiah Fish,	James Linsey,	Thomas Reed,
John Wood,	Mike Johnson,	Benjamin Rugg,
Moses Holbrook,	Caleb Darling,	Asa Ober.

The above subscribers are all the men now in *Townshend;* those out of Town are: *Samuel Fletcher, Benjamin Moredock, Oliver Moredock, Aaron Johnson, Samuel Parkis, Thomas Barns, Ebenezer Burt.*

These are in the service at *Roxbury*, under Gen. *Washington.* The above completed *July* 12, 1775, but no safe opportunity till now, the 6th day of *December*, 1775.

This from a real friend to liberty.

JOHN HAZELTINE.

Whitehall, September 1, 1775.

The House of Representatives of the Province of *Nova-Scotia*, in *North-America*, having unanimously agreed to a loyal and dutiful address, petition, and memorial, to the King's most excellent Majesty, the Lords spiritual and temporal, and the Commons of *Great Britain*, in Parliament assembled, containing declarations of their obedience and submission to the authority of the Parliament of *Great Britain*, as the supreme legislature of that Province, and of all the *British* Dominions, and of their readiness, as an indispensable duty, to submit to the payment of such taxes, to be raised upon a permanent plan, and at the disposal of Parliament, as shall be their due proportion of the expenses of the Empire; and *William Nesbitt*, Esq., Speaker of the said House of Representatives, having transmitted a transcript of the said loyal and dutiful address, petition, and memorial, to the Earl of *Dartmouth*, one of His Majesty's principal Secretaries of State, it was this day presented to His Majesty, and most graciously received.

EXTRACT OF A LETTER FROM IRELAND TO AN ACQUAINTANCE IN NEW-YORK, DATED SEPTEMBER 1, 1775.

Though most of the people here wish well to the cause in which you are engaged, and would rejoice to find you continue firm and steadfast, yet it is the prevailing opinion, especially among the friends to Government, (so called,) that you will be at last frightened into submission to ministerial measures. They are raising recruits throughout this Kingdom. The men are told they are only going to *Edinburgh* to learn military discipline, and are then to return. The common people are industriously kept from the knowledge of publick affairs. They know nothing but what the great people please to let them. Newspapers, since the Stamp Act, are so high, the poor and middling people cannot purchase them, nor even an almanack; not one of which is to be found within sixty miles, except among the great folks; however, so few are sold, that it is thought there will be no more printed, unless the act is repealed, which is expected next session.

It is most grievous to bear the innumerable burdens they have imposed upon the people here. It is intended to send several Bishops to *America*, (one at least to every city,) with salaries of four hundred Pounds sterling each, to be paid by the people where they are stationed. It is expected that *New-York* will be the first to submit to any terms that shall be offered; and great pains have been taken to spread a general belief that the people in all the Colonies are mere cowards, ready to run at the sight of an army. The newspapers that are most circulated are filled with such stuff, but not a word of any thing spirited on your part, so that our people are altogether ignorant of the true state of affairs with you.

Dear countrymen and fellow-sufferers, who have been so happy as to have your lot in a land of liberty, though now persecuted and your rights invaded, suffer not your most precious inheritance, your liberty and property, your noble Constitution, to be torn from you. You are contending for what is of more value than life; fear not to risk your lives freely in defence of it. Keep your presses free, that the people may know all that concerns them and all that is doing against them. By every means in your power keep corruption from influencing any of your offices of publick trust; you cannot possibly be too much guarded against this terrible evil, which has almost undone us here. Let not arbitrary power and despotism have any footing among you. Many in this Country, who groan under it, would be glad to give their utmost assistance, and hope to be over with you before the contest is ended.

It is my opinion that if you continue firm, you will, without doubt, succeed in your glorious struggle; justice will give strength to your arms, and weaken those of your enemies. *God* himself is on your side, and will cause them to fall before you. Meanwhile, let me caution you against the least appearance of submission. You can hardly conceive the ill effects of every thing that may feed the hopes of your enemies; even base complaisance in this case is criminal, for like drowning men they are ready to catch at straws, and, if possible, interpret every thing you say or do in favour of their own designs, whereby they are encouraged to continue their efforts to subdue you. It behooves you, therefore, to be resolute, plain, and absolute, in your refusal of every proposal that implies giving up one tittle of your rights and liberties, or might bring them into the least danger, and resist every attempt against them with all your might. The least slackness or compliance on your part will embolden them to proceed in their endeavours to enforce their laws, to tax and enslave you. May *God* guide and protect you. *Amen.*

I am a sincere friend to the natural rights and liberty of mankind, and yours, &c. M. W.

P. S. It is reported that *Charles Stuart* is preparing to make an attempt to obtain the Crown of *Scotland*. I wait for further intelligence.

EXTRACT OF A LETTER FROM A GENTLEMAN IN VIRGINIA TO HIS FRIEND IN EDINBURGH, SCOTLAND, DATED MIDDLESEX, SEPTEMBER 1, 1775.

DEAR SIR: I embrace this favourable opportunity of writing you by a gentleman who intends to reside in *Scot-*

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land with his lady and family. As to the present state of *Virginia*, I refer you to them. Tears stand in my eyes when I think or write of this once happy, thrice happy land of liberty.

All is anarchy and confusion. A brave people struggling in opposition to the acts of the *British* Parliament. We are all in arms, exercising and training old and young to the use of the gun. No person goes abroad without his sword, or gun, or pistols. The sound of war echoes from north to south. Every plain is full of armed men, who all wear a hunting shirt, on the left breast of which are sewed, in very legible letters, "*Liberty or Death.*" May *God* put a speedy and happy end to this grand and important contest between the mother and her children. The Colonies do not wish to be independent; they only deny the right of taxation in the Parliament. They would freely grant the King whatever he pleases to request of their own Assemblies, provided the Parliament has no hand in the disposing of it.

This dispute has put an end to all trade and commerce. The Country is on the brink of destruction. The rising glory of *America* is totally eclipsed, and, unless some prudent means be fallen on to bring about a reconciliation, I tremble for the consequences. The troubles of the year 1745 were but like a flea-bite to the present commotions. Never was there heard of such an unanimity as prevails through this extensive Empire in the glorious cause of liberty. All ranks and conditions of men have laid aside all sorts of extravagance in living and dressing, vieing with one another who shall wear most of their own manufactory. You would hardly believe the quantity of cotton cloth that is annually manufactured here could be made. I do assure you no women in any part of the world can be more industrious than those in *Virginia*. They labour under one great disadvantage; which is, their being entirely ignorant of the ways of making of linen, which they will severely feel next year, this warm climate requiring more of that article than any other.

WILLIAM TENNENT TO THE COUNCIL OF SAFETY FOR SOUTH-CAROLINA.

Long Cane, September 1, 1775.

This comes by Captain *George Reid's* wagon from the *Long Canes*, where I am at present. I parted from Mr. *Drayton* on *Monday* morning; he steered his course to *Augusta*, and thence designed for the camp at *Amelia*. I thought it necessary to visit the settlements on this side of *Saluda*. Met a large congregation yesterday, and found the people divided in their sentiments. Spoke at least two hours to them, to good effect. The prevailing party here is for *American* measures, by the agency of some of our worthy members; but they need confirmation. I have therefore appointed three meetings, at which I expect to see the greater number of the disaffected. I shall then cross over into *Fletchall's* Regiment once more, to be at an election appointed at *Ford's*, on *Enoree*, where we expect great opposition, if not violence, from *Cunningham's* party. *Brown* will bring them to blood if he can, but I still hope it may be prevented. I consider myself as running great risks, but think it my duty.

Our visit has given their party a great shock, divided their friends, and strengthened our interest much. One of their chiefs confessed to me, at *Little River*, that he brought up the thanks of the Governour to Mr. *Cunningham*, for what he had done and is doing. The Governour's intrigue here is as evident as the light of the sun. The evidences of their design, by the *Indians*, is no doubt clear to the Council, from the papers sent down already.

The inhabitants here are in great terrour, as far as they have heard of their danger, and that because they have no ammunition. The leaders have frequently dropped in company that they intend to form a camp. I am sure they will find a smaller number ready to befriend them than they imagine. But their dependance is upon the savages to join their army, and that the rest of the inhabitants will be forced to join them, to save their families from a massacre. I am taking proper measures, in this District, to prevent the horrible conspiracy. Three volunteer companies are formed; one under Major *Terry*, who now seems animated in the cause; another under Captain *Pickins*; a third under Captain *James McCall*. More of the like kind is going on as fast as may be. The great difficulty is the want of ammunition. They evidently have a design upon *Fort Charlotte*, and our friends cannot collect to defend it, unless they are supplied; I have therefore promised them a supply. If you, therefore, gentlemen, think it proper, it will be of the greatest utility to send up one hundred or one hundred and fifty pounds weight of powder, and some lead, by the bearer, *Samuel Reid*, who will effectually secrete it until delivered safe into the hands of the volunteer Companies, to be subject to the order of the Council in case it is not used for the defence of the Colony. It will be effectually secured, and a small delay may be greatly dangerous. The same measure will be necessary on the other side of *Broad* River.

I could wish that *Virginia* might be alarmed and ready, and that a categorical answer might be demanded of the *Cherokees* before the time of danger. The *Creeks* are in some danger from one *Thompson*, an emissary, now among them. I shall visit *Fort Charlotte* before I return, and hope to let you hear more particularly on these subjects next week.

PHILADELPHIA COUNTY COMMITTEE.

Philadelphia County, September 1, 1775.

In Committee, *Resolved*, That it be recommended to the Township Committees and the Captains of the different Companies, and they are hereby enjoined to make returns to this Committee of the Associators, Non-Associators, &c., in their respective Districts, agreeable to the directions of the Committee of Safety, on *Friday*, the 22d instant; and that the Colonels of each Battalion in this County do, at the same time, return the names of the Officers of their respective Battalions, with their ranks and seniority in Battalion.

The Committee adjourned to *Friday*, the 22d instant, to meet at the house of *Jacob Neaff*, at ten o'clock in the forenoon.

NEW-YORK COMMITTEE.

The Committee met *Friday*, *September* 1, 1775. Present: *Henry Remsen*, Chairman, and thirty-five Members.

The Deposition of *George Van Schamp*, relative to Sergeant *Graham's* conduct in *Boston*, received and read.

The Memorial of *Stephen Skinner*, Esq., received and read, praying leave to land some Trunks and Bedding, the property of Miss *Johnson*, Miss *Kemble*, and Mrs. *Lee*.

Ordered, That leave be given accordingly, and that Mr. *O. Templeton* and Mr. *John Broome* be a Sub-Committee to examine the same.

Ordered, That the Chairman be requested to write a letter of thanks to the different Committees in *New-Jersey* and *Orangetown*, for their polite behaviour to Captain *Dobbs*.

New-York Committee Chamber, September 1, 1775.

Whereas this Committee, by their Resolution of the 1st of *May* last, and the Continental Congress, by their Resolve of the 27th of said month, ordered, that no Provisions should be exported to *Quebeck*, *Nova-Scotia*, *Georgia*, *Newfoundland*, or any part of the fishing coast or fishing islands to the eastward of *Nantucket*: And whereas it appears to this Committee, by the Depositions of *Charles De Kay*, master, and *Thomas Millroy*, mate of the Sloop *Sally*, whereof *John Christian Drewidts* and *Moses Delis Dernier* are owners, that they, the said *John Christian Drewidts* and *Moses Delis Dernier*, did load the said sloop with Provisions; and the said *Moses Delis Dernier* did proceed with her, so loaded, to *Nova-Scotia*, and there disposed of the same, in violation of the Resolve of the said Continental Congress: And whereas it further appears, by the Deposition of Captain *Jenking*, late master of the Sloop *Elizabeth*, whereof *Thomas Ludlow* was owner, that the said *Thomas Ludlow* did load the said sloop in the Port of *New-York*, with Provisions; and with her so loaded, did proceed to the Island of *Newfoundland*, and there disposed of the same, in violation of the aforesaid Resolve:

Resolved, 1*st*, That the Depositions of the said *Charles De Kay*, *Thomas Millroy*, and *Richard Jenking*, be published in the newspapers in this City.

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Resolved. 2d. That the said *John Christian Drewidts*. *Moses Delis Dernier*, *Charles De Kay*, and *Thomas Ludlow*, have knowingly violated the beforementioned Resolve of the Continental Congress, and the General Association entered into by the inhabitants of this City and County; and that the said *John Christian Drewidts*, *Moses Delis Dernier*. *Charles De Kay*. and *Thomas Ludlow*, have severally acted inimically to, and have been guilty of a high infringement of a Resolve of the associated *American* Colonies.

By order of the Committee:

HENRY REMSEN, *Dep'y Chairman*.

City of NEW-YORK, *ss*.

Charles De Kay. of the City of *New-York*, Mariner, and commander of the Sloop *Sally*, now lying in the Port of *New-York*. being duly sworn, makes oath, that on or about the beginning of *June* last, he sailed from the said Port of *New-York*. on board of the said sloop, as master and commander thereof. with a cargo consisting of flour, rye meal, bread, pork, *Indian* corn, rum, and some boards, to the river called *Pettiquit Jack*, in *Nova-Scotia*, where Mr. *Moses Delis Dernier*, supercargo and part owner of the said sloop and cargo. disposed of a small part of the said cargo, to wit: of some of the flour and some of the bread; that from thence he proceeded with the remainder of the said cargo on board of the said sloop, to the Township of *Shippody*, in the Province of *Nova-Scotia* aforesaid. and there discharged some part of the said cargo, by the direction of the said *Moses Delis Dernier;* that from the Township of *Shippody* he proceeded with the said sloop and the residue of the said cargo to the Town of *Cumberland*, in the Province aforesaid, where the said sloop was discharged of her said cargo, and the same was disposed of in the manner following, to wit: part to Mr. *John Avary*, of *Windsor*. then at *Cumberland* aforesaid, who loaded or put the part so purchased by him on board of a schooner, to go to *Windsor* aforesaid, part consisting of flour, bread, iron, and steel, amounting to about the sum of two hundred and ninety odd Pounds sterling in value, to Mr. *Thomas Clough*, of the Town of *Boston*, (which he told the deponent he intended to carry or convey to *Windsor* aforesaid, or *Machias*, in order therewith to purchase a cargo for the *West-Indies*, which the deponent believed to be true.) and the rest in small parcels to the inhabitants of the said Town of *Cumberland;* that that part of the said cargo sold to the said *Thomas Clough*, as aforesaid, was sold for the same price that the said *John Avary* purchased at; that the deponent had no knowledge or expectation, or belief, at the time of the sale of part of the said cargo to the said *Thomas Clough*, that he intended to convey any part thereof so purchased by him to any other place than *Windsor* or *Machias* aforesaid, for the purposes aforesaid; and that he, the deponent, verily believes, and is well assured, that the said *Thomas Clough* did not convey any part of the said cargo, so purchased by him as aforesaid, to the Town of *Boston*: and this deponent further saith, that the said sloop's cargo being discharged and disposed of as aforesaid, he proceeded from *Cumberland* aforesaid, on board of the said sloop, in ballast, to this City, where he arrived about the 23d instant: and this deponent further saith, that besides the sloop's cargo beforementioned, he had an adventure belonging to him, the deponent, on board, of two hundred and fifty weight of hams, and one hundred and fifty gallons of rum, which were disposed of at *Cumberland* aforesaid, in small parcels, to the inhabitants; and further the deponent saith, that before he left *New-York*, in the said voyage, he, the deponent, was informed by *Moses Delis Dernier*. one of the owners of the said vessel, that she was bound for the Bay of *Fundy;* and the said *Moses* told him, that he would have applied to the Committee, to have got leave to have gone there, but that he was afraid that the port would have been shut; and further the deponent saith not. CHARLES DE KAY.

Sworn the 31st *August*, 1775, before me.

WHITEHEAD HICKS, *Mayor*.

City of NEW-YORK, *ss*.

Thomas Millroy, of the *Isle-of-Man*, Mariner, and mate of the Sloop *Sally*, now lying in the Port of *New-York*, being duly sworn, maketh oath, that on or about the beginning of *June* last, he sailed from the said Port of *New-York*, on board the said sloop, as mate thereof, with a cargo consisting of flour, rye meal, bread, pork, *Indian* corn, rum, and some boards, bound for the *West-Indies*, as he was informed by the master of the said sloop. When they had got out at sea about eighteen hours' sail, Captain *Charles De Kay* told the deponent they were bound for the Bay of *Fundy*. At their arrival in the Bay of *Fundy*, at a place called *Pettiquit Jack*, where our supercargo, Mr. *Moses Delis Dernier*, sold some of the cargo; from thence we went to the Township of *Shippody* River, and there we discharged part of the cargo, by the directions of said *Moses Delis Dernier;* from thence we went to *Cumberland*, in the Province aforesaid, and there we discharged the whole of the cargo we had left, by the order of our supercargo; and then took in ballast, and filled our casks with water, and sailed from thence to *New-York*, where we arrived the 25th of *August*, 1775, at *Sandy-Hook*, or near the *Narrows*, where the Captain left the sloop and went up to *New-York*. Before he left the sloop he desired me, if any person inquired where they came from, should say from *St. Eustatia;* and also desired me to give the people a caution; which I accordingly did.

THOMAS MILLROY.

Sworn this 31st day of *August*, 1775, before me,

WILLIAM WADDELL, *Alderman*.

I, *Richard Jenking*, sailed from *New-York* on the 28th of *May* last, as master of the Sloop *Elizabeth*, belonging to Mr. *Thomas Ludlow*, laden with provisions, to wit: bread, flour, pork, *Indian* corn, and a small parcel of iron; that the said *Thomas Ludlow* went with me, as owner and supercargo, and took with him four negroes, three of which I understood were his own. We came to an anchor that day within *Sandy-Hook* light-house; next day about noon got under way, and put to sea. I took the log-book and marked it towards *Bermuda;* and that he then told me not to be surprised, that he intended to go to *Newfoundland*. I found myself obliged to follow his orders, and shaped a course for *Cape Race*. The 14th of *June*, arrived at the harbour of *Trespass*, in *Newfoundland*, and there landed the cargo, which he sold to *Jackson & Hallet*, merchants, of *Topsham*, for sixteen and sixpence sterling, round, as he informed me. I differed with him there, for deceiving me, and would have left him, could I have got a passage home. He took a passage in a small vessel belonging to Mr. *Jackson*, for *Quebeck*, and gave me my sailing orders to follow him, which I did: he arrived at *Quebeck* some days before me. At my arrival, he ordered me to haul the vessel close into the Town in the mud. In a few days he informed me that he was going to take on board cattle for the *West-Indies*. I demanded my discharge, and told him I would not proceed any further with him. He insisted I should; on which high words arose between us. I still persisted in my resolution to leave him. In a few days he provided another master, and discharged me. I procured a passage to *Saybrook*, in the Sloop *Betsey*, *Norman Morrison*, master, and arrived at *Saybrook* the 20th instant; from thence I proceeded here, and arrived the 27th. RICHARD JENKING.

Sworn the 30th *August*, 1775, before me,

WHITEHEAD HICKS, *Mayor*.

DAVID BURGER TO NEW-YORK CONGRESS.

New-York, September 1, 1775.

GENTLEMEN: I take this opportunity, from the regard that I have for the cause of *American* freedom, to acquaint you that there is a set of judicious people that live on *Staten-Island*, who, for the sake of a little gain, would sell their and the Country's privileges, as appears by their selling to the Troops, which they have done last *Tuesday*, such as hogs, sheep, geese, ducks, and fowls, to go on board the ship that lies now in the *North* River, to go to *Boston*, and are determined to continue thus in letting them have such stock as they want, as far as they are able to supply them, and will spare no pains to provide for them. Mr. *Cubberly* is to let them have some stock. As he is not willing to bring them up himself, for fear of being discovered in so doing, so that they are to call for them, and he will let them have as far as he can spare. Last *Tuesday* they had the abovementioned stock from *John Van Pelt*, *Cornelius Martin*, *Benjamin Martin*, *John Ketcltas*, *Jacob Barregar*, and *Mary Barregar*. The

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From Thomas Jefferson to Giovanni Fabbroni, 8 June 1778

To Giovanni Fabbroni

Sir Williamsburgh in Virginia June. 8. 1778

Your letter of Sep. 15. 1776 from Paris came safe to hand. We have not however had the pleasure of seeing Mr. De Crenis, the bearer of it in this country, as he joined the army in Pennsylvania as soon as he arrived. I should have taken particular pleasure in serving him on your recommendation. From the kind anxiety expressed in your letters as well as from other sources of information we discover that our enemies have filled Europe with Thrasonic accounts of victories they had never won and conquests they were fated never to make. While these accounts alarmed our friends in Europe they afforded us diversion. We have long been out of all fear for the event of the war.[1] I inclose you a list of the killed, wounded, and captives of the enemy from the Commencement of hostilities at Lexington in April 1775, till November 1777. since which there has been no event of any consequence. This is the best history of the war which can be brought within the compass of a letter. I believe the account to be near the truth, tho' it is difficult to get at the numbers lost by an enemy with absolute precision. Many of the articles have been communicated to us from England as taken from the official returns made by their General. I wish it were in my power to send you as just an account of our [losses] but this cannot be done without an application to the war office which being in another country is at this time out of my reach. I think that upon the whole it has been about one half the number lost by them. In some instances more, but in others less. This difference is ascribed to our superiority in taking aim when we fire; every soldier in our army having been intimate with his gun from his infancy. If there could have been a doubt before as to the event of the war, it is now totally removed by the interposition of France; and the generous alliance she has entered into with us.

Tho' much of my time is employed in the councils of America I have yet a little leisure to indulge my fondness for philosophical studies. I could wish to correspond with you on subjects of that kind. It might not be unacceptable to you to be informed for instance of the true power of our climate as discoverable from the Thermometer, from the force and direction of the winds, the quantity of rain, the plants which grow without shelter in the winter &c. On the other hand we should be much pleased with cotemporary observations on the same particulars in your country, which will give us a comparative view of the two climates.[2] Farenheit's thermometer is the only one in use with us. I make my daily observations as early as possible in the morning and again about 4. o'clock in the afternoon, these generally showing the maxima of cold and heat in the course of 24 hours. I wish I could gratify your Botanical taste; but I am acquainted with nothing more than the first principles of that science, yet myself and my friends may furnish you with any Botanical subjects which this country affords, and are not to be had with you: and I shall take pleasure in procuring them when pointed out by you. The greatest difficulty will be the means of conveyance during the continuance of the war.

If there is a gratification which I envy any people in this world it is to your country its music. This is the favorite passion of my soul, and fortune has cast my lot in a country where it is in a state of deplorable barbarism. From the [line] of life in which we conjecture you to be, I have for some time lost the hope of seeing you here. Should the event prove so, I shall ask your assistance in procuring a substitute who may be a proficient in singing and on the harpsichord. I should be contented to receive such an one two or three years hence, when it is hoped he may come more safely, and find here a greater plenty of those useful things which commerce alone can furnish. The bounds of an American fortune will not admit the indulgence of a domestic band of musicians. Yet I have thought that a passion for music might be reconciled with that oeconomy which we are obliged to observe. I retain for instance among my domestic servants a gardener (Ortolano), weaver (Tessitore di lino e lan[a),] a cabinet maker (Stipettaio) and a stonecutter (scalpellino lavorante in piano) to which I would add a Vigneron. In a country where, like yours, music is cultivated and practised by every class of men I suppose there might be found persons of those trades who could perform on the French horn, clarinet or hautboy and bassoon, so that one might have a band of two French horns, two clarinets and hautboys and a bassoon, without enlarging their domest[ic] expences. A certainty of employment for a half dozen years, and at [the] end of that time to find them if they chose it a conveyance to their own country might induce [them] to come here on reasonable wages. Without meaning to give you trouble, perhaps it mig[ht] be practicable for you in your ordinary intercourse with your pe[ople] to find out such men disposed to come to America. Sobriety and good nature would be desireable parts of their characters. If you think such a plan practicable, and will be so kind[3] as to inform me what will be necessary to be done on my part, I will take care that it shall be done. The necessary expences, when informed of them, I can remit before they are wanting, to any port in France with which country alone we have safe correspondence.

I am Sir with much esteem your humble servt., T. J.[4]

ENCLOSURE

Number of the Killed, Wounded, and Captives of the British Army in the Course of the American War.

1775	KILLED	WOUNDED	PRISONERS
At Lexington & Concord	43	70	
Bunker's hill	746	1,150	

Ticonderoga, St. John, & Quebeck	81	110	340
1776			
on the Lakes by general Arnold	53	64	
at Fort Sulivan in South Carolina	197	260	
at the Cedars in Canada	40	70	
at Norfolk, & the great bridge in Virginia	129	175	40
in Long Island	840	1600	65
at Harlem & Hellgate near New York	136	157	49
at New York on Landing	57	100	
at Fort Washington near New York	900	1,500	
at Fort Lee	20	35	
at Trenton the 26 of Decber.	35	60	948
at Princeton in New Jersey	74	100	
1777			
in Boston road by Commodore Harding	52	90	750
in Sundry transports			390
at Danbury	260	350	
at Iron hill in Delaware State	59	80	20
at Brandwine in Pensylvania the 11th. Sepber.	800	1,176	
on Reading road by Genal. Maxwell	40	60	
at german Town near Philadelphia the 4th. Octber.	180	975	20
on Staten Island by Genal. Sulivan	94	150	278
at Bennington near the Lakes the 4th. Octber.	900	1,300	30
at Forts Montgomery & Clinton Hudsons River	580	700	
at Forts Mifflin & Red-Bank near Philada.	328	70	84
Genal. Burgoin's Army at Saratoga	2,100	1,126	5,752
Prisoners, & deserters before the Surrender			1,100
Total	8,844	11,528	9,866.
In all Wounded, Killed, and Prisoners,			30,238
Men already Lost to England			18,710

Dft (DLC); heavily corrected; the more important excisions are given in the textual notes. Tr (MiU-C) of the recipient's copy, which was evidently intercepted and is now missing; endorsed: "Copy of a private Letter from Williamsburgh in Virginia dated June 8-1778. Sent by the way of Spain, to a foreign gentleman abroad." Tr is incomplete, omitting more than half the text. It includes, however, the table of British losses which was enclosed by TJ and which is not found with the draft. That table is therefore printed here from the transcript.

YOUR LETTER OF SEP. 15 1776: TJ corrected the year, apparently from 1777 to 1776, for Tr reads 1776; see Fabbroni's letter of that date. On the cover of Fabbroni's letter TJ made memoranda for his reply. These read as follows:

"state of killed & [. . .]
alliance
lies in Engld. diversion
musician harpsichd. singer. organ.
band. viz

2 horns &c
<*clarinet*> &c
bassoon.

} Cab. makr. / Gardener. / Stone cutter / weaver / vigneron

wines. Vendée
Thermometer &c
a gardener. Ortolano
a stone-cutter. Scalpellino lavorante in piano.
a cabinet-maker. Stipettaio.
weaver. Tessitore di lino e lana."

Intercepted with TJ's letter was a letter from his friend Charles (Carlo) Bellini to Fabbroni; an undated translation of it is also in MiU-C. It provides an illuminating account of Bellini's life in Virginia: he describes himself as "Secretary to the State of Virginia for foreign affairs [he was actually a translator, see notes to Bill Establishing a Clerkship of Foreign Correspondence, 18 May 1778], and Professor of Modern Languages in this University [College of William and Mary]." The substance of his letter is repeated in one he afterward addressed to Mazzei, 12 Aug. 1778, printed in two Florentine journals later that year and reprinted in English by A. Pace, WMQ, 3d ser., IV (1947), 350–5.

1. Deleted in draft: "since the battle of Bunker's hill, which proved to us experimentally that the want of discipline might be supplied by native courage and a cordial tho' governable animation in the cause for which we are contending. Our enemies indeed obtained the feild on that day by superiority of numbers, but their loss was five times greater than ours."

2. Text of transcript of the intercepted letter (except for complimentary close and signature) ends at this point. The British high command was not interested in TJ's musical plans.

3. Deleted in draft: "as to write me a line, with advice what money may be necessary to remit, I will take care to do it for their transportation hither; I would remit it according to your advice to any port of France, with which country only we have safe correspondence. I shall always be glad to receive your letters and to do any friendly offices which you or your friends may require hence."

4. Supplied from transcript. Draft is unsigned.

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SOURCE PROJECT	Jefferson Papers
TITLE	From Thomas Jefferson to Giovanni Fabbroni, 8 June 1778
AUTHOR	Jefferson, Thomas
RECIPIENT	Fabbroni, Giovanni
DATE	8 June 1778
CITE AS	"From Thomas Jefferson to Giovanni Fabbroni, 8 June 1778," *Founders Online,* National Archives, accessed April 11, 2019, https://founders.archives.gov/documents/Jefferson/01-02-02-0066. [Original source: *The Papers of Thomas Jefferson*, vol. 2, *1777–18 June 1779*, ed. Julian P. Boyd. Princeton: Princeton University Press, 1950, pp. 195–198.]

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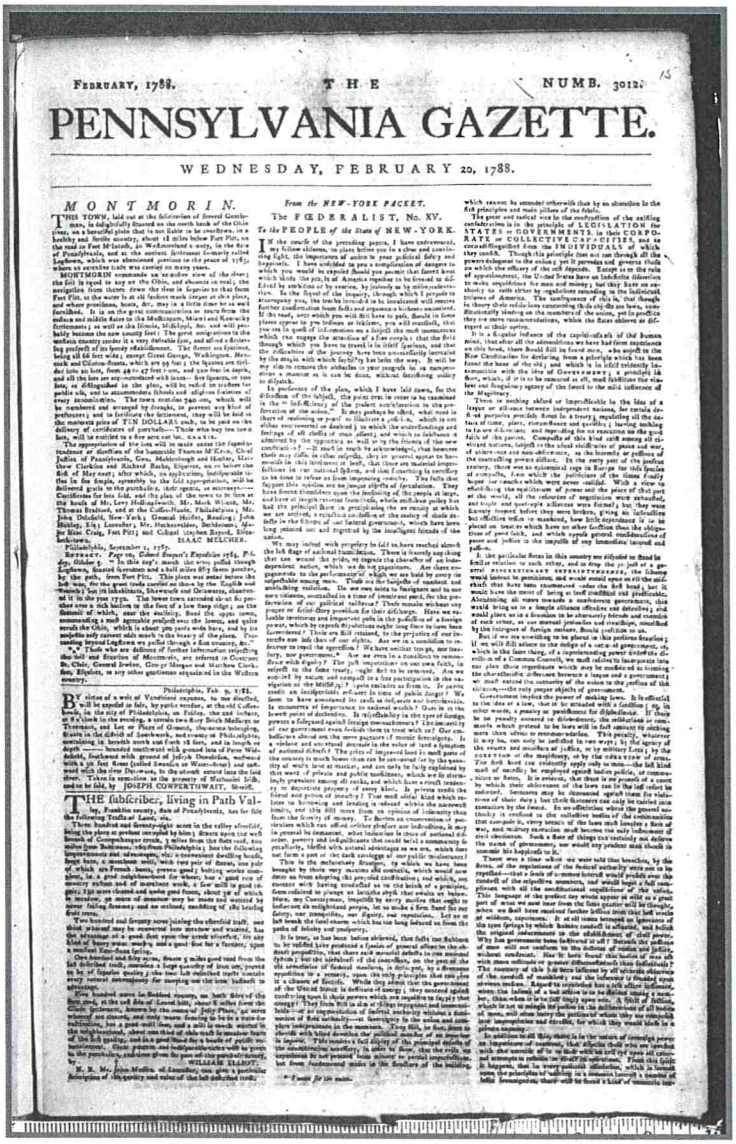
The Pennsylvania Gazette (Philadelphia, Pennsylvania) · Wed, Feb 20, 1788 · Page 1

Printed on Oct 4, 2019



FEBRUARY, 1788. THE NUMB. 3012.

PENNSYLVANIA GAZETTE.

WEDNESDAY, FEBRUARY 20, 1788.

MONTMORIN.

THIS TOWN, laid out at the folicitation of ſeveral Gentlemen, is delightfully ſituated on the north bank of the Ohio river, on a beautiful plain that is not liable to be overflown, in a healthy and fertile country, about 18 miles below Fort Pitt, on the road to Fort M'Intoſh, in Weſtmoreland county, in the ſtate of Pennſylvania, and at the ancient ſettlement formerly called Logſtown, which was abandoned previous to the peace of 1763, where an extenſive trade was carried on many years.

MONTMORIN commands an excellent view of the river; the ſoil is equal to any on the Ohio, and abounds in coal; the navigation from thence down the river is ſuperior to that from Fort Pitt, as the water is at all ſeaſons much deeper at this place, and whose providence, hereafter, may be a little time be as well furniſhed. It is on the great communication or route from the eaſtern and middle ſtates to the Miſſiſippi, Miami and Wabaſh ſettlements; as well as the Illinois, Miſſiſippi, &c. and will probably become the new country ſeat: The great conſiderations of the weſtern country render it a very favorable ſpot, and all will admit the proſpect of its ſpeedy eſtabliſhment. The ſtreets are ſpacious, being all 66 feet wide; except Great George, Waſhington, Market and Citation-ſtreets, which are 99 feet; the ſquares are oblong, and contain 400 by 272 feet; and 320 feet in depth; and all the lots are ſo contrived with trees—for ſpeedy, or 100 lots, as diſtinguiſhed in the plan, will be ſold at auction to public ſale, and to accommodate ſchools and religious ſocieties of every denomination. The town contains 340 lots, which will be numbered and arranged by draught, to prevent any bias of purchaſers; and to facilitate the ſettlement, they will be ſold on the moſt eaſy terms of FIVE DOLLARS each, to be paid on the delivery of certificates of purchaſe.—Thoſe who buy two town lots, will be entitled to a five acre out lot. EXACTLY.

The appropriation of the lots will be made under the ſuperintendance or direction of the honorable Thomas M'Kean, Chief Juſtice of Pennſylvania, Gen. Muhlenbergh and Hunter, Members Clarkſon and Richard Backe, Eſquires, are to have the firſt of May next; after which, no application, indiſpenſable to be for ſingle, agreeably to the laſt appropriation, will be delivered goods to the purchaſers, their agents, or attorneys.—Certificates for lots ſold, and the plan of the town to be ſeen at the houſe of Mr. Levy Hollingſworth, Mr. Mark Wilcox, Mr. Thomas Bradford, and at the Coffee-Houſe, Philadelphia; Mr. John Dickeſon, New-York; General Heiſter, Reading; John Hubley, Eſq; Lancaſter; Mr. Hockenbrider, Bethlehem; Major Rice Craig, Fort Pitt; and Colonel Stephen Bayard, Elizabethtown.

ISAAC MELCHER.

Philadelphia, September 1, 1787.

REMARK. *Page 19, Colonel Bouquet's Expedition 1764.* Friday, October 5. "In this day's march the army paſſed through Logſtown, ſituated ſo remote and a half miles fifty ſeven perches, by the path, from Fort Pitt. This place was eaſter before the laſt war, for the great trade carried on there by the Engliſh and Frenchi; but its inhabitants, Shawneeſe and Delawares, abandoned it in the year 1752. The beſt town ſurrounded the ſo do purchaſe over a rich bottom to the eaſt of a low ſteep ridge; on the ſummit of which, near the encloſure, ſtood the upper town, commanding a moſt agreeable proſpect over the lowers, and quite round the Ohio, which is about 300 yards wide here, and by its ſmoothe only current ſeen much to the beauty of the place. Two miles beyond Logſtown we paſſed through a fine country, &c."

*** Thoſe who are deſirous of further information reſpecting the ſoil and ſituation of Montmorin, are referred to Governor St. Clair, General Irwine, Gen. of Morgan and Matthew Clarkſon, Eſquires, or any other gentleman acquainted in the Weſtern country.

Philadelphia, Feb. 9, 1788.

BY virtue of a writ of Venditioni exponas, to me directed, will be expoſed to ſale, by public vendue, at the old Coffee-houſe, in the city of Philadelphia, on Friday, the 22d inſtant, at 6 o'Clock in the morning, a certain two-ſtory Brick Meſſuage or Tenement, and Lot or Place of Ground, thereunto belonging, ſituate in the Ward of Lancaſter, and county of Philadelphia, containing in breadth north and ſouth 18 feet, and in length or depth —— bounded eaſtward with ground late of Peter Wadeſell, ſouthward with ground of Jacob Donaldſon, weſtward with a 30 feet Road (called Franklin or Water-ſtreet) and northward with the ſame Dimenſions, to the aforeſaid extent into the ſaid river. Taken in execution at the property of Nathaniel Irish, and to be ſold, by JOSEPH CUWPERTHWAIT, Sheriff.

THE ſubſcriber, living in Path Valley, Franklin county, ſtate of Pennſylvania, has for ſale the following Tracts of Land, viz.

Three hundred and ſeventy-eight acres in the valley aforeſaid, being the place at preſent occupied by him; ſituate on each ſide a branch of Conocheaque creek, 3 miles from the ſtate road, 100 miles from Philadelphia, 180 from Philadelphia; and has the following improvements and advantages, viz. a convenient dwelling houſe, large barn, a ſpringhouſe, with two pair of ſtones, one pair of which are French burrs, ſaws, ſaw-gig; bolting works complete, in a good neighborhood for wheat, has a good run of ſummer ſeaſon and of merchant work, a few mill is good repair; 150 acres cleared and under good fence, about 50 of which is meadow, 30 more of meadow may be made and watered by never failing ſtreams; and an orchard, conſiſting of the bearing fruit trees.

Two hundred and ſeventy acres joining the aforeſaid tract, one third cleared; may be conveyed into meadow and watered, has the advantage of a good ſtate upon the creek aforeſaid, for any kind of heavy mer- chandiſe, and a good ſhad fiſhery, and a ſmall Saw-mill ſpring.

One hundred and forty acres, ſtream 5 miles good road from the laſt deſcribed tract, contains a large quantity of iron ore, yielded to be of ſuperior quality; the two laſt deſcribed tracts contain every natural neceſſary for carrying on the iron buſineſs to advantage.

Five hundred acres in Bedford county, on both ſides of the Juniata, at the mouth of Laurel hill, about 8 miles from Chair Settlement, known by the name of Judy Place, 40 acres whereof are cleared, and very warm ſeaſoning to be in a tenantable condition, has a good mill ſeat, and a mill is much wanted in the neighborhood, about one-third of which muſt be meadow lands of the firſt quality, and has a good ſtone for a houſe of public uſe. Other tracts and ſeveral particulars which will be given to the purchaſer, may be known on the ſpot of the premiſes, or by

WILLIAM ELLIOT.

N. B. Mr. John Moſſer, of Lancaſter, can give a particular deſcription of the quality and value of the laſt deſcribed tract.

From the NEW-YORK PACKET.

The FŒDERALIST, No. XV.

To the PEOPLE of the State of NEW-YORK.

IN the cauſe of the preceding papers, I have endeavored, my fellow citizens, to place before you in a clear and convincing light, the importance of union to your political ſafety and happineſs. I have endeavored to purſue a diſcuſſion of dangers to which you would be expoſed ſhould you reject the ſalutary bond which binds the people of America together; and to be forced or deluded by ambition or by traſon, by jealouſy or by miſtaken principles. In the proſecution of the inquiry, through which I purpoſe to accompany you, the truths intended to be inculcated will receive further confirmation from facts and arguments hitherto unnoticed. If the tract, over which you will firſt have to paſs, ſhould in ſome places appear to you tedious or intricate, you will manifeſt, that you are in queſt of information on a ſubject the moſt momentous which can engage the attention of a free people; that the firſt through which you have to travel is in itſelf ſpacious, and that the difficulties of the journey have been unneceſſarily increaſed by the manner with which the firſt guides have led the way. It will be my aim to remove the obſtacles in your progreſs in as compendious a manner as is conſiſtent with the nature of the ſubject, and to diſpoſe the moſt barren and diſagreeable parts of the way, by ſtrewing flowers and plentifully ſcattering among them the uſeful truths which they conceal. But, in truth, the taſk which I have aſſumed in your behalf, is of ſo plain a nature, that it will be eaſily executed; and the only merit which can belong to the performance conſiſts in the diligence and fidelity with which it is diſcharged. Thoſe who have accuſtomed themſelves to conſider the ſubject in all its parts, muſt be deſtitute of both, if they ſtand in need of either.

In purſuance of the plan, which I have laid down, for the diſcuſſion of the ſubject, the point next to come to be examined is the "inſufficiency of the preſent confederation to the preſervation of the union." It may perhaps be aſked, what need is there of reaſoning or proof to illuſtrate a poſition, which is not either controverted or doubted; to which the conſtitutions and ſentiments of all claſſes of men aſſent; and which is confeſſed or lamented by the opponents as well as by the friends of the new conſtitution?—It muſt in truth be acknowledged, that however theſe may differ in other reſpects, they are generally agreed in the neceſſity of ſome alteration in our preſent ſyſtem, and that there are material imperfections in our national ſyſtem, and that ſomething is neceſſary to be done to refore us from impending anarchy. The facts that ſupport this concluſion are too ſimple and too notorious to admit of controverſy. They conſiſt of the diſorders in the different ſtates, the want of concert in meaſures of general utility, the contempt of our laws and authority, and the inſignificancy of our meaſures and meaſures in the eyes of foreign nations.

We may indeed with propriety be ſaid to have reached almoſt the laſt ſtage of national humiliation. There is ſcarcely any thing that can wound the pride, or ſtimulate the reſentment of an independent nation, which we do not experience. Are there engagements to the performance of which we are held by every conſideration of honor and duty? We have recently ſeen theſe diſregarded, and trampled upon with impunity. Thoſe are the ſubjects of complaint and diſcuſſion among ſeveral of the ſtates, and the moſt ſerious conſequences are threatened by ſome. Have we valuable poſſeſſions and important rights in the poſſeſſion of a foreign power, which by repeated ſtipulations ought long ſince to have been ſurrendered? Theſe are ſtill retained, to the prejudice of our intereſts not leſs than of our rights. Are we in a condition to enforce or to repel the aggreſſion? We have neither troops, nor treaſury, nor government.* Are we even in a condition to remain long with dignity? The moſt imperfect one can ſcarcely be obtained in the ſame treaſury, ought not to be remained. Are we conſtrained by neceſſity and compelled into a ſpeedy participation in the meaſures of the MOMENT? I paſs over inſtances of inferior moment. I paſs over the inſufficiency of the reſources for diſcharging the debts of the United States, and for ſatisfying the preſſing demands of the army. I paſs over the conſideration, that the reſources for diſcharging the intereſt upon

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The Pennsylvania Gazette (Philadelphia, Pennsylvania) · Wed, Feb 20, 1788 · Page 2

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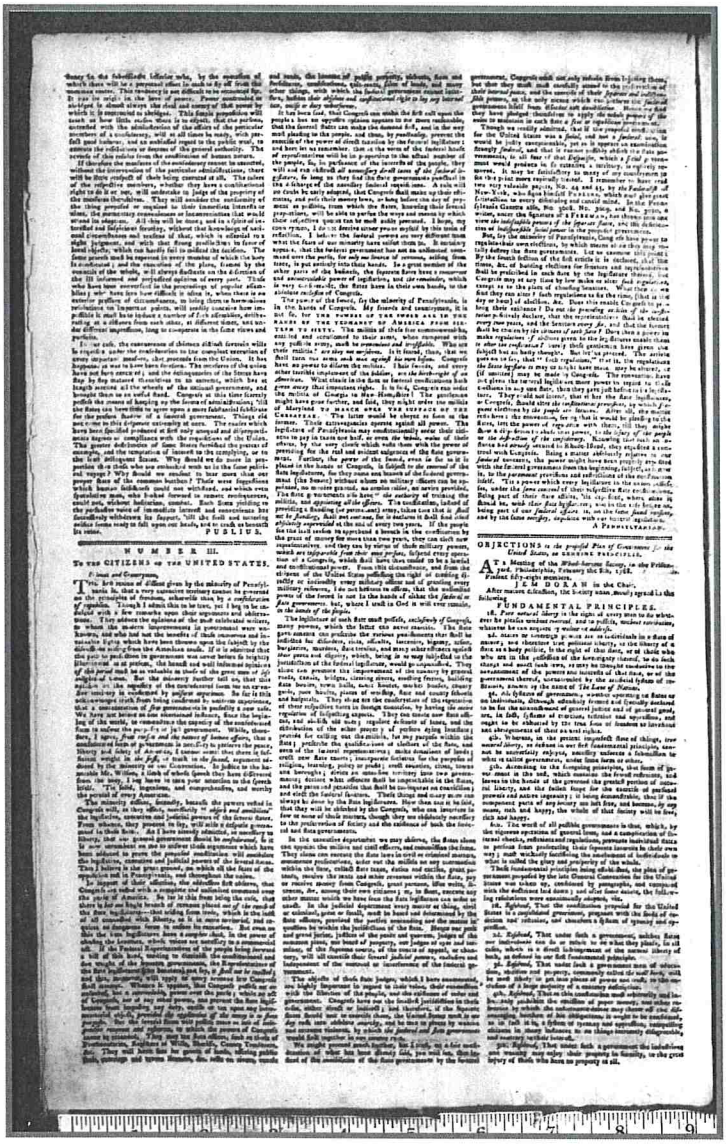

theory to the fallacious idea, that the operation of which there will be a perpetual effort to check or fly off from the common centre. This tendency is not difficult to be restrained by the state governments, whether they have a constitutional right to do it or not, will undertake to judge of the propriety of the measures themselves. They will consider the uniformity of the thing prejudicial or repugnant to their immediate interests or views, the pernicious consequences or inconvenience that would ensue to subjects, &c. All this will be done, and in a spirit of unfriendliness and suspicious scrutiny, without that knowledge of surrounding circumstances and motives of that, which is essential to a right judgment, and with that strong predilection in favour of local objects, which can hardly fail to mislead its decisions. The former grounds must be supposed in every member of which the body is constituted; and the execution of the plans, framed by the councils of the whole, will always dashcute on the discretion of the ill informed and prejudiced opinion of every part. Those who have been accustomed to the proceedings of popular assemblies; who have been frequently misled in either, in cases in no extensive populous and complicated system, will readily conceive how impossible it must be to induce a number of such assemblies, scattered at a distance from each other, at different times, and under different impressions, long to cooperate in the same views and pursuits.

In the case of the contemporary of the United States will be required to act under the restrictions to the complete execution of every important power, that proceeds from the Union. It has happened, as was to have been foreseen. The members of the union have not been exempt, and the delinquencies of the States have step by step matured themselves to an extreme, which has at length arrested all the wheels of the national government, and brought them to an awful stand. Congress at this time scarcely publish the enemy of keeping up the forms of administration, till the States can have time to agree upon a more substantial foundation for the perfect fabric of a federal government. Things did not come to this disagreeable extremity at once. The causes which have been specified produced at first only unequal and disagreeable compliances with the requisitions of the Union. The greater deficiencies of some States furnished the pretext of examples, and the temptation of interest to the complying, or to the less delinquent States. Why should we do more to sacrifice ourselves to others, who are embarked with us in the same political voyage? Why should we conduct to bear more than our proper share of the common burthen? These were suggestions which honest feelings could not withstand, and which even specious men, who looked forward to consequences, could not, without hesitation, combat. Each State yielding to the particular voice of immediate interest and convenience has successively withdrawn its support, till the frail and tottering edifice seems ready to fall upon our heads, and to crush us beneath its ruins.

PUBLIUS.

NUMBER III.

TO THE CITIZENS OF THE UNITED STATES.

Friends and Countrymen,

THE last reason of dissent given by the minority of Pennsylvania is, that a very extensive territory cannot be governed on the principles of freedom, otherwise than by a *confederation of republics*. Though I admit this to be true, yet I beg it to be indulged with a few remarks upon their arguments and objections. They address the opinions of the most celebrated writers, to whom the ancient governments in government were unknown, and who had not the benefits of those numerous and luminative lights which have been thrown upon the subject by the discoveries made from the American mode. If it is admitted that the part to pass down in government was never before in brightly illustrated as at present, the honest and well informed opinion of *this period* must be as valuable as that of the great men of *ages* gone by. But the minority further tell us, that their objection to the capacity of the contemplated form to an extensive country is confirmed by *modern experience*. So far is this acknowledged truth from being confirmed by modern experience, that a contradiction of *four governments* is a perfectly a new case. We have not known an one contained instance, since the beginning of the world, to contradict the capacity of the confederated form to endure the purposes of [illegible] government. While, therefore, I agree, *that republics* and the *names of human affairs*, that a confederation of them as a government is not fitted to preserve the peace, liberty and safety of its citizens, I cannot admit that there is sufficient weight in the *fact*, or truth in the *fact*, supposed to be denied by the minority in our Convention. In justice to the honourable Mr. Wilson, I think of which speech they have different from the way, I beg leave to take your attention to a few words briefly. The local, ingenious, and comprehensive, and merely the pursuit of every American.

The minority differ, formally, beneath the powers vested in Congress with, in their affairs, manifestly to *subject and annihilate* the legislative, executive and judicial powers of the former States. From whence, they presume to say, will arise a republic government under this form. As I have already observed, as necessary to liberty, that our general government should be *confederated*, it is now somewhere on me to subvert those arguments which have been adduced to prove the proposed constitution will annihilate the legislative, executive and judicial powers of the several States. They I believe is the great ground, on which all the fears of the opposition rest in Pennsylvania, and throughout the union.

In support of their allegation, the minority first observe, that Congress are vested with a complete and unlimited command over the purse of America. So far is this from being the case, that there is by our ample branch of revenue placed out of the reach of the first legislature—that arising from taxes, which is the ineffectual consolidated with liberty, as it is more universal, and requires an acquiescence from it unless by execution. But even as this the two legislatures have a complete check, in the power of abusing the Governor, which cannot be satisfied in a commercial sense. If the Federal Representatives of the people [illegible] a bill of this kind, tending to diminish the constitutional and just rights of the several States, the Representatives of the first legislature [illegible] by, if *shall not be* ratified. Which is equally true of every revenue law Congress shall propose. Whether it happens, that Congress publish an unlimited, but a reasonable, power over the purse; which an act of Congress, or any other, no person has been authorized to [illegible] any duty, article or an upon any [illegible] *specific purpose*. For the several States will publish more as acts of [illegible] for the several States will publish more as acts of [illegible] *general* purposes, to which the powers of legislation are to be committed. They may tax their citizens, such as duties of importation, Excises of Wills, Stamps, Carriage Taxes, &c. They will have the fee powers of lands, taking public land, patronage and towns Estates, &c. with an almost [illegible] and trade, the income of people property, schools, fees and forfeitures, considerations, sale-rents, fines of lands, and many other things, with which the federal government cannot interfere, [illegible] *their objection and unphilosophical right to lay any internal tax, single or duty whatsoever.*

It has been said, that Congress can strike the first call upon the people's but no appellate opinion appears to me more reasonable, that the federal States can make the demand first, and in the way most pleasing to the people, and times, by *gradually*, prevent the exercise of the power of direct taxation by the federal legislature; and here let me remember, that as the wants of the federal heads of expenditures will be in proportion to the actual number of the people, by the purchase of the interests of the people, they will and can withdraw all *exemplary direct taxes of the federal legislature*, for long as they find the first governments powerful in the discharge of the secondary federal requisitions. A rule will no doubt be early adopted, that Congress shall make up their obligations, and only their money loses, or long before the day of payment as problem, from which the States, knowing their financial proportions, will be able to purchase the ways and means by which their respective quotas can be most easily procured. I hope, my countrymen, I do not deceive myself in the train of reflection. I believe the federal powers are very different from what the form of our minority have called them to. It evidently appears, that the federal government has not an unlimited command over the purse, for only no source of revenue, arising from taxes, is put entirely into their hands. In a great number of the other parts of the handbook, the supreme States have a concurrent and *concomitant* power of legislation, and the remainder, which is very little indeed, the States have in their own hands, to the *exclusive* exclusion of Congress.

The *speech* of the honest, for the minority of Pennsylvania, is in the house of Congress. My friends and countrymen, it is not so, for THE POWER OF THE SWORD ARE TO THE HANDS OF THE TEMPERATE OF AMERICA FROM SECTION TO SECTION. The militia of their free commonwealths, united and constituted to their arms, when composed with any public arms, much be *permanent and irreffable*. When the militia are *duly* organized. Is it feared, then, that we shall turn our arms and *not against* our own fellow. Congress have no power to disarm the militia. Their hands, and every other terrible implement of the soldier, are the *birth-right of an American*. What stands in the form or limited confederation both grant every that imagination right. Is it to be, Congress can raise the militia of Georgia to Nova-Scotia, Have? The gentleman might have gone further, and said, they might order the militia of Maryland TO MARCH OVER THE SUPPOSE OF THE CHEROKEES. The latter would be absurd to form as the former. Their extravagancies operate against all power. The legislature of Pennsylvania may unanimously order their citizens to pay in taxes not half, or even the whole, value of their effects, by the very cloth which rubs them with the power of pressing for the raid and evident subjection of the free governments. Further, the power of the sword, given by us to it is placed in the hands of Congress, is subject to the *control* of the State legislatures, for they cannot any interest of the federal government (the former) without whom no military officers can be appointed, no money granted, no armies raised, no navies provided. The first is a restriction to the *authority* of training the militia, and *appointing all the officers*. The qualification, instead of providing a founding (or power and) arms, takes care that it *shall not be founding*, shall not *exercise*, for it declares it shall and *ought effectually represented* at the end of every two years. If the people for the last section to apprehend a breach in the confederation by the grant of money for more than two years, they can elect new representatives, and they can by virtue of their military power, which are *impossible from their own perfect*, frustrate every operation of a Congress, which shall have then ended to be a lawful and constitutional power. From this circumstance, and from the circumstance of the United States possessing the right of nominating officers, and of the *exclusive* power of legislation over the federal district

is very considerable, the ſtates have in their own hands, to the abſolute *excluſion* of Congreſs.

The power of the ſword, ſay the minority of Pennſylvania, is in the hands of Congreſs. My friends and countrymen, it is not ſo, for THE POWERS OF THE SWORD ARE IN THE HANDS OF THE YEOMANRY OF AMERICA FROM SIXTEEN TO SIXTY. The militia of theſe free commonwealths, entitled and accuſtomed to their arms, when compared with any poſſible army, muſt be *tremendous and irreſiſtable*. Who are theſe militia? *are they not ourſelves*. Is it feared, then, that we ſhall turn our arms *each man againſt his own boſom*. Congreſs have no power to diſarm the militia. Their ſwords, and every other terrible implement of the ſoldier, are *the birth-right of an American*. What clauſe in the ſtate or fœderal conſtitutions hath *given away* that important right. It is ſaid, Congreſs can order the militia of Georgia to New-Hampſhire! The gentlemen might have gone further, and ſaid, they might order the militia of Maryland TO MARCH OVER THE SURFACE OF THE CHESAPEAK. The latter would be obeyed as ſoon as the former. Theſe extravagancies operate againſt all power. The legiſlature of Pennſylvania may conſtitutionally order their citizens to pay in taxes one half, or even *the whole, value* of their eſtates, by the very clauſe which veſts them with the power of providing for the real and evident exigences of the ſtate government. Further, the power of the ſword, even ſo far as it is placed in the hands of Congreſs, is ſubject to *the controul* of the ſtate legiſlatures, for they name one branch of the fœderal government (the Senate) without whom no military officers can be appointed, no monies granted, no armies raiſed, no navies provided. The ſtate governments alſo have "*the authority* of training the militia, and *appointing all the officers*. The conſtitution, inſtead of providing a ſtanding (or permanent) army, takes care that *it ſhall not be ſtanding*, ſhall not *continue*, for it declares it ſhall find itſelf *abſolutely unprovided* at the end of every two years. If the people ſee the leaſt reaſon to apprehend a breach in the conſtitution by the grant of money for more than two years, they can elect new

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The Posse Comitatus And The Office Of Sheriff: Armed Citizens Summoned To The Aid Of Law Enforcement

David B. Kopel

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THE *POSSE COMITATUS* AND THE OFFICE OF SHERIFF: ARMED CITIZENS SUMMONED TO THE AID OF LAW ENFORCEMENT

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Posse comitatus *is the legal power of sheriffs and other officials to summon armed citizens to aid in keeping the peace. The* posse comitatus *can be traced back at least as far as the reign of Alfred the Great in ninth-century England. The institution thrives today in the United States; a study of Colorado finds many county sheriffs have active posses. Like the law of the* posse comitatus*, the law of the office of sheriff has been remarkably stable for over a millennium. This Article presents the history and law of the* posse comitatus *and the office of sheriff from their earliest days to the present. This Article also describes how the past and present of the* posse comitatus *can be used in interpretation of the Second Amendment.*

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INTRODUCTION

Most people know that in the American frontier West, sheriffs sometimes summoned "the posse" to assist in keeping the peace. The sheriff's *posse comitatus* authority to call forth armed citizens to aid law enforcement is deeply rooted in the Anglo-American legal system, originating no later than the ninth century. The *posse comitatus* power thrives in the twenty-first century United States. Sheriffs today use their *posse comitatus* power frequently, sometimes daily. This Article describes the historical roots, the modern uses, and the Second Amendment implications of *posse comitatus*.

The *posse comitatus* power does not belong exclusively to sheriffs, but the power was originally created for them, and they remain its most frequent users. Accordingly, Part I of this Article describes the origins and history of the office of sheriff. This Part explains how the nature of the Anglo-Saxon office provided the foundation for the American sheriff's role as a constitutional officer who is elected directly by the people and enjoys great independence in the performance of his duties. While police chiefs are appointed to their place within (and not at the top of) the chain of command of a city government, sheriffs are autonomous.

Part II explicates the law and history of the *posse comitatus* from Anglo-Saxon times to the present. The *posse comitatus* law of the twenty-first century United States is essentially the same as the *posse comitatus* law of England during the ninth century. The sheriff in carrying out his peacekeeping duty may summon to his aid the able-bodied adults of the

county. He has complete discretion about whom to summon and how the persons summoned shall be armed.

Part III provides a case study of the *posse comitatus* in modern Colorado. Posses play numerous roles in Colorado. They have thwarted the escapes of criminals, including serial killer Ted Bundy. They also function as a citizen volunteer corps on a regular, structured basis; they assist sheriffs during county fairs, weather emergencies, and hostage situations, among many other duties. The most highly trained posse in Colorado is the Colorado Mounted Rangers, which provides armed assistance to many sheriffs' offices and police departments as needed.

Finally, Part IV considers the relationship between the *posse comitatus* and the Second Amendment. The Second Amendment aims to foster a "well-regulated militia," and, in furtherance of this purpose, the right of the people to keep and bear arms is safeguarded. The *posse comitatus* and the militia are not identical, but they overlap and are intertwined to such a degree that the disarmament of one would inevitably destroy the other. The Second Amendment's protection of the arms rights of citizens has the necessary effect of ensuring that there can be an effective *posse comitatus*. Accordingly, sheriffs and other officials who have the authority to summon the *posse comitatus* are intended third-party beneficiaries of the individual right to keep and bear arms. Sheriffs thus have proper third party standing to defend and advocate for the Second Amendment rights of citizens in their jurisdictions.

Following this Article, a lengthy Appendix summarizes state statutes related to the *posse comitatus*; almost all states continue the longstanding legal tradition that armed citizens may be summoned to aid of law enforcement.

The founding father of the *posse comitatus* was the first true King of England: Alfred the Great, who ruled from A.D. 871–899. One reason he is the only English king called "the Great" is that he recognized that he could not fulfill his own duties solely through his own appointees. To keep "the King's peace," the government needed the active participation of the people. Routine suppression of violent crime and emergency community defense against riots, insurrections, and invasions all require that the armed people actively defend the authority of the government. This is a moral point of the Second Amendment and of its counterparts in state constitutions. This is the "active liberty" extolled by Justice Breyer.[1]

[1] STEPHEN BREYER, ACTIVE LIBERTY (2005) (defining "active liberty" to mean citizen participation in collective governance, as opposed to the "negative liberty" of an individual not being restrained by government).

Armed citizens, under the guidance of the leaders chosen by the citizens, can embody and effectuate law and order.

I. THE CONSTITUTIONAL OFFICE OF SHERIFF

This Part explains the history of the office of sheriff, from its Anglo-Saxon origins through its present role in the United States. Section A explores why the Anglo-Saxon model was so revered by the American Founders. Section B then describes the origins and features of the office of sheriff in Anglo-Saxon England. Section C shows the continuity and changes in the office in the three centuries following the Norman Conquest of 1066. The most important development was the demise of the custom of electing sheriffs. Section D describes the long, slow decline of the office of sheriff in England from the seventeenth century to the present. Finally, Section E shows how the office of sheriff has thrived in America, from colonial days to the present. On both sides of the Atlantic, the sheriff was legally autonomous, but in America, the practical autonomy, responsibility, influence, and power of the sheriff were much greater. In addition, the custom of electing sheriffs was restored in America after centuries of disuse. Popular elections became an explicit requirement of most state constitutions.

A. ANGLO-SAXON LIBERTIES

To the American Founders, England before the Norman Conquest of 1066 was a land of liberty.[2] The American Revolution began because of violations of "the rights of Englishmen" (including the right to bear arms) as those rights existed in the late eighteenth century.[3] However, as with many revolutions, the ambitions for reform grew as the war continued.[4]

The importance of the people's right to bear arms was clear from the start of the Revolution. The war began on April 19, 1775, when Americans used their firearms to fight British soldiers who confiscated firearms and

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[2] *See, e.g.*, Letter from John Adams to Abigail Adams (Aug. 14, 1776), *in* 2 ADAMS FAMILY CORRESPONDENCE 96 (L.H. Butterfield ed., 1963); MERRILL D. PETERSON, THOMAS JEFFERSON AND THE NEW NATION 57 (1970).

[3] David B. Kopel, *How the British Gun Control Program Precipitated the American Revolution*, 6 CHARLESTON L. REV. 283, 291–92 (2012); William F. Swindler, *"Rights of Englishmen" Since 1776: Some Anglo-American Notes*, 124 U. PA. L. REV. 1083, 1089–91 (1976).

[4] GORDON S. WOOD, THE RADICALISM OF THE AMERICAN REVOLUTION (1992) (while the Revolution began because of specific grievances related to the British government's violations of the traditional rights of Englishmen, its length and ultimate success led many Americans to aim to create a new political system, rather than simply an improved version of the British one).

gunpowder by conducting house-to-house searches in Lexington and Concord.[5] The Americans chased and harried the Redcoats back to Boston, besieged them there, and fought several battles.[6] On March 17, 1776, the British departed Boston by ship.[7]

The revolutionaries valued Anglo-Saxon traditions. After the Declaration of Independence was announced, the Continental Congress had to decide on the public symbols of the new nation, so on July 6, 1776, a committee discussed the design of the Great Seal of the United States. Thomas Jefferson urged that the reverse of the seal depict "Hengist and Horsa, the Saxon Chiefs, from whom We claim the Honour of being descended and whose Political Principles and Form of Government We have assumed."[8] Hengist and Horsa were the first Anglo-Saxon rulers in England, from the fifth century A.D.[9]

The American Revolutionaries and their European intellectual ancestors believed that societies of liberty had existed in ancient times, and that one purpose of political activity was to recover that lost liberty—especially to ensure that the government ruled under The Law, and not above it.[10]

The eighteenth century Americans who (like many Englishmen of the time) viewed Anglo-Saxon England as a historical model of freedom were part of a longstanding tradition of idealizing the ancient free Germanic tribes, who seemed so different from the despotic Roman Empire and the European governments of the second millennium A.D. The idealization of Germanic liberty can be traced back as far as the first-century Roman historian Tacitus. He extolled the liberties and democracy of the German

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[5] Kopel, *supra* note 3, at 291–92.

[6] *Id.* at 309–10.

[7] NATHANIEL PHILBRICK, BUNKER HILL: A CITY, A SIEGE, A REVOLUTION 285 (2013).

[8] Letter from John Adams to Abigail Adams, *supra* note 2, at 96.

[9] It is not clear whether Hengist and Horsa were historical figures, or legendary. Allegedly, they were brothers who founded the Anglo-Saxon kingdom of Kent, the first such kingdom in England. *See* BEDE, 1 ECCLESIASTICAL HISTORY OF THE ENGLISH PEOPLE ch. 15 (circa 731); GEOFFREY OF MONMOUTH, THE HISTORY OF THE KINGS OF BRITAIN 155−66, 186−93 (Lewis Thorpe trans., Penguin 1966) (c. 1136).

[10] For example, in 1644, the Scottish Presbyterian Samuel Rutherford published *Lex, Rex, or the Law and the Prince*. The point of the title was that the law precedes the king, and so the monarch is bound to obey the law. The great Anglo-American ideal of "the rule of law" embodies Rutherford's principle. The law, not the individual who heads the government, is the supreme ruler. Further, the true source of law is not the King's will, but God's will. Accordingly, king-made "law" which is inconsistent with God's law of natural justice and goodness is merely a pretended law, not true law. SAMUEL RUTHERFORD, LEX, REX, OR THE LAW AND THE PRINCE 113–19, 125–39 (Sprinkle Pubs., 1982) (1644) (consisting of Questions XXIV, XXVI, and XXVII).

tribes, whom the Romans attempted to conquer but failed.[11] These German tribes later became the ancestors of the English (the Anglo-Saxons) and, to at least some degree, of the French.[12] The French author François Hotman's *Francogallia* lauded the ancient liberties of the era of Charlemagne (ruled A.D. 768–814), implicitly contrasting France's ancient, primitive freedom with the contemporary centralized despotism of the Bourbon kings.[13] In the Anglosphere, and especially in America, many believed that the liberties of the Anglo-Saxons had been destroyed by the Norman Conquest in 1066.[14]

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[11] TACITUS, DE ORIGINE ET SITU GERMANORUM §§ 11–12 (c. A.D. 98). The book is commonly known as *Germania*. *See* CHRISTOPHER B. KREBS, A MOST DANGEROUS BOOK: TACITUS'S *GERMANIA* FROM THE ROMAN EMPIRE TO THE THIRD REICH 17 (2011). It was published during the reign of Trajan, one of the "five good emperors." Trajan regarded himself as bound by the law, not above it. *See* Robert G. Natelson, *The Government as Fiduciary: A Practical Demonstration from the Reign of Trajan*, 35 U. RICH. L. REV. 191, 211 (2001).

Germania was lost during the Dark Ages and rediscovered in 1425. KREBS, *supra*, at 56. It remained influential for centuries afterward. For example, English opponents of the absolutist Stuart monarchs in the seventeenth century relied on Tacitus as part of their account of ancient Anglo-Saxon liberty. Ralph E. Giesey & J.H.M. Salmon, *Introduction* to FRANÇOIS HOTMAN, FRANCOGALLIA 120–21 (Ralph E. Giesey & J.H.M. Salmon eds., Cambridge Univ. Press, 2010) (1586). Montesquieu's 1748 *The Spirit of Laws* attributed the admirable features of the English system of government (such as a limited rather than absolute monarchy and an independent legislature) to the ancient Germanic liberty, as described by Tacitus. KREBS, *supra*, at 157–62.

[12] WILLIAM STUBBS, SELECT CHARTERS AND OTHER ILLUSTRATIONS OF ENGLISH CONSTITUTIONAL HISTORY 1–7 (H.W.C. Davis ed., 9th ed. 1913); KREBS, *supra* note 11, at 158–59.

[13] HOTMAN, *supra* note 11. The English radical Whig Algernon Sidney adopted and cited Hotman's argument. ALGERNON SIDNEY, DISCOURSES CONCERNING GOVERNMENT 237 (London, Booksellers of London and Westminster 1698). (Sidney was revered by the American founders; his *Discourses* synthesized and advanced a vast sweep of prior Western authors, from the Bible to his own time, which supported the legitimacy of armed resistance to tyranny); Giesey & Salmon, *supra* note 11, at 121–22. Thomas Jefferson credited Sidney as one of four key intellectual sources for the Declaration of Independence. Letter from Thomas Jefferson to Henry Lee (May 8, 1825), *in* THOMAS JEFFERSON, WRITINGS 1500, 1500–01 (Merrill D. Peterson ed., 1984).

The first English translations of *Francogallia* were published in the eighteenth century, with an introduction in which the prominent and influential Whig Robert Molesworth traced contemporary Whig principles to the ancient Franks and Saxons. Giesey & Salmon, *supra* note 11, at 123–25. A 1775 reprint was published and read by Englishmen who were sympathetic to the armed resistance of the Americans. Justin Champion, *Introduction* to ROBERT MOLESWORTH, AN ACCOUNT OF DENMARK, at ix, xxxii–xxxiii (Justin Champion ed., 2011).

[14] *See, e.g.*, DAVID HUME, 1 HISTORY OF ENGLAND 160–85, 194–98, 208, 226–27 (Liberty Fund 1983) (1778); *id.* at 226–27 ("[I]t would be difficult to find in all history a revolution more destructive, or attended with a more complete subjection of the antient inhabitants."); *id.* at 437 (the majority of Anglo-Saxons were reduced "to a state of real

The ideal of ancient Anglo-Saxon England became a powerful influence upon the new American nation, which was striving to create what Jefferson called "an Empire of liberty."[15]

The American view of Anglo-Saxon England as a land of liberty has influenced American law; the view is one of the sources of the Confrontation Clause in the Bill of Rights.[16] Anglo-Saxon history would also help to shape the office of sheriff in the United States. To Jefferson, "the office of sheriff" was "the most important of all the executive officers of the county."[17] As the United States in the nineteenth century grew from a thinly populated nation on the Atlantic seaboard into a nation stretching from ocean to ocean, there was a nearly constant process of forming new territories and states, both of them composed of counties. In creating the "most important" of all the county offices, the American people modeled the office on the best features of the Anglo-Saxon office of sheriff. The Americans also included what they considered to be improvements that had taken place in the centuries after the Norman Conquest.[18] As one historian would observe in 1930, "in America today . . . the sheriff retains many of his Anglo-Saxon and Norman characteristics."[19] The same is true today: the fundamental structure of the American office of sheriff is as it was in the nineteenth century and is similar in many ways to its structure in the ninth century.

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slavery"); FORREST MCDONALD, NOVUS ORDO SECLORUM: THE INTELLECTUAL ORIGINS OF THE CONSTITUTION 76–77 (1985) (noting influence of "the Norman yoke" in American Revolution ideology); CHARLES WRIGHT & KENNETH W. GRAHAM, JR., FEDERAL PRACTICE AND PROCEDURE § 6342, at n. 80–107 (summarizing the common view of Americans and of English Whigs about the imposition of "the Norman yoke" in 1066).

[15] *See* Letter from Thomas Jefferson to George Rogers Clark (Dec. 25, 1780), in 4 THE PAPERS OF THOMAS JEFFERSON 237, 237–38 (Julian P. Boyd ed., 1951) ("[W]e shall form to the American union a barrier against the dangerous extension of the British Province of Canada and add to the Empire of liberty an extensive and fertile Country thereby converting dangerous Enemies into valuable friends."); Letter from Thomas Jefferson to James Madison (Apr. 27, 1809), *in* 1 THE PAPERS OF THOMAS JEFFERSON: RETIREMENT SERIES 168, 169 (J. Jefferson Looney ed., 2004) ("[W]e should have such an empire for liberty as she has never surveyed since the creation: & I am persuaded no constitution was ever before so well calculated as ours for extensive empire & self government.").

[16] WRIGHT & GRAHAM, *supra* note 14, § 6342.

[17] Letter from Thomas Jefferson to Samuel Kercheval (July 12, 1816), *in* 12 THE WORKS OF THOMAS JEFFERSON 3, 6 (Paul Leicester Ford ed., 1905).

[18] *See infra* text accompanying notes 60–146.

[19] CYRUS HARRELD KARRAKER, THE SEVENTEENTH-CENTURY SHERIFF: A COMPARATIVE STUDY OF THE SHERIFF IN ENGLAND AND IN THE CHESAPEAKE COLONIES, 1607−1689, at 159 (1930).

B. THE ANGLO-SAXON SHERIFF

This Section describes the origins and early characteristics of the office of sheriff. The formalization of that office into what is essentially the same office in modern America was one consequence of King Alfred the Great's victories against Danish invaders. Therefore, this Section proceeds chronologically from ancient times until 1066, describing developments in the office of sheriff in the context of contemporary political events.

After Roman rule receded from England, Germanic tribes—specifically, the Angles and the Saxons[20]—repeatedly invaded Britain. The tribes settled in England, which became a heptarchy (seven distinct kingdoms).[21] The Anglo-Saxons needed an official who would directly enforce the king's laws and look out for the king's interests. Thus was born "the king's reeve"—a man of the shire directly appointed by the king, whose duty was to carry out the king's commands.[22]

In the English system of government, the second oldest title of office is "sheriff."[23] The Anglo-Saxon word for what we today call a "county" was "shire."[24] The word "sheriff" is a compound of "seyre" (meaning "shire") and "reve" (meaning "bailiff" or "guardian").[25] The sheriff is therefore the

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[20] THE ANGLO-SAXON CHRONICLE 25–32 (James H. Ford ed., James Ingram trans., El Paso Norte Press 2005) (describing events of years A.D. 449–607); STUBBS, *supra* note 12, at 1.

[21] The seven kingdoms were Wessex, Mercia, Northumbria, East Anglia, Essex, Kent, and Sussex. The first four of these were usually the most powerful. These kingdoms later consolidated into larger states. HUME, *supra* note 14, at 23–54; STUBBS, *supra* note 12, at 10–11.

[22] The king also had great landowners, "ealdormen" (who outranked the reeves), but on a practical basis, the reeves did more of the day-to-day work. RICHARD ABELS, ALFRED THE GREAT 270–74 (1998).

[23] Thomas Garden Barnes, *Introduction* to MICHAEL DALTON, OFFICIUM VICECOMITUM: THE OFFICE AND AUTHORITIE OF SHERIFS iii (The Lawbook Exchange 2009) (1623) ("Older than the great officers of state, older than Parliament, older than the courts of law."). The oldest title is "king." WILLIAM ALFRED MORRIS, THE MEDIEVAL ENGLISH SHERIFF 1 (1927) ("With the single exception of kingship, no secular dignity now known to English-speaking people is older.").

[24] Consistent with the original title of "shire-reeve," the Colorado sheriffs who have filed suit against gun control laws enacted in 2013 (see Part III, *infra*) see themselves as protecting their counties against oppressive intrusions.

[25] WILLIAM HENRY WATSON, A PRACTICAL TREATISE ON THE OFFICE OF SHERIFF 1 (London, S. Sweet 1848); EDWARD COKE, 2 THE FIRST PART OF THE INSTITUTES OF THE LAWS OF ENGLAND; OR, A COMMENTARY UPON LITTLETON 168(a) (London 1823) (1628) ("'S*herife*.' *Shireve* is a word compounded of two Saxon words, viz. *shire*, and *reve*. *Shire*, *satrapia*, or *comitatus*, commeth of the Saxon verbe *shiram*, *i.e. partiri*, for that the whole realme is parted and divided into shires; and *reve* is *praefectus*, or *praepositus*; so as *shireve* is the *reve* of the shire, *praefectus satrapiae*, *provinciae*, or *comitatûs*."). *Coke upon Littleton* is the first volume of Coke's *Institutes of the Laws of England*. Prior to Blackstone,

guardian of the county. One can find some references to "sheriffs" in Anglo-Saxon texts preceding Alfred the Great.[26] Nevertheless, we can trace the regularization of the office of sheriff and its *posse comitatus* power, as well as the militia that was later recognized by the Second Amendment, to Alfred's reign.

Of all English monarchs from post-Roman times to Queen Elizabeth II, only one is called "the Great." He is Alfred. As a second son, Alfred was not expected to become king. Well-educated, multilingual, and deeply religious, he studied for a while in Rome.[27] He ascended to the throne during a war with the Danes in which his older brother was killed.[28] The English lived in near-constant fear of Danish invasion and pillage; they were frequently oppressed by the Danes who had conquered parts of England.[29]

In A.D. 878, as *The Anglo-Saxon Chronicle* (a historical work begun during Alfred's time) explains, the Danes triumphed completely, and all the people of England were "subdued to their will;—ALL BUT ALFRED THE KING. He, with a little band, uneasily sought the woods and fastnesses of the moors."[30] With nothing but a guerilla band hiding in the swamps, Alfred kept alive the principle of English sovereignty and led the English back from the brink of annihilation. The bookish man became one of the greatest military strategists of his century. Once, he disguised himself as a harper, and entered the Danish camp—entertaining the Danes with song and story, meeting with the Danish prince Guthrum in his tent—and acquiring military intelligence.[31] His growing army finally expelled the most recent Danish invaders.[32] The Danish settlements in England were brought under

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Institutes was the foundational text for Anglo-American courts, lawyers, and law students. "Littleton" was Thomas Littleton's *Treatise on Tenures*, first published in 1481 or 1482, although Coke's commentaries go far beyond the subjects covered by Littleton.

[26] *See* EDWARD COKE, 1 THE SELECTED WRITINGS OF SIR EDWARD COKE 61 (Steve Sheppard ed., Liberty Fund 2003) (1602) ("[T]he learned know that Sheriffes were great officers and ministers of justice, as now they are, long before the Conquest . . . ."); *id.* at 302 ("[A]s far as the Reign of the often named King *Arthur* . . . the Offices of the Keepers or Senators of the Shires or Counties, *Custodes seu Praepositi Comitatus*, of later times called Shireves . . . ."); COKE, *supra* note 25, at 168(a).

[27] HUME, *supra* note 14, at 64.

[28] *Id.* at 63–64. Their father had died earlier.

[29] *Id.* at 57–59, 62–63.

[30] THE ANGLO-SAXON CHRONICLE, *supra* note 20, at 67 (discussing the events of A.D. 878). *See also* HUME, *supra* note 14, at 66–68 (explaining that for a while, Alfred disguised himself as a peasant and found refuge working as an assistant to a cowherd, then later assembled guerillas on two acres of firm ground in a bog in Somersetshire from whence he led raids for a year).

[31] HUME, *supra* note 14, at 68.

[32] *Id.* at 69.

his sovereignty and were no longer able to plunder the English at will. He was the first King of England.[33]

King Alfred recognized that another wave of Danish invasion was inevitable, so he began building England's capacity for self-defense. This capacity was founded on the idea that all the freemen were to be armed, trained, and ready to fight to defend their local and national communities. He created the English militia, which consisted of all armed people.[34] In the 1939 case *United States v. Miller*, the Supreme Court unanimously acknowledged the militia of the Second Amendment to be the institution founded by Alfred.[35]

Among Alfred's most important ideas was dividing the militia in each shire into two parts, only one of which would be required to serve at a given time.[36] The practical benefit was enormous. The men who were not serving in a particular campaign could work the farms, keep the economy functioning, and take care of the women and children. Meanwhile, the men who were actively serving in the militia were willing to go on longer campaigns because they did not feel compelled to return home as fast as possible in order to plant, cultivate, or harvest the crops.[37] When the Danes tried invading again, they were routed.[38]

During the American Revolution nearly a millennium later, the militia system would again be a foundation of victory. Soldiers in the Continental Army might be away from home for years, but the majority of American fighters came from the militia. Because they were not full-time soldiers, they could return home to take care of their farms and keep the American economy functioning.[39]

A second security reform of Alfred the Great was reformation of the office of sheriff.[40] After the period of Danish oppression, the English had

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[33] *Id.* at 70. Alfred's grandfather, Egbert, was the first to style himself King of England, but Egbert never ruled the large inland kingdom of Mercia. *Id.*

[34] *Id.* at 70–72.

[35] United States v. Miller, 307 U.S. 174, 179 (1939) ("Blackstone's Commentaries, Vol. 2, Ch. 13, p. 409 points out 'that king Alfred first settled a national militia in this kingdom' and traces the subsequent development and use of such forces.").

[36] ABELS, *supra* note 22, at 196–98; HUME, *supra* note 14, at 70–71; THE ANGLO-SAXON CHRONICLE, *supra* note 20, at 71 ("A.D. 894 . . . The king had divided his army into two parts; so that they were always half at home, half out; besides the men that should maintain the towns."). Alfred may have copied the example of the legendary female warrior kingdom of the Amazons, which divided its military in half. ABELS, *supra* note 22, at 197–98.

[37] *See* HUME, *supra* note 14, at 70–71.

[38] *Id.* at 71–74.

[39] NICHOLAS J. JOHNSON, DAVID B. KOPEL, GEORGE A. MOCSARY & MICHAEL P. O'SHEA, FIREARMS LAW AND THE SECOND AMENDMENT 164–67 (2012).

[40] HUME, *supra* note 14, at 78. Hume here cites "Ingulf p. 870." This cite is to HISTORIA

devolved into lawlessness and robbery.[41] Alfred fixed England's county boundaries with greater precision and used the counties to organize national and community self-defense.[42] The sheriff was the pillar of this self-defense system and often the leader of the county militia.[43] As will be detailed in Part II, the sheriff exercised the authority to summon and command the armed body of the people not only in the militia, but also in several related forms: *posse comitatus*, "hue and cry," and "watch and ward."[44]

Thus, according to medieval historian Frank Barlow, "[i]t is not unlikely that every freeman had the duty, and right, to bear arms" in Anglo-Saxon times.[45] When carrying out the duty to bear arms, the freeman would most commonly be under the leadership of the sheriff. The Second Amendment also recognizes the individual right to keep and bear arms for all lawful purposes and the duty to bear arms when summoned to the defense of community, as in the militia or the *posse comitatus*; the legal implications will be explored in Part IV.[46]

As the county leader of the armed people, "the reeve became the guarantor of the survival of the group."[47] "[T]he people maintained law and order among themselves" because the central government of the king had no practical ability to do so.[48]

CROYLANDENSIS (Chronicle of the Abbey of Croyland), which covers A.D 655–1486, and whose first named author is claimed to be "Ingulf" (or "Ingulph"). The document was probably written around the thirteenth or fourteenth centuries, but purported to be older, probably in order to support some of the Abbey's land claims. W.G. SEARLE, INGULF AND THE HISTORIA CROYLANDENSIS (1894). On the issue of sheriffs, *Historia* is a credible source, in that it likely reflects an oral tradition that was well established and widely known.

[41] HUME, *supra* note 14, at 75–76.

[42] COKE, *supra* note 26, at 303; JUDITH A. GREEN, ENGLISH SHERIFFS TO 1154, at 9 (1990); THE ANGLO-SAXON CHRONICLE, *supra* note 20, at 65–75.

[43] COKE, *supra* note 26, at 303; WATSON, *supra* note 25, at 1–2. Shire boundaries were stabilized in the south earlier than elsewhere; they did not take their final shape until well after the Norman Conquest. GREEN, *supra* note 42, at 9. *The Anglo-Saxon Chronicle*'s first mention of sheriffs is for the year A.D. 778, which is a century before Alfred's reign. THE ANGLO-SAXON CHRONICLE, *supra* note 20, at 54. For more on Anglo-Saxon sheriffs and the historical uncertainties surrounding them, see GREEN, *supra* note 42, at 9–11. Another of Alfred's reforms was the division of counties into smaller districts for maintenance of law and order; the armed community assemblies with twelve freeholders to resolve disputes were a foundation of the jury system. HUME, *supra* note 14, at 76–77. Alfred's law code became a basis of the common law. *Id.* at 78.

[44] *See* discussion *infra* Part II.

[45] FRANK BARLOW, EDWARD THE CONFESSOR 172 (1970). Barlow is the head of the History Department at the University of Exeter.

[46] *See* discussion *infra* Part IV.

[47] DAVID R. STRUCKHOFF, THE AMERICAN SHERIFF 3 (1994).

[48] *Id.* at 4.

A millennium later, Alfred the Great was still revered by Englishmen and Americans of all political persuasions.[49] He had brought peace and security to England, while, in the words of the English political philosopher David Hume, "[he] preserved the most sacred regard to the liberty of his people; and it is a memorable sentiment preserved in his will, that it was just the English should for ever remain as free as their own thoughts."[50]

Government records from Anglo-Saxon England are hardly complete, but there are records of sheriffs present in all English counties by A.D. 992.[51] The duties of sheriffs were numerous:

> [T]he original role of the sheriff was to act as the personal representative of the King in each county. Mediaeval government was not based on any concept of separation of powers and the duties of sheriffs were therefore both executive and judicial. They were responsible for commanding the local military [the militia] in cases of invasion or rebellion, they collected local taxes, investigated suspicious deaths, executed Royal Writs and generally maintained law and order. In their law enforcement role they could call upon the local freemen to form a posse comitatus to hunt for outlaws and, in their judicial role, they presided over the shire court, exercising both civil and criminal jurisdiction.[52]

The sheriff's responsibilities included mobilizing the people to resist invasion or for other military purposes, as leaders of the county militias.[53] So when William the Conqueror invaded in 1066, "[h]is primary adversaries were King Harold's Sheriffs."[54] Sheriff Esgar defended London

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[49] *See, e.g.*, Daniel Webster, Oration at the Dedication of the Bunker Hill Monument, (June 17, 1825) (concluding paragraph extols "our fathers" as men like "Alfred, and other founders of states"), *in* WEBSTER'S FIRST BUNKER HILL ORATION 42 (Boston, Leach, Shewell, and Sanborn 1889); Barbara Yorke, *The Most Perfect Man in History?*, HIST. TODAY 49 (October 1999).

[50] HUME, *supra* note 14, at 79.

[51] Steve Gullion, *Sheriffs in Search of a Role*, 142 NEW L.J. 1156, 1156 (1992). There are also records of "shire-reeves" during the reign of King Edgar (950–75). *Id.*

[52] *Id.*

[53] MORRIS, *supra* note 23, at 27; *see also* ANGLO-SAXON CHRONICLE, *supra* note 20, at 147 (A.D. 1056, "Elnoth the Sheriff" slain during war against the Welsh king); BARLOW, *supra* note 45, at 173 (in Anglo-Saxon times, "[w]hereas the earl and the sheriffs would normally lead the troops on campaign, it would often fall to the bishop to see to the defence of his diocese, particularly at times when it was denuded of its best fighting men."). *See also* ABELS, *supra* note 22, at 273 (ealdormen were responsible for levying men for the king's army; sheriffs were responsible for the defense of the village-based fortifications). Sheriffs also occasionally summoned the militia (or "fyrd"). C. WARREN HOLLISTER, ANGLO-SAXON MILITARY INSTITUTIONS ON THE EVE OF THE NORMAN CONQUEST 68 (1962). However, by late Saxon times, earls were probably higher ranked as military leaders than sheriffs. *Id.* at 94–95.

[54] STRUCKHOFF, *supra* note 47, at 8.

against William's army.[55] At the Battle of Hastings, "King Harold's last battle was led by his sheriffs."[56]

Sheriffs tended to be from the lesser nobility.[57] A baron might be a great landholder with real property in several counties (and, later, as a Member of Parliament, a player on the national political stage). In contrast, the sheriff would usually be man of the shire. His interests and property were within a single county.[58] The sheriff needed to be man of independent means, because the national government provided him with no support, not even a salary. He was responsible for paying all the expenses of his office (e.g., the salaries of the undersheriff and the deputies), and he would keep whatever revenues he earned from his services (e.g., fees for serving writs).[59]

C. THE SHERIFF'S OFFICE FROM THE NORMAN CONQUEST TO THE FOURTEENTH CENTURY

Although the office of sheriff in tenth century England has much in common with the office in twenty-first century America, there were some important changes in the centuries following the Norman Conquest of 1066. Two of these changes would later be incorporated by Americans: the elimination of the sheriff's judicial role[60] and the requirement that sheriffs take an oath and post a bond.[61] Another Norman innovation—making the sheriff's office appointive rather than elective—was eventually accepted in England.[62] But it would later be rejected in the United States.[63]

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[55] MORRIS, *supra* note 23, at 27.

[56] STRUCKHOFF, *supra* note 47, at 8.

[57] *See* GREEN, *supra* note 42, at 15 (stating that on the eve of the Norman Conquest, sheriffs were "men of substance in their own shires, but their landed wealth was not on the same scale as that of the earls or the stallers . . .").

[58] The custom of local sheriffs did not always prevail. In the fourteenth century, several Sheriffs served successively in multiple counties. RICHARD GORSKI, THE FOURTEENTH-CENTURY SHERIFF 59, 159, 162–70 (2003). During the thirteenth century, the issue was often contested, with locally-oriented sheriffs gaining temporary ascendency by the latter part of the century. J.R. Madicott, *Edward I and the Lessons of Baronial Reform: Local Government, 1258–80*, *in* 1 THIRTEENTH CENTURY ENGLAND 27 (P.R. Coss & S.D. Lloyd eds., 1986).

[59] Although for concision I usually refer to pre-modern sheriffs as "he," there were some female sheriffs, such as the Countess of Salisbury, who was Sheriff of Whiltshire during Henry III (reigned 1227–1272). J. H. BAKER, AN INTRODUCTION TO ENGLISH LEGAL HISTORY 530 n.4 (3d ed. 1990). Also, "Ann Countess of Pembroke . . . had the office of hereditary sheriff of Westmoreland, and exercised it in person." COKE, *supra* note 25, at 326(a) n.2.

[60] Discussed *infra* at Part I(C)(1).

[61] Discussed *infra* at Part I(C)(3).

[62] Discussed *infra* at Part I(C)(2).

[63] Discussed *infra* at Part I(E).

1. Sheriffs' Courts

The most important step towards the end of the sheriffs' judicial function came with Magna Carta in 1215, although Magna Carta confirmed a trend that had been going on for a while.

The Norman Conquest had been disastrous for many of the English people, as they were subjugated to tyranny and poverty.[64] The problem was exacerbated by the conduct of King John (reigned 1199–1216).[65] According to David Hume's *The History of England*, "[t]he only happiness was, that arms were never yet ravished from the hands of the barons and people: The nation, by a great confederacy, might still vindicate its liberties."[66]

An armed revolt forced King John to agree to Magna Carta on June 12, 1215. Later monarchs were repeatedly compelled to declare that they too were bound by the Great Charter and would rule in accordance with it.[67] Magna Carta was created by the barons and contained great universal principles of ordered liberty, as well as items involving the narrower concerns of the barons of the time.

One broad principle of liberty contained in Magna Carta was the "law of the land" article, which is an ancestor of the U.S. Constitution's guarantees that no persons shall be deprived of life, liberty, or property without due process of law.[68] The Magna Carta of 1215 (although not its subsequent reissues by other monarchs) even included a provision authorizing the use of force against the king if he violated Magna Carta.[69]

One clause of Magna Carta required the discontinuance of the sheriffs' courts for holding pleas of the crown.[70] At the time, "pleas of the crown" was a legal term of art for certain cases involving issues where a royal interest was involved.[71] Efforts to restrict sheriffs' judicial role had been

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[64] See HUME, *supra* note 14, at 437.

[65] *Id.* at 436–38.

[66] *Id.* at 437.

[67] WILLIAM SHARP MCKECHNIE, MAGNA CARTA 36–40, 139–59 (1914).

[68] U.S. CONST. amends. V, XIV:

> No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.

Magna Carta of 1215, *reprinted in* G.R.C. DAVIS, MAGNA CARTA 21 (1963).

[69] Magna Carta of 1215, *reprinted in* J.C. HOLT, MAGNA CARTA app. at 469–73 (2d ed. 1992) (quoting art. 61); David I. Caplan & Sue Wimmershoff-Caplan, *Magna Carta*, *in* 2 GUNS IN AMERICAN SOCIETY 371 (Gregg Lee Carter ed., 2d ed., 2007); David B. Kopel, *The Catholic Second Amendment*, 29 HAMLINE L. REV. 519, 540–41 (2006).

[70] Magna Carta of 1215 § 24, *supra* note 69, at 457 ("No sheriff, constable, coroners or other of our bailiffs may hold pleas of our Crown."); HUME, *supra* note 14, at 445.

[71] *See* MCKECHNIE, *supra* note 67, at 305–06.

going on for the last century.[72] The standard view of historians has been that the sheriffs and their courts were oppressive,[73] although a modern commentator suggests that the upper nobility's actions against the sheriffs' courts came about "not because of general dissatisfaction with their conduct, but because the earls and barons were displeased at the local feudal courts' loss of 'business' (from which they derived revenue) to the increasingly popular sheriffs' courts."[74]

Regardless, Magna Carta was a major step in sheriffs losing their judicial role. Magna Carta did not by its terms apply in Scotland, so sheriffs continued to preside over the sheriffs' courts there, and these courts are the heart of the Scottish judicial system today.[75] The Scottish sheriffs also had the same law enforcement powers and duties as their English counterparts, such as raising the hue and cry.[76] In the United States, sheriffs retain many traditional duties to the courts, such as providing court security and serving warrants, but they have no judicial role in presiding over courts or deciding cases.

2. Election of Sheriffs

In the United States, it is axiomatic that the sheriff is elected by the people.[77] The American principle is based on the Anglo-Saxon custom of electing sheriffs, although precisely how many sheriffs were elected in either Anglo-Saxon or Norman times is difficult to say.

There is some debate about whether sheriffs were elected or appointed during the Anglo-Saxon era. According to Blackstone, in Anglo-Saxon times, "sheriffs were elected: following still that old fundamental maxim of the Saxon constitution, that where any officer was entrusted with such

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[72] *See, e.g.*, STUBBS, *supra* note 12, at 121–22 (stating that Henry I (reigned 1100–1135) forbade sheriffs to hold sheriffs' courts more frequently than at customary times).

[73] *See e.g.*, GREEN, *supra* note 42, at 17; MCKECHNIE, *supra* note 67, at 311.

[74] MCKECHNIE, *supra* note 67, at 311; Tamara Buckwold, *From Sherwood Forest to Saskatchewan: The Role of the Sheriff in a Redesigned Judgment Enforcement System*, 66 SASK. L. REV. 219, 227 n.40 (2003); Gullion, *supra* note 51, at 1156. It should be noted that at least some sheriffs had supported the Magna Carta movement. Once King John regained his political power, these sheriffs were promptly dismissed from office. MORRIS, *supra* note 23, at 161. "The spirit of the sheriff and his office permeated Magna Carta from start to finish and considered in this aspect alone it is the finest example we possess to prove the importance of the sheriff's role in the governance of medieval England." IRENE GLADWIN, THE SHERIFF 124 (1974). Five clauses in Magna Carta directly dealt with the operation of sheriffs' offices; another clause removed certain named sheriffs; and nineteen others involved administrative reforms which the sheriffs would help to effectuate. *Id.* at 123–24.

[75] Gullion, *supra* note 51, at 1157.

[76] WILLIAM C. DICKINSON, THE SHERIFF COURT BOOK OF FIFE 1515–1522, at xxxix (1928), *cited in* STRUCKHOFF, *supra* note 47, at 18. "Hue and cry" is discussed *infra* Part II.

[77] *See infra* text accompanying notes 136–146.

power, as if abused might tend to the oppression of the people, that power was delegated to him by the vote of the people themselves."[78]

While the sheriffs of nineteenth century England were appointed and not elected, the author of an 1848 treatise on sheriff law explained that "[s]heriffs were formerly chosen by the inhabitants of their respective counties; in confirmation of which it was ordained by the statute of 28 Edw. 1, c. 8 and 13, that 'the people should have the election of sheriffs in every shire, when the shrievalty is not of inheritance.'"[79] It was not surprising that Americans embraced the principle of election of sheriffs or that most states have constitutionalized this principle.[80] In the twentieth century, however, legal historians suggested that earlier writers had overstated the extent to which English sheriffs were elected.[81] Modern historians have shown that from the time of the Norman Conquest onward, most sheriffs

[78] 1 WILLIAM BLACKSTONE, COMMENTARIES *409. *See also* HUME, *supra* note 14, at 163 (citing § 35 of the laws of Edward the Confessor). What Hume did not know is that the document known as "The Laws of Edward the Confessor" (Leges Edwardi Confessoris) is not original to the reign of Edward the Confessor (an Anglo-Saxon king who reigned 1042–66). Rather, the document likely dates to the early 1100s, after the Norman Conquest, and is regarded as a reasonably accurate description of English law at the time it was actually written. BRUCE R. O'BRIEN, GOD'S PEACE AND KING'S PEACE: THE LAWS OF EDWARD THE CONFESSOR 3–6 (1999). As for sheriffs, election was certainly not standard in the early twelfth century. It might be inferred that the document's assertions about Anglo-Saxon sheriff elections reflected a popular understanding or national memory that was credible to the document's twelfth century readers.

To make matters all the more complicated, the provision in *The Laws of Edward the Confessor* about the election of sheriffs was probably not in the original version. Rather, it may be an interpolation that was added as some later unknown date. At least that appears to be the conclusion of Benjamin Thorpe, whose 1840 compilation of Anglo-Saxon laws relegates to a footnote the material about sheriff elections. *See Leges Regis Edwardi Confessoris in* BENJAMIN THORPE, ANCIENT LAWS AND INSTITUTES OF ENGLAND 197 (London, 1840) (note to § 32 explains that Thorpe is using Lambard's edition of *The Laws of Edward the Confessor* and that the language appears to be an interpolation; the sheriff language is part of a long paragraph which states in relevant part: "sicut et vicecomites provinciarum et comitatum eligi debent." In English: "and also the sheriffs [vicecomites] of the provinces and counties ought to be elected.").

[79] WATSON, *supra* note 25, at 9. The statutory citation is to the twenty-eighth year of the reign of King Edward I, which would have been 1300.

[80] *See infra* text accompanying notes 136–146.

[81] GORSKI, *supra* note 58, at 34–35; GREEN, *supra* note 42, at 13–14 (describing appointment of sheriffs in the century following the Norman Conquest); MORRIS, *supra* note 23, at 17.

were appointed. As far as we know, they were elected only in London[82] and in some southwestern counties.[83]

We may never have a full sense of how the office of sheriff functioned in Anglo-Saxon times. But we can be certain that when King Edward I and Parliament in 1300 promulgated the election statute (*Articuli supra Cartas*), the election of sheriffs was a change, rather than a "confirmation" of a then-current general practice.[84] Edward Coke, an enormously influential legal writer, described Edward I as having "restored to his people the ancient election of sheriffes . . . ."[85] But even after Edward I's statute of 1300, we have only one record from the following decade for a sheriff election taking place.[86]

The next king, Edward II, was unpopular during his reign, and most historians have regarded him as mediocre or worse.[87] Among the problems was his very close relationship with his best friend, Piers Gaveston, whom much of the rest of the nobility believed unhinged Edward's judgment.[88] There was also Edward's propensity for seizing whatever property he

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[82] HUME, *supra* note 14, at 278 (indicating that Henry I, upon his coronation in 1100, issued a charter to London granting the city the right to elect its own sheriff); *id.* at 453–54 (noting that, later, King John granted to London the "power to elect and remove its sheriffs at pleasure").

[83] MORRIS, *supra* note 23, at 182–83 (noting that men of these counties paid a fee to the king for the privilege of electing the sheriff); WILLIAM STUBBS, 2 THE CONSTITUTIONAL HISTORY OF ENGLAND 217 (4th ed. 1896) ("[T]he freeholders of Cornwall and Devon had purchased the like privilege from John and Henry III.").

[84] GORSKI, *supra* note 58, at 12, 34–37; JOHN M. KEMBLE, ANGLO-SAXON LAWS AND INSTITUTES 60 (London, Richard & John E. Taylor 1841) (explaining that during the Anglo-Saxon period, elective sheriffs were replaced by appointed ones as kings gained more power); STUBBS, *supra* note 83, at 217–18 (Section 8 of the *Articuli Super Cartas* provided for election of sheriffs, except in counties where the office is hereditable or held in fee); *cf.* GORSKI, *supra* note 58, at 51 (King's rejection of 1361 petition from the people of Cumberland to elect their sheriff).

In 1258, the Provisions of Oxford required that sheriffs should live in their county, and should serve for only one year. STUBBS, *supra* note 83, at 216–17. The next year, it was provided that the king's discretion on appointments would be limited; he would have to appoint one of four men nominated by the county court. *Id.* at 217.

[85] EDWARD COKE, 2 INSTITUTES OF THE LAWS OF ENGLAND 175 (The Lawbook Exchange 2002) (1628); *id.* at 558 ("Of ancient time," sheriffs were "in every severall county chosen in full or open county by the freeholders of that county . . . ."). Coke served as Attorney General, Speaker of the House of Commons, and Chief Justice in the early seventeenth century. Payton v. New York, 445 U.S. 573, 594 n.36 (1980) (citing A. E. DICK HOWARD, THE ROAD FROM RUNNYMEDE 118–119 (1968)).

[86] MORRIS, *supra* note 23, at 184–85.

[87] *E.g.*, SEYMOUR PHILLIPS, EDWARD II 5 (2012) ("The general opinion of Edward II from his own day to the present has been that he was a failure."); STUBBS, *supra* note 83, at 323–25.

[88] STUBBS, *supra* note 83, at 319–32. *See, e.g.* PHILLIPS, *supra* note 87, at 161–62.

wanted. These seizures were to support either his military adventures or the extravagant lifestyle that he and the Gaveston family led during the periods when the Gavestons had not been forced into temporary exile by Parliament.[89]

Rising tensions led an ad hoc assembly of barons to proclaim the Ordinances of 1311.[90] Like Magna Carta, the Ordinances of 1311 contained provisions regarding civil liberty (e.g., a provision against uncompensated seizure of property) and provisions relating to the barons' narrow self-interests. Item 17 demanded an end to the election of sheriffs. The varying political balance of power affected how much heed Edward II was willing to pay to the Ordinances of 1311, but he did eventually accede to the demand about sheriffs by promulgating the Sheriff's Act of 1315.[91] He thus gave statutory force to Item 17 of the Ordinances of 1311.[92]

Two other portions of the Ordinances, Items 10 and 39, perhaps provide some context for Item 17. Many of the Ordinances attempted to end the King's habit of helping himself to other people's property; the formal term for such monarchical theft was "prises." Item 10 of the Ordinances of 1311 stated, "[a]nd because it is to be feared that the people of the land will arise on account of the prises and divers oppressions inflicted before this time . . . ." Given the continuing role of sheriffs as military leaders,[93] and given their continuing role in leading bodies of

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[89] PHILLIPS, *supra* note 87, at 156–71.

[90] *Edward II*, 4 ENCYLOPAEDIA BRITANNICA 375 (15th ed., 2002); THE NEW ORDINANCES, 1311 (1311), *reprinted in* 3 ENGLISH HISTORICAL DOCUMENTS 527–39 (Harry Rothwell ed., 1975).

[91] "That the Sheriffs from henceforth shall be assigned by the Chancellor, Treasurer, Barons of the Exchequer, and by the Justices . . . ." Statute of Lincoln, 1315, 9 Edw. 2 stat. 2; WATSON, *supra* note 25, at 9 (noting that appointment is "on the morrow of All Souls"); *see also* 14 Edw. 3, ch. 7 1 STATUTES OF THE REALM 283 (1340) (sheriffs to be appointed by the Exchequer). The process for appointment was that on November 1 (All Souls Day), high government officials would meet at the Exchequer in London. They would choose three persons per county, and the king would from each list of three appoint a sheriff to a one-year term. KARRAKER, *supra* note 19, at 7. "The Exchequer was a court of audit meeting twice each year at Easter and Michaelmas in the treasury, to scrutinize the accounts presented by sheriffs and other financial agents. Its name was taken from the checked cloth on a table round which sat leading members of the royal household." GREEN, *supra* note 42, at 12. In Anglo-Saxon times, the king's revenue was kept in boxes or barrels in the king's bedroom. BARLOW, *supra* note 45, at 186.

[92] "In addition, we ordain that sheriffs be appointed henceforth by the chancellor, treasurer and the others of the council that are present . . . ." THE NEW ORDINANCES, 1311, *supra* note 90, at 530.

[93] *See* GORSKI, *supra* note 58, at 52 (explaining the fourteenth century role of sheriffs in the northern counties bordering Scotland as military leaders); MORRIS, *supra* note 23, at 58, 117, 151–53; MICHAEL POWICKE, MILITARY OBLIGATION IN MEDIEVAL ENGLAND 157 (1962) (in 1319, Sheriff of York ordered to lead a fifteen day expedition against the Scots); STUBBS,

armed men in the *posse comitatus* and other law enforcement activities (discussed *infra*), the possibility could arise that elected sheriffs would serve as the leaders of a discontented populace which might revolt against an oppressive, kleptocratic king.

Greater context for the abolition of sheriff elections comes from Item 39, which required that various officials, including sheriffs, "shall be sworn . . . to keep and hold all the ordinances made by the prelates, earls, and barons . . . without contravening any point of them."[94] The motive for this clause appears to be that sheriffs (and some other officials) were not enforcing various decrees issued by the upper nobility. In situations where the great baron of a county issued a decree the electorate did not like, perhaps some elected sheriffs had been reluctant to enforce such decrees.

In 1338, King Edward III ordered that the counties elect their sheriffs, but this was abandoned in 1340, replaced by appointment by the Exchequer, the treasury office of the monarchy.[95] The "Good Parliament" of 1376 unsuccessfully demanded that sheriffs be elected.[96] Still, kings continued to

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supra note 83, at 220 (noting that, militarily, the sheriff was "the proper leader" for "minor tenants-in-chief" and for "the body of freemen sworn under the assize of arms"; furthermore, the leading tenants of the king directly commanded their own vassals, but sometimes the sheriffs were put in charge of them, too); *id.* at 230, 288 (noting that sheriff was responsible for enforcing the Assize of Arms, which required all free men to own various arms and armor).

[94] THE NEW ORDINANCES, 1311, *supra* note 90, at 539. The barons were plainly not opposed to the principle of using armed force against a monarch. They had a long history of doing so, against Edward II and several of his predecessors. However, it would be understandable for the great barons and earls to try to ensure that only they would have the ability to make the decision to use force.

[95] STUBBS, *supra* note 83, at 281, 401–02.

[96] THE PARLIAMENT ROLLS OF MEDIEVAL ENGLAND 1275–1504, vol. 5, EDWARDS III 1351–1377, at 373 (item 186, no. CXXVIII in petitions from the commons):

> [T]he sheriffs of the counties of the realm should be chosen in the same manner ["by election from the best men of said counties"] from year to year, and not appointed by bribery in the king's court, as they used to do, for their own profit and by procurement of the maintainers of the region, to sustain their deceits and evils and their false quarrels, as they have commonly done before this time, in destruction of the people.

King Edward III brushed off the petition, responding "there is a bill which has been answered." *Id.* Presumably he was referring to the legislation described above, providing for appointment of sheriffs in most counties. *See also* STUBBS, *supra* note 83, at 453–54. The "Good Parliament" was a widely supported effort to tame the massive corruption, military incompetence, and other abuses of the latter part of the reign of Edward III. *See* GEORGE HOLMES, THE GOOD PARLIAMENT (1975). To present the Parliament's position to the King, the Parliament chose Sheriff Peter de la Mare; he is today regarded as the first Speaker of the House of Commons. *Id.* at 101–110, 134–38. Sheriff de la Mare was later imprisoned after Edward III regained his political footing and then pardoned after Edward III was close to death. *Id.* at 192.

need money, and for the right price, they would grant a locality the right of electing its own sheriff; by the eighteenth century, twenty-one cities or boroughs enjoyed the right of election.[97]

However the sheriff was chosen, he was supposed to be a defender of liberty. As historian William Morris puts it, "[i]n the time of Henry III,[98] he was still regarded by the king and council as their agent in the maintenance of popular liberties and private rights."[99]

3. Sheriff's Oath of Office and Bond

Item 39 of the Ordinances of 1311 had also said that sheriffs should take an oath of office. This had been a longstanding baronial demand.[100] The oath requirement became a well-established and uncontroversial part of the common law.[101] Thus, almost every American state constitution that provides for an office of sheriff requires that the sheriff take an oath, as must all other constitutional officers. In England, the sheriff's oath was to the supreme ruler, the monarch; in the United States, the sheriff's oath is also to the supreme ruler, the law itself—an oath to uphold the U.S. Constitution and the constitution of the sheriff's state.[102]

In the sixteenth century, a statute mandated that before taking office, a sheriff must post a bond as a surety against any malfeasance for which he or his deputies might be found liable.[103] This requirement is still standard for American sheriffs, although the sheriff may now choose to instead purchase liability insurance.

D. THE ENGLISH OFFICE OF SHERIFF IN THE SEVENTEENTH CENTURY AND THEREAFTER

By the time that emigrants from Great Britain were establishing colonies in America, the duties and scope of the office of sheriff were well understood and noncontroversial. In legal treatises, the laws concerning sheriffs tended to be addressed in larger treatises on other subjects, such as criminal law. The treatise entirely devoted to sheriffs was Michael Dalton's

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[97] GLADWIN, *supra* note 74, at 357–58.

[98] Reigned 1216–1272. *Henry III*, 5 ENCYCLOPAEDIA BRITANNICA 837 (15th ed., 2002).

[99] MORRIS, *supra* note 23, at 213. For example, King Henry III instructed various sheriffs "to preserve the liberties of the church" and to enforce Magna Carta. *Id.* at 213 n.44.

[100] STRUCKHOFF, *supra* note 47, at 13.

[101] MORRIS, *supra* note 23, at 170–71 (discussing original oath from 1258); *see also* The Oath of the Sheriffs, 1 STATS. OF THE REALM 247 (Dawson's of Pall Mall 1963) (1810).

[102] WATSON, *supra* note 25, at 17–21 (oath in nineteenth century). Previously, the oath was much more detailed. DALTON, *supra* note 23, at 4b–6a (reprinting seventeenth century oath in full).

[103] DALTON, *supra* note 23, at 3a (citing 2 & 3 Edw. 6, ch. 34).

The Office and Authoritie of Sherifs.[104] Dalton was also the author of a very popular treatise on justices of the peace, which contained much content about sheriffs since both offices had similar powers and duties, such as summoning the *posse comitatus*.[105]

1. Autonomous and Indivisible

By the seventeenth century, two other important principles of the office of sheriff had been established: the office is *autonomous* and the office is *indivisible*. An early twentieth century case from Alberta, Canada, explained autonomy in terms that were no different than what had been said by Dalton and other commentators from centuries before:

> [T]he connection between the State and the sheriff after his appointment or election is of a very casual character. He is practically placed in the sole and undisturbed discharge of the duties of the shrievalty. He takes to his own use the emoluments of the office and out of them meets the expenditures of it. He employs under sheriffs or deputy sheriffs and bailiffs of his own selection. He assigns to them the work that they are to do, pays them their salaries and dismisses them at his pleasure. His office is in its management entirely free from outside dictatorship or control. He runs it as an institution for which he and he alone is responsible to those whose business passes through it. And so in those jurisdictions he is held liable for the misconduct of those whom he employs in his office.[106]

The monarch could choose the sheriff, but could in no way limit the office of sheriff: "neither can she [the queen] abridge the sheriff of any thing incident or belonging to his office, for the office is entire and indivisible."[107]

The autonomy of sheriffs and of justices of the peace may have been one reason for slack enforcement of the arms control laws that were introduced in the Tudor period (1485–1603). In general, the Tudor monarchs were trying to keep handguns and crossbows out of the hands of everyone except the gentry.[108] A 1526 proclamation by King Henry VIII told the sheriffs and mayor of London to stop being "negligent, slack, or

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[104] DALTON, *supra* note 23.

[105] THOMAS GARDEN BARNES, SHAPING THE COMMON LAW 136–51 (Allen D. Boyer ed., 2008); MICHAEL DALTON, THE COUNTREY JUSTICE (London, William Rollins & Samuel Roycroft 1622).

[106] Great N. Ins. Co. v. Young (1916), [1917] 32 D.L.R. 238, 241 (Can. Alta.). *Cf.* MORRIS, *supra* note 23, at 167 (stating that the development of the sheriff's independence from the king began in the period 1206–1307, under Henry III and Edward I).

[107] Mitton's Case, (1584) 76 Eng. Rep. 965 (K.B.); 4 Co. Rep. 32 b ; DALTON, *supra* note 23, at 6b; WATSON, *supra* note 25, at 8. *Mitton's Case* is cited in *State v. Cummins*, 99 Tenn. 667, 42 S.W. 880, 882 (1897) (sheriff may not be deprived of exclusive supervision of the county jails).

[108] JOHNSON, KOPEL, MOCSARY & O'SHEA, *supra* note 39, at 82–85.

remiss" in enforcing the arms restrictions.[109] In 1537, the King expressed his "displeasure and indignation" about the unenforcement of arms bans.[110] In 1600, a proclamation of Queen Elizabeth I complained about the "slack execution" of the arms control laws, and "the common carrying and use of guns contrary to the said statutes" by "common and ordinary persons traveling by the highways to carry pistols and other kind of pieces," and by "ruffians and other lewd and dissolute men."[111]

Another innovation was that a sheriff may not practice as an attorney during his term of office.[112] Given the sheriff's intimate involvement with the judicial system, the prohibition is a sensible prevention of conflicts of interest. The prohibition was carried forward into America[113] and today is often expressly stated in state statutes.[114]

2. Modern Role in the United Kingdom

The office of justice of the peace had been formally created in the fourteenth century, with roots from the previous century.[115] By the time Michael Dalton was writing in the early seventeenth century, the justices of the peace were supplanting the sheriffs as having the greatest practical role in keeping the peace. Other traditional sheriff duties, such as serving and enforcing writs, including by executing judgments, remained primarily the responsibility of sheriffs.[116]

Sheriffs in the seventeenth century continued to have a military role: "The sheriff was often appointed one of the commissioners of musters"[117]—the periodic assemblies of the militia to ensure that every militiaman had provided himself with appropriate equipment. Likewise, the sheriff sometimes received assistance from the "trained bands,"[118] militia units that

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[109] 1 TUDOR ROYAL PROCLAMATIONS 151–52 (Paul L. Hughes & James F. Larkin eds., 1964).

[110] *Id.* at 249–50.

[111] 3 TUDOR ROYAL PROCLAMATIONS 218–19 (Paul L. Hughes & James F. Larkin eds., 1969).

[112] DALTON, *supra* note 23, at 175–76.

[113] *See* GEORGE WEBB, THE OFFICE AND AUTHORITY OF A JUSTICE OF PEACE 306 (Williamsburg, William Parks 1736).

[114] *E.g.*, COLO. REV. STAT. § 30-10-520 (2013) ("No sheriff, undersheriff, or deputy shall appear or advise as attorney or counselor in any case in any court.").

[115] MCKECHNIE, *supra* note 67, at 16.

[116] Barnes, *supra* note 23, at iv (describing sheriffs' other duties as services to the common law courts, including maintaining the jail; collection of crown revenues; ministerial services to various local government bodies, such as commissions; and keeping a limited "court" which heard replevin cases and which supervised elections to Parliament).

[117] KARRAKER, *supra* note 19, at 22.

[118] *Id.*

engaged in extra practice to maintain high proficiency. During the English Civil War (1642–1651), both sides attempted to order sheriffs "to rally the counties to their support as though the military command were still theirs, *ex officio*."[119]

Everyone may have agreed the office of sheriff is indivisible, but in a constitutional system based on shared understandings, and lacking an authoritative text which supersedes all else, things that were once plainly illegal may become accepted innovations. So in England, the sheriffs were over the centuries stripped of all responsibilities.[120] Today the English office of sheriff is barely even ceremonial, consisting of holding an annual dinner for local judges and other important persons.[121]

E. THE SHERIFF IN AMERICA

Colonial Americans took the office of sheriff as they had inherited it from England, with one important exception: they restored the right of electing sheriffs, a task that was completed in the nineteenth century. While the office of sheriff was waning in England, the office became increasingly important in America.

Magna Carta applied in the American colonies, so sheriffs never served as judges.[122] In the colonies, the sheriffs used all the traditional powers of the office to the fullest. American sheriffs were more active than their English counterparts at finding criminals and delivering them to court, taking "an active law enforcement role."[123]

By all indications, the formal seventeenth century American understanding of the office was mostly the same as the English. A study of Maryland and Virginia in the seventeenth century "proves the similarities in the office of sheriff in England and in her colonies to have been decidedly more numerous than the differences."[124] Michael Dalton's English treatise

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[119] *Id.* at 22–23. *See generally* DALTON, *supra* note 23, at 13a ("[W]hen any of the kings enemies shall come into the land, the Sherife in defence of the realme, may commaund all the people of his countie to attend him; and he and they are to attend the king and defend the land."); *id.* at 136b ("Also the Sherife may take Posse Comitatus, in defence of the realme, when any of the kings enemies shall invade the land &c."). But in practice, the military role of sheriffs had declined to an auxiliary role, beginning in the latter thirteenth century, under Henry III. MORRIS, *supra* note 23, at 167, 234–38.

[120] Barnes, *supra* note 23, at iii; Gullion, *supra* note 51, at 1156.

[121] Barnes, *supra* note 23, at iii (explaining that sheriffs are almost entirely ceremonial, but professional undersheriffs oversee the execution of judicial writs); Gullion, *supra* note 51, at 1156.

[122] BARNES, *supra* note 105, at 30–31.

[123] Gullion, *supra* note 51, at 1157.

[124] KARRAKER, *supra* note 19, at 151.

Office of the Sheriffs is known to have been used as a guide in Maryland.[125] Dalton's *Country Justice* treatise (about the justice of the peace, and also containing much information about sheriffs and their posse powers) was also influential in America.[126] Virginian George Webb's 1736 treatise on sheriffs and other local officials was conventional in its treatment of sheriffs, the *posse comitatus*, and so on, relying on mainstream English sources such as Dalton.[127]

However, while the office looked the same on paper on both sides of the Atlantic, there were very significant practical differences, all of which had the effect of elevating the sheriff in America. To begin with, the American colonial sheriff was even more independent of central authority. In the American colonies, sheriffs were formally appointed by the crown, as they were in England and Scotland.[128] The royal governor typically made appointments taking into account the advice of the county justices.[129] The governor rarely questioned the county's nominees of individuals to become sheriff.[130]

Although nominally appointed by the royal governor, the American sheriff "was more of a county than a colonial official . . . ."[131] Unlike the English counties, the American counties were self-governing.[132] "[A]s a member of the ruling group in the county, the sheriff shared its independence."[133]

The colonial sheriff enjoyed "little of the social functions and prestige of the English official, but economic and political forces more than compensated for this loss . . . restoring to him some of the importance his ancestor early had in England as conservator of the peace . . . ." In sum, "[t]he office was taking on new strength in the colonies while continuing to decline in England."[134]

An important American innovation was that the sheriff either had a salary or could only charge fees (e.g., for executing a civil judgment) that were fixed by law. This reform recognized the problem of some of the

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[125] *Id.* at 111.
[126] BARNES, *supra* note 105, at 137–51.
[127] WEBB, *supra* note 113, at 292–306.
[128] STRUCKHOFF, *supra* note 47, at 23.
[129] *Id.* at 24.
[130] KARRAKER, *supra* note 19, at 157.
[131] *Id.* at 156.
[132] *Id.* at 156–57.
[133] *Id.* at 157.
[134] *Id.* at 158–59.

unsalaried English sheriffs who had used their office for personal enrichment.[135]

The return of the long-lost practice of electing sheriffs began in 1652,[136] when the Royal Governor of Virginia told each county to choose its own sheriffs. The commissioners of Northampton County asked the people of the county to elect the sheriff. William Waters became the first sheriff elected in America.[137] It was not surprising that the reestablishment of popular election of sheriffs came from a county government; other than the New England town meetings, the first democratic governments in the American colonies were county governments.[138] New England already had the tradition of electing constables—low-level officers responsible for suppression of minor crimes; this was in contrast to the English custom of constables being appointed by the justices of the peace.[139]

The restoration of direct election of sheriffs "encouraged them to adopt an active role, whilst the fact that they were officials of county government helped to give them the opportunity to do so."[140] Election "meant that sheriffs were amongst the first public officials to be elected in any newly settled area and were therefore able to develop their role with little opposition from competing organisations or officials."[141] Americans came to understand the election of the sheriff as a right of the people.[142] The 1802 Ohio Constitution was the first state constitution to formally specify that sheriffs must be elected.[143] Today, the large majority of American state constitutions require that sheriffs be elected by the people of the county.[144]

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[135] BRADLEY CHAPIN, CRIMINAL JUSTICE IN COLONIAL AMERICA 1600–1660, at 95–96 (1983).

[136] The year was 1652 by the modern calendar, which begins the new year on January 1. The year was 1651 by the "Old Style" calendar then in use, which began the year on March 25, the date on which Jesus was said to have been conceived by the Virgin Mary. 1751, 24 Geo. II ch. 23; ROBERT POOLE, TIME'S ALTERATION: CALENDAR REFORM IN EARLY MODERN ENGLAND 118–23 (1998).

[137] KARRAKER, *supra* note 19, at 74. The surviving records from Virginia and Maryland, through 1689, do not specifically demonstrate the election of other sheriffs in those colonies during that period. *Id.*

[138] Gullion, *supra* note 51, at 1157.

[139] CHAPIN, *supra* note 135, at 96.

[140] Gullion, *supra* note 51, at 1157.

[141] *Id.*

[142] STRUCKHOFF, *supra* note 47, at 23.

[143] *Id.* at 27; OHIO CONST. of 1802, art. VI § 1. The 1836 Constitution of the independent Republic of Texas likewise required election of sheriffs. TEX. CONST. of 1836, art. IV, § 12.

[144] ALA. CONST. art. V, § 138; ARIZ. CONST. art. XII, § 3; ARK. CONST. art. VII, § 46; CAL. CONST. art. XI, §§ 1(b), 4(c); COLO. CONST. art. XIV, § 8; DEL. CONST. art. III, § 22; FLA. CONST. art. VIII, § 1; GA. CONST. art. IX, § 1, para. III; IDAHO CONST. art. XVIII, § 6; ILL. CONST. art. VII, § 4; IND. CONST. art. VI, § 2; KY. CONST. § 99; LA. CONST. art. V, § 27;

Developments in the United States confirmed the importance and independence of sheriffs, whose power came directly from the people. The classic American treatise on sheriff law, written in 1884 by William L. Murfee, observed,

> the sheriff is, in each of the United States, a constitutional officer, recognized *eo nomine* as part of the machinery of the state government, and therefore, although it is competent for legislatures to add to his powers or exact from him the performance of additional duties, it is, upon well established legal principles, beyond their powers to circumscribe his common-law functions or to transfer them to other officers.[145]

Today, American sheriffs are elected in all states except Alaska (which has no counties), Hawaii, Rhode Island, and Connecticut (where the office of sheriff was abolished in 2000).[146]

II. THE *POSSE COMITATUS* FOR THE KEEPER OF THE PEACE

The traditional American view is that the legislature may add new duties or powers to the office of sheriff, but may not remove any of the sheriff's inherent common law powers or duties.[147] An example of a new duty, not traceable to the common law, is that by Colorado statute, the sheriff is the chief fire warden in his or her county.[148]

In America, the most important traditional responsibility of the sheriff has been keeping the peace. This is the third item of what Edward Coke described as the "three-fold custody" of the sheriff. First, the sheriff has custody of justice, because no suit begins without a sheriff serving process,

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ME. CONST. art. IX, § 10; MD. CONST. art. IV, § 44; MASS. CONST. art. XIX; MICH. CONST. art. VII, § 4; MISS. CONST. art. V, § 138; NEV. CONST. art. IV, § 32; N.H. CONST. pt. 2, art. 71; N.J. CONST. art. VII, § 2, para. 2; N.M. CONST. art. X, § 2; N.Y. CONST. art. XIII, § 13; N.C. CONST. art. VII, § 2; N.D. CONST. art. VII, § 8; OR. CONST. art. VI, § 6; PA. CONST. art. IX, § 4; S.C. CONST. art. V, § 24; TENN. CONST. art. VII, § 1; TEX. CONST. art. V, § 23; VT. CONST. ch. II, §§ 43, 50; VA. CONST. art. VII, § 4; WASH. CONST. art. XI, § 5; W. VA. CONST. art. IX, § 1; WIS. CONST. art. VI, § 4.

[145] WILLIAM L. MURFEE, A TREATISE ON THE LAW OF THE SHERIFFS AND OTHER MINISTERIAL OFFICERS, at v (St. Louis, F.H. Thomas & Co., 1884); *see also id.* at 22 ("It is competent for the state legislature to impose upon him new duties growing out of public policy and convenience, but it cannot strip him of his time-honored and common-law functions and devolve them upon the incumbents of other offices created by legislative authority."); CLYDE F. SNYDER & IRVING HOWARDS, COUNTY GOVERNMENT IN ILLINOIS 78 (Carbondale: U. of Ill. Pr. 1960) ("[T]he sheriff . . . possesses certain common-law powers and duties of which he cannot be deprived by legislative enactment . . . ." The "common-law powers" are "vested in the sheriff by constitutional implication.") (citing People v. Clampitt, 200 N.E. 332 (Ill. 1936); Cnty. of Edgar v. Middleton, 86 Ill. App. 3d 502 (1899); Cnty. of McDonough v. Thomas, 84 Ill. App. 3d 408 (1899)).

[146] STRUCKHOFF, *supra* note 47, at 47; *Connecticut Sheriffs Ride into Sunset*, WORCESTER TEL. & GAZETTE, Nov. 9, 2000, at B3.

[147] MURFEE, *supra* note 145, at 22.

[148] COLO. REV. STAT. § 30-10-512 (2013).

and because sheriffs are responsible for returning jurors to hear a trial. Second, the sheriff has custody of the law, since the sheriff executes the decisions in civil and criminal cases.[149] And third, the sheriff has custody of the commonwealth, for "he is [principal Conservator of the Peace], within the countie, which is the life of the common wealth . . . ."[150]

This Article is principally concerned with the sheriff's duty of keeping the peace. For various aspects of that duty, the sheriff has traditionally had the authority to summon assistance from armed citizens. Formally, there are four separate prongs to this common law authority, although in practice they can easily overlap. The first prong stems from the English sheriff's specific duty of keeping "watch and ward," to guard towns, which was given statutory expression during the reign of King Richard I (1189–1199).[151] This is the power to arrange watches and patrols, and to require townsfolk to take turns on guard duty.[152] "Ward" was the daytime activity, and "watch" the nighttime activity.[153] Closely related to "watch and ward" was "hue and cry," the second traditional power. Under English law originating long before the Norman Conquest of 1066, all able-bodied men were obliged to join in the *hutesium et clamor* (hue and cry) to pursue fleeing criminals. Pursuing citizens were allowed to use deadly force if

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[149] COKE, *supra* note 25, at 168(a) (BOOK 3, CH.1, § 248) (noting that the sheriff is custodian of "*vitae republicae*; he is *principalis conservator pacis*, within the countie, which is the life of common wealth, *vita republicae pax*.").

[150] *Id.* Other commentators took the same view. *See, e.g*, GEORGE ATKINSON, A PRACTICAL TREATISE ON SHERIFF LAW 424 (London, William Crofts 1839); DALTON, *supra* note 23, at 12b–13a; DALTON, *supra* note 105, at 3; ISAAC GOODWIN, NEW ENGLAND SHERIFF 13 (Worcestor, Dorr & Howland 1830) ("He is the principal conservator of the peace for his jurisdiction, and has power to call to his aid the *posse comitatus* or physical force of the county."); CHARLES W. HARTSHORN, NEW ENGLAND SHERIFF 13 (Worcester, Warren Lazell 1844) (same quotation); WILLIAM HAWKINS, 2 A TREATISE OF THE PLEAS OF THE CROWN 33 (2nd ed., London, Nutt & Gosling 1724) (ch. 8 § 4); WEBB, *supra* note 113, at 292 (noting that the sheriff was "Chief Conservator of the Peace of his County, almost 300 Years before Justices of Peace were instituted"). The role of the sheriff as keeper of "the king's peace"—and of "the sheriff's peace"—was well established in Anglo-Saxon and Norman times. MORRIS, *supra* note 23, at 149, 196.

[151] DALTON, *supra* note 23, at 6a–6b (sheriff's oath included supervising the watch and ward, by reference to his oath specifically to uphold the Statute of Winchester); MORRIS, *supra* note 23, at 150, 228–29, 278. The Statute of Winchester was enacted by Edward I. It required all free men to possess arms on a sliding scale based on their wealth: the wealthier the individual, the more extensive the required arms and armor. Statute of Winchester, 1285, 13 Edw. 1, stat. 2.

[152] WILLIAM LAMBARDE, EIRENARCHA 185, 341 (London, Newbery & Bynneman 1581); FERDINANDO PULTON, DE PACE REGIS & REGNI 153a–153b (Lawbook Exchange 2007) (1609). *See also* GOODWIN, *supra* note 150, at 234–35 (noting that justices of the peace may order constables to organize the watch and ward).

[153] ELIZABETH C. BARTELS, VOLUNTEER POLICE IN THE UNITED STATES 2 (2014).

necessary to prevent escape.[154] The third power of the sheriffs, to summon the *posse comitatus*, is described in the remainder of Part II. The fourth power is to summon the militia. The use of this military force is supposed to be rare and only for situations that the *posse comitatus* is incapable of resolving.

A. *POSSE COMITATUS* IN ENGLAND

Richard Abels, a modern historian of the Anglo-Saxon period, reports that "[t]he reeves of the late ninth and the early tenth century also led posses in pursuit of thieves . . . ."[155] The Latin phrase which was applied to this popular use of armed force for keeping the peace is *posse comitatus*, literally "[t]he power or force of the county."[156] Historian Richard Kemble wrote that from the early days of the heptarchy and throughout the Anglo-Saxon period, the sheriff was "leader of the constitutional force, the *posse*

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[154] For details about the hue and cry, *see* Statute of Winchester, 1285, 13 Edw. I, stat. 2, chs. 4–6 (formalizing hue and cry system; requiring all men aged fifteen to sixty to possess arms and armor according to their wealth; lowest category, having less than "Twenty Marks in Goods," must have swords, knives, bows, and other small arms); 4 WILLIAM BLACKSTONE, COMMENTARIES *293–94 (describing hue and cry system as still in effect); EDWARD COKE, THE THIRD PART OF THE INSTITUTES OF THE LAWS OF ENGLAND; CONCERNING HIGH TREASON, AND OTHER PLEAS OF THE CROWN AND CRIMINAL CAUSES 116–18 (William S. Hein & Co. 2008 (1628); COKE, *supra* note 85, at 171–73 (ch. 9); DALTON, *supra* note 23, at 6a–6b (noting that the sheriff's oath included the hue and cry, by reference to his oath specifically to uphold the Statute of Winchester); *id.* at 14a (all men must "be ready at the commandement of the sherife (& at the cry of the countrey) to pursue and arrest all felons"); LAMBARDE, *supra* note 152, at 185, 233 (Book I, ch. 22), 341 (Book II, ch. 4); MORRIS, *supra* note 23, at 221–22, 227; FREDERICK POLLOCK & FREDERIC W. MAITLAND, 2 THE HISTORY OF ENGLISH LAW BEFORE THE TIME OF EDWARD I 576–81 (Liberty Fund 2010) (1895); PULTON, *supra* note 152, at 152b § 1 ("That all men generally shall be readie at the commandement and summons of the Sherifes, and at the crie of the Countrie to pursue and arrest felons when neede shall be."); STUBBS, *supra* note 83, at 123 (Statute of Winchester "carries us back to the earliest institutions of the race; it revises and refines the action of the hundred, hue and cry, watch and ward, the fyrd and the assize of arms." It "shows the permanence and adaptability of ancient popular law." The statute is "the culminating point" of Edward I's "legislative activity," being of "great constructive power"); WEBB, *supra* note 113, at 294 ("If a Felony is committed, the Sheriff may raise Hue and Cry, without other Warrant, to pursue and apprehend the Felon; and if he resists, or will not surrender himself, so that he cannot otherwise be taken, he may be kill'd by any Officer, or his Assistants.").

[155] ABELS, *supra* note 22, at 274; *see also* MORRIS, *supra* note 23, at 18 (stating that records show the Reeve of London led Londoners in pursuit of thieves during the reign of King Aethelstan in the early tenth century).

[156] BLACK'S LAW DICTIONARY 1046 (5th ed. 1979) ("The power or force of the county. The entire population of the county above the age of fifteen, which a sheriff may summon to his assistance, in certain cases, as to aid him in keeping the peace, in pursuing and arresting felons, etc. Williams v. State, 253 Ark. 973, 490 S.W.2d 117, 121."); *see also* BLACK'S LAW DICTIONARY 1281 (9th ed. 2009) ("A group of citizens who are called together to help the sheriff keep the peace or conduct rescue operations. — Often shortened to *posse*.").

comitatus or *levée en masse* of the free men."[157] Kemble used this fact in support of his argument that in the early Anglo-Saxon period:

> The *graviones*, *gerêfan*, or *shire-reeves* (by whatever name they may then have been called), were the essentially the people's officers; whether they were hereditary or not, these offices depended upon the popular will; and in a vast majority of cases, it is obvious that they must have been immediately dependent upon it,—that is to say, elective, and not hereditary.[158]

So it may well be that Alfred the Great did not invent the *posse comitatus*; it may also be that King Alfred's better organization of the shires, the shire-reeves, and the shire-based militias may have helped make the *posse comitatus* more effective.

William Henry Watson's 1848 treatise on the English sheriff explained that the *posse comitatus* power of the nineteenth century was formally the same as it had been in the ninth century.

> He may, and is bound, *ex officio*, to pursue and take all traitors, murderers, felons, and rioters; he hath also the custody and safe-keeping of the county gaol; he is to defend the same against rioters, and for this purpose, as well as for taking rioters and others breaking the peace, and also for attending the queen to the war when enemies come; he may command all the people of his county to attend him, which is called the *posse comitatus*, or power of the county, and this summons every person above fifteen years old, and under the degree of a peer, is bound to attend upon warning, under pain of fine and imprisonment.[159]

Posse comitatus was available whenever the sheriff needed a citizen armed force to enforce the law.[160] The sheriff could use *posse comitatus* to suppress riots and also to enforce civil process—if and only if there was resistance to the civil process.[161] Examples for use of *posse comitatus* in

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[157] KEMBLE, *supra* note 84, at 60.

[158] *Id.*

[159] WATSON, *supra* note 25, at 2 (citing 1414, 2 Hen. 5, stat. 1 c. 8); *see also* Statute of Winchester, 1285, 13 Edw. 1, stat. 2, c. 39; DALTON, *supra* note 105, at 314 (seventeenth century); KARRAKER, *supra* note 19, at 22 (seventeenth century).

[160] COKE, *supra* note 85, at 192–94; *cf.* STUBBS, *supra* note 83, at 289 (describing instances in 1220, 1224, 1231, 1264, and 1267 when posses fought for or against the monarchy during the times when barons were resisting the king).

[161] RICHARD CROMPTON, L'OFFICE ET AUCTHORITIE DE IUSTICES DE PEACE 123 (2014) (1584) (print-on-demand reprint of 1584 edition; *posse comitatus* is in section on "Vicountes," a Norman French term for "Sheriff"; the page numbers of this edition disappear after 74, but the table of contents lists "posse comitatus" as 123); DALTON, *supra* note 23, at 13a–15b, 136a–137a; WILLIAM HAWKINS, 1 A TREATISE OF THE PLEAS OF THE CROWN 156, 158–61 (2nd ed., London, Nutt & Gosling 1724); *id.* at 159 (noting also that even without the direction of a sheriff, "private Persons may arm themselves in order to suppress a Riot; from whence it seems clearly to follow, that they may make use of Arms in the suppressing of it . . ."); LAMBARDE, *supra* note 152, at 233 (riot suppression); PULTON *supra* note 152, at 29a (in case of a riot, "the Justices of peace, the Shirife or undershirife shall come with the power of the Countie, if neede be, to arrest them"); JOHN STEPHEN, SUMMARY OF THE

cases of resistance of civil process included a Precept of Restitution,[162] and Writs of Execution, Replevin, Estrepement, Capias, "or other Writ."[163] The *posse comitatus* could be used to "to apprehend Felons, &c. Or disturbers of the peace."[164] In other words, the posse could be used for the arrest of all types of criminals. This included the power to arrest even "a great Lord."[165]

By the eighteenth century, the government of Great Britain was moving towards reduced use of the *posse comitatus* and sheriffs, notwithstanding protests from political writers who argued that the sheriffs and the *posse comitatus* were the law enforcement system that complied with England's unwritten constitutional tradition.[166] The *posse comitatus* was still used in the early nineteenth century,[167] but, by the late nineteenth century, it, like many other formal powers of the sheriff, had fallen into disuse in England.[168] America was different.

CRIMINAL LAW 46 (Philadelphia: J.S. Littell, 1840) (suppressing of unlawful riots, routs, and assemblies).

[162] HAWKINS, *supra* note 150, at 152. A precept of restitution is used to restore the rightful owner to real property that is wrongly possessed by another. "Precept" in this context is an order from an authority to compel an officer to perform some act. BLACK'S LAW DICTIONARY 1059 (5th ed. 1979).

[163] DALTON, *supra* note 105, at 314. A writ of replevin is for the return of personal property wrongly held by another. A writ of execution is to satisfy the judgment of a court, such as by selling a defendant's property to pay his creditors. FED. R. CIV. P. 69; BLACK'S LAW DICTIONARY 510 (5th ed. 1979). A writ of estrepement compels a party not to commit waste on real property. BLACK'S LAW DICTIONARY 496 (5th ed. 1979). A writ of capias is for the sheriff to arrest a defendant in a civil case who has refused to appear in court. Edmund M. Morgan, *The Court of Common Pleas in Fifteenth Century England*, 61 HARV. L. REV. 914, 915–16 (1948) (book review).

[164] DALTON, *supra* note 105, at 315.

[165] *Id.* at 314.

[166] WILLIAM JONES, AN INQUIRY INTO THE LEGAL MODE OF SUPPRESSING RIOTS, WITH A CONSTITUTIONAL PLAN OF FUTURE DEFENCE (2d ed., London, C. Dilly 1782) (calling for an organized and thorough plan for training the *posse comitatus* and ensuring that it was armed; arguing that law enforcement by *posse comitatus* was much safer for civil liberty than law enforcement by a standing army); LEON RADZINOWICZ, 2 A HISTORY OF ENGLISH CRIMINAL LAW AND ITS ADMINISTRATION FROM 1750, at 28–29 (1956) [hereinafter 2 RADZINOWICZ]; LEON RADZINOWICZ, 3 A HISTORY OF ENGLISH CRIMINAL LAW AND ITS ADMINISTRATION FROM 1750, at 93–96, 375–77 (1956); ANONYMOUS, REGULATIONS OF PAROCHIAL POLICE 24–42 (4th ed., London, J. Hatchard 1803) (also proposing a plan to train the population in posse service).

[167] 2 RADZINOWICZ, *supra* note 166, at 221 n.89 (citing 1816 use of posse to guard the Gas Light Company). The last known use of the *posse comitatus* in England was in 1830 by the Sheriff of Oxfordshire to suppress riots. GLADWIN, *supra* note 74, at 375. During World War I and World War II, the power of sheriffs to raise the *posse comitatus* in case of invasion was reaffirmed. *Id.* But there being no invasion during either war, the power was apparently not exercised. *Id.*

[168] In 1885, the legal historian Frederic Maitland wrote: "Now the whole history of English Justice and Police might be brought under this rubric, *The Decline and Fall of*

B. *POSSE COMITATUS* IN COLONIAL AMERICA AND THE REVOLUTION

The sheriff's role as conservator of the peace—with the authority to summon the *posse comitatus*, raise the hue and cry, and administer watch and ward—was straightforwardly recognized in the American colonies.[169] But the changes in the posse began to reflect—and intensify—the ways in which the Americans were reshaping their English legal heritage towards greater self-government and liberty.

Gautham Rao's article *The Federal* Posse Comitatus *Doctrine* explains: "In its migration to America, however, colonists transformed the *posse comitatus* from an instrument of royal prerogative to an institution of local self-governance."[170] The posse "functioned through, rather than upon, the local popular will."[171] In other words, the Americans brought the posse back to its traditional Anglo-Saxon role, shaking off six centuries of how the Norman Conquest and succeeding monarchs had partially undemocratized the posse and the sheriff.

According to Rao, "[t]he colonists' control of the *posse comitatus*—of the legal means of coercion—all but precipitated the American Revolution."[172] The policies of the government in London had so alienated the Americans that they were no longer willing to enforce what London wanted. The Prime Minister, Lord North, recognized the problem: the posse had switched sides; rather than providing the manpower to enforce Parliament's will, the posse was now actively resisting that will: "[O]ur regulations here are of no import, if you have nobody in that country to give

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Sheriff." FREDERIC WILLIAM MAITLAND, JUSTICE AND POLICE 69 (London, MacMillan & Co. 1885). Maitland traced the beginning of the decline to "the Norman reigns." *Id.* So "there are many things which according to law books he might do, but which he never does. He might call out the power of the county (*posse comitatus*) to apprehend a criminal with hue and cry, but justices of the peace and police constables have long rendered needless this rusty machinery." *Id.* at 70.

[169] CHAPIN, *supra* note 135, at 31; KARRAKER, *supra* note 19, at 147 (Virginia); JOHN MILTON NILES, THE CONNECTICUT CIVIL OFFICER 188–89, 214 (Hartford, Huntington & Hopkins 1823); *cf.* BARTELS, *supra* note 153, at 2 (night watches created in Boston in 1636 and New York City in 1686). In Delaware, the role is affirmed in the state constitution. "Sheriffs shall be conservators of the peace within the counties respectively in which they reside." DEL. CONST. art. XV, § 1; *see also* sources in note 144 *supra* (describing constitutional office of sheriff).

[170] Gautham Rao, *The Federal* Posse Comitatus *Doctrine: Slavery, Compulsion, and Statecraft in Mid-Nineteenth-Century America*, 26 LAW & HIST. REV. 1, 10 (2008); *see also* PAULINE MAIER, FROM RESISTANCE TO REVOLUTION 16–20 (1991) (noting, *inter alia*, use of *posse comitatus* to prevent impressment of Americans into the British navy).

[171] Rao, *supra* note 170, at 10.

[172] *Id.*

them force."[173] The problem was exacerbated by the fact that most sheriffs leaned Whig (towards citizen rights) rather than Tory (towards the authority of the monarch).[174]

So at the advice of Lord North and his party, the British government attempted to resort to military coercion of the Americans, and, starting in the fall of 1774, a gun control program designed to disarm them. Forcible disarmament with house-to-house searches by the British redcoats was attempted at Lexington and Concord on the morning of April 19, 1775. The Americans resisted with their personal arms, and the Revolutionary War began.[175]

C. AFTER INDEPENDENCE

In the Early Republic, the *posse comitatus* was an accepted and uncontroversial institution; the federal government only rarely used its *posse comitatus* powers.

One of the first legal treatises of the new United States of America was produced by James Wilson, the preeminent lawyer of his day, soon to be appointed to the Supreme Court by President Washington.[176] Quite conventionally, Wilson described *posse comitatus* as "the high power of ordering to [the sheriff's] assistance the whole strength of the county over which he presides" in order "to suppress . . . unlawful force and resistance."[177]

Joel Barlow's essay *Advice to the Privileged Orders* argued that if the state represented the people as a whole, not just one class, society would be more stable.[178] Barlow noted that in Europe, an armed populace would be regarded "as a mark of an uncivilized people, extremely dangerous to a well

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[173] House of Commons Debate, Mar. 28, 1774, 17 PARL. HIST. ENG. 1192–93, in JOHN PHILLIP REID, IN DEFIANCE OF THE LAW 230–33 (1981); Rao, *supra* note 170, at 10–11.

[174] REID, *supra* note 173, at 203.

[175] Kopel, *supra* note 3, at 308.

[176] OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES 1092 (2d ed. 2005).

[177] JAMES WILSON, *Of Government*, *in* 2 COLLECTED WORKS OF JAMES WILSON 1016 (Kermit L. Hall & Mark David Hall eds., 2007). The treatise is based on series of lectures that Wilson delivered in 1790 and 1791 at the College of Philadelphia, which he revised for publication. He was aiming to become the American Blackstone. Mark David Hall, *Bibliographical Essay: History of James Wilson's Law Lectures in id*. at 401.

[178] JOEL BARLOW, ADVICE TO THE PRIVILEGED ORDERS IN THE SEVERAL STATES OF EUROPE (Cornell University Press, 1956) (1792). Barlow was a leading diplomat and writer during the 1780s and 1790s. He was one of the "Connecticut wits," a group of writers centered around Yale. *Joel Barlow: A Biographical Note, in id*. at ix. He challenged the typical European belief that Europeans were more civilized than Americans.

ordered society."[179] But unlike the European rabble, which had no experience with self-government, Americans were their own sovereigns, and self-government brought out the best in man's character. Thus, the American people could be trusted with guns: "It is *because the people are civilized, that they are with safety armed*."[180] Barlow praised the "very important" "discoveries" which "had been made in modern nations, especially in England, and carried into successful practice, for the security of citizens against an undue exercise of the governing power; and some that were equally original for the regular assistance of the governing power against the turbulence of citizens."[181] These were the *posse comitatus*, habeas corpus, the jury, and the rule that "parliament holds the purse."[182]

When the proposed Constitution was put before the American people, one of the objections of Anti-Federalists was that the new federal government did not have an enumerated *posse comitatus* power, but did have an enumerated militia power. The Anti-Federalists argued that therefore the federal government would use the militia (that is, military force) to carry out its powers on a routine basis.[183] In Federalist Number 29, Alexander Hamilton responded that the federal government did have *posse comitatus* power, by virtue of the Necessary and Proper Clause.[184]

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[179] *Id.* at 16.

[180] *Id.*

[181] JOEL BARLOW, THE MARCH OF THIS GOVERNMENT, *quoted in* Christine M. Lizanich, *"The March of This Government": Joel Barlow's Unwritten History of the United States*, 33 WM. & MARY Q. 315, 325–26 (1976). Barlow's appointment as Ambassador to France interrupted his work on the book, and he died before completing it. *Id.* at 320.

[182] *Id.* at 325 n.24.

[183] *Letter from the Federal Farmer III* (Oct. 10, 1787), *reprinted in* 2 THE COMPLETE ANTI-FEDERALIST 234–45 (Herbert J. Storing ed., 1981); Brutus, *Essay IV*, *reprinted in id.* at 382–87 (claiming that the power to use the militia for law enforcement "is a novel one, in free governments—these have depended for the execution of the laws on the Posse Comitatus, and never raised an idea, that the people would refuse to aid the civil magistrate in executing those laws they themselves had made").

[184] THE FEDERALIST No. 29 (Alexander Hamilton):

> In order to cast an odium upon the power of calling forth the militia to execute the laws of the Union, it has been remarked that there is nowhere any provision in the proposed Constitution for calling out the POSSE COMITATUS, to assist the magistrate in the execution of his duty, whence it has been inferred, that military force was intended to be his only auxiliary . . . . The same persons who tell us in one breath, that the powers of the federal government will be despotic and unlimited, inform us in the next, that it has not authority sufficient even to call out the POSSE COMITATUS. The latter, fortunately, is as much short of the truth as the former exceeds it. It would be as absurd to doubt, that a right to pass all laws *necessary* and *proper* to execute its declared powers, would include that of requiring the assistance of the citizens to the officers who may be intrusted with the execution of those laws, as it would be to believe, that a right to enact laws necessary and proper for the imposition and collection of taxes would involve that of varying the rules of descent and of the

After ratification of the Constitution, Hamilton's necessary and proper view of the federal *posse comitatus* power was uncontroversial. In addition, the federal government has all the normal powers of local government in areas, such as territories, where the federal government has the authority to exercise local government.[185] Thus, during the Jefferson administration, Secretary of State James Madison sent a written order that a French official "call for the assistance of the good citizens of the district, as the *posse comitatus*" to enforce the terms of the Louisiana Purchase.[186] In an 1833 treatise on American constitutional law, Supreme Court Justice Joseph Story explained that while the *posse comitatus* would suffice for maintaining law and order in most situations, there were some circumstances in which either a militia or a standing army would be necessary.[187]

For local law enforcement, *posse comitatus* in the decades before 1850 thrived as a well-developed and popular institution. Edward Livingston extolled the posse because "the same ties of property, of family, of love of country and of liberty" which make possemen "effective instruments for the suppression of disorder" also make them "unfit . . . to promote any scheme of usurpation. The people can apprehend no danger to their liberties from

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> alienation of landed property, or of abolishing the trial by jury in cases relating to it. It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of color, it will follow, that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid as it is illogical. What reason could there be to infer, that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary?

Id.

[185] *See* U.S. CONST., art. IV § 3, cl. 2; Block v. Hirsh, 256 U.S. 135, 156 (1921); Shively v. Bowlby, 152 U.S. 1 (1894); Am. Ins. Co. v. 356 Bales of Cotton, 26 U.S. 511, 542 (1828).

[186] Madison's instruction was quoted in a Supreme Court case a few years later. Livingston v. Dorgenois, 11 U.S. 577, 578–79 (1813).

[187] JOSEPH STORY, 3 COMMENTARIES ON THE CONSTITUTION 81–82 (Boston, Hilliard, Gray, & Co. 1833) (§ 1196):

> In ordinary cases, indeed, the resistance to the laws may be put down by the *posse comitatus*, or the assistance of the common magistracy . . . . The general power of the government to pass all laws necessary and proper to execute its declared powers, would doubtless authorize laws to call forth the *posse comitatus*, and employ the common magistracy, in cases, where such measures would suit the emergency. But if the militia could not be called in aid, it would be absolutely indispensable to the common safety to keep up a strong regular force in time of peace.

See also Luther v. Borden, 48 U.S. 1, 76 (1849) (Woodbury, J., dissenting) ("The State courts, with the aid of the militia, as in Shays's rebellion and the Western insurrection, could, for aught which appears, by help of the *posse comitatus*, or at least by that militia, have in this case dispersed all opposition.").

such a force . . . ."[188] Citizens served in the posse readily and with pride.[189] It was used for a wide variety of local enforcement, ranging from stopping illegal fishing up to riots.[190] Like jury service, posse service was a mandatory duty of a citizen, one that should be performed with pride as part of free citizen's rights and duties in a self-governing republic.[191]

In the early decades of the republic, before slavery became a major conflict, federal use of *posse comitatus* in the states was rare and sporadic. The Judiciary Act of 1789 gave U.S. Marshals authority to summon the *posse comitatus*.[192]

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[188] EDWARD LIVINGSTON, A SYSTEM OF PENAL LAW FOR THE STATE OF LOUISIANA 209–10 (Lawbook Exchange 2010) (1833). Livingston was one of the parties in *Livingston v. Dorgenois*, *supra* note 186. He also served as Secretary of State for Andrew Jackson, and also as a United States Senator for Louisiana and United States Representative for two states, New York and Louisiana. Roger J. Champagne, *Livingston, Edward*, *in* 17 ENCYCLOPEDIA AMERICANA 615 (1980).

[189] Rao, *supra* note 170, at 11–12.

[190] *Id.* *See also* Reed v. Bias, 8 Watts & Serg. 189, 191 (Pa. 1844) ("The sheriff, to prevent personal damage to himself and his ordinary assistants from a mob assembled in extraordinary numbers, and with a show of force to overawe the civil power, may call in the assistance of the military. He has the right, and it is his duty to use the proper and necessary force to suppress all mobs and disturbers of the peace. Without this power our liberty would be but a name, and our lives and property insecure."); GOODWIN, *supra* note 150, at 13, 76, 149–50, 155 (conservation of the peace, recapture of escaped prisoners, suppression of riots, arrest warrants); HARTSHORN, *supra* note 150, at 13, 123, 230–31 (any criminal case, preservation of the peace, recapture of prisoners); JOHN H.B. LATROBE, THE JUSTICES' PRACTICE UNDER THE LAWS OF MARYLAND 22 (Baltimore, Fielding Lucas, Jr. 1826) (constable may order any person to assist him in making an arrest); MORDECAI M'KINNEY, THE UNITED STATES CONSTITUTIONAL MANUAL 151, 160, 260 (Harrisburg, Penn.: Hickock & Cantine, 1845) (sheriffs may raise the *posse comitatus* to suppress riots or affrays and to arrest criminals); NILES, *supra* note 169, at 17, 190, 214, 270, 275–76 (suppression of riots, execution of arrests; final item is form for a constable's return after having summoned assistance and suppressed a riot); WILLIAM J. NOVAK, THE PEOPLE'S WELFARE 212 (1996) (quarantine enforcement in Albany in 1832); HENRY POTTER, THE OFFICE AND DUTY OF A JUSTICE OF THE PEACE 243–44 (Raleigh, Joseph Gales 1816) (noting posse use for riots and affrays, forcible entry and detainer, pursuit and apprehension of all felons and all breakers or disturbers of the pace; execution of any lawful writ, process, or warrant; preservation of the peace).

[191] Avery v. Seely, 3 Watts & Serg. 494, 498 (Pa. 1841) (stating that sheriff may not take his posse out of his own county); Comfort v. Commonwealth, 5 Whart. 437, 440 (Pa. 1840) (holding that the constable has the same power as the sheriff to summon posse, including for assistance in execution of a writ on a debt); Coyles v. Hurtin, 10 Johns. 85, 88 (N.Y. Sup. Ct. 1813) (holding that sheriff can order a person to perform a posse task, and can then leave the person's presence; persons in posse service have the same civil immunities as the sheriff); STEPHEN, *supra* note 161, at 29.

[192] 1 Stat. 73, 87 (1789) (creating, in § 27, office of U.S. Marshal in each federal judicial district, who "shall have power to command all necessary assistance in the execution of his duty").

A modern scholar, Wesley Campbell, uses ratification history to argue against the Supreme Court decisions such as *Printz v. United States*, which forbid federal commandeering of state officials.[193] Campbell infers from the ratification history not only a federal *posse comitatus* power, but also a federal power to commandeer county sheriffs to lead the *posse comitatus* in federal service.[194] This is problematic because of the nature of the posse. The posse is an ad hoc organization. It has no organization until it enters into the service of whoever lawfully summoned it. As in England, the American common law recognized that many officials, not just the sheriffs, had the authority to summon a posse. These officials were a "Judge of Record, Sheriff, Coroner,[195] Constable, or other Officer to whose Office belongs the Conservation of the Peace . . . ."[196] The Appendix to this Article sets forth the modern state *posse comitatus* statutes; they follow the common law in providing that a variety of state or local officials, not just sheriffs, may summon a *posse comitatus*.

If a coroner summons the posse on Tuesday, then he is the posse commander that day. If a judge summons the posse on Friday, then she is the posse commander for that day. Accordingly, the power of a federal officer to summon a posse for his own use does not necessarily imply that the federal officer also has the power to summon any of the state officials—such as sheriffs, judges, and coroners—who also has posse-summoning power.

It is useful to contrast the posse with the state militia. There are a variety of possible posse commanders, depending on the exigencies of law enforcement need. There is no process for compulsory training of persons who might be summoned to posse service. In contrast, the state militia is a regular body. It is subject to periodic training and to musters (where militia members show that they possess the requisite arms for militia duty).[197]

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[193] Wesley J. Campbell, *Commandeering and Constitutional Change*, 122 YALE L.J. 1104 (2013).

[194] *Id.* at 1139–44.

[195] The Office of Coroner in England was created in 1194. Articles of the Eyre, 1 Stats. of the Realm 233 (art. 20). The office was originally much broader than today, when forensic autopsies are the office's only routine law enforcement role. Coroners presided at some judicial hearings and had arrest powers. *See, e.g.*, WEBB, *supra* note 113, at 97–104.

[196] WEBB, *supra* note 113, at 253.

[197] *See, e.g.*, District of Columbia v. Heller, 554 U.S. 570, 650 n.12 (Stevens, J., dissenting) (quoting an Act for Establishing a Militia, 1785 Del. Laws § 7) ("And be it enacted, That every person between the ages of eighteen and fifty . . . shall at his own expense, provide himself . . . with a musket or firelock, with a bayonet, a cartouch box to contain twenty three cartridges, a priming wire, a brush and six flints, all in good order, on or before the first day of April next, under the penalty of forty shillings, and shall keep the same by him at all times, ready and fit for service, under the penalty of two shillings and six

Unlike the posse, the militia is led by a regular set of officers.[198] The man who is the militia captain on Monday will still be the militia captain on Friday. The U.S. Constitution expressly grants Congress the power to summon the state militias, including their state officers, into federal service.[199] When the Constitution means to grant to the federal government the extraordinary power of commandeering state officers, the Constitution says so expressly.

Early practice shows that the federal *posse comitatus* power was not exercised as a power to commandeer state officers. The Judiciary Act of 1789 authorized federal marshals to summon posses. There appears to be no evidence indicating that from 1789 to the present, the federal posse power has ever been used by a federal marshal, or anyone else, to commandeer a state official in his official capacity (e.g., a sheriff or a state judge) into serving as posse commander in federal service.

In *Prigg v. Pennsylvania*, the Supreme Court ruled that the 1793 federal Fugitive Slave Act was constitutional. Even though Article I had not given Congress an enumerated power over fugitive slaves, the fugitive slave provisions in Article IV created an implied power, according to the Court.[200] At the same time, state and local officials had absolutely no obligation to assist in the recapture of fugitives, according to the *Prigg* Court.[201]

D. *POSSE COMITATUS* AND THE CIVIL WAR

1. Before the War

Everything changed with the congressional enactment of the Compromise of 1850. In exchange for admission of California to the Union as a free state, northern legislators accepted a massive new federal Fugitive Slave Act.[202] This time, the Act explicitly declared that citizens were required to serve when summoned in a federal *posse comitatus* hunting for

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pence for each neglect or default thereof on every muster day").

[198] *See, e.g.*, S.D. CONST. art. 15, § 4.

[199] U.S. CONST. art. I, § 8, cl. 15–16: "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions"; "[t]o provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress . . . ."

[200] Prigg v. Pennsylvania, 41 U.S. 539 (1842).

[201] *Id.* at 615.

[202] FERGUS M. BORDEWICH, AMERICA'S GREAT DEBATE: HENRY CLAY, STEPHEN A. DOUGLAS, AND THE COMPROMISE THAT PRESERVED THE UNION (2012).

fugitive slaves.[203] The federal *posse comitatus* had been transformed, as Rao puts it, "from emergency to routine . . . from sporadic to ubiquitous."[204] The *posse comitatus* provisions of the Fugitive Slave Act of 1850 forced the North to become complicit in enforcing slavery, and thus to become part of the slave system.[205] To many northerners, forced service to recapture slaves felt little different from slavery itself.[206] The *posse comitatus* was supposed to be the people of the county participating in self-government by enforcing their own laws. Now, federal *posse comitatus* had been perverted into a weapon that transformed free citizens into the minions of distant slave owners.

Making things even worse, the federal government began using federal soldiers on slave hunts and claimed that these men were merely acting as *posse comitatus*.[207] To call the federal standing army a "*posse comitatus*" was as Orwellian as calling the federal army "the Massachusetts State Militia." The posse and the militia were supposed to be the institutions that minimized the need for domestic use of a standing army. The posse was not supposed to be used as a legal fiction to justify use of the military for ordinary law enforcement in a state that was not under martial law.

An 1854 poem by Walt Whitman, "A Boston Ballad," denounced the sight of federal troops—"the Federal foot and dragoons"—marching through Boston to transport a fugitive slave.[208] King George's despotic principles had triumphed: "You have got your revenge, old buster! The crown is come to its own, and more than its own."[209]

The innovative use of *posse comitatus* to enforce the Fugitive Slave Act brought slavery home to the North. Indifference to slavery as a far-away institution was no longer possible. According to the abolitionists, there were now only two choices for a free northern man: one option was to himself become a servant of the slave power in the federal *posse comitatus*. The only other choice was to put slavery everywhere in America on the

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[203] Fugitive Slave Act of 1850, 9 Stat. 462, 462–63 (explaining that U.S. Marshals are authorized "to summon and call to their aid the bystanders, or *posse comitatus* of the proper county, when necessary to ensure a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose . . . "); *see also* Extradition of Fugitives from Service, 6 Op. Att'y Gen. 466 (1854).

[204] Rao, *supra* note 170, at 25–26.

[205] *Id.* at 5, 20, 26–31.

[206] *Id.* at 27–28.

[207] *Id.* at 29.

[208] WALT WHITMAN, THE COMPLETE POEMS 292–03 (Penguin Classics 2005).

[209] *Id.* at 204.

road to destruction.[210] All sides agreed that Abraham Lincoln's plan to block any expansion of slavery into federal territories would eventually lead to the economic collapse of slavery in all the slave states.[211] Ascendant in Congress, the South had nationalized the issue of slavery, and thereby radicalized much of the North. The locally controlled *posse comitatus* of ordered liberty had helped bring about the American Revolution. The federally controlled *posse comitatus* of slavery would help cause the Civil War.

2. After the War

Victorious after four years of the bloodiest war in American history, the Radical Republicans and their political allies embarked upon a Reconstruction plan to demolish the slave power root and branch.[212] The Thirteenth Amendment and the abolition of *de jure* slavery was just the first step.

Prigg v. Pennsylvania had found an implicit pro-slavery federal power in the Fugitive Slave Clause of the Constitution.[213] So Congress looked to the other clauses of Article IV and found the guarantee that "[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."[214] To the most ardent reconstructionists, this was enough to imply a congressional power to enact civil rights legislation—especially in conjunction with the enforcement power granted by Section Two of the Thirteenth Amendment.[215] Such legislation was enacted,[216] but Congress decided to put it on a more solid constitutional footing by proposing the Fourteenth Amendment for ratification, Section One of which provided that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . ."[217] Section Five gave Congress the power to enforce the Amendment by appropriate legislation.[218]

Likewise, federal slavery powers were later used for civil rights ends: the Civil Rights Act of 1866, the Enforcement Acts of 1870 and 1871, and

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[210] Rao, *supra* note 170, at 26–31.

[211] DOUGLAS R. EGERTON, YEAR OF METEORS: STEPHEN DOUGLAS, ABRAHAM LINCOLN, AND THE ELECTION THAT BROUGHT ON THE CIVIL WAR 28, 35 (2010).

[212] *See* GARRETT EPPS, DEMOCRACY REBORN: THE FOURTEENTH AMENDMENT AND THE FIGHT FOR EQUAL RIGHTS IN POST-CIVIL WAR AMERICA (2006).

[213] U.S. CONST. art. IV, § 2, cl. 3.

[214] U.S. CONST. art. IV, § 2, cl. 1.

[215] MICHAEL KENT CURTIS, NO STATE SHALL ABRIDGE 42–43 (1986).

[216] Civil Rights Act of 1866, 14. Stat. 27–30.

[217] U.S. CONST. amend. XIV. CURTIS, *supra* note 215, at 42–43.

[218] *Id.*

the Ku Klux Klan Act of 1871 all gave federal marshals authority to summon the *posse comitatus*.[219] Anti-slavery Senator Lyman Trumbull noted that the *posse comitatus* provision of the 1866 Civil Rights Act was "copied from the late fugitive slave act, adopted in 1850 . . . ."[220] But in the South in 1872 as in the North in 1852, there was resistance to serving in a federal *posse comitatus* for routine enforcement of federal laws which many local people did not accept.[221] Again, the federal military was sometimes used as *posse comitatus*, under the pretext that the men were merely acting as citizens, rather than as soldiers.[222] Finally in 1878, Congress passed the Posse Comitatus Act to forbid use of the army in law enforcement, except when expressly authorized by Congress.[223]

Today, the modern version of the civil rights statute provides that United States Magistrate Judges may appoint persons to serve warrants and process:

> [These] persons so appointed shall have authority to summon and call to their aid the bystanders or *posse comitatus* of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged . . . .[224]

The statutory authority of federal judges to raise the *posse comitatus*, as described above, is consistent with the American common law understanding of who may invoke the power.[225] As U.S. Attorney General Edward Bates wrote, "[t]he right of the courts to call out the whole power of the county to enforce their judgments, is as old as the common law . . . ."[226]

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[219] 14 Stat. 27, 28 (1866) (Civil Rights Act) (Empowering federal civil rights commissioners to appoint "suitable persons . . . to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty . . ."); 16 Stat. 140, 142 (1870) (Enforcement Act); 16 Stat. 433, 437 (1871) (voting rights).

[220] CONG. GLOBE, 39th Cong., 1st Sess. 475 (1866).

[221] Rao, *supra* note 170, at 50.

[222] *Id.* at 50–51.

[223] 20 STAT. 145, 152 (1878). The law remains in effect today, albeit with major loopholes created for the "War on Drugs." *See* David B. Kopel, *Smash-up Policing: When Law Enforcement Goes Military*, *in* BUSTED: STONE COWBOYS, NARCO-LORDS AND WASHINGTON'S WAR ON DRUGS 155–58 (Mike Gray ed., 2002).

[224] 42 U.S.C. § 1989 (2006).

[225] WEBB, *supra* note 113, at 253 ("By the Common Law, every Judge of Record, Sheriffs, Coroner, Constable, or other Office to whose office belongs the Conservation of the Peace, may command and take the Aid and Force of Others to pacify Riots, or Affrays . . . .") (citing 28 Edw. 3, c. 8).

[226] Suspension of the Privilege of the Writ of Habeas Corpus, 10 Op. Att'y Gen. 74, 80 (1861).

E. *POSSE COMITATUS* IN LATE NINETEENTH CENTURY AMERICA TO THE PRESENT

With the federal *posse comitatus* crisis of 1850–1878 finally resolved, the *posse comitatus* returned to its traditional American role, with the power of the county to be used in support of popularly-supported laws.[227]

This is the period about which most people today have their greatest familiarity with the *posse comitatus*—of the western sheriff summoning the posse to pursue an escaped outlaw or to confront a violent gang. Frank Richard Prassel's *The Western Peace Officer* is the leading study of the office of sheriff in the western United States during the late nineteenth and early twentieth centuries. As Prassel observes, the original legal structure of the office of sheriff in the western territories and states is nearly identical to the modern structure of the office.[228]

The *posse comitatus* power continued to be a core, essential power of the county sheriff.[229] To this day, in almost every American state, the sheriff's common law *posse comitatus* power[230] is given expression by a statute on the subject.[231] As noted above, the power to raise the hue and cry

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[227] The federal *posse comitatus* power never went away. The Supreme Court in 1890 and 1895 affirmed the responsibility of every U.S. citizen to assist the federal government when needed in the *posse comitatus*. Cunningham v. Neagle, 135 U.S. 1, 65 (1890) ("marshals of the United States, with a *posse comitatus* properly armed and equipped . . ."); *In re* Quarles, 158 U.S. 532, 535 (1895) :

> It is the duty and the right, not only of every peace officer of the United States, but of every citizen, to assist in prosecuting, and in securing the punishment of, any breach of the peace of the United States. It is the right, as well as the duty, of every citizen, when called upon by the proper officer, to act as part of the *posse comitatus* in upholding the laws of his country.

Cf. Wright v. United States, 158 U.S. 232, 239 (1895) (enforcing federal statute protecting federal officers, including *posse comitatus*, on Indian lands when in performance of their official duties, or after they have performed such duties). The actual use of the federal *posse comitatus* had returned to its pre-1850 norm of being rare and uncontroversial.

[228] "Virtually no significant changes have occurred in the American system of county law enforcement during the past century. Most sheriffs and constables operate under the same basic laws and customs as existed at the creation of their posts." FRANK RICHARD PRASSEL, THE WESTERN PEACE OFFICER 119 (1972).

[229] MURFEE, *supra* note 145, at 21 ("For a thousand years the sheriff has been the principal conservator of the peace in his county, with full power to command, whenever necessary, the power of the county.").

[230] "He is also required, in his capacity as conservator of the peace, to suppress riots, mobs, and insurrections, and, in the discharge of his duty, to employ the whole power of the county, including any military force that may be necessary and available for that purpose." MURFEE, *supra* note 145, at 629; *see also* WEBB, *supra* note 113, at 252–53, 293–94.

[231] For example, in Colorado,

> It is the duty of the sheriffs, undersheriffs, and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots, and unlawful

is closely related to the *posse comitatus* power. American sheriffs continued to have the power of hue and cry.[232]

One of the longstanding rules of the English law of sheriffs was that the sheriff is civilly liable for the acts performed by his undersheriff, his deputies, or anyone else in his service. This principle applies to the *posse comitatus*.[233] Concomitantly, persons serving in the sheriff's posse have the same legal immunities as does the sheriff herself.[234] Once workman's compensation was established, it was straightforwardly applied so that a person who is injured while serving in the posse is entitled to workman's compensation just as are full-time deputies.[235]

The *posse comitatus* is familiar enough to the Supreme Court that it figured in part of the questioning during oral argument in *Plyer v. Doe* in

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> assemblies and insurrections. For that purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they, and every coroner, may call to their aid such person of their county as they may deem necessary.

COLO. REV. STAT. § 30-10-516. A list of all state *posse comitatus* statutes is contained in the Appendix to this Article.

[232] For example, the first statutes of the Colorado Territory, created in 1861, stated:

> When any felonious offense shall be committed, public notice thereof shall be immediately given in all public places near where the same was committed, and fresh pursuit shall forthwith be made after every person guilty thereof by sheriffs, coroners, constables, and all other persons who shall be by any of them commanded or summoned for that purpose.

1861 Colo. Sess. Laws 326; *see also* KARRAKER *supra* note 19, at 147–48 (explaining that colonial Virginia sheriffs could raise hue and cry, but "[i]t was probably little resorted to in Virginia because of the wide scattering of the population."); *cf.* NILES, *supra* note 169, at 188–89 (constables' hue and cry).

The New Mexico Territory specifically authorized the sheriff to cross county lines in order to perform an arrest and to take the *posse comitatus* with him for that purpose. N.M. STAT. § 15-40-14 (West 1953) (referencing historical law of 1868–69).

[233] Scott v. Vandiver, 476 F.2d 238, 242–43 (4th Cir. 1973). Conversely, when persons with no connection to a sheriff's office falsely call themselves "*posse comitatus*," the sheriff has no liability for the acts of these unauthorized imposters. *See* Canlis v. San Joaquin Sheriff's Posse Comitatus, 641 F.2d 711, 717 (9th Cir. 1981). A particularly pernicious set of fraudsters was a private extremist organization of tax evaders in the latter twentieth century which wrongly called itself "*Posse Comitatus*." *See generally* JAMES CORCORAN, BITTER HARVEST: GORDON KAHL AND THE *POSSE COMITATUS* (1990) (describing the history of Kahl and his misguided followers).

[234] Filarsky v. Delia, 132 S. Ct. 1657, 1665 (2012) (citing numerous precedents and MURFEE, *supra* note 145); State v. Parker, 199 S.W.2d 338, 339–40 (Mo. 1947); Monterey Cnty. v. Rader, 248 P. 912, 914 (Cal. 1926); Robinson v. State, 18 S.E. 1018, 1019 (Ga. 1893).

[235] CAL. LAB. CODE § 3366 (2011); COLO. REV. STAT. § 8-40-202 (2013); Eaton v. Bernalillo Cnty., 128 P.2d 738 (N.M. 1942); *Monterey Cnty.*, 248 P. at 916; Annotation, *One Temporarily Impressed into Public Service in Emergency, as Within Workmen's Compensation Act*, 142 A.L.R. 657 (1943).

1982.[236] The case involved whether illegal aliens were entitled to attend American public schools; one hypothetical raised by a Justice involved the judicial authority to summon *posse comitatus*.[237] More recently, the 2012 Supreme Court case *Filarsky v. Delia* featured a mini-treatise on *posse comitatus*, recapitulating some of the leading precedents on the subject.[238]

F. WHO IS SUBJECT TO *POSSE COMITATUS* DUTY?

Posse comitatus is like the jury: it is a law enforcement duty of the citizen, and a person who fails to perform either duty may be criminally punished.[239] This principle is not in desuetude, but has been affirmed by state court cases from the late twentieth century.[240] The posse duty inheres in the inhabitants of the county; that is, the Sheriff of Hinsdale County can command posse service only from the inhabitants of Hinsdale County.[241]

Exemptions of able-bodied males from posse duty are rare.[242] One 1848 English treatise[243] said that nobles did not have to serve in the *posse*

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[236] 457 U.S. 202 (1982).

[237] Q. What about a *posse comitatus*, where a judge is theoretically, he may have difficulty doing it, but he is entitled to call upon bystanders to enforce an order of a court. Wouldn't the people escorting these people to the border be much like a *posse comitatus*? They are not officially endowed with status, but they are helping to enforce a federal statute?

Quoted in E. Barrett Prettyman, Jr., *The Supreme Court's Use of Hypothetical Questions at Oral Argument*, 33 CATH. U. REV. 555, 585–86 (1984). The correct answer to the question, by the way, is "no." If you are not summoned by a government officer, then you are not acting as *posse comitatus*. *Posse comitatus* is a status, which confers, *inter alia*, the same civil immunities as enjoyed by other law enforcement officers, as well the same liabilities for supervisors for an agent's misconduct. *See supra* text accompanying note 233.

[238] *Filarsky*, 132 S.Ct. at 1664. As the Court explained, Sheriffs executing a warrant were empowered by the common law to enlist the aid of the able-bodied men of the community in doing so (citing 1 WILLIAM BLACKSTONE, COMMENTARIES *343); while serving as part of this "*posse comitatus*," a private individual had the same authority as the sheriff and was protected to the same extent. See, e.g., *Robinson*, 18 S.E. at 1019.

[239] Sutton v. Allison, 47 N.C. 339 (1855); Houser v. Hampton, 29 N.C. 333 (1847); MURFEE, *supra* note 145, at 78 (citing Coyles v. Hurtin, 10 Johns. 85 (N.Y. Sup. Ct. 1813)).

[240] State v. Floyd, 584 A.2d 1157, 1159 (Conn. 1991); Williams v. State, 490 S.W.2d 117, 119 (Ark. 1973).

[241] State *ex rel.* Att'y Gen. v. McLain, 50 N.E. 907, 908 (Ohio 1898) ("[H]e may command the inhabitants of the county to assist him."). *But see* OKLA. STAT. ANN. tit. 22, § 94 (West 2003) (under extraordinary circumstances, governor must summon posses of other counties to assist in a county where county's *posse comitatus* cannot solve the problem); MORRIS *supra* note 23, at 227 n. 178 (noting one thirteenth century example of the king ordering a sheriff to summon men from two counties, if necessary).

[242] LAMBARDE, *supra* note 152, at 233 (Book I, ch. 22) (ministers, the infirm or decrepit); PULTON, *supra* note 152, at 29a ("which be not of the Clergie"); STEPHEN, *supra* note 161, at 46 (citing Blackstone, "except women, clergymen, persons, decrepit and infants under the age of fifteen"); WEBB, *supra* note 113, at 252 ("But Clergy-men, and sick, lame, or

comitatus, but many other prominent English commentators have viewed posse duty as encompassing everyone regardless of rank.[244] As with militia service, persons who are not able-bodied are exempt; some but not all commentators state that clergymen are exempt.[245]

Unlike with militia service, there is not necessarily an upper age limit for *posse comitatus*. In the view of some commentators, if you are sixty-five years old and able-bodied, you may be exempt from the militia, but not from *posse comitatus*.[246] James Wilson stated in 1790 that "[n]o man above fifteen and under seventy years of age, ecclesiastical or temporal, is exempted from this service."[247] The traditional lower age limit for *posse comitatus* duty was fifteen years old, which was six years below the age of majority in England and the United States.[248] One might argue that changing views about the legal responsibilities of minors might militate for eighteen years as the limit in the United States today.

Women were traditionally exempt.[249] Arguably, the exemption has continuing legal validity by analogy to women still being exempt from

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impotent Persons are excepted.").

[243] WATSON, *supra* note 25, at 2.

[244] COKE, *supra* note 85, at 193 (ch. 17) ("no man ecclesiasticall or temporall is exempted from this service"); DALTON, *supra* note 105, at 313; HAWKINS, *supra* note 150, at ch. 28 § 201 ("all Persons whatsoever, and even noblemen, and all others of what condition or degree soever they may be, except women, clergymen, persons decrepit, and infants under the age of fifteen years"); *see also* DALTON, *supra* note 23, at 136b (similar list to Pulton, except "villaines" omitted); LAMBARDE, *supra* note 152, at 233 (Book I, ch. 22) ("all manner of Gentlemen, Yeomen . . ."); PULTON, *supra* note 152, at 29a ("Al Lords and other liege people of the Realme, as KNIGHTS, Esquires, gentlemen, yeomen, laborers, servants, apprentices, villaines [serfs], and all other of the age of 15 years or above.") (citing 13 Henry IV, ch. 7).

[245] LAMBARDE, *supra* note 152, at 233 (Book I, ch. 22) (ministers, the infirm or decrepit); PULTON, *supra* note 152, at 29a ("which be not of the Clergie"); STEPHEN, *supra* note 161, at 46 ("except women, clergymen, persons decrepit and infants under fifteen"); WEBB, *supra* note 113, at 252 ("But Clergy-men, and sick, lame, or impotent Persons are excepted.").

[246] KARRAKER, *supra* note 19, at 176–77 (reprinting an April 29, 1643, warrant for summoning the *posse comitatus*, applying to persons above the age of sixteen years and "under the age of three score years and able to travel, with such arms or weapons as they have or can provide"); M'KINNEY, *supra* note 190, at 260 (requiring all men above the age of fifteen years, "not aged or decrepid"); WEBB, *supra* note 113, at 252 ("all Males Persons therein, whether Freemen, or Servants, above the Age of 15 Years, and able to travel") (citing LAMBARDE, *supra* note 152, at 309). *But see* COKE, *supra* note 85, at 193 (ch. 17) ("being above 15 and under 70").

[247] WILSON, *supra* note 177, at 1017. *Cf.* STEPHEN, *supra* note 161, at 46 (citing ages fifteen and over, with no upper age limit).

[248] South v. Maryland *ex rel.* Pottle, 59 U.S. 396, 402 (1855); POTTER, *supra* note 190, at 243.

[249] *See e.g.*, PULTON, *supra* note 152, at 29a.

conscription into the U.S. military[250] and into the statutory militia of the United States.[251] On the other hand, the *Virginia Military Institute* case forbids women being excluded from state military service and training unless the exclusion has an "exceedingly persuasive justification."[252] Moreover, posse members will be assisting state or federal law enforcement officers, and these days, many such officers are female. Given that women are universally recognized as capable of serving as sworn law enforcement officers, it seems difficult to argue that any inherent characteristics of women in general disable them from being able to participate in a posse. At the least, the authority of a twenty-first century American sheriff to choose to accept female volunteers in the *posse comitatus* seems incontestable. As for the number of persons which a sheriff or other authorized official may summon, the decision is entirely up to that officer.[253]

G. ARMS OF THE *POSSE COMITATUS*

Because the sheriff must keep the peace, it is axiomatic that he "may lawfully beare armour or weapons."[254] Because the sheriff and his officers may lawfully bear armour or weapons, so may his *posse comitatus*.[255] Thus, persons summoned to the *posse comitatus* "may take with them such Weapons as shall be necessary to enable them effectually to do it . . . ."[256] The posse member must bring not only arms, but also whatever other instruments, such as automobiles, are necessary for service, as Justice

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[250] *See generally* Rostker v. Goldberg, 453 U.S. 57 (1981) (upholding men-only draft registration as not violating the Equal Protection standards of the Fifth Amendment's Due Process Clause).

[251] 10 U.S.C §§ 310–311 (2012).

[252] United States v. Virginia, 518 U.S. 515, 524 (1996) (citing Mississippi Univ. for Women v. Hogan, 458 U.S. 718, 724 (1982)).

[253] DALTON, *supra* note 23, at 136a–136b; LAMBARDE, *supra* note 152, at 233 (Book I, ch. 22) ("And it resteth in the discretion of the Justices [of the Peace] and Shirife or Undershirife how many, or, how fewe, they will have assist them . . . ."); PULTON, *supra* note 152, at 29a ("[S]aid Justices [of the Peace] and Shirife may take so many to assist them as they thinke good to arrest the offenders, and to cary them to the Gaole."); WEBB, *supra* note 113, at 252 ("of such a Number in his Discretion shall appear necessary"). Dalton noted a case in which a sheriff's bailiff in order to execute a replevy "tooke with him three hundred men armed (*modo guerino*) with Brigandines, Jacks, and Gunness, and it was holden lawfull." DALTON, *supra* note 23, at 136b; DALTON, *supra* note 105, at 314. The case was cited by many subsequent commentators.

[254] Statute of Winchester, 1285, 13 Edw. 1, stat. 2; Patton v. State, 86 S.W.2d 774 (Tex. Crim. App. 1935); DALTON, *supra* note 105, at 31; *see also* WEBB, *supra* note 113, at 294 ("In the Execution of his Office he may arm himself, and his Assistants, with Arms offensive and defensive . . . .").

[255] DALTON, *supra* note 23, at 14b.

[256] *Id.* at 136b; HAWKINS, *supra* note 150, at 161; *see also* CROMPTON, *supra* note 161, at 62.

Benjamin Cardozo explained in 1928.[257] However, the person who is summoning the posse has "discretion" as to "how many, or few, they have to attend them in their business, and in what form they shall be armed, weaponed, or otherwise furnished for it."[258]

As will be detailed below, Colorado sheriffs' policies for posse armament vary depending on the circumstances and the exigencies of the situation. Usually, Colorado posses are used in situations where advance planning and training are possible. Sometimes, the sheriff prefers that they not be armed, as when providing gate security at a county fair. Other sheriffs might allow posse members in such a situation to carry a handgun if the person has a concealed handgun carry permit; the posse member would simply carry whatever handgun he or she usually carries for lawful protection. At other times, posses are deployed in higher-risk environments. These trained members may be called upon, for example, to assist in the service of high-risk warrants, or in a hostage siege. For such posse members, the sheriffs' policies may be prescriptive about particular arms to be carried. Finally, there are situations in which the citizens of a county may need to provide assistance on an ad hoc basis in an emergency, such as the manhunts for the escaped serial killer Ted Bundy or for the murderers of the Hinsdale County Sheriff.[259] Then, the citizens simply bring whatever arms they happen to own.

As a general policy, it is often best when posse members have the same types of firearms as those carried by a full-time certified sheriff's deputy. Having similar arms means that in an emergency, the firearms, magazines, and ammunition are interchangeable. For example, if a deputy runs out of ammunition, a posse member can quickly provide a fresh magazine that will fit the deputy's gun.

Broadly speaking, compatibility with American law enforcement firearms would mean the following:

- For handguns, a full-size (not compact or subcompact)[260] semiautomatic pistol in the calibers of 9mm, .40, or .45, made by a reputable manufacturer

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[257] "A person, who, after having been lawfully commanded to aid an officer in arresting any person, or in re-taking any person who has escaped from legal custody, or in executing any legal process, willfully neglects or refuses to aid such officer is guilty of a misdemeanor." Babington v. Yellow Taxi Corp., 164 N.E. 726, 727 (N.Y. 1928) (citing Penal Law (Consol. Laws, c. 40) § 1848.).

[258] DALTON, *supra* note 23, at 136b; DALTON, *supra* note 105, at 101, 313.

[259] *See infra* Parts III.A.1 and III.A.2.

[260] For modern semiautomatic handguns, typical barrel lengths are about three inches up to five or six inches. Some grips can accommodate all four fingers, while some can only fit three fingers. The longer barrels and a full-hand grip would characterize a full-size handgun. A three-inch barrel for a three-finger grip would be a subcompact. The dividing lines between full, compact, and subcompact do not have formal definitions.

such as Smith & Wesson, Glock, or Ruger. Some sheriffs' offices may use a standardized .40 caliber only.

- The magazines for such firearms generally hold up to twenty or twenty-one rounds in 9mm, up to sixteen rounds in .40, and up to thirteen in .45 caliber. A sheriff's office may or may not allow the use of extenders to add one to three rounds of ammunition capacity.
- A person should carry at least two spare magazines.[261] For rifles, an AR-15 platform semiautomatic rifle in .223 or .308 caliber.
- For the rifle, a magazine of twenty or thirty rounds, although a few allow the choice of ten.
- For shotguns, a pump-action shotgun, most commonly the Remington 8700, at least two spare magazines of the same size.[262]

The above are not the firearms of tactical officers such as "SWAT" or "emergency services." These special teams often use machine guns, stun grenades, and the like. Rather, the aforesaid arms such as the 9mm handgun or the AR-15 rifle are the typical firearms of an ordinary deputy on road patrol, ready to face a wide variety of possible situations.

III. COLORADO SHERIFFS AND THEIR POSSES

This Part describes the use of *posse comitatus* in modern Colorado. Most of the materials presented are based on interrogatory and document production discovery responses from sheriffs' offices in the case of *Colorado Outfitters Association et al. v. Hickenlooper*.[263] In that case, fifty-five of Colorado's sixty-two elected county sheriffs, as well as other plaintiffs, have filed a federal civil rights lawsuit against two gun bills passed by the Colorado legislature in March 2013. The plaintiffs contend

[261] Nationally, 100% of sheriffs' offices authorize sworn personnel to use a semiautomatic handgun as the primary duty sidearm; 22% allow the choice to use a revolver instead. For a backup weapon, the semiautomatic pistol is authorized by eighty percent, and the revolver by 52%. ANDREA M. BURCH, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, NO. NCJ 238558, SHERIFFS' OFFICES, 2007—STATISTICAL TABLES, 13 (2012) (Table 28).

[262] The above is based on the author's experience based on representing law enforcement and law enforcement training organizations in numerous cases, including as amici in *District of Columbia v. Heller* and *McDonald v. Chicago*, and on the author's participation as an instructor at the annual meetings of the International Law Enforcement Educators and Trainers Association (ILEETA). Information about modern American law enforcement choices for firearms can be found at the ILEETA website, http://www.ileeta.org, the website of the International Association of Law Enforcement Firearms Instructors, http://www.ielefia.com, the websites of the many state associations of law enforcement firearms instructors, and the products page of the law enforcement news website PoliceOne.com, http://www.policeone.com/police-products/firearms/.

[263] *See* text accompanying notes 284–318.

that the bills violate the Second Amendment, the Fourteenth Amendment, and the Americans with Disabilities Act.[264] I am the attorney for the fifty-five sheriff plaintiffs and for one retired police officer.[265]

This Part first provides the definitions and legal standards for various types of peace officers in Colorado. Section A then details some modern uses of the *posse comitatus* in Colorado during crime emergencies. The remainder of Part III describes a relatively new development in the *posse comitatus*: sheriffs using a posse of trained volunteers on a regular basis. Section B briefly describes volunteer posse use for routine non-crime situations, such as providing security at a parade or fair. Section C summarizes how Colorado sheriffs use their trained posses for violent crime control. Finally, Section D describes a civic organization called the Colorado Mounted Rangers, whose members train to high standards, and who make themselves available as *posse comitatus* to the twenty-eight law enforcement agencies with whom they have memoranda of understanding. Sheriffs and other chief law enforcement officers call out the Colorado Mounted Rangers during fire emergencies and in many other situations.

Let us begin by describing some terms for persons who serve Colorado in law enforcement. Most states have analogous statutes or rules. A "certified" or "sworn" officer is a person who has completed a certain number of hours of training pursuant to the statewide standards for Peace Officer Standards and Training (POST). The training may be provided by law enforcement offices themselves, by community colleges, or by some other institution. A person who has completed the course of instruction and passed a test thereon is eligible to be hired as a full-time certified peace officer. A person who completes a shorter course of training is eligible to be a "reserve" officer. Reserve officers typically serve as volunteers for a local law enforcement agency and are called to duty as necessary. Reserve officers are "peace officers" for all legal purposes in Colorado.[266]

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[264] Plaintiff's Trial Brief at Civil Action No. 13-CV-1300-MSK-MJW, *Colorado Outfitters Ass'n. v. Hickenlooper*, (D. Colo. Mar. 14, 2014), *available at* http://coloradoguncase.org/Colorado-Outfitters-plaintiffs-pretrial-brief.pdf, *archived at* http://perma.cc/7U7E-HBT7.

[265] The major filings in the case are available at http://www.ColoradoGunCase.org. A nine day trial in the case concluded on April 9, 2013, and District Judge Marcia S. Krieger ruled against the plaintiffs on June 26, 2014. In November 2012, the District Court had ruled that the "political subdivision doctrine" precludes standing for the sheriffs in their official capacities. The court allowed eleven sheriffs who will be retiring in January 2015 to join the suit in their individual capacities as American citizens. The case is presently on appeal to the Tenth Circuit, including on the sheriff standing issues.

[266] COLO. REV. STAT. §§ 24-31-301, 24-31-305 (2013). The minimum number of required hours for full Peace Officer Standards and Training certification in Colorado is 540; however, all the programs include many more hours than that. For the reserves, a minimum

By the practices of all Colorado sheriffs' offices, every full-time deputy who is engaged in dealing with the general public (e.g., road patrol, detective work, undercover) will be a POST-certified officer who has passed a 1,500-hour course. These full-time employees may sometimes be supplemented by volunteer reserve officers. By Colorado statute (and by common law), sheriffs have the authority to hire and fire whomever they like, and to summon posses.[267] Unlike in a municipal police department, sheriffs' deputies are not part of the civil service and do not engage in collective bargaining.

Based on available manpower, sometime sheriffs hire "noncertified" full-time deputies for more limited roles. The most common such role is being a jail deputy ("detention deputy").[268] Other duties include providing security at courts and for the transport of prisoners, and in special situations, such as guarding a trial witness or a victim who has received death threats.

Not all jail deputies carry firearms, while deputies in these other roles typically do. Any deputy (whether certified or noncertified) who carries a firearm must periodically "qualify" with the firearm. That is, the deputy must pass a firearms shooting proficiency test. All offices require qualification before first using a gun; some offices require requalification annually and others require it several times a year. The particular form of the shooting qualification test and the required score are determined by the sheriff or by a deputy to whom he or she delegates the standard-setting. Some offices provide noncertified deputies with firearms; some offices allow or require deputies to provide their own firearms. Some offices have rules that allow noncertified deputies to carry guns depending on the deputy's experience or other factors.

At least seventeen county sheriffs' offices have organized posses, composed of citizen volunteers.[269] Some posse members are certified reserve peace officers, but most are not. All posse members are trained by

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of 253 hours of training is required. Telephone conversation with Sarah J. Bouma, Operations Assistant, Independence Institute, and Lori Jencks, Administrative Assistant for Colorado POST (June 11, 2014).

[267] COLO. REV. STAT. §§ 16-2.5-103(2), 30-10-506 (2013).

[268] *See, e.g.*, Pl.'s Resp. to Def.'s Interrog. No. 4 (James L. Beicker, Sheriff of Fremont County).

[269] Counties with posses include Adams, Alamosa, Baca, Custer, Grand, Hinsdale, Larimer, Lincoln, Logan, Mesa, Montezuma, Montrose, Morgan, Prowers, Rio Blanco, Teller, and Weld. *See* Section A, *infra*. Of these, the most populous are Adams County (460,000), Larimer County (310,000), Weld County (264,000), and Mesa County (148,000). These four counties comprise over one-fifth of the Colorado population. *State & County Quick Facts, Colorado*, U.S. CENSUS BUREAU (Mar. 27, 2014), http://quickfacts.census.gov/qfd/states/08000.html, *archived at http://perma.cc/B7XJ-Q8J9*.

the sheriff's office and are required to follow regulations promulgated by the sheriff. Posses perform a wide range of duties based on the determination of the sheriff. For posse members who are allowed to carry firearms, they are almost always required to pass the same firearms qualification as full-time deputies, and they have usually been given firearms training by the sheriff's office.

The organized and trained posse is an important development in the story of the *posse comitatus*. A sheriff's *posse comitatus* authority, from Anglo-Saxon England to the modern United States, includes the authority to summon all able-bodied men. In modern Colorado, sheriffs have used only volunteers for their posses. Further, while there have sometimes been emergencies when a brand new posse is assembled (e.g., the incidents in Pitkin County, Hinsdale County, and Rio Blanco County[270]), the more common practice is that the posse volunteers are a particular group of individuals who have volunteered and undergone training and now assist the sheriff's office in a wide variety of ways. The need for assistance is sometimes known in advance (e.g., gate security at the county fair), or it may arise suddenly (e.g., a hostage situation or a wildfire). Regardless, the possemen and possewomen who assist in such situations are people who have previously come forward to volunteer for long-term service in the posse and who have received training appropriate for their duties.

Universally, the only rifle or handgun ammunition allowed is jacketed hollowpoint cartridges. The copper jacket surrounding a lead bullet reduces lead fouling in the firearm, and thereby reduces the risk of misfeeds or malfunctions. Hollowpoint bullets are designed to open up when they impact the target. This substantially reduces the risk that the bullet might overpenetrate (exit the target) and thereby endanger an innocent bystander. Because hollowpoints do not exit the target, all their kinetic energy is expended in the target. This significantly increase the possibility of delivering a "fight-stopping hit" that makes the target unable to inflict injury on whomever is being threatened.[271]

As will be described below, in addition to the posses organized by a particular sheriff's office, there is a statewide civic organization called the Colorado Mounted Rangers. The Rangers are ordinary citizens who train themselves to very high standards (in accordance with the POST curriculum). They have memoranda of understanding to provide aid to local law enforcement agencies upon request; that aid may include

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[270] *See infra* text accompanying notes 272–86.

[271] Joshua F. Berry, *Hollow Point Bullets: How History Has Hijacked Their Use in Combat and Why It Is Time to Reexamine the 1899 Hague Declaration Concerning Expanding Bullets*, 206 MIL. L. REV. 88, 137–42 (2010).

everything from crowd management at a parade to backcountry search and rescue. Many but not all of the Rangers are armed. They carry the same handguns and rifles as described in the preceding paragraphs.

Finally, there are sometimes situations in which the sheriffs need to call upon the armed assistance of whatever armed citizens may be available in an emergency. Such situations range from manhunts to securing a burglarized building to deterring looting after a natural disaster. Specific details of all the above situations are described in the next Section.

A. *POSSE COMITATUS* IN CRIME EMERGENCIES

1. Pitkin Sheriff's Office

Ted Bundy was perhaps the most notorious serial killer in American history. Before his execution in 1989, he confessed to thirty murders, which were often accompanied by rape and torture of the victims.[272] On June 6, 1977, Bundy jumped out a courthouse window during a break in a preliminary hearing at a state court in Aspen, Colorado.[273] A posse was immediately assembled. As one author observed, "[t]he men who tracked Ted Bundy looked like something out of a Charles Russell or Frederick Remington painting, garbed in Stetsons, deer-skin vests, jeans, cowboy boots, and carrying sidearms. They could have been possemen of a century earlier, looking for Billy the Kid or the James boys."[274] Some "[p]ossemen in high-country rigs and on horseback started up the mountain roads around Aspen that afternoon . . . ."[275] Other "deputies and volunteers made a house-by-house search" through Aspen.[276] By June 10, the FBI had joined the manhunt. The number of other searchers (certified law enforcement plus the posse) had declined from 150 to 70, given the feeling that Bundy was by then long gone from Pitkin County.[277]

Bundy, in the meantime, had broken into a mountain cabin in Castle Creek (just south of Aspen), and stolen some clothing and provisions.[278] His effort to head south to get to U.S. Highway 50 was cut off by the snowpack that remained in the high mountains even in the late spring. On June 10, he headed back to the Castle Creek cabin, but saw that the posse

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[272] This is the one incident in Part III for which the information was not produced as a result of sheriff responses to discovery in the Colorado sheriffs' case. The Pitkin County Sheriff is one of seven elected Colorado sheriffs who did not file suit as a plaintiff.

[273] RICHARD W. LARSEN, BUNDY: THE DELIBERATE STRANGER 179–82 (1980).

[274] ANN RULE, THE STRANGER BESIDE ME 219 (2000).

[275] LARSEN, *supra* note 273, at 182.

[276] RULE, *supra* note 274, at 219.

[277] *Id.* at 220.

[278] *Id.* at 221.

was already there.[279] He snuck away, hungry and exhausted, suffering from the broken ankle that had resulted from his jump out of the courthouse window.[280] After a night in the cold wilderness, Bundy found a Cadillac with the keys in the ignition. By 2 A.M. on June 13, he was driving down Colorado Highway 82 on his way to Interstate 70, and from there, to a completed escape.[281] But he was so exhausted he drove poorly, weaving around the road. Some deputies on road patrol stopped the apparently drunk driver and immediately recognized that they had just apprehended Ted Bundy.[282]

A return to the Castle Creek cabin with its food and shelter would have restored some of Bundy's energy, perhaps sufficiently so that he would have been able to drive the stolen car without attracting attention to himself. Had he made good on the final step of his escape, more young women would very likely have been the next victims of the serial killer. Bundy escaped again on December 30, 1977, and he was not recaptured until February 12, 1978, in Pensacola, Florida. In the interim, he had murdered three women. Thus, the posse's success in thwarting his June 1977 escape very likely saved innocent lives.

2. Hinsdale Sheriff's Office

Hinsdale County is the most remote county in the lower forty-eight states and "contains some of the most rugged mountains in Colorado."[283] As detailed *infra*, the Hinsdale County Sheriff's Office has a regular posse with trained volunteers. But on one occasion, a much larger posse was needed. Hinsdale Sheriff Ron Bruce described the events in that county of November 1994 in a series of answers to interrogatories.[284]

In 1994, Hinsdale Sheriff Roger Coursey was short-staffed. In fact, he was the office's only law enforcement officer. Not long before, there had been much upheaval in the Sheriff's Office, with the former sheriff and undersheriff having been indicted by the U.S. Attorney for illegal electronic surveillance. The Board of County Commissioners appointed Deputy Roger Coursey Sheriff in August 1994. He was elected to a four-year term that November.

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[279] *Id.*

[280] *Id.*

[281] *Id.*

[282] *Id.* at 221–22.

[283] John Duer Irving & Howard Bancroft, *Geology and Ore Deposits near Lake City, Colo.*, U.S. GEOLOGICAL SURVEY BULLETIN 478, at 10 (D.C.: G.P.O. 1911).

[284] All information in Subsection 2 is taken from Pl.'s Resp. to Def.'s Interrog. (Ron Bruce, Sheriff of Hinsdale County).

Sheriff Coursey reached out for the best help he could find in the most thinly populated county in Colorado. Ray Blaum was a retired Air Force Lieutenant Colonel and was willing to serve. Mr. Blaum was appointed Undersheriff and became a salaried employee of the Hinsdale County Sheriff's Office. Mr. Blaum was not POST-certified. For a duty sidearm, Mr. Blaum used a Beretta semiautomatic pistol, which he already personally owned.

At about 5:35 A.M. on the morning of November 18, 1994, the Sheriff's Office received a phone call from the Mineral County Sheriff's Office: there had been an attempt to break into a bank in Creede. The bank manager had observed a light colored pick-up truck with a camper shell fleeing north on Highway 149, towards Lake City, the only incorporated municipality in Hinsdale County. Sheriff Coursey and Undersheriff Blaum got into their respective patrol cars and drove to Highway 149. The robbers' vehicle was stopped shortly before 5:50 A.M. near Highway 149, in the driveway of the Alferd Packer Massacre Site.

Sheriff Coursey and Undersheriff Blaum took positions outside the robbers' vehicle. They ordered the suspects (one male and one female) to exit the vehicle. The male suspect fired one shot with a .44 revolver, killing Sheriff Coursey nearly instantly. As the vehicle fled, Undersheriff Blaum emptied the thirteen rounds of his Beretta semiautomatic towards the vehicle. Apparently he had loaded the Beretta with a short stack. Instead of having the full capacity of seventeen rounds in the magazine, plus one in the firing chamber, the gun had only twelve rounds in the magazine plus one in the chamber.

In a report immediately thereafter, Undersheriff Blaum described his shots as having "no apparent effect." In fact, all thirteen shots hit the truck. Most of the shots were absorbed by the camper shell, protecting the suspects inside the cab. But at least one shot hit a tire. The truck was abandoned within a couple miles of the scene of the crime.

The trail of the suspects' footprints in the snow, leading away from the truck, ran out after four and one-half miles when it intersected a dirt road. Bloodhounds attempted to follow the scent, but never succeeded. During the manhunt for two suspects, over one hundred local citizens were sworn in to assist the approximately two hundred law enforcement officers in conducting the search. Regarding the latter, Gunnison County Sheriff Rick Murdie and Gunnison Chief of Police Stu Ferguson were a significant help.

During this time, almost everyone in Lake City was carrying one kind of gun or another and usually more than one. Several hundred buildings and the surrounding land mass was searched without any report of a single shot being fired. There is no information on the firearms and magazines since they ran the gamut of nearly everything available at the time.

After the manhunt had gone on for a month, on December 17, 1994, the suspects were both found dead not far from their abandoned truck. They had killed themselves not long after the crime, when they failed their attempt to climb the treacherously steep mountain. Their bodies were concealed underneath the low branches of a tree. Given the location of the bodies, the suspects had likely seen that the manhunt was in progress. Undersheriff Blaum's shot to the tire had ended the suspects' multistate crime spree, which had begun in Provo, Utah, on June 21. The murderer, Mark Allen Vredenburg, had been a career criminal; his accomplice, Ruth Slater, an extreme alcoholic and abuser of prescription drugs. Vredenburg had used the revolver to kill Ruth Slater and then himself.[285]

The large citizens' posse aided in preventing the murderers from escaping. Given that there were two people at large who were apparently ready to kill, it would have been foolish for individuals to go out on a manhunt alone or even in pairs. The searchers had to operate in groups, so the armed citizen volunteers significantly increased the number of groups that could be in the field.

We will never know exactly how the killers perceived their tactical situation at the end, but it is reasonable to infer that the presence of so many groups of armed searchers in the field made it clear to the killers that there was no possibility of sneaking out through any accessible path, and no possibility of shooting their way past so many armed people. Accordingly, the killers determined that their only possibility of escape was to climb a very steep mountain under difficult winter conditions. When this proved impossible, the killers committed suicide.

3. Rio Blanco Sheriff's Office

Sheriff Si Woodruff recounted Rio Blanco County's experience with posse use.[286] On September 8, 2003, two men in a stolen car fled on foot from a traffic stop. The Sheriff deputized two individuals to assist the nighttime manhunt, allowing the deputies to get some rest. The posse members were previously known to the Sheriff's Office as very experienced

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[285] Newspaper articles about the events include: Michael Booth, *Sheriff's Killers Left Note*, DENVER POST, Dec. 23, 1994, at 1B; Charlie Brennan, *Pair Sought in Slaying of Sheriff*, ROCKY MOUNTAIN NEWS, Nov. 19, 1994, at 6A; *Colorado Sheriff Killed in Pursuit*, FRESNO BEE, Nov. 20, 1994; Fawn Germer, *Grisly Discovery Lifts Burden*, ROCKY MOUNTAIN NEWS, Dec. 19, 1994, at 5A; Greg Lopez, *The New Sheriff*, ROCKY MOUNTAIN NEWS, Dec. 11, 1994, at 16A; *Mountain Avenges Sheriff*, NEW ORLEANS TIMES PICAYUNE, Dec. 20, 1994; Marilyn Robinson et al., *Sheriff's Killers Hunted*, DENVER POST, Nov. 19, 1994, at 1A; Tracy Seipel, *Dogs Sniffed out Suspects*, DENVER POST, Dec. 19, 1994, at 1A.

[286] All information in Subsection 3 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (Si Woodruff, Sheriff of Rio Blanco County).

pistol and rifle shooters. They had had Glock .40 handguns, AR-15 rifles, shotguns, and perhaps other arms. They joined the Sheriff's Office in an Office vehicle, assisting with patrol of the highway and operating the thermal vision camera. Both suspects were apprehended with no shots fired.

4. Jackson Sheriff's Office

Sheriff Scott Fischer reported that an armed posse was used after a jailbreak in September of 2003 or 2004, where the inmate fled to the town limits of Walden.[287]

5. Larimer Sheriff's Office

Erik Nilsson, presently an employee of the Sheriff's Office, recalled being deputized for *posse comitatus* service following the July 31, 1976, Big Thompson River flood.[288] At the time, Mr. Nilsson was a civilian member of the Larimer County Mountain Rescue Team. On August 4, 1976, he was transported by helicopter to the small town of Drake, which is located in a canyon. He acted as a visible law enforcement presence to maintain order and deter looting, and carried a loaded firearm.

In late June and early July 2012, during the High Park fire, Sheriff Justin Smith was prepared to use *posse comitatus* to provide armed security in evacuated areas, because the Colorado National Guard had to demobilize before the fire was fully contained. However, the weather changed quickly and the fire was contained before armed citizens were necessary.

During the September 2013 floods and aftermath, Sheriff Smith exercised *posse comitatus* authority on three occasions. On September 14, he deputized members of the Glenhaven Volunteer Fire Department to provide protection to the firefighters or the citizens of that community. On September 18, he deputized fire department personnel present in the Storm Mountain community above Drake. Later that day, he deputized a citizen who was assisting a Colorado State Trooper (who was a trapped resident of the neighborhood).

The *posse comitatus* deputizations were used because of concerns about the risk of looting and other disorder. The *posse comitatus* members had full authority to carry firearms in the performance of those duties as they saw necessary.

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[287] Pl.'s Resp. to Def.'s Interrog. (Scott Fisher, Sheriff of Jackson County).

[288] All information in Subsection 5 is taken from Pl.'s Resp. to Def.'s Interrog. (Justin Smith, Sheriff of Larimer County).

6. Morgan Sheriff's Office

Sheriff Jim Crone recalled that when he was a deputy:

> I was involved in a specific incident in March of 1985 where I was in pursuit of a stolen vehicle from Texas. The vehicle left the roadway and went cross-county into Adams County, and we were unable to pursue due to having no four-wheel drive vehicles. A local rancher offered himself and his pickup so he and I could follow the vehicle's tracks through the snow (in the middle of a blizzard at night). Locating the pickup, the rancher pursued it back into Morgan County.
>
> We went across country for several minutes and went back into Adams County. After the stolen pickup rammed us and I fired a shot into the front of the pickup, it stopped shortly thereafter. I gave the rancher my shotgun and had him cover me while I arrested both occupants of the pickup. The rancher fired no shots but stood armed, in view of the suspects, as my backup. I made the arrests alone in a remote area in which road signs were covered with snow and my radio could not reach out to the other cars looking for us.[289]

While citizen assistance in chases of suspects is rare, Sheriff Crone also noted the more common scenarios in which armed citizens,

> usually local farmers or ranchers, back us [sheriffs] up when involved with a combative suspect, a felony stop, or a crime in progress. In these instances, the citizens had told us they had ready access to a firearm (inside the house, vehicle, or on their person), if so needed.
>
> When searching a private residence or a business where a burglar alarm has gone off, I have had instances where an armed home/business/property owner has accompanied me while armed with a handgun, when I had no backup close at hand.

So when Sheriff Crone is the only law enforcement officer at crime scenes and has to clear a building, not knowing whether he will encounter violent criminals waiting to ambush him, he has been backed up by citizens armed with their personal handguns.

B. *POSSE COMITATUS* IN LOW-RISK SITUATIONS

The posse of the Weld County Sheriff's Office is divided into various classes, depending on whether the posse member is a POST-certified Reserve officer, and on whether the posse member can provide his or her own horse.[290]

The large majority of posse members who are not POST-certified do not carry firearms while on duty, although there is a "Special Deputy"

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[289] All information in Subsection 6 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (Jim Crone, Sheriff of Morgan County).

[290] Pl.'s Resp. to Def.'s Interrog. No. 3 (John Cooke, Sheriff of Weld County).

program to allow a few of them to do so.[291] The situations in which the unarmed posse members assist the sheriff's office include:

> The Greeley Independence Stampede, The Farm Show, The County Fair, and The Cattle Baron's Ball. Other miscellaneous events they assist with include United Way events, Pheasants Forever, sporting events, UNC Graduation, Rocky Mountain Senior Games, community celebrations, assisting other agencies when needed, Ducks Unlimited, election security, school events, Law Enforcement and Military memorial ceremonies, National Drug Take Back day, children's safety events, and Santa Cops.[292]

These events are typical of the event security provided by posse members throughout Colorado.

C. TRAINED *POSSE COMITATUS* IN FORCIBLE LAW ENFORCEMENT SITUATIONS

Below are descriptions of how some sheriffs' offices have used or considered using armed posses on a regular basis.

1. Alamosa County Sheriff's Office

Posse members assist the day-to-day operation of the Alamosa County Sheriff's Office.[293] After training provided by the office and after passing a qualification test, posse members are required to carry firearms. Posse members provide their own firearms.

2. Baca County Sheriff's Office

The posse is typically comprised of twelve-to-twenty volunteer members, and, at the time of answering the interrogatories, had fifteen members.[294]

> The Baca County Sheriff's Posse's primary purpose is to support the Baca County Sheriff's Office during large public events, natural disasters, and incidents where the Baca County Sheriff's Office alone may be unable to provide the level of security or safety the public requires. The Baca County Posse most frequently assists in yearly road closures for winter storms requiring manned road closures and during road closures due to large-scale fires. During these events, their goal is to keep the public out of the area and provide scene security . . . . Posse members are required to be armed, and they provide their own firearms.

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[291] *Id.*; Cooke's Dep. 218:20–220:5, Oct. 23, 2013.

[292] Pl.'s Resp. to Def.'s Interrog. No. 3 (John Cooke, Sheriff of Weld County).

[293] All information in Subsection 1 is taken from Pl.'s Resp. to Def.'s Interrog. No. 4 (Dave Stong, Sheriff of Alamosa County).

[294] All information in Subsection 2 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (Dave Campbell, Sheriff of Baca County).

3. Custer County Sheriff's Office

The Custer County Sheriff's Office posse was established April 2, 2003. "The posse assists with parades, traffic control, crowd control, road closures, searches, inmate transfers and detention detail."[295] It has also assisted with searches for escaped inmates, fugitives, or missing persons; with watching inmates; in searches and in the service of search warrants; in a hostage situation; in drug surveillance of a house; and in guarding the home of a teacher who had received death threats. There is a limit of forty members, and currently twenty-five are certified to carry handguns, while sixteen are additionally certified to carry shotguns. Posse members receive firearms training from the Custer County Sheriff's Office; they are not required to be POST-certified.

4. Delta County Sheriff's Office

"After the 9-11 terrorist attacks [the Delta County Sheriff's Office] considered deputizing non certified personnel to provide security for infrastructure in our county, mines, railroad, dams, etc." This was not acted upon.[296]

5. Douglas County Sheriff's Office

As of 1975, the office had a posse and a special deputies program.[297] Members would provide backup on a call when needed (especially at night); assist with search and rescue (notably, on horseback in the mountains); or provide security at events. They provided their own firearms, vehicles, horses, and so on. The most common firearms were .38 or .357 revolvers. The programs were dissolved during the administration of Sheriff Zotos (1983–2002).

6. Elbert County Sheriff's Office

The posse was removed by the previous Sheriff of Elbert County and has been restored by the current Sheriff.[298] Posse members serve as a force multiplier for the Office.[299] For example, they have guarded the scenes of the small plane crashes.[300] At present, the posse has been trained and

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[295] All information in Subsection 3 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (Fred Jobe, Sheriff of Custer County).

[296] Pl.'s Resp. to Def.'s Interrog. No. 4 (Fred McKee, Sheriff of Delta County).

[297] All information in Subsection 5 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (David Weaver, Sheriff of Douglas County).

[298] Heap Dep. 99:2–6, Oct. 16, 2013 (Shayne Heap, Sheriff of Elbert County).

[299] *Id.* at 99:12.

[300] *Id.* at 102:6–16.

qualified in the Office's use of force practices for everything except firearms. The Sheriff expects to issue new policies providing for the training, qualification, and use of firearms by the posse.[301]

7. Hinsdale County Sheriff's Office

Currently, the Hinsdale County Sheriff's Office receives armed volunteer services from six men who are not POST-certified. Two of them are retired Air Force Colonels.[302] The volunteers get the same in-house training as do the sworn office staff. All of the Hinsdale County Sheriff's Office volunteers are encouraged to carry a firearm when in the field; they are required to have completed a concealed handgun permit class and qualification. Some Hinsdale volunteers have been issued patrol carbines with either a thirty or sixty round magazine; sometimes "they have provided their own carbine with the same capacity magazines." The Office trains "with standard capacity magazines for our carbines and select-fire firearms, up to and including sixty-round magazines." "Most [non-sworn staff] also personally own such firearms, including select-fire firearms (BATFE licensed)."

8. Kiowa County Sheriff's Office

The Kiowa County Sheriff's posse is used for search and rescue, traffic control, and to man road closure sites.[303]

9. Lincoln County Sheriff's Office

The Lincoln County Sheriff started a posse in 2007 for events, evidence searches, and missing person searches.[304] There are currently twenty members. The posse has also been deployed for gate security at the annual Lincoln County Fair. Posse members are authorized for ride-alongs with certified deputies. Posse members are allowed, but not required, to carry a handgun (of the same types authorized for sworn deputies) if the posse member has been through concealed carry training. Additional training for them is available through a simulator.

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[301] *Id.* at 97:8–101:22

[302] All information in Subsection 7 is taken from Pl.'s Resp. to Def.'s Interrog. No. 4 (Ron Bruce, Sheriff of Hinsdale County).

[303] Pl.'s Resp. to Def.'s Interrog. No. 3 (Forest Frazee, Sheriff of Kiowa County).

[304] All information in Subsection 9 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (Tom Nestor, Sheriff of Lincoln County).

10. Logan County Sheriff's Office

Created in approximately 1960, the Logan County Sheriff's posse currently has fifteen members.[305] The posse's duties are to perform "security for local sports activities, county fair, occasional medical security on an inmate, or any other duties assigned to them by the sheriff. They are required to go through firearms training and qualify quarterly." The current captain is a certified peace officer who is not an employee of the county.

11. Montezuma County Sheriff's Office

Created in 1968, the Montezuma Sheriff's posse currently has twenty-nine members and assists the office with law enforcement and search and rescue missions.[306] They also provide security for community events, guard crime scenes, and have also assisted with court security and the transportation of inmates. Posse members may carry a firearm as permitted or required by the sheriff. Each posse member must complete a mandatory basic firearms training course and a qualification test. They furnish their own firearms in accordance with office standards.[307]

12. Morgan County Sheriff's Office

At present, the posse has one member, who does not carry a firearm. He assists deputies directing traffic at accident scenes, handcuffing a suspect when ordered by a deputy, and so on. The Sheriff is in the early stages of a creating a new policy which would enlarge the posse and would allow posse members to carry arms.[308]

13. Prowers County Sheriff's Office

The posse has fifteen members, four of whom are certified reserve peace officers, and eleven of whom are noncertified members.[309] Posse members may be issued a Glock .40 handgun.[310]

D. THE COLORADO MOUNTED RANGERS

Some armed citizens have long-running close relationships with the sheriffs to provide aid. One such group is the Colorado Mounted Rangers

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[305] All information in Subsection 10 is taken from Pl.'s Resp. to Def.'s Interrog. No. 3 (Brett L. Powell, Sheriff of Logan County).

[306] All information in Subsection 11 is taken from Pl.'s Resp. to Def.'s Interrog. Nos. 3, 6 (Dennis Spruell, Sheriff of Montezuma County).

[307] Pl.'s Resp. to Def.'s Interrog. No. 3 (Dennis Spruell, Sheriff of Montezuma County).

[308] Pl.'s Resp. to Def.'s Interrog. No. 4 (Jim Crone, Sheriff of Morgan County).

[309] Pl.'s Resp. to Def.'s Interrog. No. 4 (Jim Faull, Sheriff of Prowers County).

[310] *Id.*

(also known as the Colorado Rangers).[311] The Colorado Mounted Rangers were founded in 1861 and for many decades were the only statewide law enforcement organization.[312] They were recently recognized by state statute.[313]

The Colorado Mounted Rangers provide approximately 50,000 hours of community service during a typical year. This amounts to a contribution of over $2 million of law enforcement resources, at no cost to the taxpayer. They are an unpaid, volunteer organization.[314] The Colorado Mounted Rangers currently have Memoranda of Understanding to provide support to numerous law enforcement agencies in Colorado.[315]

One of the important posse roles of the Colorado Mounted Rangers is aiding law enforcement officers during forest wildfires. For example, in the summer of 2013, the Colorado Mounted Rangers provided forest roadblock support for the Douglas and Jefferson County Sheriffs' Offices during the Lime Gulch Fire.[316] Likewise, in Fremont County, the Rangers have been used during four wildfires in the last decade to close roads and maintain roadblocks.[317]

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[311] This Section is based on the deposition of Major Ronald Abramson, who is head of Training for the Colorado Mounted Rangers, and on documents produced by the Colorado Mounted Rangers. Abramson Dep., Oct. 23, 2013.

[312] *Id.* at 7:19–23.

[313] COLO. REV. STAT. § 24-33.5-822 (2013) (specifically authorizing law enforcement agencies to enter into memoranda of understanding with the Colorado Mounted Rangers).

[314] *Colorado Mounted Rangers*, COLORADO MOUNTED RANGERS, https://www.coloradoranger.org/index.php/organization, (last visited May 26, 2014), *archived at* https://perma.cc/Z2XE-BA5V.

[315] *Id.* **Sheriff's Offices** (SOs): Archuleta County SO, Crowley County SO, Douglas County SO, Fremont County SO, Kiowa County SO, La Plata County SO, Weld County SO; **Police Departments** (PDs): Ault PD, Durango PD, Elizabeth PD, Fairplay PD, Fort Lupton PD, Fowler PD, Green Mountain Falls Marshal, Manitou Springs PD, Rocky Ford PD, Salida PD, Windsor PD; **County Governments**: Adams County Office of Emergency Management, Teller County; **Municipal Governments**: Town of Bayfield, Town of Monument, Town of Ordway, Town of Palmer Lake; **Fire Protection and Other**: Canon City Area Fire Protection District, Community College of Aurora. *Id.*

[316] Pl.'s Resp. to Def.'s Interrog. No. 6 (David Weaver, Sheriff of Douglas County).

[317] Fremont County Sheriff James L. Beicker stated:

> Since January 1, 2004 I have requested the assistance of the Colorado Mounted Rangers "J Troop." The majority of these individuals are not POST certified peace officers, but my understanding is that a few members of their organization are.
>
> I have used their assistance on four wildfires in my county: Duckett Fire/ Park Fire/ Wetmore Fire/ Royal Gorge Fire. On these incidents they were assigned to road closures, manning road blocks for evacuated areas.
>
> They were allowed, but not required to carry firearms for this duty. I have no documented evidence of who did carry or did not carry during these events.
>
> The Fremont County Sheriff's Office has also utilized the J Troop Rangers for some

The Rangers go deep into Colorado's twenty-four million acres of forest for fires, for search and rescue, and for other law enforcement tasks, where they are at risk of bear, mountain lion, and coyote attacks, and other extremely dangerous conditions. Often, the Rangers are beyond any radio communication; their patrol rifle is their only protection.

The Rangers' firearm training is a modified version of the Colorado State Patrol Academy course. Many of the Colorado Mounted Rangers, and especially the female Rangers, carry the Glock 17 or Springfield Armory XD 9mm pistols.[318] As in most sheriffs' offices, the AR-15 type carbine with several magazines of thirty rounds is the standard patrol rifle for the Colorado Mounted Rangers.

IV. *POSSE COMITATUS:* THE RIGHT—AND DUTY—TO KEEP AND BEAR ARMS

Posse comitatus is expressly part of the Constitution of Puerto Rico,[319] and understanding the *posse comitatus* aids in understanding the constitutions of the fifty states and of the federal government. To most Americans of the nineteenth century, the Second Amendment had been easy to understand: a right of everyone to possess and carry arms, including firearms.[320] The protection of that right ensured that there would be an

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annual community events . . . .

Pl.'s Resp. to Def.'s Interrog. No. 6 (James L. Beicker, Sheriff of Fremont County).

[318] The Glock and Springfield 9mm handguns are very controllable for persons with smaller bodies. Most female Rangers strongly prefer these handguns. They have less recoil than larger-caliber handguns, and are thus easier for them to shoot accurately. Because the 9mm cartridge is less powerful than larger calibers, greater magazine capacity is particularly important. The Glock 17 has a standard seventeen-round magazine, while Springfields have standard magazines of sixteen or more rounds.

Many certified law enforcement officers, including certified deputies, also carry the Glock 17 9mm pistol. Commonality of arms among full-time law enforcement officers and posse volunteers makes everyone safer, allowing interchangeability of magazines in a critical incident. Transcript of Record at 861–64, Colo. Outfitters Ass'n v. Hickenlooper, No. 13-CV-1300-MSK-MJW (D. Colo. argued Apr. 3, 2014); Plaintiff's Response Brief to Defendant's Motion to Dismiss at 33–34, Cooke v. Hickenlooper (D. Colo. filed Aug. 22, 2013).

[319] CONST. P.R. art. IV, § 4 (explaining that governor may "call out the militia and summon the posse comitatus in order to prevent or suppress rebellion, invasion or any serious disturbance of the public peace"); *see also* HAWAIIAN ORGANIC ACT OF 1900, § 67 (Among the powers of the Territorial Governor are that "whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory . . ."). 31 STAT. 153 (1900), 48 U. S. C. § 532 (1940).

[320] *See* David B. Kopel, *The Second Amendment in the Nineteenth Century*, 1998 BYU L. REV. 1359.

armed people from whom a well-regulated militia could be drawn when necessary.[321] The Supreme Court's decision in *District of Columbia v. Heller*[322] accurately followed that understanding.

However, for several decades in the latter twentieth century, and a few years in the early twenty-first century, there was confusion about the meaning of the Second Amendment. Various theories were invented for the purpose of negating the individual right. A 1905 decision by the Kansas Supreme Court interpreted the right to arms in the Kansas State Constitution Bill of Rights as merely affirming the state government's own power over the militia.[323] In dicta, the Kansas court said that the Second Amendment meant the same thing.[324] This was the beginning of the "states' right" theory of the Second Amendment.[325] In 1968, the New Jersey Supreme Court announced that the Second Amendment was a "collective right."[326] The right belonged to all the people collectively, but could never be asserted by any individual.

In 1989, Dennis Henigan, an attorney for Handgun Control, Inc., invented the "narrow individual right" theory of the Second Amendment.[327] Historian Saul Cornell later elaborated on the theory.[328] Under the "narrow individual right," the Second Amendment is an individual right, but solely for the purpose of militia service. If a person is not the militia, the person has no right to arms.

The *Heller* Court unanimously rejected the "states' right" and "collective right" theories which had been dominant in the lower federal courts in the latter part of the twentieth century. The Court split five-to-four between the standard model of the Second Amendment (the Scalia majority) and the Henigan–Cornell narrow individual right (the Stevens dissent).[329] The *Heller* Court correctly viewed the Second Amendment in

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[321] *Id.*

[322] District of Columbia v. Heller, 554 U.S. 570 (2008).

[323] City of Salina v. Blaksley, 83 P. 619, 620 (Kan. 1905).

[324] *Id.*

[325] *See* Kopel, *supra* note 320, at 1510–12.

[326] Burton v. Sills, 248 A.2d 521, 526 (N.J. 1968). Thus, like "collective property" in a communist country, the right nominally belonged to the people, but really belonged to the government.

[327] Keith A. Ehrman & Dennis A. Henigan, *The Second Amendment in the Twentieth Century: Have You Seen Your Militia Lately?*, 15 U. DAYTON L. REV. 5, 47–48 (1989) ("It may well be that the right to keep and bear arms is individual in the sense that it may be asserted by an individual. But it is a narrow right indeed, for it is violated only by laws that, by regulating the individual's access to firearms, adversely affect the state's interest in a strong militia.").

[328] SAUL CORNELL, A WELL-REGULATED MILITIA (2008).

[329] District of Columbia v. Heller, 554 U.S. 570 (2008); *id.* at 636 (Stevens, J.,

the context of Anglo-American common law and of American state constitutions. As *Heller* recognized, keeping and bearing arms is a right (as protected by the Second Amendment, and its state and common law analogues), *and* it can be a duty (as in Congress's powers in Article I, Section 8, cl. 15–16 to call forth the militia, and to provide for militia training and armament, and in the militia powers of state governments).[330]

The story of the *posse comitatus* in this Article provides additional perspective on the dual nature of the right/duty to keep and bear arms. Arguments about the duty side of original meaning of the body of the Constitution and its Amendments have focused exclusively on arms bearing in the militia. This is incomplete. As detailed in Part II, the Constitution *also* gave the new federal government *posse comitatus* power.

Historically, the *posse comitatus* is broader than the militia in membership. When the state carries out its duties of training the militia, the militia is an organized body. The *posse comitatus*, however, is often ad hoc. The sheriff or other proper official can call out the posse when needed and compel service of the posse, but there is no legal theory, or historical practice, for a government official to *require* unwilling persons to undergo posse training. Of course, since the sheriff has complete discretion about who may join the posse, a sheriff can require that volunteers undergo training, and that is what all Colorado sheriffs with regular posses do.

A common phrase in early state constitutions was that the people had the right to arms "for the defence of themselves and the state."[331] Later in the nineteenth century, the phrasing changed, but the principles remained the same. For example, in Missouri and Colorado: "[T]o keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned . . . ."[332] Modern commentators have sometimes broken the phrases into a dichotomy: "themselves" means personal self-defense, and "the state" means militia service.[333] It is true that

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dissenting) ("a right that can be enforced by individuals").

[330] *Heller*, 554 U.S. at 596, 600 n.17 (2008).

[331] *E.g.* PA. CONST. art. XIII (1776).

[332] COLO. CONST. art II, § 13.

[333] *But see* Nathan Kozuskanich, *Defending Themselves: The Original Understanding of the Right to Bear Arms*, 38 RUTGERS L.J. 1041 (2007) (arguing that "themselves" and "the State" both refer exclusively to militia service). For a pro/con discussion, see David B. Kopel & Clayton E. Cramer, *The Keystone of the Second Amendment: The Quakers, the Pennsylvania Constitution, and the Flawed Scholarship of Nathan Kozuskanich*, 19 WIDENER L.J. 277 (2010); Nathan Kozuskanich, *History or Ideology? A Response to David B. Kopel and Clayton E. Cramer*, 19 WIDENER L.J. 321 (2010) (reply article); David B. Kopel & Clayton E. Cramer, *Credentials Are No Substitute for Accuracy: Nathan Kozuskanich, Stephen Halbrook, and the Role of the Historian*, 19 WIDENER L.J. 343 (2010) (sur-reply).

the phrase includes self-defense and the militia, but it is inaccurate to divide the phrase into two totally separate categories. The duty to keep and bear arms was not solely for the militia. It was also for all the other common law practices by which armed citizens aided in the protection of their communities: hue and cry, watch and ward, and, especially, *posse comitatus*. When individuals are helping local law enforcement search for an escaped serial killer, or for the people who just murdered the sheriff, or who just perpetrated some other violent felony, they are certainly helping to defend the state. But they are also defending themselves. Apprehending murderers, robbers, and rapists who have harmed a third party is one way that the individual protects himself from surprise attack by these criminals. Moreover, the reason for the creation of the state in the first place was the protection of the rights and personal security of individuals. In the American theory of government, the state has no autonomous existence prior to the individuals; the state is an artificial entity created by the people, and the state's purpose is to serve as the agent of the people in safeguarding their lives, liberty, and property. Thus, the "defense of the state" is really a form of self-defense. When you aid the state in keeping the peace, you are protecting yourself. Inseparable from the "defense of the state" (in state constitutions) or "the security of a free state" (in the Second Amendment) is preventing tyranny. Tyranny could come from a hostile foreign invader, and the people must be armed so that they can resist such an invasion, just as Alfred the Great's militia was armed for that same purpose.

Alternatively, tyranny could come from within. As James Madison wrote in *The Federalist No. 46*, armed resistance by the state militias is the emergency, last resort against central government tyranny, although tyranny might at present appear very unlikely.[334] Senator and later Vice President Hubert Humphrey, the avatar of post–World War II American liberalism, agreed.[335]

The widespread armament of the people is itself a deterrent to any attempt to impose tyranny. As John Mitchell Kemble observed in his legal history of Anglo-Saxon England, "[t]he strength of the popular power was felt in a negative, not positive, action upon the governing body; the people

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[334] THE FEDERALIST NO. 46 (James Madison).

[335] "Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of citizens to keep and bear arms . . . . [T]he right of citizens to bear arms is just one more guarantee against arbitrary government, one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible." Hubert H. Humphrey, *Know Your Lawmakers*, GUNS, Feb. 1960, at 4 (letter by then-Senator Humphrey to the magazine in response to a question about his views on the Second Amendment).

were by far the strongest armed force, and the conviction of this, even if not worthier motives, kept the ruling body from enacting oppressive laws."[336]

Like the state constitutions, the Second Amendment intertwines the purposes of personal defense and defense of civil order in a republic. As explained in *Heller*, "[t]he phrase 'security of a free State' meant 'security of a free polity,' not security of each of the several States . . . ."[337] That is why the Second Amendment applies in the District of Columbia and other federal areas and not just in the fifty states. The principle is that *all* of the polities in the United States are supposed to be secure in their freedom. Secure freedom includes a polity's ability to repel invasion or suppress insurrection.[338] Secure freedom includes sheriffs' ability to call on law-abiding armed citizens to "suppress all affrays, riots, and unlawful assemblies and insurrections."[339]

The Second Amendment right to keep and bear arms is an individual right belonging to all Americans for all lawful purposes, like the First Amendment freedom of speech and other fundamental rights.[340] Thus, individual citizens have standing to raise Second Amendment claims.[341]

In addition, the Second Amendment formally announces an intended third-party beneficiary: the state militias. Before *Heller*, some lower courts misread the Second Amendment and thought that the individual Second Amendment right exists *only* when it is in direct service of state militias.[342] *Heller* corrects this error and affirms the traditional American understanding that the Second Amendment right to keep and bear arms is for all law-abiding citizens, *and* that an intended beneficiary of that right is the state militia system. Article I of the Constitution makes it clear that the militias exist for the benefit of both the states and the federal government, and are subject to the overlapping control of both.[343] Thus the Second Amendment is partly a structural right enacted for the benefit of state and local governments. Accordingly, state militia officers, including governors,

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[336] KEMBLE, *supra* note 84, at 88.

[337] District of Columbia v. Heller, 554 U.S. 570, 597 (2008).

[338] *Id.*

[339] COLO. REV. STAT. § 30-10-516 (2013).

[340] McDonald v. City of Chicago, 130 S. Ct. 3020, 3031, 3036, 3044 (2010); *id.* at 3054–56 (Scalia, J., concurring); *Heller*, 554 U.S. at 578–89, 582, 591, 595, 606, 625–30. *See also* David B. Kopel, *The First Amendment Guide to the Second Amendment*, 81 TENN. L. REV. 419 (2014).

[341] On this point, the nine Justices in *Heller* were unanimous. *See Heller*, 554 U.S. at 592 (The provisions of the Second Amendment "guarantee the individual right to possess and carry weapons in case of confrontation"); *id.* at 636 (Stevens, J., dissenting) ("Surely it protects a right that can be enforced by individuals.").

[342] *See, e.g.*, cases cited in *Heller*, *supra* note 337, at 638 n.2 (Stevens, J., dissenting).

[343] U.S. CONST. art. I, § 8, cl. 15–16.

should have standing to raise Second Amendment claims regarding laws or actions that interfere with the militia of their state.[344]

Besides the militia, there is another beneficiary of the Second Amendment and its state analogues: the *posse comitatus*. Creating the conditions for a well-regulated, functional militia also has the obvious and inescapable benefit of ensuring a strong and vigorous *posse comitatus*. A well-armed population fosters both. The original meaning of the Constitution was that the militia *and* the posse could be used to assist the federal government. The militia and the posse are complementary institutions, each of them requiring that the people as a whole be armed. The U.S. Constitution follows the model set down by Alfred the Great: the security of a free state requires that the entire people be armed, so that they may defend themselves and the state, in the militia, in the *posse comitatus*, and in whatever other capacity (e.g., hue and cry) the government needs the aid of the armed people.

The power to employ the *posse comitatus* was originally a power that belonged only to sheriffs.[345] Today, they remain the most frequent users of that power. Accordingly, sheriffs should be recognized as having standing under the Second Amendment and its state analogues to challenge laws or practices that interfere with the *posse comitatus*.

CONCLUSION

Historian Frank Richard Prassel observes: "An unwritten but basic tenet of democracy places enforcement of the law within the domain of ordinary citizens."[346] This was true, he writes, in early England, when "the task of upholding order fell to the over-all community."[347] Later, sophisticated law enforcement agencies were created, "but under principles of common law any man still possesses wide authority to protect himself, his family, and to some extent the general peace of the land."[348] This is one application of a fundamental principle of American law: "the people, not the government, possess the sovereignty."[349]

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[344] In *Perpich v. Department of Defense*, 496 U.S. 334, 338 (1990), the Court recognized that a state governor had standing to sue over federal interference with his state's National Guard. However, the governor in that case did not assert Second Amendment claims, and the issue (federal deployment, without gubernatorial consent or declaration of a national emergency, of the Minnesota National Guard into Honduras for training exercises) did not involve any interference with anyone's possession of arms. *Id.*

[345] *See supra* text accompanying notes 155–157.

[346] PRASSEL, *supra* note 228, at 126.

[347] *Id.*

[348] *Id.*

[349] Mandel v. Mitchell, 325 F. Supp. 620, 629 (E.D.N.Y. 1971), *overruled by* Kleindienst

A modern historian of sheriffs urges that their contemporary role should be recognized as one of "tribune of the people" who champions their rights.[350] This description is consistent with the most admirable aspects of the role of sheriffs, from Anglo-Saxon times to the present. The people elect a sheriff to be the guardian to their county: to lead the people in keeping the peace, in maintaining civil order, and in defending themselves against threats to their lives and liberties.

The *posse comitatus* has always been a vital part of this system. It was important well over a thousand years ago, and it remains important today. Whether in manhunts for escaped murderers or in augmenting the daily operations of a sheriff's office, the *posse comitatus* is one example of how in the American system of government, elected officials and armed citizens work together successfully to keep the peace.

v. Mandel, 408 U.S. 753 (1972).

[350] Johannes F. Spreen, *The Future Shire Reeve—Tribune of the People*, *in* CRIME AND JUSTICE IN AMERICA 43, 45 (John T. O'Brien & Marvin Marcus eds., 1979).

APPENDIX

This Appendix compiles posse comitatus *statutes from across the United States. For each state, this Appendix lists the statutory citation, the person or persons authorized to summon the* posse comitatus, *and the language of each relevant statute.*

ALABAMA

ALA. CODE § 9-12-2 (LexisNexis 2001)	Sheriff	If resistance is apprehended by the sheriff in the execution of this chapter, he may summon to his aid the posse comitatus of his county, armed and equipped as the occasion may require, and may press into his service any steamboat or other vessel not actually engaged in carrying the public mail at the risk and expense of the state; and, if resistance is made by the boatmen of the boat or vessel attempted to be seized, such resistance is punishable in the same manner as is now provided by law for resistance to process.
ALA. CODE §§ 16-47-10, 16-48-12, 16-50-4, 16-51-12, 16-52-12, 16-54-13.1, 16-56-12, 16-59A-1, 22-50-21 (LexisNexis 2001)	Campus Police and State Health Facility Officers	[*Safety officials appointed by heads of educational and health institutions "shall have authority to summon a posse comitatus." Institutions authorized include:* *Auburn University (§ 16-48-12)* *Alabama State University (§ 16-50-4)* *University of Northern Alabama (§ 16-51-12)* *Jacksonville State University (§ 16-52-12)* *University of Montevallo (§ 16-54-13.1)* *Troy University (§ 16-56-12)* *Oakwood University (§ 16-59A-1)* *State mental health facilities (§ 22-50-21)*]

ALASKA

ALASKA STAT. § 12.25.090 (2012)	Peace Officer	A peace officer making an arrest may orally summon as many persons as the officer considers necessary to aid in making the arrest. A person when required by an officer shall aid in making the arrest.

ARIZONA

ARIZ. REV. STAT. ANN. § 13-3801 (2010)	Peace Officer	A. Public offenses may be prevented by intervention of peace officers as follows: 1. By requiring security to keep the peace. 2. Forming a police detail in cities and towns and requiring their attendance in exposed places. 3. Suppressing riots. B. When peace officers are authorized to act in preventing public offenses, other persons, who, by their command, act in their aid, are justified in so doing.
ARIZ. REV. STAT. ANN. § 13-3802 (2010)	Sheriff or Other Public Officer	A. When a sheriff or other public officer authorized to execute process finds, or has reason to believe that resistance will be made to execution of the process, such officer may command as many inhabitants of the county as the officer deems proper to assist in overcoming such resistance. B. The officer shall certify to the court from which the process issued the names of those persons resisting, and they may be proceeded against for contempt of court.
ARIZ. REV. STAT. ANN. § 13-2403 (2010)	Peace Officer	A. A person commits refusing to aid a peace officer if, upon a reasonable command by a person reasonably known to be a peace officer, such person knowingly refuses or fails to aid such peace officer in: 1. Effectuating or securing an arrest; or 2. Preventing the commission by another of any offense. B. A person who complies with this section by aiding a peace officer shall not be held liable to any person for damages resulting therefrom, provided such person acted reasonably under the circumstances known to him at the time. C. Refusing to aid a peace officer is a class 1 misdemeanor.

ARKANSAS

ARK. CODE ANN. § 12-63-203(b)(3) (2003)	Police Officers	The police officer may summon a posse comitatus, if necessary.
ARK. CODE ANN. § 25-17-305(b) (2009)	Institutional Law Enforcement Officer	[An institutional law enforcement officer] shall have the authority to summon a posse comitatus if necessary.
ARK. CODE ANN. § 12-11-103 (2009)	Judge, Justice of the Peace, Sheriff, Coroner or Constable.	(a) When three (3) or more persons shall be riotously, unlawfully, or tumultuously assembled, it shall be the duty of any judge, justice of the peace, county sheriff, county coroner, or constable . . . to make a proclamation . . . , charging and commanding them immediately to disperse themselves and peaceably to depart to their habitations or lawful business. (b) If upon the proclamation being made, the persons so assembled shall not immediately disperse and depart as commanded or if they shall resist the officer or prevent the making of the proclamation, then the officer shall command those present, and the power of the county if necessary, and shall disperse the unlawful assembly, arrest the offenders, and take them before some judicial officer, to be dealt with according to law.

CALIFORNIA

CAL. GOV'T CODE § 26604 (West 2008)	Sheriff	The sheriff shall command the aid of as many inhabitants of the sheriff's county as he or she thinks necessary in the execution of his or her duties. If any person, under any pretense of any claim inconsistent with the sovereignty and jurisdiction of the State, intrudes upon any of the waste or ungranted lands of the State . . . the Governor . . . shall direct the sheriff of the county to remove the intruder . . . the sheriff may call to his aid the power of the county, as in cases of resistance to the writs of the people.

CAL. GOV'T CODE § 41602 (West 2012)	Chief of Police	His lawful orders shall be promptly executed by deputies, police officers, and watchmen in the city. Every citizen shall also lend his aid when required for the arrest of offenders and maintenance of public order.
CAL. PENAL CODE § 839 (West 2008)		Persons making arrest may summon assistance. Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.

COLORADO

COLO. REV. STAT. § 30-1-104 (2013)	Sheriff	(1) Fees collected by sheriffs shall be as follows: (o) For serving writ with aid of posse comitatus with actual expenses necessarily incurred in executing said writ, in counties of every class, actual expenses, but not more than sixty dollars; for serving same without aid in counties of every class, actual expenses, but not more than four dollars . . . .
Colo. R. Civ. P. Form 24		*WRIT OF ASSISTANCE—PETITION FOR* COMES NOW the Plaintiff, above-named, by and through its attorneys of record, and moves this Honorable Court issue a Writ of Assistance to the Sheriff of the County of _____, State of Colorado, enabling the Sheriff to call to his aid the powers of his County, in accordance with Rule 104(h), in order that the Sheriff may execute the Writ of Replevin heretofore entered in the premises . . . .
Colo. R. Civ. P. 104 & CO ST CTY CT RCP Rule 404		(i) Sheriff May Break Building; When. If the property or any part thereof is in a building or enclosure, the sheriff shall demand its delivery, announcing his identity, purpose, and the authority under which he acts. If it is not voluntarily delivered, he shall cause the building or enclosure to be broken open in such manner as he reasonably believes will cause the least damage to the building or enclosure, and take the property into his possession. He may call upon the power of the county to aid and protect him . . . .

CONNECTICUT

CONN. GEN. STAT. ANN. § 6-31 (West 2008) (repealed 2000)	County Sheriffs Eliminated	[§ 6-31. Repealed. (2000, P.A. 00-99, § 153, eff. Dec. 1, 2000.)[351]
CONN. GEN. STAT. ANN. § 52-53 (West 2013)	State Marshals May "Depute"	A state marshal may, on any special occasion, depute, in writing on the back of the process, any proper person to serve it. After serving the process, such person shall make oath before a justice of the peace that he or she faithfully served the process according to such person's endorsement thereon and did not fill out the process or direct any person to fill it out; and, if such justice of the peace certifies on the process that such justice of the peace administered such oath, the service shall be valid.
CONN. GEN. STAT. ANN. § 53a-167b (West 2012)	Peace Officer, Special Policeman, Motor Vehicle Inspector or Firefighter May "Command Assistance"	(a) A person is guilty of failure to assist a peace officer, special policeman, motor vehicle inspector or firefighter when, commanded by a peace officer, special policeman appointed under § 29-18b, motor vehicle inspector designated under § 14-8 and certified pursuant to § 7-294d or firefighter authorized to command assistance, such person refuses to assist such peace officer, special policeman, motor vehicle inspector or firefighter in the execution of such peace officer's, special policeman's, motor vehicle inspector's or firefighter's duties. (b) Failure to assist a peace officer, special policeman, motor vehicle inspector or firefighter is a class A misdemeanor.

[351] For more information about Connecticut's repeal, see sources *supra* note 146.

DELAWARE

DEL. CODE ANN. tit. 11, § 1241 (2007)	Police Officer	A person is guilty of refusing to aid a police officer when, upon command by a police officer identifiable or identified by the officer as such, the person unreasonably fails or refuses to aid the police officer in effecting an arrest, or in preventing the commission by another person of any offense. Refusing to aid a police officer is a class B misdemeanor.

FLORIDA

FLA. STAT. ANN. § 30.15(1)(h) (West 2010)	Sheriff	(1) Sheriffs, in their respective counties, in person or by deputy, shall: (h) Have authority to raise the power of the county and command any person to assist them, when necessary, in the execution of the duties of their office; and, whoever, not being physically incompetent, refuses or neglects to render such assistance, shall be punished by imprisonment in jail not exceeding 1 year, or by fine not exceeding $500.
FLA. STAT. ANN. § 78.10 (West 2004)	Sheriff	In executing the writ of replevin, if the sheriff has reasonable grounds to believe that the property or any part thereof is secreted or concealed in any dwelling house or other building or enclosure, the sheriff shall publicly demand delivery thereof; and, if it is not delivered by the defendant or some other person, the sheriff shall cause such house, building, or enclosure to be broken open and shall make replevin according to the writ; and, if necessary, the sheriff shall take to his or her assistance the power of the county.

GEORGIA

GA. CODE ANN. § 16-3-22(a) (West 2003)		Any person who renders assistance reasonably and in good faith to any law enforcement officer who is being hindered in the performance of his official duties or whose life is being endangered by the conduct of any other person or persons while performing his official duties shall be immune to the same extent as the law enforcement officer from any criminal liability that might otherwise be incurred or imposed as a result of rendering assistance to the law enforcement officer.

HAWAII

HAW. REV. STAT. ANN. § 710-1011 (LexisNexis 2007)	Law Enforcement Officer	(1) A person commits the offense of refusing to aid a law enforcement officer when, upon a reasonable command by a person known to him to be a law enforcement officer, he intentionally refuses or fails to aid such law enforcement officer, in: (a) Effectuating or securing an arrest; or (b) Preventing the commission by another of any offense. (2) Refusing to aid a law enforcement officer is a petty misdemeanor. (3) A person who complies with this section by aiding a law enforcement officer shall not be held liable to any person for damages resulting therefrom, provided he acted reasonably under the circumstances known to him at the time.

IDAHO

IDAHO CODE ANN. § 8-305 (2010)	Sheriff	The sheriff shall forthwith take the property, if it be in the possession of the defendant or his agent, and retain it in his custody, either by removing the property to a place of safekeeping or, upon good cause shown, by installing a keeper. If the property or any part thereof is in a building or inclosure, the sheriff shall demand its delivery, announcing his identity, purpose, and the authority under which he acts. If it is not voluntarily delivered, he shall cause the building or inclosure to be broken open in such manner as he reasonably believes will cause the least damage to the building or inclosure, and take the property into his possession. He may call upon the power of the county to aid and protect him . . . .
IDAHO CODE ANN. § 18-707 (2004)	Sheriff, Deputy Sheriff, Coroner, Constable, Judge or Other Officer Concerned in the Administration of Justice.	Every male person above eighteen (18) years of age who neglects or refuses to join the posse comitatus or power of the county . . . being thereto lawfully required by any sheriff, deputy sheriff, coroner, constable, judge or other officer concerned in the administration of justice, is punishable by fine of not less than fifty dollars ($50.00) nor more than $1,000.

ILLINOIS

55 ILL. COMP. STAT. ANN. 5/3-6022 (West 2005)	Sheriff	To keep the peace, prevent crime, or to execute any warrant, process, order or judgment he or she may call to his or her aid, when necessary, any person or the power of the county.

INDIANA

IND. CODE ANN. § 36-2-13-5 (West 2006)	Sheriff & Members of Sheriff's Department	The sheriff shall: suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary . . . .
IND. CODE ANN. § 36-8-10-9 (West 2006)		(a) Each member of the department: shall suppress all breaches of the peace within his knowledge, with authority to call to his aid the power of the county . . . .

IOWA

IOWA CODE ANN. § 331.652(2) (West 2013)	Sheriff	The sheriff, when necessary, may summon the power of the county to carry out the responsibilities of office.

KANSAS

KAN. STAT. ANN. § 22-2407 (2007)	Law Enforcement Officer	(1) A law enforcement officer making an arrest may command the assistance of any person who may be in the vicinity. (2) A person commanded to assist a law enforcement officer shall have the same authority to arrest as the officer who commands his assistance. (3) A person commanded to assist a law enforcement officer in making an arrest shall not be civilly or criminally liable for any reasonable conduct in aid of the officer or any acts expressly directed by the officer.

KENTUCKY

KY. REV. STAT. ANN. § 70.060 (LexisNexis 2004)	Sheriff, Deputy Sheriff or Other Like Officer	Any sheriff, deputy sheriff or other like officer may command and take with him the power of the county, or a part thereof, to aid him in the execution of the duties of his office, and may summon as many persons as he deems necessary to aid him in the performance thereof.
KY. REV. STAT. ANN. § 432.550 (West 2006)	No Foreign Posses Allowed	No person shall, except with the consent of the General Assembly or of the Governor when the General Assembly is not in session, bring or cause to be brought into this state any armed person, not a citizen of this state, to preserve the peace, suppress domestic violence or to serve as a deputy of any officer or as a member of a posse comitatus, nor shall any officer knowingly summon any such person or any other person who has come into the state for that purpose to aid in suppressing violence . . . .

LOUISIANA

LA. CODE CIV. PROC. ANN. art. 325 (1999)	Peace Officer	In the execution of a writ, mandate, order, or judgment of a court, the sheriff may enter on the lands, and into the residence or other building, owned or occupied by the judgment debtor or defendant. If necessary to effect entry, he may break open any door or window. If resistance is offered or threatened, he may require the assistance of the police, of neighbors, and of persons present or passing by.
LA. CODE CRIM. PROC. ANN. art. 219 (2003)		A peace officer making a lawful arrest may call upon as many persons as he considers necessary to aid him in making the arrest. A person thus called upon shall be considered a peace officer for such purposes.

MAINE

ME. REV. STAT. tit. 30-A, § 402 (2011)	Law Enforcement Officer	1. Officer may require aid. Any law enforcement officer may require suitable aid in the execution of official duties in criminal and traffic infraction cases for the following reasons: A. For the preservation of the peace; or B. For apprehending or securing any person for the breach of the peace or in case of the escape or rescue of persons arrested on civil process. 2. Violation and penalty. Any person required to aid a law enforcement officer under this section who neglects or refuses to do so commits a civil violation for which a forfeiture of not less than $3 nor more than $50 to be paid to the county may be adjudged.

MARYLAND

	Any Government Official Who Is a Conservator of the Peace	[*Not presently in statute. Common law power to summon a* posse comitatus *remains valid.* City of Baltimore v. Siler*, 263 Md. 439 (1971) (Mayor of Baltimore could have raised a posse to attempt to suppress riots in April 1968).*]

MASSACHUSETTS

MASS. ANN. LAWS ch. 37, § 13 (LexisNexis 2006)	Sheriff	They may require suitable aid in the execution of their office in a criminal case, in the preservation of the peace, in the apprehending or securing of a person for a breach of the peace and in cases of escape or rescue of persons arrested upon civil process.

MICHIGAN

MICH. COMP. LAWS ANN. § 600.4331(5) (West 2013)	Sheriff (Other Person When Court Orders Sheriff's Arrest)	In making the arrest the sheriff or other person so directed may call to his aid the power of the county as in other cases.

MINNESOTA

MINN. STAT. ANN. § 387.03 (West 1997)	Sheriff	The sheriff shall keep and preserve the peace of the county, for which purpose the sheriff may require the aid of such persons or power of the county as the sheriff deems necessary . . . .
MINN. STAT. ANN. § 491A.01 Subd. 5 (West 2014)		The sheriff is authorized to effect repossession of the property according to law, including, but not limited to: (1) entry upon the premises for the purposes of demanding the property and ascertaining whether the property is present and taking possession of it; and (2) causing the building or enclosure where the property is located to be broken open and the property taken out of the building and if necessary to that end, the sheriff may call the power of the county to the sheriff's aid . . . .

MISSISSIPPI

MISS. CODE ANN. § 19-25-39 (2012)	Sheriff	If the sheriff finds that resistance will be made against the execution of any process, he shall forthwith go in his proper person, taking the power of the county if necessary, and execute the same. He shall certify to the court the names of the persons making resistance, their aiders, assistants, favorers, and procurers.

MISSOURI

MO. ANN. STAT. § 105.210 (West 1997)	Officer	In all cases where, by the common law or a statute of this state, any officer is authorized to execute any process, he may call to his aid all male inhabitants above the age of twenty-one years in the county in which the officer is authorized to act.
MO. ANN. STAT. § 532.600 (West 1953)		In the execution of such writs of attachment and precept, or either of them, the sheriff or other person to whom they shall be directed may call to his aid the power of the county, as is provided by law in the execution of writs and process by any officer.

	MONTANA	
MONT. CODE ANN. § 27-17-206 (2013)	Sheriff	If the property or any part of the property is concealed in a building or enclosure, the sheriff shall publicly demand its delivery. If the property is not delivered, the sheriff shall cause the building or enclosure to be broken open and take the property into the sheriff's possession and, if necessary, the sheriff may call to the sheriff's aid the power of the county.
	NEBRASKA	
NEB. REV. STAT. § 23-1704 (2012)	Sheriff & Deputies	The sheriff and his deputies are conservators of the peace, and to keep the same, to prevent crime, to arrest any person liable thereto, or to execute process of law, they may call any person to their aid; and, when necessary, the sheriff may summon the power of the county.
	NEVADA	
NEV. REV. STAT. ANN. § 248.090 (LexisNexis 2011)	Sheriff & Deputies	Sheriffs and their deputies shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony, or breach of the peace, they may call upon the power of their county to aid in such arrest or in preserving the peace.
	NEW HAMPSHIRE	
N.H. REV. STAT. ANN. § 104:12 (LexisNexis 2012)	Officer	An officer having authority to serve process or make an arrest may require suitable aid in the execution of his office. Any person who neglects or refuses to give such aid when so required shall be fined not more than $20.

NEW JERSEY

[*Recognized in common law.* Snyder v. Van Natta, *7 N.J.L. 25, 1823 WL 1309 (1823);* Patten v. Halsted, *1 N.J.L. 277 (1795). A 1941 statute exempted the New Jersey Guard from* posse comitatus *duty. L.1941, c. 109, p. 249, § 16. The exemption statute, N.J. Stat. Ann. 38:5-4.1 was repealed in 1963, as part of a general revision of the militia statutes. L.1963, c. 109.*]

NEW MEXICO

N.M. STAT. ANN. § 4-41-10 (2013)	Local Sheriff and Sheriffs of Other Counties	Any sheriff is hereby authorized at any time to appoint respectable and orderly persons as special deputies to serve any particular order, writ or process or when in the opinion of any sheriff the appointment of special deputies is necessary and required for the purpose of preserving the peace, and it shall not be necessary to give or file any notice of such special appointment; however, the provision authorizing the carrying of concealed arms shall not apply to such persons. Provided, no person shall be eligible to appointment as a deputy sheriff unless he is a legally qualified voter of the state of New Mexico, and further provided that there shall be no additional fees or per diem paid by the counties for any additional deputies other than as provided by law.
N.M. STAT. ANN. § 4-41-12 (2013)	Sheriff	The various sheriffs of the several counties of this state shall have the right to enter any county of this state, or any part of this state, for the purpose of arresting any person charged with crime . . . and any sheriff entering any county as above mentioned, shall have the same power to call out the power of said county to aid him, as is conferred on sheriffs in their own counties.

NEW YORK

N.Y. JUDICIARY LAW § 400 (West 2005)	Sheriff	If a sheriff, to whom a mandate is directed and delivered, finds, or has reason to apprehend, that resistance will be made to the execution thereof, he may command all persons in his county, or as many as he thinks proper, and with such arms as he directs, to assist him in overcoming the resistance and, if necessary, in arresting and confining the resisters, their aiders and abettors, to be dealt with according to law.

NORTH CAROLINA

N.C. GEN. STAT. ANN. § 1-415 (West 2013)	Sheriff & Law Enforcement Officer	The sheriff shall execute the order by arresting the defendant and keeping him in custody until discharged by law. The sheriff may call the power of the county to his aid in the execution of the arrest.

NORTH DAKOTA

N.D. CENT. CODE § 29-06-03 (2006)	Officer	Any officer making an arrest may summon as many persons orally as the officer deems necessary to aid the officer therein.

OHIO

OHIO REV. CODE ANN. § 311.07(A) (West 2005)	Sheriff	In the execution of official duties of the sheriff, the sheriff may call to the sheriff's aid such persons or power of the county as is necessary.
OHIO REV. CODE ANN. § 2921.23(B) (West 2014)		. . . [F]ailure to aid a law enforcement officer [is] a minor misdemeanor.

OKLAHOMA

OKLA. STAT. ANN. tit. 19, § 516(A) (West 2000)	Sheriff, Under-sheriffs and Deputies	It shall be the duty of the sheriff, under-sheriffs and deputies to keep and preserve the peace of their respective counties, and to quiet and suppress all affrays, riots and unlawful assemblies and insurrections, for which purpose and for the service of process in civil and criminal cases, and in apprehending or securing any person for felony or breach of the peace, they and every constable may call to their aid such person or persons of their county as they may deem necessary.
OKLA. STAT. ANN. tit. 22, § 94 (West 2003)		If it appears to the Governor that the power of the county is not sufficient to enable the sheriff to execute process delivered to him, or to suppress riots and to preserve the peace, he must, on the application of the sheriff, or the judge, of any court of record of such county, order such a force from any other county or counties as is necessary, and all persons so ordered or summoned by the Governor or acting Governor, are required to attend and act; and any such persons who, without lawful cause, refuse or neglect to obey the command, are guilty of a misdemeanor.

OREGON

OR. REV. STAT. § 206.050(1) (2013)	Police Officer	When an officer finds, or has reason to apprehend, that resistance will be made to the execution or service of any process, order or paper delivered to the officer for execution or service, and authorized by law, the officer may command as many adult inhabitants of the county of the officer as the officer may think proper and necessary to assist the officer in overcoming the resistance, and if necessary, in seizing, arresting and confining the resisters and their aiders and abettors, to be punished according to law.

PENNSYLVANIA

42 PA. CONS. STAT. ANN. § 21115(a) (West 1982)	Sheriff & Mayors[352]	For the services performed in the capacity as a conservator of the peace or police officer in suppressing riots, mobs or insurrections, and when discharging any duty requiring the summoning of a posse, comitatus or special deputy sheriffs, the sheriff shall receive per diem compensation at the rate of $50 in a county for eight hours service, together with the mileage and necessary expenses, including subsistence for the sheriff and those under him, all to be paid by the county.

RHODE ISLAND

R.I. GEN. LAWS § 11-47-43 (2002)		The provisions of § 11-47-42 [prohibiting the carrying of certain weapons], . . . so far as they relate to the possession or carrying of any billy, apply to sheriffs, constables, police, or other officers or guards whose duties require them to arrest or to keep and guard prisoners or property, nor to any person summoned by those officers to aid them in the discharge of their duties while actually engaged in their duties.

SOUTH CAROLINA

S.C. CODE ANN. § 15-17-90 (1977)	Sheriff, Deputy, Constable, or Other Officer	The sheriff or constable shall execute the order by arresting the defendant and keeping him in custody until discharged by law and may call the power of the county to his aid in the execution of the arrest, as in case of process.

[352] "The power to summon a *posse comitatus* is 'the power which is devolved upon a sheriff to suppress riots . . . ,' which, in turn, was conferred by Third Class City Code upon the mayor." *Jenkins Sportswear v. City of Pittston*, 22 Pa. D. & C.2d 566, 575 (Pa. Com. Pl. 1961).

S.C. CODE ANN. § 23-15-70 (1989)	Sheriff, Deputy, Constable, or Other Officer	Any sheriff, deputy sheriff, constable or other officer specially empowered may call out the bystanders or posse comitatus of the proper county to his assistance whenever he is resisted or has reasonable grounds to suspect and believe that such assistance will be necessary in the service or execution of process in any criminal case and any deputy sheriff may call out such posse comitatus to assist in enforcing the laws and in arresting violators or suspected violators thereof. Any person refusing to assist as one of the posse . . . shall be guilty of a misdemeanor and, upon conviction shall be fined not less than thirty nor more than one hundred dollars or imprisoned for thirty days.

SOUTH DAKOTA

S.D. CODIFIED LAWS § 21-15-7 (2004).	Sheriff	If the property, or any part thereof, be concealed in a building or enclosure, the sheriff shall publicly demand its delivery. If it be not forthwith delivered, he shall cause the building or enclosure to be broken open, and take the property into his possession and if necessary he may call to his aid the power of his county.
S.D. CODIFIED LAWS § 7-12-1 (2004)	Sheriff	The sheriff shall keep and preserve the peace within his county, for which purpose he is empowered to call to his aid such persons or power of his county as he may deem necessary.

TENNESSEE

TENN. CODE ANN. § 38-3-112 (West 2013)	Governor	If it appears to the governor that the power of any county is not sufficient to enable the sheriff to execute process delivered to that sheriff, the governor may, on the application of the sheriff, order a posse or military force as is necessary from any other county or counties.
TENN. CODE ANN. § 8-8-213(b) (West 2013)	Sheriff	The sheriff shall furnish the necessary deputies to carry out the duties . . . and, if necessary, may summon to the sheriff's aid as many of the inhabitants of the county as the sheriff thinks proper.

TEXAS

TEX. CODE CRIM. PROC. ANN. art. 8.01 (West 2005)	Officer	When any officer authorized to execute process is resisted, or when he has sufficient reason to believe that he will meet with resistance in executing the same, he may command as many of the citizens of his county as he may think proper; and the sheriff may call any military company in the county to aid him in overcoming the resistance, and if necessary, in seizing and arresting the persons engaged in such resistance.
TEX. CODE CRIM. PROC. ANN. art. 8.05 (West 2005)	Peace Officer	In order to enable the officer to disperse a riot, he may call to his aid the power of the county in the same manner as is provided where it is necessary for the execution of process.
TEX. CODE CRIM. PROC. ANN. art. 2.14 (West 2005)	Peace Officer	Whenever a peace officer meets with resistance in discharging any duty imposed upon him by law, he shall summon a sufficient number of citizens of his county to overcome the resistance; and all persons summoned are bound to obey.

UTAH

UTAH CODE ANN. § 76-8-307 (LexisNexis 2012)	Peace Officer	A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him as such, he unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

VERMONT

VT. STAT. ANN. tit. 24, § 300 (2005)	Sheriff or Other Officer	A sheriff or other officer in the discharge of the duties of his office, for the preservation of the peace, or the suppression or prevention of any criminal matter or cause, may require suitable assistance.

VIRGINIA

VA. CODE ANN. § 18.2-463 (2009)	Law Enforcement Officer	If any person on being required by any sheriff or other officer refuse or neglect to assist him: (1) in the execution of his office in a criminal case, (2) in the preservation of the peace, (3) in the apprehending or securing of any person for a breach of the peace, or (4) in any case of escape or rescue, he shall be guilty of a Class 2 misdemeanor.

WASHINGTON

WASH. REV. CODE ANN. § 36.28.010 (West 2003)	Sheriff	The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his or her office, he or she and his or her deputies: (6) Shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots, unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they may call to their aid such persons, or power of their county as they may deem necessary.

WEST VIRGINIA

W. VA. CODE ANN. § 61-5-14 (LexisNexis 2010)	Sheriff or Other Officer	If any person shall, on being required by any sheriff or other officer, refuse or neglect to assist him in the execution of his office in a criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months and be fined not exceeding one hundred dollars.

WISCONSIN

WIS. STAT. ANN. § 59.28(1) (West 2013)	Sheriff, Undersheriff & Deputies	Sheriffs and their undersheriffs and deputies shall keep and preserve the peace in their respective counties and quiet and suppress all affrays, routs, riots, unlawful assemblies and insurrections; for which purpose, and for the service of processes in civil or criminal cases and in the apprehending or securing any person for felony or breach of the peace they and every coroner and constable may call to their aid such persons or power of their county as they consider necessary.

WYOMING

WYO. STAT. ANN. § 18-3-606 (2013)	Sheriff & Deputies	Each county sheriff and deputy shall preserve the peace in the respective counties and suppress all affrays, riots, unlawful assemblies and insurrections. Each sheriff or deputy sheriff may call upon any person to assist in performing these duties or for the service of process in civil and criminal cases or for the apprehension or securing of any person for felony or breach of peace.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants

Case No.: 19-cv-01226-L-AHG
Hon. Judge M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF THOMAS B. MARVELL IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 1 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

DECLARATION OF THOMAS B. MARVELL

I, Thomas B. Marvell, declare as follows:

I am not a party to the captioned action, am over the age of 18, have personal knowledge of the facts stated herein, and am competent to testify as to the matters stated and the opinions rendered below.

1. I reside in Williamsburg, Virginia, and am currently retired as a sociologist and lawyer, though I continue to conduct research. I graduated from Harvard University, with a LLB degree in 1961. I obtained my Juris Doctorate degree from the University of Michigan Law School in 1964 and my PhD in sociology from the University of Michigan in 1978.

2. I worked for the National Center for State Courts (NCSC) from 1977 to 1985. The NCSC is an independent, non-profit organization founded at the urging of Supreme Court Chief Justice Warren E. Burger to provide research, information, and data to help courts plan, make decisions, and implement improvements in judicial administration of the court system. From 1985 to 2010, I worked for Justec Research, and the research at Justec was financed by six grants from the U.S. Department of Justice.

3. I have authored or co-authored more than 30 publications concerning criminology, 11 of which pertain to gun laws. One is "The Impact of Banning Juvenile Gun Possession," published in the *Journal of Law and Economics*, Vol. 44, Oct. 2001, pp. 691-713.

4. Attached hereto as **Exhibit 1** is a true and correct copy of my Curriculum Vitae. It describes my education, employment background, career experience, and publications.

Minimum Age Laws and Crime-Reduction Impacts

5. Based on my education, work experience, research background, publications, and review of the research of others, in my opinion, there is no evidence that gun laws banning the purchase or possession of firearms based on age restrictions have the intended effect of reducing gun homicides and suicides; I have found no discernable crime-reduction impact.

6. I have conducted an extensive literature review, and have summarized the results of my research of pertinent publications. I know of no other pertinent publications but would consider them upon presentation. All such publications, except for those by Gary Kleck, use a time-series-cross-section (TSCS) design or methodology, with data over many years and covering all states. I specialize in that methodology, having published more than 25 studies using it.

7. This methodology is the most common statistical procedure for determining whether a law affects crime. It controls for overall differences in crime levels between states (state effects) and for overall differences between years (year effects). When studying the impact of a law, the researcher typically constructs a "dummy variable," which is "0" when the state does not have the law and "1" when the law is in effect. The TSCS methodology in effect compares trends in states with

the law and states without the law (or with laws passed in earlier or later years). The law is deemed to have an effect if the regression coefficient on the dummy is statistically significant (*i.e.*, the law is found to have an impact after controlling for state and year effects and other control variables). It is negative when the law reduces crime and positive when it increases crime. The term "statistical significance," as used in these studies, means that there is less than a five (5) percent chance that the law has no impact given the size of the regression coefficient on the dummy variable. As a practical matter, lack of significance is usually accompanied by a negligible coefficient on the dummy variable.

Determining significance using the TSCS methodology is greatly affected by autocorrelation, which here involves the correlation between current-year crime and crime in the prior and earlier years. Unless proper corrections are made for autocorrelation, the regression often produces significant results, even though the results in fact are not significant.

8. The impact of increasing minimum age to purchase a firearm from 18 to 21 is difficult to determine because very few states have made such a change. However, based on my and others' research on age-based firearm restrictions and their effects, I have no reason to believe that increasing the minimum age to purchase firearms from 18 to 21 has any more effect than other minimum age requirements currently in place.

9. Kleck, Gary. 2019.*"Regulating guns among young adults,"* American *Journal of Criminal Justice*, https://doi.org/10.1007/s12103-019-09476-6. The publication reports the results of two studies of the impact of gun control measures on violent crimes. The first study assessed the impact of state bans on concealed carry permits among persons age 18 to 20 on rates of violent crime (homicide, robbery, and aggravated assault) committed by persons in that age group. The results indicate that states limiting concealed carry permits to those 21 and older did not have less violent crime in that age group than states granting permits to those 19 and older. The second study evaluated a Federal 1968 law prohibiting gun dealers from selling handguns to persons under 21. The analysis tested whether the share of arrests for three violent crimes (homicide, robbery, aggravated assault) trended downward or upward, after the law went into effect. Results indicated that the federal law had no impact on the 18-to-20-year old share of arrests for violent crime. Attached hereto as **Exhibit 2** is a true and correct copy of Kleck (2019) (see specifically, pages 0006-7, 12, 16-17).

10. Kleck, Gary, Thomislav Kavandzic, and Jon Bellows. 2016. "Does Gun Control Reduce Violent Crime?" *Criminal Justice Review*, 41:488-513. In a cross-section study of 1,078 cities the authors found no significant reduction in total homicides, gun-homicides, non-gun homicides, robberies or assaults associated with laws limiting gun sales to, or gun possession by, minors. Attached hereto as

Exhibit 3 is a true and correct copy of Kleck et al (2016) (see specifically, pages 23-24, 36-37, 39, 42).

11. Gius, Mark. 2015. "The impact of minimum age and child access prevention laws on firearms related youth suicides and unintentional deaths," *Social Science Journal*, 52: 168-175. The study evaluated, among other things, state minimum age laws and the association, if any, with firearms-related youth suicide and unintentional deaths. The study found that state minimum age laws do not have a significant impact on gun suicides or unintentional deaths for those under 20 years old. Gius (2015) found a significant impact for the 1994 federal minimum age law, but this is a spurious finding due to a statistical mistake. The federal law applied to every state, so the federal law dummy variable captured the impact of everything that affected suicides in 1994 and that were not controlled by other variables. Technically, the federal law dummy is the fixed effect year dummy for 1994, and the 1994 fixed effect dummy drops out of the regression results. If the federal law dummy had been entered into the equation after the year fixed effects, the regression program would have dropped it. Another way of putting it is that there is no comparison group of states – states exempt from the federal law – meaning that the TSCS results are meaningless. Attached hereto as **Exhibit 4** is a true and correct copy of Guis (2015) (see specifically, pages 50-51, 54-56).

12. Rodríguez-Andrésa, Antonio, and Katherine Hempstead. 2011. "Gun control and suicide: impact of state firearm regulations in the United States,"

1995-2004. *Health Policy*, 101: 95-103. The article studied the impact of state laws banning handgun purchases on male suicide rates for age groups, 15-24, 25-44, 45-64, and 65 and over. The article found no significant impact except that the laws are associated with a significant reduction in suicides for males, ages 25-44. The latter finding, however, is not credible for several reasons. First, only one state (New York) enacted a new minimum age law during the period of the study (1995-2004), far from enough to produce useful results. Second, the study uses only ten years of data, which is unusual and in my experience leads to erratic results. Third, there is no correction for autocorrelation, so the significance levels are overstated. Attached hereto as **Exhibit 5** is a true and correct copy of Rodríguez, et al. (2011) (see specifically, pages 59, 63-66).

13. Rosengart, M., P. Cummings, A. Nathens, P. Heagerty, R. Maier, and F. Riveria. 2005. "An evaluation of state firearms regulations and homicide and suicide death rates," *Injury Prevention*, 11: 77-83. This study evaluated laws banning the purchase or possession of handguns by persons under the age of 21. The study found that such laws produced no significant reduction of a variety of measures of gun and non-gun homicides and suicides, but the findings are based on only a few law changes. This research, in effect, evaluated what happens when states move from under-18 laws to under-21 laws, which is comparable to California. Attached hereto as **Exhibit 6** is a true and correct copy of Rosengart, et al. (2005) (see specifically, pages 69, 71-75).

14. Webster, Daniel, Jon S. Vernick, April M. Zeoli, and Jennifer A. Manganello. 2004. "Association between youth-focused firearm laws and youth suicides," *Journal of the American Medical Association*, 292:592-602. The study estimates the impact of laws establishing minimum age requirements for the purchase or possession of firearms on suicides by those 14-17 years and 18-20 years. The study found no significant impact, except a significant decline in suicides in the 18-20 age group following an increase in the legal purchase age from 18 to 21. This finding, in my opinion, is highly unlikely to be correct. The study itself identifies several reasons to doubt the validity of the finding, including the fact that the finding is based on only 3 states making the change, 2 of which adopted the change in the final 2 years of the study. The finding is barely significant (at the .04 level, just below the .05 level that indicates significance). Most important, the authors attempt to address autocorrelation through the "cluster" method, which causes the significance levels to drastically increase with such a small number of law changes. Attached hereto as **Exhibit 7** is a true and correct copy of Webster, et al. (2004) (see specifically, pages 77-79, 81-83).

15. Marvell, Thomas B. 2001. "The impact of banning juvenile gun possession," *Journal of Law and Economics*. 44:691-714. I posited theories were that juvenile gun bans either increase or decrease homicides. If the bans reduce juvenile gun access, they would probably reduce the use of guns by juveniles in crimes. If the bans lead others to believe that juveniles are more vulnerable targets,

the result is likely to be more crime, especially violent crimes against juveniles. My research, however, found that state laws banning juvenile handgun possession (under the age of 18) had no significant effect on reducing gun homicides and suicides. Attached hereto as **Exhibit 8** is a true and correct copy of Marvell (2001).

16. Kleck, Gary, and E. Brit Patterson. 1993. "The impact of gun control and gun ownership levels on violence rates," *Journal of Quantitative Criminology*. 9:249-287. In a cross-section state-level study, the authors found no significant relationship between gun or non-gun homicide and state restrictions on handgun purchases by minors. Attached hereto as **Exhibit 9** is a true and correct copy of Kleck, et al. (1993).

17. Rand Corporation recently published a lengthy review of the research on the impact of gun laws. [1] It found "inconclusive" evidence that minimum age laws have a crime-reducing impact. It did find "limited" evidence that laws barring purchase by 18-20 year olds reduced suicide, based on the findings by Webster, et al. (2004), described above. However, it failed to note that the Webster, et al. (2004) calculation of significance levels is erroneous (see above). Attached hereto as **Exhibit 10** is a true and correct copy of relevant excerpts from Morral, et al. 2018.

[1] Andrew R. Morral, et al., 2018 *The Science of Gun Policy:A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States*. https://www.rand.org/pubs/research_reports/RR2088.html (accessed August 5, 2019).

Mass Shootings

18. Mass shootings are an important and timely topic, but the shootings are not common enough, in my opinion, to obtain useful research results concerning whether they are affected by age limits. My opinion is supported by the following article authored by M. Luca, L. Deepak, and C. Poliquin, 2019. "The Impact of Mass Shootings on Gun Policy," Working Paper 16-126. Harvard Business School, Cambridge, Massachusetts. In that article, Luca, et al. (2019) also opine that mass shootings are not frequent enough to estimate the effects of gun policy on gun deaths. (*Id*. at 22.) Attached hereto as **Exhibit 11** is a true and correct copy of Luca, et al. (2019).

19. As described in Luca, et al. (2019), roughly 30,000 annual gun deaths occur in the United States, with fewer than 100 occurring in connection with mass shootings. (*Id*. at 5.) For clarity, I'm using the same definition of "mass shooting" as used in Luca, et al. (2019), which also closely matches the one used by the Federal Bureau of Investigation. (*Ibid*.) "Mass shootings" means an incident in which four or more people, other than the perpetrator(s), are unlawfully killed with a firearm in a single, continuous incident that is not related to gangs, drugs, or other criminal activity. (*Ibid*.)

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 30, 2019.



Thomas B. Marvell

EXHIBITS
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3	Kleck, Gary, et al. "Does Gun Control Reduce Violent Crime?" *Criminal Justice Review* (2016)	0022 - 0048
4	Gius, Mark "The impact of minimum age and child access prevention laws on firearms related youth suicides and unintentional deaths," *Social Science Journal* (2015)	0049 - 0057
5	Rodríguez et al. "Gun control and suicide: impact of state firearm regulations in the United States," 1995-2004. *Health Policy* (2011)	0058 - 0067
6	Rosengart et al. "An evaluation of state firearms regulations and homicide and suicide death rates," *Injury Prevention* (2005)	0068 - 0075
7	Webster et al. "Association between youth-focused firearm laws and youth suicides," *Journal of the American Medical Association* (2004)	0076 - 0085

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8	Marvell, Thomas "The impact of banning juvenile gun possession," *Journal of Law and Economics* (2001)	0086 - 0109
9	Kleck, Gary et al. "The impact of gun control and gun ownership levels on violence rates," *Journal of Quantitative Criminology* (1993)	0110 - 0150
10	Morral, et al. *The Science of Gun Policy:A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States* (2018)	0151 - 0329
11	Luca et al. "*The Impact of Mass Shootings on Gun Policy*," Working Paper (2019)	0330 - 0389

EXHIBIT "1"

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Selected Publications

"Indirect Simultaneity," *Criminology and Public Policy*, forthcoming.

"Clustering and Standard Error Bias in Fixed Effects Panel Data Regressions," (with C.E. Moody) *Journal of Quantitative Criminology*, 2018. https://doi.org/10.1007/s10940-018-9383-z

"The Impact of Right-to-Carry Laws: Critique of the 2014 version of Aneja, Donohue, and Zhang," (with C.E. Moody) *Econ Journal Watch*, 2018.

"The Impact of Right-to-Carry Laws on Crime: An Exercise in Replication," (with C.E. Moody, P.R. Zimmerman and Fisal Alemante) *Review of Economics and Finance*, 4(1) 2014, 33-43.

"Did John Lott Provide Bad Data to the NRC? A Note on Aneja, Donohue, and Zhang," (with J.R. Lott and C.E. Moody) *Econ Journal Watch*, 10, 2013, 25-31.

"On the Choice of Control Variables in the Crime Equation," (with C.E. Moody) *Oxford Bulletin of Economics and Statistics*, 72(5) 2010, 696-715

"Prison Population and Crime" in B. Benson and P. Zimmerman (eds.), *Handbook on the Economics of Crime*, Edward Elgar, Northampton, MA 2010, 145-183.

"The Debate on Shall-Issue Laws, Continued," (with C.E. Moody) *Econ Journal Watch*, 6(2) 2009, 203-217.

"The Debate on Shall-Issue Laws," (with C.E. Moody) *Econ Journal Watch*, 5(3) 2008, 269-293.

"Can and Should Criminology Research Influence Policy? Suggestions for Time-Series Cross-Section Studies" (with C.E. Moody) *Criminology and Public Policy* 7(1) August, 2008, 401-407.

"The Criminogenic Effects of Imprisonment: Evidence from State Panel Data, 1974-2002," (with L.M. Vieraitis and T.V. Kovandizic). *Criminology and Public Policy*, 6, 2007, 589-562.

"Guns and Crime," (with C.E. Moody), *Southern Economic Journal*, 71(4), April, 2005, 720-736.

"The Impact of "Shall-Issue" Concealed Handgun Laws on Violent Crime Rates: Evidence from Panel Data for Large Urban Cities," (with T.V. Kovandzic and L.M. Vieraitis), *Homicide Studies*, 9, 2005, 292-323.

"When Prisoners Get Out: The Impact of Prison Releases on Homicide Rates, 1975-1999," (with T.V. Kovandzic, C.E Moody and L.M.Vieraitis), *Criminal Justice Policy Review*, 15, 2004, 212-228.

"Right-to-Carry Concealed Handguns and Violent Crime: Crime Control Through Gun Decontrol?" (with T.V Kovandzic), *Criminology and Public Policy* 2, 2003, 363-396.

"A Comparison of Changes in Police and General Homicides: 1930-1998," (with K.J. Kaminski). *Criminology*, 40, 2002, 171-183.

"The Impact of Lambda Skewness on Criminology: A Contingent Analysis" in A.R. Piquero and S.G. Tibbits, eds, Rational Choice and Criminal Behavior: Recent Research and Future Challenges. 2002. Routledge, NY

"The Impact of Banning Juvenile Gun Possession," *Journal of Law and Economics*, 44, 2001, 691-714.

"The Lethal Effects of Three-Strikes Laws," (with C.E. Moody), *Journal of Legal Studies*, 30, 2001, 89-106.

"Female and Male Homicide Victimization Rates: Comparing Trends and Regressors," (with C.E Moody), *Criminology*, 37, 1999, 879-902.

"The Impact of Out-of-State Prison Population on State Homicide Rates: Displacement and Free-Rider Effects," (with C.E. Moody), *Criminology*, 30, 1998, 513-535.

"The Impact of Prison Growth on Homicide," (with C.E. Moody) *Homicide Studies*, 1, 1997, 205-233.

"Age Structure Trends and Prison Populations," (with C.E. Moody) *Journal of Criminal Justice*, 25, 1997, 114-124.

"Specification Problems, Police Levels, and Crime Rates," (with C.E. Moody) *Criminology*, 24, 1996, 609-646.

"The Uncertain Timing of Innovations in Time Series: Minnesota Sentencing Guidelines and Jail Sentences – A Comment," (with C.E. Moody) *Criminology*, 34, May, 1996.

"Determinant Sentencing and Abolishing Parole: the Long Term Impacts on Prisons and Crime," (with C.E. Moody), *Criminology*, 34, 1996, 107-128.

"Sentencing Guidelines and Prison Population Growth," *The Journal of Criminal Law and Criminology*, 8 (1995) 696-709.

"The Impact of Enhanced Prison Terms for Felonies Committed with Guns" (with C.E. Moody) *Criminology*, 33, 1995, 247-281.

"Prison Population Growth and Crime Reduction." (with C.E. Moody) *Journal of Quantitative Criminology*, 10, 1994, 109-140.

"Age Structure and Crime Rates: the Conflicting Evidence." (with C.E. Moody) *Journal of Quantitative Criminology*, 7, 1991, 237-273.

"Divorce Rates and the Fault Requirement, *Law and Society Review*, 1989, 23, 543-567.

"The Effectiveness of Measures to Increase Appellate Court Efficiency and Decision Output." (with C.E. Moody) Michigan Journal of Law Reform, 21, 1988, 415- 442.

"Appellate and Trial Caseload Growth: A Pooled Time Series Cross Section Approach." (with C.E. Moody) *Journal of Quantitative Criminology*, 3, 1987.

The Rationales for Federal Question Jurisdiction: An Empirical Examination of Student Rights Litigation, *Wisconsin Law Review* 1984, 1315-1342.

EXHIBIT "2"

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Regulating Guns among Young Adults

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Abstract
This paper reports the results of two studies of the impact of gun control measures on violent criminal behavior among persons age 18 to 20. The first study assessed the impact of state bans on gun carrying among persons age 18 to 20 on rates of violent crime committed by persons in that age group. The research used a state-level cross-sectional weighted least squares analysis of murder, robbery, and aggravated assault rates in 2000, controlling for possible confounding variables. The results indicate no significant effect of these carry bans on any of the three violent crime rates. The second study was a longitudinal analysis performed to evaluate the impact of a single previously unstudied element of the federal Gun Control Act of 1968 – its ban on the purchase of handguns by persons aged 18 to 20. The analysis tested whether the share of arrests for three violent crime types trended downward, or less strongly upward, after the law went into effect, controlling for trends in the share of the population in this age group. Results indicate that there was no impact of this ban on the 18-to-20 year-old share of arrests for homicide, robbery, or aggravated assault.

Keywords Gun control · Young adults · Violent crime · Gun Control Act of 1968

Introduction

This paper performs two tests of the general hypothesis that gun control measures specific to young adults reduce violent crime within that group. This focus is especially important because criminal violence in America is at its highest in the young adult ages. For example, national arrest data for 2017 indicate that the single ages with the highest rates of arrest for murder were 18, 19, and 20 years old (U.S. FBI, 2019, Table 38). Society therefore has an especially strong interest in reducing violence among young

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adults, and it would seem reasonable to focus violence-prevention efforts especially heavily on this group.

There are also good reasons to believe that gun control measures would be especially likely to be effective if they focused on young adults. First, precisely because violent criminal behavior is more common within this group, any one instance of denying a gun to such a person is more likely to prevent a violent crime with a gun. Second, young adults are more likely to use firearms when they commit violence crimes (Department of the Treasury and Department of Justice, 1999, pp. 7, 9). Consistent with this fact, there is some macro-level evidence that gun prevalence increases homicide rates among persons age 18 to 24 (Parker et al., 2011, p. 510), even though the technically strongest evidence does not show a net positive effect of gun prevalence on the *overall* (all-ages) homicide rate (Kovandzic, Schaffer, & Kleck, 2013). (Parker et al., however, failed to model the possible two-way relationship between gun prevalence and homicide, so the positive association they observed may reflect the effect of homicide on gun prevalence, rather than the reverse - Kovandzic et al., 2013). Third, it seems likely that, compared to older offenders, younger criminals are less likely to have acquired the personal contacts and knowledge that would enable them to evade restrictions on guns. Further, their higher rate of involvement in violence may make it especially easy to detect any crime-reducing effects of gun controls in this group. In contrast, among children and older people, there is little violent crime to be prevented, so even a large percentage decrease might be too small in absolute terms to be reliably detected.

There is little variation across jurisdictions in the regulation of firearms among persons *under* the age of 18. They have been categorically forbidden from purchasing firearms of any kind from licensed gun dealers under federal law since the Gun Control Act of 1968 (GCA) (18 USC Section 922(b)(1)), and are ineligible everywhere except in Vermont to get the state carry permits that are required in most states to lawfully carry a concealed firearm off of the possessor's property (Giffords Law Center, 2019). This lack of variation makes it difficult to detect any effects of gun control measures applying to those under age 18. In contrast, the strictness of gun control laws pertaining to young adults age 18–20 has shown considerably more variation, both over time and across states. People in this age group can legally carry guns in public places in some states but not in others. This variation provides opportunities for researchers to estimate the effect of gun regulations on violence within this specific high-violence subpopulation.

The research reported here therefore focuses specifically on controls applying to this age group. In particular, it is aimed at two kinds of gun control measures: (1) state laws that forbid concealed carrying of firearms among 18–20 year-olds, and (2) a federal ban on the purchase of handguns by persons age 18–20, enacted as part of the 1968 GCA. We evaluate the first measure using a state-level cross-sectional design, and evaluate the second measure using a national-level longitudinal design.

Study 1 – The Effect of State Bans on Concealed Gun Carrying by Persons Age 18–20

Each of the 50 states has different regulations on the carrying of concealed weapons, and in particular the states differ regarding the minimum age at which persons become eligible to lawfully carry concealed weapons. Variation was especially high prior to the

Supreme Court's 2008 Heller and 2010 McDonald decisions, and subsequent court decisions interpreting them, which had the effect of striking down state laws that categorically forbade all concealed carrying. Prior to 2000, seven states forbade concealed carrying of firearms altogether, for all ages (see the Appendix for a listing of states and supporting statutory citations) a number of courts banned nearly all gun carrying among civilians. One state (Vermont) set 16 as the minimum age to carry concealed guns in public places, 14 states required a minimum age of 18, another 21 states set 21 as the minimum age, and one state (Oklahama) set the minimum age at 23.

The states also differ in how they implement age restrictions. Some require permits for concealed carrying, and specify a minimum age to get the permit, while others require no permit but nevertheless specify a minimum age for carrying. Still others do not specify an explicit age minimum, but rather grant discretion to authorities such as county sheriffs to assess the degree to which a prospective carrier is a "suitable person." As of 1999, 29 states forbade the carrying of concealed weapons by 18-to-20 year olds (including those that banned carrying by persons of any age) while the remaining 21 allowed it, either because (1) people this age could get a carry permit, or (2) the state neither required a carry permit nor stated a minimum age to carry (Appendix).

Study 1 Methods

Our strategy for testing for an effect of state carry laws on violent crime takes advantage of the age-related element of these laws. The provisions concerning minimum age either prohibit or allow carrying specifically among 18-to-20 year olds, so if they affect the frequency of violent crime, they should do so primarily by affecting violent crime rates among 18-to-20 year olds. There are no available data that directly measure the violent criminal behavior of Americans of specific age groups, but an approximation can be derived from data on persons *arrested* for crimes. Arrest data by age available from the Uniform Crime Reporting (UCR) program of the Federal Bureau of Investigation (FBI) are specific enough to establish national totals of arrests of 18-to-20 year olds. We analyzed three specific violent crimes that are the only crime types committed in significant numbers with firearms: (1) murder and nonnegligent manslaughter (hereafter denoted "homicide" for brevity's sake), (2) robbery, and (3) aggravated assault. About 73% of homicides, 41% of robberies, and 28% of aggravated assaults in 2017 were committed with firearms (U. S. Federal Bureau of Investigation, 2019).

We therefore estimated state rates of violent crime among 18-to-20 year olds by multiplying state crime rates concerning offenses by all ages by the fraction of persons arrested for a given crime type who were 18-to-20 years old. For example, we estimated the Alabama homicide rate among 18-to-20 year olds by multiplying the Alabama homicide rate in 2000 (7.4 homicides per 100,000 population) by the fraction of homicide arrests that 18-to-20 year olds accounted for in Alabama in 2000–2002 (0.1916), which yields an estimated homicide rate of 1.42 homicides committed by 18-to-20 year-olds per 100,000 resident population of all ages. Three years of arrest data, covering 2000–2002, were used to estimate the fraction of crimes committed by persons 18 to 20 because in smaller states there are too few arrests in any 1 year for any one type of violent crime (especially homicide) to provide a stable estimate of the 18-to-20 year old share of arrests.

In the following regression analyses, three types of age-specific violent crime rates were analyzed: (1) the rate of homicide committed by 18-to-20 year-olds, (2) the rate of robbery committed by 18-to-20 year-olds, and (3) the rate of aggravated assault committed by 18-to-20 year-olds. The analysis focused on the year 2000 rather than more recent years because there was far more variation in the strictness of state controls on carrying firearms than in later years. In more recent times there has been little meaningful variation in the strictness of carry laws. For example, in 1999 there were seven states that completely banned carrying guns in public (see Appendix), but by 2010, there were none (Gifford Law Center, 2019). State controls over gun carrying became lenient in all but a handful of states. By 2018, at least 30 states had adopted lenient shall-issue carry laws, which make it easy for noncriminal adults to get carry permits, while another 12 states had eliminated the requirement for a permit to carry concealed firearms altogether (Gifford Law Center, 2019). One might speculate that results pertaining to 2000 do not apply to more recent years. Certainly, the *levels* of the variables in our models, and which states have which laws, changes over time, but we are not aware of any evidence that the causal *effects* of gun laws have changed since 2000.

The present study focused on 2000 rather than any intercensal year (e.g., 2001–2009) because the Census provides, for years when the dienniel Census is conducted, data on a wealth of crime-related variables that should be statistically controlled in order to isolate the effect of carry law provisions. A list of these other variables appears in Table 1, and the sources of data for the analysis are reported in the Appendix.

States were coded according to their carry laws as of 1999, rather than 2000, to make sure that they pertained to a time point prior to 2000–2002, the period to which the crime rates pertained. This makes it less likely that any relationship found between carry law provisions and crime rates is due to an effect of crime rates on the enactment or amending of carry law provisions, and more likely that the relationship reflects an effect of the carry law provisions on crime rates.

The statistical procedure used to estimate the relationship between carry law age provisions and crime rates was weighted least squares (WLS) regression. This procedure gives differing weights to each of the states, such that states with larger populations are given greater weight. This has the effect of reducing heteroscedasticity. The weight used in these analyses was the square root of the state's resident population in 2000.

Only 48 of the 50 states could be included in the analysis because FBI arrest data by age were not available for all of the years from 2000 to 2002 for Florida or Wisconsin (they were missing for 2000 for Wisconsin and for all 3 years for Florida). It should be noted that it is not essential for present purposes that all arrests be reported to the FBI, since we make no use of the absolute frequency of arrests. Rather, it is only necessary that the 18-to-20 year old share of those arrests reported to the FBI be approximately the same as the 18-to-20 year old share of *all* arrests for a given type of violent crime, whether reported to the FBI or not.

Study 1 Findings

Table 2 displays the WLS estimates. Each column of numbers shows the estimated coefficients of a regression equation pertaining to one of the three dependent variables, and each row pertains to a particular independent variable that might affect these outcome variables. Each cell of the table shows three numbers. The topmost number is the WLS

Table 1 Variables in the analysis (as of 2000 unless otherwise indicated)*

Variable name	Variable description	Mean	Standard deviation
MURD1820	Murder, nonnegligent manslaughters among 18-to-20 year olds per 100,000 population	1.02	0.51
ROB1820	Robberies among 18-to-20 year olds per 100,000 population	117.66	61.76
ASLT1820	Aggravated assaults among 18-to-20 year olds per 100,000 population	35.84	14.27
CARRY1820	State law allows 18–20 carry, as of 1999 (1 = yes, 0 = no)	0.41	0.50
%POP18–20	% of resident population age 18–20	4.41	0.40
POVERTY	% families under the poverty line, 1999	12.17	3.03
BLACK	% African-American	11.55	9.19
HISPANIC	% Hispanic		
PRISONRS	State, federal prisoners per 100,000 resident population	423.26	167.19
DIVORCE	Divorces per 100,000 resident population	4.22	1.17
URBAN	% population residing in urban areas	74.93	13.96
DENSITY	Persons per square mile	0.21	0.25
FOREIGN	% foreign-born	8.60	6.82
INSTATE	% population born in same state	61.02	12.05
LIVLONE	% of population that lives alone	9.73	1.04
MARRIED	% of population married, living with spouse	51.81	2.60
MOVERS	% of population age 5+ that changed residence, 1995–2000	45.61	5.16
OLDPCT	% population age 65 or older	12.29	1.72
POLICE	Sworn full-time police officers per 10,000 population	20.20	4.33
SOUTH	State is in the South (former slave-owning state)	0.32	0.47
WEST	State is in the West Census region	0.24	0.43
UNEMPLOY	% civilian labor force unemployed	5.66	1.01
VETERAN	Military veterans per 1000 population, 1999	89.16	9.76

* Means and standard deviations are based on weighted data, and cover the 48 nonmissing states used in the regression analyses – that is, they exclude Florida and Wisconsin

coefficient. The middle number is the ratio of the coefficient over its standard error, sometimes called a t-ratio, used to test whether the regression coefficient is significantly different from zero. The bottom number is the one-tailed statistical significance of the coefficient. A significance under .05 (5%) is generally considered to be statistically significant, i.e. not likely to be the product of random chance. Thus, if the bottom number in a given cell is lower than .05, it means that the associated independent variable shown in the row heading has a statistically significant association with the dependent or outcome variable shown in the column heading. Our primary interest is in the estimates shown in the first row of the table, those pertaining to the association of the 1999 state carry laws' provisions regarding minimum age for concealed carrying with crime rates among 18–20 year olds on the estimated rate of violent crime among 18–20 year-olds. Note that CARRY1820 reflects whether persons age 18 to 20 are *allowed* to legally carry guns, so a positive coefficient for this variable means that violent crime rates are higher where these young adults may legally carry firearms.

Table 2 Weighted least-squares estimates – the effect of state bans on gun carrying by18-to-20 year-olds on rates of violence crime by that age group

Coefficient/ratio of coefficient over standard error/1-tailed significance			
Independent variable	Dependent variable		
	MURD1820	ROB1820	ASLT1820
CARRY1820	−0.116	1.006	−1.624
	−1.112	0.342	−0.453
	.136	.367	.326
%POP18–20	−0.052	−5.405	−0.496
	−0.363	−1.361	−0.102
	.360	.090	.460
POVERTY	0.044	1.269	1.434
	2.301	2.366	2.191
	.014	.012	.034
BLACK	0.033	0.611	0.665
	5.542	3.699	3.298
	.000	.000	.002
URBAN	0.006	0.427	0.357
	1.561	3.987	2.715
	.063	.000	.004
OLDPCT	−0.069		
	−2.252		
	.015		
Constant	0.767	−4.992	−13.158
Adjusted R^2	.575	.447	.341

All variables shown in Table 1 that do not appear in Table 2 were found to have no significant ($p < .20$) association with any of the three violent crime rates studied and were therefore omitted from the crime rate models

Each regression equation also controlled for additional variables that affect crime rates and that might also be associated with carry law age provisions. Every equation controlled for the share of the state population that was in the 18–20 age range, regardless of whether this variable was significantly related to the dependent variable, because it was thought to be self-evident that the number of people in this age range would affect the number of crimes committed by persons in this age range. It turned out to make no difference to the key results whether or not this variable was included in the equations. The rest of the control variables were included in the equation only if they showed a significant relationship with the dependent variable. A generous standard of significance, 20%, was used in deciding whether to retain variables in the equation, to reduce the chances that a potentially important control variable was omitted. A much larger set of potential control variables were tested but found to have no significant association (even at a generous 20% level of significance) with any of the crime rates. All the variables shown in Table 1 that do not appear in Table 2 fall into this category.

Collinearity among the independent variables was not a problem – all tolerances were over 0.7 in all equations.

The estimates shown in the first row (labeled CARRY1820) of the first three columns of Table 2 estimate the effect of allowing 18–20 year olds to legally carry concealed weapons. The estimates indicate that this policy is not significantly related to rates of any of the three violent crimes that are often committed with guns (homicide, robbery, aggravated assault) among persons age 18 to 20. Indeed, the associations were negative for two of the three violent crime types, indicating that, other things being equal, states allowing 18–20 year old carry have less homicide and aggravated assault among 18–20 year olds than states forbidding it, though not to a statistically significant degree. The homicide finding is consistent with the results of a recent study of the effect of state gun laws on homicide rates, which found no significant effect of a requirement that people be at least 21 years old to legally possess a firearm (Siegel, Pahn, Xuan, Fleegler, & Hemenway, 2019).

Study 1 Discussion and Conclusions

The analysis of state crime and arrest data indicates that provisions in state law prevailing in 1999 that allowed lawful concealed carrying of weapons among 18–20 year olds did not increase rates of murder, robbery, or aggravated assault within that age group. One partial explanation may be that states granting carry permits to persons under age 21 do so only for persons without criminal convictions or other predictors of violent crime, so legal carrying increased only among persons unlikely to commit violent crimes – even within a relatively high-violence age segment of the population. Another explanation, consistent with research on the frequency and prevalence of defensive gun use (Kleck, 2001a, b), is that the deterrent and defensive effects of gun carrying and defensive use among crime victims and prospective victims had crime-reducing effects that counterbalanced any crime-increasing effects of young adults carrying concealed guns. Alternatively, these restrictions may have failed to even achieve their proximate goal of reducing gun carrying in the target age group, because young adults carried guns illegally. In any case, the evidence indicates that allowing lawful concealed carrying of weapons among 18–20 year olds appears to have no net effect on rates of murder, robbery, or aggravated assault committed by people in this age group.

This finding fits well with complementary research done by Thomas Marvell (2001). Although he did not analyze age-specific crime rates as is done in the present paper, his fixed-effects panel analysis of state crime rates in the period 1968–1999 indicated that neither state laws banning juvenile gun possession nor a 1994 federal ban had any measurable net effect on violent crime rates (for all ages), including rates of homicide, robbery, and aggravated assault. This combination of studies suggests that banning juvenile gun possession or carrying does not, on net, reduce violent crime, and, conversely, that allowing lawful gun carrying does not, on net, increase violent crime.

Study 2 – The Effect of the 1968 Federal Ban on Handgun Purchases by Persons Age 18–20

The Gun Control Act of 1968 (hereafter GCA) was a major piece of federal gun control legislation that had many elements, one of which imposed a new restriction specifically

applying to persons age 18 to 20. It provided that, while such persons could, like persons age 21 or over, lawfully purchase *long guns* (rifles and shotguns) from licensed gun dealers, those 18–20 were legally forbidden from buying handguns. Prior to this law, many states imposed age-based restrictions. We are not aware of any compilations of gun laws detailed enough to indicate how many states allowed handgun purchases by persons age 18–20 before 1968, but we do know that as of 2018, only 17 states and the District of Columbia required a minimum age of 21 to purchase handguns (Giffords Law Center, 2019). That is, as far of 2018 state law is concerned, people age 18 to 20 can lawfully buy handguns in 33 states. We assume that many states also allowed handgun purchases by 18–20 year-olds before 1968. Further, until 1968 no federal law prohibited handgun purchases by 18-to-20 year olds. Thus, the GCA introduced a new restriction on handgun buying by young adults.

The intent of the GCA was to reduce gun violence, partly by helping to restrict access to firearms among some subsets of the population. The introduction of this new restriction, applying specifically to 18-to-20 year olds, should directly affect only this age group, and should therefore have its largest effect on violent crime committed by persons age 18 to 20.

Study 2 Methods

The logic of the following analysis is simple. If the new handgun purchase restrictions of the GCA applying to 18-to-20 year olds was effective, the fraction of arrests for violent crimes that 18-to-20 year olds accounted for should have declined after the GCA went into effect late in 1968, since only this age group was newly subject to the age-based handgun purchase ban. Therefore, we analyzed arrest data for the United States for each year from 1963 (5 years before the GCA went into effect) to 1973 (5 years after the GCA), for trends in three measures: (1) the percent of arrests for murders and nonnegligent manslaughters (hereafter "homicides") that 18-to-20 year olds accounted for, (2) the percent of arrests for robbery that 18-to-20 year olds accounted for, and (3) the percent of arrests for aggravated assault that 18-to-20 year olds accounted for. As with Study 1, these three offense types were studied because they are the only types of violent crime that involve handguns to any significant degree. Arrest data do not allow analysts to determine if the crime for which the person was arrested involved a gun, or more specifically a handgun, so it is not possible to directly measure trends in age patterns of persons committing, or arrested for, crimes in which handguns were used.

It should be emphasized that, unlike in Study 1, we did not analyze estimated per capita rates of crime by 18-to-20 year-olds in Study 2. Instead, we analyzed the estimated *share* of violent crimes (regardless of their number) committed by this subpopulation. This strategy strengthens our ability to isolate the effect of changes in age-specific gun control measures by reducing the need to control for numerous possible confounders. The alternative of analyzing per capita rates of violent crime in this age group would be afflicted by a far more severe need to control for possible confounding variables, since virtually any variable that could affect violent criminal behavior in the population as a whole could also affect violent criminal behavior among those age 18-to-20. Isolating the impact of the GCA's new ban would require controlling for all the other variables having causal effects among people of all ages. In

contrast, only factors specific to persons 18–20 are likely to affect the *percent* of crimes committed by those age 18–20.

Violent crime (and arrests for violent crime) increased after 1968 but by itself this says nothing definitive about the impact of the GCA as a whole or of its new restrictions concerning 18-to-20 year olds, since violence increased in all age groups, and had already been increasing well before the GCA went into effect. Thus, we need to introduce a feature into the research design that takes account of preexisting trends in violent crime, and thus in arrests for violent crime. We do this by measuring the average trend in the 18-to-20 year old share of arrests in the years immediately *before* the GCA went into effect in late 1968 (i.e., in 1963–1968) and comparing this with the average trend in the years immediately *after* the GCA (i.e., 1969–1973), excluding 1968 because part of it was before the GCA went into effect and part was after. If the relevant provisions of the GCA were effective, the post-1968 trends should be either downward or at least be less steeply upward than they had been before the GCA. Thus, the preexisting upward trend in the 18-to-20 year old share of violent crime arrests should have at least slowed, and possibly even reversed itself after 1968.

One other methodological feature was also essential to the analysis. The 18-to-20 year old share of arrests could change even if the GCA's relevant provisions had no effects, merely because the 18-to-20 year old share of the *population* changed. More specifically, the previously increasing 18-to-20 year old share of *arrests* could slow in its rate of increase if the previously increasing 18-to-20 year old share of the *population* slowed in its rate of increase. This is not a mere hypothetical – this is precisely what happened around 1968. Figure 1 shows that the 18-to-20 year-old share of the population (represented by the height of the line) was sharply increasing up until 1968, but then decreased in 1968 and thereafter increased much more slowly than it had before 1968. This means that if an analyst did not control for trends in the 18-to-

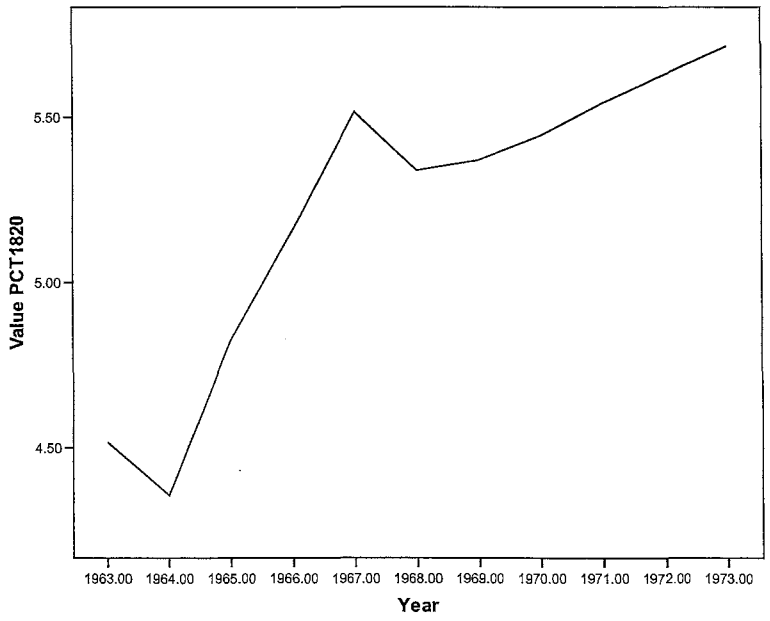

Fig. 1 Trends in the percent of the U. S. population that was age 18 to 20, 1963–1973

20 year old share of the population, the effect of this shift in the age structure of the population would be confused with the effect of the GCA.

We therefore performed a linear regression analysis for each of our arrest outcome measures, in which the dependent variable was the 18-to-20 year old share of arrests for a given type of violent crime (murder, robbery, or aggravated assault), the year was the main independent variable, and the 18-to-20 year old share of the population was a control variable. The analysis was performed twice for each violent crime type, once for the years 1963–1968 (pre-GCA years) and once for the years 1969–1973 (post-GCA years). The coefficient for the YEAR variable represents the average annual change in the 18-to-20 year old share of arrests over the time period studied. If it is positive, it means that the 18-to-20 year old share of arrests for the target violent crime was increasing during that period, and if it is negative, it indicates that the share was decreasing. The larger the coefficient, the stronger the trend was. Thus, if the GCA was effective, the coefficient for YEAR in the post-GCA period should be either a smaller positive number than the same coefficient for the pre-GCA period (indicating a weakening of the pre-GCA upward trend), or the post-GCA coefficient might even be negative, indicating that the trend had reversed itself from an upward trend to a downward trend.

Study 2 Findings on the Impact of the GCA

Table 3 displays the key results from the regression analyses, showing the YEAR coefficients for the pre-GCA period and the post-GCA period, for each of the three arrest outcome measures. The upper panel (Panel A) shows the potentially misleading results obtained when there are no controls for the 18-to-20 year old share of the population, and the lower panel (Panel B) shows the corresponding results when a control for this variable was introduced.

Table 3 Changes in the trend in the 18-to-20 year old share of violent crime arrests, from the 1963–1967 (pre-GCA) period to the 1969–1973 (post-GCA) period

Panel A. No control for percent of the population age 18–20			
Dependent variable			
18-to-20 year-old share	Coefficient for year		Change from 1963 to 1968
of arrests for …	1963–1968	1969–1973	to 1969–1973
Murder	.654	−.060	−0.714
Robbery	.834	−.290	−1.124
Aggravated Assault	.580	−.020	−0.600
Panel B. Percent of the population age 18–20 controlled			
Dependent variable			
18-to-20 year-old share	Coefficient for year		Change from 1963 to 1968
of arrests for …	1963–1968	1969–1973	to 1969–1973
Murder	.410	3.417	+3.007
Robbery	.840	2.651	+1.811
Aggravated Assault	.525	1.649	+1.124

The Panel A results initially indicated that trends in the 18-to-20 year old share of violent crime arrests moved in a desirable direction after 1968 – the previous upward trend prevailing prior to 1968 leveled off or even declined slightly after 1968. The Panel B results, however, indicate that this change in trends was at least partly due to the changing trends in the 18-to-20 year old share of the population documented in Fig. 1. Once that factor was statistically controlled, the positive coefficients for the YEAR variable for the pre-GCA period, which indicated an upward trend in the 18-to-20 year old share of violent crime arrests before 1968, became an even *larger* positive coefficient in the post-GCA period, indicating that the upward trend in the 18-to-20 year old share of violent crime arrests became even stronger after 1968, despite the new federal ban on handgun purchases by persons age 18 to 20. That is, once one takes account of trends in the percent of the population age 18 to 20, it becomes apparent that upward trend in the share of arrests claimed by 18-to-20 year olds became stronger after 1968.

Study 2 Discussion and Conclusions

The federal ban on 18-to-20 year olds purchasing handguns from licensed dealers introduced in 1969 does not appear to have reduced the 18-to-20 year old share of violent crime. It is this specific age group whose violent behavior should have been most influenced if the purchase ban was effective, so the ban was apparently ineffective in reducing criminal violence. These results specific to young adults comport with research on the impact of the GCA on violent crime in the population as a whole. Magaddino and Medoff (1984) found no significant effect of the GCA on the U.S. homicide rate as a whole, i.e. for all ages. Zimring (1975) did not test the effect of the GCA on national crime rates, but did find that it failed to achieve the intermediate goals of reducing interstate movement of guns (pp. 181, 191) or decreasing the share of violent crimes committed with handguns (p. 172).

The focus on national-level data leaves open the possibility that the handgun purchase ban reduced young adult involvement in violence in some parts of the country, but not others. Since our results indicated no net effect for the nation as a whole, however, violence-reducing effects in some places could exist only if banning handgun purchases had violence-*increasing* effects in other places.

The apparent lack of impact of the handgun purchase ban on young adult involvement in violent crime does not mean that other elements of the GCA could not have had any beneficial effects. Nevertheless, the evidence indicates that the law as a whole apparently did not have any net effect on the homicide rate and did not reduce the share of the nation's violent crimes committed with guns (Magaddino and Medoff 1984; Zimring 1975).

Why did the new ban on handgun buying not reduce violent crime among the young adults who should have been affected? One obvious explanation would be that they bought handguns from other sources besides licensed dealers, such as friends or relatives. They could have acquired handguns illegally, e.g., by stealing them or by using persons age 21 or older to act as "straw purchasers" on their behalf (Wright & Rossi, 1986). Youth could also gain possession of handguns by borrowing their parents' firearms, with or without their knowledge. It is even possible that the ban *did* reduce handgun acquisition in this group, but that this did not reduce the youths'

involvement in violent crime. Criminally inclined young adults could substitute long guns like shotguns or rifles, or weapons other than firearms, to use in crimes, or commit offenses without using weapons of any kind - unsurprising possibilities given that most rapes, aggravated assaults, and robberies are in fact committed without firearms (U.S. Federal Bureau of Investigation, 2019, Table 19; U.S. Bureau of Justice Statistics., 2010, Table 66).

Overall Conclusions and Policy Implications

Neither study reported herein found any violent crime-reducing effects of gun control measures aimed specifically at young adults, notwithstanding the strong a priori reasons to expect that such effects would be strongest and easiest to detect within this population. These findings reduce any optimism one might have about the benefits of gun control restrictions directly specifically at young adults. Recent reviews of research on the impact of gun control laws as a whole likewise indicate that, with few exceptions, existing gun laws have no detectable net reducing effect on violent crime (Kleck, Kovandzic, & Bellows, 2016; Rand Corporation, 2018). For example, Rand searched for evidence bearing on the effects of 14 types of gun policies (excluding Stand-Your-Ground laws, which are not gun policies) with reference to eight violent crime outcomes, and found evidence bearing on 26 of the possible effects of policies on crime. Among these 26, the authors failed to find either "strong" or "moderate" support for a violence-reducing effect of any gun policy on any violent crime outcome, with a single exception – moderate support for the effect of prohibitions associated with mental illness. (The review also found moderate support for background checks on *firearms* homicides, but only "limited" support for an effect on *total* homicides - p. 304). For all the other possible effects, the authors rated the evidence as "inconclusive."

Particularly relevant to the present report, the Rand authors found no strong or moderate support for an impact of age restrictions on purchasing or possessing guns - evidence regarding effects on homicide was rated as "inconclusive." Similarly, Kleck et al. (2016) failed to find even weak support for violence-reducing effects of bans on possession or purchase of guns by minors. Thus, in this research context, the present report's null findings concerning restrictions on purchase or carrying of guns among persons age 18 to 20 are unsurprising.

This does not mean that no gun control measures can reduce violent crime. Even the generally unsupportive Rand review found some evidence that background checks and prohibitions associated with mental illness may reduce homicide. Likewise, Kleck et al. (2016, p. 508) found strong support for an effect of gun owner licensing (whose central element is background checks) on homicide, and weaker support for an assault-reducing effect of prohibition of gun possession by mentally ill persons. Further, there could be gun regulations that have never been implemented, or implemented but not evaluated, that might prove effective. Nevertheless, the full body of empirical evidence accumulated so far largely indicates that most gun control policies heretofore implemented, whether directed at young adults or the population as a whole, do not have any measurable net effect on violent crime.

Appendix

Data Sources

State crime rate data

U.S. Dept. of Justice, Federal Bureau of Investigation. Crime in the United States - Uniform Crime Reports, 2000. Washington, D. C.: U. S. Government Printing Office.

State arrest data by age, 2000–2002 (available from ICPSR website at http://www.icpsr.umich.edu/icpsrweb/ICPSR/access/index.jsp):

U.S. Dept. of Justice, Federal Bureau of Investigation. Uniform Crime Reporting Program Data [United States]: Arrests By Age, Sex, And Race, 2000 [Computer file]. ICPSR03443-v2. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 2006-10-27.

U.S. Dept. of Justice, Federal Bureau of Investigation. Uniform Crime Reporting Program Data [United States]: Arrests By Age, Sex, And Race, 2001 [Computer file]. Compiled by the U.S. Dept. of Justice, Federal Bureau of Investigation. ICPSR03760-v2. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 2006-09-21.

U.S. Dept. of Justice, Federal Bureau of Investigation. Uniform Crime Reporting Program Data [United States]: Arrests By Age, Sex, And Race, 2002 [Computer file]. ICPSR04443-v2. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 2007-03-21.

State and Federal Prisoners

U.S. Bureau of Justice Statistics. 2001. Prisoners in 2000. BJS Bulletin NCJ 118207 at: http://bjs.ojp.usdoj.gov/content/pub/pdf/p00.pdf

Sworn police full-time employment

U.S. Department of Justice, Bureau of Justice Statistics. (1998). *Directory of Law Enforcement Agencies*, 1996: [UNITED STATES] [Computer file]. Conducted by U.S. Dept. of Commerce, Bureau of the Census. ICPSR ed. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 1998.

Divorces

U.S. National Center for Health Statistics. "Provisional Tables on Births, Marriages, Divorces, and Deaths 1998-2000". National Vital Statistics Reports, Volume 49, number 6, available at http://www.cdc.gov/nchs/data/nvsr/nvsr49/49_06_02_03.pdf.

Population estimates by age: U.S. Bureau of the Census website at http://www.census.gov/popest/archives/pre-1980/.

http://www.census.gov/popest/states/asrh/files/SC-EST2009-AGESEX-RES.csv

All other variables

U. S. Bureau of the Census. "Census 2000 Briefs and Special Reports" website at http://www.census.gov/population/www/cen2000/briefs.html.

Classification of the States as to Minimum Age for Lawful Carrying of Concealed Weapons, as of 1999.

No Concealed Carrying Allowed: IL, KS, MO, NE, NM, OH, WI.

Minimum Age 23: OK.

Minimum Age 21: AK, AZ, AR, FL, GA, HA, KY, LA, MA, MI, NV, NC, OR, PA, RI, SC, TN, TX, UT, VA, WA.

No express minimum age: AL, CA, CO, CT, NH, NY.

Minimum age 18: DE, ID, IN, IA, ME, MD, MI, MN, MT, NJ, ND, SD, WV, WY.

Minimum age 16: VT.

State Law Provisions on Minimum Age for Concealed Weapons Carry as of 1999:

1. Alabama. Code of Ala. § 13A-11-75 (1999)
2. Alaska. Alaska Stat. § 18.65.705(1) (1999)
3. Arizona. Ariz. Rev. Stat. § 13–3112(E)(2) (1999)
4. Arkansas. Ark. Stat. Ann. § 5–73-309(1)(B) (1999)
5. California. Cal. Pen. Code § 12,050 (1999)
6. Colorado. Col. Rev. Stat. § 18–12-105.1 (1999)
7. Connecticut. Conn. Gen. Stat. § 29–28 (2000)
8. Delaware. 1 Del. Code § 701; 11 Del. Code § 1441(a) (1999)
9. Florida. Fla. Stat. § 790.06(2)(b) (1999)
10. Georgia. Official Code Ga. Ann. § 16–11-129(b)(1) (1999)
11. Hawaii. Haw. Rev. State § 134–9(a) (1999)
12. Idaho. Idaho Code §§ 3302(1)(l), (11) (1999)
13. Illinois. 720 Ill. Compiled Stat. Ann. § 5/24–1(4) (1999)
14. Indiana. Burns Ind. Code Ann. § 35–47–2-3(f)(2) (1999)
15. Iowa. Iowa Code § 724.8(1) (1999)
16. Kansas. Kansas Stat. Ann. § 21–4201(a)(4) (1999)
17. Kentucky. Kentucky Rev. Stat. § 237.110(2)(b) (2000)
18. Louisiana. La. Rev. Stat. § 40:1379.3(C)(4) (1999)
19. Maine. 25 Maine Rev. Stat. § 2003(1)(A) (1999)
20. Maryland. Md. Ann. Code art. 27, § 36E(a)(1) (1999)
21. Massachusetts. Mass. Ann. Laws ch. 140, § 131(d)(iv) (1999)
22. Michigan. Mich. Code Laws § 28.426 (1999)
23. Minnesota. Minn. Stat. §§ 624.713(1)(a), 624.714(5)(a) (1999)
24. Mississippi. Miss. Code Ann. § 45–9-101(2)(b) (1999)
25. Missouri. Rev. Stat. Mo. § 571.030 (1999)
26. Montana. Mont. Code Ann. § 45–8-321(1) (1999)
27. Nebraska. Rev. Stat. Neb. § 28–1202 (1999)
28. Nevada. Nev. Rev. Stat. Ann. § 202.3657(2)(b) (1999)
29. New Hampshire. N.H. Rev. Stat. Ann. § 159:6 (1999)
30. New Jersey. N.J. Stat. §§ 2C:58–3(c)(4), 2C:58–4(c) (1999)
31. New Mexico. N.M. Stat. § 30–7-2 (1999)
32. New York. N.Y. CLS Penal § 400.00(1) (1999)

33. North Carolina. N.C. Gen. Stat. § 14–415.12(a)(2) (1999)
34. North Dakota. N.D. Cent. Code §§ 62.1–02-01(4), 62.1–04-03 (1999)
35. Ohio. Ohio Rev. Code Ann. § 2923.12(A) (1999)
36. Oklahoma. 21 Okl. St. § 1290.9(3) (1999)
37. Oregon. Oregon Rev. Stat. § 166.291(1)(b) (1999)
38. Pennsylvania. 18 Pa. C.S. § 6109(B) (1999)
39. Rhode Island. R.I. Gen. Laws § 11–47-11(a) (1999)
40. South Carolina. S.C. Code Ann. § 23–31-215(A) (1999)
41. South Dakota. S.D. Codified Laws § 23–7-7.1(1) (1999)
42. Tennessee. Tenn. Code Ann. § 39-17-1351(b) (1999)
43. Texas. Tex. Gov't Code 411.172(a)(2) (1999)
44. Utah. Utah Code Ann. § 53–5-704(1) (1999)
45. Vermont. 13 Vermont Stat. Ann. § 4008 (1999)
46. Virginia. Va. Code Ann. § 18.2–308(D) (1999)
47. Washington. Rev. Code Wash. § 9.41.070(1)(c) (1999)
48. West Virginia. W. Va. Code § 61–7-4(a)(3) (1999)
49. Wisconsin. Wis. Stat. § 941.23 (1999)
50. Wyoming. Wyo. State. § 6–8-104(j) (1999)

References

Department of the Treasury and Department of Justice. 1999. Gun Crime in the Age Group 18–20. https://permanent-access-gpo-gov.proxy.lib.fsu.edu/lps20136/report.pdf. Accessed 1-9-19.

Giffords Law Center. 2019. "Concealed carry". https://lawcenter.giffords.org/ gun-laws/policy-areas/guns-in-public/concealed-carry/. Accessed 10 Jan 2019.

Kleck, G. (2001a). The frequency of defensive gun use. In G. Kleck & D. B. Kates (Eds.), *Armed* (pp. 213–283). Amherst, NY: Prometheus Books.

Kleck, G. (2001b). The nature and effectiveness of owning, carrying, and using guns for self-protection. In G. Kleck & D. B. Kates (Eds.), *Armed* (pp. 285–342). Amherst, NY: Prometheus Books.

Kleck, G., Kovandzic, T., & Bellows, J. (2016). Does gun control reduce violent crime? *Criminal Justice Review, 41*, 488–513.

Kovandzic, T., Schaffer, M. E., & Kleck, G. (2013). Estimating the causal effect of gun prevalence on homicide rates: A local average treatment effect approach. *Journal of Quantitative Criminology, 28*(4), 477–541.

Magaddino, J. P., & Medoff, M. H. (1984). An empirical analysis of federal and state firearm control laws. In D. B. Kates, Jr., (Ed.), *Firearms and violence: issues of public policy* (pp.225–258). Cambridge, Mass.: Ballinger.

Marvell, T. (2001). The impact of banning juvenile gun possession. *Journal of Law and Economics, 44*, 691–713.

Parker, R. N., Williams, K. R., McCaffree, K. J., Acensio, E. K., Browne, A., Strom, K. J., & Barrick, K. (2011). Alcohol availability and youth homicide in the 91 largest US cities, 1984-2006. *Drug and Alcohol Review, 30*, 505–514.

Rand Corporation. 2018. *The Science of Gun Policy: A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States*. https://www.rand.org/pubs/research_reports/RR2088.html. Accessed 10 Jan 2019.

Siegel, M., Pahn, M., Xuan, Z., Fleegler, E., and Hemenway, D. 2019. The impact of state firearm laws on homicide and suicide deaths in the USA, 1991-2016: A panel study. *Journal of General Internal Medicine*, Online First article.

U. S. Federal Bureau of Investigation. 2019. *Uniform Crime Reports*, 2017. Available online at https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-38. Accessed 1-9-19.

U.S. Bureau of Justice Statistics. 2010. *Criminal Victimization in the United States, 2008 –Statistical Tables*, table 66. At https://www.bjs.gov/content/pub/pdf/cvus08.pdf. Accessed 10 Jan 2019.
Wright, J., & Rossi, P. (1986). *Armed and Considered Dangerous*. New York: Aldine de Gruyter.
Zimring, F. E. (1975). Firearms and federal law: the Gun Control Act of 1968. *Journal of Legal Studies, 4*, 133–198.

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EXHIBIT "3"

Article

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Does Gun Control Reduce Violent Crime?

Gary Kleck[1], Tomislav Kovandzic[2], and Jon Bellows[3]

Abstract

Do gun control laws reduce violence? To answer this question, a city-level cross-sectional analysis was performed on data pertaining to every U.S. city with a population of at least 25,000 in 1990 ($n =$ 1,078), assessing the impact of 19 major types of gun control laws, and controlling for gun ownership levels and numerous other possible confounders. Models were estimated using instrumental variables (IVs) regression to address endogeneity of gun levels due to reverse causality. Results indicate that gun control laws generally show no evidence of effects on crime rates, possibly because gun levels do not have a net positive effect on violence rates. Although a minority of laws seem to show effects, they are as likely to imply violence-increasing effects as violence-decreasing effects. There were, however, a few noteworthy exceptions: requiring a license to possess a gun and bans on purchases of guns by alcoholics appear to reduce rates of both homicide and robbery. Weaker evidence suggests that bans on gun purchases by criminals and on possession by mentally ill persons may reduce assault rates, and that bans on gun purchase by criminals may also reduce robbery rates.

Keywords

gun control, violence, gun ownership

The United States has higher rates of violent crime, both fatal and nonfatal, than all but a handful of the industrialized nations of the world (Killias, van Kesteren, & Rindlisbacher, 2001). Many of these crimes are committed by offenders armed with guns. In 2014, 67.9% of homicides, 40.3% of robberies, and 22.5% of aggravated assaults known to police were committed by criminals with guns (U.S. Federal Bureau of Investigation [FBI], 2015). The United States also has a higher rate of private gun ownership than any other industrialized nation (Killias et al., 2001). This combination of facts has led many to conclude that America's high rate of gun ownership must be at least partially responsible for the nation's high rates of violence, or at least its high rate of homicide. This in turn has led many to conclude that stricter gun laws can reduce violent crime, especially the homicide rate (e.g., Cook & Ludwig, 2000).

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Theory

Why should gun levels influence rates of crime or violence? And if gun levels do have effects, how might gun control laws decrease crime rates? If a gun is available to a prospective aggressor, it can encourage attacks, especially by weaker attackers on stronger or more numerous victims, and can facilitate attacks from a distance or attacks by persons too squeamish to attack with messier weapons like knives or too timid to attack at close quarters. Similarly, guns may enable some people to attempt robberies they could not complete unarmed (Cook, 1976; Kleck, 1997, pp. 215–240; Newton & Zimring, 1969). The sight of a gun also might trigger attacks by angered persons, due to the learned association between guns and violence. On the other hand, research on real-world crime incidents indicates that aggressor possession of guns is generally associated with a *lower* likelihood of attack and injury to the victim (Kleck & McElrath, 1991). Once an injury is inflicted, however, it is more likely to result in death if a gun was used, due to the weapon's greater lethality (Block, 1977; Kleck & McElrath, 1991; Newton & Zimring, 1969). Part of the higher fatality rates of gun attacks, however, is probably due to greater deadliness of intent among attackers using guns, rather than just the deadliness of the weapon itself (Cook, 1982, pp. 247–248; Wright, Rossi, & Daly, 1983, pp. 189–212).

Gun control laws, in turn, are intended to reduce crime and violence rates by restricting the availability of firearms among persons believed to be at higher risk of committing acts of violence. Although some laws hypothetically might do this by reducing gun levels in the general population, neither the federal government nor any state has ever banned the ownership of guns or even any large subset of guns, such as handguns. Further, prior research indicates that existing laws have no measurable effect on overall gun ownership levels in the population as a whole (Kleck & Patterson, 1993). Instead, gun laws are intended to block acquisition, possession, and criminal use of guns by members of high-risk subsets of the population, such as convicted criminals, mentally ill persons, alcoholics, or drug addicts.

Further, some gun laws are designed to reduce violence in ways that do not require reducing gun ownership in any subset of the population. For example, some controls aim to reduce unlicensed carrying of concealed guns through public spaces, reducing gun possession in situations likely to erupt in violence. Other controls try to deter criminal use of firearms by imposing enhanced (add-on) penalties for gun use in crimes, above and beyond the baseline penalties provided for the underlying crimes.

On the other hand, critics argue that gun control laws could increase crime, by disarming prospective victims, reducing their ability to effectively defend themselves, and possibly reducing any deterrent effect that victim gun possession might have on offenders (Kovandzic & Marvell, 2003; Lott & Mustard, 1997; Moody & Marvell, 2005). This could happen even with laws narrowly aimed at disarming subsets of the population at high risk of offending, since such groups are also at high risk of victimization (Kleck, 1997, Chapter 5; Tark & Kleck, 2004). For example, few mentally ill people commit violent acts, but they are at higher risk of victimization (Friedman, 2006), so banning sales of guns to this group could reduce defensive and deterrent effects of their gun ownership more than it reduced its violence-elevating effects. If this happened, the net effect on violence rates could be positive.

The purpose of the present study is to provide a methodologically sound evaluation of the impact of gun control laws on violent crime rates.

Prior Research on the Impact of Gun Control Laws on Crime

There are many macro-level studies of the impact of gun control laws on violent crime rates. Most report no significant negative association between violent crime rates and the gun control law under

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Exhibit 3
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study (see reviews by National Research Council, 2004; Hahn et al., 2005; Kleck, 2013), though a few (e.g., Koper & Roth, 2001; Loftin, McDowall, Wiersema, & Cottey, 1991) find evidence of crime-reducing effects of some gun control laws. Regardless of their findings, all these studies can be criticized on methodological grounds. The central problems have been (1) the failure of analysts to properly account for other factors that affect violence (omitted variable bias), (2) studying heterogeneous states rather than more homogenous cities or counties, (3) a failure to control for gun ownership levels, (4) a failure to take account of local gun ordinances, (5) the use of unreliable secondary sources of information on gun laws, (6) the use of uninformative "gun control strictness" indexes that lump together heterogeneous mixtures of gun laws, and (7) the opposite problem of studying a single arbitrarily chosen instance of a given type of gun control, which precludes generalization of findings and risks confusing the effects of a gun law with the effects of other crime-control measures likely to accompany it.

One research design commonly used to assess the impact of gun control laws on violence rates has been the interrupted time-series design (ITSD). In the typical ITSD study, monthly violence rates for a single jurisdiction are analyzed to see if there is a significant downward shift in violent crime rates around the time a new gun law went into effect. The ITSD design requires that the researcher convincingly rule out changes in other crime-related factors (other than the legal change under study) as alternative explanations for observed shifts in crime trends (Campbell & Stanley, 1963). This problem is especially acute in time-series studies of gun laws due to the fact that state legislatures are almost continuously making large numbers of changes in the criminal law, often for the express purpose of reducing crime. For example, over the period 1973–1992, the Florida legislature passed an annual average of 381 general bills (this total excludes resolutions), including an average of 2.45 gun control bills per year (Etten, 2002). Almost every enactment of a new gun law is accompanied by dozens or hundreds of other changes in criminal law passed during the same legislative session, making it virtually impossible to separate the effects of one new law from those of others, enacted at the same time, and also intended to reduce crime. Since the ITSD approach is univariate, it cannot explicitly rule out any specific changes that might account for observed shifts in violent crime rates.

Panel/Multiple Time-Series Designs

After 1997, ITSDs of individual laws in single jurisdictions were largely replaced by panel designs in which violent crime rates in large numbers of areas with and without the law under study were tracked over time. For example, at least two dozen panel studies have assessed the impact of "right to carry" (RTC) laws, using a county-level panel data set first compiled by Lott and Mustard (1997). They are a highly overlapping set of analyses of the same fatally flawed body of data (see Kovandzic, Marvell, & Vieraitis, 2005, pp. 294–302, for a summary; the review by Moody & Marvell, 2008).[1] The results of both the original Lott–Mustard study and two dozen reanalyzes of their data set are all essentially uninterpretable because they are, regardless of methodological variations, based on analyses of a meaningless set of county-level "crime rates." Better empirical evidence on the impact of these laws was provided by researchers who gathered their own crime data rather than merely reanalyzing the flawed Lott–Mustard county data set. The best evidence was produced by Kovandzic, Marvell, and Vieraitis (2005), whose panel data set pertained to 189 large cities (covering the period 1980–2000) using city-level crime data that did not have the problems associated with the attempt to aggregate crime counts of multiple local jurisdictions to create county violent crime rates. They found that RTC laws have no measurable effect on violent crime rates. Kovandzic and Marvell (2003) likewise found no impact of RTC laws on violence levels when using more complete county-level crime data for Florida counties and a more refined measure of the laws' "treatment" effects—the number of valid concealed carry permits in each county in each year.

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Panel studies (also referred to as multiple time-series studies) were a substantial improvement over ITSD studies because they exploit evidence concerning numerous instances of new gun laws in multiple jurisdictions, but they also suffer, albeit it to a lesser degree, from potential bias due to omitted variables. The omitted variable bias problem occurs here because analysts fail to or are unable to control for more than a few genuinely crime-related, time-varying factors (including other gun laws) that affect violence rates.

It is important to note that the issue here is the lack of needed controls for time-varying factors likely to influence violent crime rates (such as the passage of other gun laws), because the typical panel study uses a "fixed effects model" that is based *solely* on the cross-temporal relationship between the gun law under study and violence rates. Panel studies typically include dummy variables that represent each year and each state, in an attempt to indirectly control for the effects of variables that differ across years and states, but that are not explicitly measured—these are called "fixed effects" variables. There is a common misperception among some scholars that the inclusion of these fixed effects variables minimizes the need to explicitly control for potential confounding time-varying factors. Although fixed effects help in creating ceteris paribus conditions by capturing all unobserved, time-invariant factors that affect violent crime rates and are correlated with the policy variable under study, they can still produce inaccurate estimates of the effect of the policy variable if other omitted variables are correlated with *changes* in the policy variable (Wooldridge, 2000).

How consequential can omitted variable bias be in panel studies with respect to conclusions about the effect of gun laws on violence rates? A recent state panel study of 13 gun laws enacted between 1977 and 2000 by Moody and Marvell (2006) found that researchers analyzing any of the laws in isolation would have got their conclusions wrong for 5 of the 13 laws (see their table 7).

Pioneers in the use of panel data for crime policy studies, Moody and Marvell conclude that "policy analysts must be careful to properly identify the coefficients in any policy analysis equation and to avoid omitted variable bias due to omitting other relevant laws which can lead to spurious results" (p. 14). Lott and Mustard (1997, p. 38) controlled for just two other types of gun laws in their assessment of "shall issue" carry laws, whereas Ludwig and Cook (2000) controlled for none in their evaluation of the federal Brady law. In contrast, Kleck and Patterson (1993, pp. 259–260) controlled for up to 19 types of gun laws in their cross-sectional (CX) analysis of gun laws.

Given the importance of controlling for potential confounding time-varying factors, why have researchers chosen to include so few in their violence models? The answer is quite simple—the data simply do not exist or would be difficult to collect. For example, the U.S. Census Bureau and other federal/state government agencies only compute intercensal estimates for a handful of potential crime-related variables (e.g., poverty), and even those estimates are only available for larger areas such as states.

The problem with using larger aggregates such as states as a unit of analysis in a study of gun laws is that states are more heterogeneous than cities and counties, which aggravates the problem of aggregation bias. For example, a state as a whole might be high on both gun ownership and violence rates, even though the parts of the state that have high gun ownership have low violence rates. Unwary analysts who used state-level data might only find that states with more guns had more violence, failing to realize the specific places with higher gun ownership were not the places with higher violence rates.

Further, the use of state-level data can lead to mismeasurement of the strictness of gun controls to which residents of a given city are subject, as it precludes taking into account local gun control laws, the most restrictive in the nation. Thus, cities or counties are better units of analysis for a study of gun laws, both because they are more homogenous and because they allow analysts to control for both local and state gun controls. Unfortunately, if one wanted to do any kind of longitudinal research, such as a panel study, and needed to gather data describing cities or counties in the years

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between censuses (e.g., 1994, 1995, etc.), one would find that intercensal data on crime-related variables for cities or counties are virtually nonexistent.

CX Designs

CX designs compare legal jurisdictions, such as states, with each other to see if those with a gun law have lower levels of violence, other things being equal, than those lacking the law. CX designs are often judged by scholars to be weaker than panel designs because it is inherently harder for researchers to establish ceteris paribus conditions with a CX design. If, for example, there are factors unobserved by the researcher that affect violent crime rates and are likely to be correlated with the gun law under study, then one is likely to get a biased estimate of the causal effect of the gun law on crime. The solution is for the analyst to control as many potentially confounding factors as possible before attributing crime reduction effects to gun regulation. Of course, it is not possible to literally hold all else equal because there is no way to know exactly which variables might generate spurious associations or suppress or distort genuine causal effects. Thus, the most sensible procedure is to control for as many relevant factors as available data allow. Unlike ITSD or panel studies, however, CX studies can take advantage of the very large volume of data that is available in census years for cities, counties, or states on possible determinants of violent crime rates.

Likewise, in CX studies, it is easier for researchers to control for other types of gun laws by using, for example, the Bureau of Alcohol, Tobacco, and Firearms (BATF) report on state and local firearm ordinances. Controlling for the presence or absence of other preexisting gun laws is especially important for CX studies because it is likely that places whose residents favor one type of gun control are likely to favor others as well. Thus, failing to control for existing gun laws could lead to ordinary least squares (OLS) estimates for gun laws under study being biased in the negative direction (i.e., implying more of a crime-reducing effect) due to the omission of other gun laws and lead one to conclude that certain gun laws are effective when it is actually other gun laws that reduce violence.

Panel designs are generally preferred to CX designs for purposes of establishing ceteris paribus conditions, but unfortunately panel approaches are simply not feasible in some situations, and this happens to be one of them. This is because (1) it is essential to control for gun ownership levels to avoid biasing gun control law coefficients in a negative direction, but (2) there are no known valid indicators of cross-temporal variation in gun levels, making it impossible to control for gun levels in any kind of cross-temporal analysis (Kleck, 2004). The spurious association problem derives from the simple political fact that larger numbers of gun-owning voters in high gun ownership areas make it politically more risky for legislators to vote in favor of additional gun control measures. Thus, although higher gun ownership might contribute to higher violence rates, it also reduces the likelihood that a given area will have any given gun control law. If gun ownership increases violence but reduces the strictness of gun control, it will generate a spurious negative association between gun laws and violence rates, giving an erroneous impression that weaker gun laws caused higher violence rates, when in fact it was the higher gun levels that caused the higher violence rates. Consequently, any analysis of gun law impact that fails to control for gun ownership levels will yield misleading results.

It is, however, currently impossible to control for changes over time in gun levels because there are *no* valid measures of such changes. Even proxy measures that are excellent indicators of cross-area variation in gun levels, such as the percentage of suicides that are committed with guns (PSG), show no validity for measuring changes over time (Kleck, 2004, pp. 19–25). Although a few scholars have claimed that their validity checks indicated validity of PSG for use in panel studies (Cook & Ludwig, 2003; Duggan, 2001, p. 1093; Moody & Marvell, 2005), in fact the associations they observed between PSG and direct survey measures of gun ownership (used as criterion measures)

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were almost entirely attributable to cross-area covariation (Kovandzic, Schaffer, & Kleck, 2013). As we demonstrate later, there is virtually *no* correlation over time between PSG and direct survey measures of gun prevalence.

We believe CX data can also be used to approximate ceteris paribus conditions, given the immense amount of macro-level data available to researchers for census years. In fact, one might argue that in the context of policy studies of violent crime that CX data might actually be preferred to panel data sets as few macro-level determinants of violent crime are measured at regular intervals between census years, making it difficult for panel researchers to rule out omitted variables bias. In the next section, we discuss the inability to control for perhaps the most important time-varying factor related to the passage of gun laws, gun ownership levels.

The Need to Control for Gun Ownership Levels

Low or declining gun ownership may be part of what makes it politically feasible to pass new restrictions on guns, but declines in gun levels could also independently reduce violence rates, even if gun laws had no effect of their own on either gun levels or crime. Likewise, in CX analyses, the strictness of gun controls is likely to be negatively correlated with gun ownership levels for the aforementioned political reasons. In our sample of over a thousand U.S. cities, a principle components factor of gun laws was correlated −.52 with our measure of gun ownership—that is, where gun ownership was higher in the general population, gun control was weaker. One of the main arguments for gun control is that gun levels, at least within some high-risk subsets of the population, affect at least some kinds of violent crime. If this were not true, it would be harder to argue that laws restricting guns could affect violence rates. On the other hand, if gun levels do affect crime, and also affect whether gun controls are implemented, then gun ownership levels are an important confounding factor, which must be controlled to avoid spurious negative associations between gun law variables and violence rates. It should be stressed that virtually all gun control laws in the United States are not designed to have their effects by reducing the level of gun ownership in the general population. Confirming this, past research indicates that gun laws in fact do not affect gun ownership levels in the general population (Kleck & Patterson, 1993). Rather, gun control laws are intended to reduce violence either by reducing gun levels within small high-risk subsets of the population or by other means that do not entail reducing gun levels within any part of the population, such as discouraging the unlicensed carrying of guns in public places or their use in crimes. Thus, gun laws do not have their effects on violence by reducing gun levels in the general public; indeed, it is unlikely that it would be politically feasible in America to pass any gun control measures that were likely to significantly reduce gun ownership among the noncriminal majority.

Consequently, general gun levels do not mediate the relationship between gun laws and violence rates. Therefore, we do not include gun ownership levels in our models for the purpose of testing for their indirect effects of gun laws on violence via their effects on general gun ownership levels. The measure of gun levels that we use, the PSG, is a measure of gun prevalence in the general population and has been validated against estimates drawn from surveys of the general population. Instead, we control for general gun levels because the gun ownership level of the general population is a confounding factor that may affect violence rates but is also likely to influence the degree of gun control strictness in a given jurisdiction, thereby generating a spurious negative association between gun laws and violence rates.

An evaluation of the validity of 21 previously used proxies for gun levels shows that although some are valid for purposes of CX comparisons, none show even minimal evidence of validity as a cross-temporal proxies for gun ownership. The CX correlation between the PSG and General Social Survey measures of household gun prevalence at the state-level was .92, whereas the correlation was .95 with similar CX survey estimates for nations. On the other hand, when evaluated for the United

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States across years, the correlations for this proxy were exactly .00 with the survey-measured prevalence of handgun ownership, and actually *negative* with survey-based measures of ownership of all guns (Kleck, 2004).

Some authors have nevertheless insisted that PSG is valid for intertemporal purposes, based on the fact that PSG is correlated with General Social Surveys (GSS) gun prevalence estimates in their panel analyses (Cook & Ludwig, 2000; Moody & Marvell, 2005). What these authors all failed to note was that this correlation is driven entirely by the CX correlation between PSG and the GSS gun measures. The cross-temporal correlations are negligible (Kovandzic et al., 2013). Thus, these tests actually indicated that PSG has *no* validity for measuring changes in gun levels.

The exact same problems afflict the effort of Duggan (2001) to establish that the rate of subscriptions to *Guns & Ammo* magazine (GAR) is a valid proxy for changes in gun levels. As shown in Kovandzic, Schaffer, and Kleck (2013), the association he documented between state-level survey estimates of household gun prevalence and GAR was entirely attributable to CX covariation. Across years, there is no significant correlation between GAR and the survey-based criterion measure ($R^2 = .002$).

Because there are no known valid cross-temporal proxies for gun ownership available, it is, at present, impossible to control for gun levels using *any* kind of longitudinal design, including the otherwise preferable panel design. In the absence of valid time-series proxies for gun levels, researchers who want to isolate the effect of gun laws from the effects of gun ownership levels presently have no choice but to rely on CX data. For this and other reasons already discussed above, we use a CX approach in this article.

Method

Our study assesses the impact of gun control laws on violent crime rates using CX data from all U.S. cities with a 1990 population of 25,000 or more ($n = 1{,}078$). These cities accounted for roughly three quarters of the violent crime in the United States in 1990 (U.S. FBI, 1991, pp. 150–151). We use data for 1990 rather than 2000 or 2010 because the city-level suicide data needed to measure the proxy for gun levels were no longer publicly available and there are no feasible and valid alternative measures of gun levels (Kleck, 2004). We are not aware of any evidence that the effects of gun laws of the type that were present in 1990 would have different effects in other time periods, and it has been empirically demonstrated that the effect of gun prevalence on violence has not changed over time (Kovandzic et al., 2013, pp. 528–539). We cannot, of course, say anything about types of gun control that did not exist circa 1990, but note that newer measures have generally been weak controls, due to the unfavorable political climate for passing stronger controls in recent years, and that research has generally found no impact on crime rates for these measures, such as child access protection laws and one-gun-a-month laws (Kleck, 2013, pp. 1405–1406, 1409–1410).

We use a double-log model in which both dependent and independent variables (except for gun law dummy variables) are expressed in their natural logs.[2] Because the dependent variables are logged, the coefficients for the gun law dummy variables can be interpreted as elasticities. The coefficient, when multiplied by 100, is the percentage difference in rates of violent crime in cities with a particular gun law versus those without the law, holding all other factors fixed. Thus, a coefficient of −.16 for a particular type of gun law in a robbery analysis means that cities with the gun law in effect have 16% lower robbery rates that cities without the law. Heteroscedasticity was detected using the Pagan–Hall (Pagan & Hall, 1983) statistic and was handled by using the Huber–White robust estimator of standard errors, which is valid in the presence of heteroscedasticity of unknown form (Wooldridge, 2006).

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Violent Crime Rate Variables

The dependent variables are the rates per 100,000 population of total homicide, gun homicide, nongun homicide, total robbery, and total aggravated assaults.[3,4] Data on the total number of homicides, robberies, and aggravated assaults for each city were taken from the FBI Uniform Crime Reports (UCR) for 1989 to 1991 (U.S. Federal Bureau of Identification 1990–1992). Gun and nongun homicide data were taken from the FBI Supplementary Homicide Reports (SHR) computer data set (Fox, 2001; see Note 4). To estimate the number of gun homicides for each city in each year, we multiplied the total number of homicides in the published UCR reports for that year by the ratio of the number of SHR-recorded gun homicides to the total number of SHR-recorded homicides for the corresponding year. Nongun homicides were estimated using the same procedure.

Following convention for CX studies, violence rates were averaged over 3 years, 1989–1991, to reduce the influence of random year-to-year aberrations. For cities missing crime count data for a given year, we estimated missing values by computing the average crime rate for that year in cities in the same census region and same population group (e.g., 25,000–99,999), among cities with valid crime data.

Gun Law Variables

Cities were coded for the presence of 19 major forms of gun control restrictions that were in existence as of 1989 at either the state or city level. Descriptions of the laws, variable names, means, and standard deviations are provided in Table 1. Gun law coding for most laws was based on *State Laws and Published Ordinances—Firearms—1989*, an authoritative and comprehensive verbatim collection of state statutes and local ordinances compiled by the U.S. BATF (1989).

The coding for most gun laws was 1 if the law was present at either the state or city level, regardless of whether the law applied to all types of guns or, as was often the case, only to handguns, and 0 if it was absent. Most of the gun laws fall into one of the six categories: (1) bans on gun possession by members of "high-risk" groups such as criminals and minors, (2) restrictions on sale/transfer/purchase of guns to or by members of these groups, (3) restrictions on the carrying of guns in public places, (4) laws requiring the licensing of gun owners or registration of guns in order for a gun to be legally owned or possessed, (5) restrictions or bans on special gun types such as handguns, and (6) laws requiring a state or local license to be in the business of selling guns, in addition to the license required by the federal government.[5] Gun laws that were too minor or technical to be likely to have any detectable effect on violence rates were not coded, nor were laws that were either universal (or nearly so) across states (e.g., federal laws or bans on machinegun possession) or that were unique to a single jurisdiction. In either of the latter two situations, there was too little variation across cities to reliably detect effects of the laws. The complete gun law coding protocol may be obtained from the senior author.

These state and local laws do not merely duplicate or overlap similar controls at the federal law. The scope of state controls is often considerably broader than seemingly similar federal controls. For example, a state ban on acquisition or possession of guns by convicted criminal may apply to certain misdemeanants as well as felons, whereas the federal ban generally applies only to felons. Likewise, some state restrictions on juvenile acquisition or possession of long guns apply to 18- to 20-year-olds as well as those under 18, while federal law prohibits acquisition only by those under 18. Further, state and local capacity to effectively administer their controls is often considerably greater than that of the federal government. Even after the Brady Act was passed in 1994 (after our study period), background checks in connection with the federal Brady law could not make any significant use of records concerning mental illness—in 2005, over 4.9 million people applied to buy a gun from a federally licensed dealer, 66,705 were rejected via an FBI records check, but only one half of 1% of

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Table 1. Variables Used in the Analysis and Descriptive Statistics.[a]

Variables	Mean	*SD*	Source[b]
Crime rates (1989–1991 average, rates per 100,000 residents)			
CRMUR, total homicides	8.02	10.30	A
CRGUNMR, gun homicides	4.80	7.64	B
CRNGUNMR, nongun homicides	3.19	3.31	B
CRROB, total robberies	242.85	282.17	A
CRASLT, total aggravated assaults	454.61	405.73	A
Gun ownership proxy			
PSG, % of suicides with guns, 1987–1993, county	55.67	12.96	C
Excluded instrumental variables (used to instrument for gun ownership)			
PCTREP92, % vote cast for Republican presidential candidate, 1992, County	36.87	7.87	D
VIETNAM, Vietnam veterans per 100,000 population, county	3,343.2	889.91	D
Gun law variables			
Bans on Possession of guns			
CRIMPOS, prohibit possession, criminals	0.80	0.40	E
MINORPOS, prohibit possession, minors	0.50	0.50	E
DRUGPOS, prohibit possession, drug addicts	0.66	0.47	E
ALCPOS, prohibit possession, alcoholics	0.51	0.50	E
MENTPOS, prohibit possession, mentally ill	0.63	0.48	E
Restrictions on transfer of guns			
CRIMBUY, ban on gun purchase by criminals	0.78	0.42	E
MINORBUY, ban on gun purchase by minors	0.95	0.22	E
DRUGBUY, ban on gun purchase by drug addicts	0.74	0.44	E
ALCBUY, ban on gun purchase by alcoholics	0.61	0.48	E
MENTBUY, ban on gun purchase by mentally ill	0.71	0.46	E
BYPERMIT, permit required to purchase gun	0.19	0.39	E
BYAPLIC, application required to purchase gun	0.42	0.49	E
WAITPERH, waiting period to receive handgun	0.50	0.50	E
REGISTER, transfer/sale of guns must be registered with a governmental agency	0.43	0.50	E
CARYHIDN, concealed carrying of loaded handgun prohibited or permit hard to get	0.82	0.39	F
Restrictions on ownership/home possession			
LICENSE, license required to possess gun in home	0.13	0.34	E
Restrictions on special gun types			
HGBYBAN, handgun sales ban	0.00	0.06	E
SNSBAN, ban on sale of cheap handguns	0.12	0.32	E
Regulation of dealing in firearms			E
DEALER, state or city license required for gun dealers	0.53	0.50	E
Control variables			
PCTBLACK, % resident population Black	11.66	15.60	D
LIVLONE, % persons living alone	25.92	6.77	D
PCTHISP, % resident pop. Hispanic origin	10.59	15.55	D
DENSITY, persons per square mile	3,783.2	3,440.8	D
PCTDIV, % resident population 15 and older divorced	9.23	2.27	D
PCT18T24, % resident population age 18–24	12.32	6.60	D
PCT25T34, % resident population age 25–34	18.12	2.91	D
PCTPOOR, % resident population < poverty line, 1989	13.21	8.14	D
OWNEROCC, % housing units owner occupied	58.23	12.79	D
PCTVACAT, % housing units vacant	7.16	3.99	D
PCTHIGH, % persons 25 and up with high school degree	77.54	10.65	D

Note. B = Fox (2001); C = U.S. National Center for Health Statistics (1997); D = U.S. Bureau of the Census (1994); E = U.S. Bureau of Alcohol, Tobacco, and Firearms (1989); F = Thomas Marvell, personal communication (2001).

[a]Unless otherwise noted, each variable refers to a city, as of 1990. In variable descriptions, "county" indicates variable refers to county in which city is located. [b]A = U.S. Federal Bureau of Investigation (1990–1992).

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these FBI rejections were for reasons of mental illness. In contrast, some states like Illinois have registries of all persons admitted to psychiatric hospitals in the state, while local enforcement agencies have access to local mental health sources. Consequently, much higher shares of the rejections by state and local agencies were for reasons of mental illness (Bordua, Lizotte, & Kleck, 1979; U.S. Bureau of Justice Statistics, 2006, pp. 2, 5). Likewise, the requirements for state and local dealer licenses are stricter than those imposed by the federal government for issuance of its license. For example, although many states and localities required a criminal background check to become a licensed gun dealer, the federal government, as of 1989, did not do so (U.S. BATF, 1989).

Gun Ownership Levels

Gun levels were measured using the PSG, which research has shown to be the best proxy to use in CX research (Kleck, 2004). This measure has a near-perfect correlation with direct survey measures of household gun prevalence, that is, the percentage of households with one or more guns, so we interpret our measure of gun levels as a measure of household gun prevalence. Vital statistics data for 1987–1993 do not identify locations of deaths for cities with populations smaller than 100,000, so it was not possible to compute city-level measures of PSG for most of our cities. Therefore, we used PSG for the *county* in which the city was located as a proxy for city-level gun availability. Some of the smaller counties had few suicides per year, so misclassification of a few suicides as homicides or accidents in small counties could produce substantial measurement error in a single year's count. Therefore, PSG was computed using data covering the 7-year period from 1987 to 1993, bracketing the census year of 1990. Data were derived from special Part III Mortality Detail File computer tapes (not the general public use tapes) made available to the senior author by the National Center for Health Statistics (U.S. National Center for Health Statistics, 1997). Unfortunately, data access restrictions adopted later by the Centers for Disease Control and Prevention made it virtually impossible to acquire similar data for the years bracketing 2000 or 2010.

Control Variables

In addition to the gun levels measure and gun law dummies, we included 11 city-level control variables that prior macro-level crime research have shown to be reliable predictors of crime. Decisions as to which control variables were included in the violent crime models were based on a review of previous macro-level studies linking violent crime to structural characteristics of macro-level units like cities and states. Most of these control variables account for the causal effects emphasized by motivational, opportunity, and compositional theories of criminal behavior (see Kovandzic, Vieraitis, & Yeisley, 1998; Sampson, 1986; Vieraitis, 2000; the studies reviewed therein). Thus for each gun control law, we control for 18 other gun laws and 11 of the most important structural covariates of violent crime as determined by theory and prior research. Although it is impossible to know for sure if any important time-invariant confounding factors have been omitted, we suggest by holding constant 29 potential relevant factors that we can satisfactorily test the gun law efficacy hypothesis. Table 1 lists and provides a brief description of each control variable along with their means, standard deviations, and data sources.

Fortunately, correlations between the gun law variables and the control variables were generally weak in almost all cases. Of the 209 bivariate correlations between the gun law variables and control variables (19 Gun Laws × 11 Control Variables), none exceeded .5, and only one reached .4. Thus, there was no serious collinearity between gun law variables and control variables. This was confirmed by examination of condition indices and variance-decomposition proportions (Belsley, Kuh, & Welsch, 1980).

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Analytic Procedures

As discussed above, it is important to control for gun levels to isolate the effect of gun laws, but this introduces a complication in estimation of the models. There is a strong theoretical basis, and a large body of empirical support, for the belief that higher violence rates drive up gun ownership levels, as more people acquire guns for self-protection (Bice & Hemley, 2002; Bordua, 1986; Clotfelter, 1981; Kleck, 1979, 1984; Kleck & Kovandzic, 2009; Kleck & Patterson, 1993; Kovandzic, Schaffer, & Kleck, 2012, 2013; McDowall, 1986; Rosenfeld, Baumer, & Messner, 2007; Southwick, 1997). Cities with higher violence rates, therefore, may tend to have higher gun ownership levels, even if gun availability reduced or had no effect on violence rates. When explanatory variables such as gun ownership are endogenous (affected by other variables in the analysis), the OLS estimator is biased and inconsistent (Wooldridge, 2000).

The most common estimation procedure used to address potential endogeneity bias, and the procedure used here, is IVs regression. The key challenge in using IV methods is finding a source of identifying variation: here, variables that are correlated with gun ownership (instrument relevance), that are exogenous with respect to violent crime (i.e., not affected by violent crime—"instrument validity"), and that a priori reasoning and evidence suggest should be excluded from the violent crime equations, that is, do not directly affect violent crime. In the terminology of IV estimation, the instruments used for gun levels are "excluded instruments," and the control variables are "included instruments." If appropriate IVs can be found for gun levels, the method of IVs will produce consistent estimates of the effect of gun levels on violent crime (Wooldridge, 2000).

The excluded IVs used in this article to instrument gun levels are the percentage of the 1992 Presidential vote for the Republican candidate (PCTREP92) and the 1990 county rate of Vietnam-era veterans per 100,000 population (VIETNAM). Both excluded IVs are theoretically important determinants of gun ownership that are plausibly otherwise unrelated to levels of violence. VIETNAM serves as a measure of military training or service, while PCTREP92 serves as a measure of political conservatism. Prior research suggests both variables are significant predictors of gun ownership (Cook & Ludwig, 1997, p. 35; Kleck, 1997, pp. 70–72; Lizotte & Bordua, 1980). In contrast to past research, we carried out extensive specification testing to demonstrate that our excluded IVs VIETNAM and PCTREP92 are relevant and valid.

Tests of the Relevance and Validity of the Instruments

We test for instrument relevance using a heteroscedasticity-robust *F*-test of the joint significance of the excluded instruments VIETNAM and PCTREP92 in an OLS estimation of the first-stage equation of gun levels (PSG), and we also examine the significance of VIETNAM and PCTREP92 separately using conventional *t*-statistics. Research by Bound, Jaeger, and Baker (1995) and Staiger and Stock (1997) indicates that an *F*-test is useful for examining the explanatory power of the excluded IVs, and that *F*-statistics below 10 indicate weak instruments (Staiger & Stock, 1997, p. 557). The results of the *F*-test for VIETNAM and PCTREP92 are reported at the bottom of column 2 in Table 2. The second column in Table 2 also reports the estimated coefficients of the excluded IVs and the remaining exogenous regressors in the first-stage equation of gun levels. The first-stage *F*-statistic reported in column 2 is 38.9, well above the Staiger–Stock rule-of-thumb value of 10. Both of the excluded instruments are correlated with gun levels in the expected directions and at the 0.1% significance level: cities in counties with a greater proportion of Vietnam veterans and persons voting for the Republican candidate in the 1992 Presidential election have higher gun ownership levels. We conclude that our excluded instruments in this estimation are relevant and not "weak."

The second requirement for excluded IVs is that they be uncorrelated with the error process in the violent crime equations. Because the violence equations are overidentified, we are able to assess the

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Table 2. The Estimated Impact of Gun Availability and Gun Laws on City-Level Violence Rates: Instrumental Variables Estimates, Gun Ownership Treated as Endogenous.

Predictor Variables	First-Stage Regression	IV Estimation: Dependent Variables: Natural Log of the Violent Crime Rate per 100,000 Persons				
	Gun Ownership	Total Homicide	Gun Homicide	Nongun Homicide	Total Robbery	Total Assault
PSG	—	−0.57 (1.17)	−0.39 (0.72)	−0.14 (0.35)	−0.92 (1.69)	0.55 (1.10)
CRIMINAL	0.02 (1.25)	−0.05 (0.64)	−0.06 (0.76)	−0.04 (0.66)	0.09 (1.29)	0.10 (1.27)
CRIMBUY	−0.08 (3.22)**	−0.03 (0.31)	−0.15 (1.25)	0.10 (1.08)	−0.32 (2.83)**	−0.30 (2.54)*
MINORPOS	−0.08 (4.20)**	−0.06 (0.73)	−0.11 (1.25)	0.04 (0.60)	−0.04 (0.46)	0.01 (0.06)
MINORBUY	0.02 (0.66)	0.13 (1.25)	0.09 (0.78)	0.15 (1.58)	0.30 (2.61)**	−0.09 (0.77)
DRUGPOS	−0.19 (5.89)**	−0.14 (1.00)	−0.11 (0.70)	0.01 (0.08)	−0.05 (0.29)	−0.11 (0.79)
DRUGBUY	0.27 (9.26)**	0.59 (3.45)**	0.54 (3.00)**	0.29 (2.02)*	0.53 (2.92)**	0.13 (0.73)
ALCPOS	0.17 (5.41)**	0.26 (2.00)*	0.26 (1.86)	0.03 (0.27)	0.16 (1.10)	0.46 (3.46)**
ALCBUY	−0.27 (10.11)**	−0.61 (3.63)**	−0.57 (3.11)**	−0.30 (2.13)*	−0.56 (3.13)**	−0.19 (1.13)
MENTALPOS	−0.02 (1.26)	−0.05 (0.57)	−0.06 (0.67)	−0.02 (0.34)	−0.00 (0.03)	−0.19 (2.22)*
MENTBUY	0.02 (0.84)	−0.20 (2.04)*	−0.11 (1.05)	−0.16 (1.90)	0.12 (1.11)	0.20 (2.00)*
BYPERMIT	−0.14 (5.86)**	−0.15 (1.29)	−0.12 (0.95)	−0.05 (0.53)	−0.19 (1.50)	0.32 (2.48)*
BYAPLIC	0.10 (3.51)**	−0.13 (1.17)	−0.02 (0.20)	−0.24 (2.42)*	−0.13 (1.04)	0.15 (1.21)
REGISTER	0.05 (1.96)	0.15 (1.74)	0.12 (1.38)	0.08 (1.11)	0.26 (3.10)**	0.06 (0.70)
WAITPERH	−0.05 (1.59)	0.05 (0.46)	0.07 (0.63)	0.02 (0.21)	−0.16 (1.23)	0.13 (1.09)
CARYHIDN	0.08 (4.64)**	0.25 (2.91)**	0.23 (2.50)*	0.12 (1.66)	−0.02 (0.28)	0.03 (0.38)
LICENSE	−0.18 (7.45)**	−0.31 (2.25)*	−0.34 (2.32)*	−0.11 (0.96)	−0.52 (3.37)**	0.11 (0.78)
HGBYBAN	0.13 (1.59)	0.52 (1.40)	0.69 (1.43)	0.19 (0.92)	0.54 (3.69)**	0.30 (1.64)
SNSBAN	−0.07 (2.21)*	0.03 (0.31)	0.02 (0.15)	0.12 (1.32)	0.01 (0.08)	0.01 (0.05)
DEALER	−0.04 (1.78)	0.24 (3.15)**	0.16 (2.19)*	0.24 (3.64) **	0.24 (3.22)**	0.04 (0.55)
PCTBLACK	−0.00 (0.92)	0.25 (14.89)**	0.27 (14.31)**	0.16 (10.51)**	0.38 (21.27)**	0.20 (9.55)**
PCTHISP	−0.03 (6.46)**	0.00 (0.13)	0.02 (0.59)	0.02 (0.66)	0.11 (3.72)**	0.13 (4.13)**
PCT18T24	0.02 (0.95)	−0.22 (2.19)*	−0.12 (1.16)	−0.32 (3.41)**	−0.16 (1.42)	−0.26 (2.52)*
PCT25T34	−0.11 (2.98)**	−0.13 (0.73)	−0.21 (1.18)	−0.02 (0.13)	−0.34 (1.91)	0.14 (0.82)
PCTPOOR	0.13 (8.44)**	0.35 (3.79)**	0.27 (2.71)**	0.30 (3.73)**	0.20 (1.97)*	0.38 (4.10)**
OWNER	0.10 (2.47)*	0.00 (0.01)	0.05 (0.26)	−0.23 (1.53)	0.05 (0.26)	0.03 (0.21)
PCTVACAT	0.02 (1.73)	0.22 (3.43)**	0.11 (1.63)	0.15 (2.67)**	0.02 (0.27)	0.21 (3.01)**
LIVLONE	−0.16 (5.70)**	−0.31 (2.01)*	−0.39 (2.35)*	−0.06 (0.41)	0.04 (0.26)	−0.04 (0.31)
PCTHIGH	0.03 (0.64)	−1.39 (6.83)**	−1.31 (6.09)**	−0.66 (3.21)**	−1.45 (6.42)**	−0.84 (3.75)**
DENSITY	−0.05 (5.89)**	0.04 (0.77)	0.05 (0.98)	−0.00 (0.03)	0.28 (4.40)**	0.07 (1.31)

(continued)

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Table 2. (continued)

Predictor Variables	First-Stage Regression	IV Estimation: Dependent Variables: Natural Log of the Violent Crime Rate per 100,000 Persons				
	Gun Ownership	Total Homicide	Gun Homicide	Nongun Homicide	Total Robbery	Total Assault
PCTDIV	0.13 (4.45)**	0.49 (3.05)**	0.47 (2.92)**	0.25 (1.85)	0.73 (4.31)**	0.15 (1.04)
First-stage regression						
F-statistic	39.76**					
VIETNAM	0.18 (7.62)**					
PCTREP92	0.07 (3.02)**					
Overidentification test						
J-statistic	—	$\chi^2(1) = 0.02$	$\chi^2(1) = 0.16$	$\chi^2(1) = 1.47$	$\chi^2(1) = 0.32$	$\chi^2(1) = 0.16$
p value		.88	.69	.22	.57	.69
R^2	.709	.605	.840	.852	.705	.550
N	1,078	1,078	1,078	1,078	1,078	1,078

Note. Standard errors are computed using Huber–White robust estimate of variance. Robust *t*-statistics in parentheses. Excluded instruments are VIETNAM and PCTREP92.
*Significant at 5%. **Significant at 1%.

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validity of the excluded instruments with an overidentification test.[6] Although several such tests exist, we use the *J*-statistic of Hansen (1982) because it is robust in the presence of heteroscedasticity.[7] Hansen's *J*-statistic tests the null hypothesis that the excluded instruments and/or control variables (i.e., included instruments) are exogenous (Baum, Schaffer, & Stillman, 2003). For our IVs to be valid, we should fail to reject the null hypothesis. This test is especially valuable because it fails to have power only if *all* excluded IVs are invalid, that is, are not exogenous. As long as even one of our excluded instruments is valid, the *J*-test is effective in detecting the invalidity of the instruments.[8]

The results of the *J*-test for each violent crime model are reported at the bottom of Table 2. The *J*-statistics are all both small and statistically insignificant. We therefore cannot reject the null that VIETNAM and PCTREP92 and the control variables are exogenous. Thus, the evidence suggests that both of our excluded IVs are exogenous and are correctly excluded from the violent crime equations. To summarize, VIETNAM and PCTREP92 easily pass the relevance (*F*-test) and validity requirements (*J*-test) for instruments.

It might be argued that gun control laws should also be treated as endogenous because the passage of laws intended to reduce violent crime is affected by violent crime. That is, coefficients on the gun law variables might be biased upwards due to another form of endogeneity bias—simultaneity bias attributable to higher violent crime rates leading to passage of gun laws. We consider this to be unlikely, for several reasons. First, most major gun laws in effect in 1989 were originally enacted decades earlier (compare Newton & Zimring, 1969, appendix G with U.S. Bureau of Justice Statistics, 1996), so their enactment could not have been influenced by violent crime rates in 1989–1991, or indeed in any recent years. Second, prior research directly testing for an impact of violent crime rates on gun control strictness has found no effect (Bruce & Wilcox, 1998).

The probable source of the belief that crime affects passage of gun laws is the fact that highly publicized individual acts of violence, such as mass shootings, sometimes trigger the enactment of new gun control laws. Strictly speaking, the effect of news coverage of crime is irrelevant to whether *crime rates* affect the enactment of gun laws unless one assumes a significant correlation between crime rates and *news coverage* of crime. Past research, however, indicates that there is virtually no correlation between crime and the amount of news coverage of crime (Dorfman & Schiraldi, 2001; Garofalo, 1981; Marsh, 1989). In sum, crime news affects passage of gun laws, but crime rates do not.

Finally, there is little reason to believe that higher violent crime rates increase public support for gun control, since survey research shows that public support for gun control is not affected by higher crime rates in the area where a person resides, prior victimization, or fear of crime but instead derives from more stable cultural determinants not directly related to crime (Kleck, 1996; Kleck & Kovandzic, 2009). If higher crime rates do not increase the likelihood that people support more gun laws, there is little reason to expect that higher crime rates, in the past or the present, would increase the level of gun control strictness (Kleck, 1997; Wright et al., 1983). In sum, there is no sound basis for regarding gun control laws as endogenous or influenced by violent crime rates.

Results

Effects of Gun Ownership Levels on Crime

Estimates of the impact of gun ownership levels (as proxied by PSG) on crime can be found in Table 2, in the first row of each column referring to a crime. For example, the coefficient on PSG in the total homicide equation using IV methods is −.57 and it is not statistically significant at the 5% level. The basic finding in Table 2 is that when gun levels are treated as endogenous and instrumented with VIETNAM and PCTREP92, gun levels show no net significant positive (violence-

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increasing) effect on homicide, robbery, or aggravated assault rates. As discussed in Kovandzic et al. 2013, this IVs strategy would probably overstate a violence-elevating effects of gun levels on violent crime, if there were any. Yet, it still produces estimates suggesting net negative (albeit not significant) or null effects. Thus, our findings of a null or negative impact of guns on homicide are strengthened because the potential bias in estimation is likely to be positive, which would work against our interpretation. The implication is that our coefficient estimate is an upper bound on the estimated effect of gun levels on violence rates.

One problem with using city-level data is that cities in the same state may share unobservable characteristics that could lead to intrastate correlation of errors. In such a situation, standard errors are underestimated, leading to inflated *t*-ratios on PSG and the gun law variables. Therefore, we reestimated the regressions in Table 3 using robust standard errors corrected for clustering by state (which allow for arbitrary within-state correlation), and the *t*-ratios for PSG and the gun law variables became much smaller. Nevertheless, when we reestimated regressions analogous to those in Table 2 using the two-step efficient generalized method of moments (GMM) estimator instead of the IV estimator, we obtained results similar to those reported in Table 2. The benefit of the GMM estimator relative to the traditional IV estimator is that it produces parameter estimates that are both consistent and efficient in the presence of heteroscedasticity of unknown form, whereas the IV estimator is consistent but inefficient (Wooldridge, 2000). The coefficients obtained for PSG using the GMM estimator were as follows (*t*-ratios in parentheses): −.56 (1.16) for total homicide, .42 (0.79) for gun homicide, −.14 (0.33) for nongun homicide, −.91 (−1.68) for robbery, and .54 (1.09) for assault. Thus, the results once again indicate no significant positive (violence-elevating) effect of gun ownership on crime rates.

To summarize, we have strong evidence that higher gun levels do not cause more crime. One implication of these findings is that general gun ownership could not mediate the effect of gun control laws on crime. Consequently, if gun laws were passed that were intended to reduce violent crime by reducing general gun ownership levels, they would be likely to fail because even if they did succeed in reducing general gun levels, this would not lead to a reduction in violent crime. Gun ownership levels among criminals, however, may have violence-increasing effects that are canceled out by violence-decreasing effects of gun ownership among noncriminals. Thus, our results do not allow us to rule out the possibility of violence-increasing effects of criminal gun possession.

Effects of Gun Control Laws on Gun Ownership Levels

We then estimate a model testing the effects on gun laws on gun ownership levels, as measured by PSG. Results of the first-stage estimation for this PSG model are presented in column 2 of Table 2. In all, 7 of the 19 gun laws showed an apparent negative effect on gun ownership levels, while 4 others showed an apparent positive effect. This mix of signs on the coefficients suggest the operation of random chance in generating the estimates, in the absence of any compelling reasons to expect some gun laws to increase gun ownership and others to reduce it. Significant negative estimates should in any case be viewed with caution, as they may reflect negative effects of gun levels on the passage of gun control laws, due to the fact that larger numbers of gun-owning voters discourage legislators from supporting new gun controls.

Effects of Gun Control Laws on Violence Rates

The estimates displayed in Table 2 also indicate that most gun control measures appear to have no significant negative direct effect on total (gun plus nongun) violence rates—total homicide, total robbery, and total aggravated assault. Indeed, if the statistical results are taken at face value, some laws appear to increase violence rates. Of the 57 possible effects examined (19 laws, paired with

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Table 3. The Estimated Impact of Gun Levels and Gun Laws on City-Level Violence Rates: Ordinary Least Squares (OLS) Estimates, Gun Ownership Treated as Exogenous.

Predictor Variables	OLS Estimation: Dependent Variables: Natural Log of the Violent Crime Rate per 100,000 Persons				
	Total Homicide	Gun Homicide	Nongun Homicide	Total Robbery	Total Assault
PSG	0.23 (1.77)	0.39 (2.98)**	−0.00 (0.00)	−0.06 (0.41)	−0.17 (1.15)
CRIMINAL	−0.06 (0.83)	−0.07 (0.95)	−0.04 (0.70)	0.08 (1.12)	0.12 (1.39)
CRIMBUY	0.03 (0.29)	−0.09 (0.82)	0.11 (1.30)	−0.26 (2.52)*	−0.35 (3.13)**
MINORPOS	−0.00 (0.06)	−0.05 (0.70)	0.05 (0.86)	0.02 (0.31)	−0.05 (0.60)
MINORBUY	0.12 (1.14)	0.08 (0.67)	0.15 (1.56)	0.28 (2.43)*	−0.07 (0.67)
DRUGPOS	0.00 (0.04)	0.04 (0.33)	0.04 (0.35)	0.11 (0.94)	−0.24 (2.22)*
DRUGBUY	0.38 (3.50)**	0.34 (3.02)**	0.25 (2.55)*	0.31 (2.64)**	0.31 (2.71)**
ALCPOS	0.14 (1.36)	0.14 (1.28)	0.01 (0.08)	0.02 (0.22)	0.57 (5.43)**
ALCBUY	−0.39 (4.00)**	−0.35 (3.36)**	−0.26 (2.94)**	−0.32 (3.07)**	−0.38 (3.75)**
MENTALPOS	−0.02 (0.20)	−0.03 (0.33)	−0.02 (0.26)	0.03 (0.40)	−0.22 (2.60)**
MENTBUY	−0.23 (2.40)*	−0.14 (1.35)	−0.16 (1.99)*	0.09 (0.83)	0.23 (2.35)*
BYPERMIT	−0.03 (0.29)	0.00 (0.03)	−0.03 (0.38)	−0.05 (0.58)	0.21 (2.14)*
BYAPLIC	−0.20 (1.96)*	−0.10 (0.95)	−0.25 (2.66)**	−0.21 (1.86)	0.21 (2.02)*
REGISTER	0.12 (1.50)	0.10 (1.17)	0.07 (1.07)	0.23 (3.00)**	0.08 (1.00)
WAITPERH	0.10 (0.89)	0.12 (1.07)	0.03 (0.30)	−0.11 (0.89)	0.09 (0.81)
CARYHIDN	0.18 (2.54)*	0.17 (2.12)*	0.11 (1.68)	−0.09 (1.24)	0.09 (1.14)
LICENSE	−0.15 (1.54)	−0.18 (1.83)	−0.08 (0.99)	−0.34 (3.34)**	−0.04 (0.36)
HGBYBAN	0.46 (1.36)	0.63 (1.42)	0.17 (0.91)	0.48 (3.10)**	0.36 (2.32)*
SNSBAN	0.08(0.69)	0.06 (0.55)	0.13 (1.41)	0.05 (0.50)	−0.03 (0.27)
DEALER	0.26 (3.45)**	0.19 (2.53)*	0.24 (3.68)**	0.26 (3.58)**	0.03 (0.33)
PCTBLACK	0.25 (15.66)**	0.27 (14.93)**	0.16 (10.60)**	0.39 (22.22)**	0.20 (9.44)**
PCTHISP	0.04 (1.67)	0.05 (2.07)*	0.02 (1.16)	0.15 (6.45)**	0.10 (4.18)**
PCT18T24	−0.25 (2.51)*	−0.14 (1.43)	−0.32 (3.49)**	−0.19 (1.71)	−0.24 (2.30)*
PCT25T34	−0.05 (0.30)	−0.13 (0.79)	−0.01 (0.04)	−0.25 (1.49)	0.07 (0.43)
PCTPOOR	0.25 (3.71)**	0.17 (2.44)*	0.28 (4.52)**	0.09 (1.23)	0.48 (7.01)**
OWNER	−0.08 (0.47)	−0.03 (0.17)	−0.25 (1.65)	−0.04 (0.21)	0.10 (0.63)
PCTVACAT	0.19 (3.12)**	0.08 (1.28)	0.15 (2.67)**	−0.02 (0.26)	0.24 (3.41)**
LIVLONE	−0.15 (1.25)	−0.23 (1.83)	−0.03 (0.25)	0.21 (1.73)	−0.19 (1.65)
PCTHIGH	−1.44 (7.31)**	−1.36 (6.61)**	−0.67 (3.27)**	−1.51 (6.87)**	−0.79 (3.68)**
DENSITY	0.09 (2.23)*	0.10 (2.47)*	0.01 (0.24)	0.34 (7.08)**	0.02 (0.56)
PCTDIV	0.36 (2.56)*	0.34 (2.48)*	0.23 (1.91)	0.59 (3.98)**	0.27 (2.08)*
Endogeneity test					
C-statistic	2.86	2.58	0.09	2.82	2.29
p value	.09	.11	.76	.09	.13
R^2	.619	.555	.497	.716	.562
N	1,078	1,078	1,078	1,078	1,078

Note. Standard errors are computed using Huber–White robust estimate of variance. Robust *t*-statistics in parentheses.
*Significant at 5%. **Significant at 1%.

each of 3 violent crime types), results for 2 effects were strongly supportive of gun control effectiveness, whereas 5 others were at least weakly supportive. There were 20 gun law coefficients significant at the .05 level (counting total homicide results, but not counting those for gun homicide and nongun homicide). Given that we had a sample size exceeding a thousand, it is not surprising that many associations were statistically significant, as even weak associations can be statistically significant when analyzing so large a macro-level sample. The 8 negative coefficients, however, were outnumbered by 12 positive ones. There is no clear pattern of these "effects" by either type of

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gun control or type of violent crime affected. Thus, while it is possible that some gun laws really do increase violent crime while others reduce it, some of these significant coefficients may reflect nothing more than random chance operating with a large number (57) of hypothesis tests, each of them based on a large sample.

There was nevertheless solid support for two beneficial effects of gun control laws on violent crime. First, we found that state laws forbidding the purchase of guns by, or sale of guns to, alcoholics or persons under the influence (ALCBUY) reduced homicide. This is a relatively strong finding because the law not only showed significant negative effects on total (gun plus nongun) homicide but also showed a significant negative effect on gun homicide and a weaker effect on nongun homicide.

Second, the results provide relatively strong evidence that laws requiring a license to possess a gun in the home (LICENSE) reduce homicide. This impact may reflect the consequences of more extensive state-level background checks conducted in connection with licensing. Like the results for laws restricting gun sales to alcoholics, these results showed a strongly supportive pattern of results by gun involvement—a significant negative effect on gun homicide, combined with no significant effect on nongun homicide.

Only weaker evidence is available for gun law effects on robbery and assault, since flaws in available data made it impossible to reliably compare gun law effects on gun violence with their effects on nongun violence (e.g., gun robbery vs. nongun robbery). These weaker findings suggest that robbery may be reduced via state bans on purchases of guns by convicted criminals (CRIMBUY), bans on gun purchases by alcoholics (ALCBUY), and requiring a license to possess a gun (LICENSE). Confidence is increased in the results concerning the latter two laws because our evidence indicated these laws also may reduce gun ownership (some portion of which is ownership by criminals) and appear to reduce homicide, suggesting some capacity to deny guns to criminals.

Two types of gun control laws appear to reduce aggravated assault, though again the findings should be viewed as tentative, for the same reasons stated with connection with findings bearing on robbery. First, state or local bans on the purchase of guns by criminals (CRIMBUY) may reduce aggravated assaults. Second, the results suggest that bans on possession of guns by mentally ill persons may reduce aggravated assault. This latter interpretation, however, is questionable in light of the finding of a significant *positive* association between bans on *purchase* of guns by mentally ill persons and aggravated assault. There is no obvious explanation why banning gun purchases by mentally ill persons would increase assaults, while banning gun *possession* by such people would decrease them.

Using a More Limited Set of Gun Laws

Because we could not know in advance which of the 19 gun law measures affected violent crime, we initially specified all 19 gun control variables to be included in each violent crime equation. As discussed above, close examination of collinearity diagnostics did not reveal a harmful degree of collinearity among the gun law variables. Nevertheless, there is *some* collinearity among the gun law variables that could inflate standard errors somewhat and thereby bias hypothesis tests in favor of the null (no effect) hypothesis. Therefore, each violent crime equation was reestimated so as to test the effects of just nine stronger gun laws thought to be especially likely to show effects on crime—bans on the possession of guns by criminals and minors (CRIMPOS, MINORPOS), bans on sale/transfer of guns to criminals and minors (CRIMBUY, MINORBUY), laws requiring a permit and/or license to purchase a gun (BYPERMIT, BYAPLIC), laws requiring a license to possess a gun in a home (LICENSE), laws controlling the concealed carrying of loaded handguns in public places (CARYHIDN), and bans on the sale of "Saturday Night Specials" (SNSBAN). We obtained results virtually identical to those obtained using the full set of 19 gun law variables except that the

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coefficient for CRIMBUY was no longer significant and negative in the assault equation. Gun levels still showed no positive effect on violence rates (estimates are available from the senior author).

Using Lagged Violent Crime as a Proxy Variable for Omitted Historical Variables

As noted above, it is impossible to control for literally all potential confounding factors, even though CX data are widely available for a rich variety of variables for census years. Despite our best attempts to control for the most likely confounding factors, we cannot rule out the possibility that the gun law variables are correlated with one or more omitted variables that affect violent crime rates. One way to address potential bias due to omitted historical variables in the context of CX data is to control for the value of the dependent variable from a previous time period. As Wooldridge (2000) notes

> using a lagged dependent variable in a CX equation increases the data requirements, but it also provides a simple way to account for historical factors that cause current differences in the dependent variable that are difficult to account for in other ways." (p. 289)

If, for example, cities with historically high violent crime rates were also more likely to have stricter gun laws, we would fail to get an unbiased estimator of the causal effect of gun laws on violent crime rates. Therefore, we reestimated the violence equations in Table 2 but also included the natural log of the violent crime rate for 1980 as an additional independent variable in an attempt to control for city unobservables that affect violent crime and may be correlated with the gun law variables. By including the violent crime rate for 1980 in the violence equations, we are examining whether cities with similar previous violent crime rates in 1980 and 1990 values for the socio-demographic control variables had lower violent crime rates in 1990 due to the presence of any of the 19 gun laws studied here. To conserve space, the results of these analyses are not shown but are available upon request from the senior author. Not surprisingly, the homicide, robbery, and assault rates for 1990 were strongly related to the past violent crime rate. With respect to the gun law variables, the results were almost identical to those reported in Table 2. The only exception pertained to the robbery equation—the coefficient for the gun law banning the sale of handguns (HGBYBAN) was positive but no longer statistically significant. Thus, the evidence does not support the suspicion that estimates for the gun law variables were biased upwards due to the omission of historical factors responsible for differences in violent crime rates across cities in 1990.

OLS Estimates With Gun Ownership Treated as Exogenous

Although prior research indicates that OLS estimates of the effect of gun ownership levels on homicide rates are likely to be biased, the possibility that these biases are small or negligible cannot be ruled out. If this were indeed the case, then gun ownership could be treated as an exogenous regressor, and estimation by OLS would be preferred to IV because it is the more efficient (lower variance) estimator. The standard approach to this question is to conduct a test of the endogeneity of gun ownership. Such a test relies implicitly on a comparison of an estimation in which gun ownership is treated as exogenous and one in which it is treated as endogenous. For the test to have any meaning, it is therefore essential that the OLS estimation be contrasted with a well-specified IV estimation, that is, one that uses instruments for gun ownership that are both relevant and valid. Testing for the endogeneity of gun ownership by comparing OLS to a misspecified IV estimation cannot provide evidence that OLS is acceptable. Having shown that our instruments satisfy the requirements of both validity and reliability, we turn to the issue of whether gun ownership (again proxied by PSG) is endogenous.

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We tested for the endogeneity of gun ownership using the *C*-test, which detects the impact of adding a restriction, in this case assuming that violence rates have zero immediate effect on gun ownership (thus treating gun levels as exogenous; Baum et al., 2003). The impact should be small if both equations (with and without the restriction) are valid. On the other hand, if there is a large change in the estimates of parameters, it suggests that the equation with the extra restriction (assuming gun ownership to be exogenous) is wrong.

The results of the *C*-test for the endogeneity of PSG are presented in the bottom half of Table 3. The *C*-statistic suggests gun ownership may be endogenous in the total homicide and robbery equations, although it is only significant at the .10 level. Additionally, the results indicate that although gun ownership may also be endogenous to gun homicide and assault, the *C*-statistic in these equations is not significant at conventional significance levels. In light of the mixed *C*-test results, we reestimated the violence rate equations presented in Table 3 but treated gun ownership as exogenous to rates of violence and estimated models with OLS. These results are shown in Table 3.

The OLS estimates indicate that gun ownership has a positive association with total homicide that is barely significant at the 5% (one-tailed) level ($t = 1.77$) but is still not significantly related to robbery or assault rates. Thus, we have consistent findings regarding robbery and assault—gun ownership has no significant positive effect. But we have mildly contradictory findings regarding the impact of gun ownership on the homicide rate. The IV results, which are appropriate if homicide rates affect gun acquisition, indicate that gun ownership has no significant net effect on homicide rates, while the OLS results, which are appropriate only if homicide rates have no effect on gun acquisition, indicate a marginally significant positive effect of gun ownership on homicide rates.

We doubt that gun ownership can be treated as exogenous, given the prior evidence of individual-level survey studies indicating that violent crime rates affect gun ownership. These studies are critical for breaking the deadlock concerning causal order because they are not subject to the same uncertainties concerning exogeneity and model identification that may afflict the numerous aggregate-level studies that have found an effect of violent crime rates on gun ownership. The survey studies relate the gun ownership of individual persons or households to the violent crime rates of the areas in which the individuals reside (Kleck & Kovandzic, 2009). Because it is highly unlikely that the gun ownership of any one person or household could materially affect the violent crime rates of an entire city or county, it is reasonable to conclude that the violent crime/gun ownership relationship in such studies is unidirectional, and that estimates of the effect of crime rates on gun ownership are not distorted by two-way causation.

These studies find that violent crime rates of surrounding areas increase, directly or indirectly, the likelihood that a person or household owns a gun (Kleck & Kovandzic, 2009; Lizotte, Bordua, & White, 1981, p. 501; Smith & Uchida, 1988). Therefore, we think it is advisable, in macro-level studies, to treat gun ownership as endogenous, based on strong and consistent evidence that violent crime rates affect levels of gun ownership, especially handgun ownership. Thus, on the basis of prior information, the IV estimates of models assuming gun levels to be endogenous should be regarded as more reliable than OLS estimates that require the strong assumption that violent crime rates have no effect on gun levels.

When gun levels were treated as exogenous (Table 3), nine effects of gun laws on violence rates substantially changed (i.e., coefficients changed from significant to nonsignificant, or the reverse). Five changes were in a direction favorable to the hypothesis that gun control either reduces violent crime or has no effect: the previously significant positive (counterproductive) effects of bans on gun possession among alcoholics (ALCPOS) became nonsignificant, while four previously nonsignificant negative effects became significant (BYAPLIC → HOMICIDE, BYAPLIC → ROBBERY, DRUGPOS → ASSAULT, ALCBUY → ASSAULT). The remaining four changes were unfavorable to the gun control efficacy hypothesis: the previously significant negative effect of gun owner

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licensing became nonsignificant, while three previously nonsignificant positive (counterproductive) effects became significant.

For the rest of the potential effects, resolution of the exogeneity issue turned out not to materially affect the results of primary interest, the impact of gun laws on violence rates—the OLS results were qualitatively identical to those obtained using IV methods. On net, results were no more supportive of gun control than those obtained when gun ownership was treated as endogenous. Considering the OLS estimates as a whole, the 10 significant negative associations were counterbalanced by 14 significant positive coefficients. This pattern suggests, as did the IV results, that if one interprets these associations as causal effects, gun control laws are more likely to increase violent crime than to decrease it. We also estimated models with gun ownership omitted altogether, and results for gun law variables were essentially identical to those produced when gun ownership was included, but as an exogenous variable.

Given the inevitable uncertainties of even the most careful nonexperimental research, it cannot be stated with certainty that gun ownership levels have no effect on violent crime rates. If they do not, gun ownership is not a confounder that needs to be controlled to isolate the effects of gun laws, but one of the most important underlying premises of gun control is undercut. On the other hand, if the level of gun ownership does affect violence rates, then it is a confounder that must be controlled if estimates of gun control effects are to be given much credence. Our results are therefore stronger than those of past research because we could rule out the possibility of a spurious negative association between gun laws and violent crime rates attributable to the negative association of gun control strictness with gun ownership levels.

Discussion and Conclusion

For the most part, the evidence fails to support the hypothesis that gun control laws reduce violent crime. The absence of any apparent impact may be partly because most laws do not disarm significant numbers of violence-prone persons in the first place. It is also possible that gun laws have both violence-reducing and violence-increasing effects, the latter due to disarming of prospective victims. Opposite-sign effects may counterbalance each other, yielding no net effect.

There were nevertheless some findings that point to possible gun law effects on violent crime rates, both desirable and undesirable (summarized in Table 4). Of 57 possible effects of a type of gun law on a type of violent crime, 20 were significantly different from zero—8 negative, 12 positive. Some of these findings may be the product of chance, operating in combination with the very large number of tests for effects that were performed, though this would probably produce no more than around three coefficients significant at the 5% level ($.05 \times 57 = 3$). Taken at face value as causal effects, these findings indicate that gun control laws are at least as likely to increase violent crime as to decrease it, though on net gun control laws as a whole do not affect violent crime rates.

Along with the two strong findings (the effect of bans on purchase by alcoholics and the impact of requiring a gun license on homicide rates) and five moderate-to-weak findings supportive of gun control efficacy, Table 4 also shows 12 possible *positive* effects of gun laws on violent crime rates. Unlike our tests of violence-reducing effects of gun laws on homicide, no sharp tests of violence-increasing effects are possible because reduction of gun levels among prospective victims could increase either crime committed with guns or crime committed without guns. Thus, findings pointing to violence-elevating effects are necessarily weaker than findings pointing to violence-reducing effects on homicide. If interpreted as causal effects, the positive associations would indicate violence-increasing effects of gun control measures, perhaps due to potential victims (many within high-risk prohibited groups) being disarmed, making crime less risky for offenders. Among the more intriguing apparent counterproductive effects was that of laws restricting the concealed carrying of

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Table 4. Summary of Effects of Gun Control Laws on Crime Rates.

Type of Gun Control Law	Types of Violent Crime Affected
Violence-reducing effects	
Strongly supported	
Ban on gun purchase by alcoholics	Homicide
License required to possess gun in home	Homicide
Moderately supported	
Ban on gun purchase by alcoholics	Robbery
License required to possess gun in home	Robbery
Weakly supported	
Ban on gun purchase by criminals	Robbery, assault
Prohibit possession, mentally ill	Assault
Violence-increasing effects	
(All weakly supported)	
Ban on gun purchase by minors	Robbery
Ban on gun purchase by drug addicts	Homicide, robbery
Prohibit possession, alcoholics	Homicide, assault
Ban on gun purchase by mentally ill	Assault
Permit required to purchase gun	Assault
Transfer/sale of guns must be registered with a governmental agency	Robbery
Concealed carrying of loaded handgun prohibited or permit hard to get	Homicide
Handgun sales ban	Robbery
State or city license required for gun dealers	Homicide, robbery

guns on homicide. To the extent that these laws reduce gun carrying by prospective victims more than by offenders, the laws could increase violent crime by reducing any deterrent effects generated by victim gun carrying. The strongest prior research on this question, however, indicates that replacing restrictive carry laws with more lenient "shall issue" licensing has no net impact on violent crime rates (Kovandzic et al., 2005). Further, laws reducing the carrying of guns outside the home should have their strongest influence on crimes typically committed in nonresidential locations, such as robberies, but our results indicated no effect on the robbery rate.

It is possible that still other laws, implemented since 1989 or not yet implemented, might have effects not produced by the older laws. Perhaps gun control strictness has not yet reached some unknown threshold level, below which no measurable crime reductions can be achieved. The laws enacted since 1989, however, are generally weaker than those passed earlier. The single possible exception is the federal Brady Act, but preliminary evaluation indicates that this law, at least in the first few years after its passage, was ineffective (Ludwig & Cook, 2000). In any case, this sort of speculation is nonfalsifiable, as one could continue to entertain it no matter how strict controls became in the future, and no matter how negative the results of research continued to be. It is also possible that some laws have effects, but they are too small to be statistically detectable using our models and data, even with a sample size exceeding a thousand.

The main policy implication of this research is that the past performance of existing gun laws does not justify much optimism that new gun laws will reduce violent crime. Support for even the least promising strategy can be sustained by ultimately nonfalsifiable speculations about what might be achieved by the next, heretofore untried, variant of the strategy, but this is not a very practical way to set priorities for the allocation of limited resources for reducing social problems. This does not imply that we should not explore new variants of gun control, but it does imply that such efforts have

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less a priori potential for measurable impact on crime rates than alternatives such as well-evaluated programs to reduce poverty or rehabilitate criminals (Walker, 2011).

On a more positive note, the minority of gun control measures that show evidence of effectiveness share an important element in common—background checks on persons attempting to acquire firearms. Both licenses authorizing gun possession and permits for purchasing guns are implemented using background checks to screen out persons in prohibited categories, such as criminals, alcoholics, and mentally ill persons. Likewise, bans on gun purchases by criminals or alcoholics are little more than hollow recommendations if not backed up by a system for identifying whether persons fall into these prohibited categories. Currently, persons attempting to acquire guns from licensed gun dealers are required to pass a background check under federal law, but those trying to get guns from private (nondealer) sources are not required to do so, under either federal law or the laws of most states. Consequently, some reduction in violent crime could be produced by a federal law requiring background checks on all persons seeking to obtain a firearm, regardless of the source.

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Notes

1. Although Lott and Mustard (1997) represented their key data as county rates of crimes known to the police, their data in fact reflected only crimes within subsets of local police jurisdictions within each county that reported crime to state UCR agencies—subsets of jurisdictions that frequently changed from year to year. Their "crime rates" for a given county changed in this data set merely because different sets of areas contributed crime statistics in 1 year compared to the previous year, rather than because rates of crime (or even crimes known to police) changed (Maltz & Targonski, 2002; see also Martin and Legault, 2005, regarding similar problems in state-level crime data analyzed by Lott and Mustard). It is exactly as if a different set of counties were included in each wave of the panel. Lott and Mustard did nothing to correct this critical problem, nor did critics who reanalyzed their unmodified data set.
2. A few low population cities reported zero homicides for the 1989–1991 study period. Because the logarithm of zero is undefined, 1 was added to the average annual number of total, gun, and nongun homicides before we computed the rates and then took the natural logs of those rates. The procedure was applied to all cities, not just those with zero homicides, to maintain relative homicide levels.
3. We did not study the effects of gun ownership and gun laws on rape rates. Because less than 3% of rapes involve offenders armed with guns (U.S. Bureau of Justice Statistics, 2006), it is unlikely that gun ownership or gun laws could exert a detectable effect on the rape rate.
4. It would have been desirable to separately assess rates of all types of violent crime with and without guns, to provide sharper tests of the hypotheses that gun levels and gun laws affect violence rates. Unfortunately, close examination of UCR data on gun versus nongun varieties of robbery and aggravated assault revealed that the data often covered less than 12 months of the year, were often coded incorrectly (e.g., *all* robberies were coded as gun robberies), or there were implausibly large or small numbers of crimes reported as involving guns. Consequently, we could reliably distinguish gun and nongun crimes only for homicide, by using SHR data.
5. For the gun carrying law variable (CARYHIDN), 1 indicated that gun carrying was either completely unlawful or required a license that was rarely issued, and 0 indicated that either the city was located in a

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nondiscretionary "shall-issue" state where authorities were required to issue carry permits to applicants meeting certain objective criteria, or no license was required at all to carry guns.

6. That is, the number of excluded instruments exceeds the number of endogenous regressors.
7. The *J*-statistic for the instrumental variable estimator is numerically equivalent to Sargan's (1958) NR2 overidentification statistic.
8. Where the test will lack power is if all the instruments fail the requirement of exogeneity and, in addition, they all imply the same bias in the estimate of gun levels.

References

Baum, C. F., Schaffer, M. E., & Stillman, S. (2003). Instrumental variables and GMM: Estimation and testing. *Stata Journal*, *3*, 1–31.

Belsley, D. A., Kuh, E., & Welsch, R. E. (1980). *Regression diagnostics*. New York, NY: John Wiley.

Bice, D. C., & Hemley, D. D. (2002). The market for new handguns. *Journal of Law and Economics*, *45*, 251–265.

Block, R. (1977). *Violent crime*. Lexington, MA: Lexington Books.

Bordua, D. J. (1986). Firearms ownership and violent crime: A comparison of Illinois counties. In J. M. Byrne & R. J. Sampson (Eds.), *The social ecology of crime* (pp. 156–188). New York, NY: Springer-Verlag.

Bordua, D. J., Lizotte, A. J., & Kleck, G. (1979). *Patterns of firearms ownership, regulation, and use in Illinois. A report to the Illinois Law Enforcement Commission*. Springfield, IL: Illinois Law Enforcement Commission.

Bound, J., Jaeger, D. A., & Baker, R. M. (1995). Problems with instrumental variables estimation when the correlation between the instruments and the endogenous explanatory variable is weak. *Journal of the American Statistical Association*, *90*, 443–450.

Bruce, J. M., & Wilcox, C. (1998). Gun control laws in the states: Political and apolitical influences. In J. M. Bruce & C. Wilcox (Eds.), *The changing politics of gun control* (pp. 139–154). New York, NY: Rowman & Littlefield.

Campbell, D. T., & Stanley, J. (1963). *Experimental and quasi-experimental designs for research*. Boston, MA: Houghton Mifflin Company.

Clotfelter, C. T. (1981). Crime, disorders, and the demand for handguns. *Law & Policy Quarterly*, *3*, 425–446.

Cook, P. J. (1976). A strategic choice analysis of robbery. In W. Skogan (Ed.), *Sample surveys of the victims of crime* (pp. 173–187). Cambridge, MA: Ballinger.

Cook, P. J. (1982). The role of firearms in violent crime. In M. E. Wolfgang & N. A. Weiner (Eds.), *Criminal violence* (pp. 236–291). Beverly Hills, CA: Sage.

Cook, P. J., & Ludwig, J. (1997). *Guns in America*. Washington, DC: Police Foundation.

Cook, P. J., & Ludwig, J. (2000). *Gun violence: The real costs*. New York, NY: Oxford University Press.

Cook, P. J., & Ludwig, J. (2003). Guns and burglary. In J. Ludwig & P. J. Cook (Eds.), *Evaluating gun policy* (pp. 74–107). Washington, DC: Brookings Institution.

Dorfman, L., & Schiraldi, V. (2001). *Off balance: Youth, race & crime in the news*. Building Blocks for Youth website at www.buildingblocksforyouth.org

Duggan, M. (2001). More guns, more crime. *Journal of Political Economy*, *109*, 1086–1114.

Etten, T. (2002). *Gun control in Florida*. Unpublished doctoral dissertation draft, School of Criminal Justice, Rutgers University, New Brunswick, NJ.

Fox, J. A. (2001). *Uniform Crime Reports [United States]: Supplementary Homicide Reports 1976–1999 [Computer file]* (ICPSR Version). Boston, MA: Northeastern University, College of Criminal Justice [producer]. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor].

Friedman, R. A. (2006). Violence and mental illness—How strong is the link? *New England Journal of Medicine*, *355*, 2064–2066.

Garofalo, J. (1981). Crime and the mass media. *Journal of Research in Crime and Delinquency*, *18*, 319–350.

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Hahn, R A., Bilukha, O., Crosby, A. M., Fullilove, T., Liberman, A., Moscicki, E., ... Briss, P. A. (2005). Firearms laws and the reduction of violence: A systematic review. *American Journal of Preventive Medicine*, *28*, 40–70.

Hansen, L. P. (1982). Large sample properties of generalized method of moments estimators. *Econometrica*, *50*, 1029–1054.

Killias, M., van Kesteren, J., & Rindlisbacher, M. (2001). Guns, violent crime, and suicide in 21 countries. *Canadian Journal of Criminology*, *43*, 429–448.

Kleck, G. (1979). Capital punishment, gun ownership, and homicide. *American Journal of Sociology*, *84*, 882–910.

Kleck, G. (1984). The relationship between gun ownership levels and rates of violence in the United States. In D. B. Kates, Jr. (Ed.), *Firearms and violence: Issues of public policy* (pp. 99–135). Cambridge, MA: Ballinger.

Kleck, G. (1996). Crime, culture conflict and the sources of support for gun control. *American Behavioral Scientist*, *39*, 387–404.

Kleck, G. (1997). *Targeting guns: Firearms and their control*. New York, NY: Aldine.

Kleck, G. (2004). Measures of gun ownership levels for macro-level crime and violence research. *Journal of Research in Crime and Delinquency*, *41*, 1–34.

Kleck, G. (2013). Gun control after *Heller* and *McDonald*: What cannot be done and what ought to be done. *Fordham Urban Law Journal*, *39*, 1383–1420.

Kleck, G., & Kovandzic, T. (2009). City-level characteristics and individual handgun ownership: Effects of collective security and homicide. *Journal of Contemporary Criminal Justice*, *25*, 45–66.

Kleck, G., & McElrath, K. (1991). The effects of weaponry on human violence. *Social Forces*, *69*, 669–692.

Kleck, G., & Patterson, E. B. (1993). The impact of gun control and gun ownership levels on violence rates. *Journal of Quantitative Criminology*, *9*, 249–288.

Koper, C. S., & Roth, J. A. (2001). The impact of the 1994 federal assault weapon ban on gun violence outcomes. *Journal of Quantitative Criminology*, *17*, 33–74.

Kovandzic, T. V., & Marvell, T. B. (2003). Right-to-carry concealed handguns and violent crime. *Criminology and Public Policy*, *2*, 363–396.

Kovandzic, T. V., Marvell, T. B., & Vieraitis, L. M. (2005). The impact of 'shall-issue' concealed handgun laws on violent crime rates. *Homicide Studies*, *9*, 292–323.

Kovandzic, T., Schaffer, M. E., & Kleck, G. (2012). Gun prevalence, homicide rates and causality: A GMM approach to endogeneity bias. In D. Gadd, S. Karstedt, & S. F. Messner (Eds.), *The Sage handbook of criminological research methods* (pp. 76–92). Thousand Oaks, CA: Sage.

Kovandzic, T., Schaffer, M., & Kleck, G. (2013). Estimating the causal effect of gun prevalence on homicide rates: A local average treatment effect approach. *Journal of Quantitative Criminology*, *28*, 477–541.

Kovandzic, T., Vieraitis, L. M., & Yeisley, M. R. (1998). "The structural covariates of urban homicide." *Criminology*, *36*, 569–600.

Lizotte, A. J., & Bordua, D. J. (1980). Military socialization, childhood socialization, and current situations: Veterans' firearms ownership. *Journal of Political and Military Sociology*, *8*, 243–256.

Lizotte, A. J., Bordua, D. J., & White, C. S. (1981). Firearms ownership for sport and protection: Two not so divergent models. *American Sociological Review*, *46*, 499–503.

Loftin, C., McDowall, D., Wiersema, B., & Cottey, T. J. (1991). Effects of restrictive licensing of handguns on homicide and suicide in the District of Columbia. *New England Journal of Medicine*, *325*, 1615–1621.

Lott, J. R., Jr., & Mustard, D. B. M. (1997). Crime, deterrence and right-to-carry concealed handguns. *Journal of Legal Studies*, *26*, 1–68.

Ludwig, J., & Cook, P. (2000). Homicide and suicide rates associated with implementation of the Brady Handgun Violence Prevention Act. *Journal of the American Medical Association*, *284*, 585–591.

Maltz, M. D., & Targonski, J. (2002). A note on the use of county-level UCR data. *Journal of Quantitative Criminology*, *18*, 297–318.

Marsh, H. L. (1989). Newspaper crime coverage in the U.S., 1983–1988. *Criminal Justice Abstracts*, *21*, 506–514.

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Martin, R. A., Jr., & Legault, R. L. (2005). Systematic measurement error with state-level crime data. *Journal of Research in Crime and Delinquency*, *42*, 187–210.

McDowall, D. (1986). Gun availability and robbery rates: A panel study of large U.S. cities, 1974-1978. *Law & Policy*, *8*, 135–148.

Moody, C. E., & Marvell, T. B. (2005). Guns and crime. *Southern Economic Journal*, *71*, 720–736.

Moody, C. E., & Marvell, T. B. (2006). *Gun control, homicide, and collinearity*. Unpublished manuscript.

Moody, C. E., & Marvell, T. B. (2008). The debate on shall-issue laws. *Econ Journal Watch*, *5*, 269–293.

National Research Council. (2004). *Firearms and violence: A critical review*. Washington, DC: The National Academies Press.

Newton, G. D., & Zimring, F. (1969). *Firearms and violence in American Life. A Staff Report to the National Commission on the Causes & Prevention of Violence*. Washington, DC: U.S. Government Printing Office.

Pagan, A. R., & Hall, D. (1983). Diagnostic tests as residual analysis. *Econometric Reviews*, *29*, 229–256.

Rosenfeld, R., Baumer, E., & Messner, S. F. (2007). Social trust, firearm prevalence, and homicide. *Annals of Epidemiology*, *17*, 119–125.

Sampson, R. J. (1986). Crime in cities. In A. J. Reiss Jr. & M. Tonry (Eds.), *Communities and crime* (pp. 271–311). Chicago, IL: University of Chicago Press.

Sargan, D. (1958). The estimation of econometric relationships using instrumental variables. *Econometrica*, *26*, 393–415.

Smith, D. A., & Uchida, C. D. (1988). The social organization of self-help. *American Sociological Review*, *53*, 94–102.

Southwick, L., Jr. (1997). Do guns cause crime? Does crime cause guns?: A Granger test. *Atlantic Economic Journal*, *25*, 256–273.

Staiger, D., & Stock, J. H. (1997). Instrumental variables regression with weak instruments. *Econometrica*, *65*, 557–586.

Tark, J., & Kleck, G. (2004). Resisting crime. *Criminology*, *42*, 861–909.

U.S. Bureau of Alcohol, Tobacco and Firearms. (1989). *Firearms State laws and published ordinances—1989*. Washington, DC: U.S. Government Printing Office.

U.S. Bureau of the Census. (1994). *1990 Census of the Population. Volume I: Characteristics of the Population*. Washington, DC: U.S. Government Printing Office.

U.S. Bureau of Justice Statistics. (1996). *Survey of State procedures related to firearm sales*. Washington, DC: Office of Justice Programs, U.S. Department of Justice.

U.S. Bureau of Justice Statistics. (2006). *Background checks for firearm transfers, 2005*. Washington, DC: Office of Justice Programs, U.S. Department of Justice.

U.S. Federal Bureau of Investigation. (1990–1992). *Crime in the United States 1989 [1990, 1991]—Uniform Crime Reports*. Washington, DC: U.S. Government Printing Office.

U.S. Federal Bureau of Investigation. (1991). *Uniform Crime Reports—1990*. Washington, DC: U.S. Government Printing Office.

U.S. Federal Bureau of Investigation. (2015). *Crime in the United States 2014 – Uniform Crime Reports*. Retrieved from https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014

U.S. National Center for Health Statistics. (1997). *Part III versions of Mortality Detail File tapes covering 1987 to 1993, which include county of death for all counties*. Rockville, MD: National Center for Health Statistics.

Vieraitis, L. M. (2000). Income inequality, poverty, and violent crime: A review of the empirical evidence. *Social Pathology*, *6*, 24–45.

Walker, S. (2011). *Sense and nonsense about crime, drugs and communities*. Belmont, CA: Wadsworth.

Wooldridge, J. M. (2000). *Introductory econometrics*. Cincinnati, OH: South-Western College.

Wooldridge, J. M. (2006). *Introductory econometrics: A modern approach*. Mason, OH: Thomson.

Wright, J. D., Rossi, P. H., & Daly, K. (1983). *Under the gun: Weapons, crime and violence*. New York, NY: Aldine.

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The impact of minimum age and child access prevention laws on firearm-related youth suicides and unintentional deaths

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ABSTRACT

The aim of the present study is to quantify the association between child access prevention (CAP) and minimum age laws and state-level youth firearm-related suicide and unintentional death rates. This paper differs from prior research in several ways. First, this is one of the few studies to focus exclusively on youth death rates. Second, this study looks at those laws with the most impact on youth suicides and unintentional deaths. Finally, this study uses one of the largest and most recent data sets of any study on this topic. In order to estimate the determinants of youth firearm deaths, a fixed effects regression model, controlling for both state-level and year-specific effects, is used. Results indicate that state-level minimum age laws have no significant effects on either youth suicides or unintentional deaths and that state-level CAP laws have no significant effects on unintentional deaths. States with CAP laws, however, have lower rates of youth suicide, and, after the enactment of the Federal minimum age requirement, both youth suicide and unintentional death rates fell. Given the mixed results regarding state-level juvenile firearm laws, national restrictions on juvenile handgun possession may be more effective in reducing both youth suicides and unintentional deaths than state-level regulations.

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1. Introduction

In 1981, the firearm-related suicide rate for youths (ages 0–19) was 1.69 per 100,000 persons; in 2010, it was 0.9 per 100,000 persons, a decline of over 47%. Even more dramatic was the decline in firearm related unintentional deaths (ages 0–19) over the same time period. In 1981, the firearm-related unintentional death rate was 0.84 per 100,000 persons; in 2010, it was 0.16 per 100,000 persons, a decrease of over 80%. Although a variety of factors, including more prevalent use of gun locks and gun safes and better counseling services, may explain some of the decline in firearm-related deaths among youths, it is possible that stricter gun control laws may be at least partly responsible for these dramatic declines in youth death rates.

Two gun control laws that primarily deal with children are child access prevention (CAP) laws and minimum age laws. CAP laws impose criminal liabilities on adults who allow children to have unsupervised access to firearms. One of the primary reasons for implementing CAP laws is to compel parents or guardians to supervise children's access to firearms under the belief that it prevents potentially dangerous situations that may arise when children have unsupervised access to guns.

Although there is no federal CAP law, many states have enacted such laws. According to the Law Center to Prevent Gun Violence, as of 2010, 16 states have enacted some type of CAP law. These laws, however, vary widely. Some impose a criminal liability when an adult does not secure a weapon. Others only prohibit an adult from providing a firearm to a

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child. Many of these laws also have varying definitions of what a minor is. In some states, adults only have to secure firearms from children who are at most 14 years of age; for others, the age at which supervision is required is as high as 18. Some states require secured access for all types of firearms; other states only require it for handguns. Finally, most states have exceptions for hunting, sport shooting, and other legitimate purposes. Table 1 presents the status of CAP laws at the state level for the period 1981–2010.

In addition to CAP laws, many states also have laws requiring minimum ages to possess firearms, especially handguns. In some states, the minimum age for possession is as old as 21. Some states also have minimum age requirements for possession of long guns (rifles and shotguns); the federal government has no long gun possession minimum age requirement. There are, of course, exceptions to these laws, including hunting, target practice, and other legitimate activities. Table 2 presents the status of minimum age laws at the state level for the period 1981–2010. In addition to these state regulations, federal law prohibits possession of handguns by any person under the age of 18.

There has been much prior research on the effects of gun control or gun availability on unintentional deaths (Lott & Whitley, 2001; Leenaars & Lester, 1997; Lester, 1993; Lester & Murrell, 1981) and on suicides (Gius, 2011; Conner & Zhong, 2003; Marvell, 2001; Ludwig & Cook, 2000; Cummings, Koepsell, Grossman, Savarino, & Thompson, 1997; Carrington & Moyer, 1994; Kellerman et al., 1992; Yang & Lester, 1991; Lester, 1988; Sommers, 1984; Lester & Murrell, 1982). The results of these prior studies are mixed. Some find stricter gun control laws or lower levels of gun availability reduce firearm-related unintentional death rates and suicide rates (Conner & Zhong, 2003; Marvell, 2001; Ludwig & Cook, 2000; Cummings et al., 1997; Leenaars & Lester, 1997; Carrington & Moyer, 1994; Lester, 1993; Kellerman et al., 1992; Yang & Lester, 1991; Lester, 1988; Sommers, 1984; Lester & Murrell, 1982; Lester & Murrell, 1981). Other studies find either no significant relationship or an ambiguous relationship between these death rates and gun availability or gun control (Gius, 2011; Duggan, 2003; Lott & Whitley, 2001; Marvell, 2001). When prior studies did find relationships between guns and unintentional deaths and suicides, the relationships tended to be weak and were typically overshadowed by the effects of socioeconomic factors. In addition, some studies find stricter gun control laws actually increase non-firearm related suicides. Finally, many studies look at overall suicide and unintentional death rates, instead of just youth death rates, and most do not focus on the gun control laws that would have the most significant impact on youth deaths. The present study attempts to fill that void.

The aim of the present study is to quantify the association between CAP and minimum age laws and state-level youth firearm-related suicide and unintentional death rates. This paper differs from prior research in several ways. First, it is one of the few studies focusing exclusively on youth (0–19 years of age) death rates. Most studies look at overall death rates. Second, this study looks at those laws with the most impact on youth suicides and unintentional deaths: CAP laws and minimum age laws. Third, this study uses a much larger data set than prior studies, containing 30 years of data for all 50 states. Using fixed effects regressions and controlling for both state-level and year-specific effects, the results of the present study suggest that state-level minimum age laws have no significant effect on either youth suicides or unintentional deaths. States with CAP laws, however, have lower youth suicide rates, but these laws have no significant effect on unintentional deaths. Finally, after the Federal government imposed minimum age requirements for handgun possession, both youth suicide rates and unintentional death rates fell. Although state laws appear mixed in their effects on youth deaths by firearms, Federal minimum age requirement laws appear to be effective in reducing both suicides and unintentional firearm related deaths among youths.

2. Literature review

As noted earlier, a number of studies examine the issue of gun control and its relationship to unintentional deaths and suicides. Some studies look at the effects of gun control laws or gun availability on overall suicide rates (Gius, 2011; Duggan, 2003; Conner & Zhong, 2003; Yang & Lester, 1991; Lester, 1988; Sommers, 1984; Lester & Murrell, 1982). Other studies look at the effects of gun control laws on overall unintentional firearm deaths (Leenaars & Lester, 1997; Lester, 1993; Lester & Murrell, 1981). Finally, a limited number of studies look at the effects of gun control laws on youth suicides and unintentional deaths, which is the topic of the present study (Lott & Whitley, 2001; Marvell, 2001).

Lott and Whitley (2001) examine the effects of safe-storage laws on juvenile firearm-related suicides and unintentional deaths. The authors look at CAP laws and laws requiring some type of gun lock to be used to secure a firearm. State-level data for the period 1977–1996 is used. According to the authors, by 1996, fifteen states had adopted safe-storage laws. The authors use a fixed effects tobit model that includes as explanatory variables a safe-storage dummy variable, non-firearm unintentional death rates, adult firearm unintentional death rates, and various control variables. Lott and Whitley find that safe-storage laws had no significant effects on youth firearm-related unintentional deaths or suicides.

Marvell (2001) looks at the effects of the Federal Crime Control and Law Enforcement Act of 1994 on homicides and suicides. This act banned the possession of handguns by persons under 18 years of age. The author looks at the effects of this law on both juvenile and overall homicide (1979–1998) and suicide (1976–1999) rates. Using state-level data, Marvell finds that Federal and state laws on underage possession of handguns have no statistically-significant effects on youth suicide rates.

As noted earlier, the present study differs from this prior research in several ways. First, this is one of the few studies focusing exclusively on youth death rates. Second, this study looks at those gun control laws with the most impact on firearm related youth suicides and unintentional deaths. Third, this study uses a large and recent data set. The empirical technique in the present study is discussed in the next section.

Table 1
CAP Laws at the state level.

	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
AL																														
AK																														
AZ																														
AR																														
CA												X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CO																														
CT											X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
DE															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
FL										X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
GA																														
HI													X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ID																														
IL																														
IN																														
IA											X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
KS																														
KY																														
LA																														
ME																														
MD														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MA																			X	X	X	X	X	X	X	X	X	X	X	X
MI																														
MN														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MS																														
MO																														
MT																														
NE																														
NV												X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NH																														
NJ												X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NM																														
NY																														
NC														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ND																														
OH																														
OK																														
OR																														
PA																														
RI																X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
SC																														
SD																														
TN																														
TX																X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
UT																														
VT																														
VA													X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WA																														
WV																														
WI														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WY																														

X denotes existence of CAP law

Sources: Marvell (2001); Ludwig and Cook (2003); The Law Center to Prevent Gun Violence; The Brady Center.

Exhibit 4
0052

Table 2
Minimum age laws at the state level.

	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10
AL																														
AK	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
AZ														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
AR										X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CA	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CO														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CT																				X	X	X	X	X	X	X	X	X	X	X
DE															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
FL														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
GA																X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
HI																				X	X	X	X	X	X	X	X	X	X	X
ID															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
IL	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
IN															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
IA											X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
KS														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
KY															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
LA																				X	X	X	X	X	X	X	X	X	X	X
ME																														
MD																	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MA																				X	X	X	X	X	X	X	X	X	X	X
MI												X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MN	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MS															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MO																														
MT																														
NE	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NV															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NH																														
NJ	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NM															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
NY	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NC														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ND						X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
OH																														
OK															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
OR										X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
PA																				X	X	X	X	X	X	X	X	X	X	X
RI	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
SC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
SD															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TN														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TX																														
UT														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
VT	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
VA														X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WA															X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WV										X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WI	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WY																														

X denotes existence of minimum age law

Source: Marvell (2001), Ludwig and Cook (2003); The Law Center to Prevent Gun Violence; The Brady Center.

Exhibit 4
0053

3. Empirical technique

In order to determine if CAP laws and minimum age laws are related to firearm-related youth suicides and unintentional deaths, a fixed effects model that controls for both state-level and year-specific effects is used. This type of model is similar to that used in other articles on this topic (Gius, 2011; Lott & Whitley, 2001; Marvell, 2001).

The following gun control measures are examined in the present study: CAP laws, state minimum age possession laws, and Federal minimum age possession laws. Each of these gun control measures is expressed as a dummy variable that equals one if the state or Federal government has the law in question and zero otherwise. Although dummy variables are not precise measures of gun control laws, it is reasonable to assume that if a state has any type of CAP law, for example, guns are more restricted in that state than in a state with no such law. In addition, most prior research on gun control laws have employed this methodology (Gius, 2014; Rubin & Dezhbakhsh, 2003; Dezhbakhsh & Rubin, 1998; Lott & Mustard, 1997; Kleck & Patterson, 1993).

Regarding Federal gun control measures, the Federal Crime Control and Law Enforcement Act of 1994 banned possession of handguns for persons under 18 years of age; hence, the Federal minimum age dummy variable equals one for those years post-1994 and zero otherwise. Finally, all three variables deal only with handguns and handgun possession. Restrictions on long gun possession and minimum age requirement for handgun purchases are not considered in the present study.

Regarding other factors that may affect the suicide and unintentional death rate, variables that proxy for potentially depressing events that may serve as possible catalysts for suicide are also included in the model. Guidance is obtained from several studies investigating risk factors associated with suicide and suicidal behavior (Nock et al., 2008; Bridge, Goldstein, & Brent, 2006; Mann, 2002). Given this prior research, it is reasonable to assume that traumatic life events such as divorce, prolonged unemployment, and excessive alcohol consumption may trigger suicidal tendencies.

Given the above, the following equation is estimated in the present study:

$$Y_{i,t} = \alpha_0 + \alpha_1 \text{CAP}_{i,t} + \alpha_2 \text{State minimum}_{i,t} + \alpha_3 \text{Federal minimum}_{i,t} + \alpha_4 \text{Control variables}_{i,t} + \alpha_5 \text{State fixed effects}_i + \alpha_6 \text{Year fixed effects}_t + \varepsilon_{i,t}$$

where Y denotes either the firearm-related youth suicide rate (ages 0–19) or the firearm-related youth unintentional death rate, State Minimum equals one if the state has a minimum age requirement for handgun possession and zero otherwise; Federal Minimum equals one if the Federal minimum age requirement for handgun possession is in effect (post 1994), and CAP equals one if the state has a CAP law. Control variables include the following: percentage of population that is white; percentage of population that is black; population density; percentage of population with a four-year college degree; per capita median income; annual unemployment rate; percentage of population under the age of 18; per capita alcohol consumption; and divorce rate per 100,000 residents. These control variables are based upon their use in prior research (Gius, 2014; Pellegrini & Rodriguez-Monguio, 2013; Moody & Marvell, 2009; Moody, 2001; Olson & Maltz, 2001; Bartley & Cohen, 1998; Lott & Mustard, 1997; Yang & Lester, 1991; Lester, 1988; Sommers, 1984).

As noted earlier, a two way fixed effects model, controlling for both state-level and year-specific effects, is used to estimate the determinants of firearm-related youth suicide rates and unintentional death rates. All observations are weighted using state-level population, and standard errors are corrected using a clustering method. A Hausman Test is used to determine if fixed effects or random effects are more appropriate. Results of this test suggest that fixed effects are better suited for estimating the model in the present study. In addition, the Breusch–Pagan Test is used to determine if heteroscedasticity is present in the model, and the Ramsey Reset Test is employed to test the specification of the model. The results of the tests indicate no heteroscedasticity and the models were properly specified.

4. Data and results

All data are state-level and were collected for the years 1981–2010. State-level socioeconomic data are obtained from the *Statistical Abstract of the United States* and other relevant Census Bureau documents. State-level data on youth (ages 0–19) firearm-related suicides and unintentional deaths are obtained from the National Center for Injury Prevention and Control, the Centers for Disease Control (CDC). The WISQARS system is used to obtain the necessary data from the CDC website. One issue with the CDC data, however, is that for the years 1999–2010, state-level unintentional deaths are only reported when the number of deaths was greater than ten. Hence, there are many missing observations in the state-level unintentional death data. Any observation with missing data are excluded from the sample. The latest year for which CDC data is available was 2010. The sample size for the suicide regression is 1500. The sample size for the unintentional death regression is 813. Descriptive statistics are presented on Table 3.

Regarding information on state-level CAP laws and minimum age laws, data on these laws are obtained from Marvell (2001), the Brady Center website, the Law Center to Prevent Gun Violence website, and Ludwig and Cook (2003). If a state had any minimum age requirement at all for handgun possession, the state minimum age variable was denoted with a one. If the above references contradict one another, the original state law is examined in order to determine whether it has a CAP law or minimum age law.

Regression results are presented in Tables 4 and 5. The results for gun-related suicides suggest that state-level minimum age laws have no statistically significant effects on firearm related youth suicides. However, states with CAP laws have lower youth suicide rates, and the youth suicide

Table 3
Descriptive Statistics.

Variable	Means	
	Suicide data (n = 1500)	Unintentional death data (n = 813)
Suicide rate	2.00 (1.15)	
Unintentional death rate		0.899 (0.718)
White	0.83 (0.29)	0.838 (0.38)
Black	0.099 (0.094)	0.101 (0.094)
Income—adjusted for inflation	15,004 (3011)	13,459 (2300)
College	0.229 (0.0526)	0.204 (0.043)
Unemployment rate	0.0596 (0.0218)	0.0645 (0.0218)
Alcohol	2.40 (0.56)	2.41 (0.577)
Divorce	4.58 (1.48)	5.06 (1.62)
Population density	175 (242)	149 (209)

Notes: Standard deviations in parentheses.

Table 4
Firearm-related youth suicide rate.

Variable	Coefficient	Standard error	Test statistic
Constant	3.76	0.766	4.90***
Cap law	−0.218	0.0502	−4.36***
State minimum age law	−0.046	0.044	−1.05
Federal minimum age law	−1.24	0.133	−9.30***
White	−0.016	0.032	−0.51
Black	−2.04	1.82	−1.12
Income	−0.00003	0.000017	−1.78*
College	1.74	0.483	3.60***
Unemployment rate	0.406	1.13	0.36
Alcohol	0.143	0.101	1.41
Divorce	0.0917	0.0244	3.76***
Age less than 18	−7.27	2.22	−3.28***
Population density	−0.0002	0.00104	−0.19

Notes: State and year fixed effects not shown. Adjusted R^2 = 0.789.
** 5% level.
* 10% level.
*** 1% level.

Table 5
Firearm-related unintentional death rate.

Variable	Coefficient	Standard error	Test statistic
Constant	−2.102	0.864	−2.43**
Cap law	−0.036	0.04497	−0.80
State minimum age law	−0.0636	0.0398	−1.60
Federal minimum age law	−0.473	0.0667	−7.08***
White	−0.00385	0.022	−0.17
Black	3.26	2.19	1.49
Income	0.000036	0.000015	2.41**
College	0.713	0.389	1.83*
Unemployment rate	−2.81	0.965	−2.91***
Alcohol	0.142	0.112	1.26
Age less than 18	5.004	2.19	2.28**
Population density	0.00189	0.00124	1.53

Notes: State and year fixed effects not shown. Adjusted R^2 = 0.716.
* 10% level.
** 5% level.
*** 1% level.

rate fell after the imposition of the Federal minimum age law.

For the unintentional death regression, state-level minimum age laws and CAP laws have no statistically-significant effects on firearm related youth unintentional deaths. However, youth unintentional death rates fell after the enactment of the Federal minimum age law. Hence, the Federal minimum age law is more effective in reducing both firearm related youth suicides and youth unintentional deaths than similar state-level regulations. These results contradict earlier studies on this topic (Lott & Whitley, 2001; Marvell, 2001). However, other studies that do not focus solely on youths find evidence that restricting access to or reducing the availability of guns reduces suicides and unintentional deaths.

Regarding the significance of the other explanatory variables, states with higher college education rates and divorce rates have higher suicide rates, while states with higher incomes and percentages of population less than 18 have lower suicide rates. For unintentional deaths, states with higher incomes, college education rates, and percentages of population less than 18 have higher unintentional death rates, while states with higher unemployment rates have lower unintentional death rates. These results are consistent with the findings of prior research in this area.

5. Discussion and concluding remarks

Youth suicide and unintentional death rates have declined dramatically since the early 1980s. As can be ascertained from Charts 1 and 2, the most significant declines came after 1994, the year when the Federal minimum age law took effect. The results of the present study further suggest that, after the Federal law was enacted, youth suicide rates dropped by 1.2 per 100,000 persons, holding all other factors constant. This is a very significant decline, especially given that the average youth suicide rate for the entire period in question (1981–2010) was 1.49 per 100,000 persons. The decline in the youth unintentional death rate was equally dramatic; according to the results of the present study, the unintentional death rate fell by 0.47 per 100,000 persons out of an average death rate for the entire period of 0.67 per 100,000 persons. Clearly, not all declines in suicides and unintentional deaths can be explained by the enactment of the Federal minimum age requirement. Other factors that were coincidental to the law's passage may have also contributed to this decrease in youth suicide and unintentional death rates. For example, it must be noted that a wide variety of other gun control measures were enacted at the Federal level at approximately the same time as the minimum age requirement for handguns. Hence, the result found in this study regarding the Federal minimum age law may also be due to the contributory effects of other gun control restrictions that went into effect in the same year as the minimum age law. It is also important to note that the laws considered in this study deal only with handgun possession and not the purchase of handguns and that the enforcement of handgun possession laws is problematic, especially if the possession occurs within the juvenile's own home.

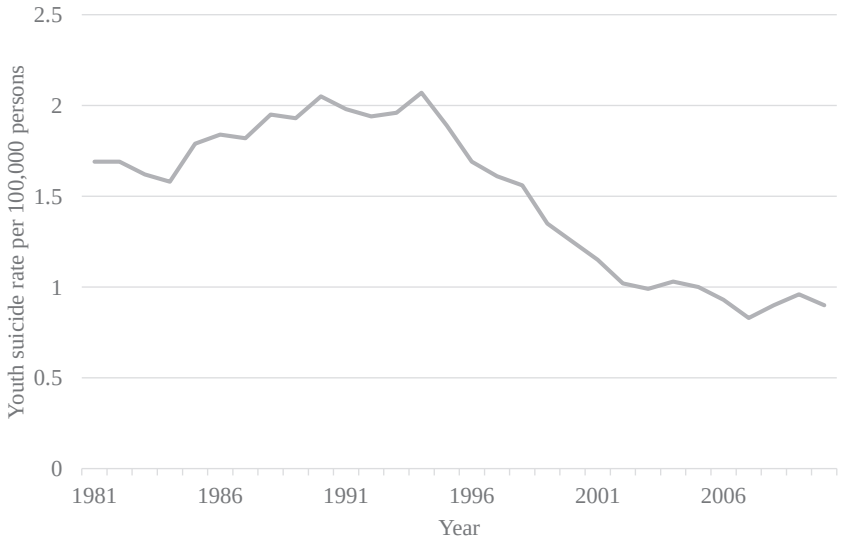

Chart 1. Crude youth suicide rate (source: CDC).

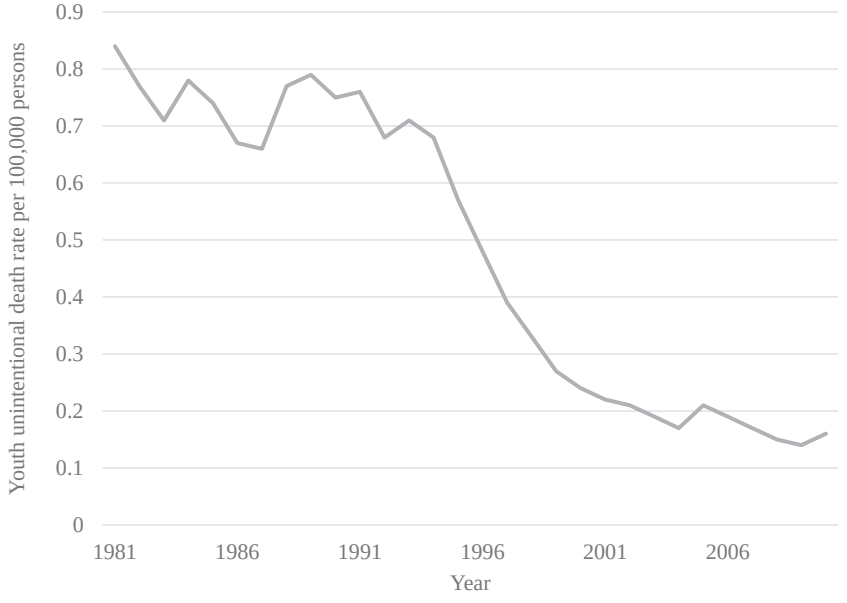

Chart 2. Crude youth unintentional death rate (source: CDC).

Several important public policy implications can be gleaned from the results presented herein. First, CAP laws and minimum age laws sometimes work. States with CAP laws have significantly lower youth suicide rates, and Federal minimum age requirements reduce both suicides and unintentional deaths. Second, these laws only affect juveniles. Therefore, for those concerned about potential Second Amendment issues, these laws only restrict access to firearms for people who have not yet reached adulthood; the restrictions are limited in scope. Finally, although there are, of course, many other factors that affect youth suicide rates and unintentional death rates, CAP laws and minimum age laws are two factors that are within the control of state and Federal legislators. Instituting such laws uniformly across states and at the Federal level would be a low cost way to reduce youth death rates quite substantially.

References

Bartley, W., & Cohen, M. (1998). The effect of concealed weapons laws: An extreme bound analysis. *Economic Inquiry*, *36*, 258–265.

Bridge, J., Goldstein, T., & Brent, D. (2006). Adolescent suicide and suicidal behavior. *Journal of Child Psychology and Psychiatry*, *47*, 372–394.

Carrington, P., & Moyer, S. (1994). Gun control and suicide in Ontario. *The American Journal of Psychiatry*, *151*, 606–608.

Conner, K., & Zhong, Y. (2003). State firearm laws and the rates of suicide in men and women. *American Journal of Preventive Medicine*, *25*, 320–324.

Cummings, P., Koepsell, T., Grossman, D., Savarino, J., & Thompson, R. (1997). The association between the purchase of a handgun and homicide or suicide. *American Journal of Public Health*, *87*, 974–978.

Dezhbakhsh, H., & Rubin, P. (1998). Lives saved or lives lost? The effects of concealed handgun laws on crime. *The American Economic Review*, *88*, 468–474.

Duggan, M. (2003). Guns and suicide. In J. Judwig, & P. Cook (Eds.), *Evaluating gun policy: Effects on crime and violence*. Washington, DC: The Brookings Institution.

Gius, M. (2014). An examination of the effects of concealed weapons laws and assault weapons bans on state-level murder rates. *Applied Economics Letters*, *21*, 265–267.

Gius, M. (2011). The effects of gun ownership rates and gun control laws on suicide rates. *New York Economic Review*, *42*, 35–46.

Kellerman, A., Rivara, F., Somes, G., Reay, D., Francisco, J., Banton, J., et al. (1992). Suicide in the home in relation to gun ownership. *New England Journal of Medicine*, *327*, 467–472.

Kleck, G., & Patterson, E. B. (1993). The impact of gun control and gun ownership levels on violence rates. *Journal of Quantitative Criminology*, *9*, 249–287.

Leenaars, A., & Lester, D. (1997). The effects of gun control on the unintentional death rate from firearms in Canada. *Journal of Safety Research*, *28*, 119–122.

Lester, D. (1988). Gun control, gun ownership, and suicide prevention. *Suicide and Life-Threatening Behavior*, *18*, 176–180.

Lester, D. (1993). Firearm availability and unintentional deaths from firearms. *Journal of Safety Research*, *24*, 167–169.

Lester, D., & Murrell, M. (1981). The influence of gun control laws on the incidence of accidents with guns: A preliminary study. *Accident Analysis and Prevention*, *13*, 357–359.

Lester, D., & Murrell, M. (1982). The preventive effect of strict gun control laws on suicide and homicide. *Suicide and Life-Threatening Behavior*, *12*, 131–140.

Lott, J., & Mustard, D. (1997). Crime, deterrence, and right-to-carry concealed handguns. *The Journal of Legal Studies*, *26*, 1–68.

Lott, J., & Whitley, J. (2001). Safe-storage gun laws: Unintentional deaths, suicides, and crime. *Journal of Law and Economics*, *44*(S2), 659–689.

Ludwig, J., & Cook, P. (2000). Homicide and suicide rates associated with implementation of the Brady Handgun Violence Prevention Act. *JAMA*, *284*, 585–591.

Ludwig, J., & Cook, P. (Eds.). (2003). *Evaluating gun policy: Effects on crime and violence*. Washington, DC: The Brookings Institution.

Mann, J. (2002). A current perspective of suicide and attempted suicide. *Annals of Internal Medicine*, *136*, 302–311.

Marvell, T. (2001). The impact of banning juvenile gun possession. *Journal of Law and Economics*, *44*, 691–713.

Moody, C. (2001). Testing for the effects of concealed weapons laws: Specification errors and robustness. *Journal of Law and Economics*, *44*, 799–813.

Moody, C., & Marvell, T. (2009). The debate on shall issue laws, continued. *Econ Journal Watch*, *6*(2), 203–217.

Nock, M., Borges, G., Bromet, E., Cha, C., Kessler, R., & Lee, S. (2008). Suicide and suicidal behavior. *Epidemiologic Reviews*, *30*, 133–154.

Olson, D., & Maltz, M. (2001). Right-to-carry concealed weapon laws and homicide in large U.S. counties: The effect on weapon types, victim characteristics, and victim–offender relationships. *Journal of Law and Economics*, *44*, 747–770.

Pellegrini, L., & Rodriguez-Monguio, R. (2013). Unemployment, medicaid provisions, the mental health industry, and suicide. *Social Science Journal*, *50*, 482–490.

Rubin, P., & Dezhbakhsh, H. (2003). The effect of concealed handgun laws on crime: Beyond the dummy variables. *International Review of Law and Economics*, *23*, 199–216.

Sommers, P. (1984). The effect of gun control laws on suicide rates. *Atlantic Economic Journal*, *12*, 67–69.

Yang, B., & Lester, D. (1991). The effect of gun availability on suicide rates. *Atlantic Economic Journal*, *19*, 74.

EXHIBIT "5"

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Gun control and suicide: The impact of state firearm regulations in the United States, 1995–2004

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ABSTRACT

Objective: To empirically assess the impact of firearm regulation on male suicides.
Method: A negative binomial regression model was applied by using a panel of state level data for the years 1995–2004. The model was used to identify the association between several firearm regulations and male suicide rates.
Results: Our empirical analysis suggest that firearms regulations which function to reduce overall gun availability have a significant deterrent effect on male suicide, while regulations that seek to prohibit high risk individuals from owning firearms have a lesser effect.
Conclusions: Restricting access to lethal means has been identified as an effective approach to suicide prevention, and firearms regulations are one way to reduce gun availability. The analysis suggests that gun control measures such as permit and licensing requirements have a negative effect on suicide rates among males. Since there is considerable heterogeneity among states with regard to gun control, these results suggest that there are opportunities for many states to reduce suicide by expanding their firearms regulations.
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1. Introduction

1.1. Firearms and suicide

Suicide is a major cause of preventable death. In 2006, more than 32,000 suicides occurred in the United States, as compared with approximately 18,000 homicides. In the United States, suicide was the 8th leading cause of death for males, and the 19th leading cause of death for females in 2006. For every suicide, there were more than ten hospitalizations for non-fatal attempts. In 2006, on average 46 Americans committed suicide with a firearm every day, accounting for approximately 50 percent of all suicides [1].

Prevention of suicide is an important part of the American public health agenda, and the goal of many programmatic activities undertaken by the Centers for Disease Control and Prevention (CDC) and other national and state agencies. In an attempt to combat this problem, spending by state mental health agencies (SMHAs) in the U.S. totalled $ 30.7 billion dollars in 2006 [2]. In recent years, restricting access to firearms and other lethal means has been increasingly recognized as one of the most effective strategies for suicide prevention (for an excellent review of this literature see, for example [3]), and is one of the key elements of suicide prevention in countries such as England [4], and Denmark [5].

There is a considerable body of empirical work that has documented a positive relationship between access to firearms and suicide (e.g. [6,7]). In fact, much of the decline in suicide in the United States over the past decades has been linked to the reduced prevalence of firearms (see for example [7–9]). Although the respective roles of

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self-selection and availability in explaining the relationship between guns and suicide have not been completely resolved, the implication in either case is that reducing access to firearms should reduce suicide [10]. Restricting access to firearms has been recommended as a suicide prevention strategy by national and international organizations such as the CDC and the WHO. Gun control policies can serve to reduce overall gun availability by creating barriers to firearm ownership. Additionally, firearms policies can also prevent individuals who are at a relatively higher risk of suicide from purchasing firearms.

1.2. Gun control

Gun control is a highly contentious issue in the American political debate. Guns are common in the United States–40 percent of Americans reported having a gun in their home in 2009 (see [11]) Calls for increased regulation are based on the belief that restrictions will reduce gun violence. Regulation is opposed by those who claim infringement on the constitutional right to bear arms, and/or argue that firearm ownership deters crime. In the academic literature, the efficacy of gun control in reducing violence has received considerable attention, although little consensus has emerged from the empirical work (e.g. [9,12–14]).

The current era of gun control in the United States originated with the Brady Handgun Violence Prevention Act (1993)[2], more commonly known, as the Brady Bill. The Brady Bill established a federal requirement for a waiting period of up to five days before the transfer of a handgun to a purchaser. During this period, a background check is performed, which is intended to prohibit individuals with criminal backgrounds from purchasing firearms. The transfer of the handgun is completed whether or not the background check is finalized within the five-day period. The federal waiting period was phased out in 1998 with the development of the National Instant Criminal Background Check System (NICS), administered by the Federal Bureau of Investigation (FBI). Over time, many states have passed laws which matched or surpassed the federal minimums.

There are many different types of state firearm regulations. Some seek to establish general oversight over individuals owning firearms, and mainly consist of permit, registration, and/or license requirements, and bans on the purchase of firearms by minors. These laws also facilitate the tracing of firearms used in crimes to original purchasers. Other state laws seek to prevent gun trafficking and the use of firearms in crimes. These consist of bans on the sale of certain types of firearms, and restrictions on the number of firearms that can be sold to individuals. Restrictions on carrying concealed weapons serve a similar purpose. A number of laws are designed to prevent firearm ownership by individuals considered disproportionately likely to commit gun crimes. These laws include prohibitions on gun ownership by those with criminal histories, such as conviction for a felony, misdemeanor, or domestic violence offence, as well as those with a history of mental illness, and alcohol or drug problem, and minors. The requirement of a "cooling off" period of some specified period before the purchase can be completed is a measure designed to reduce the consequences of impulsive firearm purchases.

There is considerable variation in the comprehensiveness of firearm regulation across U.S. states. Some states have almost no firearm regulation of their own. Forty-four states have a provision in their state constitutions similar to the Second Amendment of the Bill of Rights (the exceptions are California, Iowa, Maryland, Minnesota, New Jersey, and New York). Firearm license holders are subject to the firearm laws of the state in which they are carrying and not the laws of the state in which the permit was issued. Reciprocity between states may exist for certain licenses such as concealed carry permits. These are recognized on a state-by-state basis.

Some firearms regulations are more relevant to suicide prevention than others. Restrictions banning the purchase of guns by convicted felons, or laws banning the sale of "Saturday Night Specials", for example, have little obvious applicability to suicide. Yet other categories of restriction are potentially more salient, particularly those that reduce overall firearm availability. Permit requirements create barriers to gun ownership and may also serve to prevent impulsive purchases. The prohibition of purchases by minors serves a similar function. Some of the "prohibited persons" categories, such as those related to mental illness, a drug or alcohol problem, or history of domestic violence problems may theoretically be relevant to suicide prevention.[3] Mental illness is the single most important risk factor for suicide, and substance abuse and domestic violence are also risk factors. However, while the criteria for "prohibited persons" categories vary by state, they are generally based on fairly serious incidents, such as hospitalization against one's will or conviction records. Such bans are likely to identify only a fraction of the population with mental health, substance abuse, or domestic violence problems.

At the state level, the comprehensiveness of gun control laws tends to be correlated with firearm prevalence. The causality most likely runs in both directions, since restrictive gun control regimes reduce gun ownership, yet these laws are more likely to be passed in states where overall gun ownership rates are low and the population of gun rights advocates is relatively small. In general, Western and more rural states have fewer gun control restrictions and higher rates of gun ownership as compared with more urbanized states in the Northeast. These states also have significantly higher rates of suicide, particularly firearm suicide.

It should be noted that gun control is only one of the factors that affect gun ownership. Aside from geographical patterns related to urbanization, popularity of hunting, and so forth, there are also trends in gun ownership at the

[2] The Gun Control Act (1968) was the first firearm act in the USA.

[3] In some states, the alcohol regulation means that sale of firearms are prohibited to people who are intoxicated at the time they are trying to buy them, while in other states it refers to people with a documented alcohol problem. Indeed, in some states it covers both situations.

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national level. Widespread anxiety can lead to an increase in firearm purchases, as was the case shortly after September 11th, 2001. Similarly, economic trends can potentially affect the propensity toward gun ownership—although the direction of the effect is not certain. Concern about crime associated with rising unemployment may result in increased gun ownership, while unemployment itself may make guns less affordable to more people. The recent recession does not seem to be associated an increase in gun purchases, as the proportion of households reporting a gun between October 2007 and 2008 was unchanged (see [11]).

2. Gun control and suicide: empirical evidence

Much of the empirical evidence on gun control comes from the United States [15] and might not be applicable to other countries [16]. One excellent review of gun control in the United States, framed within the context of historical and rational choice theory, covers attempts to curb firearm violence in that country and the success of such measures, yet has relatively little treatment of the relationship between gun control and suicide [17].

In an important early study of gun ownership and suicide, Kellerman et al. [18] found that individuals who commit suicide in their own homes were disproportionately likely to own a gun. In general, the literature on gun control and suicide has found a negative relationship between firearm restrictions and suicide. However, most of these studies lack a strong design and are essentially pre- and post-comparisons [16]. Lambert and Silva [19] perform a literature review of studies in the United States and Canada and conclude that available information generally supports the notion that gun control reduces suicide rates, particularly among males. A recently published analysis suggests that states where background checks are conducted locally have lower rates of firearm suicide and homicide [20].

Several other studies find no empirical evidence in favor of a relationship between firearms regulations and suicide. However, one study has a weak design, while the other does not capture the most relevant types of firearms regulations. Price et al. [21] use cross-sectional state data for 1999 to perform a simple partial correlation analysis between several types of gun control laws and suicide rates. Their results suggest that gun control laws were not significantly related to suicide in 1999, even after controlling for firearm prevalence. Rosengart et al. [22] conduct a study of the relation between firearm regulations and homicides and suicides using state panel data over 1979–1998. They fail to uncover a statistically robust link between suicide rates and firearm regulations. However, most of the regulations they examined- such as bans on carrying concealed weapons, “junk gun” bans, and quantity sales restrictions are not particularly relevant to suicide.

Several studies in other countries where regulatory change restricted general access to firearms have found evidence of an effect on suicide. Cheung and Dewa [23] examine the relationship between suicide and the implementation of new restrictions on firearms (Bill C-17), using time series data from Canada. They concluded that there was a relationship between means used by young people and the imposition of the restrictions. In the case of New Zealand, Beautrais et al. [24] find that after the introduction of legislation restricting ownership and access to firearms, firearm suicides significantly decreased, particularly among the young. Ozanne-Smith et al. [25] similarly conclude that the implementation of a strong reform in New Zealand lowered firearms deaths, particularly suicides. An evaluation of the 1996 National Firearms Agreement (NFA) in Australia documents a decline in firearm suicides after the implementation of the agreement [26]. However, these findings may be confounded with an overall decline in gun ownership that preceded the NFA. Additionally, there was some evidence of increased suicides by hanging.

In Europe, there are a few studies examining the efficacy of firearm regulation in reducing firearm suicides and homicides. For example, in Austria, Kapusta et al. [27] provide evidence that the introduction of restrictive firearm legislation reduced both firearm suicide and homicide. Also, a number of studies in the UK [28,29] have shown that changes in firearm legislation have led to fewer firearm suicides. Another analysis of Austria found that firearm regulations enacted in 1997 had a statistically significant effect on suicide rates [30]. A very recent study in Switzerland, finds a positive association between firearm ownership and firearm suicides at the local level [31].

Much of the empirical literature is based on simple correlations or time series analysis. Most of these models cannot account for correlations that arise between suicide deaths and firearm availability due to exogenous factors. Furthermore, there are many factors affecting suicidal behavior and gun ownership which are not observable. A panel data approach is more compelling in this context, as it is possible to control for unobserved heterogeneity across states. Similarly, time varying factors that affect all states in the same way can be controlled by using fixed specific effects. Additionally, there are many socioeconomic factors that might influence suicide deaths, and can be included in a panel data model.

3. Empirical model and data

3.1. Empirical model

The basic model that motivates the empirical analysis is that firearm availability affects suicide rates, and that gun control affects firearm availability (see for a discussion of the mechanisms by which firearms might affect death rates [9]). Our hypothesis is that regulations such as permit requirements, which create overall barriers to gun ownership, are the most important way type of gun control from the standpoint of suicide prevention. While it is possible that “prohibited persons” categories can affect the likelihood that certain persons at above average risk of suicide will obtain firearms, the ways in which these categories are defined in most cases will result in the prohibition of a relatively small proportion of people at risk. Firearms regulations designed to prevent gun trafficking or other criminal activity involving guns are not expected to influence suicide rates.

Exhibit 5
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There are several potential complications to this simple model. The first is that of state variation in attitudes towards guns is likely to affect both firearm prevalence and the comprehensiveness of gun control regulation. Additionally, views toward gun ownership evolve over time. Finally, there is the problem of the measurement error of gun ownership.

The basic model can be expressed with two equations:

$$S = \alpha + \beta G + \mu \quad (1)$$

$$G = \delta - \Delta R + \Phi \quad (2)$$

where S is suicide, G is firearm prevalence, and R is firearms regulation. The reduced form is:

$$S = \alpha + \beta\delta - \beta\Delta R + \beta\Phi + \mu \quad (3)$$

The potential endogeneity of firearm prevalence with respect to gun control is reflected in the identifying equation,

$$R = \omega + \eta G + \varphi \quad (4)$$

However, G is not measured annually. For our main specification we estimate the reduced form Eq. (3), thereby assuming that η is zero. In an alternative specification, we proxy for G by using the number of hunting licenses per capita, a statistic which is collected annually for all states.

The dependent variable, S_{ijt}, is the number of suicides for age group i = 15–24, 25–44, 45–64, and 65+; in state j = 1, . . ., 50 during the year t = 1995, . . ., 2004. The independent variables included in the model were based on previous studies of suicide. In particular, the variables selected were: education, income, alcohol consumption, the proportion of the population over age 65, and the proportion of non-Hispanic white population. Each model also includes the relevant population size as a right hand side control variable to normalize by exposure. The specification includes state fixed effects that account for potential unobserved heterogeneity across states. The fixed effects model is appropriate in this case given the almost complete population coverage by the sample and it is likely that the omitted variables captured by the α_i are correlated with some of the included covariates [32]. We also account for the time effect over the years by including time dummies.

The expected value of the number of suicides, conditional on the independent variables is assumed to follow a negative binomial distribution with expected value

$$E\left[\frac{S_{it}}{X_{it}}\right] = \mu_{it} = \exp(x'_{it}\beta) \quad (5)$$

and variance function

$$\mathrm{Var}[\mu_{it}] = \mu_{it} + \alpha(\mu_{it}^2) \quad (6)$$

The negative binomial distribution was assumed since the dependent variable is a count and over-dispersed relative to the Poisson distribution which assumes that the mean is equal to the variance. The negative binomial distribution accounts for extra Poisson dispersion through the quadratic term in the variance function [33].

We face several identification challenges. The first is that gun control regulations by state tend to change slowly, so there tends to be relatively little within-state year–on-year change. Further, once states adopt particular gun control regulations, they never remove them. For these reasons, it is not possible to analyze leads and lags, which would be a desirable robustness check. To maximize variation, we have created several indices of categories of gun control regulations, which are additive measures of individual measures. The total sample contains 500 state-year observations. The sample period (1995–2004) was chosen because data on gun control regulations by state are not available before 1995, in part because there are relatively few state regulations. Since nearly ninety percent of firearm suicides are committed by males [1], we have excluded females from the analysis. The analysis was conducted using *STATA* v.10 statistical software.

3.2. Data

3.2.1. Dependent variable

Data on the number of suicides in states over the period 1995–2004 come from the Centers for Disease Control and Prevention (CDC). Deaths included in the study are those categorized as suicides according to the International Classification of Diseases (ICD). In 1999, there was a change in the classification system from ICD–9 to ICD–10. This change in ICD version did not influence suicide classification. For 1995–98, suicide deaths were coded as E950–E959. Starting in 1999 and later, suicide deaths were coded as X60–X84, Y87.0, and U03.

Table 1 displays the average age adjusted male suicide rates[4] across US states for the years 1995–2004.[5] As Table 1 shows reported suicide rates in the US vary considerably across states. The annual average male suicide rate for the whole country during the study period was 21.05 per 100,000. As can be seen, suicide rates vary considerably across states. The suicide rate in Nevada (34.2), for example, is nearly thrice that in New York (11.3). Also it can be seen from the standard deviations that the suicide rate varied substantially over time in each state.

3.2.2. Independent variables

3.2.2.1. Socio-economic variables. Data on state personal income (*income*) were obtained from the Bureau of Economic Analysis and deflated by the consumer price index (CPI) extracted from the Bureau of Labor Statistics (BLS). Unemployment rates (*unemployment*) also come from the BLS. Data on per capita ethanol consumption of beer (*beer*), an estimate for the amount of pure ethanol consumption per capita, was extracted from the NIIA Surveillance Reports. Alcohol consumption and economic conditions have been linked to suicide in a number of population level studies (e.g. [34,35]). The percentage of people over 65 (*psh65*) years of age and the proportion of the population which is non-

[4] For making comparisons across states and over time, the usual practice is to use age adjusted suicide rates that standardize the rates across the age distribution of the population of interest.

[5] We do not show average suicide rates over 1995–2004 because of the relative position of the states is basically unchanged during the study period.

Table 1
Average age-adjusted male suicide rates (per 100,000 pop), by state, 1995–2004.

State	Average	Std. Dev.
Alabama	21.13	1.46
Alaska	31.45	4.05
Arizona	26.37	1.52
Arkansas	22.95	0.97
California	16.79	1.85
Colorado	26.30	2.37
Connecticut	13.59	1.40
Delaware	18.75	2.29
Florida	21.64	1.28
Georgia	19.64	0.99
Hawaii	16.28	1.70
Idaho	27.26	2.32
Illinois	14.50	0.99
Indiana	20.31	1.17
Iowa	18.81	1.23
Kansas	20.60	1.28
Kentucky	22.30	0.93
Louisiana	19.94	1.25
Maine	21.61	3.10
Maryland	16.02	1.25
Massachusetts	11.56	1.33
Michigan	17.83	1.02
Minnesota	16.71	1.20
Mississippi	20.54	1.26
Missouri	21.81	1.62
Montana	33.15	3.31
Nebraska	18.78	1.67
Nevada	34.19	3.46
New Hampshire	19.00	1.71
New Jersey	11.47	0.45
New Mexico	31.48	1.30
New York	11.32	1.05
North Carolina	19.71	0.93
North Dakota	20.45	2.67
Ohio	17.43	0.98
Oklahoma	24.03	1.06
Oregon	25.28	1.73
Pennsylvania	18.88	1.11
Rhode Island	13.25	0.99
South Carolina	19.31	1.15
South Dakota	24.76	3.89
Tennessee	21.93	0.53
Texas	18.59	1.37
Utah	25.51	1.90
Vermont	22.12	2.56
Virginia	19.26	1.32
Washington	21.84	1.45
West Virginia	24.64	2.10
Wisconsin	19.04	0.83
Wyoming	32.29	3.96
United States	21.05	5.64

Source: Centers for Disease Control and Prevention (CDC), and own construction.

Note: The District of Columbia is excluded, since it had essentially banned the possession of handguns during the study years.

Hispanic white (*white*) were obtained from the US Census Bureau.

3.2.2.2. Firearms regulations. In order to maximize variation across states and over time in the measure of gun control, we created three additive indices that reflect different categories of firearms regulations. The first index––arguably is the most important in terms of suicide prevention––measures general prohibitions. It is the sum of two indicator variables reflecting the presence or absence of permit requirements and prohibitions on firearm purchases by minors. This index thus varies between 0 and 2.

The second index measures prohibitions based on behavioral problems, some of which have been identified as risk factors for suicide. This index is the sum of five indicators variables reflecting the presence or absence of bans on persons with mental health, alcohol, or drug problems, as well as prohibitions on those with prior convictions for misdemeanors and for domestic violence offenses.

Our third and last index captures four types of prohibitions related to the potential purchaser's criminal history. We include this variable primarily as a robustness check, since the prohibitions captured are least likely to affect suicide. The index, varying between 0 and 4, is the sum of indicator variables measuring the presence of prohibitions against "aliens",[6] convicted felons, fugitives from justice, and those who committed serious offenses as juveniles. Data on state gun regulations was obtained from the Bureau of Justice Statistics.[7]

3.2.2.3. Gun ownership. Given the relationship between firearm regulations and firearm prevalence, as well as that between firearm prevalence and suicide, it is necessary to control for gun ownership. One concern is the accuracy of data on firearm availability. Gun ownership at the household level is measured every several years by the CDC's Behavioral Risk Factor Surveillance System, but there is no annual data at the state level, and the available data only dates back to 2001. The most commonly used proxies for gun ownership are the proportion of homicides and the proportion of suicides committed with firearms (e.g. [36–42]). These variables are combined to create a measure called Cook's index. However, given that the dependent variable for this analysis is the total number of suicides, it was felt that this proxy was inappropriate. As an alternative, the number of hunting licenses per capita from the Fish and Wild Life Service[8] was used as a control for gun ownership[9]. Hunting licenses per capita and firearm suicides as a proportion of suicides (i.e. Cook's Index) were highly correlated ($r = 0.74$, p-value $< .05$).

Table 2 reports summary statistics for the variables used in regressions.

4. Results

The regression results for the negative binomial regression model of suicides are presented in Table 3. In all regression models, the state and year fixed effects are statistically significant. Table 3 shows the incidence rate ratios (henceforth, IRR). The IRR are obtained by exponentiation of the regression coefficients, that is, exp (β). The expression $100^*(\exp(\beta) - 1)$ is the percentage change in the

[6] In some states, this prohibition refers to undocumented immigrants, while in others to individuals who have "forsaken their allegiance to the United States".

[7] http://www.ojp.usdoj.gov/bjs/.

[8] Available at www.fws.gov.

[9] The model was also estimated using the firearm suicide proxy, and results were very similar. We do not report them here for brevity.

Table 2
Summary statistics ($N = 500$).

Variables	Mean	Std. Dev.	Min	Max
Dependent variables				
Male suicides, total	484.09	476.87	49	2939
Male suicide, ages 15–24	70.95	62.67	3	421
Male suicide, ages 25–44	191.06	181.23	18	1191
Male suicide, ages 45–64	134.20	134.80	7	831
Male suicide, ages >65	93.36	102.79	1	575
Socio-economic variables				
Percent with bachelor's degree	24.65	4.67	12.70	38.70
Real per capita income (log)	10.20	0.15	9.82	10.65
Unemployment rate	4.81	1.17	2.20	8.20
Beer consumption per capita (units)	1.27	0.20	0.73	1.91
Percent non-hispanic white (multiply by 100)	0.78	0.15	0.26	0.99
Percent 65 years or older (same)	0.14	0.11	0.05	1.34
Gun supply				
Hunting licenses per capita	0.087	0.071	0.007	0.340
Firearm regulation				
General prohibitions (1)				
Permit requirements	0.22	0.41	0	1
Ban on purchase by minors	0.68	0.47	0	1
General prohibitions index	0.90	0.63	0	2
Behavioral prohibitions (2)				
Mental health problem	0.47	0.50	0	1
Alcohol problem	0.34	0.47	0	1
Drug problem	0.41	0.49	0	1
Misdemeanor conviction	0.36	0.48	0	1
Domestic violence conviction	0.29	0.45	0	1
Behavioral prohibitions index	1.87	1.70	0	5
Criminal prohibitions (3)				
Alien	0.15	0.36	0	1
Felony	0.73	0.45	0	1
Juvenile offense	0.41	0.49	0	1
Fugitive	0.17	0.38	0	1
Criminal prohibitions index	1.46	1.11	0	4

Sources: See text.

incidence or risk of suicide mortality for each unit increase in the independent variable.

The first two models show the effects of fixed state and year effects (Model 1), and the fixed effects in addition to a set of socio-demographic variables—namely education, income, alcohol consumption, the proportion of the population over age 65, and the proportion of the population which is non-Hispanic white (Model 2). Model 3 introduces the index of general prohibitions—namely gun control regulations which affect the largest number of people and which create general barriers to entry. We find the general prohibition index to be statistically significant, both individually and when we include our proxy for gun prevalence, (hunting licenses per capita), which enters insignificantly (Model 4).

The next model includes the second index of gun control measures, which aims to capture firearm restrictions based on behavioral issues such as a history of mental health or alcohol/drug problems. While significant, the IRR is 0.9946, as compared with the IRR from Model 3 which was 0.9440, and the coefficient in Model 4 is only significant at the 10 percent level. The addition of the gun ownership measure (Model 5) does not affect the results. Model 6 includes our last index, which captures gun control measures that are hypothesized to be unlikely to affect suicide. This model is included primarily as a robustness check. As expected, this variable does not enter with a statistically significant coefficient.

Table 4 shows the effects of the specific firearm restrictions on suicide for particular age groups. Separate models were estimated for males aged 15–24, 25–44, 45–64, and 65 years of age and older. In all models, we control for gun prevalence by including the number of hunting licenses per capita. We find that gun control measures do not affect all age groups identically. For instance, a ban on firearm purchases by minors affects suicides particularly among younger males, while restrictions on permits and waiting period requirements have a more deterrent effect on for older males. Unexpectedly, permit requirements appear to have a positive effect on suicide rates among younger males. Among the behavior-related restrictions, prohibitions related to mental health problems are only significant for males aged 25–44 years, and prohibitions related to alcohol problems are only significant for males aged 65 years or older. The drug and misdemeanor conviction bans do not enter significantly for any of the age groups, and the prohibition linked to a history of domestic violence only affects suicides among those aged 45–64 years. None of the criminal prohibitions enter significantly for specific age groups, and are therefore omitted.

Table 3
Results of negative binomial regressions with additive indices of firearm restrictions. Regressions for all males, 1995–2004 ($N = 500$). Dependent variable is the number of male suicides, exposure variable is the male population.

	Model 1 Fixed effects only	Model 2 Socio-economic variables	Model 3 General Prohibitions	Model 4 General prohibitions and hunting licenses per capita	Model 5 Behavioral prohibitions	Model 6 Criminal prohibitions
State Fixed Effects	X	X	X	X	X	X
Year Fixed Effects	X	X	X	X	X	X
High School graduates (%)		0.9985	0.9991	0.9991	0.9986	0.9984
S.E.		0.0017	0.0017	0.0017	0.0016	0.0017
Beer Consumption per capita		1.1067	1.1022	1.1021	1.1184	1.0988
S.E.		0.1062	0.1039	0.1037	0.1012	0.1011
Unemployment rate		1.0181**	1.0185**	1.0185**	1.0165**	1.0179**
S.E.		0.0075	0.0076	0.0075	0.0074	0.0073
Log of median HH income		0.6394**	0.6433**	0.6428**	0.6376**	0.6375**
S.E.		0.1424	0.1418	0.1429	0.1338	0.1435
Percent non-Hispanic White		3.5333***	3.5115***	3.5152***	3.3638***	3.5250***
S.E.		1.5326	1.5247	1.5171	0.0145	1.5327
Percent > 65 years		1.1245***	1.1232***	1.1232***	1.1166***	1.1261***
S.E.		0.0147	0.0153	0.0153	0.0145	0.0157
General prohibitions index (1)			0.9440***	0.9438***		
S.E.			0.0093	0.0099		
Behavioral prohibitions index (2)					0.9946*	
S.E.					0.0030	
Criminal prohibitions index (3)						1.0035
S.E.						0.0068
Hunting Licenses Per Capita				0.9692		
S.E.				0.4548		
Log likelihood	−2228.3	−2199.2		−2199.1	−2199.1	−2200.3
Ln alpha	−7.0532	−7.6410	−7.6475	−7.6477	−7.6692	−7.6597
Alpha	0.0009	0.0005	0.0005	0.0005	0.0005	0.0005

Notes: Constant term included but not reported. (1) General prohibitions index: permit requirement, ban on purchase by minor. Range 0–2 (2) Behavioral prohibitions index: mental health, alcohol problems (or intoxication), drug problems, domestic violence conviction, misdemeanor conviction. Range: 0–5. (3) Criminal prohibitions index: alien, prior felony conviction, fugitive from justice, serious offense as a juvenile. Range: 0–4.

* $p < .10$.
** $p < .05$.
*** $p < .01$.

Table 4
Results of negative binomial regressions with individual firearm restrictions. Regressions by age groups (15–24, 25–44, 45–64, 65+) $N = 500$. Dependent variable is the number of male suicides, exposure variable is the male population, within age groups.

	Model 1 15–24 years	Model 2 25–44 years	Model 3 45–64 years	Model 4 65+
General prohibitions				
Permit requirement	1.2043***	0.9741	0.8601***	0.8518***
S.E.	0.0343	0.0188	0.0208	0.0222
Ban on minor purchase	0.8715*	0.8647***	0.9867	1.0304
S.E.	0.0679	0.0183	0.0817	0.0756
Behavioral prohibitions				
History of mental health problems	0.9949	0.9657***	0.9948	1.0435
S.E.	0.0245	0.0111	0.0212	0.0246
History of alcohol abuse	1.0015	1.0085	0.9916	0.9437***
S.E.	0.0199	0.0168	0.0196	0.0166
History of drug abuse	0.9723	0.9972	1.0017	1.0086
S.E.	0.0229	0.0167	0.0220	0.0241
Misdemeanor conviction	1.0169	0.9848	0.9758	1.0062
S.E.	0.0216	0.0159	0.0160	0.0293
Domestic violence conviction	0.9812	1.0048	0.9630**	0.9700
S.E.	0.0261	0.0190	0.0167	0.0185

Note: All models include state and year fixed effects, as well as control variables for the level of education, unemployment rate, income per capita, and the percent of non-Hispanic white population. A proxy for gun prevalence (hunting licenses per capita) is also included. Constant term included but not reported.

* $p < .10$.
** $p < .05$.
*** $p < .01$.

5. Discussion

Restricting access to lethal means is an important element in suicide prevention. While means restriction activities are not solely focused on firearms, in the United States, firearms are the most significant suicide mechanism, as they are used in more than half of suicides. At the individual and population levels, a number of means restriction activities have been developed to prevent suicides by reducing access to lethal means. Individual activities involve counseling to high-risk individuals about dangers posed by a firearm in their homes. When such activities occur, they are usually directed at individuals who have been identified as being at risk of self-injury, perhaps as a result of a non-fatal suicide attempt. However from a population perspective, gun control remains one of the only avenues to restrict access to firearms.

Our study suggests that general barriers to firearm access created through state regulation can have a significant effect on male suicide rates in the United States. Permit requirements and bans on sales to minors were the most effective of the regulations analyzed. These findings have important implications for U.S. gun control policy, which remains exceptionally heterogeneous across states. While all states except Wyoming have banned sales of handguns to minors, twelve states still allow the sale of long guns to minors. Furthermore, only twelve states currently require purchase permits for firearms.

The political aspect of the gun control debate in the United States has made increased regulation of firearms very difficult in many states, due to the strong advocacy of the gun rights lobby, and the opposition to any restriction on gun ownership by many gun owners. Many of the more controversial aspects of firearms regulations battles concern provisions intended to reduce crime, such as bans on "straw purchases", or limits on the number of guns individuals can purchase in a year. The relationship between firearm prevalence and suicide, while well known in the public health community, rarely if ever enters into the national or state debates over gun control provisions. In very recent years, guns rights groups have made significant gains, most notably in the Supreme Court decision regarding handgun bans in the District of Columbia (District of Columbia v. Heller, 2008). These trends do not bode particularly well for increased regulation of gun ownership in U.S. states. However, while gun control remains a controversial issue both at the state and federal level in the U.S., this analysis of male suicide suggests that there are clear public health benefits to restricting access to firearms through regulation.

Conflict of interest

The authors have no conflicts of interest.

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References

[1] Centers for Disease Control and Prevention (CDC), National Center for Injury Prevention and Control; 2009.http://www.cdc.gov/ncipc/dvp/suicide/suicide_data_sheet.pdf [accessed 2 February 2009].
[2] National Association of State Mental Health Program Directors Research Institute (NRI); 2006. http://www.nri-inc.org/projects/Profiles/RevExp2008/T20.pdf [accessed 27 September 2010].
[3] Florentine JB, Crane C. Suicide prevention by limiting access to methods: a review of theory and practice. Social Science and Medicine 2010;70:1626–32.
[4] Department of Health. National suicide prevention strategy for England. London; 2002.
[5] Nordentoft M. Prevention of suicide and attempted suicide in Denmark. Danish Medical Bulletin 2007;54:306–69.
[6] Miller M, Hemenway D. Guns and suicide in the United States. The New England Journal of Medicine 2008;4:989–91.
[7] Miller M, Azrael D, Hepburn L, Hemenway D, Lippman S. The association between changes in household firearm ownership and rates of suicide in the United States, 1981–2002. Injury Prevention 2005;12:178–82.
[8] Miller M, Lippman S, Azrael D, Hemenway D. Household firearm ownership and rates of suicide across the 50 United States. The Journal of Trauma, Injury, Infection and Critical Care 2007;62:1029–35.
[9] Cook PJ, Ludwig J. The social costs of gun ownership. Journal of Public Economics 2006;90:379–91.
[10] Duggan M. Guns and suicide: correlation or causation? In: Cook P, Ludwig J, editors. Evaluating gun policy. Washington: Brookings Institution Press; 2003.
[11] Gallup Poll. Do you have a gun in your home?; 2009 http://www.gallup.com/poll/1645/Guns.aspx[accessed 5 November 2009].
[12] Lott J, Whitley J. Safe storage, gun laws: accidental deaths, suicides, and crime. Working Paper # 237; 2000. Yale Law School.
[13] Kleck G, Kates D. Armed, New Perspectives on Gun Control. Prometeus:Amherst; 2001.
[14] Kleck G. Measures of gun ownership for macro level crime and violence research. Journal of Research in Crime and Delinquency 2004;41:3–36.
[15] Ludwig J, Cook P. Homicide and Suicide rates associated with implementation of the Brady Handgun Violence Prevention Act. Journal of the American Medical Association 2000;284:585–91.
[16] Killias M, van Kesteren J, Rindlisbacher M. Guns, violent crime and suicide in 21 countries. Canadian Journal of Criminology 2001:429–48.
[17] Cook P, Moore M, Braga A. Gun Control. Working Paper Series SANO1-14, Sanford Institute of Public Policy, Durham, NC; 2001.
[18] Kellerman AL, Rivara FP, Somes G, Reay DT, Francisco J, Banton JG, Prodinsky J, Fligner C, Hackman BB. Suicide in home in relation to gun ownership. New England Journal of Medicine 1992;327:467–72.
[19] Lambert M, Silva P. An update of the impact of gun control legislation on suicide. Psychiatric Quarterly 1998;69:127–34.
[20] Sumner S, Layde P, Guse C. Firearm death rates and association with level of firearm purchase background check. American Journal of Preventive Medicine 2008;35:1–6.
[21] Price J, Thompson A, Dake J. Factors associated with state variations in homicide, suicide, and unintentional firearm deaths. Journal of Community Health 2004;29:271–83.
[22] Rosengart M, Cummings P, Nathens A, Heagerty P, Maier R, Rivara F. An evaluation of state firearm regulations and homicide and suicide death rates. Injury Prevention 2005;11:77–83.
[23] Cheung A, Dewa C. Current trends in youth suicide and firearm regulations. Canadian Journal of Public Health 2005;96:131–5.
[24] Beautrais A, Fergusson D, Horwood L. Firearms legislation and reductions in firearm-related suicide deaths in New Zealand. Australian and New Zealand Journal of Psychiatry 2006;40:253–9.
[25] Ozanne-Smith J, Ashby K, Newstead S, Stathakis V, Clapperton A. Firearm related deaths: the impact of regulatory reform. Injury Prevention 2004;10:280–6.
[26] Klieve H, Barnes M, De Leo D. Controlling firearms use in Australia: has the 1996 gun law reform produced the decrease in rates of suicide with this method? Social Psychiatry and Psychiatric Epidemiology 2009;44:285–92.

[27] Kapusta N, Etzersdorfer E, Krall C, Sonneck G. Firearm legislation reform in the European Union: Impact on firearm availability, firearm suicide and homicide rates in Austria. British Journal of Psychiatry 2007;191:253–7.
[28] Hawton K, Fagg J, Simkin S, Harris L, Malmberg A. Methods used for suicide by farmers in England and Wales. The contribution of availability and its relevance to prevention. British Journal of Psychiatry 1998;173:320–4.
[29] Haw C, Sutton L, Simkin S, Gunnell D, Kapur N, Nowers M, Hawton K. Suicide by gunshot in the United Kingdom: a review of the literature. Medicine, Science and the Law 2004;44:295–310.
[30] Wahlbeck K, Mäkinen M, editors. Prevention of Depression and Suicide. Consensus paper. Luxembourg: European Communities; 2008 http://ec.europa.eu/health/ph_determinants/life_style/mental/docs/Cyprus.pdf [accessed 30 November 2009].
[31] Ajdacic-Gross V, Killias M, Hepp U, Haymoz S, Bopp M, Gutzwiller F, Rössler W. Firearm suicides and availability of firearms: the Swiss experience. European Psychiatry, forthcoming.
[32] Kennedy P. A guide to econometrics. Oxford: Blackwell; 1998.
[33] Cameron C, Trivedi P. Regression analysis of count data. Econometric Society Monograph No. 30, Cambridge University Press; 1998.
[34] Yang B. The economy and suicide: a time-series study of the USA. American Journal of Economics and Sociology 1992;51:87–99.
[35] Markowitz S, Chatterji P, Kaestner R. Estimating the impact of alcohol policies on youth suicide. Journal of Mental Health Policy and Economics 2003;6:37–46.
[36] Lester D. Availability of guns and the likelihood of suicide. Sociology and Social Research 1987;71:287–8.
[37] Lester D. Gun ownership and suicide in the United States. Psychological Medicine 1989;19:519–21.
[38] Hemenway D, Kennedy B, Kawachi R. Firearm prevalence and social capital. Annals of Epidemiology 2001;11:484–90.
[39] Miller M, Azrael D, Hemenway D. Rates of household firearm ownership and homicide across US Regions and States, 1988–1997. American Journal of Public Health 2002;92:1988–93.
[40] Shennasa E, Dasklakis C, Buka S. Utility of indices of gun availability in the community. Journal of Epidemiology and Community Health 2006;60:44–9.
[41] Azrael D, Cook P, Miller M. State and local prevalence of firearms ownership measurement, structure and trends. Journal of Quantitative Criminology 2004;20:43–62.
[42] Bridges FS, Kunselman JC. Gun availability and use of guns for suicide, homicide, and murder in Canada. Perceptual and Motor Skills 2004;98:594–8.

EXHIBIT "6"

ORIGINAL ARTICLE

An evaluation of state firearm regulations and homicide and suicide death rates

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Objective: To determine if any of five different state gun laws were associated with firearm mortality: (1) ''shall issue'' laws permitting an individual to carry a concealed weapon unless restricted by another statute; (2) a minimum age of 21 years for handgun purchase; (3) a minimum age of 21 years for private handgun possession; (4) one gun a month laws which restrict handgun purchase frequency; and (5) junk gun laws which ban the sale of certain cheaply constructed handguns.
Design: A cross sectional time series study of firearm mortality from 1979 to 1998.
Setting: All 50 states and the District of Columbia.
Subjects: All residents of the United States.
Main outcome measures: Firearm homicides, all homicides, firearm suicides, and all suicides.
Results: When a ''shall issue'' law was present, the rate of firearm homicides was greater, RR 1.11 (95% confidence interval 0.99 to 1.24), than when the law was not present, as was the rate of all homicides, RR 1.08 (95% CI 0.98 to 1.17), although this was not statistically significant. No law was associated with a statistically significant decrease in the rates of firearm homicides or total homicides. No law was associated with a statistically significant change in firearm suicide rates.
Conclusion: A ''shall issue'' law that eliminates most restrictions on carrying a concealed weapon may be associated with increased firearm homicide rates. No law was associated with a statistically significant reduction in firearm homicide or suicide rates.

During 2001 there were approximately 81 firearm fatalities each day in the United States[1 2] Over the decade 1991–2000, 215 822 homicides occurred, of which 147 281 (68%) were committed with a firearm, and 305 384 suicides occurred, of which 179 244 (59%) were committed with a firearm.[3]

Legislators have passed many state level statutes regulating ownership or access to handguns with the anticipated goal of curtailing deaths related to firearms.[1 4] Many laws have not been studied, and little is known about the association of these state laws with firearm deaths. For other laws, uncertainty persists regarding the presence and direction of the association with firearm mortality.[5 6] Studies of ''shall issue'' laws that permit an individual to carry a concealed weapon unless restricted by another statute have reported decreased, unchanged, and increased homicide rates with law implementation.[5 6] An evaluation of Maryland's junk gun law, banning cheaply constructed handguns, reported both increased and decreased firearm homicide rates after law enactment, although the association and its magnitude depended upon the manner by which the effect of the law was modeled.[7] Recently a study of minimum age restrictions for the purchase and possession of firearms reported that neither law appeared to reduce overall rates of suicide among youth.[8] Because of the lack of evidence and continued controversy, we studied the association between five different state gun laws and four outcomes: firearm homicides, all homicides, firearm suicides, and all suicides. The laws studied were: (1) ''shall issue'' laws permitting an individual to carry a concealed handgun unless that person is restricted to do so by another statute; (2) laws restricting the minimum age for purchase of a handgun to 21 years; (3) laws restricting the minimum age for private possession of a handgun to 21 years; (4) one gun a month laws which restrict handgun purchase frequency to one in a 30 day period; and (5) junk gun laws which ban the sale of certain cheaply constructed handguns. We used a longitudinal analysis to estimate the adjusted rate of each mortality outcome after each law went into effect, compared with what would have been anticipated without that law. We used cross sectional time series data for all 50 states and the District of Columbia in the US with data regarding mortality, laws, and other variables for each year from 1979–98.

MATERIALS AND METHODS

Outcome data

Our main outcome measures were firearm related and total homicide, and firearm related and total suicide death rates per 100 000 person years. Total mortality rates were included in the analysis to evaluate whether any association between the law and firearm mortality rates persisted in the respective total death rate. State and year specific deaths and population data were available from the National Center for Health Statistics' compressed mortality files for the period 1979–98.[3] Data were categorized by sex, race (white, black, or other), and age (less than 1 years, 1–4, 5–9, 10–14, 15–19, 20–24, 25–34, 35–44, 45–54, 55–64, 65–74, 75–84, and older than 85 years). Violent deaths were categorized using the International Classification of Disease, Ninth Revision (ICD-9) external cause of death codes as follows: homicides (E960–969), suicides (E950–959), homicides by firearm (E965.0–965.4), and suicides by firearm (E955.0–955.4).[9]

Legislation data

Information about the presence of each law was obtained by reviewing the criminal statutes and codes of each state for the period 1979 through 1998. Enactment dates for each law were ascertained by reviewing the sessions of each statute for each state. From 1979–98, 23 states adopted ''shall issue''

Abbreviations: ICD-9, International Classification of Diseases, Ninth Revision.

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laws permitting an individual to carry a concealed weapon unless restricted by another statute, seven states adopted and two states repealed a law restricting the minimum age for the private purchase of a handgun to 21 years, five states adopted laws restricting the minimum age for the private possession of a handgun to 21 years, two states adopted laws restricting the number of guns purchased to one in a thirty day period, and one state adopted a law banning the manufacture and sale of junk guns (table 1).

This information was compared with the state legislation data published by the Bureau of Justice Statistics and the Open Society Institute to confirm the laws of each state.[1 4] Within each state, the time period affected by each law was considered to start with the first calendar year in which each law was in effect for at least six months. This assumes that the law's effect occurs during the first complete year after it is implemented and that this effect is constant over time.

Statistical methods

Mortality rate ratios (RRs) were estimated using Poisson regression to compare time periods during which a law was in effect with time periods without a law within each state; hence, 50 indicator variables were included to represent each state and the District of Columbia.[10] To control for national trends over time in firearm mortality rates, all states and the District of Columbia were included in the analysis, and 19 indicator variables were used to represent each calendar year. This approach attempted to control for the influences of unmodeled factors that were common across states and were associated with trends in homicide or suicide. We also controlled for state level and individual level changes in the following factors that may have influenced rates of crime and violence: proportion of the population living in metropolitan areas, proportion of the population living below the official poverty line, proportion unemployed, and age, sex, and race distribution.[11–13] Each of the state level variables was measured annually except proportion living in metropolitan areas, which were statistics from the decennial census and were interpolated for intercensal years. In addition, all laws were modeled simultaneously in the regression analysis for each outcome. We used a robust (sandwich) estimator of variance, which accounts for overdispersion and for clustering of events within a state.[14 15]

Because temporal trends in mortality rates varied by state, we included interaction terms between each state and time (year as a continuous variable) to account for this variation, thereby modeling temporal trends in mortality rates specific to each state. In addition, because the effect of a law may vary by state, interaction terms between the categorical variables state and law were included, and state specific RRs were calculated. Each law was modeled with state interactions, while the remaining laws were included as binary covariates. Variation in state specific RRs was evaluated with both tests of homogeneity and I^2.[16–19] This latter statistic ranges from 0–100% and estimates the percentage of total variation in RR estimates that is due to heterogeneity between states. Because of the heterogeneity in RRs, we summarized rate ratio estimates across states using the random effects method of DerSimonian and Laird.[17] The random effects summary allows for the possibility that each law may have a different effect in each state and this additional variation between states is accounted for in the confidence interval. All rate ratios were adjusted for temporal trends and for all potential confounding variables.

The minimum age laws restricted the purchase or possession of a handgun to people over 20 years of age. To evaluate whether the association of these laws with each outcome may vary with a particular age group, we introduced interaction terms between age and each of these two laws. Initially we introduced interaction terms between age (younger than 20 years, 20 years or older) and all other model terms. We chose this definition for this new dichotomous age covariate as it was compatible with the categories of age stratification provided by the available database. The model with the lowest Akaike information criteria statistic included terms for the interaction of both state and year with age.[15] We then introduced a term for the interaction of age and the two laws and estimated separate RRs for each age group.

Table 1 Year of statute implementation, United States, 1979–98

State	Year
"Shall issue" law	
Alaska	1994
Arizona	1994
Arkansas	1995
Florida	1987
Georgia	1989
Idaho	1990
Kentucky	1996
Louisiana	1996
Maine	1985
Mississippi	1990
Montana	1991
Nevada	1995
North Carolina	1995
Oklahoma	1995
Oregon	1990
Pennsylvania	1989
South Carolina	1996
Tennessee	1994
Texas	1995
Utah	1995
Virginia	1986
West Virginia	1989
Wyoming	1994
Minimum age of 21 years for private purchase	
California	1984
Connecticut	1994
Delaware	1987
Georgia	1994 (repealed)
Hawaii	1994
Massachusetts	1994
Missouri	1981
Nebraska	1991
Washington	1994 (repealed)
Minimum age of 21 years for private possession	
Connecticut	1994
Hawaii	1994
Maryland	1996
Massachusetts	1994
Missouri	1981
One gun per month	
Maryland	1996
Virginia	1993
Junk gun ban	
Maryland	1990

Regression to the mean

There was temporal variation in state specific firearm mortality rates. If a state were to have a period of unusually high firearm mortality rates as part of this expected variation, lawmakers might have been stimulated to pass laws regulating handguns. Hence, any observed beneficial response of legislation may represent the natural tendency for mortality rates to regress to their mean rates.[20] Similarly, a law may be observed to have an adverse effect if mortality rates were particularly low before its implementation. To evaluate whether regression to the mean might explain all or part of any statistically significant association of any law with

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Exhibit 6
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firearm mortality, we compared the firearm mortality rate in the two year period before that law went into effect with previous years in the same state, adjusted as in all our analyses.

All data used were publicly available without identifiers, and thus the study was considered exempt from institutional review board review.

RESULTS

Temporal trends in mortality

During the 20 years of the study, there were 442 702 homicide deaths, of which 289 719 (65%) were firearm related, and 596 704 suicides, of which 352 196 (59%) were firearm related (figs 1 and 2). Firearm homicide rates peaked at 7.1 per 100 000 person years in 1993, while total homicide rates peaked at 10.5 in 1980 and again at 10.4 in 1991. Firearm suicide rates peaked twice at 7.6 per 100 000 person years, once in 1986 and again in 1990; total suicide rates peaked at 12.9 in 1986. Mortality rates differed substantially between states; to display this we plotted the median mortality rate among the states with the interquartile range (figs 1 and 2).

Homicide rate ratios

There was little evidence of variation in state rate ratios with a minimum age of 21 years for private purchase law or a one gun a month law; p values for heterogeneity were not less than 0.38 and the I^2 values did not exceed 7% (fig 3, table 2).

For the minimum age of 21 years for possession law, the I^2 reached 39%. For "shall issue" laws the p values for tests of heterogeneity in rate ratios were statistically significant ($p<0.001$) and the I^2 values were 86% and 85%. The observed homicide rate after passage of a "shall issue" law was lower in the period without the law (table 2). However, after adjusting for potential confounding and temporal trends in homicide rates, when a "shall issue" law was present, the rate of firearm homicides was greater than when it was not present, RR 1.11 (95% CI 0.99 to 1.24), as was the rate for all homicides, RR 1.07 (95% CI 0.98 to 1.17), although neither was statistically significant (table 2). Summarized across all states, no law was associated with a statistically significant decrease in the rates of firearm homicides or total homicides.

We found little evidence that regression to the mean might explain this association of a "shall issue" law and increased firearm homicide, as the firearm homicide rate in the two years before implementation of the shall issue law was nearly the same as in earlier years, RR 1.01 (95% CI 0.94 to 1.09).

Homicide rate ratios by age subgroups

The RRs for laws restricting the minimum age to 21 years for private purchase or possession varied little by age group; p values for a test that RRs varied by age group (younger than 20 years, 20 years or older), were all equal to or greater than 0.10 (table 3).

In all subgroups the RR estimates had 95% confidence intervals that included 1.

Suicide rate ratios

There was little evidence that state rate ratios varied with each law, except for the minimum age of 21 years for possession: $p = 0.02$ and I^2 reached 64% (fig 4, table 4).

No law was associated with a statistically significant change in firearm suicide rates (table 4). A law that banned the sale of junk guns was associated with a decrease in total suicide rates, RR 0.86 (95% CI 0.77 to 0.96).

Suicide rate ratios by subgroups

The RRs for laws restricting the minimum age to 21 years for private purchase or possession varied little by age group; p values for a test that RRs varied by age group (younger than 20 years, 20 years or older), were all equal to or greater than 0.20 (table 3).

DISCUSSION

From 1979 to 1998 many states passed laws regulating handguns. Our analyses suggest that a "shall issue" law that eliminates most restrictions on carrying a concealed weapon does not confer a reduction in firearm homicide and may be associated with increased mortality rates. No law was associated with a statistically significant decrease in firearm homicide or suicide rates.

Due to the observational and ecological nature of this study, bias due to confounding may persist because of an inability to account for all risk factors that might distort the observed associations.[21 22] However, the "shall issue" law was passed in many states, which are diverse in nature and represent all regions of the United States. In addition, the analysis was state specific, based upon a comparison within each state before and after each law took effect. Information

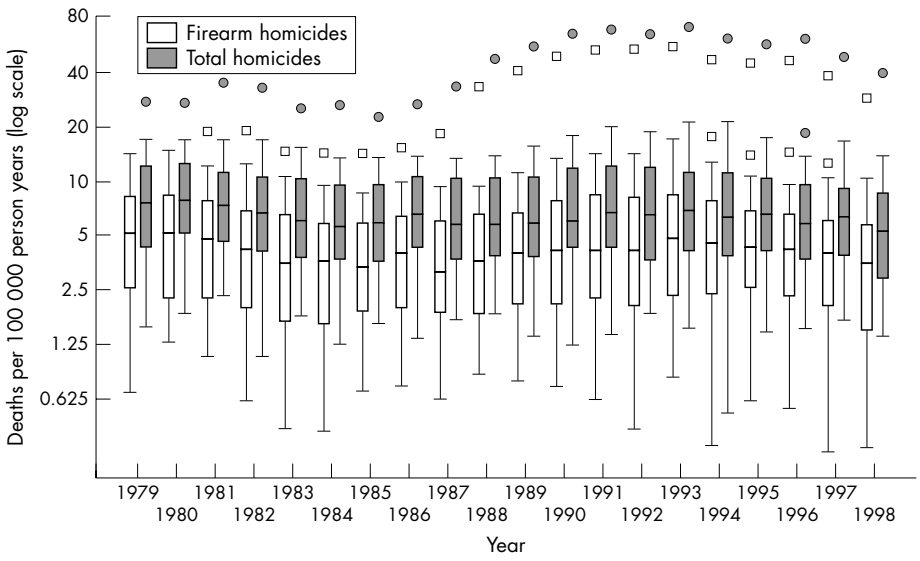

Figure 1 Trends in firearm and total homicide rates, United States, 1979–98. Each box and whisker represents the range of state mortality rates for that year. Horizontal line indicates the median; box denotes the 25–75th percentile (interquartile range (IQR)); whiskers indicate outer limits and extend to the last value before 1.5 × IQR past the 25th and 75th percentile; squares and circles indicate states exceeding outer limits.

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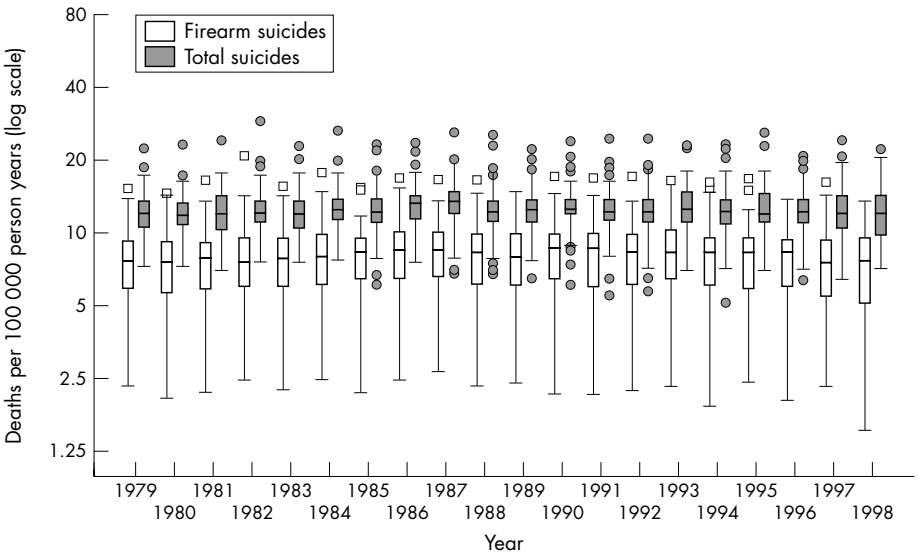

Figure 2 Trends in firearm and total suicide rates, United States, 1979–98. Each box and whisker represents the range of state mortality rates for that year. Horizontal line indicates the median; box denotes the 25–75th percentile (IQR); whiskers indicate outer limits and extend to the last value before 1.5 × IQR past the 25th and 75th percentile; squares and circles indicate states exceeding outer limits.

from other states was only used to control for any national trend in mortality.

The increased firearm homicide rate observed after implementation of a "shall issue" law permitting nearly unrestricted carrying of concealed weapons was based upon an analysis of 23 states. Regression to the mean does not explain our observations, as the homicide rate in the two years preceding the law differed little from the rate in previous years within the same state.

Our results are in contrast to those of Lott and Mustard, who reported a 7.65% reduction in homicide rates associated with "shall issue" laws.[5] This difference may stem from the additional 13 states that implemented a "shall issue" law during the period of our study. We have used dates of enactment similar to those of Lott and Mustard and of Ayres and Donohue.[5 6] Even if we employ the coding scheme of Vernick, which identified different implementation dates for five states, we obtain a similar increase in firearm homicide with passage of a "shall issue" law, RR 1.10 (95% CI 0.98 to 1.23).[23]

Hence, differing statistical methods appear to account for most of the discrepancy. Lott and Mustard used weighted

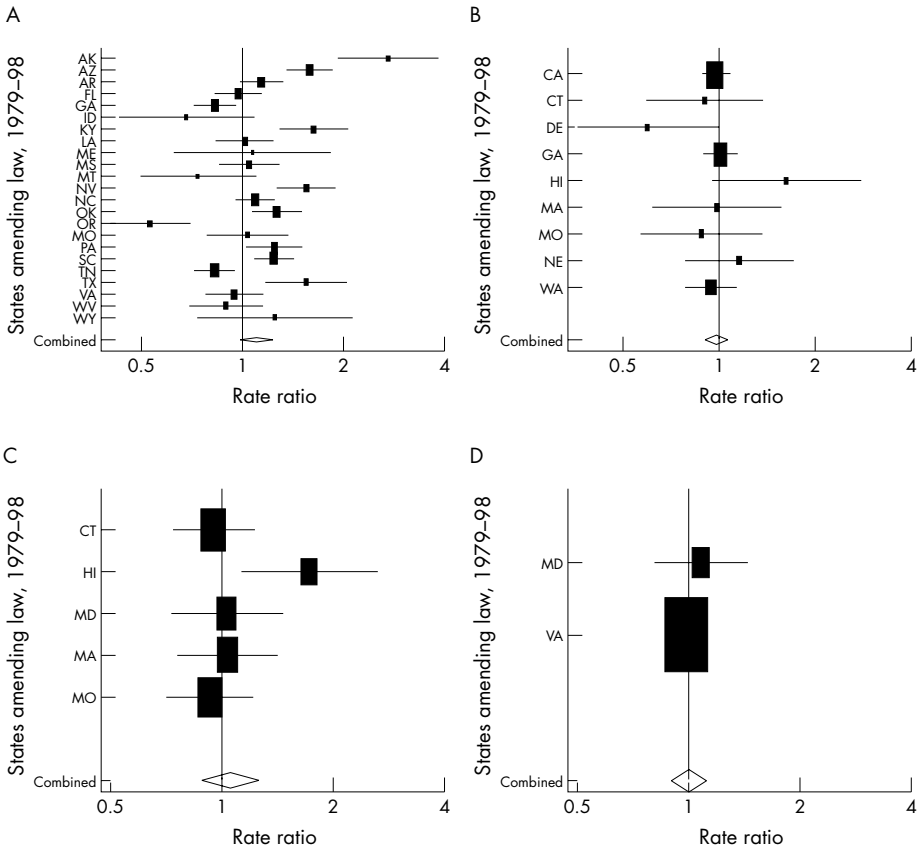

Figure 3 State mortality rate ratio: firearm homicide, United States, 1979–98. (A) "Shall issue" law; (B) minimum age of 21 years for private purchase; (C) minimum age of 21 years for private possession; (D) one gun a month law. States enacting the law during the study period are represented on the ordinate. Boxes indicate state rate ratio. Box size is proportional to the inverse variance of each state rate ratio. Lines indicate 95% confidence interval. Diamond indicates random effects summary estimate of mortality rate ratio.

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Table 2 Homicides in states with a change in the law, United States, 1979–98*

	"Shall issue" law	Minimum age of 21 years for purchase	Minimum age of 21 years for possession	One gun a month	Junk gun ban
Firearm homicides					
Rate† with law	5.00	4.91	4.61	6.13	8.83
Rate† without law	5.90	3.10	3.86	6.55	6.12
Range of rate ratios	0.53–2.71	0.60–1.64	0.93–1.72	1.01–1.07	NA
p Value‡	<0.001	0.38	0.16	0.76	NA
I^2§	86%	7%	39%	0%	NA
RR¶	1.11	0.98	1.06	1.02	0.94
95% CI	0.99–1.24	0.91–1.06	0.88–1.27	0.89–1.17	0.73–1.19
All homicides					
Rate† with law	7.50	7.70	6.99	8.49	12.2
Rate† without law	8.99	5.51	6.48	9.74	9.71
Range of rate ratios	0.58–2.10	0.85–1.37	0.89–1.43	0.99–1.09	NA
p Value‡	<0.001	0.55	0.12	0.56	NA
I^2§	85%	0%	46%	0%	NA
RR¶	1.07	1.00	1.02	1.00	0.94
95% CI	0.98–1.17	0.94–1.05	0.89–1.18	0.90–1.12	0.78–1.14

*For states amending or implementing the law during the period 1979–98.
†Mean count per 100 000 person years for states in which law was implemented during study period.
‡p Value for test of homogeneity.
§Percentage of total variation in RR due to between state heterogeneity.
¶Regression derived rate ratio of mortality rate with the law to mortality rate without the law, adjusted for all confounders.
NA, not applicable because there was only one state with this law.

least squares linear regression to evaluate the association between the natural logarithm of homicide rates and passage of the law. Their regression aggregated all states, thereby assuming a similar impact of the law for each state in which it was implemented. However, the heterogeneity in state specific RRs after implementation of the law was substantial; the RRs for firearm homicide ranged from 0.53 to 2.71 (test of homogeneity, $p<0.001$), and 86% of this variation was due to heterogeneity beyond what was expected by chance. Donohue and Ayers reported similar state variation in the association between "shall issue' laws and homicide rates. They emphasized that the aggregated estimate was more heavily influenced by earlier adopting jurisdictions, as they contributed more post-passage years to the analysis.[6] In their disaggregated analysis of Lott's data, 16 of the 23 states implementing a "shall issue" law observed an increase in murder, similar to the 15 noted in our study, and the population weighted fixed effects summary estimate was associated with a non-significant 0.6% increase in homicides.

We tried to account for this variation in state rate ratios by including state specific interactions and calculating state specific RRs. We also modeled time specific to each state by allowing temporal trends in homicide rates to vary between states through the inclusion of interactions terms between state and year. Finally, we used a random effects summary estimator to calculate a final law summary estimate, which gives more weight to smaller states compared with a fixed effects summary. Nevertheless, although the confidence intervals for the random effects summary rate ratios were appreciably greater than those from a fixed effects summary estimate, the rate ratios for random and fixed effects never differed by more than 0.01. If we assume a constant impact of the law across all adopting states and combine the states by removing the state-law interaction term and assume that temporal trends in mortality were the same for every state by removing the state-year interactions from our regression model, yet still employ a Poisson regression model with robust variance estimator and control for all the same demographic and socioeconomic covariates, we produce estimates similar to those of Lott and Mustard for firearm homicide, RR 0.95 (95% CI 0.91 to 1.00) and total homicide, RR 0.97 (95% CI 0.94 to 1.01). We believe these estimates are inaccurate because they fail to account for the variation in risk ratios across states and the variation between states in homicide rates over time.

No law was associated with a significant reduction in either firearm homicide or suicide rates. Similar to the recent study of Webster *et al*, we did not find significant evidence

Table 3 Rate ratios for homicide and suicide rates post-law compared with pre-law by age group, United States, 1979–98*

	Minimum age of 21 years for purchase				Minimum age of 21 years for possession			
	Homicide		Suicide		Homicide		Suicide	
	RR†	95% CI	RR	95% CI	RR	95% CI	RR	95% CI
Firearm deaths								
<20 years	0.92	0.80–1.06	0.94	0.80–1.06	0.91	0.72–1.15	0.93	0.77–1.12
⩾20 years	0.99	0.93–1.06	1.02	0.96–1.08	1.08	0.89–1.31	0.99	0.88–1.13
p Value‡	0.22		0.62		0.10		0.95	
All deaths								
<20 years	0.92	0.81–1.05	1.10	0.94–1.29	0.98	0.79–1.20	1.15	0.93–1.42
⩾20 years	1.01	0.95–1.06	1.04	0.99–1.10	1.03	0.88–1.20	1.04	0.95–1.13
p Value‡	0.39		0.12		0.43		0.21	

*For states implementing the law during the period 1979–98.
†Regression derived rate ratio of mortality rate with the law to mortality rate without the law.
‡p Value for age-law interaction.

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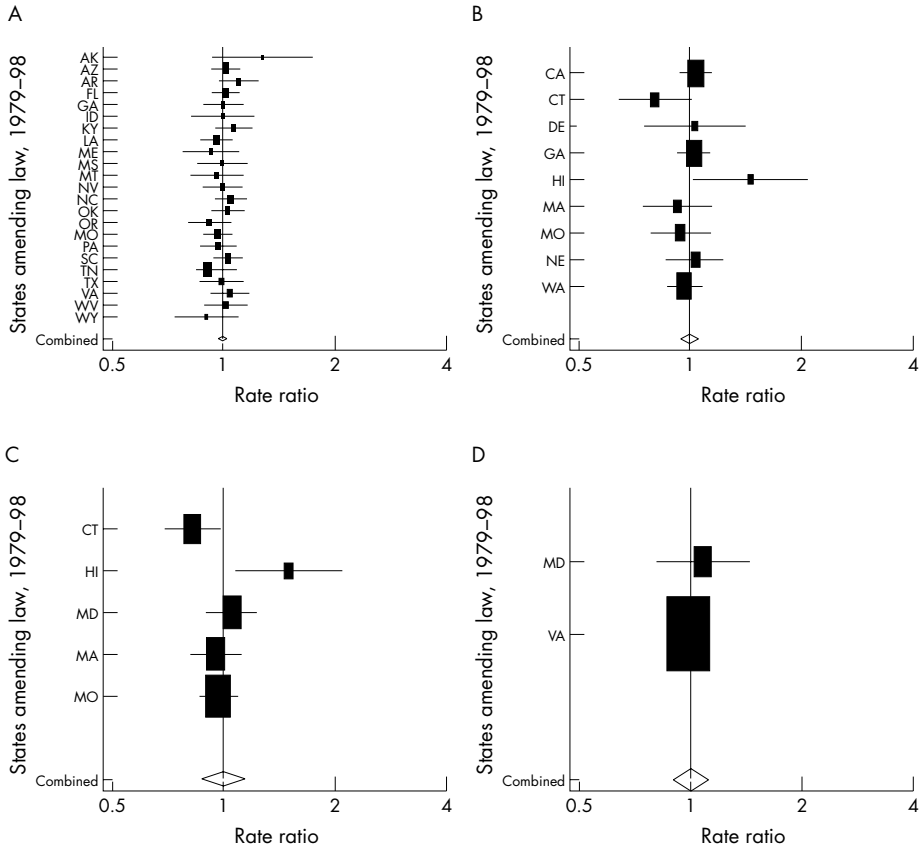

Figure 4 State mortality rate ratio: firearm suicide, United States, 1979–98. (A) "Shall issue" law; (B) minimum age of 21 years for private purchase; (C) minimum age of 21 years for private possession; (D) one gun a month law. States enacting the law during the study period are represented on the ordinate. Boxes indicate state rate ratio. Box size is proportional to the inverse variance of each state rate ratio. Lines indicate 95% confidence interval. Diamond indicates random effects summary estimate of mortality rate ratio.

that laws restricting the minimum age for purchase or possession reduced either firearm suicide or homicide rates in youths, although our estimated rate ratios were all less than 1.[8] These minimum age for purchase or possession laws, however, were amended in only nine and five states, respectively, for which only three and one state had at least five years of post-amendment data. This, in combination with the increase, albeit non-significant, in total suicides for either law, raises suspicion as to the validity of these observations. Alternatively, our results may stem from our assumption that the effect of each law was immediate and constant. A study of Maryland's ban on "Saturday Night Specials" noted that estimates of the law effect on firearm homicide rates depended upon assumptions made about the timing of the law's effect; assuming a delayed and gradual effect of the law best accounted for the variability in the data.[7]

Table 4 Suicides in states with a change in the law, United States, 1979–98*

	Shall issue law	Minimum age of 21 years for purchase	Minimum age of 21 years for possession	One gun a month	Junk gun ban
Firearm suicides					
Rate† with law	9.70	7.03	5.98	7.34	5.46
Rate† without law	10.2	4.94	4.18	7.20	6.07
Range of rate ratios	0.90–1.28	0.80–1.46	0.83–1.50	0.99–1.09	NA
p Value‡	0.56	0.26	0.02	0.32	NA
I^2§	0%	21%	64%	0%	NA
RR¶	1.00	1.00	0.99	1.03	0.91
95% CI	0.97–1.02	0.94–1.06	0.88–1.13	0.94–1.12	0.81–1.04
All suicides					
Rate† with law	14.5	12.4	11.5	11.6	9.95
Rate† without law	14.5	10.7	9.80	11.8	11.0
Range of rate ratios	0.87–1.18	0.95–1.25	0.93–1.21	0.96–1.02	NA
p Value‡	0.35	0.37	0.12	0.40	NA
I^2§	8%	8%	45%	0%	NA
RR¶	0.98	1.02	1.03	1.00	0.86
95% CI	0.96–1.01	0.98–1.07	0.96–1.11	0.94–1.08	0.77–0.96

*For states amending or implementing the law during the period 1979–98.
†Mean count per 100 000 person years for states in which law was implemented during study period.
‡p Value for test of homogeneity.
§Percentage of total variation in RR due to between state heterogeneity.
¶Regression derived rate ratio of mortality rate with the law to mortality rate without the law, adjusted for all confounders.
NA, not applicable because there was only one state with this law.

Exhibit 6
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Key points

- There is disagreement regarding the effects of some laws regulating handguns on firearm mortality rates.
- This ecological study observed considerable variation between states in the association of some laws regulating handguns with firearm homicide and suicide rates.
- A ''shall issue'' law that permits the carrying of a handgun in an unrestricted fashion may be associated with an increase in firearm homicide rates.
- Little evidence was observed that any of the laws evaluated were associated with a significant reduction in either firearm homicide or firearm suicide rates.

The junk gun statute, which was enacted in only one state, was associated with a statistically significant 14% reduction in all suicide deaths. However, the reduction in firearm suicide deaths associated with this law was only 8%. It does not seem plausible to us that this law would reduce suicide deaths by means other than a gun, and therefore we suspect that the association between this policy and all suicides is not likely to be causal.

Our analysis was restricted to states that had passed any of the laws under study. Had smaller jurisdictions within these states passed similar laws before statewide implementation, then our analysis might underestimate any effect. Similarly, if any city or town passed these laws without statewide implementation or if passage of these laws affected gun accessibility in surrounding states without the law, then our analysis might also underestimate any effect. Finally, if any city or smaller ordinance passed the law after state enactment, we might be simultaneously measuring the effects of these local statutes.

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Competing interests: the authors declare no competing interests.

REFERENCES

1 **Open Society Institute**. Gun Control in the United States. New York, 2000:1–15.
2 **Arias E**, Anderson RN, Kung HC, *et al*. Deaths: final data for 2001. *Natl Vital Stat Rep* 2003;**52**:1–115.
3 **Compressed Mortality Files**. National Center for Health Statistics, Centers for Disease Control and Prevention (Hyattsville, MD), 2002. Available at http://wonder.cdc.gov (accessed 28 January 2005).
4 **US Department of Justice**. Survey of state procedures related to firearm sales, midyear 2001. St Louis, Missouri: Bureau of Justice Statistics, 2002:1–87.
5 **Lott JR**, Mustard DB. Crime, deterrence, and right-to-carry concealed handguns. *J Legal Stud* 1997;**XXVI**:1–69.
6 **Ayres I**, Donohue D. Shooting down the ''more guns, less crime'' hypothesis. *Stanford Law Rev* 2003;**55**:1193–312.
7 **Webster DW**, Vernick JS, Hepburn LM. Effects of Maryland's law banning ''Saturday night special'' handguns on homicides. *Am J Epidemiol* 2002;**155**:406–12.
8 **Webster DW**, Vernick JS, Zeoli AM, *et al*. Association between youth-focused firearm laws and youth suicides. *JAMA* 2004;**292**:594–601.
9 **World Health Organization**. Manual of the International Statistical Classification of Diseases, Injuries, and Causes of Death. Ninth Revision (ICD-9). Geneva, Switzerland: World Health Organization, 1977.
10 **Breslow NE**, Day NE. *Statistical methods in cancer research, II: design and analysis of cohort studies*. Lyon, France: International Agency for Research on Cancer, 1987:207–9.
11 **Historical Poverty Tables**. United States Census Bureau (Washington DC), 2002. Available at http://www.census.gov/hhes/poverty/histpov/hstpov21.html (accessed 28 January 2005).
12 **Unemployment Rates**. United States Department of Labor (Washington DC), 2002. Available at http://data.bls.gov (accessed 20 February 2005).
13 **Census of Population and Housing**. United States Census Bureau (Washington DC), 2000. Available at http://census.gov/population/www/censusdata/hiscendata.html (accessed 28 January 2005).
14 **White HA**. A heteroskedasticity-consistency covariance matrix estimator and a direct test for heteroskedasticity. *Econometrica* 1980;**48**:817–30.
15 **Hardin J**, Hilbe J. Generalized Linear Models and Extensions. College Station, Texas: Stata Press, 2001, 27–28, 45.
16 **Higgins JP**, Thompson SG, Deeks JJ, *et al*. Measuring inconsistency in meta-analyses. *BMJ* 2003;**327**:557–60.
17 **DerSimonian R**, Laird N. Meta-analysis in clinical trials. *Control Clin Trials* 1986;**7**:177–88.
18 **Higgins J**, Thompson S, Deeks J, *et al*. Statistical heterogeneity in systematic reviews of clinical trials: a critical appraisal of guidelines and practice. *J Health Serv Res Policy* 2002;**7**:51–61.
19 **Higgins JP**, Thompson SG. Quantifying heterogeneity in a meta-analysis. *Stat Med* 2002;**21**:1539–58.
20 **Fisher LD**, van Belle G. *Biostatistics: a methodology for the health sciences*. New York, NY: John Wiley & Sons, Inc, 1993:389–90.
21 **Morgenstern H**. Ecologic studies in epidemiology: concepts, principles, and methods. *Annu Rev Public Health* 1995;**16**:61–81.
22 **Morgenstern H**. Uses of ecologic analysis in epidemiologic research. *Am J Public Health* 1982;**72**:1336–44.
23 **Vernick JS**, Hepburn LM. State and Federal Gun Laws: Trends for 1970–1999. In: Ludwig J, PJ C, eds. *Evaluating gun policy*. Washington DC: The Brookings Institution, 2003:345–411.

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EXHIBIT "7"

ORIGINAL CONTRIBUTION

Association Between Youth-Focused Firearm Laws and Youth Suicides

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April M. Zeoli, MPH
Jennifer A. Manganello, PhD, MPH

Context Firearms are used in approximately half of all youth suicides. Many state and federal laws include age-specific restrictions on the purchase, possession, or storage of firearms; however, the association between these laws and suicides among youth has not been carefully examined.

Objective To evaluate the association between youth-focused firearm laws and suicides among youth.

Design, Setting, and Participants Quasi-experimental design with annual state-level data on suicide rates among US youth aged 14 through 20 years, for the period 1976-2001. Negative binomial regression models were used to estimate the association between state and federal youth-focused firearm laws mandating a minimum age for the purchase or possession of handguns and state child access prevention (CAP) laws requiring safe storage of firearms on suicide rates among youth.

Main Outcome Measures Association between youth-focused state and federal firearm laws and rates of firearm, nonfirearm, and total suicides among US youth aged 14 to 17 and 18 through 20 years.

Results There were 63954 suicides among youth aged 14 through 20 years during the 1976-2001 study period, 39655 (62%) of which were committed with firearms. Minimum purchase-age and possession-age laws were not associated with statistically significant reductions in suicide rates among youth aged 14 through 20 years. State CAP laws were associated with an 8.3% decrease (rate ratio [RR], 0.92; 95% confidence interval [CI], 0.86-0.98) in suicide rates among 14- to 17-year-olds. The annual rate of suicide in this age group in states with CAP laws was 5.97 per 100000 population rather than the projected 6.51. This association was also statistically significant for firearm suicides (RR, 0.89; 95% CI, 0.83-0.96) but not for nonfirearm suicides (RR, 1.00; 95% CI, 0.91-1.10). CAP laws were also associated with a significant reduction in suicides among youth aged 18 through 20 years (RR, 0.89; 95% CI, 0.85-0.93); however, the association was similar for firearm suicides (RR, 0.87; 95% CI, 0.82-0.92) and nonfirearm suicides (RR, 0.91; 95% CI, 0.85-0.98).

Conclusions There is evidence that CAP laws are associated with a modest reduction in suicide rates among youth aged 14 to 17 years. As currently implemented, minimum age restrictions for the purchase and possession of firearms do not appear to reduce overall rates of suicide among youth.

JAMA. 2004;292:594-601 www.jama.com

SUICIDE IS THE THIRD LEADING cause of death among youth aged 10 to 19 years in the United States, accounting for 1883 deaths in 2001.[1] Firearms were used in approximately half of suicides within this age group in 2001; however, as recently as 1994, 7 of every 10 suicides among teenagers involved firearms.[1]

Firearms are one of the most lethal methods of self-harm.[2] Case-control studies using community and clinical samples have consistently found that the presence of firearms in the home substantially increased the risk of adolescent suicide.[3-7] In addition, a recent state-level study, using the ratio of firearm suicides to total suicides as a proxy for the prevalence of gun ownership, found that suicide rates among teenagers and adults are significantly higher in states with higher rates of gun ownership.[8]

Several firearm policies are intended to limit the access that underage youth have to firearms. Since 1968, federal law has required licensed firearms dealers to prohibit handgun sales to purchasers younger than 21 years. In 1994, a federal law established 18 years as the minimum legal age for possessing or purchasing handguns, including sales by gun owners who are not licensed dealers. Many states have also adopted laws establishing a minimum legal age for being able to purchase or possess a firearm. Another type of law intended to keep firearms from youth are gun safe storage laws, often referred to as child access prevention (CAP) laws. As of 2001, 18 states had some form of CAP law that makes it a crime to store firearms in a manner that allows them to be easily accessed by children and adolescents. Most require gun owners to lock up their guns.

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There has been little empirical research on the association between these youth-focused laws and rates of suicide among youth. Marvel[9] examined laws banning the possession of firearms by juveniles and found no evidence that these laws reduced youth suicides. However, in that study the outcome examined was suicides among youth aged 15 to 19 years, over half of which involve suicides among 18- and 19-year-olds, an age group not covered by most of the laws. We are not aware of any other study that has examined the association between minimum age restrictions for firearm purchases and firearm suicides among youth. In a study of the association between the first 12 CAP laws and mortality among youth through 1994, Cummings et al[10] reported that state CAP laws were associated with a 19% decline in suicides among youth aged 10 to 14 years. This estimate was not emphasized by the authors, presumably because the upper bound of the 95% confidence interval for the rate ratio was 1.01. Lott and Whitley[11] reported no statistically significant association between CAP laws and suicides among children younger than 15 years or among youth aged 15 to 19 years. However, their use of Tobit regression to estimate the laws' effects is vulnerable to bias when data are highly skewed and heteroskedastic, as is the case for state-level data on youth suicides.[12]

The study herein seeks to address the gap in research on the effects of firearm laws specifically designed to reduce the access that children and youth have to firearms. We examine the association between these laws and suicides among youth aged 14 through 20 years, an age group at much greater risk of firearm suicide than the younger groups examined in prior research.

METHODS

Study Design

To estimate the association between youth-focused firearm policies and suicide, we used a quasi-experimental design and regression analyses (described below) to contrast changes in rates of suicide among youth in states that adopted laws to restrict youth access to firearms with rate changes in states that did not make such changes in their laws, while controlling for potential confounders. State-level data sets were constructed that included the number of suicides among youth within each state for the years 1976 through 2001 for the 2 age groups potentially affected by the laws. Youth aged 14 to 17 years were the target group for laws establishing 18 years or younger as a minimum age for handgun purchase or possession, and for most CAP laws. Youth aged 18 through 20 years were legally affected by laws that increased the minimum age for handgun purchase or possession from 18 to 21 years.

Outcome Variables

The outcome variables were the number of total, firearm, and nonfirearm suicides in each age group targeted by the laws. Death certificate data from the National Center for Health Statistics were used to identify suicide as a cause of death (*International Classification of Diseases, Ninth Revision* external cause of death codes E950-E959[13] and *International Classification of Diseases, 10th Revision* codes X60-X84, Y87.0, and U03[14]).

Firearm Laws

We conducted legal research and consulted existing compilations of state laws[15] to obtain information about the youth-focused firearm laws of interest: minimum purchase age, minimum possession age, and CAP laws. When states had minimum-age cutoffs for purchase or possession of handguns that were different from those for purchase or possession of long guns, we used the cutoffs for handguns. We also collected information about other firearm laws, such as handgun licensing requirements (also known as permit-to-purchase laws), which might affect our outcomes of interest. For each law, we then determined the date it took effect, and whether there had been any changes to the law itself during the study period.

Dummy variables were created, set equal to 1 when the law was in effect for the whole year and equal to 0 when no law was in effect. For laws that were in effect for only part of a specific year, we set the law variable equal to 1 in a state-year if the law was in place for at least half of the year and equal to 0 otherwise. For the few laws that affected one part of our age groups (eg, age 17 years as the minimum age for firearm purchase), we set the law variable equal to 1 if the law applied to the majority of youth committing suicide in the age group and equal to 0 otherwise. The federal law establishing a minimum legal age for handgun purchase and possession was assumed to affect only states that, prior to the federal law, either had no minimum-age law of this type or had a law that established a minimum legal age younger than 18 years.

Statistical Analysis

To derive estimates of the association between the laws and youth suicide, we used negative binomial regression models and generalized estimating equations to estimate regression parameters. Negative binomial regression is appropriate for estimating models for count data that are overdispersed (ie, the variance is greater than the mean),[16] as is the case with state-level youth suicide data. Likelihood ratio tests rejected the null hypothesis that the distributions were Poisson. Generalized estimating equations take into account that the data are correlated, in this case by state and year, and make appropriate adjustments to standard errors for accurate hypothesis testing.[17] Correlation matrices of model residuals were examined to identify any clear pattern of autocorrelation; however, no pattern was evident. Therefore, the models were specified with unstructured autocorrelation, as is recommended for studies of this type,[18] using the PROCGEN program in SAS version 8.2 (SAS Institute Inc, Cary, NC). Each model included the natural logarithm of the population as an offset variable with the coefficient constrained to equal 1. Model coefficients

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were converted to rate ratios (RRs) so that effects could be expressed in terms of percentage changes in suicide rates. We used 2-tailed tests of significance and $\alpha \leq .05$ for rejecting the null hypothesis of no effect.

When statistically significant associations were identified, we assessed whether an association not attributable to change in the covariates could be attributable to differential prelaw trends in states that passed the law vs those that did not pass the law. This was assessed by estimating the effects for a set of dummy variables representing each of the 5 years just prior to the passage of the law and each of the first 5 years the law was in place. We assessed the plausibility that significant changes in suicide rates for an age group were caused by the law by examining whether statistically significant associations were specific to suicides using firearms and were not associated with changes in suicide rates among young persons aged 22 to 24 years, a group not legally affected by the laws. We also estimated a model that included only those states that had enacted their laws prior to 1996, providing at least 6 years of follow-up data. Model fit was assessed by comparing deviance statistics with their asymptotic χ^2 distribution[19] and the Akaike information criterion statistic.[20]

Other Explanatory Variables

In addition to the firearm law variables, the models included indicator variables for each state, suicides for a within-state comparison group (individuals aged 22 to 24 years), per capita beer consumption, percentage of the population living in rural areas, real income per capita, unemployment rates, percentage of the adult population with a bachelors degree, percentage of the population of black race, the ratio of adult firearm suicides to total suicides as a proxy for the prevalence of gun ownership, and percentage of the population affiliated with specific religious denominations. The dummy variables for each state control for baseline differences in youth suicide levels across the 50 states (the District of Columbia was not included in our study). Because the state firearm policies of interest target a particular age group, we used within-state suicide rates among young persons aged 22 to 24 years who were not targeted by the law to control for difficult-to-measure social factors (eg, social norms regarding suicide) that influence suicide rates among young persons in a particular state and year. We used year dummy variables to control for national trends in suicides among youth but also estimated alternative models with linear trend parameters when such patterns were clearly evident.

Data on state population of youth aged 14 through 20 years[21-23] and the percentage of residents living in rural areas were obtained from the US Census.[24] Annual per capita beer consumption data based on beer sales were obtained from the Alcohol Epidemiologic Data System of the National Institute of Alcoholism and Alcohol Abuse.[25] Data on personal income, unemployment, educational attainment, and religious affiliation were provided by Markowitz et al,[26] who obtained the data from government and private sources.[27-29]

RESULTS

Youth-Focused Firearm Laws

As of 2001, federal law and the laws of 46 states have mandated a minimum age for the purchase of a handgun, with the age ranging from 14 to 21 years. Of these, 21 states enacted or changed their law during the study period. Federal law and the laws of 39 states mandated a minimum possession age, ranging from 15 to 21 years, with 29 states enacting or changing their law during the study period. Nearly all of these changes established 18 years as the minimum age for firearm possession. Only 3 states increased their minimum legal age for handgun possession to 21 years during the study period. Eighteen states had CAP laws as of 2001. The maximum age of youth covered by these CAP laws ranged from 13 to 17 years (TABLE 1). Only 3 states adopted permit-to-purchase firearms licensing systems during the study period.

Most law changes restricting the access of youth to firearms went into effect between 1990 and 1995. The federal law establishing 18 years as the minimum age for handgun purchase and possession went into effect in 1994. After Florida implemented the nation's first CAP law in late 1989, 14 more states followed suit before the end of 1995.

Suicide Trends Among Youth

There were 63954 suicides among youth aged 14 through 20 years during the 1976-2001 study period, 39655 (62%) of which were committed with firearms. Firearm suicide rates among youth aged 14 to 17 years increased steadily from 2.6 (per 100000 population) in 1976 to 5.7 in 1994, and then declined rapidly to 2.5 in 2001 (FIGURE). There were less-dramatic changes in firearm suicide rates among youth aged 18 through 20 years, except for a steep decrease from 9.6 in 1994 to 5.9 in 2001. There were no noteworthy trends in rates of nonfirearm suicides within the 2 age groups.

Association Between Firearm Laws and Suicides Among Youth Aged 14 to 17 Years

Our regression models for suicides among youth aged 14 to 17 years reveal no statistically significant association between suicide rates and laws setting minimum ages for firearm purchase or possession enacted at the state or federal level (TABLE 2). State CAP laws were associated with an 8.3% reduction in suicide rates (RR, 0.92; 95% confidence interval [CI], 0.86-0.98). In states with CAP laws, the annual suicide rate for youth aged 14 to 17 years was 5.97 per 100000 during the period in which these laws were in effect. Our model estimates that in the absence of these laws the expected rate would have been 6.51.

The reduction associated with CAP laws was observed for firearm suicides, which decreased an estimated 10.8% in response to the introduction of CAP laws (RR, 0.89; 95% CI, 0.83-0.96). There was no statistically significant association between CAP

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Table 1. State Firearm Laws Focused on Youth, 1976-2001

State	Minimum Purchase/Sale Age		Minimum Possession Age		CAP Law (Effective Date)
	Age, y	Change During Study Period (Effective Date)	Age, y	Change During Study Period (Effective Date)	
Federal law	18	No law to age 18 (09/19/94)	18	No law to age 18 (09/19/94)	NA
Alabama	18	NA	*	NA	NA
Alaska	16	No law to age 16 (09/14/92)	16	No law to age 16 (01/01/80)	NA
Arizona	18	NA	18	No law to age 18 (07/18/93)	NA
Arkansas	18	No law to age 18 (01/01/76)	18	No law to age 18 (03/17/89)	NA
California	18	NA	18	NA	Up to age 17 (01/01/92)
Colorado	18	No law to age 18 (09/13/93)	18	No law to age 18 (09/13/93)	NA
Connecticut	21	Age 18 to age 21 (10/01/95)	*	NA	Up to age 15 (10/01/90)
Delaware	21	Age 16 to age 21 (07/16/87)	18	No law to age 18 (07/15/94)	Up to age 17 (07/12/94)
Florida	18	NA	18	No law to age 18 (01/01/94)	Up to age 15 (10/01/89)
Georgia	18	Age 21 to age 18 (07/01/94)	18	No law to age 18 (07/01/94)	NA
Hawaii	21	Age 18 to age 21 (07/01/94)	*	NA	Up to age 15 (06/29/92)
Idaho	18	Age 16 to age 18 (07/01/94)	18	No law to age 18 (07/01/94)	NA
Illinois	21	NA	21	NA	Up to age 14 (01/01/00)
Indiana	18	Age 21 to age 18 (07/01/77)	18	No law to age 18 (07/01/94)	NA
Iowa	21	Age 18 to age 21 (01/01/79)	*	NA	Up to age 13 (04/05/90)
Kansas	18	NA	18	No law to age 18 (07/01/94)	NA
Kentucky	18	No law to age 18 (07/15/94)	18	No law to age 18 (07/15/94)	NA
Louisiana	18	NA	17	No law to age 17 (09/07/99)	NA
Maine	16	NA	*	NA	NA
Maryland	21	NA	21	No law to age 21 (10/01/96)	Up to age 15 (10/01/92)
Massachusetts	21	Age 18 to age 21 (10/21/98)	21	Age 18 to age 21 (10/21/98)	Up to age 17 (10/21/98)
Michigan	18	NA	18	No law to age 18 (03/28/91)	NA
Minnesota	18	NA	18	NA	Up to age 13 (08/01/93)
Mississippi	18	NA	18	No law to age 18 (07/01/94)	NA
Missouri	21	Age 18 to age 21 (09/28/81)	*	NA	NA
Montana	*	NA	*	NA	NA
Nebraska	21	Age 18 to age 21 (06/07/91)	18	NA	NA
Nevada	18	NA	18	Age 14 to age 18 (07/01/95)	Up to age 17 (10/01/91)
New Hampshire	18	NA	*	NA	Up to age 16 (01/01/01)
New Jersey	21	Age 18 to age 21 (01/01/01)	21	Age 18 to age 21 (01/01/01)	Up to age 15 (01/17/92)
New Mexico	*	NA	19	No law to age 19 (07/01/94)	NA
New York	21	No law to age 21 (11/01/00)	16	NA	NA
North Carolina	18	NA	18	No law to age 18 (09/01/93)	Up to age 17 (12/01/93)
North Dakota	18	Age 17 to age 18 (07/01/85)	18	Age 17 to age 18 (07/01/85)	NA
Ohio	21	Age 17 to age 21 (11/09/95)	*	NA	NA
Oklahoma	18	NA	18	No law to age 18 (07/01/94)	NA
Oregon	18	NA	18	No law to age 18 (01/01/90)	NA
Pennsylvania	18	NA	18	No law to age 18 (09/11/95)	NA
Rhode Island	21	NA	15	NA	Up to age 15 (06/19/95)
South Carolina	21	NA	21	NA	NA
South Dakota	*	NA	18	No law to age 18 (07/01/94)	NA
Tennessee	18	NA	18	No law to age 18 (07/01/94)	NA
Texas	18	NA	*	NA	Up to age 16 (09/01/95)
Utah	18	No law to age 18 (10/21/93)	18	NA	NA
Vermont	16	NA	16	NA	NA
Virginia	18	NA	18	No law to age 18 (07/01/93)	Up to age 13 (07/01/92)
Washington	18	Age 21 to age 18 (07/01/94)	18	No law to age 18 (07/01/94)	NA
West Virginia	18	No law to age 18 (07/08/89)	18	No law to age 18 (07/08/89)	NA
Wisconsin	18	NA	18	NA	Up to age 13 (04/16/92)
Wyoming	*	NA	*	NA	NA

Abbreviations: CAP, child access prevention; NA, not applicable/no change.

*Minimum age not established.

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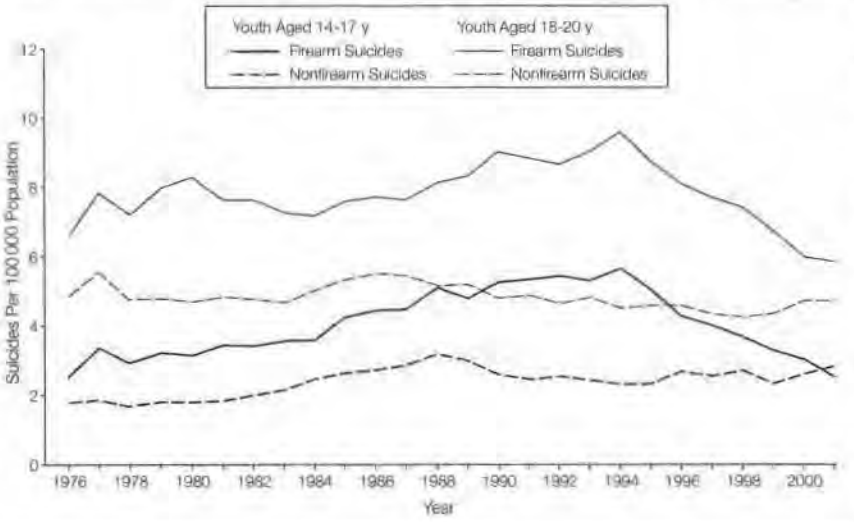
Figure. Youth Suicide Rates by Method and Age Group, United States, 1976-2001



laws and nonfirearm suicides among youth aged 14 to 17 years (RR, 1.00; 95% CI, 0.91-1.10). Estimates of the association between CAP laws and suicides among 14- to 17-year-olds were dependent on how national suicide trends were modeled. The estimates from the primary model noted above included separate linear-trend parameters for the 1976-1994 period of increasing suicide rates and for the 1995-2001 period of a downturn in rates. The trend parameters in this model were highly significant and, based on Akaike information criterion statistics, this model fit the data better than did a model that included year indicator variables. Models that assumed no overall pattern in youth suicide trends but that controlled for year-to-year fluctuations nationally with year indicator variables found no statistically significant association between CAP laws and suicide rates in the group aged 14 to 17 years. CAP law estimates did not vary substantially by whether violators could be charged with felony crimes or by the maximum age of youth targeted by the laws (data not shown).

The models used to estimate differences in suicide rates among youth aged 14 to 17 years in each of the 5 years before and after the adoption of a CAP law revealed no pattern of unmodeled differences between states with and those without CAP laws just prior to the adoption of these laws. When we examined the relationship between the length of time a CAP law was in place and the effects of the laws, there was also no clear pattern in successive post-law year effects on total suicide rates, but the association between CAP laws and firearm suicide rates for this group was most pronounced for the first year the law was in effect (RR, 0.89; 95% CI, 0.77-1.02).

There was no statistically significant association between permit-to-purchase licensing laws and suicide rates among youth aged 14 to 17 years (RR, 1.06; 95% CI, 0.92-1.23). Association between the laws and suicide rates among youth aged 14 to 17 years were not substantially altered when the suicide rate among 22- to 24-year-olds and other covariates were removed from the model.

Association Between Firearm Laws and Suicides Among Youth Aged 18 Through 20 Years

The model for total suicides among youth aged 18 through 20 years estimated that state laws that increased the legal age for handgun possession to 21 years during the study period were associated with a 12.9% increase in suicide rates (RR, 1.13; 95% CI, 1.01-1.27) (Table 2). This effect was not statistically significant, however, either for firearm suicides (RR, 1.14; 95% CI, 0.98-1.34) or nonfirearm suicides (RR, 1.07; 95% CI, 0.90-1.27). State laws raising the minimum legal purchase age to 21 years were associated with a 9.0% decline in rates of firearm suicides among youth aged 18 through 20 years (RR, 0.91; 95% CI, 0.83-1.00); however, there was no statistically significant association for overall suicide rates (RR, 0.97; 95% CI, 0.91-1.05).

State CAP laws were associated with an 11.1% decline in suicide rates among youth aged 18 through 20 years (RR, 0.89; 95% CI, 0.85-0.93). In this group, suicide reductions associated with CAP laws were similar for firearm suicides (–12.9%; RR, 0.87; 95% CI, 0.82-0.92) and nonfirearm suicides (–8.8%; RR, 0.91; 95% CI, 0.85-0.98). The 3 permit-to-purchase licensing laws were associated with a 17.7% increase in suicide rates (RR, 1.18; 95% CI, 1.04-1.34).

COMMENT

After steadily increasing between 1976 and 1994, rates of firearm suicides among youth have decreased sharply. Although many laws enacted during the early 1990s were intended to decrease access to firearms by children and youth, this study found no evidence that minimum-age restrictions for firearm purchase and possession have reduced suicide rates among the age groups targeted by the laws.

Our models estimate that 3 state laws that increased the minimum legal age for handgun possession to 21 years were associated with a 12.9% increase in total suicide risks among youth ages 18 through 20 years. There are several reasons, however, to doubt the validity of this estimate, including: (1) firearm and nonfirearm suicide rates were affected equally; (2) there was no increase in suicides among 14- to 17-year-olds associated with minimum possession age laws; (3) it is based on only 3 states, 2 of which adopted the change in the final 2 years of the study; and (4) the ab-

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sence of a theory for how an intervention designed to reduced access to means of suicide could lead to a substantial increase in suicide rates. Similarly, our findings for permit-to-purchase licensing laws should be regarded with skepticism since they are based on just 3 changes in state law occurring during the study period, none of which involved a very restrictive licensing scheme.

We did find convincing evidence that the 18 CAP laws adopted during the study period led to an 8.3% reduction in suicide rates among youth aged 14 to 17 years. As would be expected if these reductions were attributable to reduced access to firearms, the reductions were specific to suicides committed with firearms and to the age group principally targeted by CAP laws. We found no association between CAP laws and suicide rates among young persons aged 22 to 24 years. Our estimate of the association between CAP laws and firearm suicides (−10.8%; 95% CI, −18.4% to −3.7%) among youth aged 14

Table 2. Association Between Youth-Focused Firearm Laws and Suicides Among Youth Aged 14 to 17 Years and 18 Through 20 Years

	Aged 14 to 17 Years		Aged 18 Through 20 Years	
	RR (95% CI)	*P* Value	RR (95% CI)	*P* Value
Total Suicides				
Firearm laws				
Federal law				
Minimum purchase age	1.02 (0.91-1.14)	.72	NA	NA
Minimum possession age	0.98 (0.90-1.08)	.75	NA	NA
State laws				
Minimum purchase age	1.04 (0.90-1.21)	.58	0.97 (0.91-1.05)	.47
Minimum possession age	0.97 (0.90-1.05)	.44	1.13 (1.01-1.27)	.04
Child access prevention laws	0.92 (0.86-0.98)	.005	0.89 (0.85-0.93)	<.001
Permit to purchase laws	1.06 (0.92-1.23)	.43	1.18 (1.04-1.34)	.01
Other covariates				
Linear time trend, 1976-1994	1.10 (1.07-1.12)	<.001	NA	NA
Linear time trend, 1995-2001	0.95 (0.93-0.98)	<.001	NA	NA
Per capita beer consumption	0.99 (0.99-1.00)	.10	1.00 (0.99-1.01)	.27
Population living in rural areas	0.99 (0.98-1.01)	.37	1.00 (0.99-1.01)	.50
Unemployment	1.00 (0.99-1.00)	.48	1.01 (1.00-1.02)	.12
Real per capita income	1.00 (1.00-1.00)	.22	1.00 (1.00-1.00)	.85
Adult population with bachelors degree	0.99 (0.98-1.00)	.08	1.00 (0.99-1.01)	.78
Religious affiliation				
Southern Baptist	1.04 (1.00-1.07)	.01	1.01 (0.98-1.03)	.57
Other Protestant	1.01 (0.99-1.02)	.37	0.99 (0.98-1.00)	.16
Mormon	1.12 (1.05-1.18)	<.001	1.04 (0.98-1.09)	.17
Catholic	0.98 (0.97-1.00)	.006	0.98 (0.98-0.99)	.002
Proxy for adult firearm prevalence	0.41 (0.26-0.64)	<.001	0.46 (0.32-0.65)	<.001
Suicide rates among ages 22-24 y	1.01 (1.00-1.01)	.002	1.01 (1.00-1.01)	.002
Firearm Suicides				
Federal law				
Minimum purchase age	1.00 (0.87-1.16)	.96	NA	NA
Minimum possession age	0.99 (0.89-1.09)	.80	NA	NA
State laws				
Minimum purchase age	1.04 (0.87-1.16)	.66	0.91 (0.83-1.00)	.05
Minimum possession age	1.02 (0.92-1.12)	.77	1.14 (0.98-1.34)	.10
Child access prevention laws	0.89 (0.83-0.96)	.003	0.87 (0.82-0.92)	<.001
Permit to purchase laws	0.92 (0.76-1.10)	.33	1.22 (1.04-1.43)	.02
Nonfirearm Suicides				
Federal law				
Minimum purchase age	1.08 (0.91-1.28)	.40	NA	NA
Minimum possession age	1.12 (0.99-1.26)	.08	NA	NA
State laws				
Minimum purchase age	1.05 (0.85-1.31)	.64	1.05 (0.94-1.17)	.37
Minimum possession age	0.93 (0.82-1.05)	.24	1.07 (0.90-1.27)	.44
Child access prevention laws	1.00 (0.91-1.10)	.95	0.91 (0.85-0.98)	.02
Permit to purchase laws	1.27 (1.00-1.61)	.047	1.14 (0.93-1.39)	.21

Abbreviations: CI, confidence interval; NA, not applicable; RR, rate ratio.

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to 17 years is consistent with, though smaller in magnitude than, the estimate of Cummings et al[10] of the association between CAP laws and firearm suicides among adolescents younger than 15 years (−19.0%; 95% CI, −34.0% to +1.0%). CAP laws were also associated with statistically significant declines in suicide rates among those in the group aged 18 through 20 years. However, the statistically significant negative association between CAP laws and rates of suicide using means other than firearms casts doubt on any causal connection between the laws and lower suicide rates in this group of older youth.

Some may question whether the reductions in youth suicides that were associated with CAP laws in this study might be spurious, since many in the group aged 14 to 17 years were older than the maximum age required for safe firearm storage. However, many older youth have younger siblings, relatives, or friends that may prompt their parents to comply with CAP law requirements. In addition, CAP laws may encourage gun owners with children young enough to be covered by the law to adopt safe storage practices that endure even after their children are beyond the age required for safe firearms storage under the law. Finally, gun owners simply may not respond to very specific aspects of a CAP law in order to be in compliance. Instead, CAP laws may increase awareness and change social norms to encourage gun owners to secure firearms from underage youth. These interpretations are consistent with our finding that the ages covered by the CAP law were unrelated to the association between CAP laws and suicides among youth.

There are several reasons that CAP laws might be more effective than minimum-age restrictions for firearm purchases and possession in reducing suicides among youth. First, a large majority of youth who commit or attempt suicide with a firearm use guns owned by their parents or relatives.[30,31] Second, the adopted restrictions on minimum purchase age did not affect the handgun sales practices required of licensed firearm dealers. Since 1968, federal law has prohibited licensed dealers from selling handguns to individuals younger than 21 years. In addition, there is little evidence that laws governing sales by those who are not dealers are vigorously enforced in most states[32] (Frattaroli S, unpublished doctoral dissertation, 1999; on file with the authors).

Thus, it is important to recognize that our study is not a test of the relationship between firearm availability and risk of suicide among youth. Our results for minimum purchase-age and possession-age laws suggest that these laws have not substantially reduced the availability of firearms to youth at risk for suicide. Therefore, our results are not necessarily inconsistent with prior research, such as findings from Wintemute et al[33] that adult handgun purchasers were at higher risk for suicide, even 6 years after purchase. If a youth's risk of suicide were greatest several years after he or she had acquired a firearm, we may have underestimated the full effect of these laws. But when we limited the analysis to state laws enacted through 1995—providing at least 6 years of follow-up data for the remaining 45 states—we still identified no significant effects for these laws.

As with prior studies of CAP laws, we were unable to directly measure whether these laws resulted in actual changes in firearm storage practices. Nevertheless, our weapon-specific estimates of the effects of CAP laws suggest that these laws did limit the access that youth have to firearms.

This study does not examine the full range of potential effects of CAP laws. Lott and Whitley[11] report that CAP laws were associated with increases in rapes (9%) and robberies (10%), presumably because firearms kept in locked storage are potentially less available for self-defense. Their findings are questionable because the vast majority of these crimes take place outside the home[34] and firearms are very rarely used for self-defense.[35]

Our study also does not consider the potential role that laws restricting the access of youth to firearms might have in reducing unintentional shootings or homicides. Two prior studies of the association between CAP laws and deaths among children younger than 15 years from unintentional shootings, with similar methods but over different time periods, produced similar estimates of aggregate effect (−23% and −17%).[10,36] However, one of these studies[36] found that the aggregate benefits were largely driven by a single state law (Florida). Marvel[9] found no evidence that laws prohibiting possession of firearms by juveniles were associated with youth being killed by guns or with their use of guns to commit homicide.

The reductions in suicides associated with CAP laws are relatively modest in terms of percentage change. However, because the laws target an important risk factor, a high-risk group, and a leading cause of death, the public health significance of the laws is meaningful. Assuming that the observed association is causal, we estimate that the 18 CAP laws implemented prior to 2002 have prevented 333 suicides among youth aged 14 to 17 years from the time that Florida implemented the nation's first CAP law (October 1989) through 2001. In 2001 alone, we estimate that there were 35 fewer suicides among this group in the 18 states with CAP laws than would have been expected without the laws. These benefits have been obtained with very modest levels of publicity and enforcement. Increased efforts to encourage compliance with CAP laws have the potential to enhance their effectiveness in preventing deaths and injuries resulting from unsupervised access of youth to firearms.

Further research is needed to ascertain what factors have contributed to the recent decline in firearm suicides among youth in the United States. The timing of the decline is coincident with the adoption of several laws designed to reduce youth access to firearms, yet the only evidence we found that these laws are responsible for reductions in suicides among youth was a modest reduction associated with CAP laws. The

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passage of many youth-focused firearm restrictions during the early 1990s may have been associated with broader changes in those social norms that involve allowing youth access to firearms—norms that affect states both with and without recent changes to their firearm laws. If the passage of laws restricting youth access to firearms influenced norms and practices both within and outside the states that adopted the laws, our estimates would understate the effect of these laws on suicide rates among youth.

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Study concept and design; drafting of the manuscript; obtained funding: Webster, Vernick.
Acquisition of data; critical revision of the manuscript for important intellectual content; administrative, technical, or material support: Vernick, Manganello, Zeoli.
Analysis and interpretation of data: Webster, Vernick, Manganello, Zeoli.
Statistical analysis; study supervision: Webster.
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REFERENCES

1. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Web-based Injury Statistics and Query Reporting System. Available at: http://www.cdc.gov/ncipc/wisqars. Accessed December 17, 2003.
2. Shenassa ED, Catlin SN, Buka SL. Lethality of firearms relative to other suicide methods: a population based study. *J Epidemiol Community Health*. 2003; 57:120-124.
3. Brent DA, Perper JA, Moritz G, Baugher M, Schweers J, Roth C. Firearms and adolescent suicide: a community case-control study. *AJDC*. 1993;147:1066-1071.
4. Brent DA, Perper J, Moritz G, et al. Suicide in adolescents with no apparent psychopathology. *J Am Acad Child Adolesc Psychiatry*. 1993;32:494-500.
5. Kellermann AL, Rivara FP, Rushforth NB, et al. Suicide in the home in relationship to gun ownership. *N Engl J Med*. 1992;327:467-472.
6. Brent DA, Perper JA, Allman CJ, et al. The presence and accessibility of firearms in the homes of adolescent suicides: a case-control study. *JAMA*. 1991; 266:2989-2995.
7. Brent DA, Perper JA, Goldstein CE, et al. Risk factors for adolescent suicide: a comparison of adolescent suicide victims with suicidal inpatients. *Arch Gen Psychiatry*. 1988;45:581-588.
8. Miller M, Azrael D, Hemenway D. Household firearm ownership and suicide in the United States. *Epidemiology*. 2002;13:517-524.
9. Marvel TB. The impact of banning juvenile gun possession. *J Law Econ*. 2001;44:691-713.
10. Cummings P, Grossman DC, Rivara FP, Koepsell TD. State gun safe storage laws and child mortality due to firearms. *JAMA*. 1997;278:1084-1086.
11. Lott JR Jr, Whitley JE. Safe storage gun laws: accidental deaths, suicides, and crime. *J Law Econ*. 2001; 44:6596-6689.
12. Greene WH. *Econometric Analyses*. 5th ed. Upper Saddle River, NJ: Prentice Hall; 2003:768-771.
13. World Health Organization (WHO). *Manual of the International Statistical Classification of Diseases, Injuries, and Causes of Death*. Geneva, Switzerland: WHO; 1977.
14. World Health Organization (WHO). *International Statistical Classification of Diseases and Related Health Problems*. Geneva, Switzerland: WHO; 1992.
15. Bureau of Alcohol, Tobacco and Firearms. *State Laws and Published Ordinances—Firearms*. Washington, DC: US Dept of the Treasury; 1988, 1994, 1998, 2000.
16. Lawless JE. Negative binomial and mixed Poisson regression. *Can J Stat*. 1987;15:209-225.
17. Liang KY, Zeger SL. Longitudinal data analysis using generalized linear models. *Biometrika*. 1986;73: 13-22.
18. Bertrand M, Duflo E, Mullainathan S. How much should we trust differences-in-differences estimates? *Q J Econ*. 2004:249-275.
19. Williams DA. Generalized linear model diagnostics using the deviance and single case deletions. *Appl Stat*. 1987;36:181-191.
20. Akaike H. A new look at the statistical model identification. *IEEE Trans Automatic Control*. 1974;19: 716-723.
21. US Census Bureau. Intercensal Estimates of the Resident Populations of States 1970 to 1980. US Dept of Commerce, 2002. Available at: http://eire.census.gov/popest/archives/pre1980/e7080sta.txt. Accessed October 1, 2003.
22. US Census Bureau. Historical Annual Time Series of State Population Estimates and Demographic Components of Change 1980 to 1990, by Single Year of Age and Sex. US Dept of Commerce, 2002. Available at: http://eire.census.gov/popest/archives/state/st_stig.php. Accessed October 1, 2003.
23. US Census Bureau. Population Estimates: 1990 to 1999 Annual Time Series of State Population Estimates, by Single Year of Age and Sex. US Dept of Commerce, 2002. Available at: http://eire.census.gov/popest/archives/state/st-99-10.php. Accessed October 1, 2003.
24. US Census Bureau. *Statistical Abstract of the United States*. Washington, DC: US Dept of Commerce; 1977-2002.
25. Nephew TM, Williams GD, Yi H, Hoy AK, Stinson FS, Dufour MC. *Apparent Per Capita Alcohol Consumption: National, State, and Regional Trends, 1977-2000*. Bethesda, Md: National Institute on Alcohol Abuse and Alcoholism, Division of Biometry and Epidemiology, Alcohol Epidemiologic Data System; August 2003.
26. Markowitz S, Chatterji P, Kaestner R. Estimating the impact of alcohol policies on youth suicides. *J Ment Health Policy Econ*. 2003;6:37-46.
27. Bureau of Economic Analysis. *State Personal Income, 1929-2002* [database on CD-ROM]. Washington, DC: US Dept of Commerce; 2004.
28. Bureau of Labor Statistics. Historical data from the Current Population Survey. Washington, DC: US Department of Labor, 2003. Available at: http://www.bls.gov/lau/staadoc.htm. Accessed June 29, 2004.
29. Jones DE, Doty S, Horsch JE, et al. *Religious Congregations and Membership in the United States, 2000: An Enumeration by Region, State, and County Based on Data Reported by 149 Religious Bodies*. Nashville, Tenn: Glenmary Research Center; 2002.
30. Shah S, Hoffman RE, Wake L, Marine WM. Adolescent suicide and household access to firearms in Colorado: results of a case-control study. *J Adolesc Health*. 2000;26:157-163.
31. Grossman DC, Reay DT, Baker SA. Self-inflicted and unintentional firearm injuries among children and adolescents: the source of the firearm. *Arch Pediatr Adolesc Med*. 1999;153:875-878.
32. Vernick JS, Hepburn LM. State and federal gun laws: trends for 1970-99. In: Ludwig J, Cook PJ, eds. *Evaluating Gun Policy*. Washington, DC: Brookings Institution Press; 2003.
33. Wintemute GJ, Parham CA, Beaumont JJ, Wright M, Drake C. Mortality among recent purchasers of handguns. *N Engl J Med*. 1999;341:1583-1589.
34. Bureau of Justice Statistics. *Criminal Victimization in the United States, 2002: Statistical Tables*. Washington, DC: US Department of Justice; December 2003. Bureau of Justice Statistics Special Report NCJ 200561.
35. Perkins C. *Weapon Use and Violent Crime: National Crime Victimization Survey 1993-2001*. Washington, DC: US Dept of Justice; September 2003. Bureau of Justice Statistics Special Report NCJ 194820.
36. Webster DW, Starnes M. Reexamining the association between child access prevention gun laws and unintentional firearm deaths of children. *Pediatrics*. 2000;106:1466-1469.

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dividuals already infected with HIV should thus continue vigilant personal protection through safe-sex practices or clean needle use for injection drugs, even if their risk exposures are with other HIV-infected people.

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1. Allen T, Altfeld M. HIV superinfection. *J Allergy Clin Immunol*. 2003;112:829-835.
2. Koelsch KK, Smith DM, Little SJ, et al. Clade B HIV-1 superinfection with wild-type virus after infection with drug resistant clade B virus. *AIDS*. 2003;17:F11-F16.
3. Smith DM, Wong JK, Hightower GK, et al. The clinical consequences of HIV superinfection. Presented at: XV International AIDS Conference; July 11-16, 2004; Bangkok, Thailand.
4. Gonzales MJ, Delwart E, Rhee SY, et al. Lack of detectable human immunodeficiency virus type 1 superinfection during 1072 person-years of observation. *J Infect Dis*. 2003;188:397-405.
5. Watanabe ME. Skeptical scientists skewer VaxGen statistics. *Nat Med*. 2003;9:376.
6. Lyles RH, Munoz A, Yamashita TE, et al, Multicenter AIDS Cohort Study. Natural history of human immunodeficiency virus type 1 viremia after seroconversion and proximal to AIDS in a large cohort of homosexual men. *J Infect Dis*. 2000;181:872-880.

CORRECTIONS

Incorrect Dosages: In the Original Contribution entitled "Safety and Efficacy of Enoxaparin vs Unfractionated Heparin in Patients With Non–ST-Segment Elevation Acute Coronary Syndromes Who Receive Tirofiban and Aspirin: A Randomized Controlled Trial" published in the July 7, 2004, issue of *JAMA* (2004;292:55-64), there were 2 incorrect dosages on page 56. At the bottom of column 2, the sentence should read, "The dosing regimen for tirofiban in the A to Z trial was a hybrid between the previously proven ACS and percutaneous coronary intervention dosing regimens: a bolus of 10 µg/kg over 3 minutes, followed by a maintenance infusion of 0.1 µg/kg per minute for a suggested minimum of 48 hours (or a minimum of 12 hours after intervention) and a maximum of 120 hours.[9,13]"

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EXHIBIT "8"

THE IMPACT OF BANNING JUVENILE GUN POSSESSION

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Abstract

A 1994 federal law bans possession of handguns by persons under 18 years of age. Also in 1994, 11 states passed their own juvenile gun possession bans. Eighteen states had previously passed bans, 15 of them between 1975 and 1993. These laws were intended to reduce homicides, but arguments can be made that they have no effect on or that they even increase the homicide rate. This paper estimates the laws' impacts on various crime measures, primarily juvenile gun homicide victimizations and suicide, using a fixed-effects research design with state-level data for at least 19 years. The analysis compares impacts on gun versus nongun homicides and gun versus nongun suicides. Even with many different crime measures and regression specifications, there is scant evidence that the laws have the intended effect of reducing gun homicides.

I. Introduction

Guns are the second leading cause of death in the United States among youths ages 10–24, and the firearm death rate for U.S. minors is 12 times the average for other industrialized countries.[1] Gun murders of and by juveniles roughly doubled between 1985 and 1992, while the number of nongun murders remained stable.[2] Consequently, governments have attempted to get guns out of the hands of juveniles. The federal government and probably all states have long prohibited gun sales to minors.[3] Later laws, the subject of this study, go further and prohibit possession of guns by juveniles (aimed at, presumably, guns that were originally purchased by adults). States passed such laws with increasing frequency in the 1980s and early 1990s, and Title XI of the Federal Crime Control and Law Enforcement Act of 1994 made the ban effective nationwide on September 13, 1994.

Table 1 lists 34 state laws that ban juvenile gun possession, along with their effective dates (the laws only apply to violations on or after the

[1] Susan DeFrancesco, Children and Guns, 29 Pace L. Rev. 275 (1999).

[2] James A. Fox & Marianne W. Zawitz, Homicide Trends in the United States (2000).

[3] Jens Ludwig, Concealed-Gun-Carrying Laws and Violent Crime: Evidence from State Panel Data, 18 Int'l Rev. L. & Econ. 239 (1998).

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TABLE 1

LAWS BANNING JUVENILE HANDGUN POSSESSON

	Under Age of	Brief Citation	Effective Date
Federal	18	18-922(x)	September 13, 1994
Alaska[a]	16	11.61.220	January 1, 1980
Arizona[a,b]	18	13-3111	July 18, 1993
Arkansas[a,b]	18	5-73-119	July 4, 1989
California[a]	18	Penal 12101	January 1, 1989
Colorado[a]	18	18-12-108.5	September 13, 1993
Delaware	18	11-1448	July 15, 1994
Florida	18	790.22	January 1, 1994
Georgia[b]	18	16-11-132	July 1, 1994
Idaho[b]	18	18-3302F	July 1, 1994
Illinois	18	720-5/24-3	pre-1970
Indiana	18	35-47-10-5	July 1, 1994
Kansas[b]	18	21-4204a	July 1, 1994
Kentucky[b]	18	527.100	July 15, 1994
Michigan[a]	18	750.234f	March 28, 1991
Minnesota[a]	18	624.713	August 1, 1975
Mississippi[b]	18	97-37-14	July 1, 1994
Nebraska[a]	18	28-1204	July 1, 1978
Nevada[b,c]	18	202.300	July 1, 1995
New Jersey[a]	18	2C:58-6.1	June 27, 1980
New York[a]	16	265.05	September 1, 1974
North Carolina[a,b]	18	14-269.7	September 1, 1993
North Dakota[a,b]	18	62.1-02-01	July 1, 1985
Oklahoma[a,b]	18	21-1273	June 7, 1993
Oregon[a]	18	166.250	January 1, 1990
Rhode Island[b]	15	11-47-33	pre-1970
South Carolina[b]	21	16-23-30	pre-1970
South Dakota[b]	18	23-7-44	July 1, 1994
Tennessee	18	39-17-1319	July 1, 1994
Utah[a]	18	76-10-509	October 21, 1993
Vermont[b]	16	13-4008	pre-1970
Virginia[a]	18	18.2-308.7	July 1, 1993
Washington[b]	21	9.41.040	July 1, 1994
West Virginia[a,b]	18	61-7-8	July 9, 1989
Wisconsin	18	948.60	pre-1970

NOTE.—Sixteen states do not have bans. Ten are Brady Act states (Alabama, Louisiana, Maine, Montana, New Hampshire, New Mexico, Ohio, Pennsylvania, Texas, and Wyoming), and six are non–Brady Act states (Connecticut, Hawaii, Iowa, Maryland, Massachusetts, and Missouri).

[a] States with laws effective 1974–93.

[b] Brady Act states. (Federal waiting periods and background checks apply in 1994 because these states did not have preexisting laws.)

[c] A pre-1970 Nevada law applied to persons under 14.

effective dates). This information was obtained through research into state statutory compilations and session laws, and it was checked against two other surveys.[4]

[4] Gwen A. Holden, *et al*., Compilation of State Firearm Codes that Affect Juveniles (1994); Bureau of Alcohol, Tobacco and Firearms, Firearms State Laws and Published Ordinances (20th ed. 1994) (hereafter referred to as ATF).

The federal law, as well as the typical state law, makes it a misdemeanor for a person under 18 (21 in two states) to possess a handgun, with several exceptions, such as hunting or target shooting with the permission of a parent. Many state laws also ban possession of rifles and other deadly weapons by juveniles. As of 1994, five state bans applied only to persons younger than 15 or 16 (Table 1). These are not counted as juvenile gun ban laws for the purpose of this study because children that young seldom commit homicide.[5] Among the states that did not enact juvenile gun possession bans, Massachusetts and New York have strict general gun possession laws,[6] and lawmakers there might have believed that special laws for juveniles were unnecessary. The federal law also makes it illegal for a person to provide a minor with a handgun. Most states have similar laws, some enacted with the possession ban and some before the ban.

The issue addressed in this article is whether the juvenile gun possession bans have the effect of reducing gun homicides, especially of juveniles. The assumption behind the laws is that the bans reduce the number of juveniles who have guns and, thus, the number who use guns.[7] The impact on crime might be limited because existing laws prohibited juveniles from purchasing guns, carrying concealed handguns, and possessing guns if they have been convicted of a felony.[8] Thus, the question is whether crime rates are affected by a change from a situation where juveniles can possess guns, but cannot legally purchase or conceal them, to a situation where they can possess guns only with adult monitoring. Perhaps the major practical impact is creating disincentives to keeping guns at home. The laws might add an additional incentive for juveniles not to carry concealed weapons or purchase weapons since it adds a second charge when prosecuted, a charge that can be prosecuted in federal court.

An initial consideration is whether the bans increase the expected cost to juveniles for possessing guns, which largely determines whether the ban can have any effect.[9] The costs include confiscation of the weapon, informal sanctions applied by such persons as relatives, juvenile officers, and prose-

[5] See Terry Allen & Glen Buckner, A Graphical Approach to Analyzing Relationships between Offenders and Victims Using *Supplementary Homicide Reports*, 1 Homicide Stud. 129 (1997); and Michael D. Maltz, Visualizing Homicide: A Research Note, 14 J. Quantitative Criminology 397 (1998).

[6] ATF, *supra* note 4.

[7] There apparently is no statement that this is the actual intent of juvenile gun bans. The legislative history of the federal ban consists of justifications for federal action under the Commerce Clause of the U.S. Constitution; that is, guns and drug markets are interrelated and cross state lines. See Steven Rosenberg, Just Another Kid with a Gun? *United States v. Michael R.*: Reviewing the Youth Handgun Safety Act under the *United States v. Lopez* Commerce Clause Analysis, 28 Golden Gate Univ. L. Rev. 51 (1998).

[8] ATF, *supra* note 4.

[9] See Philip J. Cook & James A. Leitzel, "Perversity, Futility, Jeopardy": An Economic Analysis of the Attack on Gun Control, 59 Law & Contemp. Probs. 91 (1996).

cutors, and conviction and sentencing by courts. These costs are more likely to occur with greater efforts to uncover and report juveniles' gun possession. Information on all these topics is lacking, so it is impossible at this point to hypothesize whether the laws have much impact.

Assuming that possession actually entails a cost, there are many mechanisms by which the bans might affect the actual use of guns and, thus, crime rates. The most obvious is that juveniles who do not possess guns are less likely to carry guns and thus less likely to use them during crimes or altercations. If they do not possess guns, juveniles are less likely to retrieve them in the middle of a dispute or to use them later in retaliation. The bans can disrupt gun markets among juveniles because the law increases the costs of carrying gun inventories.

On the other hand, the gun bans might increase crime against young persons because criminals might consider them less risky targets.[10] A criminal contemplating robbery or assault probably takes into consideration the likelihood that potential victims are armed and likely to defend themselves. If the potential victim appears to be under 18 years old, after a ban goes into effect, an aggressor might believe that armed resistance is less likely because of the juvenile gun possession ban. As discussed earlier, the possession bans do not make it any more illegal to carry a concealed handgun, but, again, the juvenile is less likely to have a handgun available if possession is less likely. The ban also can make aggression more likely because the aggressor is less concerned that the victim will retaliate by retrieving a gun.

An additional indicator of the impact of the juvenile gun possession bans is whether they reduce gun suicide by juveniles. There is a close relationship over time between the percentages of juvenile suicides and homicides by gun.[11] One would expect that the choice of whether to use a gun in suicide depends largely on whether a gun is readily available. Although possession is only one of several factors suggesting availability, if the laws reduce possession, they should reduce gun suicides.

Preliminary indications of the likely impact can be seen in trends for gun homicide victimization for persons 15–19 years old, which is a group likely to be affected by the ban if it has an impact. Figure 1 plots the trends for the percentage of homicide victims who were killed by guns (since the number of nongun homicides changed little over time, the lines in Figure 1 also approximate trends in the number of gun homicides). This percentage rose from about 65 percent in the first half of the 1980s to 86 percent in 1992, leveled off for 2 years, and then declined modestly. The leveling off occurred when more and more states were enacting juvenile gun possession

[10] For example, John R. Lott, Jr., & David B. Mustard, Crime, Deterrence, and Right-to-Carry Concealed Handguns, 26 J. Legal Stud. 1 (1997).

[11] Alfred Blumstein & Daniel Cork, Linking Gun Availability to Youth Gun Violence, 59 Law & Contemp. Probs. 5 (1996).

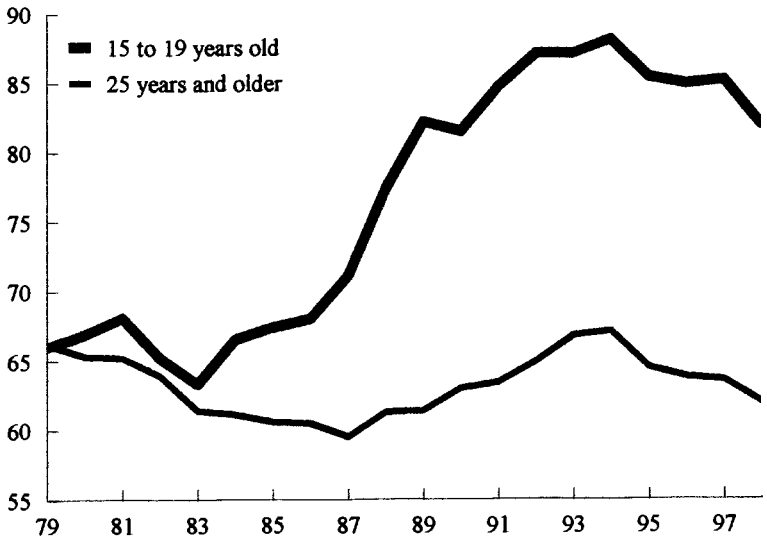

FIGURE 1.—Percent of homicides with guns

bans, and the decline occurred right after the substantial lawmaking activity in 1994, when most states first became covered by the ban (Table 1). At first glance, the trends suggest that the laws have the desired effect of reducing gun homicides. However, this impression disappears when one looks at trends in adult crimes; the post-1994 drop in percentage of homicides with guns occurred here as well. The initial impression from Figure 1 that the laws reduce gun homicide is probably only a reflection of general trends in homicides.[12]

The purpose of this paper is to explore this relationship with more elaborate data and analysis than are illustrated in Figure 1. The next section describes the methodology, which is a state-level multiple time-series regression that

[12] Commentators have given many reasons for the decline in murder and other crimes in the 1990s. I argue that it is due to the incapacitation impact of rising prison populations and the slackening of the crack era. Thomas B. Marvell & Carlisle E. Moody, The Impact of Out-of-State Prison Population on State Homicide Rates: Displacement and Free-Rider Effects, 36 Criminology 513 (1998); Thomas B. Marvell & Carlisle E. Moody, Female and Male Homicide Victimization Rates: Comparing Trends and Regressors, 37 Criminology 879 (1999). Other suggested causes include the legalization of abortion in the 1970s (John J. Donohue III & Steven D. Levitt, The Impact of Legalized Abortion on Crime, 116 Q. J. Econ. 379 (2001)) and better police practices (Malcolm Gladwell, The Tipping Point: How Little Things Can Make a Big Difference (2000)).

compares the impacts of the laws on different homicide categories. The third section describes the variables, and the fourth gives the results, which are that there is no evidence that the juvenile gun possession bans, taken as a whole, reduce gun homicides or total homicides.

II. Methodology

The multiple time-series regression has become a common tool to estimate the impact of legal changes, and the methods are continually improving.[13] The regressions here encompass 45–50 states and 18–29 years, depending on the dependent variable, using the standard fixed-effects procedure. The regressions are weighted by population when the dependent variable is homicide and by lesser amounts (varying from population to the .3 power to population to the .7 power) for other crimes as determined by the Bruesch-Pagan test.[14] Weighting is necessary because crime rates vary over time more in small states, and weights are greater in homicide equations because homicides are less frequent events; so the discrepancy between variation in small and large states is especially large. The data start in 1970 because several control variables lack data for earlier years. The last year with available data is 1998 or 1999, depending on the series. The analysis, therefore, includes at least 4 full years of experience under each law. The main dependent variables are homicide victimizations for various age groups, and I use a sizeable number of other crime measures for robustness checks. The gun possession bans are represented by dummy variables.

The basic procedure is strengthened by comparing the estimated impacts of the laws on crimes that one would expect to be affected the most by the laws to the impacts on crimes less likely to be affected. The analysis, for example, compares the coefficients on the law dummies when gun homicides are the dependent variable with coefficients with nongun homicides. This helps control for missing variables that are not otherwise controlled for by the elaborate control mechanism possible with the multiple time-series design, as discussed below. The comparison is done with the STEST option in the SYSLIN procedure in SAS,[15] which tests whether differences between co-

[13] For example, Lott & Mustard, *supra* note 10; Thomas B. Marvell & Carlisle E. Moody, Determinate Sentencing and Abolishing Parole: The Long-Term Impacts on Prisons and Crime, 34 Criminology 107 (1996).

[14] William H. Greene, Econometric Analysis 394–95 (2d ed. 1993).

[15] SAS Institute, SAS/ETS User's Guide, Version 6 (2d ed. 1993). Using the multiple time-series procedure with dummy variables to evaluate the impact of laws or other impacts is the same as the difference-on-difference procedure (Jeffrey M. Wooldridge, Introductory Economics: A Modern Approach (2000)), but it has the benefit that one can set dummies at the effective date of each law that went into effect during the period when data are available, as opposed to setting a uniform date for all laws. Also, using an *F*-test to compare coefficients is an improvement on the difference-on-difference-on-difference procedure, whereby the impact of the law change on a crime type that is expected to be affected by the law is compared with the impact on a crime having no expected impact (for example, Ludwig, *supra* note 3). The

efficients on an independent variable used in separate regressions are statistically significant.

III. Dependent Variables[16]

Most dependent variables are gun homicide victimization rates for various age groups and homicide offending rates by juveniles. When juveniles commit homicide, the victims are overwhelmingly persons of the same age or slightly older,[17] so measures of gun homicide victimization are for persons in their late teens and early twenties. Alternate specifications use measures of juvenile homicide offending and general crime rate variables. All crimes are expressed as rates, divided by 100,000 persons in the age group in question. The numerous variables are best described in outline form.

A. Victimization (*Homicide and Suicide*)

1. The primary victimization data are from the Centers for Disease Control and Prevention Internet site, where state-level mortality data are available for 1979–98. In addition, earlier total homicide and gun homicide data were obtained from published mortality tables.[18] The four types of data, and the years available, are the following:
   a. Gun and nongun homicide victims, ages 15–19 (1979–98).
   b. Gun and nongun homicide victims, ages 15–24 (1979–98).
   c. Gun and nongun homicide victims of all ages (1968–98).
   d. Gun and nongun suicide victims, ages 15-19 (1979–98).

2. Additional juvenile victimization data, compiled by James A. Fox in January 2001, were obtained from the Bureau of Justice Statistics (BJS) Internet site. Data are not used for five states for which observations are missing for more than 2 years (Florida, Iowa, Kansas, Maine, and Montana):
   a. Homicide victims, ages 14–17 (1976–99).
   b. Homicide victims, ages 14–24 (1976–99).

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separate regressions mean that the two types of crime are allowed to have their own coefficients on the control variables, and again we need not set law dummies at the same year.

[16] The data set and basic programs used here are available from the author at marvell@cox.net or at http://www.mmarvell.com/justec.html.

[17] Allen & Buckner, *supra* note 5; Maltz, *supra* note 5.

[18] Data are from National Center for Health Statistics, Vital Statistics of the United States 1978 (1982), and earlier versions. All the homicide data exclude legal homicides (executions and police killings).

B. Offending and Reported Crime

Homicide arrests for the following two categories were also prepared by James A. Fox and placed on the BJS Internet site:

1. Homicide offending ages 14–17 (1976–99).
2. Homicide offending ages 14–24 (1976–99).

Finally, we use the seven Uniform Crime Report (UCR) categories (homicide, rape, robbery, assault, burglary, larceny, and auto theft) with data from 1968–99.

C. Issues Pertaining to Homicide and Suicide Data

Small states often have no juvenile homicides in any given year. Because this theoretically creates problems with regression analysis, I have dropped states from a given analysis if the dependent variable is zero for more than 2 years. The states that were dropped, which number up to 16, are listed in the tables along with the regression results. In the parallel SYSLIN regressions, the state is dropped when data are missing for either dependent variable. For the remaining zero values (that is, one or two such zeros in a state), the number of homicides is set at .1 before logging (or for the Fox data sets, the homicide rate is set at .1). Coefficients on aggregate law variables change little when all states are included (because the regressions are weighted by population), but coefficients for individual state law dummies are erratic in states with many zero homicide years.

The juvenile homicide offending rates, because they are based on arrests, are probably overstated in relation to victimization rates and offending rates for older age groups because juveniles are less likely to escape arrest.[19]

We have no measure of gun homicides committed by juveniles, although that is the immediate target of the law, because data at the state level are very incomplete and erratic. As a practical matter, however, the measure of total juvenile homicide offending serves nearly the same purpose because the variation in homicide rates is largely due to variations in gun homicide rates.[20] Also, for policy purposes, victimization is more important than offending because the overriding purpose of the laws is to reduce harm, and any impact on offending is simply the means to achieve that purpose.

[19] Howard N. Snyder, The Overrepresentation of Juvenile Crime Proportions in Robbery Clearance Statistics, 15 J. Quantitative Criminology 151 (1999); Thomas B. Marvell & Carlisle E. Moody, Age Structure and Crime Rates: The Conflicting Evidence, 7 J. Quantitative Criminology 237 (1991).

[20] Fox & Zawitz, *supra* note 2.

IV. Independent Variables

A. Juvenile Gun Bans

The key independent variables, of course, are those representing laws that ban juvenile gun possession, as listed in Table 1. After the year the law went into effect, the law variable is one. During that year, it is a decimal representing the portion of the year the law was in effect. The states are divided into three groups (Table 1): (1) 15 states that passed laws in 1975–93, (2) 11 states that passed laws in 1994, and (3) 21 states without laws by 1994 (the remaining three states had laws before 1970).[21] Again, laws banning possession only for those under 15 or 16 are ignored. In the second group, the state laws went into effect only a few months before the federal law, so that dummy variables cannot separate their impact from that of the federal law. The main difference between the second and third groups is that the latter is affected only by the federal law, typically enforced only in the federal courts, whereas in the second group enforcement is possible in both state and federal courts. These 11 states received a double dose of law, although largely redundant (state authorities can enforce the federal law, and it is unlikely that federal prosecutors indict many juveniles for gun possession).

Homicides in the second and third groups of states, where dummy variables begin in 1994, are also subject to the changes made by other federal laws that year. The most important are waiting periods and background checks for firearm purchases, required under the Brady Act, beginning February 28, 1994. The act is applicable to the majority of states that did not already require waiting periods.[22] These states are indicated in Table 1, and dummies representing the Brady Act for these states are included in later regressions. Also, the Crime Control and Law Enforcement Act of 1994 contains several major crime-reduction programs such as truth in sentencing, enhanced penalties for drug offenses and using firearms in crimes, and funds for hiring new police and advancing community policing. These nationwide events are controlled for by entering year effects and by comparing gun and nongun crime regressions.

B. Other Independent Variables

Additional independent variables are those typically used in other state-level studies of crime.[23] These studies explain the theoretical importance of

[21] The fact that most law dummies are for the same year suggests that clustering effects might bias the *t*-ratios. To test for these, I used the ACOV option in SAS PROC REG, with the TEST statement for the law dummies. The resulting significance levels for the law dummies are very close to those for the original *t*-ratios.

[22] ATF, *supra* note 4.

[23] See Thomas B. Marvell & Carlisle E. Moody, The Lethal Effects of Three-Strikes Laws, 30 J. Legal Stud. 89 (2001).

the variables and describe the sources of data. Age structure variables are census data for the percent population of persons ages 15–17, 18–24, 25–29, and 30–34, the ages with highest arrest rates. Economic variables are the unemployment rate, the number employed, real welfare payments, real personal income, and the poverty rate. Economic downturns might increase violent crime by increasing strain or might reduce it by reducing interaction among potential aggressors and victims. Prison population is the number of prisoners sentenced to more than 1 year, and it is the average of the current and prior year-end figures. All these variables are per capita and logged.

In addition, I make full use of the unique ability of the multiple time-series design to control for missing variables—variables that are not known or that lack adequate data. State dummies control for such factors that cause crime rates to differ generally from one state to another. Year dummies control for missing variables that cause crime rates to rise or fall nationwide in a year. Separate linear trend variables for each state control for factors that cause trends in the state to differ from nationwide trends. Without them, coefficients on the law dummies are likely to be dominated by such trend differences, as opposed to any changes that took place at the time the law went into effect. Finally, lagged dependent variables reduce autocorrelation and further mitigate missing-variable bias. Two lags are entered when the dependent variables are UCR crimes and total gun and nongun victimization because data start before 1970. The remaining regressions have one lagged dependent variable and lose 1 year of data.

V. Results

The most important regressions are in Tables 2, 3, and 4, where dependent variables are homicide victimization rates for persons 15–19 years old, persons 15–24 years old, and all persons, respectively. For each table, there are two regressions, one with gun and one with nongun homicides. The coefficients for the early state laws are very small and not significant throughout except for the negative estimate for nongun total homicides (Table 4). On the one hand, the coefficients on the 1994 state law dummies are positive in the three gun homicide regressions, but only significant to the .10 level. On the other hand, the elasticities of up to .17 are fairly sizeable, and their decline as the age bracket expands is consistent with the suggestion that the 1994 state laws increase juvenile homicide. The 1994 state law dummy has no noticeable impact on nongun homicides. Finally, all coefficients on the "federal law only" dummies are negative, but significant to the .05 level only for gun homicides of all ages (Table 4), which is due solely to New York, a topic discussed later. As might be expected, in a separate analysis in which the 1994 state law variable and the federal law variable are combined into one variable, it is everywhere far from significant. The same result also occurs when the three law variables are combined into a single variable.

TABLE 2

HOMICIDE VICTIMIZATIONS OF PERSONS AGES 15–19, REGRESSED ON JUVENILE GUN BAN LAWS

	GUN HOMICIDE		NONGUN HOMICIDE	
	Coefficient	*t*	Coefficient	*t*
Early state laws	.000	.008	−.135	1.175
1994 state laws	.172	1.787	−.010	.068
Federal law only	−.045	.582	−.181	1.501
Ages 15–17	−.447	.721	.195	.203
Ages 18–24	2.181	3.473	−.291	.300
Ages 25–29	.882	1.511	−.775	.862
Ages 30–34	1.293	1.409	−2.185	1.535
Unemployment rate	−.102	.844	.265	1.413
Employment	−1.222	1.068	1.816	1.022
Welfare	.193	1.010	−.302	1.014
Military employment	.478	1.977	.718	1.929
Real personal income	1.672	1.711	−.358	.237
Poverty rate	−.039	.374	.246	1.499
Prison population	−.510	3.368	−.192	.819
Lag dependent variable	.174	4.409	−.134	3.213
Degrees of freedom	597		597	
Adjusted R^2	.90		.48	
F-statistics:				
For three law types	1.59 (.19)		1.21 (.30)	
For differences between equations:				
Early state laws			.98 (.32)	
1994 state laws			1.05 (.31)	
Federal law only			.90 (.34)	
All three types			.74 (.53)	

NOTE.—These two regressions encompass 37 states over 19 years, 1980–98 (after losing a year because of the lagged dependent variable). Thirteen small states are not included because they had at least 3 years with zeros for one of the dependent variables (Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming). Not shown are year dummies, state dummies, and individual state linear trend variables. The first three variables listed are dummies representing laws banning juvenile gun possession. Except for dummies and trends, the variables are per capita and logged. The first *F*-statistics are for the significance of the three law types taken as a group. The remaining *F*-statistics are for comparing coefficients on the individual law types, determining whether differences between the two equations and the net effect of the three are statistically significant. Numbers in parentheses are probabilities.

A key feature of these tables is the *F*-test to determine whether differences between each law dummy coefficients in gun and nongun homicide regressions are significant. The laws are designed to reduce gun use, and, if that were the only theory involved, one would not expect to see a reduction in nongun homicides. In fact, the laws might even increase nongun homicides because the reduced availability of guns might lead juveniles to substitute other means of killing. Thus, if the laws have their intended effects, one would expect the coefficients on the law dummies to be significantly lower in the gun homicide regressions. However, if the opposing theory—the one that holds that bans increase juvenile homicides because the victims are more vulnerable—dominates, both gun and nongun homicides should increase. The

TABLE 3

HOMICIDE VICTIMIZATIONS OF PERSONS AGES 15–24, REGRESSED ON JUVENILE GUN BAN LAWS

	GUN HOMICIDE		NONGUN HOMICIDE	
	Coefficient	*t*	Coefficient	*t*
Early state laws	−.000	.007	.007	.118
1994 state laws	.129	1.757	.124	1.450
Federal law only	−.079	1.324	−.052	.748
Ages 15–17	.195	.419	.140	.259
Ages 18–24	1.098	2.524	−.136	.271
Ages 25– 29	1.208	2.826	−.101	.207
Ages 30–34	.462	.682	−1.050	1.330
Unemployment rate	.018	.202	.135	1.295
Employment	−.336	.388	−.221	.219
Welfare	.121	.831	.027	.162
Military employment	.350	1.913	.065	.310
Real personal income	1.366	1.901	.811	.970
Poverty rate	.007	.089	.097	1.047
Prison population	−.449	3.898	−.200	1.497
Lag dependent variable	.211	6.005	−.100	2.749
Degrees of freedom	750		750	
Adjusted R^2	.91		.72	
F-statistics:				
For three law types	2.44 (.06)		1.29 (.28)	
For differences between equations:				
Early state laws			.01 (.92)	
1994 state laws			.00 (.96)	
Federal law only			.09 (.77)	
All three types			.04 (.99)	

NOTE.—See note to Table 2. The regressions encompass 46 states over 19 years, 1980–98. Four small states are excluded (New Hampshire, North Dakota, Vermont, and Wyoming).

increase might be greater for nongun homicides, because if the attacker no longer fears the victim has a gun, he or she is less likely to rely on the quickest and most lethal means of attack.

In practice, both hypotheses receive little support. Nowhere in Tables 2–4 is there evidence that the laws cause gun homicides to decline more than nongun homicides. The hypothesis that the laws increase homicides receives only very slight support: the difference for early state laws in Table 4 is significant to the .10 level. With the large number of comparisons and *F*-tests, however, one such result is to be expected by chance. Finally, an important result is that coefficients on the three law variables as a group are not significantly different between the gun and nongun variables (last rows in Tables 2–4).

By aggregating the laws into three groups in Tables 2–4, I am assuming that the coefficients on the dummies are the same for each law in a group. Similar assumptions are common in time-series cross-sectional analyses of legal changes, but they are unrealistic. One would expect that impacts vary

TABLE 4

HOMICIDE VICTIMS, ALL AGES, REGRESSED ON JUVENILE GUN BAN LAWS

	GUN HOMICIDE		NONGUN HOMICIDE	
	Coefficient	*t*	Coefficient	*t*
Early state laws	−.002	.080	−.063	2.529
1994 state laws	.060	1.659	.014	.400
Federal law only	−.084	2.786	−.048	1.670
Ages 15–17	.158	.829	.036	.196
Ages 18–24	.186	1.029	.170	.966
Ages 25–29	.365	2.130	.282	1.719
Ages 30–34	−.167	.784	.249	1.197
Unemployment rate	−.069	1.794	.068	1.829
Employment	−.151	.464	1.114	3.465
Welfare	−.149	3.093	−.175	3.744
Military employment	.213	3.107	.260	3.897
Real personal income	.408	1.774	−.372	1.650
Poverty rate	−.002	.057	.076	1.838
Prison population	−.172	4.456	−.147	3.882
Lag dependent variable	.349	12.774	.106	3.919
Second lag dependent variable	.173	6.212	.050	1.885
Degrees of freedom	1,307		1,307	
Adjusted R^2	.95		.90	
F-statistics:				
For three law types	5.55 (.001)		3.25 (.02)	
For differences between equations:				
Early state laws			2.94 (.09)	
1994 state laws			.83 (.36)	
Federal law only			.72 (.39)	
All three types			1.90 (.13)	

NOTE.—See note to Table 2. The regressions encompass all 50 states for 29 years, 1970–98.

between states because of differences in the precise terms of the laws, enforcement efforts, other contemporaneous changes in criminal law and operations, and preexisting conditions. To address this problem, each law is given a separate dummy variable, which is zero except in the postlaw period in the particular state. Dummies were not entered for three states that had laws before 1970. Because we only have data for juvenile homicides beginning in 1979, regressions with these variables do not include dummies for three early laws. Also, as indicated in Tables 2–4, several small states were deleted because they had more than 2 years with no homicides.

As expected, the coefficients vary greatly (Table 5). The coefficients for New York stand out; they are negative, large, and highly significant because of the extreme decline in homicide rates there since the early 1990s. Most coefficients are positive, however, and a few are large. One cannot attribute these, or any other individual coefficient in Table 5, specifically to the juvenile gun possession bans because the coefficients might be affected by other contemporaneous changes that are not captured by control variables, although the multiple time-series design permits numerous controls. Assuming that

TABLE 5

GUN HOMICIDE VICTIMIZATION REGRESSED ON INDIVIDUAL STATE LAW DUMMIES

	AGES 15–19		AGES 15–24		ALL AGES	
	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*
States passing laws in 1975–93:						
Arizona	.284	.942	.299	1.316	.302	2.922
Arkansas	.546	1.275	.203	.630	.110	.805
California	.163	1.315	.135	1.451	.081	1.883
Colorado	−.367	1.189	−.065	.280	.168	1.500
Michigan	−1.002	4.504	−.553	3.319	−.188	2.668
Minnesota	. . .	. . .	. . .	. . .	−.293	2.965
Nebraska	. . .	. . .	. . .	. . .	−.225	1.411
New Jersey	. . .	. . .	. . .	. . .	−.025	.308
North Carolina	.036	.145	.044	.237	.101	1.274
North Dakota	. . .	. . .	. . .	. . .	−.331	1.201
Oklahoma	−.245	.737	−.062	.251	.079	.706
Oregon	.752	2.129	−.388	1.455	−.250	2.066
Utah	.360	.838	.498	1.540	.342	2.245
Virginia	−.105	.424	.082	.442	.162	1.972
West Virginia	−.064	.133	−.271	.740	−.120	.773
States passing laws in 1994:						
Delaware	. . .	. . .	.537	1.070	.295	1.227
Florida	−.112	.690	.047	.383	−.011	.202
Georgia	−.202	.823	−.118	.639	.108	1.303
Idaho	. . .	. . .	.617	1.490	.421	2.165
Indiana	.752	3.065	.743	3.986	.261	2.994
Kansas	.212	.596	.347	1.290	.229	1.795
Kentucky	1.076	3.586	.448	1.995	.248	2.365
Mississippi	−.149	.414	−.069	.258	.021	.169
South Dakota	. . .	. . .	−.271	.544	−.176	.752
Tennessee	.462	1.757	.217	1.096	.181	1.976
Washington	−.282	1.020	−.150	.723	.081	.861
Federal law (states without laws by 1994):						
Alabama	−.083	.297	.033	.158	.116	1.150
Alaska	. . .	. . .	.675	1.230	.476	1.758
Connecticut	−.263	.827	−.107	.446	−.107	.928
Hawaii	. . .	. . .	.121	.306	.379	1.987
Iowa	.630	1.855	.505	1.968	.254	2.112
Louisiana	−.282	1.010	−.199	.945	.052	.533
Maine	. . .	. . .	.433	1.166	.015	.088
Maryland	.290	1.076	.053	.264	.148	1.576
Massachusetts	.077	.300	−.130	.671	−.091	1.021
Missouri	−.438	1.753	−.249	1.324	−.022	.244
Montana	.104	.171	.360	.780	.134	.612
Nevada	−.219	.460	.078	.219	.280	1.613
New Hampshire	. . .	. . .	. . .	. . .	−.197	1.047
New Mexico	.089	.204	.236	.713	.342	2.151
New York	−.468	3.078	−.506	4.387	−.551	9.415
Ohio	.119	.677	.047	.356	.005	.088
Pennsylvania	.537	2.936	.395	2.870	.276	4.250
Rhode Island	.193	.343	.172	.405	−.274	1.357

Texas	−.379	2.127	−.254	1.900	−.184	3.109
Vermont	. . .	. . .	. . .	. . .	−.252	.956
Wyoming	. . .	. . .	. . .	. . .	−.112	.378
Means (with *t*-ratios):						
All laws	.073	.818	.096	1.938	.048	1.447
Early states	.032	.224	−.007	.071	−.006	.099
1994 states	.224	1.174	.214	1.921	.151	2.515
Federal only	−.005	.067	.088	1.280	.033	.591

NOTE.—See note to Table 2. These three regressions are the essentially the same as the regressions in the "Gun Homicide" columns in Tables 2–4, except that there are separate law dummies for each state. The Minnesota, Nebraska, and New Jersey laws are not included in the first two regressions because the laws went into effect before or during 1980, when the data in the regressions start. The remaining blank spaces occur because states are deleted if they have 3 or more years with no murders. The *t*-ratio for the means is based on the standard error of the means, which is a conservative estimate.

the other changes are largely random, the overall impact of each law type can be estimated by taking the means of the coefficients.[24] As seen at the end of Table 5, these estimates are generally consistent with those in Tables 2–4, although the evidence is a little stronger that the 1994 state laws are associated with more gun homicides.[25]

Table 6 gives the results of the analysis of suicides of persons ages 15–19 years, presenting only the results concerning the law variables. In regressions similar to those in Table 2, the law dummies are never significant and there is no evidence of a difference between gun and nongun suicide. It is likely, however, that any impact of the laws is dampened in Table 6 because the suicide measure includes persons 18 and 19 years old, who are not covered by the gun possession ban, and unlike with the gun homicide measures, one would expect an exact correspondence between age and impact of the law.

Next, in Tables 7–9, the basic homicide regressions are replicated with seven additional homicide measures, again using dummies for the three types of laws. Only the law coefficients are shown. The results are consistent with the gun homicide regressions in Tables 2–4; the 1994 state laws have positive coefficients, while the federal law has negative coefficients, significant in two regressions. Coefficients on the federal law are greatly affected by New

[24] There is no uniformly accepted way to calculate the standard error of means of coefficients. The procedure used in Table 6 is that recommended in M. Hashem Persaran & Ron Smith, Estimating Long-Run Relationships from Dynamic Heterogenous Panels, 68 J. Econometrics 79 (1995). Another procedure is to calculate the standard deviation of the mean by dividing the mean standard deviation by the square root of the number of law dummies involved (see Badi H. Baltagi & James M. Griffin, Pooled Estimators vs. Their Heterogeneous Counterparts in the Context of Dynamic Demand for Gasoline, 77 J. Econometrics 303 (1997)), which usually produces larger *t*-ratios. Baltagi & Griffin, *supra*, and Pesaran & Smith, *supra*, address coefficient heterogeneity by conducting separate regressions for each unit. That is not feasible here because the time series are too short and, more importantly, because separate regressions are likely to be misspecified because they lack year effects.

[25] One reason for the slight differences between the means in Table 5 and the law coefficients in Tables 2–4 is that the latter are based on regressions weighted by population, whereas the means in Table 5 treat each coefficient equally and thus emphasize smaller states. Thus, excluding New York has little impact on the mean for the federal law only states in Table 5.

TABLE 6

SUICIDE RATES REGRESSED ON JUVENILE GUN BAN LAWS (Ages 15–19), 1980–98

	FIREARM		NONFIREARM	
	Coefficient	*t*	Coefficient	*t*
Early state laws	−.009	.155	.127	1.346
1994 state laws	.005	.063	.022	.187
Federal law	−.060	.940	.078	.800
Number of states	46		46	
Degrees of freedom	750		750	
Adjusted R^2	.78		.36	
F-statistics:				
Three law types	.35 (.79)		.77 (.51)	
For difference between equations:				
Early state laws			1.58 (.21)	
1994 state laws			.01 (.92)	
Federal law only			1.40 (.24)	
All three types			.97 (.41)	

NOTE.—This table gives coefficients on the three law variables from regressions that are the same as in Table 2 except for the dependent variables.

York, and when it is dropped from the analysis, there is no evidence that the federal law reduces homicide.

Table 9 also analyzes UCR crimes other than homicides. If the laws actually reduce gun possession, they might reduce these crimes because some juveniles might be reluctant to commit them without the protection of firearms. If the laws embolden criminals to commit crimes because they believe that victims who appear to be juveniles are less likely to be armed, then one would expect these other crimes to increase after the bans. The increases would probably be greater for violent crimes, where the offender comes into contact with the victim. All these possible impacts, however, are likely to be muted because the bans do not apply to adults, who comprise the majority of victims and offenders, and there are no useable data disaggregated by age. In any event, there is no sign that the bans affect nonhomicides (Table 9). In particular, the *F*-statistics for the three law types are far from significant.

The regressions discussed thus far were also estimated with a wide variety of variable specifications. Results change little when law variables are lagged 1 year or converted into distributed lags (a linear trend until the fourth lag). The same is true when the regression is conducted in differences, when the continuous variables are not per capita, and when they are not logged. Coefficients on the 1994 state law variable are usually a little larger and more likely to be significant when the law variable is lagged, but they are less likely to be significant when variables are differenced or not logged.

As stated earlier, interpretation of the 1994 laws is uncertain because many other nationwide changes were made that year. The regression design mitigates this problem by entering year dummies and state trends and by com-

TABLE 7

HOMICIDE VICTIMIZATION RATES REGRESSED ON JUVENILE GUN BAN LAWS

	1980–98				1977–99			
	Ages 15–19		Ages 15–24		Ages 14–17		Ages 14–24	
	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*
Early state laws	−.021	.332	.024	.547	.000	.005	.035	.879
1994 state laws	.160	1.910	.132	2.285	.157	1.339	.092	1.320
Federal law	−.063	.932	−.064	1.383	−.166	2.261	−.125	2.817
F for three types	2.21 (.09)		3.59 (.01)		3.00 (.03)		4.51 (.004)	
Number of states	44		49		34		42	
Degrees of freedom	716		801		672		838	
Adjusted R^2	.87		.92		.80		.89	

NOTE.—This table gives coefficients on the three law variables from regressions that are the same as in Table 2 except for the dependent variables.

paring coefficients in gun and nongun homicides. Still, the best estimates are probably for the pre-1994 laws, which were passed before the spate of federal law activity. There is virtually no evidence that the pre-1994 laws have an impact.

Another way to control for at least some of the other changes occurring around 1994 is to add dummy variables for specific laws. I added three categories to the regressions in Tables 2–4. The first is background checks for handgun purchases, which under the Brady Act were first applied after February 1994 in 33 states that did not already have background checks (indicated in Table 1).[26] The second is that 24 states have three-strikes laws (usually enhanced penalties for third violent felonies).[27] The third is that 25 states have shall-issue laws (which facilitate concealed handgun permits).[28] These additions had very little impact on the results reported above.[29]

[26] Jens Ludwig & Philip J. Cook, Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act, 284 JAMA 585 (2000).

[27] See Marvell & Moody, *supra* note 23.

[28] See Lott & Mustard, *supra* note 10. The dates for these laws are as follows: Alaska, August 30, 1994; Arizona, July 17, 1994; Arkansas, July 8, 1995; Florida, October 1, 1987; Georgia, August 25, 1989; Idaho, July 1, 1990; Kentucky, October 1, 1996; Louisiana, April 19, 1996; Maine, August 7, 1980; Mississippi, July 1, 1990; Montana, October 1, 1991; Nevada, October 1, 1995; New Hampshire, August 1, 1994; North Carolina, December 1, 1995; Oklahoma, September 1, 1995; Oregon, January 1, 1990; Pennsylvania, June 18, 1989, and October 19, 1995; South Carolina, August 23, 1996; Tennessee, July 1, 1994; Texas, August 28, 1995; Utah, May 1, 1995; Virginia, July 1, 1983, and July 1, 1995; West Virginia, July 1, 1988; Wyoming, October 1, 1994.

[29] Analysis of the results for these three law variables is outside the scope of this paper. A rough summary is that the shall-issue laws have little discernable impact except for reducing rape. The three-strikes laws are strongly associated with increases in almost all measures of homicide (the major exceptions are nongun homicides of persons ages 15–19 and 15–24). The likely reasons for this result are discussed in Marvell & Moody, *supra* note 23. The Brady Act is also strongly associated with more homicides (except victimizations of persons ages 15–19 and 15–24), as well as with robbery, burglary, and auto thefts. A possible reason is that criminals believe that citizens are more vulnerable. However, this finding suffers from the

TABLE 8

HOMICIDE ARREST RATES REGRESSED ON JUVENILE GUN BAN LAWS, 1977–99

	AGES 14–17		AGES 14–24	
	Coefficient	*t*	Coefficient	*t*
Early state laws	.054	.796	.080	1.843
1994 state laws	.218	1.784	.159	2.103
Federal law	−.095	1.254	−.070	1.454
F for three types	2.31 (.08)		4.03 (.01)	
Number of states	35		44	
Degrees of freedom	693		880	
Adjusted R^2	.83		.86	

NOTE.—This table gives coefficients on the three law variables from regressions that are the same as in Table 2 except for the dependent variables.

The next analysis is another comparison of coefficients, with young person and adult victimizations as dependent variables. If the juvenile handgun bans act to increase homicides because criminals have less cause to fear that victims are armed, then the impact should fall only on persons whom the attacker believes to be juveniles (it is possible, however, that offenders might refrain from attacking adults if there are juveniles present whom the offender believes might be armed). Although the bans apply to persons under 18, the attacker often does not know the victim's age and might believe older persons are similarly without gun protection. In any event, I use victimizations of persons ages 14–17, 15–19, and 15–24. Likewise, it is difficult to determine which age group is not affected, and the variables used are persons older than 19 and persons older than 24. These various combinations lead to five comparisons, and there is no indication of a difference between the age groups for any of the three law types.

It is possible that the apparent lack of crime-reduction impact of the law is due to simultaneity—that is, state legislatures pass juvenile bans in response to rising juvenile homicide, such that this positive relationship counteracts a negative impact of the laws. This possibility is suggested by Figure 1 and Table 1. Most laws in the "early state law" category were enacted in the late 1980s and early 1990s, just when juvenile gun homicide was increasing. Although these crimes peaked in about 1992, the 1994 federal and state laws might be in response to the trends in the prior decade. This issue is addressed in two ways. First, any such simultaneity would be mitigated (but not eliminated) by lagging the law dummy variables, because the legislatures are not

fact that the categorization of states as Brady Act states and non–Brady Act states by Ludwig & Cook, *supra* note 26, has little to do with the extent of gun control exercised before and after the Brady Act. Several Brady Act states (subjected to the law) already had strong gun control laws, while the federal government classified several states as non–Brady Act states on the basis of laws passed just before the Brady Act went into effect. In all, because of this problem and because of the positive coefficients on the Brady Act variable, I question the results in Ludwig & Cook, *supra* note 26.

TABLE 9

UNIFORM CRIME REPORT CRIME RATES REGRESSED ON JUVENILE GUN BAN LAWS
(50 States, 1,353 Degrees of Freedom), 1970–99

	HOMICIDE		RAPE		ROBBERY		ASSAULT		BURGLARY		LARCENY		AUTO THEFT	
	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*	Coefficient	*t*
Early state laws	.003	.161	−.010	.702	−.002	.113	−.000	.011	.001	.171	.010	1.260	−.001	.093
1994 state laws	.051	1.741	−.026	1.326	.019	.790	−.024	1.186	−.008	.604	.009	.856	.007	.333
Federal law	−.076	3.180	−.013	.827	.007	.361	−.027	1.563	−.015	1.281	.001	.119	−.017	.944
F for three types	6.89		.67		.24		.99		.62		.71		.51	
	(.001)		(.57)		(.87)		(.40)		(.60)		(.55)		(.67)	
Adjusted R^2	.95		.97		.99		.98		.98		.98		.98	

NOTE.—This table gives coefficients on the three law variables from regressions that are the same as in Table 2 except for the dependent variables. Two dependent-variable lags are used.

influenced by crime rates in the next year. As discussed earlier, lagging the dummy has little impact on the results.

Another way to explore possible simultaneity is the Granger test.[30] Using a probit procedure, with the variables listed in Table 2 plus the state effects, the law dummies are regressed on crime lagged 2 years, as well as the law dummies lagged 2 years. If rising crime caused the laws to be enacted, the coefficients on the crime variables would be significant and positive.[31] The analysis showed that there is no evidence of this for any of the three law categories and for any of the numerous crime measures. Most coefficients on lagged crime (the regressions use lags of 1 and 2 years) are negative, and none is positive and significant.

VI. Conclusion

Juvenile handgun bans have little or no impact on a wide variety of crime measures. This finding renders the analysis more difficult than if an impact were found. Most published evaluations of laws do find an impact one way or another, and they typically only present a regression with significant results, with perhaps a few supporting analyses. Such a procedure, however, is not valid to show the absence of an impact because still other specifications might uncover an apparent impact. Also, the lack of significant results does not mean absence of impact, just that it is less likely. One can never claim to have covered all possibilities, but this paper attempts to mitigate these by using numerous crime measures as well as several configurations of the law variables and of the continuous variables. The multiple time-series design using coefficient comparisons, moreover, provides far more controls than other procedures.

One can posit theories that the juvenile gun bans either increase or decrease homicides. If the bans reduce juvenile gun access, they would probably reduce the use of guns by juveniles in crimes. If the bans lead others to believe that juveniles are more vulnerable targets, the result is likely to be more crime, especially violent crimes involving juveniles. The finding that the laws have little or no impact could mean that both types of theories are without merit or that they cancel each other out. The former appears more likely. It is not likely that theories cancel each other in a similar way for so many different

[30] Clive W. J. Granger, Investigating Causal Relations by Econometric Models and Cross-Spectral Methods, 37 Econometrica 424 (1969).

[31] The rationale for the Granger test is that there is no simultaneity between the dependent variable and lagged independent variable, so long as the lagged dependent variable is entered to control for possible serial correlation between the lagged independent variable and dependent variable through the lagged dependent variable. It is possible for the Granger test to miss causation if it occurs only in the current year, since the current year independent variable is not entered (because the causal direction in the current year is undetermined). This is very unlikely here because the legislature in one year is unlikely to react only to crime in that year and not consider crime in the prior year.

crime measures, and the lack of impact on juvenile suicide rates suggests that the laws do not reduce gun access.

The results are almost uniform with respect to the pre-1994 state laws banning juvenile gun possession: they have no discernible crime-reduction impact, and there is only very slight evidence of an increase, mainly with respect to total gun homicides (Table 5). The results for the 1994 law variables are more uncertain because the results might be influenced by substantial federal efforts commenced that year to regulate guns and reduce crime generally. Where the 1994 laws seem to have an impact, the suggestion is almost always that crime increases; thus, there is no evidence that these bans had their intended effect. There is some slight support for the theory that the bans increase homicides because juveniles appear more vulnerable. With aggregate law variables, this effect appears mainly for state 1994 laws and it is usually counterbalanced by negative results for the federal 1994 law. The strongest indication occurs when the law variable is disaggregated, but these results are affected by large positive coefficients in a few small states. Finally, there is no discernable difference between the impact of the laws on murders by juveniles and those by adults; if the laws encouraged crime, the impact would only apply to the former.

BIBLIOGRAPHY

Allen, Terry, and Buckner, Glen. "A Graphical Approach to Analyzing Relationships between Offenders and Victims Using *Supplementary Homicide Reports*." *Homicide Studies* 1 (1997): 129–40.

Baltagi, Badi H., and Griffin, James M. "Pooled Estimators vs. Their Heterogeneous Counterparts in the Context of Dynamic Demand for Gasoline." *Journal of Econometrics* 77 (1997): 303–27.

Blumstein, Alfred, and Cork, Daniel. "Linking Gun Availability to Youth Gun Violence." *Law and Contemporary Problems* 59 (1996): 5–24.

Bureau of Alcohol, Tobacco and Firearms. *Firearms State Laws and Published Ordinances*, 20th ed. Washington, D.C.: Department of the Treasury, 1994.

Cook, Philip J., and Leitzel, James A. " 'Perversity, Futility, Jeopardy': An Economic Analysis of the Attack on Gun Control." *Law and Contemporary Problems* 59 (1996): 1–118.

DeFrancesco, Susan. "Children and Guns." *Pace Law Review* 29 (1999): 275–92.

Donohue, John J., III, and Levitt, Steven D. "Legalized Abortion and Crime." *Quarterly Journal of Economics* 116 (2001): 379–420.

Fox, James Alan, and Zawitz, Marianne W. *Homicide Trends in the United States*. Washington, D.C.: U.S. Department of Justice, 2000.

Gladwell, Malcolm. *The Tipping Point: How Little Things Can Make a Big Difference*. Boston: Little, Brown & Company, 2000.

Granger, Clive W. J. "Investigating Causal Relations by Econometric Models and Cross-Spectral Methods." *Econometrica* 37 (1969): 424–38.

Greene, William H. *Econometric Analysis*. 2d ed. New York: Macmillan Publishing Co., 1993.

Holden, Gwen A., et al. *Compilation of State Firearm Codes that Affect Juveniles*. Washington, D.C.: National Criminal Justice Association, 1994.

Lott, John R., Jr., and Mustard, David B. "Crime, Deterrence, and Right-to-Carry Concealed Handguns." *Journal of Legal Studies* 26 (1997): 1–68.

Ludwig, Jens. "Concealed-Gun-Carrying Laws and Violent Crime: Evidence from State Panel Data." *International Review of Law and Economics* 18 (1998): 239–54.

Ludwig, Jens, and Cook, Philip J. "Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act." *JAMA* 284 (2000): 585–91.

Maltz, Michael D. "Visualizing Homicide: A Research Note." *Journal of Quantitative Criminology* 14 (1998): 397–410.

Marvell, Thomas B., and Moody, Carlisle E. "Age Structure and Crime Rates: The Conflicting Evidence." *Journal of Quantitative Criminology* 7 (1991): 237–73.

Marvell, Thomas B., and Moody, Carlisle E. "Determinate Sentencing and Abolishing Parole: The Long-Term Impacts on Prisons and Crime." *Criminology* 34 (1996): 107–28.

Marvell, Thomas B., and Moody, Carlisle E. "The Impact of Out-of-State Prison Population on State Homicide Rates: Displacement and Free-Rider Effects." *Criminology* 36 (1998): 513–36.

Marvell, Thomas B., and Moody, Carlisle E. "Female and Male Homicide Victimization Rates: Comparing Trends and Regressors." *Criminology* 37 (1999): 879–902.

Marvell, Thomas B., and Moody, Carlisle E. "The Lethal Effects of Three-Strikes Laws." *Journal of Legal Studies* 30 (2001): 89–106.

National Center for Health Statistics. *Vital Statistics of the United States 1978*. Washington, D.C.: Government Printing Office, 1982.

Pesaran, M. Hashem, and Smith, Ron. "Estimating Long-Run Relationships from Dynamic Heterogenous Panels." *Journal of Econometrics* 68 (1995): 79–113.

Rosenberg, Steven. "Just Another Kid with a Gun? *United States v. Michael R.*: Reviewing the Youth Handgun Safety Act under the *United States v. Lopez* Commerce Clause Analysis." *Golden Gate University Law Review* 28 (1998): 51–88.

SAS Institute. *SAS/ETS User's Guide*. Version 6, 2d ed. Cary, N.C.: SAS Institute, 1993.

Snyder, Howard N. "The Overrepresentation of Juvenile Crime Proportions

in Robbery Clearance Statistics." *Journal of Quantitative Criminology* 15 (1999): 151–62.

Wooldridge, Jeffrey M. *Introductory Economics: A Modern Approach*. Cincinnati: South-Western College Publishing, 2000.

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Journal of Quantitative Criminology, Vol. 9, No. 3, 1993

The Impact of Gun Control and Gun Ownership Levels on Violence Rates

Gary Kleck[1] and E. Britt Patterson[2]

What effects do gun control restrictions and gun prevalence have on rates of violence and crime? Data were gathered for all 170 U.S. cities with a 1980 population of at least 100,000. The cities were coded for the presence of 19 major categories of firearms restriction, including both state- and city-level restrictions. Multiple indirect indicators of gun prevalence levels were measured and models of city violence rates were estimated using two-stage least-squares methods. The models covered all major categories of intentional violence and crime which frequently involve guns: homicide, suicide, fatal gun accidents, robbery, and aggravated assaults, as well as rape. Findings indicate that (1) gun prevalence levels generally have no net positive effect on total violence rates, (2) homicide, gun assault, and rape rates increase gun prevalence, (3) gun control restrictions have no net effect on gun prevalence levels, and (4) most gun control restrictions generally have no net effect on violence rates. There were, however, some possible exceptions to this last conclusion—of 108 assessments of effects of different gun laws on different types of violence, 7 indicated good support, and another 11 partial support, for the hypothesis of gun control efficacy.

KEY WORDS: gun control; violence.

1. INTRODUCTION

Crime is widely viewed by the public as one of the most important problems facing our society, and violent crime is regarded as the most serious and fearful kind of crime. While violence is often regarded as an intractable problem difficult to reduce through deliberate governmental effort, many have argued that it, nonetheless, may be reduced through the regulation of weapons, especially firearms.

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The rationale for gun control, of course, includes the assumption that the availability of guns has a significant net positive effect on violence rates. This assumption has not yet been consistently supported by a credible body of evidence, partly because evidence from better studies has largely been negative or mixed regarding the assumption and partly because so much of the evidence is too weak to be credible one way or the other (see overviews by Wright *et al.*, 1983, pp. 129–137; Kleck and McElrath, 1991). There are a number of possible effects which gun availability could have on violence rates. If a gun is available, it could encourage attacks, especially by weaker attackers on stronger victims, and could facilitate attacks from a distance or attacks by persons too squeamish to attack with messier weapons such as knives or too timid to attack at close quarters. Similarly, guns may enable some people to attempt robberies they could not complete unarmed (Newton and Zimring, 1969; Cook, 1976). The sight of a gun might "trigger" attacks by angered persons, due to the learned association between guns and violence (Berkowitz and LePage, 1967). On the other hand, research also indicates that the presence of guns usually inhibits the expression of aggression, reducing the likelihood of attack (Kleck and McElrath, 1991; Kleck and DeLone 1993). There is support for the claim that once an injury is inflicted, it is more likely to result in death if a gun was used, due to the weapon's greater lethality (Newton and Zimring, 1969; Block, 1977; Kleck and McElrath, 1991), although part of the higher fatality rates of gun attacks is probably due to greater seriousness of intent on the part of those using guns, rather than just the weapon itself (Wright *et al.*, 1983). Regarding suicide, some authors argue that guns provide a uniquely quick, easy, and sure means of self-destruction which reduces the chances of successful outside intervention (Newton and Zimring, 1969). On the other hand, many highly lethal and otherwise satisfactory means for committing suicide are even more widely available than guns, and can easily be substituted where guns are not available.

Prior studies of the aggregate relationship between gun availability and violence rates have used a variety of measures, none entirely satisfactory (Cook, 1982, pp. 264–272). These studies have failed to generate consistent evidence of a net positive effect of gun availability on violent crime rates (Kleck, 1984a, 1991, Chap. 5). The present study measures gun levels through the use of multiple indirect indicators, for two purposes: (1) to assess the impact of gun availability on violence rates and (2) to assess the effects of gun laws on violence rates, including both direct effects and indirect effects operating through the impact of gun control on gun availability. The study addresses every major form of gun control and every major form of violence involving firearms, including not only the violent crimes of homicide, robbery, assault and rape, but also suicides and fatal gun accidents.

2. METHODS OF PRIOR RESEARCH

Two general strategies have been used to assess the impact of gun control laws on violence rates: interrupted time series designs and cross-sectional designs. In the typical time series design, monthly violence rates for a single jurisdiction are analyzed with ARIMA or regression time series methods to see if there is a significant downward shift in crime around the time a new gun law goes into effect. Cross-sectional designs compare legal jurisdictions, usually states, with each other to see if those having a given type of gun law have lower levels of violence than those lacking the law.

Studies of gun control's impact on violence have been characterized by a variety of methodological flaws. The first is the failure to control adequately for other determinants of violence rates besides gun control laws, before attributing crime reduction effects to gun regulation. This is at least as much of a problem for time series studies as for cross-sectional ones. Careful modeling of preintervention trends in violence is required in time series studies, rather than simple before-and-after comparisons, because the time when an intervention is most likely to be implemented is at, or shortly after, the time when the target problem peaks, i.e., when it is most likely to stimulate attempts to combat it. Thus, one would expect to find decreases in the problem after an intervention even if the intervention were ineffective, due to this simple timing issue—the problem was peaking and thus was going to decline at the time of intervention anyway, even if nothing was done about it. Unfortunately, if this reasoning applies to the intervention being evaluated, it also applies to other "interventions" as well. Other efforts, public or private, collective or individual, to reduce the target problem would also be most likely to start (or peak) at about the same time. Time series modelers attempting to isolate the impact of gun laws necessarily assume that the evaluated intervention was the only new element in the causal structure generating trends in violence rates. This is, at best, a convenient simplification; at worst, an implausible one.

Cross-sectional designs can take advantage of considerable data in census years for cities, metropolitan areas, or states on extraneous determinants of crime rates, while time series data on most such variables, except at the national level, are nonexistent. Consequently, time series designs usually do not explicitly control for any other important determinants of crime which might show changes coincident with changes in gun laws. Thus, they do not allow the analyst to rule out explicitly any alternative explanations of violence decreases. Instead they, at best, make do with comparisons to "control" jurisdictions which, it is assumed, would show crime trends similar to those in the intervention jurisdiction, were it not for the impact of the gun law changes. This was the strategy followed by Pierce and Bowers (1981). Other time series studies use trends in

*non*gun violence rates within the impact jurisdiction as internal controls, relying on the implicit, and implausible, assumption that gun and nongun rates would follow similar trends were it not for changes in gun regulation (e.g., Loftin and McDowall, 1981, 1984). Evidence from the present study (Table III) indicates that gun violence and nongun violence rates are driven by different sets of exogenous variables (apart from gun laws and gun prevalence), suggesting that they are likely to show divergent trends even in the absence of new gun laws.

Cross-sectional studies of a large number of jurisdictions offer clear advantages over longitudinal designs if one wants to identify which specific features of gun regulation are likely to generally produce violence reductions. The former tests the average effect of many specific instances of a form of regulation, while the latter tests only the effects of a single new gun law in a single jurisdiction, allowing little generalizability. With the former design it is possible to separate the effects of different types of gun controls which are sometimes lumped together in a single new law, while this is impossible in the latter.

Further, it is impossible to state for certain, a priori, *when* the effect of a new law should become evident, rendering the gun law efficacy hypothesis difficult to falsify with a time series design. For example, some analysts have assumed that any impact should begin at the law's "effective date," while others assert that effects can begin earlier, due to an "announcement effect" (Pierce and Bowers, 1981). Loftin and his colleagues (1991) even concluded that local handgun bans reduced homicide in the District of Columbia, even though the declines in both gun homicides and total homicides began *2 years* before the law went into effect! One could just as easily argue that effects would only become evident after a lag of indeterminate length. In contrast, with a cross-sectional design the corresponding question is *where* the law would have its effects, and there is little doubt that the effects should be most pronounced in the jurisdiction which implemented the regulation.

The principal weakness of cross-sectional studies is one shared by time series studies—the difficulty of meeting the *ceteris paribus* condition by correctly specifying a model of how crime rates are generated. It should, however, be noted that the cross-sectional design does *not* require, as Wright *et al.* (1983, p. 285) assert, that "the investigator have a fairly complete understanding of how the particular crime rates are generated." This is an impossible standard to meet and fortunately, an unnecessary one. Instead, unbiased estimates of the impact of a gun control measure can be obtained if one includes in the model only those extraneous variables which affect crime rates *and* which also have nontrivial correlations with the gun control measures. It turns out that none of the known

causes of variation in violence rates are strongly correlated with gun laws, making this a less crucial empirical issue than it seemed.

With only two exceptions (Geisel *et al.*, 1969; Cook, 1979), prior cross-sectional studies have exclusively used states as their unit of analysis. This exacerbates the problem of aggregation bias. States are larger units than cities and, also, more heterogeneous with regard to levels of violence and variables affecting violence rates. Consequently, the best level of aggregation to use would be the lowest and most homogeneous one at which gun law is made—the city level.

Another problem with state-level analyses is that they cannot incorporate measures of local gun controls. Only one prior study has measured gun regulation at both the state level and the city level (Geisel *et al.*, 1969), yet the most restrictive gun laws in the nation are at the local level. Many, even most, of the residents of a given state might be subject to very strong gun laws, at the city level, yet be subject to little or no state regulation. Consequently, studies failing to measure local ordinances seriously mismeasure the degree of gun control to which much of the population is subject.

For some gun laws, one presumed reason for any effects on violence they may have is that they reduce levels of gun prevalence or availability, which in turn affects violence rates. Indeed, regardless of the way the laws were designed to work, almost any restriction on guns could in practice discourage gun ownership, by reinforcing public perceptions of guns as dangerous objects. Conversely, most gun laws could hypothetically reduce violence in ways other than by reducing gun ownership, e.g., by making carrying or criminal use more risky or reducing the immediate availability of guns in violence-prone situations. Only three of the studies published to date explicitly measured gun prevalence or availability (see column 5 in Table I). Thus it was usually impossible to tell whether observed effects were produced through reductions in gun ownership or through some other causal mechanism. Further, if high gun prevalence makes it harder to pass gun laws, and also contributes to higher violence rates, failing to control for gun prevalence could result in a spurious negative association between gun laws and violence rates.

None of the three gun law studies which measured gun levels treated the gun–violence relationship as a simultaneous reciprocal one. This is problematic because there is both individual-level and aggregate-level evidence that violence rates can motivate gun acquisition and increase aggregate gun ownership levels (Lizotte and Bordua, 1980; Lizotte *et al.*, 1981; Kleck, 1984a; McDowall, 1986; Smith and Uchida, 1988). If the relationship were a simultaneous reciprocal one, failing to model it properly would result in biased and inconsistent estimates of the gun coefficient, and

Table I. Previous Studies of the Impact of Gun Control on Violent Crime Rates[a]

Study	Weakness							Gun control effective?
	1	2	3	4	5	6	7	
Wisconsin (1960)	×	×	×	×	×			No
Krug (1967)	×	×	×	×	×	×		No
Geisel *et al.* (1969)			(×)	×	×	×		No
Olin Mathieson (1969?)	×	×	×	×	?	×		No
Seitz (1972)	×	×	×	(×)	×	×		Yes
Murray (1975)	×	×	×	(×)	×			No
Zimring (1975)	×	–	–		–	–	×	Mixed
Beha (1977)	×		×	(×)	–	–	×	Mixed[b]
Deutsch and Alt (1977)	×		–	×	–	–	×	Mixed[b]
Cook (1979)			×		?			No
Hay and McCleary (1979)	×		–	×	–	–	×	No[b]
Nicholson and Garner (1980)	×		–	×	–	–	×	Mixed
Sommers (1980)	×	×	×	×	×		×	Mixed
Jones (1981)	×	–	–	×	–	–	×	Mixed
Lester and Murrell (1981)	×		×	×	×	×		No
Pierce and Bowers (1981)	×		–	×	–	–	×	Mixed[b]
Lester and Murrell (1982)	×	×	×	×	×	×		Mixed
Magaddino and Medoff (1982)	×	×	×	×	×			No
DeZee (1983)		×	×	×	×			No
Loftin *et al.* (1983)	×			×			×	No
Loftin and McDowell (1984)	×			×			×	No
Magaddino and Medoff I (1984)		×	×	×	×			No
Magaddino and Medoff II (1984)		–	–		–	–	×	No
McPheters *et al.* (1984)	×	–	–	×	–	–	×	Yes
Lester and Murrell (1986)	×	×	×	×	×	×		No
Lester (1987)	×	×	×	×	×	×		No
Lester (1988)	(×)	×	×		×	×		Yes
Jung and Jason (1988)	×		–	×	–		×	No
Loftin *et al.* (1991)	×			×			×	Yes

[a]Summary: 4 yes, 8 mixed, 17 no. "Gun control effective?" means "Did gun laws appear to reduce significantly total (gun plus nongun) rates of violence or crime?" Weakness codes: ×, problem existed; blank, no problem; –, problem is irrelevant; (×), partial presence of problem or problem inadequately dealt with. Weaknesses: (1) included no, or very few, control variables; (2) state level of analysis used, rather than city; (3) no measure of local gun control laws; (4) no measure of gun ownership included; (5) only one source of information on gun control laws used; (6) lumped heterogeneous mixture of gun laws together, without separate measures of impact of different types of gun laws; (7) studied just one specific law; little generalizability.

[b]These four studies are not independent since they are all evaluations of the same law (the Massachusetts Bartley–Fox law) in the same time period, using the same general methods. They contributed three of the eight studies classified as "mixed." Their findings are classified this way because, taken as a whole, they indicate that the law had no effect on homicide, may have reduced robbery (two studies indicated this, one did not), and reduced gun assaults by a moderate amount, while increasing nongun assaults by a larger amount.

the positive effects of violence on gun levels would be confused with the possible positive effects of gun levels on violence rates.

Finally, close examination of the various surveys and compilations of gun laws reveals significant differences between sources, indicating in many instances that at least one source was in error. Consequently, studies using a single source of information are especially vulnerable to error in measurement of the key variables. This was true of all prior studies of multiple laws.

3. RESULTS OF PRIOR RESEARCH

The Table I summary of prior research on gun law effects indicates that most of the 29 studies found no impact of gun laws on total violence rates. [Throughout this paper, the term "total violence rate" refers to rates of gun violence plus nongun violence in a given violence category. For example, the term could refer to total homicide (gun homicide plus nongun homicide) or to total robbery (gun robbery plus nongun robbery), and so on. It does not refer to homicide plus robbery plus assault and so on.] Of the 12 studies yielding favorable or mixed results, 3 were time series evaluations of the same law, the Bartley–Fox carrying law. Of these three, the Pierce and Bowers (1981) study found a drop in violence which *preceded* the law's effective date, casting doubt on the authors' favorable assessment of the law. Further, a fourth study of this same law concluded that evidence regarding the law's impact was inconsistent and that the optimistic conclusions of previous researchers were premature (Hay and McCleary, 1979). The middle columns in Table I indicate that most of the rest of the studies offering at least mixed support for gun control efficacy are seriously flawed. Taking prior research as a whole, it would be fair to say at this point that a consistent, credible case for gun control efficacy in reducing violence has not yet been made.[3] [For reviews of research on the impact of gun

[3]Assessments of the studies' implications regarding gun control efficacy are based on their empirical findings, not necessarily on their authors' conclusions. As an example of conclusions diverging from data, Geisel *et al.* (1969) concluded that increased gun control severity would save lives, based on analyses using an index which lumped together all forms of gun control. Construction of this index involved a weighting scheme which, contrary to the author's claims, biased results in favor of finding a stronger correlation with violence rates (see p. 659). Even so, the results of analyses using the index did not generally support the author's conclusions. Of the seven violence rates studied, only two showed a significant negative association with the index: gun suicides (but not total suicides, indicating nothing more than a substitution effect) and accidental death by firearm (p. 663). Further, buried in the last page of their Appendix was a one-paragraph summary of the results of their more appropriate analysis (which even the authors described as "more refined"), using separate dummy variables for each type of gun control: "We could obtain no significant or even meaningful results" (p. 676).

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prevalence on crime, suicide, and gun accident rates, see Kleck (1991, pp. 187–188, 214–214, 248–250, 265, 303–304).]

4. METHODS OF THE PRESENT STUDY

The present study is a city-level cross-sectional study. Data were gathered on all 170 U.S. cities which had a population of 100,000 or larger in 1980, i.e., all large cities. Cities were chosen as the unit of analysis because they are the smallest, most homogeneous unit or area to which gun laws apply, and analyses which use larger units necessarily must ignore laws passed by smaller constituent areas. A majority of the reported violent crimes in the United States occurred in these 170 cities [U.S. Federal Bureau of Investigation (FBI), 1981, p. 173]. Smaller cities could not be included because person-level vital statistics mortality data do not identify locations of deaths for cities with populations smaller than 100,000 [U.S. National Center for Health Statistics, (NCHS), 1983, p. 8]. These data were needed to obtain city counts of gun homicides and gun suicides, data which were essential both as components in dependent variables and as indirect indicators of gun prevalence.

The dependent variables are the rates per 100,000 resident population of homicide, suicide, aggravated assault, robbery, rape, and fatal gun accidents. For all but the last two of these, we had data allowing separate analyses of rates of violence with guns, without guns, and with gun and nongun events combined.

The violence rates were averaged over 3 years, 1979 to 1981, thus bracketing the Census year of 1980 for which data on most of the control variables were available. Some of the smaller cities had fewer than a half-dozen homicides or suicides per year; thus, misclassification of just one or two homicides or suicides as other kinds of deaths could substantially alter a single year's official count. Therefore, 3 years were covered, to minimize the potential measurement error produced by misclassification and to minimize the instability due to year-to-year fluctuations.

The dependent variables were expressed as natural logs. The transformation produced more normal distributions on the violence rate variables. (Without exception, skewness and kurtosis statistics moved closer to zero after the transformation.) It also helped to stabilize the variance of the residuals, reducing heteroscedasticity.

Models of violence rates were estimated using two-stage least-squares procedures because a simultaneous reciprocal relationship was specified between violence rates and gun prevalence levels, based on the assumption that higher violent crime rates could motivate gun acquisition, in addition to gun prevalence increasing violence rates. No effect of suicide and fatal

Exhibit 9
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gun accident rates on gun acquisition was expected, so models of these violence rates were specified as recursive and estimated using ordinary least-squares methods. Figure 1 illustrates the general form of the models estimated. This is the general causal structure assumed for all models estimated, except that we assumed there was no effect of suicide and gun accidents on gun prevalence. There was a total of 14 models (one for each type of violence rate listed in Table II), and each model consisted of two equations, one for the violence rate and one for the gun prevalence level.

The initial choice of possible control variables to include in the models was based on a review of previous city-level and metro area-level studies. An effort was made to include all predictors which had frequently and consistently been found to significantly predict the violence rates examined here. Most of the violence predictors besides the gun law dummies and gun prevalence indicators were measures of the relative sizes of population groups which have especially high or low violence rates, or were measures of social integration, isolation, or transience, or measured the prevalence of statuses which can give rise to violence, such as divorce, alcoholism, and unemployment. Theoretical rationales for including these variables, and relevant empirical evidence, can be found in numerous sources (e.g., Byrne, 1986; Sampson, 1986; Land *et al.*, 1990, and studies reviewed therein). Exogenous variables which remained in the final models were those whose coefficients in the violence rate equations were significant at the 0.10 level in preliminary screening using OLS.

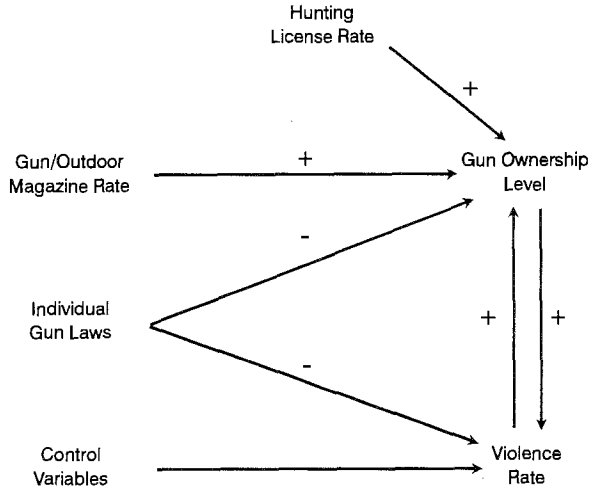

Fig. 1. General causal diagram of violence rate models.

Table II. Descriptive Statistics for Variables Used in Analysis ($N = 170$ Cities)[a]

	Mean	SD	Source[b]
Violence rates (1979–1981 average, rates per 100,000 resident population, in natural logs)			
LNMR, Homicides (total)	2.47	0.78	a
LNASLT, Aggravated assaults (total)	5.90	0.58	b
LNROB, Robberies (total)	5.79	0.75	b
LNRAPE, Forcible rapes (total)	4.04	0.54	b
LNSUICID, Suicides (total)	2.63	0.35	a
LNFGA, Fatal gun accidents (total)	0.50	1.35	a
LNGUNMR, Homicides with gun	1.98	0.88	a
LNNGMR, Homicides without gun	1.42	0.72	a
LNGNASLT, Assaults with gun	4.55	0.75	b, c
LNNGASLT, Assaults without gun	5.55	0.60	b, c
LNGNROB, Robberies with gun	4.87	0.76	b, c
LNNGROBR, Robberies without gun	5.22	0.84	b, c
LNGNSUIC, Suicides with gun	1.94	0.56	a
LNNGSUIC, Suicides without gun	1.81	0.47	a
Gun prevalence indicators			
PGH7982, % gun, homicide, 1979–1982	61.48	11.89	d
PCTGNAST, % gun, aggr. assault, 1979–1980	28.31	11.39	c
PCTGNROB, % gun, robbery, 1979–1980	42.00	13.11	c
PGS7982, % gun, suicide, 1979–1982	53.37	14.91	a
GUNSTOL, ($ value, stolen guns/$ value, all stolen property) × 100	1.20	0.75	e
Instrumental variables			
RGUNMAG, Subscription rate top 4 gun/hunting magazines, county	6,564.74	8,656.41	f
HUNTERS, Hunting License holder rate per 100K pop., state	6,985.58	4,252,36	g
NRA, NRA members per 100K pop.	870.90	634.59	t
LIBERAL, % 1972 presidential vote for McGovern, county	38.46	9.90	u

[a]Unless otherwise noted, each variable refers to a city, as of 1980. In variable descriptions, "county" indicates variable refers to county in which city was located, and "state" indicates variable refers to state in which city is located. Methods of estimating missing values may be obtained from senior author.

[b](a) Tabulations from Mortality Detail Files (U.S. NCHS, 1983); (b) U.S. FBI (1980–1982); (c) ICPSR (1983); (d) ICPSR (1984a); (e) ICPSR (1984b); (f) Audit Bureau of Circulations (1979–1982); (g) U.S. Fish and Wildlife Service (1980); (h) Blose and Cook (1980); (i) U.S. Bureau of Alcohol, Tobacco and Firearms (1980); (j) Ronhovde and Sugars (1982); (k) Jones and Ray (1980); (l) Wright *et al.* (1983); (m) U.S. Bureau of the Census (1983a); (n) U.S. Bureau of the Census (1983b); (o) Quinn *et al.* (1982); (p) U.S. Bureau of the Census (1981); (q) Gastil (1971); (r) U.S. Bureau of Justice Statistics (1982); (s) U.S. Federal Bureau of Investigation (undated); (t) unpublished membership counts supplied to senior author by National Rifle Association; (u) Scammon (1972).

Table II. Continued

	Mean	SD	Source[b]
Gun control variables			
LICENSE, License to possess gun in home	0.11	0.32	h, i, j
BYPERMIT, Permit to purchase or acquire	0.34	0.47	h, i, j
WAITPER, Waiting period to buy, receive, etc	0.44	0.50	h, j
CRIMINAL, Prohibit possession (poss.)—criminals	0.82	0.38	i, j, k
MENTAL, Prohibit poss., mentally ill, incomp.	0.25	0.43	i, j, k
ADDICT, Prohibit poss., drug addicts, users	0.41	0.49	i, j, k
ALCOHOLIC, Prohibit poss., alcoholics, etc.	0.19	0.40	i, j, k
MINORS, Prohibit purchase by minors	0.98	0.15	i, j
REGISTER, Registration of guns	0.47	0.50	h, i
DEALER, State or city license, gun dealers	0.61	0.49	h, i, j
CARYHIDN, Concealed handgun carrying forbidden or permit hard to get	0.88	0.33	j, k
CARYOPEN, Open handgun carrying forbidden or permit hard to get	0.56	0.50	j
MANDPEN, Mandatory penalty, illegal carrying	0.12	0.33	j
ADDONDIS, Additional penalty for committing crimes with gun, discretionary	0.58	0.50	j
ADDONMND, Additional penalty for committing crimes with gun, mandatory	0.61	0.49	j
RTBRARMS, State constitutional provision—individual right to bear arms	0.43	0.50	j
HGBAN, De facto ban on handgun possession	0.01	0.11	i
SNSBAN, Saturday Night Special sales ban	0.04	0.20	i
HGBYBAN, Ban on handgun sales	0.01	0.11	i
Control variables			
PCTBLACK, % respop, black	19.27	16.69	m
PCTHISP, % respop, Spanish origin	8.82	12.23	m
PCTM1524, % respop, male, age 15–24	10.05	2.30	n
PCTOLD, % respop, age 65+	11.20	3.53	m
RUNM1624, Unemployment rate males, age 16–24	13.18	6.12	n
RPOV, % respop < poverty line 1979	13.97	5.16	m
MFI, Median family income, $s, 1979	19,435.52	3,592.01	m
INEQUALT, % hshlds w. income >$10K or >$50K	35.51	6.91	m
OWNEROCC, % housing units owner-occupied	54.14	11.19	m
COLLEGE, College enrollment/100K respop	7,619.66	4,267.42	n
PCTMOVE, % respop age 5+ not in same house as 5 yr before	51.01	8.44	m
TRNSIENT, % respop, born out of state	42.74	15.79	m
PCTFOREN, % respop, foreign born	7.68	8.25	n
POPCHANG, % pop change 1970 to 1980	7.32	20.37	m
CNTDIVRT, Divorces per 100K respop, county	639.20	245.25	m
FEMHEAD, % families headed by females	21.21	10.93	m
CHRCHMEM, Church membership per 100 respop, county	20.38	12.02	o

Table II. Continued

	Mean	SD	Source[b]
ALCHLSM, Alcoholic liver disease deaths per 100K respop	7.77	4.45	a
ADDICTRT, Deaths due to nonmedical accidental poisoning by opiates per 100K respop	0.22	0.52	a
PCTSMSA, City respop as a % of SMSA respop	34.58	22.73	n
VISITORS, Lodging receipts in dollars/100K respop, SMSA	111.00	269.38	p
INVPOP, Inverse population, 1/(respop in 100,000s)	0.56	0.29	m
HSACTRAT, Household activity ratio—fraction of households not of husband–wife, wife not working type	0.71	0.05	n
HOSPITAL, Hospital beds per 100K respop	1,013.90	661.20	m
LIVLONE, % households with 1 person	10.18	2.91	m
STORES, Retail establishments/100K respop	851.72	167.09	m
MAXTEMP, Avg. daily max temperature, July	87.16	6.64	m
CROWDING, Percent of occupied housing units with 1.01+ persons/room	4.89	3.23	m
DENSITY, Persons per square mile	4,334,26	3,375.96	m
STHNBORN, Percent respop born in South	12.93	6.33	n
SOUTH, South region dummy	0.32	0.47	m
WEST, West region dummy	0.28	0.45	
STHNNESS, Gastil "Southernness Index"	20.24	7.43	q
POLEXP, Police expenditures per capita	70.65	24.92	m
COPS, Sworn police officers/100K respop	207.57	82.40	b
STPRISRT, State prisoners/100K respop	157.90	164.58	r
WEAPARST, Weapons arrests, avg. for 1979–1981, per 100 sworn police officers	58.26	30.83	s
ACCIDENT, Accidental deaths, excl. gun accidents/ 100K respop	46.43	15.45	a

It is important to stress at this point that the exact combination of control variables included in each model was not critical with respect to the gun control results. Gun law coefficient estimates were not sensitive to the choice of control variables to include because correlations between the gun law variables and the control variables were almost all weak. Of 290 bivariate correlations between gun law variables and control variables, none exceeded 0.4, and only 7 even reached 0.3. Multicollinearity involving the gun law variables was generally minor. In the final violence rate equations, variance inflation factors (VIF) for each of the 19 gun law variables were under 10, and all but two were under 4. [Kennedy (1985, p. 153) suggests that a VIF over 10 incidates harmful collinearity.] Thus, regardless of which theoretical perspectives might be used to inform the specification of control variables, the key coefficient estimates were not

substantially affected by specification decisions concerning which control variables to include in the models.

A few of the control variables are sufficiently uncommon to require comment. Like nearly all aggregate analyses of violence, the present study uses ratio variables, with city population being the denominator in many variables, both exogenous and endogeneous. Some critics have argued that the presence of common components in ratio variables can lead to biased or artifactual associations. Firebaugh and Gibbs (1985, p. 715) recommended that if one seeks unbiased coefficient estimates in a regression model containing both endogeneous and exogenous variables with a common component (commonly population size) in the denominator, one should also include one divided by the common component as another predictor. Thus we have included, in all models, one divided by resident population (in 100,000's) as a predictor.

Computing aggregate crime variables as per capita rates is conventionally done to control for the size of the population at risk of either committing crimes or being victimized in crime. Standard city resident population figures, however, are not completely adequate for this purpose because they do not count nonresident persons at risk, including daily commuters and visitors such as tourists and business travelers. We roughly controlled for the omission of commuters by including as a separate predictor the city population as a fraction of the surrounding metropolitan area, on the assumption that cities located in much larger metro areas are likely to have more commuters, in which case resident population would be a more serious underestimate of the population at risk [see Gibbs and Erickson (1976) for a fuller rationale]. We controlled for the contribution of short-term visitors by including as a separate predictor a "visitors index": the per capita total receipts for hotels, motels, and other lodging places, for the metropolitan area in which a city is located, in 1977. This is an especially important control for cities with large numbers of tourists relative to resident population, such as Las Vegas, Orlando (Disney World), and Miami.

4.1. Measurement of Gun Laws

Table II lists all of the variables which are included in later tables, as well as control variables which were evaluated but found to be unrelated to violence rates, along with the sources of the data. The following four sources were used for gun law coding, in descending order of importance: U.S. Bureau of Alcohol, Tabacco, and Firearms (BATF) (1980), Jones and Ray (1980), Blose and Cook (1980), and Ronhovde and Sugars (1982). Multiple sources were used wherever possible because each source provided

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some information the others did not, and each served as a reliability check on the others. When sources conflicted, state statute books were consulted.

Both state laws and city ordinances were coded. Nineteen major categories of existing gun laws which could affect violence rates were included in the analysis. The philosophy guiding coding of the gun law variables was to code them so that each variable would measure the presence or absence of a given form of regulation, regardless of what other elements might have accompanied it in a given law, and regardless of what governmental level imposed the restriction. Thus a gun law variable was coded 1 if the form of regulation applied in 1980 to a given city, either due to a city ordinance or because the city was located in a state with such a law, whether the law applied to all types of guns or, as was usually the case, only to handguns; the city was coded 0 otherwise. A single law therefore might result in a city being coded 1 on two or three different gun control variables.

The gun law variables were constructed in such a way that any city subject to a gun license law was also subject to purchase permit requirements, since existing license laws all include as a component a requirement that a license be presented in order to buy guns from licensed dealers, in addition to requiring a license for home possession of guns. On the other hand, a city could be subject to a purchase permit requirement without requiring a license for home possession of firearms.

The gun registration variable was coded 1 if gun sales were recorded in such a way that a governmental agency received a record of a specific gun being sold to a specific person or if all persons currently possessing a gun were required to record their ownership of each gun with an agency.

The codings for most gun law variables were simply 1 for the regulation being present at either the state or the local level and 0 if they were absent. However, for the gun carrying law variables (CARYHIDN, CARYOPEN), 1 indicated that gun carrying (concealed or open, respectively) was either completely unlawful or required a license which was hard to get and rarely issued, while 0 indicated that the city was located in a so-called "shall issue" state—carry permits are fairly easy to get because they must be granted to applicants unless they have certain specified disqualifying attributes (Blackman, 1985).

4.2. Measurement of Gun Prevalence

We measured gun prevalence using a principal-components factor based on multiple indirect indicators. For cities, Cook (1979) used a simple index consisting of the average of two indicators: the percentage of suicides committed with guns and the percentage of nonfelony homicides com-

Exhibit 9
0125

mitted with guns. He showed this measure to be highly correlated with survey measures of urban household gun prevalence, aggregated over eight regions, indicating validity for purposes of cross-sectional analyses. Earlier researchers had used similar indirect measures (Brearley, 1932, p. 71; Seitz, 1972; Curtis, 1974, p. 110; Brill, 1977, p. 20).

We improved on these measures by using as many as five indicators of city gun prevalence levels: (1) percentage of suicides committed with guns, 1979–1982; (2) percentage of nonfelony homicides committed with guns, 1979–1982; (3) percentage of aggravated assaults known to the police committed with guns, 1979–1980; (4) percentage of robberies known to the police committed with guns, 1979–1980; and (5) percentage of the dollar value of all stolen property reported to the police which was due to firearms thefts, 1979–1981. We also evaluated three other indicators: the fatal gun accident rate, the rate of National Rifle Association members, and the rate of contributors to the Second Amendment Foundation, another gun owners' group. However, in a factor analysis these did not load with the other indicators. A simple explanation would be that the latter group of indicators reflects mainly gun prevalence among noncriminals, while the first five measures reflect mainly gun prevalence among criminals.

In each model, when the dependent variable could have an artifactual association with one of the gun prevalence indicators, that indicator was deleted. Thus, for example, the percentage of homicides involving guns was omitted from the homicide model, the gun percentage of assaults was omitted from the assault model, etc.

All these indicators but the suicide item relate on their face to criminal gun possession. Therefore, we interpret the gun index as an indirect measure of gun prevalence among criminals. For conceptual and theoretical purposes, and at the individual level of empirical analysis, it is important to maintain the distinction between criminal and noncriminal gun possession. However, at the city level it is doubtful whether the two can be distinguished, as we suspect they are highly correlated. One simple reason would be the high rate of illegal gun transfers (Wright and Rossi, 1986)—cities with high noncriminal gun ownership will also have high criminal gun ownership because criminals steal guns from noncriminals. Therefore, as a practical matter, our indicators probably necessarily serve as indicators of noncriminal gun prevalence, as well as gun prevalence among criminals.

4.3. Validation of the Gun Prevalence Measure

Following Cook (1979), we assessed the validity of our gun indicators by measuring their associations with survey-based measures of gun

prevalence. We combined the results of three national surveys, the General Social Surveys for 1980, 1982 and 1984, to compute reported gun prevalence figures for the nine major U.S. census regions, among persons living in places of 100,000 or larger population. Comparable measures were computed for each of our gun indicator variables by weighting each city measure by the city's population and calculating a weighted average for our cities in each of the nine regions.

All but one of the indirect indicators was strongly correlated across regions with the regional survey measures of gun prevalence, and the indicators were highly correlated among themselves. The only indicator about which there was some doubt is one of the two used by Cook (1979) —the percentage of homicides committed with guns. It was correlated only 0.38 with the survey-based percentage of households reporting a gun, over the nine regions, which was not significantly different from zero. The other indicators showed the following significant correlations with the percentage of households reporting a gun: 0.69 for percentage of aggravated assaults committed with a gun, 0.83 for percentage of robberies committed with a gun, 0.86 for percentage of suicides committed with guns, and 0.90 for the percentage of the value of reported stolen property attributable to guns. This last measure, not previously used in gun research, appeared to be the best single indicator of gun prevalence. These same results were confirmed using survey-based measures of respondent (as opposed to household) gun prevalence and both household and respondent prevalence of handguns. An important finding of this validity test was that all of the indicators were more strongly associated with survey measures of handgun prevalence than with gun prevalence in general. Thus our indicators may reflect handgun prevalence more strongly than longgun prevalence. This is probably advantageous, since handguns are the predominant gun type involved in crime (U.S. Bureau of Justice Statistics, 1987).

4.4. Reciprocal Effects

Levels of violence might influence how much gun control a city has, as well as the reverse. If violence levels and the presence of gun laws had a simultaneous reciprocal relationship, a nonrecursive model would be called for, using an appropriate estimation procedure. However, gun laws were not passed frequently enough for violence levels in 1979–1981 to influence the passage of any significant number of gun laws during the same period [see Jones and Ray (1980, Appendix III) regarding the pace of gun law changes]. Rather, the level of gun control strictness in 1979–1981 was almost entirely a cumulative product of legislative activity before 1979. Further, there is no evidence that actual or measured violence

rates have any impact on legislative decisions regarding gun controls. Nevertheless, the relationship was treated as a simultaneous one in supplementary estimations, and recursive models were specified.

We always treated the relationships between gun prevalence and violent crime rate as simultaneous reciprocal ones, expecting that while gun levels may affect crime levels, crime may also simultaneously stimulate gun acquisitions (Kleck, 1984a). We used the rate of subscriptions to gun-related magazines and the state hunting license rate as measures of recreational interest in firearms. They served as instruments which should have a direct effect on gun prevalence but not on violence or crime rates, allowing identification of the model. [For a good introduction to identification problems, see Maddala (1988, pp. 293–304).]

This study improves on previous work in the following ways: (1) we modeled the two-way relationship between gun levels and violence levels, (2) we measured gun prevalence, and used multiple, validated indicators of gun prevalence levels, instead of just one or two, (3) we used extensive controls for possible sources of spuriousness, (4) we used cities as the unit of analysis, a smaller, more homogeneous unit than states, (5) we took account of both city and state gun laws, (6) we used four different sources for measuring gun laws, (7) we assessed 19 different types of gun laws instead of just 1 or 2, (8) we assessed whether the effectiveness of gun laws depends on the level of enforcement of weapons laws, and (9) we used a large sample of 170 cases, rather than the 50 or fewer common in prior studies.

5. INFERENTIAL LOGIC

The conditions under which one could tentatively conclude that gun laws reduce violence are as follows: If gun laws are effective, they should have (1) a significant negative association with the *gun* violence rate (e.g., the rate of homicides committed with guns), (2) a significant negative association with the *total* violence rate [e.g., the total homicide (gun homicide plus nongun homicide) rate], and, preferably, (3) a weaker association with the *nongun* violence rate (e.g., the rate of homicides not committed with guns) than with the gun violence rate.

If 1 is true, but not 2, it would generally indicate that gun laws merely shift people from guns to nongun weapons, with no net reduction in deaths or crimes. If 2 is true, but 1 is not, it suggests that gun laws are merely associated with some omitted variables which have an effect on total violence rates but that gun laws themselves have no effect, since they should have their effects by, at minimum, reducing rates of violence committed with guns. Interpretation is ambiguous if 1 and 2 are true, but 3 is

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not (i.e., gun laws are as strongly negatively associated with nongun rates as with gun rates). This would suggest that either (a) the gun control variable is simply a correlate of some omitted variable which affects the violence rate, since there is no strong a priori reason why gun controls should reduce the rate of violent acts without guns, or (b) the gun control does reduce acts of violence with guns but is also a correlate of some factor which reduces violent acts without guns as well. Interpretation is also ambiguous if 1 is true, 2 is not true, *and* the gun control was not significantly associated with the nongun violence rate. As noted, the first two circumstances would ordinarily suggest substitution of nongun means for guns, with no net effect on total violence. However, the fact that the gun law did not show any evidence of increasing the nongun violence rate would seem to contradict this interpretation, making a clear interpretation impossible.

Note that this logic is irrelevant to the analyses of rape and fatal gun accidents since there were no data available to separately measure gun and nongun rates of rape, and the inferential logic is irrelevant to gun accidents. For these two, interpretations had to be based entirely on findings concerning the total rape and fatal gun accident rates.

6. FINDINGS

Table III reports two-stage least-squares (2SLS) parameter estimates of the effects of gun laws, gun prevalence, and control variables on rates of total (gun plus nongun) violence, gun violence, and nongun violence. To clarify interpretation of Table III, consider A, pertaining to homicide rates. It reports estimates for three homicide models, with each pair of columns referring to a two-equation model of a given type of homicide. For example, the columns 2 and 3 present estimates of a two-equation model, column 2 pertaining to the total (gun plus nongun) homicide equation and column 3 pertaining to the gun prevalence equation.

Now consider estimates pertaining to a particular predictor variable. The row of numbers for BYPERMIT is estimates of coefficients reflecting the effects of laws requiring gun purchase permits on: (column 2) the total homicide rate, (column 3) gun prevalence in the total homicide model, (column 4) the rate of homicides committed with guns, (column 5) gun prevalence in the gun homicide model, (column 6) the rate of homicides not committed with guns, and (column 7) gun prevalence in the nongun homicide model, respectively. These estimates indicate that this type of gun control appears to have a significant negative effect on the total homicide rate, no significant negative effect on the gun homicide rate, and a significant negative effect on the nongun homicide rate. The interpreta-

Exhibit 9
0129

Table III. Two-Stage Least-Squares Estimates (Standardized Coefficients)

(A) Homicide models

	Total homicide	Gun prevalence	Gun homicide	Gun prevalence	Nongun homicide	Gun prevalence
PCTHISP	−0.035	−0.017	−0.041	−0.005	−0.030	−0.028
RPOV	0.762***	−0.257	0.704***	−0.298	0.746***	−0.175
COLLEGE	−0.299***	0.034	−0.302***	0.068	−0.254***	−0.017
CNTDIVRT	0.243***		0.164***		0.325***	
PCTSMSA	−0.135**	0.030	−0.132**	0.033	−0.121*	0.022
INVPOP	−0.223***		−0.213***		−0.232***	
DENSITY	−0.037	−0.266***	−0.008	−0.268***	−0.056	−0.275***
STHNNESS	0.253*	0.472***	0.289**	0.400***	0.129	0.582***
RGUNMAG		0.150**		0.131**		0.174**
HUNTERS		0.247***		0.237***		0.255***
LICENSE	−0.077	−0.028	−0.083	−0.011	−0.047	−0.052
BYPERMIT	−0.150**	−0.13	−0.095	−0.030	−0.248***	0.012
WAITPER	−0.060	0.049	−0.041	0.046	−0.088	0.055
CRIMINAL	−0.035	−0.150**	−0.026	−0.138**	−0.032	−0.167***
MENTAL	−0.018**	0.029	−0.177***	0.046	−0.020**	0.021
ADDICT	0.112	0.072	0.114	0.053	0.092	0.099
ALCOHOLIC	0.037	0.028	0.035	0.020	0.033	0.040
MINORS	0.015	0.049	0.020	0.041	−0.010	0.064
REGISTER	0.124*	0.079	0.120*	0.068	0.127*	0.091
DEALER	−0.065	−0.133	−0.079	−0.117	−0.039	−0.155*
CARYHIDN	0.077	0.075	0.033	0.078	0.143	0.070
CARYOPEN	−0.056	−0.078	−0.058	−0.064	−0.023	−0.105
MANDPEN	−0.050	0.003	−0.075	0.025	−0.027	−0.013
ADDONDIS	−0.088	−0.058	−0.115**	−0.027	−0.033	−0.095
ADDONMND	−0.023	−0.071	−0.030	−0.054	0.019	−0.094
RTBRARMS	−0.047	−0.003	−0.038	−0.005	−0.031	−0.012
HHGBAN	0.08 7	0.014	0.093	−0.002	0.073	0.298
SNSBAN	0.083	−0.086	0.089*	−0.094	0.088	−0.082
HGBYBAN	0.001	0.005	−0.013	0.011	0.028	−0.003
LNMR		0.487**				
LNGUNMR				0.561**		
LNMGMR						0.413*
Gun prevalence[a]	−0.283		−0.111		−0.525*	
Gun Law Index[b]	0.409**	−0.775	0.408**	−0.714	0.324*	−0.799

Table III. Continued

(B) Aggravated assault models

	Total assault	Gun prevalence	Gun assault	Gun prevalence	Nongun assault	Gun prevalence
RPOV	0.626***		0.487***		0.591***	
COLLEGE	−0.154***		−0.116*		−0.132*	
CNTDIVRT	0.247***	0.078	0.168***	0.079	0.264***	0.077
ALCHLSM	0.232***		0.253***		0.210***	
PCTSMSA	−0.124*		−0.111		−0.116	
INVPOP	0.087		−0.036		0.128*	
STHNNESS	0.103	0.640***	0.159	0.580***	0.109	0.659***
RGUNMAG		0.133**		0.143***		0.127**
GUNTERS		0.177***		0.158***		0.183***
LICENSE	−0.040	−0.083	−0.029	−0.075	−0.068	−0.083
BYPERMIT	0.114	−0.064	0.129	−0.069	0.072	−0.056
WAITPER	−0.014	0.013	−0.028	−0.021	−0.033	−0.003
CRIMINAL	−0.028	−0.105*	−0.167**	−0.079	0.051	−0.114*
MENTAL	0.109	−0.118*	0.112	−0.125*	0.093	−0.112
ADDICT	0.093	0.050	0.161	0.026	0.049	0.057
ALCOHOLIC	0.082*	0.130**	0.017	0.128**	0.019	0.132**
MINORS	−0.044	0.064	−0.036	0.061	−0.043	0.065
REGISTER	0.013	0.019	0.111	−0.002	0.134	0.027
DEALER	−0.167	−0.086	−0.225**	−0.056	−0.137	−0.096
CARYHIDN	0.045	0.025	0.040	0.020	0.017	0.028
CARYOPEN	0.118	−0.060	0.004	−0.049	0.166*	−0.061
MANDPEN	−0.026	−0.025	−0.050	−0.020	−0.024	−0.024
ADDONDIS	−0.078	−0.118**	−0.096	−0.103*	−0.026	−0.127**
ADDONMND	0.014	−0.109	0.068	−0.111	−0.011	−0.111
RTBRARMS	0.098	−0.008	0.046	−0.007	0.122	−0.009
HGBAN	0.022	−0.026	0.045	−0.037	0.017	−0.024
SNSBAN	0.069	−0.064	0.156**	−0.075	0.043	−0.065
HGBYBAN	−0.106	0.038	−0.103	0.044	−0.084	0.034
LNASLT		0.126				
LNGNASLT				0.190**		
LNNGASLT						0.107
Gun prevalence[c]	−0.021		0.277		−0.194	
Gun Law Index[b]	0.095	−0.607**	0.014	−0.711***	0.107	−0.531**

Table III. Continued

(C) Robbery models

	Total robbery	Gun prevalence	Gun robbery	Gun prevalence	Nongun robbery	Gun prevalence
PCTBLACK	0.525*	0.541**	0.375	0.446***	0.610*	0.550***
PCTM1524	−0.073		−0.101		−0.051	
INEQUALT	0.458***		0.385***		0.438***	
COLLEGE	−0.197***		−0.087		−0.236***	
ADDICTRT	0.082		0.096*		0.070	
PCTSMSA	−0.201**	0.085	−0.311***	0.103	−0.010	0.089
VISITORS	0.257***	0.042	0.278***	0.004	0.212***	0.046*
INVPOP	−0.277***		−0.252***		−0.276***	
WEST	0.176		0.219**		0.160	
RGUNMAG		0.082		0.105		0.064
HUNTERS		0.100		0.108		0.085
LICENSE	−0.013	−0.078	0.012	−0.085	−0.029	−0.072
BYPERMIT	−0.089	−0.143*	−0.081	−0.132	−0.077	−0.129
WAITPER	0.033	−0.175	0.066	−0.227**	−0.024	−0.150
CRIMINAL	−0.070	0 .034	−0.107*	0.031	−0.033	0.038
MENTAL	−0.142	−0.292***	−0.035	−0.321***	−0.234	−0.273***
ADDICT	0.164	0.249**	0.160	0.233**	0.180	0.234**
ALCOHOLIC	0.066	0.040	0.047	0.037	0.059	0.038
MINORS	−0.002	0.013	−0.008	0.016	0.004	0.012
REGISTER	−0.007	−0.126	0.020	−0.145*	−0.065	−0.122
DEALER	−0.143*	−0.125	−0.126*	−0.110	−0.155	−0.121
CARYHIDIN	0.063	0.094	0.088	0.077	0.049	0.089
CARYOPEN	−0.032	−0.112	0.008	−0.126	−0.082	−0.106
MANDPEN	−0.147**	−0.066	−0.124**	−0.062	−0.164**	−0.066
ADDONDIS	−0.167**	−0.114	−0.110*	−0.102	−0.181**	−0.113
ADDONMND	0.018	−0.003	0.054	−0.011	−0.017	0.000
RTBRARMS	0.032	0.137	0.014	0.119	0.062	0.138
HGBAN	0.104	−0.031	0.194***	−0.052	0.051	−0.031
SNSBAN	0.060	0.019	0.070	0.020	0.074	0.019
HGBYBAN	−0.105*	0.007	−0.095*	0.034	−0.095	−0.003
LNROB		−0.149				
LNGNROB				0.012		
LNNGROBR						−0.206*
Gun prevalence[d]	−0.538		0.197		−0.793*	
Gun Law Index[b]	0.140	−0.216	−0.062	−0.538***	−0.043	−0.197***

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Table III. Continued

(D) Rape and fatal gun accident models

	Rape	Gun prevalence	Fatal gun accidents	Gun prevalence
PCTBLACK	0.750***		0.296***	0.384***
CNTDIVRT	0.249***			
INVPOP	−0.242***		−0.117	−0.064
WEST	0.340***	−0.310*		
DENSITY	−0.168		0.088	
MFI		0.340		
OWNEROCC		0.556**		
ALCHLSM			−0.143	
ACCIDENT			0.217**	
RGUNMAG		0.187		0.155***
HUNTERS		−0.065		0.178***
LICENSE	0.079	−0.191*	−0.101	−0.129
BYPERMIT	−0.109	0.079	0.025	−0.189**
WAITPER	−0.061	−0.050	0.053	−0.248**
CRIMINAL	0.053	−0.106	0.123	0.023
MENTAL	−0.045	−0.076	−0.157	−0.287***
ADDICT	0.215	−0.038	0.001	0.176*
ALCOHOLIC	0.103	−0.127	0.030	0.068
MINORS	0.087	−0.057	−0.062	−0.033
REGISTER	−0.097	−0.059	−0.018	−0.039*
DEALER	−0.063	0.114	0.098	−0.159*
CARYHIDN	0.078	0.111		
CARYOPEN	−0.015	−0.098		
MANDPEN	−0.096	0.113		
ADDONDIS	−0.066	−0.038		
ADDONMND	0.133	−0.237*		
RTBRARMS	0.182**	−0.144		
HGBAN	−0.092	0.138	0.009	−0.028
SNSBAN	0.084	−0.128	0.063	0.000
HGBYBAN	−0.112	0.055	−0.099	0.061
LNRAPE		1.088***		
Gun prevalence[e]	−0.249		0.121	
Gun Law Index[b]	−0.051	−0.593	0.111	−1.262***

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Table III. Continued

(E) Suicide models (OLS estimates)

	Total suicide	Gun suicide	Nongun suicide	Gun prevalence
TRNSIENT	0.240***	0.098*	0.286***	
CNTDIVRT	0.159**	0.165***	0.004	0.134
ALCHLSM	0.332***	0.255***	0.275***	
INVPOP	0.020	−0.071	0.125*	
DENSITY	−0.237***	−0.386***	0 .017	−0.197*
HOSPITAL	0.069	0.101*	0.008	
LIVLONE	0.183**	0.065	0.257***	
PCTOLD	0.138*	0.064	0.113	
RGUNMAG				0.065
HUNTERS				0.063
LICENSE	−0.033	−0.062	0.008	−0.171*
BYPERMIT	−0.089	−0.146**	0.053	−0.005
WAITPER	0.005	−0.025	0.008	−0.211*
CRIMINAL	0.071	0.090	−0.056	−0.129
MENTAL	−0.071	−0.134*	0.014	−0.095
ADDICT	0.058	−0.008	0.154	0.240***
ALCOHOLIC	−0.038	−0.010	−0.087	0.041
MINORS	−0.038	−0.018	−0.048	0.036
REGISTER	−0.063	−0.089	0.016	−0.139
DEALER	−0.229***	−0.140**	−0.207**	0.001
CARYHIDN				
CARYOPEN				
MANDPEN				
ADDONDIS				
ADDONMND				
RTBRARMS				
HGBAN	−0.062	−0.095	−0.037	0.114
SNSBAN	0.094	−0.014	0.148**	−0.013
HGBYBAN	−0.066	0.051	−0.093	0.107
Gun prevalence[f]	0.132**	0.252***	−0.101	
Gun Law Index[b]	−0.242	−0.319*	0.005	−0.084

[a]Principal-components factor with indicators PCTGNAST, PCTGNROB, PGS7982, and GUNSTOL.
[b]Principal-components factor with indicators: all gun laws.
[c]Principal-components factor with indicators PGH7982, PCTGNROB, PGS7982, and GUNSTOL.
[d]Principal-components factor with indicators PGH7982, PCTGNAST, PGS7982, and GUNSTOL.
[e]Principal-components factor with indicators PCTGNAST, PCTGNROB, PGS7982, GUNSTOL, and PGH7982.
[f]Principal-components factor with indicators PGH7982, PCTGNROB, PCTGNAST, and GUNSTOL.
*$P < 0.10$.
**$P < 0.05$.
***$P < 0.01$.

tion of this pattern of results is that the law is ineffective in reducing homicide, since it did not have a significant negative association with the rate of gun homicide.

6.1. Effects of Gun Prevalence Levels on Violence Rates

Estimates of the impact of gun prevalence on violence rates can be found in Table III in the penultimate row of each column referring to a violence rate. For example, the 2SLS coefficient estimating the impact of gun prevalence on the total murder rate is a nonsignificant −0.283 (column 2 in A).

Gun prevalence had an apparent significant positive effect on total rates of suicide, but not on any of the other five types of violence. The apparent effect of gun prevalence on suicide rates, however, is not entirely stable, being evident only when the suicide models were estimated with OLS. Some would argue that high suicide rates could discourage gun acquisition among people living in households with a person they believed to be suicide-prone. If this were true, then gun prevalence should be treated as endogeneous in the suicide models, just as in the other models (though for different reasons). When gun prevalence was treated as endogeneous, and the model was estimated with 2SLS, the results indicated no significant impact of gun prevalence on suicide. We tentatively conclude that gun prevalence rates *may* increase total suicide rates but have no effect on total rates of homicide, robbery, aggravated assault, rape, or fatal gun accidents.

6.2. Effects of Violence Rates on Gun Prevalence Levels

Coefficients estimating these effects can be found in the Gun Prevalence columns in Table III, in the rows near the bottom of each panel labeled with the names of the various violence rates. For example, in column 3 in A, the LNMR coefficient is a significant 0.487, indicating that the total homicide rate appears to have a positive impact on gun prevalence.

Homicide (gun, nongun, and total), gun assault, and rape rates all had significant positive coefficients in the gun prevalence equations. This supports the hypothesis that some violence rates encourage the acquisition of firearms for self-defense, accounting at least partially for bivariate positive associations observed between gun prevalence levels and violence levels. That rape in particular should have this effect is consistent with survey evidence that women's gun ownership, while lower than men's, is disproportionately likely to be motivated by self-defense concerns and with county-level findings that female gun ownership rates are more responsive to violence rates than men's ownership rates are (Bordua and Lizotte,

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1979, p. 172). More generally, the results support the simple idea that rates of more serious violent crimes are more likely to increase gun acquisition.

6.3. Effects of Gun Controls on Gun Prevalence Levels

The effects of 19 types of gun regulations on gun prevalence levels are summarized in Table IVA. The effect of each gun restriction on gun prevalence was estimated multiple times, once in each of six violence rate models. Because the exact set of gun prevalence indicators used varied from one model to the next, it therefore was possible for estimated effects of gun controls on gun prevalence levels to vary somewhat from one violence rate model to the next. None of the gun controls appeared to have any impact on gun prevalence. Each law's effect on gun prevalence was initially estimated six times, but only bans on gun possession by criminals and mentally ill persons showed significant effects in even half of the initial tests.

Table IV. Summary of Effects of Gun Prevalence and Gun Controls on Violence Rates

(A) Significant negative impact of gun controls on gun prevalence?[a]

	Violence rate model					
	Homicide	Aggrvtd. assault	Robbery	Rape	Gun accidents	Suicide
LICENSE	No	No/Yes	No/Yes	Yes	No/Yes	Yes
BYPERMIT	No	No/Yes	Yes	No	Yes	No
WAITPER	No	No	No	No	Yes	Yes
CRIMINAL	Yes	Yes	No	No	No	No/No/Yes
MENTAL	No	Yes	Yes	No	Yes	No
ADDICTS	No	No	No	No	No	No
ALCOHOLIC	No	No	No	No	No	No
MINORS	No	No	No	No	No	No
REGISTER	No	No	No/No/Yes	No	Yes	No
DEALER	No	No	No	No	Yes	No
CARYHIDN	No	No	No	No		
CARYOPEN	No	No	No	No		
MANDPEN	No	No	No	No		
ADDONDIS	No	Yes	No	No		
ADDONMND	No	No	No	Yes		
RTBRARMS	No	No	No	No		
HGBAN	No	No	No	No	No	No
SNSBAN	No	No	No	No	No	No
HGBYBAN	No	No	No	No	No	No

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Table IV. Continued

(B) Effects of gun prevalence and gun laws on violence rates

	Violence rate model					
	Homicide	Aggrvtd. assault	Robbery	Rape	Gun accidents	Suicide
Significant positive effect of gun prevalence?	No	No	No	No	No	(Yes)[b]
Significant negative effect of gun laws?[a]						
LICENSE	No/Yes/Maybe	No	No	No	No	No/Maybe/No
BYPERMIT	No/Maybe/No	No	No	No	No	Maybe
WAITPER	No	No	No	No	No	No
CRIMINAL	No	Maybe	Maybe	No	No	No
MENTAL	Yes	No	No	No	No	Maybe
ADDICT	No	No	No	No	No	No
ALCOHOLIC	No	No	No	No	No	No
MINORS	No	No	No	No	No	No
REGISTER	No	No	No	No	No	No
DEALER	No	Maybe	Yes	No	No	Maybe
CARYHIDN	No	No	No	No		
CARYOPEN	No	No	No	No		
MANDPEN	No	No	Maybe	No		
ADDONDIS	Maybe/ /Yes	No	Maybe	No/ /Yes		
ADDONMND	No	No	No	No		
RTBRARMS	No	No	No	No		
HGBAN	No	No	No	No/Yes/Yes	No	No/No/Maybe
SNSBAN	No	No	No	No	No	No
HGBYBAN	No	No	Yes	No	No	No
Gun Law Index	No	No	No	No	No	No

[a]Where more than one interpretation appears in a cell, it means that interpretations became more supportive of the gun control efficacy hypothesis when different specifications were used. (1) The first (and usually the only) interpretation pertains to models containing all 19 gun laws and no provision for interactions; (2) the second one pertains to results when using a reduced set of four gun control variables; (3) the third one pertains to results when multiplicative terms testing for interactions between gun laws and enforcement levels were specified (see text). Unsupportive results which remained unsupportive (No) under the latter two alternative specifications are not shown, to simplify the table.

[b]An effect of gun prevalence on total suicide rates was evident only when the model was estimated with OLS. When gun prevalence was treated as endogenous and the model was estimated with 2SLS, results did not indicate an impact of gun prevalence.

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We checked to see if gun control effects on gun prevalence would become evident if we used a reduced set of four of the stronger gun laws (listed in a later section). The results for just one type of gun control changed (indicated by Yes appearing after one slash in a given cell in Table IVA)—gun owner licensing appears to reduce gun prevalence in five of the six violence models. However, since this apparent effect is evident only when there are no controls for other gun laws, this result may reflect the cumulative, albeit apparently slight, effects of other, correlated, gun laws as well as the effects of licensing itself. Therefore, interpretation of this result must remain ambiguous.

We also checked for interactions between gun laws and police enforcement effort by adding to each gun prevalence equation a multiplicative term for each gun control variable, consisting of the gun control variable multiplied times the weapons arrest rate. Of 108 tests for interactions, only 2 suggested an effect of gun controls on gun prevalence which was contingent upon enforcement effort, where no impact of the controls had been evident in the additive analysis. These are denoted by Yes appearing after two slashes in any of the cells in Table IVA (see CRIMINAL in the Suicide model and REGISTER in the Robbery model). Given the large number of tests, we believe that these two deviant results could be the product of chance. Thus, our evidence generally fails to support the hypothesis that the impact of gun controls on gun levels depends on the level of police enforcement.

6.4. Effects of Gun Control Laws on Violence Rates

Table III contains detailed results on this issue, which are summarized in Table IV. The findings indicate that most gun restrictions appear to exert no significant negative effect on total violence rates, though some gun controls do seem to be effective. Of 102 possible effects tested, 7 were consistently supportive of, and 11 others were at least partially consistent with, a hypothesis of gun control effectiveness, albeit using fairly generous evaluative criteria. As described below, each gun law's effect on a given form of violence was estimated under three conditions: (1) with all gun law variables specified in the models but with no measure of enforcement effort included, (2) with all gun control variables specified in the models and with interactions of gun laws and enforcement effort included, and (3) with a reduced set of four especially strong gun control variables included in the models. In the subsequent discussion, each law is assessed based on the most supportive of the three sets of results, i.e., the results most supportive of a violence-reducing impact of the law. Thus, the gun control efficacy hypothesis was given 18 chances at confirmation for any one form of gun

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control, with hypothesis tests in three sets of circumstances, in each of six violence rate models. (There were, however, no tests of the impact of carry laws, add-on penalties for committing a crime with a gun, or right-to-bear-arms provisions on suicide or gun accident rates, as these regulations were considered irrelevant to suicides or accidents. For example, nearly all gun suicides are committed in a private location and thus are unlikely to be affected by carry laws.)

6.4.1. Results with All 19 Gun Control Variables Included, No Enforcement Interactions

Because we could not know in advance which gun control measures affected violence rates, we initially specified all 19 gun control variables in each violence rate equation (with the exceptions described in the previous paragraph). As noted previously, collinearity among these variables was generally slight, so this was not a serious statistical problem. We first present interpretations based on these specifications, followed by discussion of any results which were modified when a reduced set of gun laws were used or when interactions with enforcement levels were specified.

Requiring permits to buy guns (BYPERMIT) may reduce rates of suicide. Bans on possession of guns by convicted criminals (CRIMINAL) may reduce rates of aggravated assault and robbery. Bans on possession of guns by mentally ill persons (MENTAL) appear to reduce homicide and may reduce suicide. Requiring a state or local license to be a gun dealer (DEALER) appears to reduce rates of robbery and may reduce aggravated assaults and suicides. Laws that provide mandatory penalties for unlawful gun carrying (MANDPEN) may reduce robbery. Laws providing discretionary additional penalties for committing crimes with a gun (ADDONDIS) may reduce murder and robbery. Finally, local bans on the purchase of handguns appear to reduce robbery rates.

6.4.2. Results Using a Reduced Set of Gun Law Variables

While the problem is mild, there is some collinearity among the gun law variables which could inflate standard errors somewhat and thereby bias hypothesis tests in favor of the null hypothesis. Therefore the violence rate models were reestimated with just four gun law variables thought to be especially likely to show effects, since they were fairly strong measures—licenses, purchase permits, handgun possession bans, and bans on sale of "Saturday Night Specials." When this was done, four of the previous results were altered so as to strengthen, to varying degrees, support for the hypothesis of gun control efficacy. (Two results changed mildly from No to Maybe, while two changed substantially from No to Yes.) With the reduced set of gun law variables, estimates indicated that owner licensing

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appears to reduce homicides and may reduce total suicides. Purchase permits may reduce homicides (there was still, however, a stronger negative association of permits with nongun homicide than with gun homicide). These estimations also indicated that handgun bans appear (somewhat implausibly, given how rarely rapists use guns) to reduce rapes, but not any other forms of violence. The rest of the gun law assessments were unaffected. Gun prevalence still showed no positive effect on any of the violence rates except the gun suicide and total suicide rates, the same as with models including the full set of gun laws. (Results are summarized in Table IV; estimates are not reported here but are available from the senior author.)

6.4.3. Interactions with Enforcement Level

It could be argued that gun laws are not always given a fair chance to work because in many places they are not adequately enforced. We tested this idea by forming multiplicative interaction terms between each gun law variable and a measure of police enforcement effort, the number of weapons arrests per 100 sworn police officers (WEAPARTS), and adding these terms into our models of violence rates. The resulting estimates generally confirmed the previous results. The coefficients for the interaction terms were rarely negative and significant, indicating that the effects of gun laws apparently were not dependent on the level of police enforcement effort, at least not based on the measure of effort used and not within the range of enforcement effort currently exerted in large U.S. cities. Of 102 possible interaction effects tested, only 5 suggested possible gun law effectiveness contingent upon the level of law enforcement effort: (1) laws providing discretionary add-on penalties for committing crimes with a gun appear to reduce the total homicide rate when accompanied by sufficient enforcement effort, (2) the same appears to be true for rape, (3) owner licensing may have such a contingent effect on homicide (4) handgun bans appear to have a contingent effect on the rape rate, and (5) handgun bans may have such an effect on the suicide rate. Given the large number of tests for interaction effects, however, five "significant" results might be little more than a product of chance. (Interaction test results are summarized in Table IV; estimates are available from the senior author.)

6.5. Gun Control as a Single Endogenous Variable

As noted before, we consider it unlikely that there is a simultaneous reciprocal relationship between gun laws and violence rates. Nevertheless, we estimated models of violence rates which assumed that such a relationship was possible. To do this, a Gun Law Index (GLI) was created

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from all 19 gun control variables, using principal components analysis. This variable was treated as endogenous, in a model which assumed that simultaneous relationships existed among the GLI, the violence rate, and gun prevalence. Two instrumental variables were assumed to affect directly the GLI but not violence rates or gun ownership: LIBERAL, the percentage of a city's voters who voted for George McGovern in the 1972 presidential election (a measure of political liberalism), and NRA, the city's rate of membership in the National Rifle Association.

Estimates of the GLI coefficient are reported near the bottom of each violence rate column in Table III. Note that these are estimates from separate models which did *not* include the individual gun control variables and, thus, are not a part of the models to which the rest of the coefficients in Table III correspond. These estimates indicate that the overall level of gun control in a city does not appear to exert a significant negative effect on any of the six violence rates. The only hint of a possible exception was with suicide. Although the GLI was not related to the total suicide rate, its coefficient was negative and marginally significant ($0.05 \leqslant P < 0.10$) in the gun suicide equation and nonsignificant in the nongun suicide equation. Thus, treating gun control as a single endogenous variable did not strengthen support for the gun control efficacy hypothesis.

7. DISCUSSION

These results generally support the view that (1) existing gun control laws do not reduce gun prevalence in U.S. cities, (2) gun prevalence does not have any measurable net positive effect on violence rates except for a possible effect on suicide rates, and (3) most gun control laws do not reduce violence rates, though a few may do so.

For many gun regulations, such as carry controls or add-on penalties, it is not surprising that they do not reduce gun ownership, since they were not intended to do so. Still other gun controls may operate to restrict ownership only among "high-risk" groups such as criminals or alcoholics. However, results indicated that most gun controls fail to reduce gun use in acts of violence, undercutting the idea that controls reduce gun prevalence even in criminally involved subsets of the population. One simple explanation for this failure would be the huge size of the U.S. gun stock. With over 200 million guns in private hands, it is hard to keep guns away from anyone who strongly desires one.

Few of the tests unambiguously supported the gun law efficacy hypothesis. However, it increases confidence in some of these few supportive findings to know that they correspond closely with similar results in past research. (1) The present study found partial support for the claim

Exhibit 9
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that laws establishing additional penalties for committing felonies with a gun may reduce total robbery rates, and prior research by McPheters *et al.* (1984) indicated the same thing. (2) Bans on gun possession by mentally ill persons may reduce suicide, consistent with the findings of Sommers (1984). (3) Mixed evidence suggested that handgun bans *may* reduce suicide, though this weak result reflected such controls in only two cities (New York City and Washington, DC). This is consistent with results of Loftin *et al.* (1991). (4) Finally, a previous study indicated that a mandatory penalty carry law, the Bartley–Fox law, appeared to reduce robbery (Deutsch and Alt, 1977), and the present research also indicates that such laws may reduce robbery.

As actually administered, "mandatory penalty" carry laws do not impose penalties in a truly mandatory fashion but, rather, merely in a relatively less discretionary one (Beha, 1977). Rather than mandatory penalties being viewed as essential, a more plausible interpretation of these results is that the mandatory penalty provision serves as an indicator of strong support among court actors for relatively severe punishment of unlicensed gun carrying. Where such laws exist, prosecutors may devote more resources to prosecuting illegal weapons carriers, and may be more likely to seek stiff penalties, even though they could evade the mandatory provisions if they chose to do so.

One type of gun law which clearly appeared to have some beneficial effect was a somewhat surprising one. Laws requiring a state or local license to be a firearms dealer were negatively related to aggravated assault, robbery, and suicide rates, with the results being strong (i.e., a Yes conclusion) for robbery. Because dealers everywhere in the United States are required to have a federal gun dealer license, additional state or local licensing requirements might seem trivial. However, if these requirements are more stringent or require high licensing fees, they can reduce the number of retail gun outlets and possibly reduce casual acquisition of guns among persons not sufficiently motivated or persistent to seek out less convenient stores or nonretail sources (Blose and Cook, 1980, p. 20). Although results summarized in Table IVA do not support the idea that this law reduces aggregate gun prevalence levels, it may affect a subset of weakly motivated buyers.

7.1. Gun Prevalence Effects

Why do gun prevalence levels have no apparent net positive effect on violence rates, with the possible exception of suicide? The absence of any net effects of gun levels could be due to counterbalancing effects of opposite sign, with criminal ownership increasing the rates and noncriminal

ownership decreasing them, due to deterrent effects of ownership among prospective victims (Kleck, 1988). If this were so, it might still be useful to reduce gun levels among criminals if measures used to accomplish this did not also reduce gun levels among noncriminals by an equal or greater amount.

Ordinary least-squares results indicated that gun prevalence may influence the choice of method in suicides and also the overall frequency of suicide. Gun prevalence was positively associated with both total suicide rates and gun suicide rates and negatively (though nonsignificantly) related to the nongun suicide rate.

No impact of gun prevalence on fatal gun accident rates was detected. Given the random component in accident causation and the rarity of fatal gun accidents (one or two a year in most cities), the absence of a relationship is perhaps not that surprising. It may also be that many cities with a higher gun prevalence, especially smaller cities and those in the South and West, have gun owners more thoroughly socialized from childhood into safe handling of guns, as opposed to getting guns as adults, without training.

The present results confirm those of the two best previous studies of city gun ownership and robbery rates, which also found no evidence of a net impact of gun ownership levels on the total robbery rate (Cook, 1979; McDowall, 1986). The present findings indicate that gun ownership levels increase (albeit nonsignificantly) gun robbery and decrease nongun robbery, suggesting that where guns are not available, robbers substitute other weapons, with no net effect on total robbery rates. Gun ownership levels also may have no net effect on total robbery because they may have a mixture of both positive and negative effects. On the one hand, guns make it possible for larger numbers of people to rob, including those too timid to rob without a gun, and expand the number of targets a given robber can successfully tackle. On the other hand, guns also enable robbers to rob more lucrative targets, increasing the average "take" per robbery and allowing them to gain a given amount of income with fewer robberies (Cook, 1976; Wright *et al.*, 1983). Also, gun ownership by prospective victims, especially retail store owners, may deter some robbers (Wright and Rossi, 1986, pp. 141–159; Kleck, 1988). The finding are consistent with an interpretation that these effects of opposite sign cancel each other out, with no net effect on the total robbery rate.

In assaultive crimes such as homicide and aggravated assault, gun availability also seems to have a mixture of positive and negative effects. In an individual-level analysis of violent incidents, Kleck and McElrath (1991) found that an aggressor's possession or use of a gun appears to reduce the probability of a physical attack (as opposed to a mere threat) on the victim

and appears to reduce the probability that the attack will result in a physical injury, while increasing the probability that an injury will be fatal. Further, possession of guns by prospective victims may exert a modest deterrent effect on would-be aggressors (Wright and Rossi, 1986; Kleck, 1988). The present aggregate level findings are consistent with a claim that the negative, violence-reducing effects of gun ownership may roughly cancel out the violence-increasing effects, consistent with the findings of previous time series research indicating no net effect, positive or negative, of gun ownership levels on the homicide rate (Kleck, 1984a).

7.2. Gun Law Effects

Why do most of 19 different major varieties of gun control laws appear to have no impact, with a few exceptions, on the types of violence which frequently involve guns? Many explanations are suggested by both our own results and those of prior research. First, some gun laws are intended to have their effects by reducing gun ownership levels, so some gun laws may fail because they do not achieve their proximate goal of reducing gun ownership (Table IVA). However, our results also generally indicate that gun prevalence levels do not have a net positive effect on violence rates (top row, Table IVB). Consequently, gun laws may fail simply because, even if they did reduce gun prevalence, this would not produce a reduction in violence rates.

On the other hand, the rationale for some gun regulations does not rely on an assumption that gun ownership levels affect violence. For example, carrying laws are intended to make guns less immediately available in public places rather than to reduce overall gun ownership levels; the rationale for such laws assumes only that the immediate availability of guns in public places is relevant to some violence rates, especially robbery. Likewise, add-on penalties are intended to discourage criminals from choosing guns to use in their crimes. It is also possible that gun laws have only a short-term effect on violence rates when they are passed and that the effect then fades. Most of the laws we have evaluated were implemented well in the past, so we cannot assess this idea.

Most gun laws regulate only handguns, or regulate handguns more stringently than the more numerous longguns such as rifles and shotguns (Kleck, 1991, Chap. 8). This permits the substitution of relatively unregulated longguns for the more heavily regulated handguns. While longguns are larger than handguns, and thus not so easily concealed or conveniently carried on the person, such a limitation is rarely relevant for suicides and is also irrelevant for many violent crimes, because either (1) the crime is committed in or near a private place, in a way which

does not require carrying or concealment of the gun, or (2) the crime was committed after some advance planning, in a way which would require only short-term carrying or which could involve use of a longgun whose barrel and stock had previously been cut down to render it concealable. Longguns are generally more lethal than handguns. Thus, while restrictions on handgun availability could cause some violent persons to go without guns of any kind, they may also have the undesirable effect of encouraging others to substitute more lethal longguns. The implication for the homicide rate would be that these effects would cancel out or, worse, produce a net increase in homicides (Kleck, 1984b).

No matter how severe current measures are, it is always possible that stronger measures are needed. However, even fairly strong measures such as banning sales of "Saturday Night Specials" and de facto bans on handgun possession appear generally to exert no negative effect on violence rates. Nevertheless, the findings reported herein cannot inform us about the effectiveness of gun control measures not yet tried.

It has been argued that many gun laws fail because they are local and that guns from more lenient jurisdictions "leak" into the stricter jurisdictions. Thus, federal measures regulating acquisition of guns might work (Newton and Zimring, 1969). Research on existing federal regulations has failed to generate consistent evidence of their effectiveness (Zimring, 1975; Magaddino and Medoff, 1984), but these controls were very weak, loophole-ridden measures. Some of the few measures found in this study to be effective were controls which are not vulnerable to this "leakage" problem. "Leakage" is an issue relevant mainly to regulations aimed at the acquisition of guns, rather than their use. In contrast, laws forbidding possession of handguns, regulating the carrying of guns, or providing for add-on penalties for using guns in crimes are not affected by interjurisdictional leakage because the legal risks of possessing or carrying a gun or using it in a crime in a given jurisdiction are the same regardless of whether bordering areas have similar measures.

It cannot be argued that the effects of gun ownership and gun control could not be detected due to a lack of meaningful variation in these variables. It is clear from the standard deviations for the gun prevalence indicators and the means for the gun law dummies in Table II that levels of both gun prevalence and gun control strictness vary enormously across U.S. cities. Direct survey measures of gun prevalence in very large cities indicate that the fraction of households reporting a gun varies from extremely low levels, such as 6% in New York City and Washington, DC (lower than in many Western European nations), to high levels, such as 61% in Houston (unpublished tabulations from specially geocoded General Social Surveys for 1973–1989).

Three limitations of this study should be noted. First, we had no measures of how strictly permit and license laws are administered, e.g., how narrowly authorities interpret rules defining which applicants are qualified, as distinct from how much effort is put into apprehending and punishing violators. Second, analysts always need to be skeptical about restrictions used to achieve identifiability in structural equation models. The key identification restrictions needed to model the assumed reciprocal relationship between gun prevalence and violence rates were the exclusion of gun magazine subscription rates and hunting license rates from the violence equations. Interest in hunting and other gun-related sports was assumed to affect gun prevalence rates but to not directly affect violence rates. One might argue that such interests may reflect, or even generate, proviolent attitudes, but Eskridge (1986) and Bordua (1986) have found county hunting license rates to have small to moderate *negative* associations with violence rates. Finally, it is possible that we have failed to control for some confounding variable which suppresses a guns–violence or gun law–violence association, though we do not know what that variable might be.

8. CONCLUSIONS

While the results are generally negative for the violence control effectiveness of gun control, the significance of the few supportive results should not be overlooked. There do appear to be some gun controls which work, all of them relatively moderate, popular, and inexpensive. Thus, there is support for a gun control policy organized around gun owner licensing or purchase permits (or some other form of gun buyer screening), stricter local dealer licensing, bans on possession of guns by criminals and mentally ill people, stronger controls over illegal carrying, and possibly discretionary add-on penalties for committing felonies with a gun. On the other hand, popular favorites such as waiting periods and gun registration do not appear to affect violence rates.

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REFERENCES

Audit Bureau of Circulations (1979–1982). *Supplementary Data Report*, covering county paid circulation figures for gun/hunting/outdoor magazines, ABC, Chicago.

Beha, J. (1977). And *nobody* can get you out. *Boston Univ. Law Rev.* 57: 96–146, 289–333.

Bendis, P., and Balkin, S. (1979). A look at gun control enforcement. *J. Police Sci. Admin.* 7: 439–448.

Berkowitz, L., and LePage, A. (1967). Weapons as aggression-eliciting stimuli. *J. Personal. Soc. Psychol.* 7: 202–207.

Blackman, P. (1985). Carrying handgunus for personal protection. Paper presented at the annual meeting of the American Society of Criminology, San Diego, CA, Nov. 13–16.

Block, R. (1977). *Violent Crime*, Lexington Books, Lexington, MA.

Blose, J., and Cook, P. J. (1980). *Regulating Handgun Transfers*, Duke University, Institute of Policy Sciences and Public Affairs, Durham, NC.

Bordua, D. J. (1986). Firearms ownership and violent crime: A comparison of Illinois counties. In Byrne, J. M., and Sampson, R. J. (eds.), *The Social Ecology of Crime*, Springer-Verlag, New York, pp. 156–188.

Bordua, D. J., and Lizotte, A. J. (1979). Patterns of legal firearms ownership. *Law Policy Q.* 1: 147–175.

Bordua, D. J., Lizotte, A. J., and Kleck, G. (1979). *Patterns of Firearms Ownership and Regulation in Illinois*, A Report to the Illinois Law Enforcement Commission, Illinois Law Enforcement Commission, Springfield.

Brearley, H. C. (1932). *Homicide in the United States*, University of North Carolina Press, Chapel Hill.

Brill, S. (1977). *Firearm Abuse*, Police Foundation, Washington, DC.

Byrne, J. M. (1986). Cities, citizens, and crime. In Byrne, J. M., and Sampson, R. J. (eds.), *The Social Ecology of Crime*, Springer-Verlag, New York, pp. 77–101.

Cook, P. J. (1976). A strategic choice analysis of robbery. In Skogan, W. (ed.), *Sample Surveys of the Victims of Crime*, Ballinger, Cambridge, MA, pp. 173–187.

Cook, P. J. (1979). The effect of gun availability on robbery and robbery murder. Haveman, R., and Zellner, B. B. (eds.), *Policy Studies Review Annual.*, Sage, Beverly Hills, pp. 743–781.

Cook, P. J. (1982). The role of firearms in violent crime. In Wolfgang, M. E., and Werner, N. A. (eds.), *Criminal Violence*, Sage, Beverly Hills, pp. 236–291.

Cook, P. J., and Blose, J. (1981). State programs for screening handgun buyers. *Annals* 455: 80–91.

Curtis, L. (1974). *Criminal Violence*, Lexington Books, Lexington, MA.

Deutsch, S. J., and Alt, F. B. (1977). The effect of Massachusetts' gun control law on gun-related crimes in the city of Boston. *Evaluat. Q.* 1: 543–568.

DeZee, M. R. (1983). Gun control legislation: Impact and ideology. *Law Policy Q.* 5: 367–379.

Eskridge, C. W. (1986). Zero-order inverse correlations between crimes of violence and hunting licenses in the United states. *Sociol. Soc. Res.* 71: 55–57.

Firebaugh, G., and Gibbs, J. P. (1985). User's guide to ratio variables. *Am. Sociol. Rev.* 50:713–722.

Gastil, R. D. (1971). Homicide and a regional culture of violence. *Am. Sociol. Rev.* 36:412–427.

Geisel, M. S., Roll, R., and Wettick, R. S. (1969). The effectiveness of state and local regulations of handguns. *Duke Univ. Law J.* 4: 647–676.

Gibbs, J. P., and Erickson, M. L. (1976). Crime rates of American cities in an ecological context. *Am. J. Sociol.* 82: 605–620.

Hay, R., and McCleary, R. (1979). Box-Tiao time series models for impact assessment. *Evaluat. Q.* 3: 277–314.

Inter-university Consortium for Political and Social Research (ICPSR) 1983. *Uniform Crime Reports: National Time Series Community-level Database, 1967–1980*, ICPSR Study 8214 (machine readable dataset), Principal Investigators: Pierce, G. L., Bowers, W. J., Baird, J., and Heck, J. ICPSR, Ann Arbor, MI.

ICPSR (1984a). *Uniform Crime Reporting Program Data*, ICPSR Study 9028, Parts 3, 7, 11, 15, Supplementary Homicide Reports, 1979–1982, Federal Bureau of Investigation, ICPSR, Ann Arbor, MI.

ICPSR (1984b). *Uniform Crime Reporting Program Data*, ICPSR Study 9028, Parts 2, 6, 14, Property Stolen and Recovered, 1979–1981, Federal Bureau of Investigation, ICPSR, Ann Arbor, MI.

Jones, E. D., III (1981). The District of Columbia's "Firearms Control Regulations Act of 1975," *Annals* 455: 138–149.

Jones, E. D., and Ray, M. W. (1980). *Handgun Control: Strategies, Enforcement and Effectiveness*, Unpublished report, U.S. Department of Justice, Washington, D.C.

Jung, R. S., and Jason, L. A. (1988). Firearm violence and the effects of gun control legislation. *Am. J. Commun. Psychol.* 16: 515–524.

Kennedy, P. (1985). *A Guide to Econometrics*, Basil Blackwell, London.

Kleck, G. (1979). Capital punishment, gun ownership, and homicide. *Am. J. Sociol.* 84: 882–910.

Kleck, G. (1984a). The relationship between gun ownership levels and rates of violence in the United States. In Kates, D. B., Jr. (ed.), *Firearms and Violence: Issues of Public Policy*, Ballinger, Cambridge, MA., pp. 99—135.

Kleck, G. (1984b). Handgun-only gun control. In Kates, D. B., Jr. (ed.), *Firearms and Violence: Issues of Public Policy*, Cambridge, Ballinger, MA, pp. 167–199.

Kleck, G. (1988). Crime control through the private use of armed force. *Soc. Problems* 35: 1–21.

Kleck, G. (1991). *Point Blank: Guns and Violence in America*, Aldine de Gruyter, New York.

Kleck, G., and McElrath, K. (1991). The effects of weaponry on human violence. *Soc. Forces* 69: 669–692.

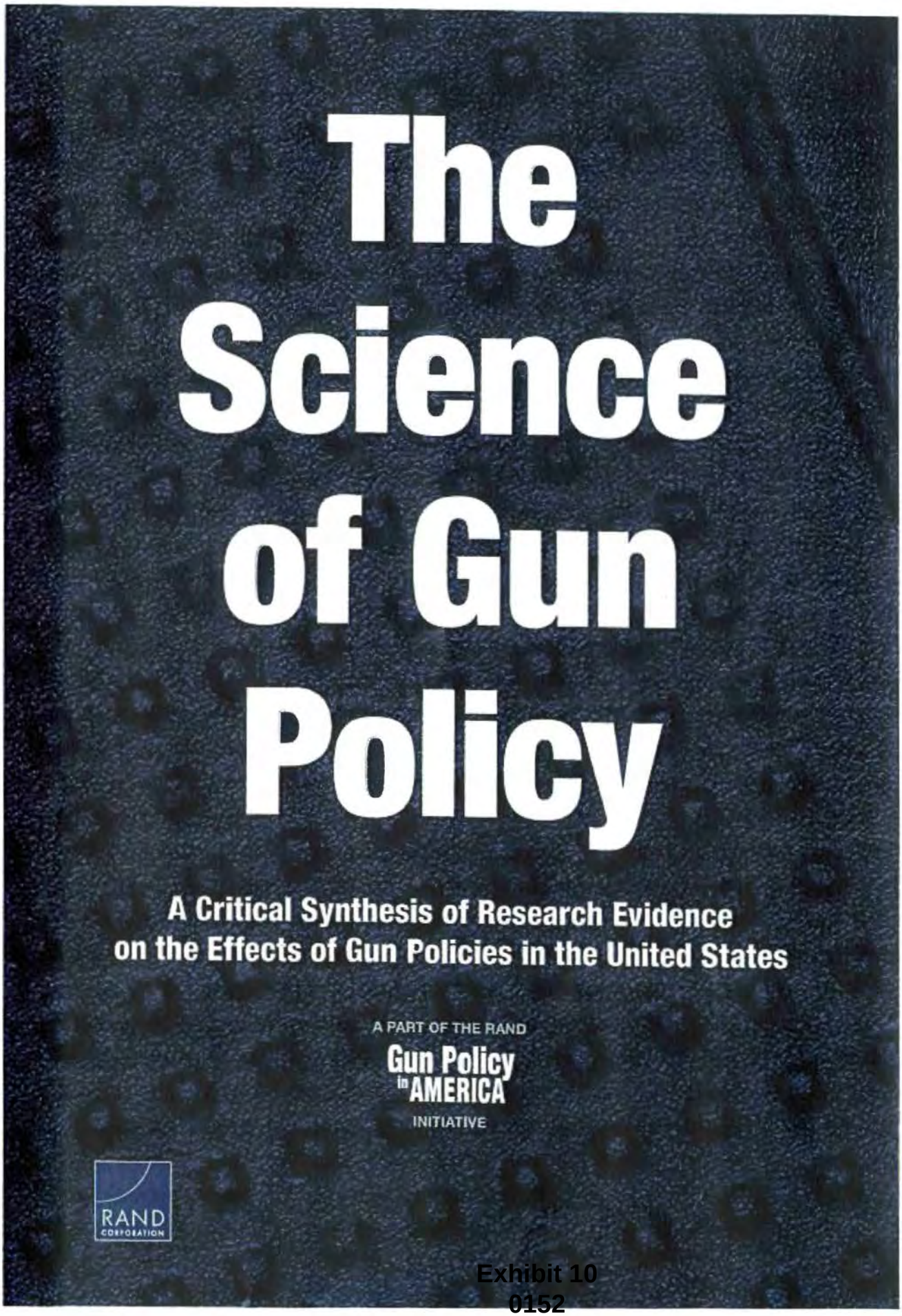
Kleck, G., and DeLone, M. (1993). Victim resistance and offender weapon effects in robbery. *J. Quant. Criminol.* 9: 55–81.

Krug, A. S. (1967). A statistical study of the relationship between firearms licensing laws and crime rates. *Congress. Record* 7-25-67, pp. H9366–H9370.

Land, K. C. (1990). Structural covariates of homicide rates. *Am. J. Sociol.* 95: 922–963.
Lester, D. (1987). An availability-acceptability theory of suicide. *Act. Nervosa Super.* 29: 164–166.
Lester, D. (1988). Gun control, gun ownership, and suicide prevention. *Suicide Life-threat. Behav.* 18: 176–180.
Lester, D., and Murrell, M. E. (1981). The relationship between gun control statutes and homicide rates: A research note. *Crime Just.* 4: 146–148.
Lester, D., and Murrell, M. E. (1982). The preventive effect of strict gun control laws on suicide and homicide. *Suicide Life-Threat. Behavior.* 12: 131–140.
Lester, D., and Murrell, M. E. (1986). The influence of gun control laws on personal violence. *J. Commun. Psychol.* 14: 315–318.
Lizotte, A. J., Bordua, D. J., and White, C. S. (1981). Firearms ownership for sport and protection: Two not so divergent models. *Am. Sociol. Rev.* 46: 499–503.
Loftin, C., Heumann, M., and McDowall, D. (1983). Mandatory sentencing and firearms violence: Evaluating an alternative to gun control. *Law Soc. Rev.* 17: 287–318.
Loftin, C., and McDowall, D. (1981). "One with a gun gets you two": Mandatory sentencing and firearms violence in Detroit. *Annals* 455: 150–167.
Loftin, C., and McDowall, D. (1984). The deterrent effects of the Florida Felony Firearm Law. *J. Crim. Law Criminol.* 75: 250–259.
Loftin, C., McDowall, D., Wiersema, B., and Cottey, J. (1991). Effects of restrictive licensing of handguns on homicide and suicide in the District of Columbia. *N. Engl. J. Med.* 325: 1615–1621.
Maddala, G. S. (1988). *Introduction to Econometrics*, Macmillan, New York.
Magaddino, J. P., and Medoff, M. H. (1982). Homicides, robberies and state "cooling-off" schemes. In Kates, D. B., Jr. (ed.), *Why Handgun Bans Can't Work*, Second Amendment Foundation, Bellevue, WA.
Magaddino, J. P., and Medoff, M. H. (1984). An empirical analysis of federal and state firearm controls. In Kates, D. B., Jr. (ed.), *Firearms and Violence*, Ballinger, Cambridge, MA.
McDowall, D. (1986). Gun availability and robbery rates: A panel study of large U.S. cities, 1974–1978. *Law & Policy* 8: 135–148.
McPheters, L. R., Mann, RT., and Schlagenhauf, D. (1984). Economic response to a crime deterrence program. *Econ. Inquiry* 22: 550–570.
Murray, D. R. (1975). Handguns, gun control laws and firearm violence. *Soc. Problems* 23: 81–92.
Newton, G. D., and Zimring, F. E. (1969). *Firearms and Violence in American Life: A Staff Report to the National Commission on the Causes and Prevention of Violence*, U.S. Government Printing Office, Washington, DC.
Nicholson, R., and Garner, A. (1980). *The Analysis of the Firearms Control Act of 1975*, U.S. Conference of Mayors, Washington, D.C.
Olin Mathieson Company (1969). Unpublished study summarized by Newton and Zimring (1969, p. 182).
Pierce, G. L., and Bowers, W. J. (1981). The Bartley–Fox gun law's short-term impact on crime in Boston. *Annals* 455: 120–137.
Quinn, B., *et al.* (1982). *Churches and Church Membership in the United States, 1980*, Glenmary Research Center, Atlanta, GA.
Ronhovde, K. M., and Sugars, G. P. (1982). Survey of select state firearm control laws. In Congressional Research Service, *Federal Regulation of Firearms*, a report prepared for the Senate Judiciary Committee, pp. 201–228.
Sampson, R. J. (1986). Crime in cities. In Reiss, A. J., Jr., and Tonry, M. (eds.), *Communities and Crime*, University of Chicago Press, Chicago, pp. 271–311.

Scammon, R. M. (ed.) (1972). *America Votes, Vol. 10*, Macmillan, New York.
Seitz, S. T. (1972). Firearms, homicides, and gun control effectiveness. *Law Soc. Rev.* 6: 595–614.
Shields, D. J. (1976). Two judges look at gun control. *Chicago Bar Record* 1976: 180–185.
Smith, D. A., and Uchida, C. D. (1988). The social organization of self-help. *Am. Sociol. Rev.* 53:94–102.
Sommers, P. M. (1980). Deterrence and gun control: An empirical analysis. *Atlantic Econ. J.* 8: 89–94.
Sommers, P. M. (1984). Letter to the Editor. *N. Engl. J. Med.* 310: 47–48.
U.S. Bureau of Alcohol Tobacco and Firearms (BATF) (1980). *State Laws and Published Ordinances, Firearms—1980*, U.S. Government Printing Office, Washington, D.C.
U.S. Bureau of the Census (1981). *1977 Census of Service Industries—Geographic Area Series—United States*, U.S. Government Printing Office, Washington , D.C.
U.S. Bureau of the Census (1983a). *County and City Data Book 1983*, U.S. Government Printing Office, Washington, DC.
U.S. Bureau of the Census (1983b). *1980 Census of the Population, Vol. 1. Characteristics of the Population, Chapter C, General Social and Economic Characteristics*, Table 118, U.S. Government Printing Office, Washington, DC.
U.S. Bureau of the Census (1986). *Statistical Abstract of the United States, 1987*, U.S. Government Printing Office, Washington, DC.
U.S. Bureau of Justice Statistics (1982). *Prisoners in State and Federal Institutions on December 31, 1980*, U.S. Government Printing Office, Washington, DC.
U.S. Bureau of Justice Statistics (1987). *Criminal Victimization in the United States, 1985*, U.S. Government Printing Office, Washington, DC.
U.S. Department of Justice (1989). Draft report on systems for identifying felons who attempt to purchase firearms; Notice and request for comments. *Fed. Register* June 26: 26901–26941.
U.S. Federal Bureau of Investigation (1980–1982). *Crime in the United States*, annual issues covering 1979–1981, U.S. Government Printing Office, Washington, DC.
U.S. Federal Bureau of Investigation (1984). *Uniform Crime Reporting Handbook*, U.S. Government Printing Office, Washington, D.C.
U.S. Federal Bureau of Investigation (undated). *AS&R Data by State and County (year)*, covering each of years 1979–1981, Computer printout supplied by FBI to senior author, reporting arrests for individual reporting police agencies.
U.S. Fish and Wildlife Service (1980). *Federal Aid in Fish and Wildlife Restoration, 1980*, U.S. Government Printing Office, Washington, DC.
U.S. National Center for Health Statistics (NCHS) (1983). *Public Use Data Tape Documentation: Mortality Detail 1980 Data*, U.S. Department of Health and Human Services, Hyattsville, MD.
Wisconsin (1960). *The Regulation of the Firearms by the States*, Research Bulletin 130, Wisconsin Legislative Reference Library, Wisconsin.
Wright, J. D., and Rossi, P. H. (1986). *Armed and Considered Dangerous*, Aldine, New York.
Wright, J. D., Rossi, P. H., and Daly, K. (1983). *Under the Gun: Weapons, Crime and Violence*, Aldine, New York.
Zimring, F. E. (1975). Firearms and federal law: The Gun Control Act of 1968. *J. Legal Stud.* 4: 133–198.

EXHIBIT "10"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Preface

Effective gun policies in the United States must balance the constitutional right to bear arms and public interest in gun ownership with concerns about public health and safety. However, current efforts to craft legislation related to guns are hampered by a paucity of reliable information about the effects of such policies. To help address this problem, the RAND Corporation launched the Gun Policy in America initiative. Throughout RAND's 70-year history, in multiple projects, in many policy arenas, and on topics that are sensitive and controversial, researchers have conducted analyses, built tools, and developed resources to help policymakers and the public make effective decisions. The primary goal of the Gun Policy in America project is to create resources where policymakers and the general public can access unbiased information that facilitates the development of fair and effective firearm policies.

This report is one of several research products stemming from the initiative. The research described here synthesizes the available scientific evidence on the effects of 13 types of firearm policies on a range of outcomes related to gun ownership. In addition, this report includes essays on several topics that frequently arise in discussions of gun policy.

Other project components include a survey of policy experts that identifies where access to reliable data would be most useful in resolving policy debates, plus an online tool allowing users to explore how different combinations of gun policies are likely to affect a range of outcomes. In another line of effort, RAND conducted simulation studies to evaluate the strengths and weaknesses of different approaches to modeling the effects of gun policies on outcomes, the results of which will be used to develop new estimates of the effects of state firearm policies. Finally, the project includes the development of a longitudinal database of state firearm laws as a resource for other researchers and the public.

The Gun Policy in America initiative did not attempt to evaluate the merits of different values or principles that sometimes drive policy disagreements. Rather, our focus is strictly on the empirical effects of policies on the eight outcomes specified in this report. All of our resources are publicly available on the project website at www.rand.org/gunpolicy.

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The work should be of interest to policymakers and other stakeholders considering decisions related to firearm policy. Furthermore, this report may be of interest to the research community and to the general public.

RAND Ventures

The RAND Corporation is a research organization that develops solutions to public policy challenges to help make communities throughout the world safer and more secure, healthier and more prosperous. RAND is nonprofit, nonpartisan, and committed to the public interest.

RAND Ventures is a vehicle for investing in such policy solutions. Philanthropic contributions support our ability to take the long view, tackle tough and often-controversial topics, and share our findings in innovative and compelling ways. RAND's research findings and recommendations are based on data and evidence and therefore do not necessarily reflect the policy preferences or interests of its clients, donors, or supporters.

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Summary

The RAND Corporation's Gun Policy in America initiative is a unique attempt to systematically and transparently assess available scientific evidence on the real effects of gun laws and policies. Our goal is to create resources where policymakers and the general public can access unbiased information that informs and enables the development of fair and effective policies. Good gun policies in the United States require consideration of many factors, including the law and constitutional rights, the interests of various stakeholder groups, and information about the likely effects of different policies on a range of outcomes. This report seeks to provide the third factor—objective information about what the scientific literature examining gun policies can tell us about the likely effects of those policies.

This report synthesizes the available scientific evidence on the effects of various gun policies on firearm deaths, violent crime, the gun industry, participation in hunting and sport shooting, and other outcomes.[1] It builds and expands on earlier comprehensive reviews of scientific evidence on gun policy conducted more than a decade ago by the National Research Council (NRC) (see NRC, 2004) and the Community Preventive Services Task Force (see Hahn et al., 2005).

Methodology

We used Royal Society of Medicine guidelines for conducting systematic reviews of a scientific literature (Khan et al., 2003). We focused on the empirical literature assessing the effects of 13 classes of firearm policies or of the prevalence of firearms on any of eight outcomes, which include both public health outcomes and outcomes of concern to many gun owners. We reviewed scientific reports that have been published since 2003, a date chosen to capture studies conducted since the last major systematic reviews of the science of gun policy were published by NRC (2004) and Hahn et al. (2005).

[1] Although not all guns are firearms, in this report, we follow conventional use in U.S. policy discussions and treat the terms *gun* and *firearm* as interchangeable.

Exhibit 10
0168

The 13 classes of gun policies considered in this research are as follows:

1. background checks
2. bans on the sale of assault weapons and high-capacity magazines
3. stand-your-ground laws
4. prohibitions associated with mental illness
5. lost or stolen firearm reporting requirements
6. licensing and permitting requirements
7. firearm sales reporting and recording requirements
8. child-access prevention laws
9. surrender of firearms by prohibited possessors
10. minimum age requirements
11. concealed-carry laws
12. waiting periods
13. gun-free zones.

The eight outcomes considered in this research are

1. suicide
2. violent crime
3. unintentional injuries and deaths
4. mass shootings
5. officer-involved shootings
6. defensive gun use
7. hunting and recreation
8. gun industry.[2]

Policy Analyses, by Outcome

Building on the earlier reviews (NRC, 2004; Hahn et al., 2005) and using standardized and explicit criteria for determining the strength of evidence that individual studies provide for the effects of gun policies, we produced research syntheses that describe the quality and findings of the best available scientific evidence. Each synthesis defines the class of policies being considered; presents and rates the available evidence; and describes what conclusions, if any, can be drawn about the policy's effects on outcomes.

In many cases, we were unable to identify any research that met our criteria for considering a study as providing minimally persuasive evidence for a policy's effects. Studies were excluded from this review if they offered only correlational evidence for a

[2] The terms in these lists describe broad categories of policies and outcomes that are defined and described in detail in the full report.

possible causal effect of the law, such as showing that states with a specific law had lower firearm suicides at a single point in time than states without the law. Correlations like these can occur for many reasons other than the effects of a single law, so this kind of evidence provides little information about the effects attributable to specific laws. We did not exclude studies on the basis of their findings, only on the basis of their methods for isolating causal effects. For studies that met our inclusion criteria, we summarize key findings and methodological weaknesses, when present, and provide our consensus judgment on the overall strength of the available scientific evidence. We did this by establishing the following relativistic scale describing the strength of available evidence:

1. *No studies.* This designation was made when no studies meeting our inclusion criteria evaluated the policy's effect on the outcome.
2. *Inconclusive evidence.* This designation was made when studies with comparable methodological rigor identified inconsistent evidence for the policy's effect on an outcome or when a single study found only uncertain or suggestive effects.
3. *Limited evidence.* This designation was made when at least one study meeting our inclusion criteria and not otherwise compromised by serious methodological problems reported a significant effect of the policy on the outcome, even if other studies meeting our inclusion criteria identified only uncertain or suggestive evidence for the effect of the policy.
4. *Moderate evidence.* This designation was made when two or more studies found significant effects in the same direction and contradictory evidence was not found in other studies with equivalent or strong methods.
5. *Supportive evidence.* This designation was made when (1) at least three studies found suggestive or significant effects in the same direction using at least two independent data sets or (2) the effect was observed in a rigorous experimental study.

These ratings are meant to describe the relative strengths of evidence available across gun policy research domains, not any rating of our absolute confidence in the reported effects. For instance, when we find *supportive* evidence for the conclusion that child-access prevention laws reduce self-inflicted injuries and deaths, we do not mean to suggest that it is comparable to the evidence available in more-developed fields of social science. That is, in comparison to the evidence that smoking causes cancer, the evidence base in gun policy research is very limited. Nevertheless, we believe that it may be valuable to the public and to policymakers to understand which laws currently have more or less persuasive evidence concerning the effects the laws are likely to produce.

Table S.1 summarizes our judgments for all policy and outcome pairings. Several outcomes show multiple judgments, and these correspond to different characterizations of the specific policy-outcome association. For instance, we identified limited evidence that background checks reduce *total suicides* and moderate evidence that they reduce *firearm suicides*.

Table S.1
Strength of Evidence Across Gun Policies and Outcomes

	Background Checks	Bans on the Sale of Assault Weapons and High-Capacity Magazines	Stand-Your-Ground Laws	Prohibitions Associated with Mental Illness	Lost or Stolen Firearm Reporting Requirements	Licensing and Permitting Requirements	Firearm Sales Reporting and Recording Requirements	Child-Access Prevention Laws	Surrender of Firearms by Prohibited Possessors	Minimum Age Requirements: Purchasing	Minimum Age Requirements: Possessing	Concealed-Carry Laws: Shall Issue	Concealed-Carry Laws: Permitless Carry	Waiting Periods	Gun-Free Zones
Suicide															
Total suicides	→ L		I	→ L		I		→ L		I	I	I			
Firearm suicides	→ M		I	→ L		I		→ M			I	I			
Firearm suicides among children										→ L					
Firearm self-injuries (nonfatal)												I			
Firearm self-injuries (including suicides)								→ S							
Violent crime	→ L			→ M				I	I			← L		I	
Total homicides	→ L	I	← M	→ L		I				I	I	I			
Firearm homicides	→ M, I[a]	I	← L	I		I		I		I	I	I			
Intimate partner homicides									I					I	
Robberies												I			
Assaults												I			
Rapes												I			
Other violent crime			I												

Table S.1—Continued

	Background Checks	Bans on the Sale of Assault Weapons and High-Capacity Magazines	Stand-Your-Ground Laws	Prohibitions Associated with Mental Illness	Lost or Stolen Firearm Reporting Requirements	Licensing and Permitting Requirements	Firearm Sales Reporting and Recording Requirements	Child-Access Prevention Laws	Surrender of Firearms by Prohibited Possessors	Minimum Age Requirements		Concealed-Carry Laws		Waiting Periods	Gun-Free Zones
										Purchasing	Possessing	Shall Issue	Permitless Carry		
Unintentional injuries and deaths															
Unintentional firearm deaths											I				
Unintentional firearm injuries and deaths among adults								↓ L							
Unintentional firearm injuries and deaths among children								↓ S							
Unintentional firearm injuries among adults												↑ L			
Unintentional firearm injuries among children												I			
Mass shootings	I	I				I		I		I		I	I	I	
Officer-involved shootings															
Defensive gun use			I												
Hunting and recreation															

Exhibit 10
0172

Table S.1—Continued

	Background Checks	Bans on the Sale of Assault Weapons and High-Capacity Magazines	Stand-Your-Ground Laws	Prohibitions Associated with Mental Illness	Lost or Stolen Firearm Reporting Requirements	Licensing and Permitting Requirements	Firearm Sales Reporting and Recording Requirements	Child-Access Prevention Laws	Surrender of Firearms by Prohibited Possessors	Minimum Age Requirements		Concealed-Carry Laws		Waiting Periods	Gun-Free Zones
										Purchasing	Possessing	Shall Issue	Permitless Carry		
Gun industry															
Gun ownership												I			
Prices of banned firearms in the short term		↑ L													

NOTE: I = inconclusive; L = limited; M = moderate; S = supportive. When we identified no studies meeting eligibility criteria, cells are blank. ↑ = the policy increases the outcome; ↓ = the policy decreases the outcome.

[a] We concluded that there is moderate evidence that dealer background checks decrease firearm homicides, and there is inconclusive evidence for the effect of private-seller background checks on firearm homicides.

Exhibit 10
0173

Rather than concerning how strong a policy's effects are, our findings concern the strength of the available scientific evidence examining those effects. Thus, even when the available evidence is limited, the actual effect of the policy may be strong. Presumably, every policy has some effect on a range of outcomes, however small or unintended. Until researchers design studies that can detect these effects, available evidence is likely to remain inconclusive or limited. But this fact should not be confused with the conclusion that the policies themselves have limited effects. They may or may not have the effects they were designed to produce; available scientific research cannot yet answer that question. Moreover, even a policy with a small effect may nevertheless be beneficial to society or worth its costs. For instance, a policy that reduces firearm deaths by just a few percentage points could save more than 1,000 lives per year. This kind of "small" effect might be very difficult to detect with existing study methods but could represent an important contribution to public health and safety.

Supplementary Essays

The 13 types of policies reviewed in this report and the scope of the systematic review for the research synthesis were selected a priori and represent the central focus of our research synthesis efforts. Nevertheless, in reviewing evidence on these policies, other important themes emerged that the research team believed provided useful context for the policies or that were frequently cited in gun policy debates. Thus, we also researched what rigorous studies reveal about

- the possible mechanisms by which laws may affect outcomes
- how taxes, access to health care, and media campaigns might affect gun violence
- the effectiveness of laws used to target domestic violence
- methodological challenges in defining and estimating the prevalence of mass shootings and defensive gun use
- how suicide, violence, and mass shootings were affected by Australia's implementation of the National Firearms Agreement.

Conclusions and Recommendations

Of more than 100 combinations of policies and outcomes, we found that surprisingly few were the subject of methodologically rigorous investigation. Notably, research into four of our outcomes was essentially unavailable, with three of these four outcomes—defensive gun use, hunting and recreation, and the gun industry—representing issues of particular concern to gun owners or gun industry stakeholders. Here, we summarize the key conclusions and recommendations that can be drawn from the policy-outcome

combinations with the strongest available evidence (conclusions 1 through 8). Thereafter, we draw conclusions and recommendations concerning how to improve evidence on the effects of gun policies (conclusions 9 through 13).

Conclusions and Recommendations Based on the Existing Evidence Base

Our first set of conclusions and recommendations describes the policy-outcome combinations with the strongest available evidence as identified through our review of the existing literature, as well as recommendations for policy based on this evidence.

Conclusion 1. Available evidence supports the conclusion that child-access prevention laws, or safe storage laws, reduce self-inflicted fatal or nonfatal firearm injuries among youth. There is moderate evidence that these laws reduce firearm suicides among youth and limited evidence that the laws reduce total (i.e., firearm and nonfirearm) suicides among youth.

Conclusion 2. Available evidence supports the conclusion that child-access prevention laws, or safe storage laws, reduce unintentional firearm injuries or unintentional firearm deaths among children. In addition, there is limited evidence that these laws may reduce unintentional firearm injuries among adults.

> *Recommendation 1.* States without child-access prevention laws should consider adopting them as a strategy to reduce firearm suicides and unintentional firearm injuries and deaths. We note, however, that scientific research cannot, at present, address whether these laws might increase or decrease crime or rates of legal defensive gun use.

> *Recommendation 2.* When considering adopting or refining child-access prevention laws, states should consider making child access to firearms a felony; there is some evidence that felony laws may have the greatest effects on unintentional firearm deaths.

Conclusion 3. There is moderate evidence that background checks reduce firearm suicides and firearm homicides, as well as limited evidence that these policies can reduce overall suicide and violent crime rates.

Conclusion 4. There is moderate evidence that stand-your-ground laws may increase state homicide rates and limited evidence that the laws increase firearm homicides in particular.

Conclusion 5. There is moderate evidence that laws prohibiting the purchase or possession of guns by individuals with some forms of mental illness reduce violent crime, and there is limited evidence that such laws reduce homicides in particular. There is also limited evidence these laws may reduce total suicides and firearm suicides.

> *Recommendation 3.* States that currently do not require a background check investigating all types of mental health histories that lead to federal prohibi-

tions on firearm purchase or possession should consider implementing robust mental illness checks, which appear to reduce rates of gun violence. The most robust procedures involve sharing data on all prohibited possessors with the National Instant Criminal Background Check System.

Conclusion 6. There is limited evidence that before implementation of a ban on the sale of assault weapons and high-capacity magazines, there is an increase in the sales and prices of the products that the ban will prohibit.

Conclusion 7. There is limited evidence that a minimum age of 21 for purchasing firearms may reduce firearm suicides among youth.

Conclusion 8. No studies meeting our inclusion criteria have examined required reporting of lost or stolen firearms, required reporting and recording of firearm sales, or gun-free zones.

Conclusions and Recommendations for Improving Gun Policy Research

Based on our review of the existing literature on the effects of firearm policy changes, we offer the following conclusions and recommendations for improving the evidence base on the effects of gun laws.

Conclusion 9. The modest growth in knowledge about the effects of gun policy over the past dozen years reflects, in part, the reluctance of the U.S. government to sponsor work in this area at levels comparable to its investment in other areas of public safety and health, such as transportation safety.

Recommendation 4. To improve understanding of the real effects of gun policies, Congress should consider whether to lift current restrictions in appropriations legislation, and the administration should invest in firearm research portfolios at the Centers for Disease Control and Prevention, the National Institutes of Health, and the National Institute of Justice at levels comparable to its current investment in other threats to public safety and health.

Recommendation 5. Given current limitations in the availability of federal support for gun policy research, private foundations should take further steps to help fill this funding gap by supporting efforts to improve and expand data collection and research on gun policies.

Conclusion 10. Research examining the effects of gun policies on officer-involved shootings, defensive gun use, hunting and recreation, and the gun industry is virtually nonexistent.

Recommendation 6. To improve understanding of outcomes of critical concern to many in gun policy debates, the U.S. government and private research sponsors should support research examining the effects of gun laws on a wider

set of outcomes, including crime, defensive gun use, hunting and sport shooting, officer-involved shootings, and the gun industry.

Conclusion 11. The lack of data on gun ownership and availability and on guns in legal and illegal markets severely limits the quality of existing research.

Recommendation 7. To make important advances in understanding the effects of gun laws, the Centers for Disease Control and Prevention or another federal agency should resume collecting voluntarily provided survey data on gun ownership and use.

Recommendation 8. To foster a more robust research program on gun policy, Congress should consider whether to eliminate the restrictions it has imposed on the use of gun trace data for research purposes.

Conclusion 12. Crime and victimization monitoring systems are incomplete and not yet fulfilling their promise of supporting high-quality gun policy research in the areas we investigated.

Recommendation 9. To improve the quality of evidence used to evaluate gun policies, the National Violent Death Reporting System should be expanded to include all states with rigorous quality control standards.

Recommendation 10. The Bureau of Justice Statistics should examine the cost and feasibility of expanding its existing programs to generate state-level crime data.

Recommendation 11. The Bureau of Justice Statistics should continue to pursue its efforts to generate state-level victimization estimates. The current goal of generating such estimates for 22 states is a reasonable compromise between cost and the public's need for more-detailed information. However, the bureau should continue to expand its development of model-based victimization rates for all states and for a wider set of victimization experiences (including, for instance, crimes involving firearm use by an assailant or victim).

Conclusion 13. The methodological quality of research on firearms can be significantly improved.

Recommendation 12. As part of the Gun Policy in America initiative, we have published a database containing a subset of state gun laws from 1979 to 2016 (Cherney, Morral, and Schell, 2018). We ask that others with expertise on

state gun laws help us improve the database by notifying us of its errors, proposing more-useful categorizations of laws, or submitting information on laws not yet incorporated into the database. With such help, we hope to make the database a resource beneficial to all analysts.

Recommendation 13. Researchers, reviewers, academics, and science reporters should expect new analyses of the effects of gun policies to improve on earlier studies by persuasively addressing the methodological limitations of earlier studies, including problems with statistical power, model overfitting, covariate selection, poorly calibrated standard errors, multiple testing, undisclosed state variation in law implementation, unjustified assumptions about the time course of each policy's effects, the use of spline and hybrid effect codings that do not reveal coherent causal effect estimates, and inadequate attention to threats of reciprocal causation and simultaneity bias.

In conclusion, with a few exceptions, there is a surprisingly limited base of rigorous scientific evidence concerning the effects of many commonly discussed gun policies. This does not mean that these policies are ineffective; they might well be quite effective. Instead, it reflects shortcomings in the contributions that scientific study can currently offer to policy debates in these areas. It also reflects, in part, the policies we chose to investigate, all of which have been implemented in some U.S. states and, therefore, have proven to be politically and legally feasible, at least in some states. This decision meant that none of the policies we examined would dramatically increase or decrease the stock of guns or gun ownership rates in ways that would produce more readily detectable effects on public safety, health, and industry outcomes. The United States has a large stock of privately owned guns in circulation—estimated in 2014 to be somewhere between 200 million and 300 million firearms (Cook and Goss, 2014). Laws designed to change who may buy new weapons, what weapons they may buy, or how gun sales occur will predictably have only a small effect on, for example, homicides or participation in sport shooting, which are affected much more by the existing stock of firearms. Although small effects are especially difficult to identify with the statistical methods common in this field, they may be important. Even a 1-percent reduction in homicides corresponds to more than 1,500 fewer deaths over a decade.

By highlighting where scientific evidence is accumulating, we hope to build consensus around a shared set of facts that have been established through a transparent, nonpartisan, and impartial review process. In so doing, we also mean to highlight areas where more and better information could make important contributions to establishing fair and effective gun policies.

Summary References

Cherney, Samantha, Andrew R. Morral, and Terry L. Schell, *RAND State Firearm Law Database*, Santa Monica, Calif.: RAND Corporation, TL-283-RC, 2018. As of March 2, 2018: https://www.rand.org/pubs/tools/TL283.html

Cook, Philip J., and Kristin A. Goss, *The Gun Debate: What Everyone Needs to Know*, New York: Oxford University Press, 2014.

Hahn, Robert A., Oleg Bilukha, Alex Crosby, Mindy T. Fullilove, Akiva Liberman, Eve Moscicki, Susan Snyder, Farris Tuma, and Peter A. Briss, "Firearms Laws and the Reduction of Violence: A Systematic Review," *American Journal of Preventive Medicine*, Vol. 28, No. 2, 2005, pp. 40–71.

Khan, Khalid S., Regina Kunz, Jos Kleijnen, and Gerd Antes, "Five Steps to Conducting a Systematic Review," *Journal of the Royal Society of Medicine*, Vol. 96, No. 3, 2003, pp. 118–121.

National Research Council, *Firearms and Violence: A Critical Review*, Washington, D.C.: National Academies Press, 2004.

NRC—*See* National Research Council.

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Abbreviations

aOR	adjusted odds ratio
ARIMA	autoregressive integrated moving average
ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
BJS	Bureau of Justice Statistics
BRFSS	Behavioral Risk Factor Surveillance Survey
CAP	child-access prevention
CC	concealed carry
CDC	Centers for Disease Control and Prevention
CI	confidence interval
DGU	defensive gun use
FBI	Federal Bureau of Investigation
FS/S	proportion of suicides that are firearm suicides
GSS	General Social Survey
IPH	intimate partner homicide
IRR	incidence rate ratio
NCVS	National Crime Victimization Survey
NFA	(Australian) National Firearms Agreement
NIBRS	National Incident-Based Reporting System
NICS	National Instant Criminal Background Check System

NIS	Nationwide Inpatient Sample
NRC	National Research Council
NSDS	National Self Defense Survey
NSPOF	National Survey of Private Ownership of Firearms
NSSF	National Shooting Sports Foundation
NVDRS	National Violent Death Reporting System
OR	odds ratio
VA	U.S. Department of Veterans Affairs

PART A

Introduction and Methods

CHAPTER ONE

Introduction

Americans are deeply divided on gun policy (Parker et al., 2017). Many Americans cherish the traditions of hunting, sport shooting, and collecting guns and value the security and protection that guns can provide. Many regions rely on hunting as an important driver of the tourism economy (Nelson, 2001; BBC Research & Consulting, 2008; Hodur, Leistritz, and Wolfe, 2008), and the wider gun industry employs hundreds of thousands of Americans, including instructors; shooting range operators; hunting equipment suppliers; and manufacturers, distributors, and retailers of firearms and ammunition. At the same time, many Americans have suffered grievous injuries and lost friends and family members in incidents involving firearms.[1] More than 36,000 Americans die annually from deliberate and unintentional gun injuries, and two-thirds of these deaths are suicides (Centers for Disease Control and Prevention [CDC], 2017a). Another 90,000 Americans per year receive care in a hospital for a nonfatal gun injury (CDC, 2017c).

Few are satisfied with the levels of mortality and injury associated with firearms, but there is passionate disagreement about how policies could be shaped to create a better future. There is a quite limited base of science on which to build sound and effective gun policies. Instead, when the public or members of Congress consider proposals affecting gun policy, they encounter conflicting opinions and inconsistent evidence about the likely effects of new laws. Views on what is factual concerning gun policies, or what the facts imply for decisionmaking, frequently divide along political and partisan lines (Kahan, 2017).

Entrenched disagreements on gun policy are not surprising, given the number and variety of contested and contradictory studies, selective misuse of facts by some on all sides of the debate, and today's hyper-partisan political environment. Moving past such roadblocks will be impossible unless decisionmakers can draw on a common set of facts based on transparent, nonpartisan, and impartial research and analysis. Even when individuals disagree about the objectives of gun policies, empirical evidence can help determine the most likely benefits and harms associated with such policies.

[1] Although not all guns are firearms, in this report, we follow conventional use in U.S. policy discussions and treat the terms *gun* and *firearm* as interchangeable.

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Gun Policy in America

To help fill the gap in impartial research and analysis, the RAND Corporation launched the Gun Policy in America initiative, which is premised on the idea that the real effects of policies can be objectively determined and that establishing these facts will help lead to sound policies. Our goal is to create a resource where policymakers and the general public can access unbiased information that informs and enables the development of fair and effective firearm policies.

This report synthesizes the available scientific data on the effects of various firearm policies on firearm deaths, violent crime, the gun industry, participation in hunting and sport shooting, and other outcomes. It builds and expands on earlier comprehensive reviews of scientific evidence on gun policy conducted more than a decade ago by the National Research Council (2004) and the Community Preventive Services Task Force (see Hahn et al., 2005). This report is one of several research products stemming from RAND's Gun Policy in America initiative (see www.rand.org/gunpolicy).

In the Gun Policy in America initiative, we have made no attempt to evaluate the merits of different values and principles that sometimes drive policy disagreements. We also have not evaluated the legality of any candidate laws or how they may infringe on Second Amendment rights. Instead, our focus is strictly on the empirical effects of policies on the eight outcomes specified in this report. However, all of the policies we investigate have been implemented in multiple states, and many have withstood Supreme Court review; therefore, we have selected policies that have previously been found not to violate the Constitution.

Laws are not the only interventions that have been used to shape how guns are used in the United States, and research is available on the effectiveness of other approaches, such as public information campaigns, safety and training programs, policing interventions, and school and community programs. In this report, however, our focus is on what scientific studies tell us about the probable effects of certain laws.

Research Focus

The primary focus of this report is our systematic review of 13 broad classes of gun policies that have been implemented in some states and the effects of those policies on eight outcomes. We selected the 13 classes from a larger set of more than 100 gun policies that have been advocated for; proposed; or passed into law by the federal government, states, or municipalities. Specifically, we restricted our attention to policies or laws that have already been implemented in some states so that researchers could examine the effects of each. In addition, we sought policies designed to have a direct effect on our selected outcomes. These policies, the presumed mechanisms whereby they produce intended (and possibly unintended) effects on our selected outcomes,

and the various ways that U.S. states have implemented them are discussed in detail in Chapters Three through Fifteen of this report. Although, in many cases, these policies have been implemented by local municipalities rather than states, we have not sought to review implementation at the local level.

The 13 classes of gun policies considered in this research are as follows:

1. background checks
2. bans on the sale of assault weapons and high-capacity magazines
3. stand-your-ground laws
4. prohibitions associated with mental illness
5. lost or stolen firearm reporting requirements
6. licensing and permitting requirements
7. firearm sales reporting and recording requirements
8. child-access prevention laws
9. surrender of firearms by prohibited possessors
10. minimum age requirements
11. concealed-carry laws
12. waiting periods
13. gun-free zones.

When deciding on the outcomes to examine in our research, we first included those related to public health and safety—suicide, violent crime, unintentional injuries and deaths, mass shootings, and officer-involved shootings. These are the outcomes most commonly examined in the research literature we were familiar with. However, we recognized that such outcomes omit many of the benefits of gun ownership that are attractive to gun owners and that may also be affected by laws designed to reduce the gun-related harms to public health and safety. Therefore, we also systematically searched the research literature for studies examining how gun laws affect defensive gun use, hunting and recreation, and the gun industry. Together, these eight outcomes cover many of the areas of concern frequently discussed in debates on gun policy. Here, we provide a short description of each outcome.

Suicide

Official statistics on suicide in the United States are compiled by the CDC. Recent data, from 2015, indicate that 44,193 suicides occurred that year, for a rate of 13.75 per 100,000 people. Of these, 22,018 (49.8 percent) were firearm suicides (CDC, 2017a). Researchers have often examined the effects of laws on total suicides (i.e., suicide deaths by any means, including those involving a firearm), firearm suicides, nonfirearm suicides, and suicide attempts. From a societal perspective, the most important of these outcomes is total suicide; that is, the goal is to reduce the total number of suicide deaths, regardless of how one goes about attempting to die. In many cases, however, we would expect the effects of gun laws to be more easily observed in rates of firearm

suicides, not total suicides. The consensus among public health experts is that reducing firearm suicides in contexts where more-lethal means of attempting suicide are unavailable will result in reductions in the total suicide rate (see, for example, Office of the Surgeon General and National Alliance for Suicide Prevention, 2012; World Health Organization, 2014; for review, see Azrael and Miller, 2016). Nevertheless, it is also clear that some people prevented from attempting suicide with a firearm will substitute another lethal means and successfully end their lives. The rate at which this substitution occurs is not known. Thus, for laws that increase or decrease firearm suicides, the effects on total suicides are likely smaller and harder to detect. For this reason, we examine the effects of policies on both total suicides and firearm suicides.

Suicide rates in the United States have increased 25 percent since 1999 (Curtin, Warner, and Hedegaard, 2016).[2] There is some degree of misclassification of suicide deaths, with some suicides likely classified as unintentional deaths (Kapusta et al., 2011) or overdose deaths (Bohnert et al., 2013). The CDC provides limited nationwide data on suicides for all states. More-expansive data are contained in the National Violent Death Reporting System, also maintained by the CDC, but because that system currently releases information on just a subset of U.S. states, we cannot use this data set to characterize suicides nationally.

Data on suicide attempts generally derive from two sources: hospital admission records and self-reports. In hospital data, suicides are generally categorized as "self-harm" with unspecified intent; although there is a field to code cause of injury, this field is completed inconsistently across states (Coben et al., 2001). In 2014, there were 469,096 self-harm, nonfatal hospital admissions to emergency departments in the United States, 3,320 (less than 1 percent) of which were caused by a firearm (CDC, 2017c). This may be because between 83 and 91 percent of those who attempt suicide with a firearm die, which is a higher rate than some other methods of suicide, such as drowning (66–84 percent) or hanging (61–83 percent) (Azrael and Miller, 2016).

Emergency room data contain only self-harm incidents that resulted in an emergency room visit; as a complementary data source, national data based on self-reports reveal that, in 2015, 1.4 million adults aged 18 or older (0.6 percent) attempted suicide in the past year (Piscopo et al., 2016).

Violent Crime

The Federal Bureau of Investigation (FBI) defines *violent crime* as including forcible rape, robbery, aggravated assault, and murder or nonnegligent manslaughter. The last category excludes deaths caused by suicide, negligence, or accident, as well as justifiable homicides (such as the killing of a felon by a peace officer in the line of duty) (FBI, 2016d).

[2] The 25-percent increase in suicides refers to the age-adjusted rate, although the crude rate and the absolute number of suicides have also increased.

One source of data on violent crime is the FBI's Uniform Crime Reporting program, which relies on voluntary reporting of crimes by city, university/college, county, state, tribal, and federal law enforcement agencies. Data from the program indicate that there were approximately 1.2 million violent crimes in the United States in 2015, including 764,449 aggravated assaults, 327,374 robberies, 124,047 rapes, and 15,696 instances of murder or nonnegligent manslaughter (FBI, 2016d). The overall violent crime rate was 372.6 per 100,000 people, with the highest rate for aggravated assault (237.8 per 100,000), followed by robbery (101.9 per 100,000), rape (38.6 per 100,000) and murder or nonnegligent manslaughter (4.9 per 100,000). Nationwide, firearms were used in 71.5 percent of all instances of murder or nonnegligent manslaughter, 40.8 percent of robberies, and 24.2 percent of aggravated assaults in 2015 (FBI, 2016d).

Death certificate data and emergency department admission data provide additional insights into the prevalence and consequences of violent crime. Based on mortality data, the CDC estimated that there were 17,793 homicides in the United States in 2015, for a rate of 5.54 per 100,000 people; of these, 12,979 (73 percent) were caused by a firearm (CDC, 2017a). Emergency department data show that in 2014 there were more than 1.5 million admissions to hospital emergency departments for assault; of these, 60,470 (3.8 percent) were firearm-related (CDC, 2017c).

Unintentional Injuries and Deaths

Like suicide, official statistics on unintentional injuries and deaths in the United States are compiled by the CDC. The most recent data, from 2015, indicate that 146,571 fatal unintentional injuries occurred that year, for a rate of 46.50 per 100,000 people (CDC, 2017a). Of these, 489 (less than 1 percent) were caused by a firearm. Some of these fatal unintentional injuries were likely misclassified and were actually suicides or homicides. Nevertheless, the true number of unintentional firearm deaths may be substantially greater than reported in the CDC's vital data. For example, inconsistent classification of child firearm deaths by local coroners may result in 35–45 percent of all unintentional firearm deaths being classified instead as suicides or homicides (Everytown for Gun Safety Support Fund, 2014; Hemenway and Solnick, 2015a). We also include research examining nonfatal unintentional injuries. There were close to 29 million unintentional injury discharges from emergency rooms in 2014, of which 15,928 (less than 1 percent) were caused by a firearm. These reports omit injuries that did not result in an emergency room visit.

Mass Shootings

Although only a small fraction of annual firearm deaths result from a mass shooting, these events attract enormous public, media, and social media attention in the country, and they frequently prompt discussions about legislative initiatives for how better to prevent gun violence. The U.S. government has never defined *mass shooting*, and there is no single universally accepted definition of the term. The FBI's definition of a *mass*

murderer requires at least four casualties, excluding the offender or offenders, in a single incident. Public law (the Investigative Assistance for Violent Crime Act of 2012; Pub. L. 112-265) defines a *mass killing* as a single incident in which three or more people were killed. Alternative definitions include two or more injured victims or four or more people injured or killed, including the shooter. Depending on which data source is referenced, and its definitions, there were seven, 65, 332, or 371 mass shootings in the United States in 2015 (see a discussion of these estimates in Chapter Twenty-Two).

Officer-Involved Shootings

Police shootings of civilians have triggered fierce debates locally and nationally about when use of lethal force is appropriate and whether it is being used disproportionately against minorities. Although the FBI has tried to collect information on police shootings from around 17,000 local law enforcement agencies, recent efforts by news organizations (such as the *Washington Post* and the *Guardian*) have demonstrated that the FBI's data collection misses many such cases. Whereas the FBI's count typically comes to around 400 killings by police per year, the *Washington Post* documented news stories on 963 individuals shot and killed by law enforcement in 2016, a number that could omit any individuals shot and killed by police about whom no news story was written. The FBI has announced plans to begin a new data collection effort that will reportedly track all incidents in which law enforcement seriously injure or kill citizens (Kindy, 2015).

Because reliable data on police shootings are often available only for individual police departments, prior studies using such data typically present information at the city level. For example, using police reports and other administrative data, Klinger et al. (2016) looked at 230 use-of-force shootings by police officers involving 373 suspects in St. Louis between 2003 and 2012. Similarly, medical records of shooting victims contain information on whether the shooter was a member of the law enforcement community. Using data from New York City's medical examiner, Gill and Pasquale-Styles (2009) looked at law enforcement shootings resulting in a fatality there between 2003 and 2006. The data included 42 cases for the four-year period. Like suicide attempts and unintentional injuries and deaths, this data source misses incidents in which the officer did not injure the suspect or the suspect did not seek medical attention.

Defensive Gun Use

Defensive gun use has typically been measured in the empirical literature using self-reports on surveys of gun owners, although some studies have used firearm deaths coded as justifiable homicides to investigate subsets of defensive gun use. Although there are some variations, *defensive gun use* has often been defined as incidents that involve (1) protection against humans (i.e., not animals); (2) gun use by civilians (not official use by military, police, or security personnel); (3) contact between persons (not, for instance, carrying a firearm to investigate a suspicious sound when no intruder is encountered); and (4) use of a gun, at least as a visual or verbal threat (not

incidents in which a gun may have simply been available for use). Definitions this broad would include defensive use of a gun by criminals during the commission of a crime, as well as use of a gun for personal defense by those who are prohibited by law from being in possession of a weapon (itself a crime). More-restrictive definitions specify that the defensive gun use be performed by the victim of certain crimes or by someone trying to protect the victim. These definitions may miss instances in which crimes were deterred or averted when a firearm was brandished.

Differences in the definitions of defensive gun use, and in the manner of collecting information about it, lead to wide differences in estimates of the annual incidence of defensive gun use. Low estimates (based on the experiences of crime victims) are a little more than 100,000 such incidents per year, and high estimates are 4.7 million per year (Cook and Ludwig, 1996, 1997, 1998; McDowall, Loftin, and Wiersema, 1998). This literature and the challenges of defining and measuring defensive gun use are reviewed in Chapter Twenty-Three.

Hunting and Recreation

Federal statistics on hunters largely come from the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation Survey, which is conducted every five years as a coordinated effort by the U.S. Fish and Wildlife Service and the U.S. Census Bureau. According to the most recent data, from 2011, approximately 13 million people used firearms for hunting, more than 50 percent of all hunters participated in target shooting, and 22 percent of hunters visited shooting ranges (U.S. Fish and Wildlife Service, U.S. Department of the Interior, and U.S. Department of Commerce, 2012). Estimates from the National Shooting Sports Foundation (NSSF) suggest that approximately 20 million individuals participate in target shooting annually (Southwick Associates, 2013). Data from the General Social Survey suggest that hunting has decreased significantly since 1977, when 31.6 percent of adults lived in households where they, their spouse, or both hunted. In 2014, households with a hunter was down to 15.4 percent (Smith and Son, 2015).

Gun Industry

Estimates produced by the NSSF suggest that there are 141,000 jobs in the United States involving the manufacture, distribution, or retailing of ammunition, firearms, and hunting supplies and potentially another 150,000 jobs in supplier and ancillary industries connected with the firearm market (NSSF, 2017). According to the U.S. Census Bureau, in 2014, more than 90,000 people were employed in U.S. firms coded as being involved in just the manufacture of firearms, ammunition, or ordnance (North American Industry Classification System [NAICS] codes 332992, 332993, and 332994; U.S. Census Bureau, 2016). The manufacturing industry alone is estimated to generate $16 billion in revenue annually (IBISWorld, 2016). In 2011, hunters spent $3 billion on firearms and $1.2 billion on ammunition (U.S. Fish and Wildlife Ser-

vice, U.S. Department of the Interior, and U.S. Department of Commerce, 2012). More than 9 million firearms were manufactured in the United States in 2014, nearly triple the number manufactured one decade prior. An additional 3.6 million firearms were imported in 2014, while just more than 420,900 firearms were exported from the United States (Bureau of Alcohol, Tobacco, Firearms and Explosives, 2016b).

As of the end of fiscal year 2015, 139,840 federal firearms licensees had active licenses to sell firearms in the United States. Just more than 46 percent of these licenses were held by dealers or pawnbrokers, 43 percent were held by collectors, about 9 percent were held by manufacturers of ammunition or firearms, and less than 1 percent were held by importers (Bureau of Alcohol, Tobacco, Firearms and Explosives, 2016b).

Organization of This Report

The report is organized into five parts. Part A introduces the project scope and objectives in Chapter One and the methods used to conduct systematic reviews and syntheses of the literature in Chapter Two. In Part B, we present a research synthesis on each of the 13 state policies selected for review (Chapters Three through Fifteen). Each of these chapters defines the class of policies under review; presents and rates the available evidence; and describes what conclusions, if any, can be drawn about how each policy affects each outcome. Part B includes all of the research syntheses we selected a priori; however, in the course of developing these, several related themes frequently came up in the literature and in policy debates, and we believed that these themes warranted further discussion or review. Therefore, to augment and provide context for Part B's syntheses, Part C presents supplementary essays on what rigorous studies reveal about

- the possible mechanisms by which laws may affect outcomes (Chapters Sixteen and Seventeen on the effects of firearm prevalence on suicide and violent crime)
- how taxes, access to health care, and media campaigns might affect gun violence (Chapters Eighteen through Twenty)
- the effectiveness of laws used to target domestic violence (Chapter Twenty-One)
- methodological challenges in defining and estimating the prevalence of mass shootings and defensive gun use (Chapters Twenty-Two and Twenty-Three)
- how suicide, violent crime, and mass shootings were affected by Australia's implementation of the National Firearms Agreement (Chapter Twenty-Four).

In Part D, we draw general conclusions from the main policy analyses and offer recommendations for how to improve the state of evidence for the effects of state laws. Finally, in an appendix section, Appendix A describes common methodological shortcomings found in the existing scientific literature examining gun policy, and Appendix B describes the source data used to display study effect sizes and rate study methodologies.

Chapter One References

Azrael, Deborah, and Matthew Miller, "Reducing Suicide Without Affecting Underlying Mental Health: Theoretical Underpinnings and a Review of the Evidence Base Lining the Availability of Lethal Means and Suicide," in Rory C. O'Connor and Jane Pirkis, eds., *The International Handbook of Suicide Prevention*, 2nd ed., Hoboken, N.J.: John Wiley and Sons, 2016.

BBC Research & Consulting, *The Economic Impacts of Hunting, Fishing and Wildlife Watching in Colorado*, Denver, Colo., September 26, 2008. As of October 13, 2017: https://cpw.state.co.us/Documents/About/Reports/08DOWEconomicImpactReport.pdf

Bohnert, A. S., J. F. McCarthy, R. V. Ignacio, M. A. Ilgen, A. Eisenberg, and F. C. Blow, "Misclassification of Suicide Deaths: Examining the Psychiatric History of Overdose Decedents," *Injury Prevention*, Vol. 19, No. 6, 2013, pp. 326–330.

Bureau of Alcohol, Tobacco, Firearms and Explosives, *Firearms Commerce in the United States: Annual Statistical Update 2016*, Washington, D.C.: U.S. Department of Justice, 2016b.

CDC—*See* Centers for Disease Control and Prevention.

Centers for Disease Control and Prevention, "Fatal Injury Reports, National, Regional, and State 1981–2015," WISQARS database, Atlanta, Ga., 2017a. As of May 8, 2017: https://webappa.cdc.gov/sasweb/ncipc/mortrate.html

———, "Nonfatal Injury Reports: 2001–2014," WISQARS database, Atlanta, Ga., 2017c. As of January 15, 2017: https://webappa.cdc.gov/sasweb/ncipc/nfirates2001.html

Coben, J. H., C. A. Steiner, M. Barrett, C. T. Merrill, and D. Adamson, "Completeness of Cause of Injury Coding in Healthcare Administrative Databases in the United States," *Injury Prevention*, Vol. 12, No. 3, 2001, pp. 199–201.

Cook, Philip J., and Jens Ludwig, *Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use*, Washington, D.C.: Police Foundation, 1996.

———, *Guns in America: National Survey on Private Ownership and Use of Firearms: Research in Brief*, Rockville, Md.: National Institute of Justice, 1997.

———, "Defensive Gun Uses: New Evidence from a National Survey," *Journal of Quantitative Criminology*, Vol. 14, No. 2, 1998, pp. 111–131.

Curtin, Sally C., Margaret Warner, and Holly Hedegaard, *Suicide Rates for Females and Males by Race and Ethnicity: United States, 1999 and 2014*, Atlanta, Ga.: Centers for Disease Control and Prevention, 2016.

Everytown for Gun Safety Support Fund, *Innocents Lost: A Year of Unintentional Child Gun Deaths*, June 2014. As of May 12, 2017: https://everytownresearch.org/documents/2015/04/innocents-lost.pdf

FBI—*See* Federal Bureau of Investigation.

Federal Bureau of Investigation, "Crime in the United States 2015: Violent Crime," Washington, D.C.: U.S. Department of Justice, 2016d. As of May 8, 2017: https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/offenses-known-to-law-enforcement/violent-crime/violentcrimemain_final.pdf

Gill, J. R., and M. Pasquale-Styles, "Firearm Deaths by Law Enforcement," *Journal of Forensic Science*, Vol. 54, No. 1, 2009, pp. 185–188.

Hahn, Robert A., Oleg Bilukha, Alex Crosby, Mindy T. Fullilove, Akiva Liberman, Eve Moscicki, Susan Snyder, Farris Tuma, and Peter A. Briss, "Firearms Laws and the Reduction of Violence: A Systematic Review," *American Journal of Preventive Medicine*, Vol. 28, No. 2, 2005, pp. 40–71.

Hemenway, David, and Sara J. Solnick, "Children and Unintentional Firearm Death," *Injury Epidemiology*, Vol. 2, No. 26, 2015a.

Hodur, Nancy M., F. Larry Leistritz, and Kara L. Wolfe, "Developing the Nature-Based Tourism Sector in Southwestern North Dakota," *Great Plains Research: A Journal of Natural and Social Sciences*, Vol. 18, Spring 2008, pp. 81–92.

IBISWorld, *Guns and Ammunition Manufacturing in the U.S.: Market Research Report*, Los Angeles, Calif., August 2016.

Kahan, Dan M., "On the Sources of Ordinary Science Knowledge and Extraordinary Science Ignorance," in Kathleen Hall Jamieson, Dan Kahan, and Dietram A. Scheufele, eds., *Oxford Handbook of the Science of Science Communication*, Oxford, UK: Oxford University Press, 2017.

Kapusta, N. D., U. S. Tran, I. R. Rockett, D. DeLeo, C. P. Naylor, T. Niederkrotenthaler, M. Voracek, E. Etzersdorfer, and G. Sonneck, "Declining Autopsy Rates and Suicide Misclassification: A Cross-National Analysis of 35 Countries," *Archives of General Psychiatry*, Vol. 68, No. 10, 2011, pp. 1050–1057.

Kindy, Kimberly, "FBI to Sharply Expand System for Tracking Fatal Police Shootings," *Washington Post*, December 8, 2015.

Klinger, D., R. Rosenfeld, D. Isom, and M. Deckard, "Race, Crime, and the Micro-Ecology of Deadly Force," *Criminology and Public Policy*, Vol. 15, No. 1, February 2016, pp. 193–222.

McDowall, D., C. Loftin, and B. Wiersema, "Estimates of the Frequency of Firearm Self Defense from the National Crime Victimization Survey," Albany, N.Y.: State University of New York, School of Criminal Justice, Violence Research Group Discussion Paper 20, 1998 (unpublished).

National Research Council, *Firearms and Violence: A Critical Review*, Washington, D.C.: National Academies Press, 2004.

National Shooting Sports Foundation, *Firearms and Ammunition Industry Economic Impact Report*, Newtown, Conn., 2017. As of October 18, 2017: https://d3aya7xwz8momx.cloudfront.net/wp-content/uploads/2017/07/EconomicImpactofIndustry2017.pdf

Nelson, Charles M., *Economic Implications of Land Use Patterns for Natural Resource Recreation and Tourism*, Lansing, Mich.: Michigan Land Resource Project, Public Sector Consultants, 2001.

NSSF—*See* National Shooting Sports Foundation.

Office of the Surgeon General and National Action Alliance for Suicide Prevention, *National Strategy for Suicide Prevention: Goals and Objectives for Action: A Report of the U.S. Surgeon General and of the National Action Alliance for Suicide Prevention*, Washington, D.C.: U.S. Department of Health and Human Services, 2012.

Parker, Kim, Juliana Menasce Horowitz, Ruth Igielnik, Baxter Oliphant, and Anna Brown, *America's Complex Relationship with Guns*, Washington, D.C.: Pew Research Center, June 22, 2017. As of August 14, 2017: http://assets.pewresearch.org/wp-content/uploads/sites/3/2017/06/06151541/Guns-Report-FOR-WEBSITE-PDF-6-21.pdf

Piscopo, Kathryn, Rachel N. Lipari, Jennifer Cooney, and Christie Galsheen, *Suicidal Thoughts and Behavior Among Adults: Results from the 2015 National Survey on Drug Use and Health*, NSDUH Data Review, September 2016. As of May 23, 2017:
https://www.samhsa.gov/data/sites/default/files/NSDUH-DR-FFR3-2015/NSDUH-DR-FFR3-2015.pdf

Public Law 112-265, Investigative Assistance for Violent Crimes Act of 2012, January 14, 2013.

Smith, T. W., and J. Son, *Trends in Gun Ownership in the United States, 1972–2014*, Chicago, Ill.: NORC at the University of Chicago, March 2015. As of March 9, 2017:
http://www.norc.org/PDFs/GSS%20Reports/GSS_Trends%20in%20Gun%20Ownership_US_1972-2014.pdf

Southwick Associates, *Target Shooting in America*, Newtown, Conn.: National Shooting Sports Foundation, 2013.

U.S. Census Bureau, *Number of Firms, Number of Establishments, Employment, and Annual Payroll by Enterprise Employment Size for the United States, All Industries: 2014*, Washington, D.C., December 2016. As of January 15, 2017:
https://www.census.gov/data/tables/2014/econ/susb/2014-susb-annual.html

U.S. Fish and Wildlife Service, U.S. Department of the Interior, and U.S. Department of Commerce, *2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, Washington, D.C., FH2/11-NAT, 2012.

World Health Organization, *Preventing Suicide: A Global Imperative*, Geneva, 2014. As of May 8, 2017:
http://apps.who.int/iris/bitstream/10665/131056/1/9789241564779_eng.pdf

CHAPTER TWO

Methods

Our review of evidence concerning the effects of 13 policies on eight outcomes used Royal Society of Medicine (Khan et al., 2003) guidelines for conducting systematic reviews of a scientific literature. Those guidelines consist of a five-step protocol: framing questions for review, identifying relevant literature, assessing the quality of the literature, summarizing the evidence, and interpreting the findings. Our objective was to identify and assess the quality of evidence provided in research that estimated the causal effect of one of the selected gun policies (or the prevalence of firearm ownership) on any of our eight key outcomes.

Before undertaking the review, we knew that we would need to draw on primarily observational studies across a range of disciplines, including economics, psychology, public health, sociology, and criminology. The Royal Society of Medicine approach is suitable in this context because of its flexibility and applicability to social and policy interventions. Other approaches for systematic reviews (e.g., Institute of Medicine, 2011; Higgins and Green, 2011) are designed primarily for reviews specific to health care. We consulted guidelines from the Campbell Collaboration to ensure that our review criteria were based on relevant factors prescribed for reviews of social and policy interventions (e.g., determination of independent findings, statistical procedures; Campbell Collaboration, 2001). However, to more efficiently examine the range of outcomes and interventions we set out to review, and because of the wide range of methods researchers have used to examine these effects, we do not follow the Campbell Collaboration guidelines exactly, as detailed next.

Selecting Policies

RAND assembled a list of close to 100 distinct gun policies advocated by diverse organizations, including the White House and other U.S. government organizations, advocacy organizations focused on gun policy (such as the National Rifle Association and the Brady Campaign to Prevent Gun Violence), academic organizations focused on gun policy or gun policy research, and professional organizations that had made public recommendations related to gun policy (e.g., the International Association of Chiefs of

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Police and the American Bar Association). Our objective was to evaluate state firearm laws because there is considerable variation that could be examined to understand the causal effects of such laws. Moreover, because the laws are applied statewide, observed effects may generalize to new jurisdictions better than the effects of local gun policies or programs that may be more tailored to the unique circumstances giving rise to them. We therefore eliminated policies that chiefly concerned local programs or interventions that are not mandated by state laws (e.g., gun buy-back programs or policing strategies that have been recommended on the basis of favorable research findings). For the same reason, we eliminated policies that either have never been passed into state laws or that have not yet had their intended effects (e.g., laws requiring new handguns to incorporate smart-gun technologies). We excluded policies that we concluded were likely to have only an indirect effect on any of the eight outcomes we were examining (e.g., policies concerning mental health coverage in group health insurance plans; the public availability of Bureau of Alcohol, Tobacco, Firearms and Explosives data on gun traces). We clustered some policy proposals that we regarded as sufficiently similar in concept to be included in the same general class of policies (e.g., policies of repealing the Safe Schools Act and the conceptually similar policy to prohibit gun-free zones).

This process resulted in 13 classes of firearm policies that we subsequently reviewed with multiple representatives of two advocacy organizations (one strongly aligned with enhanced gun regulation, and one strongly aligned with reduced gun regulation). The purpose of these consultations was to establish whether we had identified policies that are important, coherent, and relevant to current gun policy debates. This consultation resulted in substituting two of our original 13 classes of laws. As noted in Chapter One, the final set of policies, defined and explained in Chapters Three through Fifteen, is as follows:

1. background checks
2. bans on the sale of assault weapons and high-capacity magazines
3. stand-your-ground laws
4. prohibitions associated with mental illness
5. lost or stolen firearm reporting requirements
6. licensing and permitting requirements
7. firearm sales reporting and recording requirements
8. child-access prevention laws
9. surrender of firearms by prohibited possessors
10. minimum age requirements
11. concealed-carry laws
12. waiting periods
13. gun-free zones.

These classes of gun policies do not comprehensively account for all—or necessarily the most effective—laws or programs that have been implemented in the United States with the aim of reducing gun violence. For example, our set of policies does not include mandatory minimum sentencing guidelines for crimes with firearms. Further, by restricting our evaluation to state policies, we exclude local interventions (e.g., problem-oriented policing, focused deterrence strategies) that have been found to reduce overall crime in prior meta-analyses (Braga, Papachristos, and Hureau, 2014; Braga and Weisburd, 2012). However, we recognize the potential importance of these other interventions and believe a similar systematic review of their effects on outcomes relevant to the firearm policy debate merits future research.[1]

While Part B of this report evaluates the existing literature on the effects of these 13 classes of firearm policies, Part C includes essays describing scientific research on possible mechanisms by which laws may affect firearm-related outcomes, such as by affecting the prevalence of gun ownership (see Chapters Sixteen and Seventeen).

Selecting and Reviewing Studies

Our selection and review of the identified literature involved the following steps:

1. Article retrieval: Across all outcomes, we identified a common set of search terms to capture articles relevant to firearm prevalence or firearm policies. We then identified search terms unique for each outcome.
2. Title and abstract review: We conducted separate title and abstract reviews for each outcome using DistillerSR to code criteria used to determine whether the article appeared to meet minimum inclusion criteria (described later).
3. Full-text review: All studies retained after abstract review received full-text review and coding using DistillerSR. The purpose of this review was to identify studies that examined the effects of one or more of our policies on any of our outcomes and that employed methods designed to clarify the causal effects of the policy.
4. Synthesis of evidence: Once we identified the subset of quasi-experimental studies for each outcome and policy,[2] members of the multidisciplinary methodology team met to discuss each study's strengths and limitations. Then, the group discussed each set of studies available for a policy-outcome pair to make a determination about the level of evidence supporting the effect of the policy on each outcome.

[1] For a recent review of the evidence on criminal justice interventions to reduce criminal access to firearms, see Braga, 2017.

[2] We identified no experimental studies.

Article Retrieval

In spring 2016, we queried all databases listed in Table 2.1 for English-language studies. Because the National Research Council (NRC) (2004) and the Community Preventive Services Task Force (Hahn et al., 2005) published comprehensive and high-quality research reviews in 2004 and 2005, we limited our search primarily to research published during or after 2003 (assuming a lag from the time the NRC review was complete and the final report was published). We supplemented this search with a review of all studies reviewed by NRC (2004) and Hahn et al. (2005). Finally, to ensure inclusion of the most-seminal studies, including those that may have been missed by NRC or Hahn et al., we conducted additional searches in the Web of Science and Scopus

Table 2.1
Databases Searched for Studies Examining the Effects of Firearm Policies

Database	Details
PubMed	National Library of Medicine's database of medical literature. *Not used for gun industry or hunting searches.*
PsycINFO	Journal articles, books, reports, and dissertations on psychology and related fields. *Not used for gun industry or hunting searches.*
Index to Legal Periodicals	Includes indexing of scholarly articles, symposia, jurisdictional surveys, court decisions, books, and book reviews.
Social Science Abstracts	Journal articles and book reviews on anthropology, crime, economics, law, political science, psychology, public administration, and sociology.
Web of Science	Includes the Book Citation Index, Science Citation, Social Science Citation, Arts & Humanities Citation Indexes, and Conference Proceedings Citation Indexes for Science, Social Science, and Humanities, which include all cited references from indexed articles.
Criminal Justice Abstracts	Abstracts related to criminal justice and criminology; includes current books, book chapters, journal articles, government reports, and dissertations published worldwide.
National Criminal Justice Reference Service	Contains summaries of the more than 185,000 criminal justice publications housed in the National Criminal Justice Reference Service Library collection.
Sociological Abstracts	Citations and abstracts of sociological literature, including journal articles, books, book chapters, dissertations, and conference papers.
EconLit	Journal articles, books, and working papers on economics.
Business Source Complete	Business and economics journal articles, country profiles, and industry reports.
WorldCat	Catalog of books, web resources, and other material worldwide.
Scopus	An abstract and citation database with links to full-text content, covering peer-reviewed research and web sources in scientific, technical, medical, and social science fields, as well as arts and humanities.
LawReviews (LexisNexis)	A database of legal reviews.

databases for any study that had been cited in the literature 70 or more times, regardless of its publication date. Finally, after completing our search, several relevant studies were published in summer and fall 2016. When we became aware of these, we included them in our review.

We conducted separate searches for each of the eight outcomes. The search strings that were applied universally across all outcomes included the following:

- gun or guns or firearm* or handgun* or shotgun* or rifle* or longgun* or machinegun* or pistol* OR automatic weapon OR assault weapon OR semi-automatic weapon OR automatic weapons OR assault weapons OR semi-automatic weapons
  AND
- ownership OR own OR owns OR availab* OR access* OR possess* OR purchas* OR restrict* OR regulat* OR distribut* OR "weapon carrying" OR "weapon-carrying" OR legislation OR legislating OR legislative OR law OR laws OR legal* OR policy OR policies OR "ban" OR "bans" OR "banned."

In addition, we searched for the following outcome-specific search terms:

- suicide: (suicide* OR self-harm* OR self-injur*);
  - the following were the only terms used for "firearms" for this search: gun or guns or firearm* or handgun* or shotgun* or rifle* or longgun* or machine-gun* or pistol*
- violent crime: homicide* OR murder* OR manslaughter OR "domestic violence" OR "spousal abuse" OR "elder abuse" OR "child abuse" OR "family violence" OR "child maltreatment" OR "spousal maltreatment" OR "elder maltreatment" OR "intimate relationship violence" OR "intimate partner violence" OR "dating violence" OR (violen* AND [crime* OR criminal*]) OR rape OR rapes OR rapist* OR "personal crime" OR "personal crimes" OR robbery OR assault* OR stalk* OR terroris*
- unintentional injuries and deaths: accident* OR unintentional
- mass shootings: "mass shooting" OR "mass shootings"
- officer-involved shootings: "law enforcement" OR police* OR policing
- defensive gun use: self-defense OR "self defense" OR "personal defense" OR defens* OR self-protect* OR self protect* OR DGU OR SDGU
- hunting and recreation: hunt OR hunting OR "sport shooting" OR "shooting sports" OR recreation* (The terms "ammunition" and "bullets" were also included in the set containing the terms for "firearms.")
- gun industry: industr* OR manufactur* OR produc* OR distribut* OR supply OR trade OR price* OR export* OR revenue* OR sales OR employ* OR profit* OR cost OR costs OR costing OR "gun show" OR tax OR taxes OR taxing OR taxation OR payroll OR "federal firearms license."

We used a three-stage study review process and standardized review criteria (described next) to identify all studies with evidence for policy effects meeting minimum evidence standards. When possible, we calculated and graphed standardized effect sizes for reported effects included in our research syntheses (Chapters Three through Fifteen).

In addition to the planned research syntheses analyzing the effects of the 13 policies outlined in Chapter One, we summarized evidence on other topics when members of the research team believed that a topic provided important supplemental evidence or explanatory information (see Chapters Sixteen through Twenty-Four). For instance, we identified a substantial literature examining the effects of firearm prevalence on rates of suicide (Chapter Sixteen) and homicide (Chapter Seventeen). This literature did not evaluate the effects of a specific policy but nevertheless examined a key mechanism by which policies might affect the outcomes. For these discussions, we occasionally augmented the search strategy described earlier, as detailed in the individual chapters.

Title and Abstract Review

At this stage, we screened studies to determine whether they met our inclusion criteria. In all cases, a study was included if it met the following: *any empirical study that demonstrated a relationship between a firearm-related public policy and the relevant outcome* OR *any empirical study that demonstrated a relationship between firearm ownership and access and a relevant outcome (including proxy measures for gun ownership).*

Studies were excluded if they were case studies, systematic reviews, dissertations, commentaries or conceptual discussions, descriptive studies, studies in which key variables were assumed rather than measured (e.g., a region was assumed to have higher rates of gun ownership), studies that did not concern one of the eight outcomes we selected, studies that did not concern one of the 13 policies we selected (or gun ownership), or studies that duplicated the analyses and results of other included studies.

Full-Text Review

Next, we used full-text review to ensure that the studies included thus far did not meet any of the exclusion criteria and to exclude studies with no credible claim to having identified a causal effect of policies. In addition to coding all studies on the policy and outcome they examined and on their research design, we coded the country or countries in which the policy effects were evaluated. Because of the United States' unique legal, policy, and gun ownership context, we excluded studies examining the effects of policies on foreign populations. However, in the special-topic discussions (Chapters Sixteen through Twenty-Four), we include analysis of some studies in foreign countries (such as an analysis of the Australian experience with gun regulation) and various foreign studies of the effects of gun prevalence on suicide.

Our research syntheses (Chapters Three through Fifteen) focus exclusively on studies that used research methods designed to identify causal effects among observed

associations between policies and outcomes. Specifically, we required, at a minimum, that studies include time-series data and use such data to establish that policies preceded their apparent effects (a requirement for a causal effect) and that studies include a control group or comparison group (to demonstrate that the purported causal effect was not found among those who were not exposed to the policy). Experimental designs provide the gold standard for establishing causal effects, but we identified none in our literature reviews. On a case-by-case basis, we examined studies that made a credible claim to causal inference on the basis of data that did not include a time series. In practice, these discussions determined that some studies using instrumental-variable approaches to isolating causal effects satisfied our minimum standards for inclusion.

We refer to the studies that met our inclusion criteria as *quasi-experimental*. We distinguish these from simple *cross-sectional* studies that may show an association between states with a given policy and some outcome but that have no strategy for ensuring that it is the policy that caused the observed differences across states. For instance, there could be some other factor associated with both state policy differences and outcome differences or there could be reverse causality (that is, differences in the outcome across states could have caused states to adopt different policies). In excluding cross-sectional studies from this review, we have adopted a more stringent standard of evidence for causal effects than has often been used in systematic reviews of gun policy.

Although excluding cross-sectional research eliminates a large number of studies on gun policy, longitudinal data are much better for estimating the causal effect of a policy. Specifically, empirical demonstration of causation generally requires three types of evidence (Mill, 1843):

- The cause and effect regularly co-occur (i.e., association).
- The cause occurs before the effect (i.e., precedence).
- Alternative explanations for the association have been ruled out (i.e., elimination of confounds).

Cross-sectional research is largely limited to demonstrating association. Longitudinal studies that include people or regions that are exposed to a policy and those that are not exposed have the potential to provide all three types of evidence. Such a design can demonstrate that the policy preceded the change in the outcome of interest, and it can rule out a wider range of potential confounds, including historical time trends and the time-invariant characteristics of the jurisdictions in which the policies were implemented (Wooldridge, 2002).

We also excluded studies that offered no insight into the causal effects of individual policies. For instance, we excluded studies that evaluated the effects of an aggregate state score describing the totality of each state's gun policies or studies of the aggregate effects of legislation that included multiple gun policies. In rare cases, we excluded from consideration studies that provided insufficient information about their methodologies to evaluate whether they used a credible approach to isolating a causal

effect of policies. In one case (Kalesan et al., 2016), we excluded a study that examined the effects of many of our selected policies on firearm deaths. We did so because of significant methodological problems that we concluded made the findings uninformative, as documented in Schell and Morral (2016). In cases in which authors updated prior published analyses, we generally chose the updated study. However, in one case (Cook and Ludwig, 2003), we present the results from the earlier analysis (Ludwig and Cook, 2000), which was inclusive of more years of data, provided more detail, and included multiple model specifications (although findings were qualitatively the same). The identified studies included individual-level studies (i.e., studies comparing outcomes among people over time) and ecological studies (i.e., studies comparing outcomes in regions over time).

Finally, we excluded studies published prior to 2003 on one policy-outcome pair—concealed-carry laws and violent crime. Our discussion of this topic (see Chapter Thirteen) reviews much of the earlier literature in this area, but we do not count the earlier work in our evidence ratings for several reasons. For starters, this area of gun policy has received the greatest research attention since 2003, and considerable advances have been made in understanding the effects of these laws. In addition, researchers have uncovered serious problems with data sets that were frequently used before 2003. Indeed, Hahn et al. (2005) dismissed all the earlier work that had been done with county-level data (which meant most of the work) on grounds that it was too flawed to rely on for evidence. We do not take that position but do agree with NRC (2004) and Hahn et al. (2005) that the primary conclusion that can be drawn from this earlier literature is that estimates of the effects of concealed-carry laws are highly sensitive to model specification choices, meaning no conclusive evidence can be drawn from the estimates. Because many of the authors engaged in the pre-2003 concealed-carry research continued to publish improved models on improved data sets, we restrict our evidence ratings to just this later work. We do not exclude pre-2003 studies of concealed-carry laws for outcomes other than violent crime, because there are much fewer later studies on which to base evidence ratings for these other outcomes.

Using these inclusion and exclusion criteria, we identified the studies providing the highest-quality evidence of a causal relationship between a policy and an outcome. In judging the quality of studies, we always explicitly considered common methodological shortcomings found in the existing gun policy scientific literature (see Appendix A), especially the following:

- *Models that may have too many estimated parameters for the number of available observations.* We consistently note whenever estimates were based on models with a ratio of less than ten observations per estimated parameter. When the ratio of observations to estimated parameters dropped below five to one and no supplemental evidence of model fit was provided (such as the use of cross-validation or evidence from an analysis of the relative fit of different model specifications), we discount the study's results and do not calculate effect sizes for its estimates.

- *Models making no adjustment to standard errors for the serial correlation regularly found in panel data frequently used in gun policy studies.* We consistently note when studies did not report having made any such adjustment. When a study noted a correction for only heteroscedasticity, we consider that to be evidence of some correction, although this does not generally fully correct bias in the standard errors due to clustering (Aneja, Donohue, and Zhang, 2014).
- *Models for which the dependent variable appears to violate model assumptions, such as linear models of dichotomous outcomes or linear models of rate outcomes (many of which are close to zero).* We consistently note when the data appeared to violate modeling assumptions.
- *Effects with large changes in direction and magnitude across primary model specifications.* We consistently note when a study presented evidence that model results were highly sensitive to different model specifications.
- *Models that identify the effect of policies with too few cases.* We consistently note when the effects of policies were identified on the experiences of a single state or a small number of states. These analyses generally provide less persuasive evidence that observed differences between treated and control cases result from the effects of the policy as opposed to other contemporaneous influences on the outcome.

In Appendix A, we describe other common shortcomings in the existing literature that we do not explicitly discuss in our research syntheses. For instance, in the main chapters of the report, we do not note when papers provided no goodness-of-fit tests or other statistical evidence to justify their covariate selections. Neither do we focus on interpretational difficulties and confusion frequently present in studies using spline or hybrid models to estimate the effects of policies, although we discuss this problem in detail in Appendix A. These problems are so common in this literature that consistently commenting on them as shortcomings would become repetitive and cumbersome.

Synthesis of Evidence

Members of the research team summarized all available evidence from prioritized studies for each of the 13 policies on each of the eight outcomes. When at least one study met inclusion criteria, a multidisciplinary group of methodologists on the research team discussed each study to identify its strengths and weaknesses. The consensus judgments from these group discussions are summarized in the research syntheses. Then, the group discussed the set of available studies as a whole to make a determination about the level of evidence supporting the effect of the policy on each outcome.

When considering the evidence provided by each analysis in a study, we counted effects with p-values greater than 0.20 as providing *uncertain* evidence for the effect of a policy. We use this designation to avoid any suggestion that the failure to find a statistically significant effect means that the policy has no effect. We assume that every policy will have some effect, however small or unintended, so any failure to detect it is a shortcoming of the science, not the policy. When the identified effect has a p-value

less than 0.05, we refer to it as a *significant effect*. Finally, when the p-value is between 0.05 and 0.20, we refer to the effect as *suggestive*.

We include the suggestive category for several reasons. First, the literature we are reviewing is often underpowered. This means that the probability of rejecting the null hypothesis of no effect even when the policy has a true effect is often very low. As we argue in Appendix A, conducting analyses with low statistical power results in an uncomfortably high probability that effects found to be statistically significant at $p < 0.05$ are in the wrong direction and all effects have exaggerated effect sizes (Gelman and Carlin, 2014). If we had restricted our assessment of evidence to just statistically significant effects, we might base our judgments on an unreliable and biased set of estimates while ignoring the cumulative evidence available in studies reporting nonsignificant results. While the selection of $p < 0.20$ as the criterion for rating evidence as suggestive is arbitrary, this threshold corresponds to effects that are meaningfully more likely to be in the observed direction than in the opposite direction. For instance, if we assume that the policy has about as much chance of having a nonzero effect as having no effect, and the power of the test is 0.8, then $p < 0.20$ suggests that there is only a 20-percent probability of incorrectly rejecting the null hypothesis of no effect. For tests that are more weakly powered, as is common in models we review, a p-value less than 0.20 will result in false rejection less than half the time so long as the power of the test is above 0.2 (see, for example, Colquhoun, 2014).

In the final step, we rated the overall strength of the evidence in support of each possible effect of the policy. We approached these evidence ratings with the knowledge that research in this area is modest. Compared with the study of the effects of smoking on cancer, for instance, the study of gun policy effects is in its infancy, so it cannot hope to have anything like the strength of evidence that has accrued in many other areas of social science. Nevertheless, we believed that it would be useful to distinguish the gun policy effects that have relatively stronger or weaker evidence, given the limited evidence base currently available. We did this by establishing the following relativistic scale describing the strength of available evidence:

1. *No studies.* This designation was made when no studies meeting our inclusion criteria evaluated the policy's effect on the outcome.
2. *Inconclusive evidence.* This designation was made when studies with comparable methodological rigor identified inconsistent evidence for the policy's effect on an outcome or when a single study found only uncertain or suggestive effects.
3. *Limited evidence.* This designation was made when at least one study meeting our inclusion criteria and not otherwise compromised by serious methodological problems reported a significant effect of the policy on the outcome, even if other studies meeting our inclusion criteria identified only uncertain or suggestive evidence for the effect of the policy.

4. *Moderate evidence.* This designation was made when two or more studies found significant effects in the same direction and contradictory evidence was not found in other studies with equivalent or strong methods.
5. *Supportive evidence.* This designation was made when (1) at least three studies found suggestive or significant effects in the same direction using at least two independent data sets or (2) the effect was observed in a rigorous experimental study. Our requirement that the effect be found in distinct data sets reflects the fact that many gun policy studies use identical or overlapping data sets (e.g., state homicide rates over several years). Chance associations in these data sets are likely to be identified by all who analyze them. Therefore, our supportive evidence category requires that the effect be confirmed in a separate data set.

These rating criteria provided a framework for our assessments of where the weight of evidence currently lies for each of the policies, but they did not eliminate subjectivity from the review process. In particular, the studies we reviewed spanned a wide range of methodological rigor. When we judged a study to be particularly weak, we discounted its evidence in comparison with stronger studies, which sometimes led us to apply lower evidence rating labels than had the study been stronger.

Effects of the Inclusion and Exclusion Criteria on the Literature Reviewed

Table 2.2 presents the results of the literature search across all eight outcomes. The final column shows the number of studies meeting all inclusion criteria. No studies satisfying our inclusion criteria were found for two of the eight outcomes.

Table 2.2
Number of Studies Selected for Review at Each Stage of the Review Process

Outcome	Total Search Results	Included After Title and Abstract Review	Included After Full-Text Review
Suicide	1,274	183	11
Violent crime	2,656	373	47
Unintentional injuries and deaths	531	27	3
Mass shootings	77	11	8
Officer-involved shootings	187	34	0
Defensive gun use	1,435	115	1
Hunting and recreation	229	0	0
Gun industry	3,180	19	2

Of the studies that were published before 2003, all but Duwe, Kovandzic, and Moody (2002) were considered in the earlier reviews (Hahn et al., 2005; NRC, 2004). Table 2.3 lists the 63 studies meeting all inclusion criteria.

Table 2.3
Studies Meeting Inclusion Criteria

No.	Study
1	Aneja, Donohue, and Zhang (2011)
2	Aneja, Donohue, and Zhang (2014)
3	Ayres and Donohue (2003a)
4	Ayres and Donohue (2003b)
5	Ayres and Donohue (2009a)
6	Ayres and Donohue (2009b)
7	Cheng and Hoekstra (2013)
8	Cook and Ludwig (2003)
9	Crifasi et al. (2015)
10	Cummings et al. (1997a)
11	DeSimone, Markowitz, and Xu (2013)
12	Donohue (2003)
13	Donohue (2004)
14	Duggan (2001)
15	Duggan, Hjalmarsson, and Jacob (2011)
16	Durlauf, Navarro, and Rivers (2016)
17	Duwe, Kovandzic, and Moody (2002)
18	French and Heagerty (2008)
19	Gius (2014)
20	Gius (2015a)
21	Gius (2015b)
22	Gius (2015c)
23	Grambsch (2008)
24	Helland and Tabarrok (2004)
25	Hepburn et al. (2006)
26	Humphreys, Gasparrini, and Wiebe (2017)
27	Kendall and Tamura (2010)
28	Koper (2004)
29	Kovandzic, Marvell, and Vieraitis (2005)
30	La Valle (2007)
31	La Valle (2010)
32	La Valle (2013)
33	La Valle and Glover (2012)
34	Lott (2003)
35	Lott (2010)
36	Lott and Mustard (1997)
37	Lott and Whitley (2001)
38	Lott and Whitley (2003)
39	Lott and Whitley (2007)
40	Luca, Deepak, and Poliquin (2016)
41	Ludwig and Cook (2000)
42	Maltz and Targonski (2002)
43	Manski and Pepper (2015)
44	Martin and Legault (2005)
45	Moody and Marvell (2008)
46	Moody and Marvell (2009)
47	Moody et al. (2014)
48	Plassman and Whitley (2003)
49	Raissian (2016)
50	Roberts (2009)
51	Rosengart et al. (2005)
52	Rudolph et al. (2015)
53	Sen and Panjamapirom (2012)
54	Strnad (2007)
55	Swanson et al. (2013)
56	Swanson et al. (2016)
57	Vigdor and Mercy (2003)
58	Vigdor and Mercy (2006)
59	Webster, Crifasi, and Vernick (2014)
60	Webster and Starnes (2000)
61	Webster et al. (2004)
62	Wright, Wintemute, and Rivara (1999)
63	Zeoli and Webster (2010)

In a few cases, some studies published updates to earlier works that expanded the time frame of the analysis, corrected errors, or applied more-advanced statistical methods to a nearly identical data set. In these cases, we do not treat both the earlier and later works as each contributing an equally valid estimate of the effects of a policy. Instead, we treat the latest version of the analysis as superseding the earlier versions, and we focus our reviews on the superseding analysis. In one case, we substituted an earlier study (Ludwig and Cook, 2000) for a later study (Cook and Ludwig, 2003). We did this because the earlier study included a longer data series, used a model with greater statistical power, and provided more-detailed results; in addition, the estimated effects of policies in the two papers were identical for the estimates of interest to us in this review. Table 2.4 lists the superseded studies and their superseding versions.

Table 2.5 describes the policies and outcomes evaluated by each study that was not superseded, and studies are indicated with their corresponding number in Table 2.3. These studies are discussed in detail in subsequent chapters.

Table 2.4
Superseded Studies

Superseded	Superseding
Aneja, Donohue, and Zhang (2011); Ayres and Donohue (2003a, 2003b, 2009a, 2009b); Donohue (2003, 2004)	Aneja, Donohue, and Zhang (2014)
La Valle (2007, 2010)	La Valle (2013), La Valle and Glover (2012)
Moody and Marvell (2008, 2009)	Moody et al. (2014)
Vigdor and Mercy (2003)	Vigdor and Mercy (2006)

Table 2.5
Included Studies, by Policy and Outcome

Policy	Suicide	Violent Crime	Unintentional Injuries and Deaths	Mass Shootings	Officer-Involved Shootings	Defensive Gun Use	Hunting and Recreation	Gun Industry	Total
Background checks	15, 41, 53	15, 20, 32, 35, 41, 53, 55, 56, 58, 62		40					11
Bans on the sale of assault weapons and high-capacity magazines		19, 35		22, 40				28	5
Stand-your-ground laws	26	7, 26, 59				7			3
Prohibitions associated with mental illness	53, 56	53, 55, 56							3
Lost or stolen firearm reporting requirements									0
Licensing and permitting requirements	9, 61	32, 52, 59		40					6
Firearm sales reporting and recording requirements									0
Child-access prevention laws	10, 11, 21, 37, 61	10, 37	10, 11, 21, 25, 37, 60, 61	34					8
Surrender of firearms by prohibited possessors		49, 58, 63							3
Minimum age requirements	21, 51, 61	51, 52	21	40					5
Concealed-carry laws	11, 51	2, 16, 18, 19, 23, 24, 27, 29, 32, 33, 38, 39, 42, 43, 44, 47, 48, 50, 51, 54, 59	11, 36	17, 34, 40				14	27
Waiting periods	41	41, 50		34, 40					4
Gun-free zones									0
Total	**12**	**37**	**8**	**4**	**0**	**1**	**0**	**2**	**50**

NOTE: Numbers refer to individual studies; see Table 2.3 to view which study corresponds to which number. Totals along the bottom row do not exactly match those in Table 2.2 because superseded studies are not counted in this table, and other studies were identified after the initial literature search.

Effect Size Estimates

To compare the magnitude of effects across studies, we calculated and present incidence rate ratios (IRRs) for most of the estimates of policy effects that we considered in reaching our consensus ratings. In rare cases noted in the text, we were unable to calculate IRRs from the information provided in the report. Studies reporting the results from a negative binomial or Poisson regression model are directly reported in our report figures as IRRs with their associated confidence intervals (CIs). Given the low probability of most of our outcomes, odds ratios were interpreted and reported as IRRs with their associated CIs.

Many studies used fixed-effects ordinary linear regression models. In these cases, an average base rate (usually taken from the study's paper itself) of the outcome of interest was determined. We then used the base rate to transform the regression estimate, β, to an IRR using the following formula:

$$IRR = \frac{(\text{average base rate} + \beta)}{\text{average base rate}}.$$

However, if the linear model used a logged dependent variable, we used the exponentiated estimate as its IRR. CIs for the IRRs derived from the linear regression models were transformed in a similar fashion.

When a study did not report a measure of variation, we performed back calculation from a test statistic to estimate the CIs. For Rudolph et al. (2015), we inferred approximate standard errors from the p-value associated with a permutation test presented to demonstrate the likely statistical significance of the reported finding. For Crifasi et al. (2015), we present the IRR and CI for a secondary specification that used a negative binomial model. For several other studies, we note that we could not extrapolate an IRR or its CIs from the data provided in the paper.

Models estimating linear or other trend effects for policies do not have a constant effect size over time. Even if we selected an arbitrary period over which to calculate an effect size, these papers do not provide sufficient information to estimate CIs for such effects. Therefore, we do not calculate or display IRR values that take into account trend effects or effects calculated as the combination of a trend and a step effect (*hybrid models*). Although we report the authors' interpretation of these effects, we do not count them as compelling evidence for the effects of a policy, for reasons discussed in Appendix A.

IRRs are calculated and graphed so that estimates of the effects of policies can be compared on a common metric. We do not use them to construct meta-analytic estimates of policy effects for two reasons. First, most studies we reviewed examining the effect of a policy on a particular outcome used nearly identical data sets, meaning the studies do not offer independent estimates of the effect. Second, there are usually only

two or three studies available on which to estimate the effect of the policy, and these studies often differ considerably in their methodological rigor. These limitations in the existing literature led us to pursue a more qualitative evaluation of the conclusions that available studies can support.

Chapter Two References

Aneja, Abhay, John J. Donohue III, and Alexandria Zhang, "The Impact of Right-to-Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy," *American Law and Economics Review*, Vol. 13, No. 2, 2011, pp. 565–631.

———, *The Impact of Right to Carry Laws and the NRC Report: The Latest Lessons for the Empirical Evaluation of Law and Policy*, Stanford, Calif.: Stanford Law School, Olin Working Paper No. 461, December 1, 2014. As of May 21, 2017: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2443681

Ayres, Ian, and John J. Donohue III, "Shooting Down the More Guns, Less Crime Hypothesis," *Stanford Law Review*, Vol. 55, No. 4, 2003a, pp. 1193–1312.

———, "The Latest Misfires in Support of the More Guns, Less Crime Hypothesis," *Stanford Law Review*, Vol. 55, No. 4, 2003b, pp. 1371–1398.

———, "Yet Another Refutation of the More Guns, Less Crime Hypothesis—with Some Help from Moody and Marvell," *Econ Journal Watch*, Vol. 6, No. 1, January 2009a, pp. 35–59.

———, "More Guns, Less Crime Fails Again: The Latest Evidence from 1977–2006," *Econ Journal Watch*, Vol. 6, No. 2, May 2009b, pp. 218–238.

Braga, Anthony A., "Guns and Crime," in F. Parisi, ed., *The Oxford Handbook of Law and Economics*, Vol. 3: *Public Law and Legal Institutions*, New York: Oxford University Press, 2017, pp. 344–369.

Braga, Anthony A., Andrew V. Papachristos, and David M. Hureau, "The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-Analysis," *Justice Quarterly*, Vol. 31, No. 4, 2014, pp. 633–663.

Braga, Anthony A., and David L. Weisburd, "The Effects of Focused Deterrence Strategies on Crime: A Systematic Review and Meta-Analysis of the Empirical Evidence," *Journal of Research in Crime and Delinquency*, Vol. 49, No. 3, 2012, pp. 323–358.

Campbell Collaboration, *Guidelines for Preparation of Review Protocols*, Version 1.0, Oslo, Norway, January 1, 2001. As of October 13, 2017: https://www.campbellcollaboration.org/images/pdf/plain-language/C2_Protocols_guidelines_v1.pdf

Cheng, Cheng, and Mark Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine," *Journal of Human Resources*, Vol. 48, No. 3, 2013, pp. 821–853.

Colquhoun, D., "An Investigation of the False Discovery Rate and the Misinterpretation of *p*-Values," *Royal Society Open Science*, Vol. 1, No. 3, 2014.

Cook, P. J., and Jens Ludwig, "The Effect of the Brady Act on Gun Violence," in B. Harcourt, ed., *Guns, Crime, and Punishment in America*, New York: New York University Press, 2003, pp. 283–298.

Crifasi, C. K., J. S. Meyers, J. S. Vernick, and D. W. Webster, "Effects of Changes in Permit-to-Purchase Handgun Laws in Connecticut and Missouri on Suicide Rates," *Preventive Medicine*, Vol. 79, 2015, pp. 43–49.

Cummings, P., D. C. Grossman, F. P. Rivara, and T. D. Koepsell, "State Gun Safe Storage Laws and Child Mortality Due to Firearms," *JAMA*, Vol. 278, No. 13, 1997a, pp. 1084–1086.

DeSimone, J., S. Markowitz, and J. Xu, "Child Access Prevention Laws and Nonfatal Gun Injuries," *Southern Economic Journal*, Vol. 80, No. 1, 2013, pp. 5–25.

Donohue, John J., "The Impact of Concealed Carry Laws," in Jens Ludwig and Phillip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence,* Washington, D.C.: Brookings Institution Press, 2003, pp. 287–341.

———, "Guns, Crime, and the Impact of State Right-to-Carry Laws," *Fordham Law Review,* Vol. 73, No. 2, 2004, pp. 623–652.

Duggan, Mark, "More Guns, More Crime," *Journal of Political Economy,* Vol. 109, No. 5, 2001, pp. 1086–1114.

Duggan, Mark, Randi Hjalmarsson, and Brian A. Jacob, "The Short-Term and Localized Effect of Gun Shows: Evidence from California and Texas," *Review of Economics and Statistics,* Vol. 93, No. 3, 2011, pp. 786–799.

Durlauf, Steven, S. Navarro, and D. A. Rivers, "Model Uncertainty and the Effect of Shall-Issue Right-to-Carry Laws on Crime," *European Economic Review,* Vol. 81, 2016, pp. 32–67.

Duwe, Grant, Tomislav Kovandzic, and Carlisle E. Moody, "The Impact of Right-to-Carry Concealed Firearm Laws on Mass Public Shootings," *Homicide Studies,* Vol. 6, No. 4, 2002, pp. 271–296.

French, B., and P. J. Heagerty, "Analysis of Longitudinal Data to Evaluate a Policy Change," *Statistics in Medicine,* Vol. 27, No. 24, 2008, pp. 5005–5025.

Gelman, Andrew, and John Carlin, "Power Calculations: Assessing Type S (Sign) and Type M (Magnitude) Errors," *Perspectives on Psychological Science,* Vol. 9, No. 6, 2014, pp. 641–651.

Gius, Mark, "An Examination of the Effects of Concealed Weapons Laws and Assault Weapons Bans on State-Level Murder Rates," *Applied Economics Letters,* Vol. 21, No. 4, 2014, pp. 265–267.

———, "The Effects of State and Federal Background Checks on State-Level Gun-Related Murder Rates," *Applied Economics,* Vol. 47, No. 38, 2015a, pp. 4090–4101.

———, "The Impact of Minimum Age and Child Access Prevention Laws on Firearm-Related Youth Suicides and Unintentional Deaths," *Social Science Journal,* Vol. 52, No. 2, 2015b, pp. 168–175.

———, "The Impact of State and Federal Assault Weapons Bans on Public Mass Shootings," *Applied Economics Letters,* Vol. 22, No. 4, 2015c, pp. 281–284.

Grambsch, P., "Regression to the Mean, Murder Rates, and Shall-Issue Laws," *American Statistician,* Vol. 62, No. 4, 2008, pp. 289–295.

Hahn, Robert A., Oleg Bilukha, Alex Crosby, Mindy T. Fullilove, Akiva Liberman, Eve Moscicki, Susan Snyder, Farris Tuma, and Peter A. Briss, "Firearms Laws and the Reduction of Violence: A Systematic Review," *American Journal of Preventive Medicine,* Vol. 28, No. 2, 2005, pp. 40–71.

Helland, E., and A. Tabarrok, "Using Placebo Laws to Test 'More Guns, Less Crime,'" *Advances in Economic Analysis and Policy,* Vol. 4, No. 1, 2004.

Hepburn, L., D. Azrael, M. Miller, and D. Hemenway, "The Effect of Child Access Prevention Laws on Unintentional Child Firearm Fatalities, 1979–2000," *Journal of Trauma-Injury Infection and Critical Care,* Vol. 61, No. 2, 2006, pp. 423–428.

Higgins, Julian P. T., and Sally Green, eds., *Cochrane Handbook for Systematic Reviews of Interventions,* Version 5.1.0, London: Cochrane Collaboration, March 2011. As of October 13, 2017: http://handbook.cochrane.org

Humphreys, David K., Antonio Gasparrini, and Douglas J. Wiebe, "Evaluating the Impact of Florida's 'Stand Your Ground' Self-Defense Law on Homicide and Suicide by Firearm: An Interrupted Time Series Study," *JAMA Internal Medicine,* Vol. 177, No. 1, 2017, pp. 44–50.

Institute of Medicine, *Finding What Works in Health Care: Standards for Systematic Reviews*, Washington, D.C.: National Academies Press, 2011.

Kalesan, Bindu, Matthew E. Mobily, Olivia Keiser, Jeffrey A. Fagan, and Sandro Galea, "Firearm Legislation and Firearm Mortality in the USA: A Cross-Sectional, State-Level Study," *Lancet*, Vol. 387, No. 10030, April 30, 2016, pp. 1847–1855.

Kendall, Todd D., and Robert Tamura, "Unmarried Fertility, Crime, and Social Stigma," *Journal of Law and Economics*, Vol. 53, No. 1, 2010, pp. 185–221.

Khan, Khalid S., Regina Kunz, Jos Kleijnen, and Gerd Antes, "Five Steps to Conducting a Systematic Review," *Journal of the Royal Society of Medicine*, Vol. 96, No. 3, 2003, pp. 118–121.

Koper, Christopher S., *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence 1994–2003*, Washington, D.C.: National Institute of Justice, U.S. Department of Justice, 2004.

Kovandzic, T. V., T. B. Marvell, and L. M. Vieraitis, "The Impact of 'Shall-Issue' Concealed Handgun Laws on Violent Crime Rates—Evidence from Panel Data for Large Urban Cities," *Homicide Studies*, Vol. 9, No. 4, 2005, pp. 292–323.

La Valle, James M., "Rebuilding at Gunpoint: A City-Level Re-Estimation of the Brady Law and RTC Laws in the Wake of Hurricane Katrina," *Criminal Justice Policy Review*, Vol. 18, No. 4, 2007, pp. 451–465.

———, "Re-Estimating Gun-Policy Effects According to a National Science Academy Report: Were Previous Reports of Failure Premature?" *Journal of Crime and Justice*, Vol. 33, No. 1, 2010, pp. 71–95.

———, "'Gun Control' vs. 'Self-Protection': A Case Against the Ideological Divide," *Justice Policy Journal*, Vol. 10, No. 1, 2013, pp. 1–26.

La Valle, James M., and Thomas C. Glover, "Revisiting Licensed Handgun Carrying: Personal Protection or Interpersonal Liability?" *American Journal of Criminal Justice*, Vol. 37, No. 4, 2012, pp. 580–601.

Lott, John R., Jr., *The Bias Against Guns: Why Almost Everything You've Heard About Gun Control Is Wrong*, Washington, D.C.: Regnery Publishing, Inc., 2003.

———, *More Guns, Less Crime: Understanding Crime and Gun-Control Laws*, 3rd ed., Chicago, Ill.: University of Chicago Press, 2010.

Lott, John R., Jr., and D. B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," *Journal of Legal Studies*, Vol. 26, No. 1, 1997, pp. 1–68.

Lott, John R., Jr., and John E. Whitley, "Safe-Storage Gun Laws: Accidental Deaths, Suicides, and Crime," *Journal of Law and Economics*, Vol. 44, No. 2, 2001, pp. 659–689.

———, "Measurement Error in County-Level UCR Data," *Journal of Quantitative Criminology*, Vol. 19, No. 2, June 2003, pp. 185–198.

———, "Abortion and Crime: Unwanted Children and Out-of-Wedlock Births," *Economic Inquiry*, Vol. 45, No. 2, 2007, pp. 304–324.

Luca, Michael, Lahotra Deepak, and Christopher Poliquin, *The Impact of Mass Shootings on Gun Policy*, working paper, Boston, Mass.: Harvard Business School, 2016.

Ludwig, J., and P. J. Cook, "Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act," *JAMA*, Vol. 284, No. 5, 2000, pp. 585–591.

Maltz, M. D., and J. Targonski, "A Note on the Use of County-Level UCR Data, *Journal of Quantitative Criminology*, Vol. 18, No. 2, 2002, pp. 297–318.

Manski, Charles F., and John V. Pepper, *How Do Right-to-Carry Laws Affect Crime Rates? Coping with Ambiguity Using Bounded-Variation Assumptions*, Cambridge, Mass.: National Bureau for Economic Research, NBER Working Paper 21701, November 2015.

Martin, Robert A., and Richard L. Legault, "Systematic Measurement Error with State-Level Crime Data: Evidence from the 'More Guns, Less Crime' Debate," *Journal of Research in Crime and Delinquency*, Vol. 42, No. 2, May 2005, pp. 187–210.

Mill, John Stuart, *A System of Logic*, London: Parker, 1843.

Moody, Carlisle E., and Thomas B. Marvell, "The Debate on Shall-Issue Laws," *Econ Journal Watch*, Vol. 5, No. 3, 2008, pp. 269–293.

———, "The Debate on Shall-Issue Laws, Continued," *Econ Journal Watch*, Vol. 6, No. 2, 2009.

Moody, Carlisle E., Thomas B. Marvell, Paul R. Zimmerman, and Fasil Alemante, "The Impact of Right-to-Carry Laws on Crime: An Exercise in Replication," *Review of Economics and Finance*, Vol. 4, 2014, pp. 33–43.

National Research Council, *Firearms and Violence: A Critical Review*, Washington, D.C.: National Academies Press, 2004.

NRC—*See* National Research Council.

Plassmann, F., and J. E. Whitley, "Comments: Confirming More Guns, Less Crime," *Stanford Law Review*, Vol. 55, No. 4, 2003, pp. 1313–1369.

Raissian, Kerri M., "Hold Your Fire: Did the 1996 Federal Gun Control Act Expansion Reduce Domestic Homicides?" *Journal of Policy Analysis and Management*, Vol. 35, No. 1, Winter 2016, pp. 67–93.

Roberts, Darryl W., "Intimate Partner Homicide: Relationships to Alcohol and Firearms," *Journal of Contemporary Criminal Justice*, Vol. 25, No. 1, 2009, pp. 67–88.

Rosengart, M., P. Cummings, A. Nathens, P. Heagerty, R. Maier, and F. Rivara, "An Evaluation of State Firearm Regulations and Homicide and Suicide Death Rates," *Injury Prevention*, Vol. 11, No. 2, 2005, pp. 77–83.

Rudolph, K. E., E. A. Stuart, J. S. Vernick, and D. W. Webster, "Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides," *American Journal of Public Health*, Vol. 105, No. 8, 2015, pp. E49–E54.

Schell, Terry L., and Andrew R. Morral, *Evaluating Methods and Findings from a Study of State Gun Policies*, Santa Monica, Calif.: RAND Corporation, RR-1642-RC, 2016. As of January 13, 2017: http://www.rand.org/pubs/research_reports/RR1642.html

Sen, B., and A. Panjamapirom, "State Background Checks for Gun Purchase and Firearm Deaths: An Exploratory Study," *Preventive Medicine*, Vol. 55, No. 4, 2012, pp. 346–350.

Strnad, Jeff, "Should Legal Empiricists Go Bayesian?" *American Law and Economics Review*, Vol. 9, No. 1, Spring 2007, pp. 195–303.

Swanson, Jeffrey W., Michele M. Easter, Allison G. Robertson, Marvin S. Swartz, Kelly Alanis-Hirsch, Daniel Moseley, Charles Dion, and John Petrila, "Gun Violence, Mental Illness, and Laws That Prohibit Gun Possession: Evidence from Two Florida Counties," *Health Affairs*, Vol. 35, No. 6, 2016, pp. 1067–1075.

Swanson, J. W., A. G. Robertson, L. K. Frisman, M. A. Norko, H. Lin, M. S. Swartz, and P. J. Cook, "Preventing Gun Violence Involving People with Serious Mental Illness," in D. W. Webster and J. S. Vernick, eds., *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis*, Baltimore, Md.: Johns Hopkins University Press, 2013, pp. 33–51.

Vigdor, E. R., and J. A. Mercy, "Disarming Batterers: The Impact of Domestic Violence Firearms Laws," in Jens Ludwig and Phillip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence*, Washington, D.C.: Brookings Institution Press, 2003, pp. 157–200.

———, "Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?" *Evaluation Review*, Vol. 30, No. 3, 2006, pp. 313–346.

Webster, D., C. K. Crifasi, and J. S. Vernick, "Effects of the Repeal of Missouri's Handgun Purchaser Licensing Law on Homicides," *Journal of Urban Health*, Vol. 91, No. 2, 2014, pp. 293–302.

Webster, D. W., J. S. Vernick, A. M. Zeoli, and J. A. Manganello, "Association Between Youth-Focused Firearm Laws and Youth Suicides," *JAMA*, Vol. 292, No. 5, 2004, pp. 594–601.

Wooldridge, J. M., *Econometric Analysis of Cross Section and Panel Data*, Cambridge, Mass.: MIT Press, 2002.

Wright, M. A., G. J. Wintemute, and F. P. Rivara, "Effectiveness of Denial of Handgun Purchase to Persons Believed to Be at High Risk for Firearm Violence," *American Journal of Public Health*, Vol. 89, No. 1, 1999, pp. 88–90.

Zeoli, A. M., and D. W. Webster, "Effects of Domestic Violence Policies, Alcohol Taxes and Police Staffing Levels on Intimate Partner Homicide in Large U.S. Cities," *Injury Prevention*, Vol. 16, No. 2, 2010, pp. 90–95.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants

Case No.: 19-cv-01226-L-AHG
Hon. Judge M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF THOMAS B. MARVELL IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 2 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

PART B

Evidence on the Effects of 13 Policies

CHAPTER TWELVE

Minimum Age Requirements

Under federal law, licensed dealers cannot sell or deliver handguns to individuals under age 21 or long guns to those under age 18. Unlicensed individuals cannot sell, transfer, or deliver handguns to individuals under age 18. With some exceptions, federal law prohibits individuals under age 18 from possessing handguns, but it does not place age restrictions on the possession of long guns (18 U.S.C. 922).

Laws requiring a minimum age for purchase aim to make it more difficult for underage individuals to acquire a handgun through formal channels, while laws requiring a minimum age of possession are intended to make it more difficult or risky for an underage individual to carry firearms in public. Thus, although the mechanisms by which these laws influence youth access differ, both are designed to limit the availability of firearms to young people—and therefore reduce the gun violence and unintentional shootings they commit.

Firearm homicides and violent crimes disproportionately involve individuals under age 21, both as perpetrators and as victims. Indeed, in 2012, arrest rates for violent crimes peaked at age 18 (Office of Juvenile Justice and Delinquency Prevention, 2016). Of the 7,152 firearm homicides committed in 2014 for which the age of the offender was known, 47.2 percent were perpetrated by individuals aged 12–24 (Puzzanchera, Chamberlin, and Kang, 2017), although this group represents only 17.7 percent of the general U.S. population (U.S. Census Bureau, 2017). By influencing the possession of guns among youth, minimum age laws could thus reduce rates of firearm crime perpetrated by juveniles. However, youth are similarly at high risk of victimization. Of all deaths among those aged 16–21, 16.5 percent are homicides, which is greater than the homicide rates for the next-highest risk ages (13.3 percent for those aged 22–27; 8.8 percent for those aged 28–33) (Centers for Disease Control and Prevention [CDC], 2017b). In theory, therefore, stricter age limits on purchasing or possessing a firearm could reduce the incidence of defensive gun use by youth and potentially increase perpetration of violence against younger populations if offenders believe that the likelihood of encountering armed resistance is lower (Marvell, 2001).

Conceptually, by restricting youth access, minimum age restrictions could also reduce rates of firearm suicide or unintentional shootings by the affected age group. Research suggests that the association between firearm availability and suicide is stron-

gest among adolescents and young adults (Birckmayer and Hemenway, 2001; Miller and Hemenway, 1999). In 2015, there were 3,111 suicide deaths among individuals aged 16–21, 43.6 percent of which involved a firearm (calculated using data from CDC, 2015). Evidence indicates that 50 percent to 60 percent of all firearm suicides by youth under age 21 involve a handgun, suggesting that minimum age laws that cover all firearms may have larger effects on suicide rates compared with laws focused on handguns alone (Johnson et al., 2010; Wright, Wintemute, and Claire, 2008; Shah et al., 2000; Grossman, Reay, and Baker, 1999).

The effects of laws requiring a minimum purchase age will depend largely on how youth acquire firearms. Much of the existing evidence on sources of guns to youth comes from surveys of juvenile offenders or high-risk adolescents and suggests that purchases from retailers are relatively rare among adolescents involved with criminal activity. Among juveniles who have been incarcerated or arrested, surveys have found that youth offenders acquire their firearms through similar sources as adult offenders, with more than 80 percent citing a friend, a family member, or the black market as the means by which they acquired their weapon (Webster et al., 2002; LaFree and Birbeck, 1998). This finding indicates that minimum age laws may be effective at limiting youth access through legitimate retail sources. An early study of firearms used by students in school-associated firearm deaths (both suicide and homicide) between 1992 and 1999 similarly found that only 9.6 percent of the firearms used in homicide events and none of the firearms used in suicide events were purchased legally (CDC, 2001). Still, in a 1996 national survey of male high school students, 50 percent of respondents reported that they would have little or no trouble obtaining a gun (Sheley and Wright, 1998). In a 1996 national study of students in grades 8 through 12, 21 percent of respondents reported having easy access to guns at home, and the types of firearms available were evenly distributed among handguns, rifles, and shotguns (Ruback, Shaffer, and Clark, 2011).

The effects of laws requiring a minimum age of possession will depend on the expected costs youth perceive to be associated with violating such laws, which will likely be influenced by state legal penalties and the level of enforcement efforts devoted to enforcing the prohibition (Marvell, 2001). Semi-structured interviews with incarcerated adolescent males in 1998 found fear of arrest and incarceration as the most commonly reported reasons for choosing not to acquire or carry a gun (Freed et al., 2001). Still, in 2015, 5.3 percent of high school students reported carrying a gun (Kann et al., 2016). Given the relative importance of the home and family members as a source of guns to juveniles, the most-significant effects of minimum age of possession policies may occur if they create a disincentive for older individuals to keep guns at home or to allow guns in the home to be easily accessed (Marvell, 2001).

Much of the conversation about minimum age restrictions revolves around handguns rather than long guns. This is because handguns are more frequently used than long guns in firearm suicides and violent crime, so, in theory, raising the minimum age

for such weapons could decrease violence without impacting lawful activities, such as hunting (Tritch, 2014). More-restrictive minimum age laws could plausibly impact the gun industry by reducing the size of the consumer population and decreasing the ownership and use of guns by youth for hunting or recreational purposes. Overall, hunting participation in the United States has declined dramatically over the past decades, and although data on youth recreational firearm use are limited (Vittes and Sorenson, 2005), estimates from 2006 showed 1.7 million youth hunters aged 6–15 (Families Afield, 2010). Further, the vast majority of adult hunters initiate hunting activities before age 20, and those who have not learned to hunt by age 20 have a very low likelihood of participating in hunting activities as an adult (Duda and Young, 1993). Should minimum age laws reduce initiation of firearm use for hunting or recreational purposes, there could be longer-term effects on these outcomes.

Data on suicides and self-inflicted nonfatal injury stratified by age are readily available; thus, analyses can directly test whether effects of minimum age laws on these outcomes are driven by the relevant age group affected by the policy. For outcomes of violent crime and non-self-inflicted injury, causal analyses could be improved with data that reported the age of the shooter. However, as most data sources report only the age of the victim,[1] none of the studies we identified that met our inclusion criteria for this policy used this type of data. Methodological approaches could also leverage state variation in the types of guns restricted under the minimum age laws for outcome data that have information on the type of firearm involved. For any analysis, estimates of causal effects would be strengthened with data showing how minimum age laws affected gun purchase or carrying behavior by youth of the affected age group. While some national surveys (e.g., the Youth Behavioral Risk Surveillance System, National Survey of Drug Use and Health, National Longitudinal Study of Adolescent to Adult Health) ask youth about gun ownership or carrying behaviors, their samples are often limited to high school students, focused on handguns, or available for a limited set of years.

State Implementation of Minimum Age Requirements

States have adopted a range of minimum age requirements that are, in some cases, higher or lower than the federal minimums. For instance, nine states and the District of Columbia restrict all handgun sales to individuals aged 21 or older and long gun sales to individuals aged 18 or older. In effect, this raises the minimum age restrictions above those set by federal law in two ways: The age to purchase handguns through pri-

[1] Exceptions include the Federal Bureau of Investigation's Supplementary Homicide Reports, which contain age of victim and age of offender for murders when such information is known, and the National Violent Death Reporting System, which contains information on the age of the shooter for non-self-inflicted fatal injuries when such information is known for a subset of states.

vate sales is raised from 18 to 21, and a minimum age for private sales of long guns is set to 18.[2] Two states, Hawaii and Illinois, restrict sales for all firearms to those aged 21 or older.[3] This imposes more-restrictive age limits than federal law on all sales other than handgun sales by dealers. Other states set minimums below the federal limits. For instance, Vermont imposes a minimum age of 16 for all sales, and Maine imposes a minimum age of 18 for handgun sales and 16 for long gun sales.[4] In practice, these affect only long gun sales from nondealers, because minimum age requirements for all other sales would be governed by the more-restrictive federal laws.

As mentioned, federal law places no minimum on the age of possession of long guns (18 U.S.C. 922), but several states have imposed such minimums. For instance, 14 states restrict possession of long guns to those aged 18 or older,[5] and Illinois and the District of Columbia restrict long gun possession to those aged 21 or older.[6] The minimum age for possession of a long gun in Alaska, Minnesota, and New York is 16,[7] and it is 14 in Montana.[8]

Effects on Suicide

Research Synthesis Findings

In 2004, the National Research Council (NRC) identified four quasi-experimental studies of gun policy effects on suicide outcomes, none of which examined minimum age restrictions. Hahn et al. (2005) identified one cross-sectional study of the associa-

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[2] California, Connecticut, Delaware, Iowa, Maryland, Massachusetts, New Jersey, Ohio, Rhode Island, and the District of Columbia. See Calif. Penal Code § 27505; Conn. Gen. Stat. Ann. §§ 29-34, 29-37a; Del. Code tit. 24 § 901, 903, tit. 11 § 1445; Iowa Code Ann. § 724.22; Md. Code Ann., Pub. Safety §§ 5-101, 5-134; Mass. Gen. Laws Ch. 140 §§ 121, 130; N.J. Stat. Ann. § 2C:39-10; Ohio Rev. Code Ann. § 2923.21; R.I. Gen. Laws §§ 11-47-30, 11-47-35; D.C. Code Ann. §§ 7-2507.07, 22-4507.

[3] Hawaii Rev. Stat. Ann. § 134-2; Ill. Comp. Stat. 65/3, 65/4. Although Hawaii's law is silent about sales, the state issues permits to acquire to those aged 21 or older, and permits are required for purchases. Illinois requires a firearm owner's identification card for transfer, and the card is issued only to those aged 21 or older. However, 720 Ill. Comp. Stat. 5/24-3.1 prohibits sales of handguns to those under age 18.

[4] Vt. Stat. Ann. tit. 13, § 4007; Me. Rev. Stat. Ann. tit. 17-A §§ 554-A, 554-B.

[5] Florida, Idaho, Indiana, Iowa, Michigan, Nevada, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Washington, and Wisconsin. See Fla. Stat. Ann. § 790.22; Idaho Code Ann. § 18-3302E; Ind. Ann. Code § 35-47-10-5; Iowa Code Ann. § 724.22; Mich. Comp. Laws Ann. § 750.234f; Nev. Rev. Stat. Ann. § 202.300; N.J. Stat Ann. § 2C:58-6.1; Okla. Stat. Ann. §§ 1272, 1273; Ore. Rev. Stat. Ann. § 166.250; Pa. Cons. Stat. § 6110.1; R.I. Gen. Laws Ann. § 11-47-33; Utah Code Ann. § 76-10-509; Wash. Rev. Code Ann. § 9.41.040; Wisc. Stat. § 948.60.

[6] Ill. Comp. Stat. Ann. 65/4 (regulates the firearm owners identification card); D.C. Code Ann. § 7-2502.03.

[7] Alaska Stat. § 11.61.220; Minn. Stat. § 97B.021 (but individuals aged 14 or 15 and with firearm safety certificates may possess long guns); N.Y. Penal Code § 265.05.

[8] Mont. Code Ann. § 45-8-344.

tion between minor age and suicide (Kleck and Patterson, 1993), a study that does not meet our inclusion criteria. Since then, three longitudinal studies provided evidence on the impact of minimum age requirements on suicide.

Using data from 1976 to 2001, Webster et al. (2004) examined the effect of state-level changes in minimum purchase and possession age laws on suicide rates among those aged 14–17 and 18–20. The authors used negative binomial regression models that employed generalized estimating equations and that included state fixed effects and other covariates. They found uncertain effects of the laws on suicide rates among those aged 14–17. However, states that increased the minimum purchase age to 21 saw a statistically significant decrease in firearm suicides among those aged 18–20, but the authors found uncertain effects of the laws on total or nonfirearm suicides. They found that the three states that increased the age of handgun possession to 21 experienced a statistically significant increase in total suicides among those aged 18–20, accounted for, in part, by a suggestive increase in firearm suicides in this group. The authors suggested that this result was weakly estimated, having been based on just three states, two of which implemented their laws in the final years of the study period, meaning there was little time over which to observe changes in state suicide rates attributable to the law. These limitations raise valid questions about whether the observed effects are attributable to raising the age of possession of handguns to 21 or to other factors affecting these states' suicide rates. Finally, the authors examined the effect of federal minimum age of possession and purchase of handguns among states that previously had lower minimum age laws compared with those for which the federal law did not raise the minimum ages. These analyses identified a suggestive increase in total suicides among those aged 14–17 from raising the federal minimum possession age but only uncertain effects for other outcomes associated with raising the minimum age to purchase handguns among this age group.

Gius (2015b) examined how both state-specific laws for minimum age for firearm possession and federal laws for minimum age for handgun possession implemented in 1994 affected suicides by those aged 19 or younger. This analysis controlled for several state-level sociodemographic characteristics and enactment of child-access prevention laws between 1981 and 2010. Its results suggest that state-level minimum age restrictions had uncertain effects on suicide. The weighted least-squares statistical model is not likely to produce reliable estimates for the nonlinear outcome of suicide rates, meaning the model's estimates and their standard errors may be unreliable (Freedman, 2006). The study's estimate for the federal minimum age law for handgun possession passed in 1994 did not meet our inclusion criteria, because, as specified in this model, there was no comparison group that did not get the identical intervention in 1994.

Rosengart et al. (2005) used a similar approach to model the effects of state laws between 1979 and 1998, when "seven states adopted and two states repealed a law restricting the minimum age for the *private purchase* of a handgun to 21 years, [and] five states adopted laws restricting the minimum age for the *private possession* of a hand-

gun to 21 years" (emphasis added). In these models controlling for state fixed effects, time trends, state-level variation in poverty and demographic factors, and two other firearm laws[9] (but not the federal 1994 law imposing a minimum age requirement for handgun possession), they found mostly uncertain effects of these laws on the firearm suicide rate. However, they did find suggestive effects consistent with minimum possession age laws increasing the total suicide rate among those under age 20, as well as minimum purchase age laws increasing total suicides among those aged 20 or older. These models had limited information to use in identifying causal effects of these laws because relatively few states changed one or both laws over the study period; in addition, every state but one that raised its minimum age for possession did so the same year it implemented a minimum purchase law, making the effects of these laws confounded. Moreover, the statistical model had an unfavorable ratio of covariates to observations (less than one to eight), meaning the model may have been overfit, resulting in estimates and confidence intervals (CIs) that are unreliable indicators of the true causal effects of the laws.

Figure 12.1 displays the incidence rate ratios (IRRs) and CIs associated with the minimum age requirements examined in these studies. We do not present estimates of the federal minimum possession age from Gius (2015b) because they do not meet our criteria for inclusion. Estimates of the federal minimum purchase age and minimum possession age laws from Webster et al. (2004) are included because, although details of the model are not specified, it appears to satisfy our inclusion criteria based on the authors' following statement: "The federal law establishing a minimum legal age for handgun purchase and possession was assumed to affect only states that, prior to the federal law, either had no minimum-age law of this type or had a law that established a minimum legal age younger than 18 years."

Conclusions

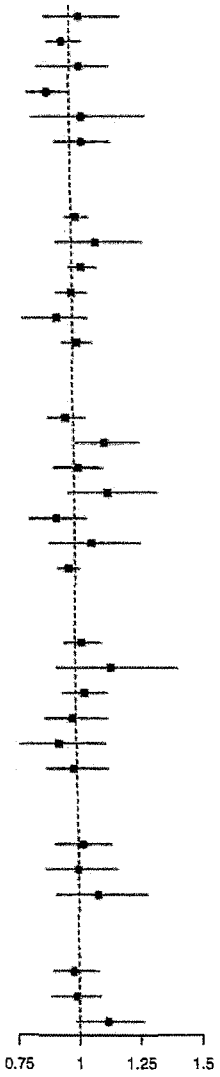
We identified two qualifying studies that examined how suicide rates were affected by laws requiring a minimum purchase age and three that examined how they were affected by laws requiring a minimum possession age.

Minimum age requirements for purchasing a firearm. Webster et al. (2004) found uncertain effects for minimum purchase age laws (with restrictions from ages 16 to 21) on suicides among those aged 14–17 and those 18–20. They also found uncertain effects for firearm suicides among the younger age group but a significant effect consistent with these laws reducing firearm suicides among the older group. When re-estimating these effects only for states that set age 21 as the minimum for purchasing a firearm, the authors again found uncertain effects on total suicide rates for the older

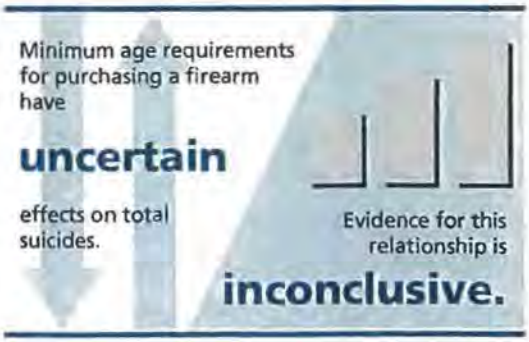
[9] The other laws modeled simultaneously were "one-gun-a-month" laws; "shall-issue" laws, otherwise known as right-to-carry laws, which guarantee the right to a concealed-carry permit for all citizens who are not prohibited from possessing a firearm (see Chapter Thirteen); and "junk-gun" laws, which ban the sale of certain cheaply constructed handguns.

Figure 12.1
Incidence Rate Ratios Associated with the Effect of Minimum Age Requirements on Suicide

Study, by Policy	Outcome Measure	Effect Size (IRR) [95% CI]
State minimum purchase age	**Suicide**	
Webster et al. (2004)	Total, aged 14–17	1.04 [0.90, 1.21]
Webster et al. (2004)	Total, aged 18–20	0.97 [0.91, 1.05]
Webster et al. (2004)	Firearm, aged 14–17	1.04 [0.87, 1.16]
Webster et al. (2004)	Firearm, aged 18–20	0.91 [0.83, 1.00]
Webster et al. (2004)	Nonfirearm, aged 14–17	1.05 [0.85, 1.31]
Webster et al. (2004)	Nonfirearm, aged 18–20	1.05 [0.94, 1.17]
State minimum purchase age of 21		
Rosengart et al. (2005)	Total	1.02 [0.98, 1.07]
Rosengart et al. (2005)	Total, aged 0–19	1.10 [0.94, 1.29]
Rosengart et al. (2005)	Total, aged 20+	1.04 [0.99, 1.10]
Rosengart et al. (2005)	Firearm	1.00 [0.94, 1.06]
Rosengart et al. (2005)	Firearm, aged 0–19	0.94 [0.80, 1.06]
Rosengart et al. (2005)	Firearm, aged 20+	1.02 [0.96, 1.08]
State minimum possession age		
Webster et al. (2004)	Total, aged 14–17	0.97 [0.90, 1.05]
Webster et al. (2004)	Total, aged 18–20	1.13 [1.01, 1.27]
Webster et al. (2004)	Firearm, aged 14–17	1.02 [0.92, 1.12]
Webster et al. (2004)	Firearm, aged 18–20	1.14 [0.98, 1.34]
Webster et al. (2004)	Nonfirearm, aged 14–17	0.93 [0.82, 1.05]
Webster et al. (2004)	Nonfirearm, aged 18–20	1.07 [0.90, 1.27]
Gius (2015b)	Firearm death, aged 0–19	0.98 [0.93, 1.02]
State minimum possession age of 21		
Rosengart et al. (2005)	Total	1.03 [0.96, 1.11]
Rosengart et al. (2005)	Total, aged 0–19	1.15 [0.93, 1.42]
Rosengart et al. (2005)	Total, aged 20+	1.04 [0.95, 1.13]
Rosengart et al. (2005)	Firearm	0.99 [0.88, 1.13]
Rosengart et al. (2005)	Firearm, aged 0–19	0.93 [0.77, 1.12]
Rosengart et al. (2005)	Firearm, aged 20+	0.99 [0.88, 1.13]
Federal minimum purchase age		
Webster et al. (2004)	Total, aged 14–17	1.02 [0.91, 1.14]
Webster et al. (2004)	Firearm, aged 14–17	1.00 [0.87, 1.16]
Webster et al. (2004)	Nonfirearm, aged 14–17	1.08 [0.91, 1.28]
Federal minimum possession age		
Webster et al. (2004)	Total, aged 14–17	0.98 [0.90, 1.08]
Webster et al. (2004)	Firearm, aged 14–17	0.99 [0.89, 1.09]
Webster et al. (2004)	Nonfirearm, aged 14–17	1.12 [0.99, 1.26]



NOTE: IRR values marked with blue squares indicate that methodological concerns are discussed in the text. Green circles indicate that we identified no significant methodological concerns. See Appendix B for details.





age group and a significant effect indicating such laws reduce firearm suicides among those aged 18–20. Using overlapping, but shorter, time-series data, Rosengart et al. (2005) found the effects of laws requiring a minimum age of 21 to purchase to have uncertain effects on suicides and firearm suicides for all age groups, except for a suggestive effect consistent with these laws increasing total suicides among adults aged 20 or older.

Based on these findings and an assessment of the relative strengths of these studies, we find *inconclusive evidence for how minimum age requirements for purchasing a firearm affect total suicides.* Studies of the effect of laws setting 21 as the minimum age of firearm purchase provide *limited evidence that such laws may reduce firearm suicides among some people aged 20 or younger.*

Minimum age requirements for possessing a firearm. Webster et al. (2004) found uncertain effects of minimum possession age laws (with restrictions from ages 14 to 21) on suicides and firearm suicides among those aged 14–17. However, they found that these laws significantly increase suicide rates among those aged 18–20 and a suggestive effect consistent with increases in firearm suicide rates among this group. For laws requiring a minimum handgun possession age of 21, Rosengart et al. (2005) found uncertain effects on suicides overall and among those aged 20 or older, as well as a suggestive effect consistent with these laws increasing suicides among those under age 20. All effects of these laws on firearm suicides, however, were uncertain. Gius (2015b) found only uncertain effects of state minimum age of possession laws on firearm suicides among those aged 19 or younger.



Based on these findings and an assessment of study strengths, we find *inconclusive evidence for how minimum age requirements for possessing a firearm affect suicides and firearm suicides.*

Effects on Violent Crime

Research Synthesis Findings

NRC (2004) did not review evidence on the effects of minimum age requirements, and Hahn et al. (2005) identified no research on this topic meeting our inclusion criteria. We identified two studies since 2003 that met our criteria. Rosengart et al. (2005) analyzed state-level data from 1979 to 1998 and examined the effects on violent crime of four types of state laws:

1. restricting handgun purchase to those aged 21 or older
2. restricting private handgun possession to those aged 21 or older
3. limiting the frequency of gun purchases to one gun per 30 days
4. prohibiting the sale of "junk" (cheaply constructed) guns.

The authors controlled for whether a state had a shall-issue (otherwise known as right-to-carry) provision; these results are described in more detail in Chapter Thirteen. The authors found uncertain effects of both types of minimum age laws on total homicide and firearm homicide rates. These models had limited information to use in identifying causal effects of these laws because relatively few states changed one or both laws over the study period; in addition, every state but one that raised its minimum age for possession did so the same year it implemented a minimum purchase age law, making the effects of these laws confounded. Moreover, the statistical model had an unfavorable ratio of covariates to observations (less than one to eight), meaning the model may have been overfit, resulting in estimates and CIs that are unreliable indicators of the true causal effects of the laws.

Rudolph et al. (2015) found a significant effect for a decrease in firearm homicides (and an uncertain effect for nonfirearm homicides) associated with the implementation of a law in Connecticut that established a requirement to have a permit to purchase a firearm and increased the minimum age of handgun purchase from age 18 to age 21. The firearm homicide rate after passage of both provisions was found to be 63 percent of what would have been expected without them. However, because the law included both policies simultaneously, the effect attributable specifically to the minimum age law cannot be identified. In addition, because only one state in the analysis experienced the law change, the effects of the law are not well identified. The observed reduction in firearm homicides could be due to the law or to other events occurring in Connecticut around the same time the law passed.

Figure 12.2 displays the IRRs and CIs associated with the minimum age requirements examined in these studies.

Figure 12.2
Incidence Rate Ratios Associated with the Effect of Minimum Age Requirements on Violent Crime

Study, by Policy	Outcome Measure	Effect Size (IRR) [95% CI]
State minimum purchase		
age of 21	**Homicide**	
Rosengart et al. (2005)	Total	1.00 [0.94, 1.05]
Rosengart et al. (2005)	Total, aged 0–19	0.92 [0.81, 1.05]
Rosengart et al. (2005)	Total, aged 20+	1.01 [0.95, 1.06]
Rosengart et al. (2005)	Firearm	0.98 [0.91, 1.06]
Rosengart et al. (2005)	Firearm, aged 0–19	0.92 [0.80, 1.06]
Rosengart et al. (2005)	Firearm, aged 20+	0.99 [0.93, 1.06]
State minimum possession		
age of 21		
Rosengart et al. (2005)	Total	1.02 [0.89, 1.18]
Rosengart et al. (2005)	Total, aged 0–19	0.98 [0.79, 1.20]
Rosengart et al. (2005)	Total, aged 20+	1.03 [0.88, 1.20]
Rosengart et al. (2005)	Firearm	1.06 [0.88, 1.27]
Rosengart et al. (2005)	Firearm, aged 0–19	0.91 [0.72, 1.15]
Rosengart et al. (2005)	Firearm, aged 20+	1.08 [0.89, 1.31]
Permit to purchase		
+ state minimum purchase		
age of 21		
Rudolph et al. (2015)	Firearm	0.60 [0.37, 0.97]



NOTE: IRR values marked with blue squares indicate that methodological concerns are discussed in the text. See Appendix B for details.

Conclusions

We identified two qualifying studies that examined the effect of minimum age requirements for purchasing or possessing a firearm on total or firearm homicide rates.



Minimum age requirements for purchasing a firearm. Rosengart et al. (2005) found uncertain effects of laws making 21 the minimum age to purchase handguns on homicide rates and firearm homicide rates among all age groups. Rudolph et al. (2015) reported a significant effect consistent with minimum age requirements reducing firearm homicide rates, but they could

not attribute this effect solely to a minimum purchase age policy because a permit-to-purchase provision was passed concurrently in the one state evaluated. On the basis of these results, and in consideration of the relative strengths of these studies, we find *inconclusive evidence for how minimum age requirements for purchasing a firearm affect total and firearm homicides.*

Minimum age requirements for possessing a firearm. Estimates by Rosengart et al. (2005) for the effect of laws making 21 the minimum age for possession of handguns on total and firearm homicides were uncertain for all age groups examined. Therefore, we find *inconclusive evidence for how minimum age requirements for possessing a firearm affect total and firearm homicides.*



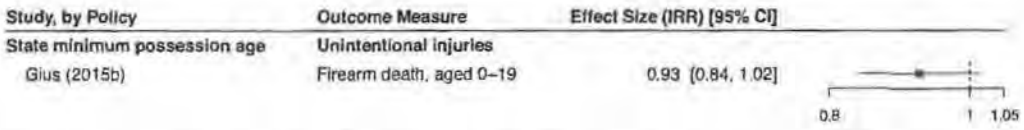
Effects on Unintentional Injuries and Deaths

Research Synthesis Findings

Neither NRC (2004) nor Hahn et al. (2005) identified any research examining the effects of minimum age requirements on unintentional injuries and deaths. One longitudinal study since then examined this relationship. Using data from 1981 to 2010, Gius (2015b) examined the effect of the 1994 federal law establishing a minimum age for handgun possession, as well as other state-specific minimum age requirements for handguns. This model controlled for time and state fixed effects, state-level sociodemographic characteristics, and state-level child-access prevention laws. The authors found that state-level minimum age requirements had uncertain effects on unintentional deaths. The weighted least-squares statistical model used in this study may not have been appropriate for the rate outcome, with many values close to zero in state-year observations. The model's lower bound at zero may result in violations of its assumptions and can yield biased and incorrect parameter estimates and CIs.

Figure 12.3 displays the IRR and CI associated with the minimum age requirements examined in Gius (2015b). The analysis of the federal minimum age of possession law in this study did not meet our inclusion criteria, because, as specified in this model, it appeared that there was no comparison group that did not get the identical intervention in 1994. Therefore, this effect is not included in Figure 12.3.

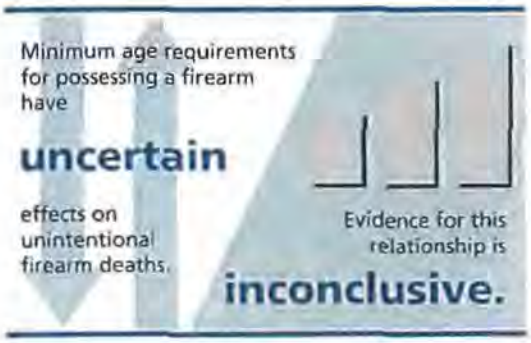
Figure 12.3
Incidence Rate Ratios Associated with the Effect of Minimum Age Requirements on Unintentional Injuries and Deaths



NOTE: IRR values marked with blue squares indicate that methodological concerns are discussed in the text. See Appendix B for details.

Conclusions

We identified one qualifying study examining the effect of laws requiring either minimum age to purchase or minimum age to possess a firearm. Gius (2015b) found a suggestive effect consistent with minimum possession age laws decreasing unintentional firearm deaths among those aged 19 or younger. Therefore, we conclude that *there is inconclusive evidence that minimum age requirements for possessing a firearm may reduce unintentional firearm deaths among those aged 19 or younger.*



Effects on Mass Shootings

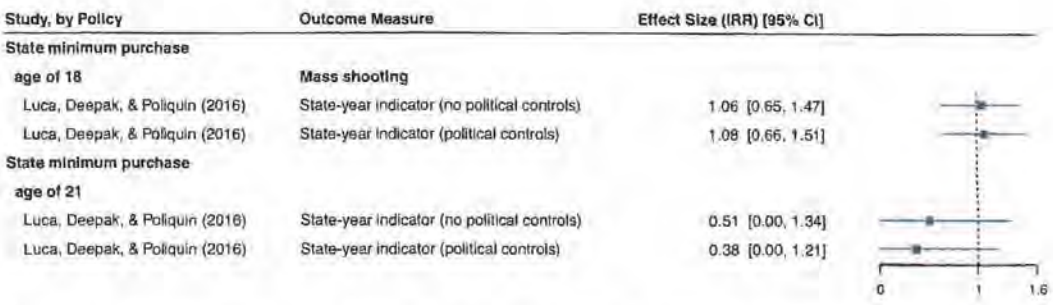
Research Synthesis Findings

NRC (2004) did not identify any research examining the effects of minimum age requirements on mass shootings. Hahn et al. (2005) identified one study, but it did not satisfy our inclusion criteria. Our own search yielded one study. Using a two-way fixed-effects linear probability model, Luca, Deepak, and Poliquin (2016) estimated the effects of minimum age requirements on a binary indicator for whether a mass shooting occurred in a given state-year. The authors included two measures of minimum age requirements: (1) an indicator variable for whether laws prevent vendors from selling handguns to those under age 18 or prevent those under age 18 from purchasing handguns and (2) an analogous indicator variable for laws that set the minimum age at 21. The authors' analysis covered 1989–2014 and included controls for time-invariant state characteristics, national trends, and a host of other state-level gun policies, as well as time-varying state-level demographic, socioeconomic, and political characteristics. They found uncertain effects of laws setting 18 as the minimum age of purchase on the probability of a mass shooting

event occurring, but they found a suggestive effect consistent with laws setting 21 as the minimum age of purchase reducing the likelihood of a mass shooting occurrence. However, it should be noted that assessing the effects of gun policies on mass shootings was not the primary focus of Luca, Deepak, and Poliquin (2016), and the authors intended the estimates to serve solely as a robustness check for their main specification (the effects of mass shootings on gun policy). Although the paper provided limited information to use in evaluating the reported statistical models (e.g., on how these policies were coded), it is clear that the analysis used a linear model to predict a dichotomous outcome. Therefore, model assumptions were violated, making model estimates and CIs unreliable.

Figure 12.4 displays the IRRs and CIs associated with the minimum age requirements examined in Luca, Deepak, and Poliquin (2016).

Figure 12.4
Incidence Rate Ratios Associated with the Effect of Minimum Age Requirements on Mass Shootings



NOTE: IRR values marked with blue squares indicate that methodological concerns are discussed in the text. See Appendix B for details.

Conclusions

We identified one qualifying study examining how minimum age requirements for purchasing a firearm affect the incidence of mass shootings. Luca, Deepak, and Poliquin (2016) found that laws setting age 18 as the minimum age to purchase a firearm had uncertain effects on mass shooting incidence, but they found a suggestive effect consistent with such laws reducing the incidence of mass shootings when the minimum purchase age is 21. On the basis of this study, *we find inconclusive evidence for how minimum age requirements for purchasing a firearm affect mass shootings.*



Outcomes Without Studies Examining the Effects of Minimum Age Requirements

Neither NRC (2004) nor Hahn et al. (2005) identified any research examining the effects of minimum age requirements on the following outcomes, and we identified no such studies that met our inclusion criteria:

- officer-involved shootings
- defensive gun use
- hunting and recreation
- gun industry.

Chapter Twelve References

Birckmayer, J., and D. Hemenway, "Suicide and Firearm Prevalence: Are Youth Disproportionately Affected?" *Suicide and Life-Threatening Behavior*, Vol. 31, No. 3, 2001, pp. 303–310.

CDC—*See* Centers for Disease Control and Prevention.

Centers for Disease Control and Prevention, "Source of Firearms Used by Students in School-Associated Violent Deaths—United States, 1992–1999," *Morbidity and Mortality Weekly Report*, Vol. 50, No. 31, 2001, pp. 657–660.

———, "Fatal Injury Reports, National and Regional, 1999–2015," WISQARS database, Atlanta, Ga., June 24, 2015. As of March 23, 2017: https://webappa.cdc.gov/sasweb/ncipc/mortrate10_us.html

———, "Leading Causes of Death Reports, National and Regional, 1999–2015," WISQARS database, Atlanta, Ga., 2017b. As of May 10, 2017: https://webappa.cdc.gov/sasweb/ncipc/leadcaus10_us.html

Duda, M. D., and K. C. Young, *Factors Related to Hunting and Fishing Participation in the United States*, Harrisonburg, Va.: Responsive Management, report for the U.S. Fish and Wildlife Service, Grant # 14-48-0009-92-1252, 1993.

Families Afield, *An Initiative for the Future of Hunting*, 2010. As of March 23, 2017: http://www.familiesafield.org/pdf/FamiliesAfield_Report.pdf

Freed, L. H., D. W. Webster, J. J. Longwell, J. Carrese, and M. H. Wilson, "Factors Preventing Gun Acquisition and Carrying Among Incarcerated Adolescent Males," *JAMA Pediatrics*, Vol. 155, 2001, pp. 335–341.

Freedman, David A., "On the So-Called 'Huber Sandwich Estimator' and 'Robust Standard Errors,'" *American Statistician*, Vol. 60, No. 4, 2006, pp. 299–302.

Gius, Mark, "The Impact of Minimum Age and Child Access Prevention Laws on Firearm-Related Youth Suicides and Unintentional Deaths," *Social Science Journal*, Vol. 52, No. 2, 2015b, pp. 168–175.

Grossman, D. C., D. T. Reay, and S. A. Baker, "Self-Inflicted and Unintentional Firearm Injuries Among Children and Adolescents," *JAMA Pediatrics*, Vol. 153, No. 8, 1999, pp. 875–878.

Hahn, Robert A., Oleg Bilukha, Alex Crosby, Mindy T. Fullilove, Akiva Liberman, Eve Moscicki, Susan Snyder, Farris Tuma, and Peter A. Briss, "Firearms Laws and the Reduction of Violence: A Systematic Review," *American Journal of Preventive Medicine*, Vol. 28, No. 2, 2005, pp. 40–71.

Johnson, R. M., C. Barber, D. Azrael, D. E. Clark, and D. Hemenway, "Who Are the Owners of Firearms Used in Adolescent Suicides?" *Suicide and Life-Threatening Behavior*, Vol. 40, No. 6, 2010, pp. 609–611.

Kann, L., T. McManus, W. A. Harris, S. L. Shanklin, K. H. Flint, J. Hawkins, B. Queen, R. Lowry, E. O. Olsen, D. Chyen, L. Whittle, J. Thornton, C. Lim, Y. Yamakawa, N. Brener, and S. Zaza, "Youth Risk Behavior Surveillance—United States, 2015," *Morbidity and Mortality Weekly Report*, Vol. 65, No. 6, 2016, pp. 1–174.

Kleck, G., and E. B. Patterson, "The Impact of Gun Control and Gun Ownership Levels on Violence Rates," *Journal of Quantitative Criminology*, Vol. 9, No. 3, 1993, pp. 249–287.

LaFree, G., and C. Birbeck, *Controlling New Mexico Juveniles' Possession of Firearms*, Albuquerque, N.M.: New Mexico Criminal Justice Statistical Analysis Center, Working Paper 27, 1998. As of May 10, 2017: http://nmsc.unm.edu/reports/1998/JuvFirearmPossession.pdf

Luca, Michael, Lahotra Deepak, and Christopher Poliquin, *The Impact of Mass Shootings on Gun Policy*, working paper, Boston, Mass.: Harvard Business School, 2016.

Marvell, T. B., "The Impact of Banning Juvenile Gun Possession," *Journal of Law and Economics*, Vol. 44, 2001, pp. 691–713.

Miller, M., and D. Hemenway, "The Relationship Between Firearms and Suicide: A Review of the Literature," *Aggression and Violent Behavior*, Vol. 4, No. 1, 1999, pp. 59–75.

National Research Council, *Firearms and Violence: A Critical Review*, Washington, D.C.: National Academies Press, 2004.

NRC—*See* National Research Council.

Office of Juvenile Justice and Delinquency Prevention, *OJJDP Statistical Briefing Book*, Washington, D.C.: U.S. Department of Justice, May 25, 2016. As of May 10, 2017: https://www.ojjdp.gov/ojstatbb/

Puzzanchera, C., G. Chamberlin, and W. Kang, "Easy Access to the FBI's Supplementary Homicide Reports: 1980–2014," 2017. As of March 22, 2017: http://www.ojjdp.gov/ojstatbb/ezashr/

Rosengart, M., P. Cummings, A. Nathens, P. Heagerty, R. Maier, and F. Rivara, "An Evaluation of State Firearm Regulations and Homicide and Suicide Death Rates," *Injury Prevention*, Vol. 11, No. 2, 2005, pp. 77–83.

Ruback, R. B., J. N. Shaffer, and V. A. Clark, "Easy Access to Firearms: Juveniles' Risks for Violent Offender and Violent Victimization," *Journal of Interpersonal Violence*, Vol. 26, No. 10, 2011, pp. 2111–2138.

Rudolph, K. E., E. A. Stuart, J. S. Vernick, and D. W. Webster, "Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides," *American Journal of Public Health*, Vol. 105, No. 8, 2015, pp. E49–E54.

Shah, S., R. E. Hoffman, L. Wake, and W. M. Marine, "Adolescent Suicide and Household Access to Firearms in Colorado: Results of a Case-Control Study," *Journal of Adolescent Health*, Vol. 26, No. 3, 2000, pp. 157–163.

Sheley, J. F., and J. D. Wright, *High School Youths, Weapons, and Violence: A National Survey*, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1998.

Tritch, Teresa, "Keep Handguns Away from Teenagers," *New York Times*, May 30, 2014. As of June 29, 2017: http://takingnote.blogs.nytimes.com/2014/05/30/keep-handguns-away-from-teenagers/

United States Code, Title 18, Section 922, Unlawful Acts.

U.S. Census Bureau, "U.S. and World Population Clock," 2017. As of March 22, 2017: https://www.census.gov/popclock/

Vittes, K. A., and S. B. Sorenson, "Recreational Gun Use by California Adolescents," *Health Education and Behavior*, Vol. 32, No. 6, 2005, pp. 751–766.

Webster, D. W., L. H. Freed, S. Frattaroli, and M. H. Wilson, "How Delinquent Youths Acquire Guns: Initial Versus Most Recent Gun Acquisitions," *Journal of Urban Health*, Vol. 79, No. 1, 2002, pp. 60–69.

Webster, D. W., J. S. Vernick, A. M. Zeoli, and J. A. Manganello, "Association Between Youth-Focused Firearm Laws and Youth Suicides," *JAMA*, Vol. 292, No. 5, 2004, pp. 594–601.

Wright, M. A., G. J. Wintemute, and B. E. Claire, "Gun Suicide by Young People in California: Descriptive Epidemiology and Gun Ownership," *Journal of Adolescent Health*, Vol. 43, No. 6, 2008, pp. 619–622.

CHAPTER TWENTY-TWO

Mass Shootings

In this chapter, we provide an overview of mass shootings, one of the eight outcomes examined in our research syntheses (Chapters Three through Fifteen). We first describe different approaches for defining a mass shooting and then discuss how using different definitions can influence estimates of mass shooting levels and trends. The information was collected from a targeted search of the literature separate from that described in Chapter Two of this report.

What Is a Mass Shooting?

In the 1980s, the Federal Bureau of Investigation (FBI) defined *mass murderer* as someone who "kills four or more people in a single incident (not including himself), typically in a single location" (Krouse and Richardson, 2015). However, the government has never defined *mass shooting* as a separate category, and there is not yet a universally accepted definition of the term. Thus, media outlets, academic researchers, and law enforcement agencies frequently use different definitions when discussing mass shootings, which can complicate our understanding of mass shooting trends and their relationship to gun policy. Table 22.1 provides examples of the variation in the criteria set by five of the most commonly referenced data sources on mass shootings in the United States.

Although there is no official standard for the casualty threshold that distinguishes a mass shooting from other violent crimes involving a firearm, a common approach in the literature is to adopt the FBI's criteria for a mass murderer and set a casualty threshold of four fatalities by firearm, excluding the offender or offenders (Duwe, Kovandzic, and Moody, 2002; Krouse and Richardson, 2015; Gius, 2015c; Fox and Fridel, 2016). However, this categorization is not without controversy. It does not capture incidents in which fewer than four victims were killed but additional victims were injured, and it does not include multiple-victim homicides in which fewer than four fatalities resulted from gunshots but additional fatalities occurred by other means. Additionally, the FBI classification of mass murderer was established primarily with the aim of clarifying criminal profiling procedures, not for the purpose of data collection or statistical

Exhibit 10
0238

Table 22.1
Variation in How Mass Shootings Are Defined and Counted

Source	Casualty Threshold (for injuries or deaths by firearm)	Location of Incident	Motivation of Shooter	Number of U.S. Mass Shootings in 2015
Mother Jones (see Follman, Aronsen, and Pan, 2017)	Three fatal injuries (excluding shooter)[a]	Public	Indiscriminate (excludes crimes of armed robbery, gang violence, or domestic violence)	7
Gun Violence Archive (undated)	Four fatal or nonfatal injuries (excluding shooter)	Any	Any	332
Mass Shooting Tracker (undated)	Four fatal or nonfatal injuries (including shooter)	Any	Any	371
Mass Shootings in America database (Stanford Geospatial Center, undated)	Three fatal or nonfatal injuries (excluding shooter)	Any	Not identifiably related to gangs, drugs, or organized crime	65
Supplementary Homicide Reports (FBI) (see Puzzanchera, Chamberlin, and Kang, 2017)	The FBI's Supplementary Homicide Reports do not define *mass shooting* but do provide information on the number of victims, and the reports have been used by researchers in conjunction with news reports or other data sources.			

[a] Before January 2013, the casualty threshold for *Mother Jones* was four fatal injuries (excluding the shooter).

analysis (Ressler, Burgess, and Douglas, 1988). Thus, many have chosen alternative definitions of casualty thresholds for mass shootings. For instance, Lott and Landes (2000) adopted the definition of two or more injured victims, the Gun Violence Archive (undated) defined *mass shooting* as an incident in which four or more victims (excluding the shooter) are injured or killed, and Mass Shooting Tracker (undated) set a criterion of four or more people injured or killed (including the shooter).

Another definitional disagreement is whether to include multiple-victim shooting incidents that occur in connection with some other crime or domestic dispute. Because mass shootings that stem from domestic and gang violence are contextually distinct from high-fatality indiscriminate killings in public venues, some have argued that they should be treated separately. In their analyses of "mass public shootings," Lott and Landes (2000) excluded any felony-related shooting, and Duwe, Kovandzic, and Moody (2002) excluded incidents where "both the victims and offender(s) were involved in unlawful activities, such as organized crime, gang activity, and drug deals" (p. 276). Similarly, Gius (2015c) restricted analysis to events that occurred in a relatively public area and in which victims appeared to have been selected randomly. However, others have claimed that this narrow definition ignores a substantial proportion

of gun-related violence from family- or felony-related murder (Fox and Levin, 2015). Data collection efforts by Mass Shooting Tracker and the Gun Violence Archive thus counted all incidents that met their designated casualty threshold as mass shootings, regardless of the circumstances that led to the event.

These definitions matter. Depending on which data source is referenced, there were seven, 65, 332, or 371 mass shootings in the United States in 2015 (see Table 22.1), and those are just some examples. More-restrictive definitions (e.g., *Mother Jones*) focus on the prevalence of higher-profile events motivated by mass murder, but they omit more-common incidents occurring in connection with domestic violence or criminal activity, which make up about 80 percent of mass shooting incidents with four or more fatally injured victims (Krouse and Richardson, 2015). Broader definitions (e.g., Mass Shooting Tracker) provide a more comprehensive depiction of the prevalence of gun violence, but they obscure the variety of circumstances in which these incidents take place and their associated policy implications. Furthermore, if the effects of a firearm policy are expected to affect only public mass shooting incidents, then analysis that includes domestic violence mass shootings in the outcome measure could obscure identification of significant effects that would be found in a more targeted analysis of public mass shootings alone. There is thus value in having multiple measurements of mass shootings—but only if their definitions are clearly and precisely explained and they are used by researchers in a manner appropriate to the analysis.

Are Mass Shootings on the Rise?

In 2014, the FBI released a study showing that "active shooting incidents" had increased at an average annual rate of 16 percent between 2000 and 2013 (Blair and Schweit, 2014). In contrast to the varied definitions for mass shootings, there is an agreed-upon definition among government agencies for *active shooter*: "an individual actively engaged in killing or attempting to kill people in a confined and populated area; in most cases, active shooters use firearm(s) and there is no pattern or method to their selection of victims" (U.S. Department of Homeland Security, 2008, p. 2). Using a modified version of this definition to include incidents that had multiple offenders or occurred in confined spaces, Blair and Schweit (2014) found that active shootings had increased from only one incident in 2000 to 17 in 2013.

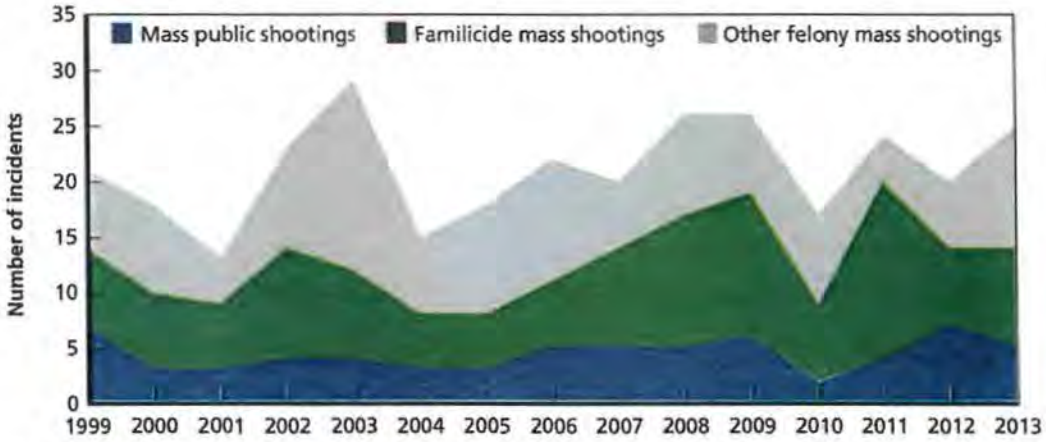
The FBI study (Blair and Schweit, 2014) highlighted several key issues in determining trends in mass shootings. First, the absence of a systematic definition of mass shootings can lead to misinterpretation of reported evidence. While the study explicitly stated, "This is not a study of mass killings or mass shootings" (p. 5), extensive media coverage cited the study as evidence of a sharp rise in mass shootings and mass shooting fatalities (Lott, 2015). However, the definition of an *active-shooter incident* is broader than any of the commonly used criteria for mass shootings (see Table 22.1) because it

does not set any casualty threshold. Of the 160 active-shooter incidents included in the FBI's analysis, 7 percent resulted in zero casualties, 20 percent resulted in zero fatalities, and 22 percent resulted in a single fatality (Lott, 2015). Setting a threshold of zero victims increases the potential for measurement error, because shooting incidents with no casualties are more difficult to identify from police records and are less likely to receive media coverage (Duwe, Kovandzic, and Moody, 2002). Additionally, because it should be relatively easier to identify more-recent shootings with few fatalities, a low casualty threshold will tend to systematically bias estimates of the number of shootings upward over time. For example, the Stanford Mass Shootings in America database, which relies solely on online media sources to identify mass shooting events, cautions its users, "Data in the [database] spans a time period that includes the transition from traditional media to digital media in reporting. Numbers of incidents per year should at least in part be assumed to reflect this collection methodology and not just changes in incident frequency." Thus, the more than threefold surge in mass shooting incidents from 2014 to 2015 shown in the Stanford data likely reflects increased online reporting and not necessarily a true increase in the rate of mass shootings.

Even when a more restrictive casualty threshold of four or more fatally injured victims (excluding the shooter) is imposed, empirical evidence on trends in these incidents varies depending on whether the motivation of the shooter is included as a criterion for considering an event a mass shooting. In their analysis of mass shooting trends from 1999 to 2013, Krouse and Richardson (2015) distinguished between mass shootings occurring in public locations that are indiscriminate in nature ("mass public shootings"), mass shootings in which the majority of victims are members of the offender's family and that are not attributable to other criminal activity ("familicide mass shootings"), and mass shootings that occur in connection to some other criminal activity ("other felony mass shootings"). Figures 22.1 and 22.2 show trends in these types of mass shooting incidents and fatalities, respectively, using the data provided in Krouse and Richardson (2015). Extending the data back to the 1970s, two studies found evidence of a slight increase in the frequency of mass public shootings over the past three decades (Cohen, Azrael, and Miller, 2014; Krouse and Richardson, 2015). However, using an expanded definition that includes domestic- or felony-related killings, there is little evidence to suggest that mass shooting incidents or fatalities have increased (Cohen, Azrael, and Miller, 2014; Krouse and Richardson, 2015; Fox and Fridel, 2016). Thus, different choices about how to define a mass shooting result in different findings for both the prevalence of these events at a given time and whether their frequency has changed over time.

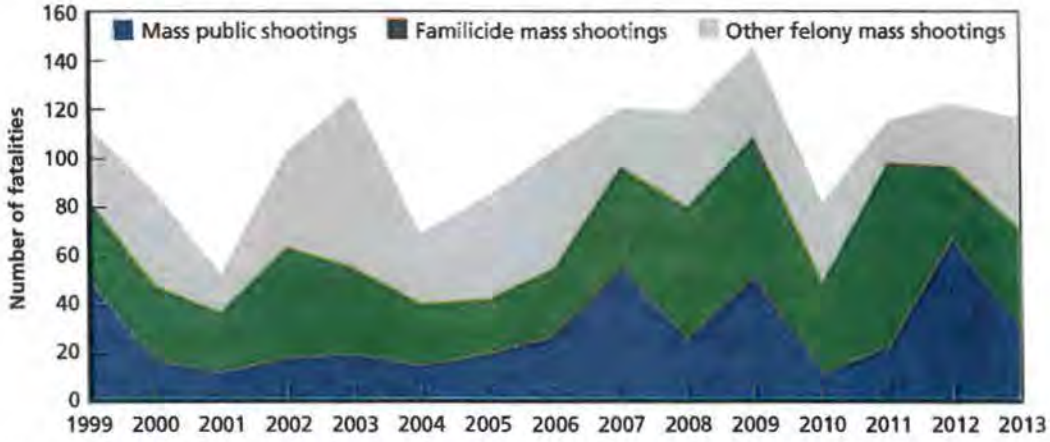
Definitional issues aside, the relative rarity of mass shooting events makes analysis of trends particularly difficult. Chance variability in the annual number of mass shooting incidents makes it challenging to discern a clear trend, and trend estimates will be sensitive to outliers and to the time frame chosen for analysis. For example, while Krouse and Richardson (2015) found evidence of an upward trend in mass public

Figure 22.1
Trends in Mass Shooting Incidents, by Type of Incident



SOURCE: Adapted from data in Krouse and Richardson, 2015.
RAND *RR2088-22.1*

Figure 22.2
Trends in Mass Shooting Fatalities, by Type of Incident



SOURCE: Adapted from data in Krouse and Richardson, 2015.
RAND *RR2088-22.2*

shootings from 1999 to 2013, they noted that the increase was driven largely by 2012, which had an unusually high number of mass public shooting incidents. Additionally, Lott (2015) showed that the FBI study's estimate of a dramatic increase in active-shooter incidents was largely driven by the choice of 2000 as the starting date, because that year had an unusually low number of shooting incidents; extending the analysis to cover 1977 onward and adjusting the data to exclude events with fewer than two

fatalities, Lott (2015) found a much smaller and statistically insignificant increase (less than 1 percent annually) in mass shooting fatalities over time.

Conclusions

While different choices about how to define a mass shooting and the period over which to calculate mass shooting trends have resulted in disagreement about whether the frequency of mass shootings has risen, there is clear evidence that the media's use of the term *mass shooting* has increased significantly over recent decades (Roeder, 2016). Unfortunately, the ambiguity in how mass shootings are defined and counted may result in increased media coverage influencing public perception without better informing our understanding of the prevalence of mass shootings or their determinants, trends, social costs, or policy implications.

Chapter Twenty-Two References

Blair, J. Pete, and Katherine W. Schweit, *A Study of Active Shooter Incidents, 2000–2013*, Washington, D.C.: Texas State University and Federal Bureau of Investigation, U.S. Department of Justice, 2014.

Cohen, Amy P., Deborah Azrael, and Matthew Miller, "Rate of Mass Shootings Has Tripled Since 2011, Harvard Research Shows," *Mother Jones*, October 15, 2014.

Duwe, Grant, Tomislav Kovandzic, and Carlisle E. Moody, "The Impact of Right-to-Carry Concealed Firearm Laws on Mass Public Shootings," *Homicide Studies*, Vol. 6, No. 4, 2002, pp. 271–296.

Follman, Mark, Gavin Aronsen, and Deanna Pan, "U.S. Mass Shootings, 1982–2017: Data from *Mother Jones*' Investigation," *Mother Jones*, June 14, 2017. As of August 25, 2017: http://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/

Fox, James A., and Emma E. Fridel, "The Tenuous Connections Involving Mass Shootings, Mental Illness, and Gun Laws," *Violence and Gender*, Vol. 3, No. 1, 2016, pp. 14–19.

Fox, James A., and Jack Levin, *Extreme Killing: Understanding Serial and Mass Murder*, 3rd ed., Thousand Oaks, Calif.: Sage Publications, 2015.

Gius, Mark, "The Impact of State and Federal Assault Weapons Bans on Public Mass Shootings," *Applied Economics Letters*, Vol. 22, No. 4, 2015c, pp. 281–284.

Gun Violence Archive, homepage, undated. As of October 20, 2016: http://www.gunviolencearchive.org/

Krouse, William J., and Daniel J. Richardson, *Mass Murder with Firearms: Incidents and Victims, 1999–2013*, Washington, D.C.: Congressional Research Service, R44126, 2015.

Lott, John R., Jr., "The FBI's Misinterpretation of the Change in Mass Public Shootings," *ACJS Today*, Vol. 40, No. 2, 2015, pp. 18–29.

Lott, John R., Jr., and William Landes, "Multiple Victim Public Shootings," 2000 (unpublished). As of June 29, 2017: http://www.shack.co.nz/pistoltaupo/SSRN_ID272929_code010610560.pdf

Mass Shooting Tracker, homepage, undated. As of October 20, 2016: https://www.massshootingtracker.org

Puzzanchera, C., G. Chamberlin, and W. Kang, "Easy Access to the FBI's Supplementary Homicide Reports: 1980–2014," Office of Juvenile Justice and Delinquency Prevention, 2017. As of March 22, 2017: https://www.ojjdp.gov/ojstatbb/ezashr/

Ressler, Robert K., Ann W. Burgess, and John E. Douglas, *Sexual Homicide: Patterns and Motives*, New York: Simon and Schuster, 1988.

Roeder, Oliver, "The Phrase 'Mass Shooting' Belongs to the 21st Century," FiveThirtyEight, January 21, 2016. As of January 12, 2017: http://fivethirtyeight.com/features/we-didnt-call-them-mass-shootings-until-the-21st-century/

Stanford Geospatial Center, "Mass Shootings in America," Stanford, Calif.: Stanford University Libraries, undated. As of October 20, 2016: https://library.stanford.edu/projects/mass-shootings-america

U.S. Department of Homeland Security, *Active Shooter: How to Respond*, Washington, D.C., October 2008.

PART D

Summary of Findings and Recommendations

CHAPTER TWENTY-FIVE

Summary and Conclusions

Although large majorities of Americans agree on the merits of some gun policies, gun policy is divisive in the United States. In this report, we have attempted to provide a rigorous and balanced assessment of what current scientific knowledge can tell the public and policymakers about the true effects of many gun policies that are frequently discussed in state legislatures. The most recent of such comprehensive attempts, conducted more than a dozen years ago, found the research base too thin to draw any conclusions about the effects of gun laws. Specifically, a committee of the National Research Council (NRC) found that the evidence was so weak and contradictory that no causal associations between the laws it examined and crime or violence could be determined (NRC, 2004). Separately, the Community Preventive Services Task Force "found the evidence available from identified studies was insufficient to determine the effectiveness of any of the firearms laws reviewed singly or in combination" (Hahn et al., 2005).

We have thoroughly updated and expanded on the findings in NRC (2004) and Hahn et al. (2005) with studies published between 2003 and spring 2016. We systematically reviewed all empirical research that examined the effects of 13 types of state gun policies on eight outcomes, including outcomes related to public health and safety and outcomes of interest to sport shooters, hunters, and those who work in the gun industry. We restricted our analysis to only those studies using methods designed to identify plausibly causal effects of the policies. After reviewing many thousands of candidate studies, we identified just 63 meeting our inclusion criteria (described in Chapter Two), of which 54 were published since 2003.

There is a need for a factual basis on which to make policy. This does not mean basing decisions just on facts about which policies will reduce homicides or suicides the most; it means basing decisions on an accurate understanding of the trade-offs that policies entail. To make fair and effective gun policies, we need to know more about their implementation challenges, whom they affect most or least, what their unintended consequences might be, how they can be revised for better effect, what they cost society in general and gun owners in particular, and other issues central to the acceptability of any policy. These scientific questions about what is true and knowable do not supersede questions of individual rights or Second Amendment rights. Both should be central considerations in policymaking.

Exhibit 10
0248

Facts have never dictated policy, but they can inform it. The relevance of research to inform gun policy has been tarnished by deeply held assumptions about "true" policy effects, measurement error associated with key variables (such as gun ownership), skepticism about research methods, and mistrust of researchers' motives when they draw unwelcome conclusions or focus on just one aspect of what is a complex phenomenon affecting multiple stakeholders with diverse interests. We have attempted to address these concerns through the rigor and transparency of our methods and through our organizational commitment to nonpartisan, objective policy analysis. We hope, therefore, that all stakeholders in gun policy debates give our analysis of the available science a fair hearing and our recommendations careful consideration.

In this chapter, we summarize our judgments about the strength of evidence available for the effects of gun policies on outcomes of interest. We then outline our conclusions and recommendations, which are organized into two sections: What can we conclude about the effects of gun policies, and why don't we know more?

Summarizing the Strength of Evidence

We categorized all policy and outcome pairings as having supportive, moderate, limited, inconclusive, or no evidence. We never conclude that evidence suggests that a policy has no effect. Even when multiple studies fail to find a significant effect, it is not correct that this implies the policy has no effect. Instead, the effects may simply be too small to reliably detect, or the data available to assess the policy's effects may not be sufficiently specific to the intended effects of the law. More generally, it seems reasonable to suspect that every policy has some effect on each outcome, however small or unintended. Therefore, the failure to detect a law's effects reveals more about the weakness of the analytic methods than about the possibility that a policy truly has no effect.

We categorized evidence as *inconclusive* when studies with comparable methodological rigor identified inconsistent evidence for the policy's effect on an outcome or when a single study found only uncertain or suggestive effects. We categorized evidence as *limited* when at least one study meeting our inclusion criteria and not otherwise compromised by serious methodological problems reported a significant effect of the policy on the outcome. Effects for which there is *moderate* evidence are those for which two or more studies found significant effects in the same direction and contradictory evidence was not found in other studies with equivalent or strong methods. Our finding of *supportive* evidence of an effect is limited to cases for which at least three studies found suggestive or significant effects in the same direction, and the effect was found in at least two data sets that were reasonably independent of each other (e.g., firearm suicides and hospital admissions for self-inflicted firearm injuries).

Our ratings, therefore, reflect the relative strength of evidence, not, for instance, whether the evidence is strong enough that we can be highly confident that observed effects would be generalizable to future implementations of a particular law. Rather, evidence for these effects is strong relative to evidence for other gun policy effects and not necessarily strong relative to the quality and quantity of evidence available in other fields of study. For instance, the evidence that cigarette smoking causes cancer is vastly stronger than the evidence concerning any gun policy's effect on any outcome.

Table 25.1 summarizes our judgments for all 13 classes of policies across the eight outcomes. Several outcomes show multiple judgments, and these correspond to different characterizations of the specific policy-outcome association. For instance, we identified limited evidence that background checks reduce *total suicides* and moderate evidence that they reduce *firearm suicides*. Looking down the columns, it is apparent that research into four outcomes is essentially unavailable. It is noteworthy that three of these four outcomes—defensive gun use, hunting and recreation, and the gun industry—are issues of particular concern to gun owners or gun industry stakeholders, including firearm manufacturers, firearm dealers, hunting outfitters, firing ranges, and others. That there is no empirical research examining these outcomes limits the ability for policymakers to use evidence to consider how laws are likely to affect different interests.

Table 25.1
Strength of Evidence Across Gun Policies and Outcomes

	Background Checks	Bans on the Sale of Assault Weapons and High-Capacity Magazines	Stand-Your-Ground Laws	Prohibitions Associated with Mental Illness	Lost or Stolen Firearm Reporting Requirements	Licensing and Permitting Requirements	Firearm Sales Reporting and Recording Requirements	Child-Access Prevention Laws	Surrender of Firearms by Prohibited Possessors	Minimum Age Requirements: Purchasing	Minimum Age Requirements: Possessing	Concealed-Carry Laws: Shall Issue	Concealed-Carry Laws: Permitless Carry	Waiting Periods	Gun-Free Zones
Suicide															
Total suicides	↓ L		I	↓ L		I		↓ L		I	I	I		I	
Firearm suicides	↓ M		I	↓ L		I		↓ M			I	I			
Firearm suicides among children										↓ L					
Firearm self-injuries (nonfatal)												I			
Firearm self-injuries (including suicides)								↓ S							
Violent crime	↓ L			↓ M				I	I			↓ L		I	
Total homicides	↓ L	I	↑ M	↓ L		I				I	I	I			
Firearm homicides	↓ M, I[a]	I	↑ L	I		I		I		I	I	I			
Intimate partner homicides									I					I	
Robberies												I			
Assaults												I			
Rapes												I			
Other violent crime			I												

Table 25.1—Continued

	Background Checks	Bans on the Sale of Assault Weapons and High-Capacity Magazines	Stand-Your-Ground Laws	Prohibitions Associated with Mental Illness	Lost or Stolen Firearm Reporting Requirements	Licensing and Permitting Requirements	Firearm Sales Reporting and Recording Requirements	Child-Access Prevention Laws	Surrender of Firearms by Prohibited Possessors	Minimum Age Requirements: Purchasing	Minimum Age Requirements: Possessing	Concealed-Carry Laws: Shall Issue	Concealed-Carry Laws: Permitless Carry	Waiting Periods	Gun-Free Zones
Unintentional injuries and deaths															
Unintentional firearm deaths											I				
Unintentional firearm injuries and deaths among adults								→ L							
Unintentional firearm injuries and deaths among children								→ S							
Unintentional firearm injuries among adults												← L			
Unintentional firearm injuries among children												I			
Mass shootings	I	I				I		I		I		I	I	I	
Officer-involved shootings															
Defensive gun use			I												
Hunting and recreation															

Table 25.1—Continued

	Background Checks	Bans on the Sale of Assault Weapons and High-Capacity Magazines	Stand-Your-Ground Laws	Prohibitions Associated with Mental Illness	Lost or Stolen Firearm Reporting Requirements	Licensing and Permitting Requirements	Firearm Sales Reporting and Recording Requirements	Child-Access Prevention Laws	Surrender of Firearms by Prohibited Possessors	Minimum Age Requirements: Purchasing	Minimum Age Requirements: Possessing	Concealed-Carry Laws: Shall Issue	Concealed-Carry Laws: Permitless Carry	Waiting Periods	Gun-Free Zones
Gun industry															
Gun ownership												I			
Prices of banned firearms in the short term		↑ L													

NOTE: I = inconclusive; L = limited; M = moderate; S = supportive. When we identified no studies meeting eligibility criteria, cells are blank. ↑ = the policy increases the outcome; ↓ = the policy decreases the outcome.

[a] We concluded that there is moderate evidence that dealer background checks decrease firearm homicides, and there is inconclusive evidence for the effect of private-seller background checks on firearm homicides.

What Can We Conclude About the Effects of Gun Policies?

Our first set of conclusions and recommendations describes the policy-outcome combinations with the strongest available evidence as identified through our review of the existing literature, as well as recommendations for policy based on this evidence.

Conclusion 1. Available evidence supports the conclusion that child-access prevention (CAP) laws, or safe storage laws, reduce self-inflicted fatal or nonfatal firearm injuries among youth. There is moderate evidence that these laws reduce firearm suicides among youth and limited evidence that the laws reduce total (i.e., firearm and nonfirearm) suicides among youth.

Conclusion 2. Available evidence supports the conclusion that CAP laws, or safe storage laws, reduce unintentional firearm injuries or unintentional firearm deaths among children. In addition, there is limited evidence that these laws may reduce unintentional firearm injuries among adults.

In the available literature examining CAP laws, self-inflicted injuries represent an ambiguous outcome because not all self-inflicted firearm injuries are the result of a suicide attempt. Some are unintentional injuries. But with case fatality rates for suicide attempts with a firearm at around 82.5 percent (Spicer and Miller, 2000), a substantial number of self-inflicted firearm injuries are likely the result of a suicide attempt. Furthermore, there is a clear pattern of CAP laws appearing to reduce a range of related firearm injuries to youth, ranging from unintentional injuries to suicides. That they also reduce the more ambiguous "self-inflicted injuries" fits squarely within that pattern and contributes to our confidence that the evidence currently supports a conclusion that CAP laws reduce these injuries and fatalities.

Across all of the 13 classes of policies that we studied, only CAP laws had any evidence that we classified as *supportive* for a particular conclusion. CAP laws differ from many of the other policies we considered in this report. Most of the others affect the acquisition of new firearms (e.g., background checks or waiting periods), or they are designed to affect a relatively small proportion of gun owners (e.g., prohibitions that target the mentally ill; firearm surrender laws, which have usually targeted domestic violence offenders). Thus, the other laws generally concern either the small proportion of guns that are newly acquired every year or a small proportion of the gun-owning population. CAP laws, in contrast, are designed to influence how all guns in a state are stored when children could be expected to encounter them. This likely represents a large proportion of all guns because one-third of all households in the country have children under age 18 (Vespa, Lewis, and Kreider, 2013), and many more have children as occasional visitors. With such large numbers of guns potentially affected, even imperfect compliance with CAP laws may have a greater chance than other types of laws of producing observable effects in population-level outcome statistics.

Recommendation 1. States without CAP laws should consider adopting them as a strategy to reduce firearm suicides and unintentional firearm injuries and deaths.

We note, however, that scientific research cannot, at present, address whether these laws might increase or decrease crime or rates of legal defensive gun use.

Recommendation 2. When considering adopting or refining CAP laws, states should consider making child access to firearms a felony; there is some evidence that felony laws may have the greatest effects on unintentional firearm deaths.

Gun industry and gun-owner organizations have promoted voluntary and educational programs to promote the safe storage of firearms. Our conclusions and recommendations should not be interpreted to suggest that only CAP laws can reduce firearm deaths. As we discussed in Chapter Twenty, scientific evaluations of education campaigns have found that they can produce behavior change in domains other than gun storage, but rigorous evidence that they have successfully promoted safe storage of firearms is limited. On the other hand, there is evidence that clinicians who counsel patients (mostly families with children) can effectively promote safe storage practices, particularly if storage devices (e.g., gun locks) are provided along with the counseling.

Conclusion 3. There is moderate evidence that background checks reduce firearm suicides and firearm homicides, as well as limited evidence that these policies can reduce overall suicide and violent crime rates.

Most available studies have examined the effects of dealer background checks or the combined effects of dealer and private-seller background checks when both are required by a state. Therefore, the evidence base for universal background checks compared with the dealer background checks required under federal law is quite limited. Logically, however, if there is moderate evidence that dealer background checks reduce firearm suicides and homicides, it seems likely that extending those same background checks to private sales of firearms could further reduce firearm suicides and homicides. We emphasize, though, that the available research on this question is limited and inconclusive.

Conclusion 4. There is moderate evidence that stand-your-ground laws may increase state homicide rates and limited evidence that the laws increase firearm homicides in particular.

Conclusion 5. There is moderate evidence that laws prohibiting the purchase or possession of guns by individuals with some forms of mental illness reduce violent crime, and there is limited evidence that such laws reduce homicides in particular. There is also limited evidence these laws may reduce total suicides and firearm suicides.

Federal law prohibits some people who have been adjudicated as mentally ill from purchasing or possessing firearms, but this prohibition is not uniformly enforced across the nation. States maintain mental health records, but many have been reluctant to share those records for use in the Federal Bureau of Investigation (FBI)'s National Instant Criminal Background Check System (NICS), the federal database used for background checks. Although most states have laws allowing for the voluntary shar-

ing of some mental health records with NICS, there is considerable variation in which classes of individuals prohibited under federal law are shared with NICS. Thus, by the end of 2016, there were large differences in the number of active mental health records in NICS across states; for example, Alaska, Montana, New Hampshire, Rhode Island, and Wyoming had contributed less than 500 records, whereas most other states had tens of thousands or hundreds of thousands of active mental health records in the database (Criminal Justice Information Services Division, 2016).

Our finding that there is limited evidence that some mental health–related background checks can reduce gun violence should be of interest to states that currently share only partial or limited mental health data with NICS and that do not have a comprehensive in-state database that is reliably used for background checks for firearm sales. It is likely that many individuals with mental health histories making them prohibited possessors under federal law can nevertheless purchase firearms in these states. Moreover, states that do check state databases but do not share information on all individuals with disqualifying mental health histories with NICS create opportunities for prohibited possessors to purchase firearms out of state. Establishing procedures to prevent these people from purchasing firearms appears to yield small but appreciable reductions in suicides, homicides, and other violent crimes after implementing mental health checks.

> *Recommendation 3.* States that currently do not require a background check investigating all types of mental health histories that lead to federal prohibitions on firearm purchase or possession should consider implementing robust mental illness checks, which appear to reduce rates of gun violence. The most robust procedures involve sharing data on all prohibited possessors with NICS.

Conclusion 6. There is limited evidence that before implementation of a ban on the sale of assault weapons and high-capacity magazines, there is an increase in the sales and prices of the products that the ban will prohibit.

This finding is based on persuasive evidence from a single case, the implementation of the Violent Crime Control and Law Enforcement Act of 1994, which banned the sale of certain semiautomatic weapons designated in the law as assault weapons. Therefore, this finding may not generalize well to other instances of assault weapon bans. For instance, the 1994 law grandfathered banned weapons sold before the law's implementation date. This likely created a market for speculators who drove up sales and prices in the months preceding the ban (Koper, 2004).

Conclusion 7. There is limited evidence that a minimum age of 21 for purchasing firearms may reduce firearm suicides among youth.

Conclusion 8. No studies meeting our inclusion criteria have examined required reporting of lost or stolen firearms, required reporting and recording of firearm sales, or gun-free zones.

Why Don't We Know More?

Based on our review of the existing literature on the effects of firearm policy changes, we offer the following conclusions and recommendations for improving the evidence base on the effects of gun laws.

Conclusion 9. The modest growth in knowledge about the effects of gun policy over the past dozen years reflects, in part, the reluctance of the U.S. government to sponsor work in this area at levels comparable to its investment in other areas of public safety and health, such as transportation safety.

Of the 54 studies meeting our inclusion criteria that have been published since 2003, just seven (13 percent) reported receiving any federal funding. Two studies listed funding from the National Science Foundation, and one study each listed funding from the National Institute of Justice; National Institute on Drug Abuse; National Institute on Alcohol Abuse and Alcoholism; National Heart, Lung, and Blood Institute; and the Centers for Disease Control and Prevention (CDC). Ten studies received some foundation support, with the Robert Wood Johnson Foundation and the Joyce Foundation each supporting four. Of studies since 2003 that met our inclusion criteria, the large majority (40 studies, or 74 percent) reported no sources of external support.

While most of the 54 studies focused on public safety or health outcomes (e.g., suicide and homicide), the number of high-quality quasi-experimental studies on which to base estimates of the effects of policies was surprisingly small compared with the literatures that evaluate the effects of many other policies, such as those designed to improve traffic safety, a problem that claims about as many lives each year as are lost in firearm suicides and homicides.

Federal funding for research on gun-related mortality is far below the levels for other sources of mortality in the United States. Stark and Shah (2017), for instance, found that federal gun violence research funding is just 1.6 percent the amount predicted based on federal funding for other leading causes of death. With this federal inattention comes a corresponding deficit in research: Stark and Shah (2017) also found that the volume of research publications on gun mortality was just 4.5 percent of what would be expected based on publication volume for other leading causes of mortality.

The federal government previously supported a more robust program of research examining firearm violence and policy. In the 1990s, the CDC was sponsoring millions of dollars of research on firearm violence, until researchers found that having a gun in the home was associated with an elevated risk of firearm homicide for members of the household. This finding was viewed by some as a one-sided attempt to manipulate the gun policy debate.

In an effort led by the National Rifle Association (Cagle and Martinez, 2004), a sufficient proportion of Congress was persuaded to adopt the Dickey Amendment in 1996, cutting $2.6 million of funding from the CDC, an amount equal to what its injury prevention center had been spending on gun violence research. The Dickey

Amendment also introduced new language forbidding the CDC from advocating or promoting gun control. This language did not explicitly prohibit all research on gun violence or gun policy, but concern that any gun research could be viewed as advocacy has led the CDC to avoid supporting gun policy research lest it invite a budget adjustment like that in 1996 (Kellermann and Rivara, 2013).

Congress has included Dickey Amendment language in each CDC appropriations bill since 1996. Moreover, in 2012, similar language was added to an appropriations bill for the National Institutes of Health in the Consolidated Appropriations Act of 2012 (Pub. L. 112-74).

Research on firearm policy and violence prevention has since declined dramatically. According to a report by the advocacy organization Mayors Against Illegal Guns, by 2012, CDC funding of gun violence research had declined 96 percent since the mid-1990s, and academic publishing on gun violence fell 64 percent from 1998 to 2012 (Mayors Against Illegal Guns, 2013; Alcorn, 2016). Although comparable numbers of people die in car crashes and by firearm suicides and homicides, federal investment in traffic safety research funding is more than 270 times greater than in firearm violence research (Mayors Against Illegal Guns, 2013).

As suggested in a 2015 joint statement by Jay Dickey, the sponsor of the Dickey Amendment, and Mark Rosenberg, who ran the CDC's injury center when the amendment first passed, a gun violence research agenda should be developed with the dual goals of protecting citizens' and gun owners' rights and making our homes and communities safer:

> Our nation does not have to choose between reducing gun-violence injuries and safeguarding gun ownership. Indeed, scientific research helped reduce the motor vehicle death rate in the United States and save hundreds of thousands of lives—all without getting rid of cars. For example, research led to the development of simple four-foot barricades dividing oncoming traffic that are preventing injuries and saving many lives. We can do the same with respect to firearm-related deaths, reducing their numbers while preserving the rights of gun owners. (Dickey and Rosenberg, 2015).

The science on which to base gun policy has advanced slowly since 2004, when the NRC panel concluded, "If policy makers are to have a solid empirical and research base for decisions about firearms and violence, the federal government needs to support a systematic program of data collection and research that specifically addresses that issue." Unfortunately, federal support for research that could help states and communities reduce firearm crime, violence, and suicide remains virtually nonexistent, and the state and federal surveys describing gun ownership and use, on which a better understanding of state policies could be built, have not lived up to the optimism expressed in NRC (2004) and Hahn et al. (2005). In some important respects, such federal support has deteriorated since then.

Recommendation 4. To improve understanding of the real effects of gun policies, Congress should consider whether to lift current restrictions in appropriations legislation, and the administration should invest in firearm research portfolios at the CDC, the National Institutes of Health, and the National Institute of Justice at levels comparable to its current investment in other threats to public safety and health.

Recommendation 5. Given current limitations in the availability of federal support for gun policy research, private foundations should take further steps to help fill this funding gap by supporting efforts to improve and expand data collection and research on gun policies.

Conclusion 10. Research examining the effects of gun policies on officer-involved shootings, defensive gun use, hunting and recreation, and the gun industry is virtually nonexistent.

The lack of rigorous studies examining the effects of gun policies on these outcomes is problematic because many stakeholders in gun policy debates are especially concerned about the effects laws could have on these matters. The desire to protect oneself, for instance, is self-reported as one of the primary reasons for gun ownership among 63 percent of all U.S. gun owners and among 76 percent of all U.S. handgun owners (Azrael et al., 2017), yet rigorous studies of the effects of laws on this outcome have rarely been conducted. As we discuss in Chapter Twenty-Three, on defensive gun use, the lack of research in this area stems, to some extent, from difficulties defining and measuring legal defensive gun use. In some—perhaps most—such cases, guns may contribute to an individual's self-defense by deterring crimes that would otherwise occur. For this reason and others, it has proven difficult to estimate the frequency with which guns are used defensively.

Nevertheless, opportunities for understanding how policies affect defensive gun use exist and should be pursued. For instance, it may be possible to examine whether policies change the rate at which gun owners are the victims of crime or are injured during a crime. Similarly, FBI records of justifiable homicides, although imperfect as a proxy for defensive gun use, may nevertheless be useful for examining one aspect of a policy's effects on defensive gun use, as demonstrated by Cheng and Hoekstra (2013). Given the strength of evidence of CAP laws on self-inflicted and unintentional injuries, studying the impact of these policies on defensive gun use can help inform the trade-offs between this outcome and the potential public safety benefits.

The dearth of research examining how policies affect the gun industry is a particularly significant shortcoming in the available scientific literature. Data from the U.S. Bureau of Labor Statistics (2017) suggest that more than 47,000 people in the United States are employed just in the manufacture of small arms and ammunition. The National Sports Shooting Foundation, a gun industry trade association, estimates

that an additional 250,000 may be employed in the distribution and sale of firearms and hunting supplies or in ancillary services, such as operating gun ranges or providing supplies or services to manufacturers and retailers (National Sports Shooting Foundation, 2017). The National Survey of Fishing, Hunting, and Wildlife-Associated Recreation Survey in 2011 found that more than 12 million people used firearms for hunting, with total expenditures on firearms exceeding $3 billion and expenditures on ammunition exceeding $1.2 billion (U.S. Fish and Wildlife Service, U.S. Department of the Interior, and U.S. Department of Commerce, 2012). In addition, more than 50 percent of all hunters participated in target shooting, and 22 percent of hunters visited shooting ranges (U.S. Fish and Wildlife Service, U.S. Department of the Interior, and U.S. Department of Commerce, 2012). As important as the concerns of this industry may be to the fate of proposed gun policies, there is, at present, little scientific evidence available to the public on this topic.

> *Recommendation 6.* To improve understanding of outcomes of critical concern to many in gun policy debates, the U.S. government and private research sponsors should support research examining the effects of gun laws on a wider set of outcomes, including crime, defensive gun use, hunting and sport shooting, officer-involved shootings, and the gun industry.

Conclusion 11. The lack of data on gun ownership and availability and on guns in legal and illegal markets severely limits the quality of existing research.

There are no regularly collected data series that describe gun ownership or use at the state level since the CDC suspended its collection of this information on the Behavioral Risk Factor Surveillance System more than a decade ago. Most gun laws are designed to specify who can own guns or to change the ways that gun owners store and use their weapons. Therefore, gun ownership and use are the behaviors through which laws may affect such outcomes as suicide, homicide, hunting and recreation, and firearm sales. In the absence of reliable state-level information about gun ownership and use, researchers cannot assess the most-direct intended effects of policies—that is, the effects on gun ownership and use—which may otherwise be easier to detect than the downstream effects of such policies on comparatively rare outcomes, such as suicide and homicide. Is it the case that gun laws cannot have their intended effect because the stock of guns is so great in the United States that anyone who wants a gun can easily obtain one, whether or not they are prohibited? This is a question that cannot easily be answered with available data on gun ownership and use.

> *Recommendation 7.* To make important advances in understanding the effects of gun laws, the CDC or another federal agency should resume collecting voluntarily provided survey data on gun ownership and use.

Additionally, the federal government no longer collects or shares with researchers data on illegal gun markets, which investigators could use to examine how policies change the availability of firearms. This is a problem that has also worsened since NRC (2004) identified it as a critical shortcoming for research on gun policy. Specifically, the Tiahrt Amendments (a series of provisions attached to Bureau of Alcohol, Tobacco, Firearms and Explosives appropriations bills since 2003) block researchers and others from studying gun trace data and gun purchaser data. When trace data were available to researchers prior to 2003, the information provided important insights into how criminals obtain their weapons (Kennedy, Piehl, and Braga, 1996; Bureau of Alcohol, Tobacco, and Firearms, 1997); whether states with more-restrictive gun laws create shortages of guns for those who may be prohibited from purchasing them (Weil and Knox, 1996; Cook and Braga, 2001); how guns move between states with less- and more-restrictive gun laws (Cook and Braga, 2001; Webster, Vernick, and Hepburn, 2001); the characteristics of gun sales likely to be associated with diversion to prohibited possessors (Pierce et al., 2003); and other valuable, actionable, policy-relevant information (for further discussion, see Braga et al., 2012).

Trace data and purchaser data have significant limitations that can make inferences about gun markets and crime difficult or uncertain. That is a caveat that applies to most data used in evaluating gun policies, but it should not be a reason for prohibiting access to trace data for research purposes.

> *Recommendation 8.* To foster a more robust research program on gun policy, Congress should consider whether to eliminate the restrictions it has imposed on the use of gun trace data for research purposes.

Conclusion 12. Crime and victimization monitoring systems are incomplete and not yet fulfilling their promise of supporting high-quality gun policy research in the areas we investigated.

NRC (2004) and Hahn et al. (2005) each expressed optimism about new sources of data that had only recently begun and that could, in theory, be used to improve the study of gun policy. These included the National Violent Death Reporting System (NVDRS) and the National Incident-Based Reporting System (NIBRS).

The NVDRS was designed to provide unprecedented detail on the circumstances of violent deaths in participating states, such as information on the victim's life stresses, the relationship between the victim and the offender, and other crimes that were committed at the time of the suicide or homicide. Despite the richness of the information available through the NVDRS, not one of the quasi-experimental studies meeting the inclusion criteria for this report used NVDRS data. It could be that there have not been enough states participating in the NVDRS collection process for long enough to permit the use of strong causal models. State participation in the NVDRS is voluntary

and has been growing slowly but steadily. Currently, 42 states participate, but data are available from only 18, and not from some large states, such as California and Texas.

The NIBRS was designed to collect more-detailed information on incidents of crime in the United States than has been available through the FBI's Uniform Crime Reporting system. Whereas the FBI system collects summary or aggregate statistics on serious violent and property crimes reported to law enforcement agencies, NIBRS was designed to collect incident-level information about crimes reported to police. It officially launched in the mid-1980s, but by the time of the NRC review, only 16 percent of the U.S. population was served by a law enforcement agency that reported crime information to NIBRS (NRC, 2004, p. 33). Because the NIBRS program is voluntary and can be costly for law enforcement agencies to adopt, participation rates have not improved as rapidly as the NRC reviewers may have expected. By 2012, the proportion of U.S. residents served by a participating law enforcement agency had risen to just 30 percent (Bureau of Justice Statistics [BJS], 2017a). Perhaps for this reason, none of the studies meeting the inclusion criteria for this report used NIBRS data.

Although the current NIBRS data are of limited use for the kind of research we have reviewed, a new BJS initiative offers hope that this could soon change. The National Crime Statistics Exchange is an attempt to recruit and facilitate the participation of a representative sample of 400 law enforcement agencies to participate in NIBRS. With this sampling approach and data from the more than 6,000 agencies already participating, BJS expects to be able to begin generating reliable national crime trend information based on NIBRS data.

> *Recommendation 9.* To improve the quality of evidence used to evaluate gun policies, the NVDRS should be expanded to include all states with rigorous quality control standards.

> *Recommendation 10.* BJS should examine the cost and feasibility of expanding its existing programs to generate state-level crime data.

Another potentially valuable source of information on crimes is the National Crime Victimization Survey (NCVS), which collects detailed information on crime from a panel of U.S. residents selected to be representative of the nation. This survey provides critically important information about crimes that may never be reported to the police, as well as credible information on how victims and potential crime victims have been able to use guns defensively. But NCVS cannot readily be used to understand the effects of state gun laws on crime because it does not generate state-level estimates. Therefore, the studies meeting our eligibility criteria primarily used data from the Uniform Crime Reporting program (or its Supplemental Homicide Report) when examining crimes, meaning they worked with data that had few details about

individual crimes and, thus, could examine only the subset of crimes reported to law enforcement.

Recognizing the need for state-level victimization data, BJS has explored options for generating such estimates through NCVS (BJS, 2017b). BJS is conducting a pilot program that expands the survey panel with the intention of eventually generating reliable estimates for 22 states. In addition, the bureau has published model-based state estimates for some types of crime over three-year periods from 1999 to 2013 (Fay and Diallo, 2015).

> *Recommendation 11.* BJS should continue to pursue its efforts to generate state-level victimization estimates. The current goal of generating such estimates for 22 states is a reasonable compromise between cost and the public's need for more-detailed information. However, the bureau should continue to expand its development of model-based victimization rates for all states and for a wider set of victimization experiences (including, for instance, crimes involving firearm use by an assailant or victim).

Conclusion 13. The methodological quality of research on firearms can be significantly improved.

Over the past several decades, studies have offered a great deal of information about how to use what data are available to generate reliable and credible estimates of the effects of gun policies on various outcomes, and the computing power that researchers need to implement the increasingly demanding modeling requirements has more than kept pace with the diffusion of knowledge about appropriate statistical methods. Nevertheless, the scientific literature we reviewed shows that many of the best recent studies suffer from important limitations that should be addressed in future research. These shortcomings concern the following:

- Interpreting effects generated in models that lack the statistical power to have any reasonable chance of detecting the likely effects of policies. This problem can result in a high likelihood that statistically significant effects are in the opposite direction of the true effects or that the statistically significant effects grossly exaggerate the magnitude of the true effects.
- Estimating too many parameters for the number of available observations. This problem can result in statistically significant effects that tell virtually nothing about the true generalizable effects of the policies.
- Poorly calibrated tests for whether the effects of policies are statistically significant. This problem can result in many discoveries of effects that reject the null hypothesis that the policy had no effect when, in fact, under proper inferential procedures, the discoveries would be consistent with the law having no effect (or a small effect in the opposite direction).

- Poorly justified selections of statistical models or covariates. This problem can result in estimates of a policy's effects that are in the wrong direction or that badly misconstrue the magnitude or statistical significance of their effects.
- Presenting the results of exploratory statistical modeling as though they reflect findings from a confirmatory analysis. When dozens of hypothesis tests are conducted, about 5 percent would be expected to achieve statistical significance at the $p < 0.05$ level even if the law had no effect. Failure to acknowledge that findings are the result of exploratory analysis can lead to overconfident interpretations of effect estimates that may not reflect the true effects of a policy.
- Undisclosed categorization of which states had which laws and when they were implemented. Gun policy analysts need reliable and shared databases of state laws. Correct coding of state laws is challenging, and when researchers have disclosed their state law codings, those codings have often been found to contain errors that could affect results.
- Poorly justified models of the time course of a policy's effects. Statistical models of the effects of a policy impose assumptions about the period over which the effects of the policy will build. Often, the implicit assumption is that the full effect of the policy will be observed instantaneously in the first year after the date it is scheduled for implementation. At best, this can lead to underestimates of the effects of policies.
- The use of spline and hybrid models that do not estimate coherent causal effects.
- Inadequate attention to threats of reciprocal causation or simultaneity biases in effect estimation.

These are technical points of interest chiefly to researchers, so we relegate our detailed discussion of each point to Appendix A. However, our final recommendations are for other researchers interested in the analysis of the effects of gun policies.

Recommendation 12. As part of the Gun Policy in America initiative, we have published a database containing a subset of state gun laws from 1979 to 2016 (Cherney, Morral, and Schell, 2018). We ask that others with expertise on state gun laws help us improve the database by notifying us of its errors, proposing more-useful categorizations of laws, or submitting information on laws not yet incorporated into the database. With such help, we hope to make the database a resource beneficial to all analysts.

Recommendation 13. Researchers, reviewers, academics, and science reporters should expect new analyses of the effects of gun policies to improve on earlier studies by persuasively addressing the methodological limitations of earlier studies, including problems with statistical power, model overfitting, covariate selection, poorly calibrated standard errors, multiple testing, undisclosed state varia-

tion in law implementation, and unjustified assumptions about the time course of each policy's effects.

In conclusion, with a few exceptions, there is a surprisingly limited base of rigorous scientific evidence concerning the effects of many commonly discussed gun policies. This does not mean that these policies are ineffective; they might well be quite effective. Instead, it reflects shortcomings in the contributions that scientific study can currently offer to policy debates in these areas. It also reflects, in part, the policies we chose to investigate, all of which have been implemented in some U.S. states and, therefore, have proven to be politically and legally feasible, at least in some states. This decision meant that none of the policies we examined would dramatically increase or decrease the stock of guns or gun ownership rates in ways that would produce more readily detectable effects on public safety, health, and industry outcomes. The United States has a large stock of privately owned guns in circulation—estimated in 2014 to be somewhere between 200 million and 300 million firearms (Cook and Goss, 2014). Laws designed to change who may buy new weapons, what weapons they may buy, or how gun sales occur will predictably have only a small effect on, for example, homicides or participation in sport shooting, which are affected much more by the existing stock of firearms. Although small effects are especially difficult to identify with the statistical methods common in this field, they may be important. Even a 1-percent reduction in homicides corresponds to more than 1,500 fewer deaths over a decade.

By highlighting where scientific evidence is accumulating, we hope to build consensus around a shared set of facts that have been established through a transparent, nonpartisan, and impartial review process. In so doing, we also mean to highlight areas where more and better information could make important contributions to establishing fair and effective gun policies.

Chapter Twenty-Five References

Alcorn, Ted, "Trends in Research Publications About Gun Violence in the United States, 1960 to 2014," *JAMA Internal Medicine*, Vol. 177, No. 1, 2016, pp. 124–126.

Azrael, Deborah, Lisa Hepburn, David Hemenway, and Matthew Miller, "The Stock and Flow of U.S. Firearms: Results from the 2015 National Firearms Survey," *Russell Sage Foundation Journal of the Social Sciences*, Vol. 3, No. 5, 2017, pp. 38–57.

BJS—*See* Bureau of Justice Statistics.

Braga, Anthony A., Garen J. Wintemute, Glenn L. Pierce, Philip J. Cook, and Greg Ridgeway, "Interpreting the Empirical Evidence on Illegal Gun Market Dynamics," *Journal of Urban Health*, Vol. 89, No. 5, 2012, pp. 779–793.

Bureau of Alcohol, Tobacco, and Firearms, *Crime Gun Trace Analysis Reports: The Illegal Youth Firearms Market in Seventeen Communities*, Washington, D.C.: U.S. Department of the Treasury, 1997.

Bureau of Justice Statistics, "Data Collection: National Incident-Based Reporting System (NIBRS)," web page, 2017a. As of May 12, 2017: https://www.bjs.gov/index.cfm?ty=dcdetail&iid=301

———, "NCVS Redesign: Subnational," web page, 2017b. As of May 12, 2017: https://www.bjs.gov/index.cfm?ty=tp&tid=911

Cagle, M. Christine, and J. Michael Martinez, "Have Gun, Will Travel: The Dispute Between the CDC and the NRA on Firearm Violence as a Public Health Problem," *Politics & Policy*, Vol. 32, No. 2, 2004, pp. 278–310.

Cheng, Cheng, and Mark Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence From Expansions to Castle Doctrine," *Journal of Human Resources*, Vol. 48, No. 3, 2013, pp. 821–853.

Cherney, Samantha, Andrew R. Morral, and Terry L. Schell, *RAND State Firearm Law Database*, Santa Monica, Calif.: RAND Corporation, TL-283-RC, 2018. As of March 2, 2018: https://www.rand.org/pubs/tools/TL283.html

Cook, Philip J., and Anthony A. Braga, "Comprehensive Firearms Tracing: Strategic and Investigative Uses of New Data on Firearms Markets," *Arizona Law Review*, Vol. 43, No. 2, 2001, pp. 277–309.

Cook, Philip J., and Kristin A. Goss, *The Gun Debate: What Everyone Needs to Know*, New York: Oxford University Press, 2014.

Criminal Justice Information Services Division, "National Instant Criminal Background Check System (NICS) Section Active Records in the NICS Index," Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation, December 31, 2016. As of March 31, 2017: https://www.fbi.gov/file-repository/active-records-in-the-nics-index-by-state.pdf/view

Dickey, Jay, and Mark Rosenberg, "How to Protect Gun Rights While Reducing the Toll of Gun Violence," *Washington Post*, December 25, 2015.

Fay, Robert E., and Mamadou S. Diallo, *Developmental Estimates of Subnational Crime Rates Based on the National Crime Victimization Survey*, Washington, D.C.: Westat, 2015. As of May 12, 2017: https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5499

Hahn, Robert A., Oleg Bilukha, Alex Crosby, Mindy T. Fullilove, Akiva Liberman, Eve Moscicki, Susan Snyder, Farris Tuma, and Peter A. Briss, "Firearms Laws and the Reduction of Violence: A Systematic Review," *American Journal of Preventive Medicine*, Vol. 28, No. 2, 2005, pp. 40–71.

Kellermann, Arthur L., and Frederick P. Rivara, "Silencing the Science on Gun Policy," *JAMA*, Vol. 309, No. 6, 2013, pp. 549–550.

Kennedy, D. M., A. M. Piehl, and A. A. Braga, "Youth Violence in Boston: Gun Markets, Serious Youth Offenders, and a Use-Reduction Strategy," *Law and Contemporary Problems*, Vol. 59, No. 1, 1996, pp. 147–196.

Koper, Christopher S., *Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence 1994–2003*, Washington, D.C.: National Institute of Justice, U.S. Department of Justice, 2004.

Mayors Against Illegal Guns, "Access Denied: How the Gun Lobby Is Depriving Police, Policy Makers, and the Public of the Data We Need to Prevent Gun Violence," Everytown for Gun Safety Support Fund, 2013. As of May 12, 2017:
http://everytownresearch.org/reports/access-denied/

National Research Council, *Firearms and Violence: A Critical Review*, Washington, D.C.: National Academies Press, 2004.

National Shooting Sports Foundation, *Firearms and Ammunition Industry Economic Impact Report*, Newtown, Conn., 2017. As of October 18, 2017:
https://d3aya7xwz8momx.cloudfront.net/wp-content/uploads/2017/07/EconomicImpactofIndustry2017.pdf

NRC—*See* National Research Council.

Pierce, Glenn L., Anthony A. Braga, Christopher Koper, Jack McDevitt, David Carlson, Jeffrey Roth, Alan Saiz, Raymond Hyatt, and Roberta E. Griffith, *The Characteristics and Dynamics of Crime Gun Markets: Implications for Supply-Side Focused Enforcement Strategies*, Boston, Mass.: National Institute of Justice, 2003.

Public Law 112-74, Consolidated Appropriations Act, 2012, December 23, 2011.

Spicer, R. S., and T. R. Miller, "Suicide Acts in 8 States: Incidence and Case Fatality Rates by Demographics and Method," *American Journal of Public Health*, Vol. 90, No. 12, 2000, pp. 1885–1891.

Stark, David E., and Nigam H. Shah, "Funding and Publication of Research on Gun Violence and Other Leading Causes of Death," *JAMA*, Vol. 317, No. 1, January 3, 2017, pp. 84–86.

U.S. Bureau of Labor Statistics, "Current Employment Statistics (National)," 2017. As of May 15, 2017:
https://www.bls.gov/web/empsit/ceseeb1a.htm

U.S. Fish and Wildlife Service, U.S. Department of the Interior, and U.S. Department of Commerce, *2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, Washington, D.C., FH2/11-NAT, 2012.

Vespa, Jonathan, Jamie M. Lewis, and Rose M. Kreider, *America's Families and Living Arrangements: 2012, Current Population Reports*, Washington, D.C.: U.S. Census Bureau, P20-570, 2013.

Webster, Daniel W., Jon S. Vernick, and Lisa M. Hepburn, "Relationship Between Licensing, Registration, and Other Gun Sales Laws and the Source State of Crime Guns," *Injury Prevention*, Vol. 7, 2001, pp. 184–189.

Weil, Douglas S., and Rebecca C. Knox, "Effects of Limiting Handgun Purchase on Interstate Transfer of Firearms," *JAMA*, Vol. 275, No. 22, 1996, pp. 1759–1761.

Appendixes

APPENDIX A

Methodological Challenges to Identifying the Effects of Gun Policies

A review by the National Research Council (NRC) (2004) highlighted important problems with the methods used in many studies examining the effects of gun policies. Since then, the literature has grown, often in a series of critiques and counter-critiques of the statistical methods used by different sets of researchers. Having carefully reviewed, discussed, and debated among our own project team the relative merits of different methods used in this literature, we offer here our assessment of the principal methodological challenges that future research on gun policy should seek to overcome.

Power

Statistical models using variation in state policies to identify causal effects of gun policies sometimes face serious problems with statistical power, meaning that the models may have little chance to detect effects even when they exist, and any statistically significant effects the models detect are likely to have greatly exaggerated magnitudes and may often get the direction of the effect wrong. These serious problems are common when effects of interest are small relative to other sources of variation in the outcomes (Gelman and Carlin, 2014). This is likely the case for the effects of gun policies (like those we examined in this report) that might affect new purchases of firearms but not the much larger stock of firearms available for use or that might have a modest effect on a small number of firearm incidents.

Nevertheless, even small effects may be important. For example, a 3-percent reduction in firearm deaths corresponds to 1,000 fewer deaths per year nationally. But a 3-percent effect, or an incidence rate ratio (IRR) of 0.97, is small relative to the much larger variation in firearm death rates over time or across U.S. states. Many observations (for instance, years of data for each state) may be required before a model has sufficient power to detect such an effect. Moreover, power is diminished as large numbers of covariates are added to the model.

To illustrate, consider the preferred model reported by one set of researchers reviewed here. The reported effect for one policy was an IRR of 0.97 (confidence interval [CI]: 0.72, 1.15). We can infer from these statistics that such a model could detect

a realistically small 3-percent reduction in the outcome at the $p < 0.05$ level of significance with a power of just 6 percent, well below the 80-percent level researchers typically seek when designing research.[1] Moreover, there is a nearly one in four chance that any statistically significant effect identified is in the wrong direction, and any statistically significant effect the model identifies will necessarily describe an effect size vastly greater than the true effect size. In the present example in which the true effect has an IRR of 0.97, the model would not identify a statistically significant effect any smaller in magnitude than an IRR of about 0.74. That is, the true 3-percent reduction would be found to be significant only if the model estimates it to actually be a 26-percent reduction in the outcome.

In other words, models like some that we find in the existing literature have almost no chance of detecting realistically small effects of firearm policies, and any significant effects the models do discover are likely to be grossly exaggerated in their magnitude and almost equally likely to be in the wrong direction as the right one. While this problem is by no means universally true in this literature, it is common enough that we present it as a general concern rather than citing by name the article from which we drew our example.

Overfitting

The problem of poorly powered models is exacerbated when, as is common in this field, investigators include many covariates and fixed effects in their models of the effects of policies. Most guidance on reliable regression modeling emphasizes that models should have at least ten or 15 times as many observations as parameters being estimated (Cavanaugh, 1997; Draper and Smith, 1998; Good and Hardin, 2012). However, with fixed effects for each year in time-series data; fixed effects for each state; and a wide range of demographic, social, and economic covariates, models in this field frequently violate such recommendations, sometimes falling below even five observations per parameter (Schell and Morral, 2016). Such models are likely to be overfit, meaning, among other things, that their estimates are unreliable or unlikely to describe generalizable relationships between covariates of interest (such as policies) and the modeled outcomes.

Although problems with statistical power are common in this literature, they may not be inevitable. Models that do a good job explaining sources of variance across time or among states will have more statistical power than those that explain less of this variance. In a separate line of work, RAND's Gun Policy in America project has examined the performance (power, bias, and error rates) for many gun policy model specifications

[1] The inferences about power in this paragraph rely on power calculations and calculations of the probability of an error in the sign of the estimate and the magnitude of the estimate using methods described in Gelman and Carlin (2014). We assume that the standard error of the (unexponentiated) model estimate is (log(IRR) – log(LB))/1.96, where IRR is the reported effect size, and LB is the lower (or higher) bound of the 95-percent CI reported for the estimate.

using simulations for which the true effect of policies is known. This work demonstrates that many statistical models commonly used in gun policy research have quite poor performance in terms of type 1 error, power, and bias but that there are modeling approaches with comparatively good characteristics on these and other criteria.[2]

Standard Errors

Most of the studies meeting our inclusion criteria identified the effects of policies by examining state-level changes in an outcome (such as homicides) over time. In many such models, there is a strong correlation within states among the error terms over time. Whether this clustering of error components mandates some adjustment to ensure that standard errors and even parameter estimates are unbiased has been a source of contention and confusion in the field. According to NRC (2004), cluster adjustments for fixed-effects models like many we reviewed in this report were unnecessary and produced misleadingly large CIs.

As Aneja, Donohue, and Zhang (2014) have argued, however, NRC did not properly consider how serial correlations in panel data can produce misleading standard errors when no adjustments are made for state-level clustering within the data. The authors provided compelling evidence that, without adjustment, standard errors are so severely underestimated that two-thirds or more of effects known to have no systematic association with the outcome variable appear to be statistically significant, a proportion far higher than the 5 percent expected for significance levels set at the $p < 0.05$ level. They further showed that even a common cluster adjustment procedure does not fully correct the underestimation of standard errors. Although state-level cluster adjustment vastly improves upon unadjusted estimates, standard errors are still inflated, frequently leading to statistically significant null effects at rates between 10 percent and 15 percent where a properly calibrated standard error would produce such errors in only 5 percent of cases.

Longitudinal analyses of state firearm policies that take no steps to address clustering continue to be published, although there is good evidence that the kinds of serial correlation found in state panel data used in gun policy research can result in large biases in estimated standard errors (Aneja, Donohue, and Zhang, 2014). The significance of the effects that these studies report should be regarded with deep skepticism. Similarly, studies frequently use robust standard error corrections or weight the regression models by state or county populations, but neither approach is likely to satisfactorily account for bias resulting from serial correlation, and population weighting could make it worse (Aneja, Donohue, and Zhang, 2014; Durlauf, Navarro, and Rivers, 2016). Further challenges for estimating standard errors arise for studies that

[2] A report on this effort is forthcoming and will be available on the Gun Policy in America project website.

use difference-in-differences approaches in which policy effects are identified from only a small number of states (or jurisdictions), because inference based on clustered standard errors has been shown to severely over-reject in these cases (Conley and Taber, 2011; MacKinnon and Webb, 2017).

Multiple Testing

Among studies examining the effects of firearm policies, it is common to present multiple model specifications, each with multiple effect estimates and sometimes run on multiple subsets of the population (e.g., deaths of those under age 19 or over age 55). In some cases, additional models may have been explored using alternative covariates or design characteristics. This type of exploratory modeling is valuable. It clarifies how robust findings are to different aspects of model specification, and it can detect associations or effects that are important but might otherwise have been overlooked.

In the context of such exploratory modeling, however, conventional interpretations of statistical significance erode. Whereas a significant effect at the $p < 0.05$ level is designed to occur in only one of 20 tests where there is, in fact, no effect, a study that conducts 20 such tests stands a good chance of identifying at least one statistically significant effect, even when no true effects are present. Such accidental statistically significant effects could contribute to the confusing and sometimes contradictory findings reported in the literature.

There are procedures for adjusting levels of statistical significance in the presence of multiple hypotheses testing that could help to reduce erroneous findings (Shaffer, 1995), but these were rarely used in the studies we examined. Moreover, these procedures would not address all sources of questionable findings that can occur in exploratory analysis. Instead, we believe that studies of the effects of state policies should be explicitly treated as exploratory rather than as testing a specific hypothesis. Therefore, strong conclusions about the apparent effects of policies should almost never be made. Instead, effects should be regarded with suspicion until they have been confirmed through independent studies. Because results in this field tend to be sensitive to details of the model specification and covariates, we propose that anyone undertaking such confirmatory analyses preregister the details of their models and data before assembling an analytic data set. Such preregistration does not prevent investigators from making changes to the analytic plan that may become necessary once results become available, but departing from the preregistered plan should signal to the researchers that their analysis should be considered exploratory rather than confirmatory.

Coding State Laws

Gun policy analysts need a reliable and shared database of state laws. There are many well-known problems associated with the coding of state laws. As noted by NRC (2004) and Hahn et al. (2005), there are frequently inconsistencies across studies in the specification of which states or jurisdictions have which laws and when they took effect. In some cases, researchers have used the year in which bills were passed into law as the year the law was implemented; in others, researchers have used the year the law was designed to take effect or the first full year after the law took effect. Although some researchers (e.g., Aneja, Donohue, and Zhang, 2014; Lott and Mustard, 1997; Rosengart et al., 2005; Vernick and Hepburn, 2003) have published or shared their coding of laws, which allows for debate and improvement of the coding schemes, such coding often is not transparent and cannot be reviewed for accuracy or to understand what assumptions about laws were made. More generally, public databases of gun laws over time are unavailable for many laws. Because of the cost and complexity of constructing such data sets, researchers interested in the effectiveness of gun laws have often favored weak, cross-sectional study designs or have collected proprietary data sets of laws that are not shared.

One important assumption that all such efforts necessarily must make concerns the features of different laws that make them sufficiently similar to be grouped together under a broad class of laws. For instance, as we described in Chapter Ten, on child-access prevention laws, states differ in whether penalties for violating the law result in criminal, misdemeanor, or civil penalties, and there is evidence (albeit inconclusive) that criminal penalties may have different and stronger effects than other approaches. Such variation in laws and their associated effects means that combining them within a particular class of laws, such as child-access prevention laws, may obscure important effects that some variants of the law have (Alcorn and Burris, 2016). On the other hand, distinguishing each variant of a law reduces the number of jurisdictions implementing any particular version of the law, which reduces the statistical power of most models used to identify the causal effects of the law. Therefore, specification of a homogenous set of laws could increase the average effect size, but it also can reduce the statistical power that models have to detect the larger effects. Rarely, however, have published analyses explicitly addressed this conflict or the choices and assumptions made to address it.

We believe that the science of gun policy will be substantially advanced with the public release of comprehensive state law time-series data, and we have made that one of the goals of the Gun Policy in America project. Specifically, we have assembled a state law database for 1979–2016 that codes our 13 broad classes of state gun policies and many subcategories (see Cherney, Morral, and Schell, 2018). As noted, this database is available for use and further improvement by the scientific community.

Coding the Time Course of a Policy's Effects

Even with a reliable database of state laws, however, investigators of gun policy effects face a further complication in coding the time course over which gun laws exert their effects. Frequently, investigators assume that a policy's full effects occur in the year it is implemented or the first full year after the year of implementation. This coding implies that all of a policy's effect is observed shortly after its implementation, which may be reasonable for some types of policies. Others, however, might accumulate their effects over longer periods. For instance, laws that expand the class of prohibited possessors will primarily affect those members of the class who are seeking to buy new firearms but not those who already own firearms. Indeed, it may be many years before such a law affects firearm ownership of a sizable proportion of the population. The proper coding of this type of effect might involve additive or multiplicative effects over several years.

Similarly, the effects of some policies, such as child-access prevention laws, may not be fully realized until a large proportion of gun owners become aware of them, meaning that the time course of the effect may depend on media campaigns to raise awareness or high-profile prosecutions under the law. Unfortunately, however, unless investigators know when these effects occur, their effect estimates will underestimate the policy's true effects. For this reason, we believe that researchers modeling the effects of policies should carefully consider when effects are likely to appear and should make these assumptions and the corresponding model specifications explicit in their analyses.

Spline and Hybrid Effect Coding

Several studies investigating the effects of concealed-carry policies (see Chapter Thirteen) and studies of Australia's 1996 National Firearms Agreement (see Chapter Twenty-Four) have used model specifications referred to as *spline* or *hybrid* models within this field. In most models investigating the causal effects of a policy on an outcome, the effect is assumed to produce a shift in the level of the outcome; for example, a policy may result in a lower homicide rate after implementation relative to before. The type of spline models used in this field differ from standard causal effect models because the policy is assumed to modify the trajectory of the outcome over time rather than the level or in addition to a change in the level. More specifically, these models assume that the states or counties that implement the policy will diverge from the national trend at a constant rate for an indefinite period.[3]

[3] Typically in gun policy models, a spline will be entered as a predictor in a regression equation that takes on values of zero before the policy was implemented (as well as in states that never implemented) and then takes on values that increase linearly in time for a given state once the policy is implemented in that state. For the models used in this field, these state-specific trends are estimated while controlling for national trends by including year

Although we discuss the reported results of these models, for practical and theoretical reasons, we do not present effect sizes from these spline models (or from spline and dummy hybrid models), even when the authors preferred those models. The practical reason is that the effect size is assumed to vary over time, so there is no single effect size to report. In fact, at a date sufficiently long after implementation, these models often assume that the states that implemented the policy will have extremely large or small effects on the outcome. In such cases, the effect size one presents is based entirely on a relatively arbitrary decision about the length of time over which to compute the effect. Moreover, even if we had arbitrarily selected a specific time interval over which to compute the effect, the research articles do not contain the information necessary to assess the CIs around those estimates.

Furthermore, two features of these spline models make them difficult to interpret as the causal effects of a gun policy. First, the spline coefficient is highly sensitive to the timing of any shifts in the outcome, and it responds to the timing in the opposite way as would standard methods for causal inference. A large increase in crime that does not occur until many years after a policy has been implemented will yield a large positive spline coefficient, suggesting that the policy is harmful. However, a similarly large increase in crime that occurs immediately after the policy is implemented will yield a negative spline coefficient, suggesting that the policy is beneficial even though it was followed immediately by an increase in crime.[4] Standard frameworks for inferring causality from observations (e.g., Mill, 1843) would suggest that an increase in crime immediately after the policy was implemented is the strongest evidence that the policy was harmful, and if a similar increase did not occur until years after implementation, it would constitute weaker evidence of a harmful effect of the policy. However, inferring causation from the spline coefficient leads to the opposite inferences, with an immediate increase in the outcome interpreted as the policy causing a decrease in the outcome but a delayed increase interpreted as evidence that the policy caused the outcome to increase. It is important to note that this interpretational challenge occurs in models that use only the spline to indicate the causal effect, as well as in hybrid models that use both a dummy variable and a spline (i.e., a step and a slope). (For more information, see the box on the next page.)

fixed effects in the same model. Thus, the splines are state trends that should be interpreted as deviations from the national trend.

[4] More technically, the spline predictor in the regression equation has a mean value that corresponds to a specific time after implementation. This spline's mean typically falls a few years after implementation, but precisely when it occurs depends on the number of states that implemented the law and how long the study follows the states. Any increase in crime that occurs before this mean spline creates a more negative spline coefficient. An increase in crime, no matter how large, that occurs at that mean has no effect on the spline coefficient. Any increase in crime that occurs after that mean results in a more positive spline coefficient, with progressively greater leverage over the coefficient occurring with greater time.

The Interpretational Problem with Spline and Hybrid Models

To illustrate the problem discussed here, consider a hypothetical state that would have shown a constant linear trend in crime (slope = 1) from 1980 to 2001 (see Table A.1). However, a policy went into effect in 1991 that raised the crime rate by 1 point in that year. If one fits a linear trend and standard spline effect to these data, it yields a spline coefficient of −0.04. If one fits a hybrid effect to these data, it yields a spline coefficient of −0.05 and a dummy effect of 0.36. Thus, although everyone who views this data series would conclude that it is inconsistent with the conclusion that the policy caused a decline in crime, the spline coefficient is negative in both models.

Table A.1. Illustrative Data, with Spline and Dummy-Coded Effect Variables

Year	Crime Rate	Spline	Dummy
1980	10	0	0
1981	11	0	0
1982	12	0	0
1983	13	0	0
1984	14	0	0
1985	15	0	0
1986	16	0	0
1987	17	0	0
1988	18	0	0
1989	19	0	0
1990	20	0	0
1991	22	1	1
1992	22	2	1
1993	23	3	1
1994	24	4	1
1995	25	5	1
1996	26	6	1
1997	27	7	1
1998	28	8	1
1999	29	9	1
2000	30	10	1
2001	31	11	1

Stated more generally, the direction and size of the spline coefficient serves as an unbiased estimator of the causal effect if, and only if, the duration of the spline's slope corresponds to the actual period over which the policy's effects are increasing in magnitude. If the true effect phases in earlier than assumed by the chosen spline function, the spline coefficient will be biased away from the true direction of the causal effect, possibly even reversing the sign of the true effect. Thus, researchers should probably avoid using splines that assume that the effect of the policy increases linearly into perpetuity. Such an assumption makes it likely that the true effect of the policy is in the opposite direction of the spline coefficient.

The second challenge in the interpretation of the spline coefficient as a causal effect comes from the null hypothesis that is typically used when testing the spline coefficient. Specifically, the state-specific linear slope in the outcome with respect to time after the implementation of the policy is compared with the state-specific linear slope over the years prior to implementation. The null hypothesis in this case is that a given state's deviation from a national trend in the pre-policy period should be expected to continue in a linear manner, absent any intervention, indefinitely. Thus, the null hypothesis being tested is derived from a time trend that has been extrapolated, often many years into the future. This assumption has not been justified within this field, neither with a theory about an underlying data-generating mechanism for which the assumption is appropriate nor by showing that it is a good fit to the available data. In contrast, our analysis of U.S. crime data suggests that the data do not show the pattern predicted by this assumption.[5] Moreover, making an assumption of constant state-specific trends in crime can result in obvious research artifacts. Many types of data show regression to the mean, which describes a pattern of data generated by a random process in which an extreme observation is more likely to be followed by a less extreme observation than a more extreme observation. Failure to account for regression to the mean can result in spurious research conclusions. For example, if legislators pass gun legislation as a response to rising crime rates, any tendency for crime rates to return toward more-typical levels due to regression to the mean may be misinterpreted as evidence that the legislation lowered crime.

The risk of this type of error is much greater in spline models because the assumption used to generate the null hypothesis is that the data display regression away from the mean. Essentially, these models assume a process in which extreme observations are likely to be followed by observations that become progressively more extreme in the same direction—the opposite of regression to the mean. In contrast, in data showing regression to the mean, the null hypothesis that the trend before a given date equals

[5] Specifically, the assumption predicts that state trends that deviate from the national trend in a positive direction (increasing crime rates relative to the nation) will continue to get progressively higher over time, while those states that deviate negatively (decreasing crime rates relative to the nation) will continue to decrease indefinitely. This predicts a "fan" pattern in crime trends in which the divergence in crime rates across states perpetually increases over time. Actual crime data do not show any consistent divergence of trends across states.

the trend after the date is routinely rejected. That is, the null hypothesis that state-specific deviations from the national crime trend will continue to grow indefinitely can often be rejected in the states that implemented the policy of interest, as well as many of those that did not.[6] Rejecting this implausible null hypothesis is not evidence of a causal effect of any policy.

In spite of clear statistical problems with inferring causal effects of policy on crime data using these methods, some researchers advocate this approach. In our view, their arguments misinterpret conventional effects identified by a shift in the mean (e.g., dummy-coded effects) and spline effects based on changes in slope. For example, Lott, Moody, and Whitley (2016) stated,

> The problems with using the dummy variable can be illustrated using results of 3 other papers. Santaella-Tenorio et al. [2016] reported the dummy model from Table 8b of the article by Ayres and Donohue [2003a]. Had they reported the other specification in Table 8b (or other tables) that showed the trends before and after implementation of the law (specifications that reject the assumptions behind the simple dummy approach), they would have shown the statistically significant downward trend in murder rates that indicated that the longer the right-to-carry laws were in effect, the greater the drop in murder rates was.

That is, the three papers interpret the spline coefficient as a "statistically significant downward trend in murder rates." This is incorrect; the negative spline term indicates that the slope coefficient is of lower value after implementation than before, but it does not imply that rates are actually declining over time either in absolute terms or relative to the other states that did not implement *shall-issue* (or right-to-carry) laws (see Chapter Thirteen). It is quite possible to get a negative spline coefficient even if shall-issue laws cause a large and immediate spike in murder. Similarly, such a negative coefficient could occur even if the law has no effect on murder, because it is not reasonable to extrapolate a pre-implementation trend of increasing murder rates indefinitely into the future. Historically, state-specific increases in murder have been followed by later reversion to more-typical values, even without passage of shall-issue laws. Indeed, if the authors' descriptions of the data as showing progressively larger drops in murder rates over time had been correct, there would have been a lower murder rate after implementation than before. That is, if their descriptions of the data were correct, there

[6] For example, imagine that the states that implemented a given policy had an aggregate firearm homicide rate of eight homicides per 100,000 population in the year leading up to implementation and nine homicides per 100,000 in the year prior to that. The null hypothesis based on extrapolating this trend is that the rate of homicides will be seven per 100,000 the year after implementation and will decline to exactly zero homicides within eight years in all of the states that implemented the policy. It is likely that the null hypothesis will be correctly rejected because the states do not actually have zero homicides after eight years, but it would also be rejected because it incorrectly assumed that preexisting trends would continue, unchanged and indefinitely. The null would be rejected for reasons that have nothing to do with any causal effect of firearm policy.

would have been a significant negative coefficient on the dummy variable that they dismissed as unimportant, but there may or may not have been a significant negative spline coefficient.

It is important to note that our critique of how spline models have been used in this field is not, in any way, a critique of the use of splines more generally. Splines are extremely general regression tools to allow variations in slopes across a predictor variable. It is entirely reasonable to assume, for example, that the effects of a policy on crime phase in over several years. In such a case, a simple dummy-coded effect may underestimate the true effect size, while using a spline that is designed for that particular phase-in period would not. In our view, using these types of splines to identify a causal effect of policy on some crime outcome would require the following three things:

1. The model would need to be constructed so that the researchers would not conclude that increases in crime immediately after policy implementation are evidence that the policy lowers crime. This is a typical feature of spline models, particularly when the change in slope is modeled as persisting for a long period. This problem can be limited by using splines whose slopes operate over a narrow time frame, which can be justified as the phase-in period of the policy's effect (e.g., as used in the preferred specifications in Donohue, 2004). Such splines are similar to dummy-coded variables but with a gradual transition between 0 and 1 rather than an abrupt transition. If the phase-in period is hypothesized to last more than a few years, it may be necessary to estimate a more complex function to avoid making the wrong causal inference.
2. The null hypothesis that is interpreted as no causal effect must be something that is reasonably true in the absence of the policy in question. The null should be a hypothesis that would not be routinely rejected if tested within states that never implemented the policy or if tested using randomized implementation dates. In practice, this usually requires a null hypothesis that does not extrapolate pre-policy crime trends indefinitely into the future. Instead, the null should be based on deviations from the pre-policy average crime level or on deviations from a state-specific trend that is identified by both pre-implementation and post-implementation crime rates (i.e., based on deviations from an interpolated rather than extrapolated trend).
3. When regression models contain multiple effects of the policy, such as hybrid models that contain a spline and a dummy variable, the various effects cannot be tested or interpreted independently. The effect size and statistical significance can be assessed only by integrating all of the ways in which the policy influences the outcome within the model. For example, researchers should not claim that a policy is associated with a reduction in crime based on a significant negative spline coefficient when the model includes another effect that simultaneously predicts increased crime following implementation of the policy. Despite the

> significant negative spline, the model may still predict that the policy is associated with a subsequent increase in crime in all years represented in the data. Thus, while hybrid models can avoid some of the interpretational problems of spline models, any conclusions about the effect of the policy on crime must reflect all of the modeled effects relating the policy to the outcome within the model. Ideally, this analysis would test the effect at some point after the policy is hypothesized to be fully phased in but well within the period that states were typically followed in the data set. This requirement applies to the direction, size, and statistical significance of the joint effect.

Our view of the existing literature is that none of the available studies presents a spline or hybrid model that meets these three requirements for interpreting the effects. Some of the models in the literature meet some of these requirements, but none is readily interpreted as estimating a causal effect of gun policies. For this reason, we generally present the simple dummy-coded causal effect when it is provided by the authors, although we do discuss the authors' preferred specification in the text.

Simultaneity and Reciprocal Causation

To obtain an unbiased estimate for the causal effect of firearm policy changes, the ideal research design would be akin to a randomized trial in which policies were randomly assigned across states and over time (Aneja, Donohue, and Zhang, 2014; Donohue, 2003). This type of experimental design is infeasible in the context of gun policies, so researchers have had to rely on quasi-experimental methods in which the implicit assumptions require that state adoption of a given firearm policy is unconfounded by omitted factors that influence both law passage and the outcome of interest (i.e., omitted variables bias) and that changes in firearm policy are not themselves driven by changes in the outcome of interest (i.e., simultaneity bias). These issues are not unique to the study of firearm policies and merit consideration across a broad range of program and policy evaluations.

Potential issues of simultaneity have been discussed primarily in the research on shall-issue laws and crime (for a discussion of shall-issue and other concealed-carry laws, see Chapter Thirteen). Specifically, many studies have noted the potential for reciprocal causation—that is, that state legislatures pass shall-issue laws as a response to high or rising rates of violent crime (Aneja, Donohue, and Zhang, 2014; Grambsch, 2008; Kovandzic, Marvell, and Vieraitis, 2005; Ayres and Donohue, 2003a; Donohue, 2003; Manning, 2003; Kovandzic and Marvell, 2003; Plassman and Whitley, 2003; Lott and Mustard, 1997). Indeed, Grossman and Lee (2008) found that the percentage change in the violent crime rate over the preceding five years had a statistically significant positive effect on the likelihood that states with may-issue laws switch to

shall-issue laws; Luca, Deepak, and Poliquin (2016) found that the occurrence of a public mass shooting significantly increased the number of firearm bills introduced within a state one year later. If such reciprocal causation exists, the estimated effects of firearm policies on crime rates from the difference-in-differences strategy employed by most of the qualifying studies we identified may be inconsistent and biased, although the direction of such bias is ambiguous. While some studies have tested for potential reciprocal causation and found little evidence of bias driven by differential pre-trends in law-enacting states (Rosengart et al., 2005; Plassman and Whitley 2003), other studies have found this to be an issue of concern for shall-issue laws (Aneja, Donohue, and Zhang, 2014; Grambsch, 2008; Donohue, 2003).

The presence of reciprocal causation complicates causal identification of the true effects of firearm policy changes and requires alternative approaches to those used most commonly in the literature we identified. Unfortunately, some of the existing methods for handling simultaneity problems may not be feasible or may face other limitations. For instance, Lott and Mustard (1997) and Gius (2015a) employ instrumental variables techniques, but the instruments chosen are questionable and neither study provides sufficient evidence to assess instrument validity (Manning, 2003). Synthetic control methods (Abadie, Diamond, and Hainmueller, 2010) have been used to construct a counterfactual "control state" that matches the pre-trend of the law-passing state (Crifasi et al., 2015; Rudolph et al., 2015), but these methods do not readily accommodate inferential statistics and provide estimated effects that are often identified from a policy change in only one state or one state-year, meaning the observed effect is confounded with many other changes in the state that might equally explain any observed differences between the state and its synthetic controls.

More research and methodological innovation is required to address simultaneity and reciprocal causation challenges to causal inference in this and other fields of research. In particular, it would be useful to understand better the factors leading to state or municipal decisions to pass different types of policies. Studies estimating the effects of laws should explore and report whether states that passed the laws differed systematically from those that did not, in terms of their recent gun use or violence trends. In some cases, explorations of the possible effects of reciprocal causation on effect estimates may provide useful insights.

Appendix A References

Abadie, Alberto, Alexis Diamond, and Jens Hainmueller, "Synthetic Control Methods for Comparative Case Studies: Estimating the Effect of California's Tobacco Control Program," *Journal of the American Statistical Association*, Vol. 105, No. 490, 2010, pp. 493–505.

Alcorn, Ted, and Scott Burris, "Gun Violence Prevention," *Lancet*, Vol. 388, No. 10041, 2016, p. 233.

Aneja, Abhay, John J. Donohue III, and Alexandria Zhang, *The Impact of Right to Carry Laws and the NRC Report: Lessons for the Empirical Evaluation of Law and Policy*, Stanford, Calif.: Stanford Law School, Olin Working Paper No. 461, December 1, 2014. As of May 21, 2017: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2443681

Ayres, Ian, and John J. Donohue III, "Shooting Down the More Guns, Less Crime Hypothesis," *Stanford Law Review*, Vol. 55, No. 4, 2003a, pp. 1193–1312.

Cavanaugh, Joseph E., "Unifying the Derivations for the Akaike and Corrected Akaike Information Criteria," *Statistics and Probability Letters*, Vol. 33, No. 2, April 1997, pp. 201–208.

Cherney, Samantha, Andrew R. Morral, and Terry L. Schell, *RAND State Firearm Law Database*, Santa Monica, Calif.: RAND Corporation, TL-283-RC, 2018. As of March 2, 2018: https://www.rand.org/pubs/tools/TL283.html

Conley, Timothy G., and Christopher R. Taber, "Inference with 'Difference in Differences' with a Small Number of Policy Changes," *Review of Economics and Statistics*, Vol. 93, No. 1, 2011, pp. 113–125.

Crifasi, C. K., J. S. Meyers, J. S. Vernick, and D. W. Webster, "Effects of Changes in Permit-to-Purchase Handgun Laws in Connecticut and Missouri on Suicide Rates," *Preventive Medicine*, Vol. 79, 2015, pp. 43–49.

Donohue, John J. "The Impact of Concealed-Carry Laws," in Jens Ludwig and Philip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence*, Washington D.C.: Brookings Institution Press, 2003, pp. 287–324.

———, "Guns, Crime, and the Impact of State Right-to-Carry Laws," *Fordham Law Review*, Vol. 73, No. 2, 2004, pp. 623–652.

Draper, Norman R., and Harry Smith, *Applied Regression Analysis*, 3rd ed., New York: John Wiley and Sons, 1998.

Durlauf, Steven, Salvador Navarro, and David Rivers, "Model Uncertainty and the Effect of Shall-Issue Right-to-Carry Laws on Crime," *European Economic Review*, Vol. 81, 2016, pp. 32–67.

Gelman, Andrew, and John Carlin, "Power Calculations: Assessing Type S (Sign) and Type M (Magnitude) Errors," *Perspectives on Psychological Science*, Vol. 9, No. 6, 2014, pp. 641–651.

Gius, Mark, "The Effects of State and Federal Background Checks on State-Level Gun-Related Murder Rates," *Applied Economics*, Vol. 47, No. 38, 2015a, pp. 4090–4101.

Good, Phillip I., and James W. Hardin, *Common Errors in Statistics (And How to Avoid Them)*, 4th ed., New York: John Wiley and Sons, 2012.

Grambsch, Patricia, "Regression to the Mean, Murder Rates, and Shall-Issue Laws," *American Statistician*, Vol. 62, No. 4, 2008, pp. 289–295.

Grossman, Richard S., and Stephen A. Lee, "May Issue Versus Shall Issue: Explaining the Pattern of Concealed-Carry Handgun Laws, 1960–2001," *Contemporary Economic Policy*, Vol. 26, No. 2, 2008, pp. 198–206.

Hahn, Robert A., Oleg Bilukha, Alex Crosby, Mindy T. Fullilove, Akiva Liberman, Eve Moscicki, Susan Snyder, Farris Tuma, and Peter A. Briss, "Firearms Laws and the Reduction of Violence: A Systematic Review," *American Journal of Preventive Medicine*, Vol. 28, No. 2, 2005, pp. 40–71.

Kovandzic, Tomislav V., and Thomas B. Marvell, "Right-to-Carry Concealed Handguns and Violent Crime: Crime Control Through Gun Decontrol," *Criminology and Public Policy*, Vol. 2, No. 3, 2003, pp. 363–396.

Kovandzic, Tomislav V., Thomas B. Marvell, and Lynne M. Vieraitis, "The Impact of 'Shall-Issue' Concealed Handgun Laws on Violent Crime Rates," *Homicide Studies*, Vol. 9, No. 4, 2005, pp. 292–323.

Lott, John R., Jr., Carlisle E. Moody, and John E. Whitley, "Re: 'What Do We Know About the Association Between Firearm Legislation and Firearm-Related Injuries?'" *American Journal of Epidemiology*, Vol. 184, No. 1, 2016, pp. 81–82.

Lott, J. R., and D. B. Mustard, "Crime, Deterrence, and Right-to-Carry Concealed Handguns," *Journal of Legal Studies*, Vol. 26, No. 1, 1997, pp. 1–68.

Luca, Michael, Lahotra Deepak, and Christopher Poliquin, *The Impact of Mass Shootings on Gun Policy*, working paper, Boston, Mass.: Harvard Business School, 2016.

MacKinnon, James G., and Matthew D. Webb, "Wild Bootstrap Inference for Wildly Different Cluster Sizes," *Journal of Applied Econometrics*, Vol. 32, No. 2, 2017, pp. 233–254.

Manning, Willard, "Comment: The Impact of Concealed-Carry Laws," in Jens Ludwig and Philip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence*, Washington, D.C.: Brookings Institution Press, 2003, pp. 331–341.

Mill, John Stuart, *A System of Logic*, London: Parker, 1843.

National Research Council, *Firearms and Violence: A Critical Review*, Washington, D.C.: National Academies Press, 2004.

NRC—*See* National Research Council.

Plassman, Florenz, and John Whitley, "Confirming 'More Guns, Less Crime,'" *Stanford Law Review*, Vol. 55, No. 4, 2003, pp. 1313–1369.

Rosengart, M., P. Cummings, A. Nathens, P. Heagerty, R. Maier, and F. Rivara, "An Evaluation of State Firearm Regulations and Homicide and Suicide Death Rates," *Injury Prevention*, Vol. 11, No. 2, 2005, pp. 77–83.

Rudolph, K. E., E. A. Stuart, J. S. Vernick, and D. W. Webster, "Association Between Connecticut's Permit-to-Purchase Handgun Law and Homicides," *American Journal of Public Health*, Vol. 105, 2015, pp. E49–E54.

Santaella-Tenorio, J., M. Cerdá, A. Villaveces, and S. Galea, "What Do We Know About the Association Between Firearm Legislation and Firearm-Related Injuries?" *Epidemiologic Reviews*, Vol. 38, No. 1, 2016, pp. 140–157.

Schell, Terry L., and Andrew R. Morral, *Evaluating Methods and Findings from a Study of State Gun Policies*, Santa Monica, Calif.: RAND Corporation, RR-1642-RC, 2016. As of January 13, 2017: http://www.rand.org/pubs/research_reports/RR1642.html

Shaffer, J. P., "Multiple Hypothesis Testing," *Annual Review of Psychology*, Vol. 46, 1995, pp. 561–584.

Vernick, J. S., and L. M. Hepburn, "State and Federal Gun Laws: Trends for 1970–1999," in Jens Ludwig and Philip J. Cook, eds., *Evaluating Gun Policy: Effects on Crime and Violence*, Washington, D.C.: Brookings Institution Press, 2003, pp. 345–402.

APPENDIX B

Source Data Used to Produce the Forest Plot Figures

To construct the figures in this report showing estimated effect sizes (i.e., the forest plots), we used results reported as the preferred models in each study. In some cases, these sources reported incidence rate ratios (IRRs) as the estimated effect of a law and provided confidence intervals (CIs). In such cases, we used these numbers as reported. In other cases, we calculated IRRs from effects estimated in the studies as regression coefficients, and we calculated CIs from standard errors, test statistics, or reported *p*-values. Discussion of these calculations is provided in Chapter Two. Table B.1 provides the source data used in this report to calculate IRRs and CIs as presented in each forest plot figure.

Table B.1
Source Data Used to Estimate Study Effect Sizes in the Forest Plot Figures

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
3.1	Ludwig and Cook (2000)	Brady Act	Firearm suicide rate	Aged 21+	0.98		0.94	1.02			Table 1: Col 3
3.1	Ludwig and Cook (2000)	Brady Act	Firearm suicide rate	Aged 55+	0.94		0.90	0.98			Table 1: Col 6
3.1	Ludwig and Cook (2000)	Brady Act	Nonfirearm suicide rate	Aged 21+	1.01		0.95	1.08			Table 1: Col 3
3.1	Ludwig and Cook (2000)	Brady Act	Nonfirearm suicide rate	Aged 55+	1.03		0.97	1.11			Table 1: Col 6
3.1	Ludwig and Cook (2000)	Brady Act	Proportion of suicides with firearm	Aged 21+	1.17		0.87	1.58			Table 1: Col 3
3.1	Ludwig and Cook (2000)	Brady Act	Proportion of suicides with firearm	Aged 55+	0.97		0.94	0.99			Table 1: Col 6
3.1	Ludwig and Cook (2000)	Brady Act	Total suicide rate	Aged 21+	0.98		0.93	1.03			Table 1: Col 3
3.1	Ludwig and Cook (2000)	Brady Act	Total suicide rate	Aged 55+	0.97		0.93	1.01			Table 1: Col 6
3.1	Sen and Panjamapirom (2012)	Check on fugitive status	Firearm suicide rate	All ages	0.95		0.90	0.99			Table 2: Col 4
3.1	Sen and Panjamapirom (2012)	Check on fugitive status	Total suicide rate	All ages	0.91		0.87	0.95			Table 2: Col 6
3.1	Sen and Panjamapirom (2012)	Check on mental illness	Firearm suicide rate	All ages	0.96		0.92	0.99			Table 2: Col 4

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	p	Source Table
3.1	Sen and Panjamapirom (2012)	Check on mental illness	Total suicide rate	All ages	0.97		0.95	0.99			Table 2: Col 6
3.1	Sen and Panjamapirom (2012)	Check on misdemeanor	Firearm suicide rate	All ages	0.95		0.92	1.00			Table 2: Col 4
3.1	Sen and Panjamapirom (2012)	Check on misdemeanor	Total suicide rate	All ages	0.98		0.95	1.02			Table 2: Col 6
3.1	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Firearm suicide rate	All ages	1.01		0.97	1.05			Table 2: Col 4
3.1	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Total suicide rate	All ages	1.00		0.97	1.03			Table 2: Col 6
3.1	Sen and Panjamapirom (2012)	Check on restraining order	Firearm suicide rate	All ages	1.03		0.98	1.09			Table 2: Col 4
3.1	Sen and Panjamapirom (2012)	Check on restraining order	Total suicide rate	All ages	1.02		0.98	1.06			Table 2: Col 6
3.1	Sen and Panjamapirom (2012)	Background check comprehensiveness	Firearm suicide rate	All ages	0.98		0.96	1.00			Table 2: Col 2
3.2	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Total homicide rate	All ages	1.05		0.98	1.13			Table 2: Col 5

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
3.2	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Firearm homicide rate	All ages	1.12		1.03	1.22			Table 2: Col 3
3.2	Sen and Panjamapirom (2012)	Background check comprehensiveness	Firearm homicide rate	All ages	0.93		0.91	0.96			Table 2: Col 1
3.2	Sen and Panjamapirom (2012)	Check on restraining order	Total homicide rate	All ages	0.91		0.85	0.98			Table 2: Col 5
3.2	Sen and Panjamapirom (2012)	Check on restraining order	Firearm homicide rate	All ages	0.87		0.79	0.95			Table 2: Col 3
3.2	Sen and Panjamapirom (2012)	Check on mental illness	Total homicide rate	All ages	0.93		0.86	0.99			Table 2: Col 5
3.2	Sen and Panjamapirom (2012)	Check on mental illness	Firearm homicide rate	All ages	0.93		0.87	1.01			Table 2: Col 3
3.2	Sen and Panjamapirom (2012)	Check on fugitive status	Total homicide rate	All ages	0.77		0.71	0.84			Table 2: Col 5
3.2	Sen and Panjamapirom (2012)	Check on fugitive status	Firearm homicide rate	All ages	0.79		0.72	0.88			Table 2: Col 3
3.2	Sen and Panjamapirom (2012)	Check on misdemeanor	Total homicide rate	All ages	1.02		0.95	1.1			Table 2: Col 5

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
3.2	Sen and Panjamapirom (2012)	Check on misdemeanor	Firearm homicide rate	All ages	0.99		0.9	1.08			Table 2: Col 3
3.2	La Valle (2013)	Brady Act	Total homicide rate	All ages	0.003	0.060					Table 7
3.2	La Valle (2013)	Brady Act	Firearm homicide rate	All ages	0.022	0.071					Table 7
3.2	Gius (2015a)	State dealer background check	Gun-related murder rate	All ages	−0.683				−5.34		Table 2
3.2	Gius (2015a)	State private-seller background check	Gun-related murder rate	All ages	1.05				7.47		Table 2
3.2	Ludwig and Cook (2000)	Brady Act	Total homicide rate	Aged 21+	0.97		0.87	1.08			Table 1: Col 3
3.2	Ludwig and Cook (2000)	Brady Act	Firearm homicide rate	Aged 21+	0.99		0.86	1.13			Table 1: Col 3
3.2	Ludwig and Cook (2000)	Brady Act	Nonfirearm homicide rate	Aged 21+	0.94		0.87	1.02			Table 1: Col 3
3.2	Ludwig and Cook (2000)	Brady Act	Proportion of homicides with firearm	Aged 21+	1.02		0.99	1.04			Table 1: Col 3
3.2	Ludwig and Cook (2000)	Brady Act	Total homicide rate	Aged 55+	1.00		0.90	1.12			Table 1: Col 6
3.2	Ludwig and Cook (2000)	Brady Act	Firearm homicide rate	Aged 55+	1.07		0.97	1.16			Table 1: Col 6
3.2	Ludwig and Cook (2000)	Brady Act	Nonfirearm homicide rate	Aged 55+	0.95		0.81	1.12			Table 1: Col 6

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
3.2	Ludwig and Cook (2000)	Brady Act	Proportion of homicides with firearm	Aged 55+	1.07		0.98	1.18			Table 1: Col 6
3.2	Swanson et al. (2016)	NICS reporting (Fla.)	Violent crime arrest	No crim. disqualified	0.62		0.50	0.76			In text (page 1071)
3.2	Wright, Wintemute, and Rivara (1999)	No felony prohibition/checks	Any offense	Calif. purchasers	1.05		1.04	1.07			Table 1, row 3
3.2	Wright, Wintemute, and Rivara (1999)	No felony prohibition/checks	Gun offense	Calif. purchasers	1.21		1.08	1.36			Table 1, row 3
3.2	Wright, Wintemute, and Rivara (1999)	No felony prohibition/checks	Violent offense	Calif. purchasers	1.24		1.11	1.39			Table 1, row 3
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all handgun sales)	Any mass shooting incident	N/A	−0.112	0.089					Table C2: Col 1
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all handgun sales)	Any mass shooting incident	N/A	−0.124	0.098					Table C2: Col 2
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all firearm sales)	Any mass shooting incident	N/A	0.011	0.131					Table C2: Col 1
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all firearm sales)	Any mass shooting incident	N/A	−0.032	0.142					Table C2: Col 2
4.1	Lott (2010)	State/federal assault weapon ban	Total homicide	All ages	0.004				0.11		Table A6.3
4.1	Gius (2014)	State assault weapon ban	Firearm murder rate	All ages	−0.29				−1.57		Table 1
4.2	Gius (2015c)	State assault weapon ban	Mass shooting deaths	All ages	−0.59202				−2.28		Table 1: Col 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
4.2	Gius (2015c)	State assault weapon ban	Mass shooting injuries	All ages	0.298				1.16		Table 1: Col 2
4.2	Luca, Deepak, and Poliquin (2016)	State assault weapon ban	Any mass shooting incident	N/A	0.062	0.056					Table C2: Col 1
4.2	Luca, Deepak, and Poliquin (2016)	State assault weapon ban	Any mass shooting incident	N/A	0.067	0.057					Table C2: Col 2
5.1	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Total suicide rate	All ages	0.99, 1.00					0.97	Table 1
5.1	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Firearm suicide rate	All ages	0.98, 0.95					0.54	Table 1
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Homicide	All ages	0.0937	0.029					Table 5: Col 3
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Burglary	All ages	0.0223	0.0223					Table 4: Col 3
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Robbery	All ages	0.0262	0.0229					Table 4: Col 3
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Aggravated assault	All ages	0.0372	0.0319					Table 4: Col 3
5.2	Webster, Crifasi, and Vernick (2014)	Stand-your-ground law	Total homicide rate	All ages	0.102	0.183					Corrected Supplement Table 3
5.2	Webster, Crifasi, and Vernick (2014)	Stand-your-ground law	Firearm homicide rate	All ages	0.16	0.17					Corrected Supplement Table 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
5.2	Webster, Crifasi, and Vernick (2014)	Stand-your-ground law	Nonfirearm homicide rate	All ages	0.01	0.1					Corrected Supplement Table 2
5.2	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Total homicide rate	All ages	1.24, 1.06					0.001	Table 1
5.2	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Firearm homicide rate	All ages	1.32, 1.08					0.001	Table 1
5.3	Cheng and Hoekstra (2013)	Castle doctrine law	Justifiable homicide	All ages	0.283	0.235					Table 6: Panel E: Col 3
6.1	Sen and Panjamapirom (2012)	Check on mental illness	Total suicide rate	All ages	0.97		0.95	0.99			Table 2: Col 6
6.1	Sen and Panjamapirom (2012)	Check on mental illness	Firearm suicide rate	All ages	0.96		0.92	0.99			Table 2: Col 4
6.2	Sen and Panjamapirom (2012)	Check on mental illness	Total homicide rate	All ages	0.93		0.86	0.99			Table 2: Col 5
6.2	Sen and Panjamapirom (2012)	Check on mental illness	Firearm homicide rate	All ages	0.93		0.87	1.01			Table 2: Col 3
6.2	Swanson et al. (2016)	NICS reporting (Fla.)	Violent crime arrest	No crim. disqualified	0.62		0.50	0.76			In text (p. 1071)
8.1	Webster et al. (2004)	Permit-to-purchase law	Total suicide rate	Aged 14–17	1.06		0.92	1.23			Table 2: Col 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
8.1	Webster et al. (2004)	Permit-to-purchase law	Total suicide rate	Aged 18–20	1.18		1.04	1.34			Table 2: Col 2
8.1	Webster et al. (2004)	Permit-to-purchase law	Firearm suicide rate	Aged 14–17	0.92		0.76	1.10			Table 2: Col 1
8.1	Webster et al. (2004)	Permit-to-purchase law	Firearm suicide rate	Aged 18–20	1.22		1.04	1.43			Table 2: Col 2
8.1	Webster et al. (2004)	Permit-to-purchase law	Nonfirearm suicide rate	Aged 14–17	1.27		1.00	1.61			Table 2: Col 1
8.1	Webster et al. (2004)	Permit-to-purchase law	Nonfirearm suicide rate	Aged 18–20	1.14		0.93	1.39			Table 2: Col 2
8.1	Crifasi et al. (2015)	Permit-to-purchase law	Total suicide rate	All ages	1.01		0.95	1.08			Appendix Table 2
8.1	Crifasi et al. (2015)	Permit-to-purchase law	Firearm suicide rate	All ages	0.88		0.81	0.96			Appendix Table 2
8.1	Crifasi et al. (2015)	Permit-to-purchase law	Nonfirearm suicide rate	All ages	1.14		1.05	1.24			Appendix Table 2
8.1	Crifasi et al. (2015)	Repeal of Missouri permit-to-purchase	Total suicide rate	All ages	1.03		0.97	1.08			Appendix Table 2
8.1	Crifasi et al. (2015)	Repeal of Missouri permit-to-purchase	Firearm suicide rate	All ages	1.02		0.96	1.09			Appendix Table 2
8.1	Crifasi et al. (2015)	Repeal of Missouri permit-to-purchase	Nonfirearm suicide rate	All ages	1.03		0.95	1.11			Appendix Table 2
8.2	Webster, Crifasi, and Vernick (2014)	Repeal of Missouri permit-to-purchase	Total homicide rate	All ages	1.08	0.16					Corrected Table 2
8.2	Webster, Crifasi, and Vernick (2014)	Repeal of Missouri permit-to-purchase	Firearm homicide rate	All ages	1.18	0.13					Corrected Table 2

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
8.2	Webster, Crifasi, and Vernick (2014)	Repeal of Missouri permit-to-purchase	Nonfirearm homicide rate	All ages	−0.08	0.1					Corrected Table 2
8.2	Rudolph et al. (2015)	Connecticut permit-to-purchase	Firearm homicide rate	All ages	0.60					0.04	In text (p. e51) and Table 2, "2xMSPE"
8.3	Luca, Deepak, and Poliquin (2016)	Handgun permit system	Any mass shooting incident (no political controls)	All ages	−0.009	0.115					Table C2: Col 1
8.3	Luca, Deepak, and Poliquin (2016)	Handgun permit system	Any mass shooting incident (political controls)	All ages	0.004	0.117					Table C2: Col 2
10.1	Cummings et al. (1997a)	CAP law	Firearm suicide rate	Aged 0–14	0.81		0.66	1.01			In text (p. 1085)
10.1	Cummings et al. (1997a)	CAP law	Nonfirearm suicide rate	Aged 0–14	0.95		0.75	1.2			In text (p. 1085)
10.1	Webster et al. (2004)	CAP law	Total suicide rate	Aged 14–17	0.92		0.86	0.98			Table 2: Col 1
10.1	Webster et al. (2004)	CAP law	Total suicide rate	Aged 18–20	0.89		0.85	0.93			Table 2: Col 2
10.1	Webster et al. (2004)	CAP law	Firearm suicide rate	Aged 14–17	0.89		0.83	0.96			Table 2: Col 1
10.1	Webster et al. (2004)	CAP law	Firearm suicide rate	Aged 18–20	0.87		0.82	0.92			Table 2: Col 2
10.1	Webster et al. (2004)	CAP law	Nonfirearm suicide rate	Aged 14–17	1.00		0.91	1.10			Table 2: Col 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
10.1	Webster et al. (2004)	CAP law	Nonfirearm suicide rate	Aged 18–20	0.91		0.85	0.98			Table 2: Col 2
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage (11 states)	Firearm self-inflicted injury rate	Aged 0–17	–1.165	0.339					Table 3: Col 3
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage (11 states)	Firearm self-inflicted injury rate	Aged 18+	–0.003	0.228					Table 3: Col 4
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Firearm self-inflicted injury rate	Aged 0–17	–1.06	0.296					Table 3: Col 1
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Firearm self-inflicted injury rate	Aged 18+	0.161	0.227					Table 3: Col 2
10.1	Gius (2015b)	CAP law	Firearm suicide rate	Aged 0–19	–0.218				–4.36		Table 4
10.2	Cummings et al. (1997a)	CAP law	Firearm homicide rate	Aged 0–14	0.89		0.76	1.05			In text (p. 1085)
10.2	Cummings et al. (1997a)	CAP law	Nonfirearm homicide rate	Aged 0–14	0.96		0.86	1.06			In text (p. 1085)
10.2	Lott and Whitley (2001)	Safe storage law	Murder rate	All ages	0.039				1.141		Table 3: Col 2
10.2	Lott and Whitley (2001)	Safe storage law	Rape rate	All ages	0.092				3.357		Table 3: Col 3
10.2	Lott and Whitley (2001)	Safe storage law	Robbery rate	All ages	0.1056				2.823		Table 3: Col 4

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
10.2	Lott and Whitley (2001)	Safe storage law	Assault rate	All ages	−0.041				1.493		Table 3: Col 5
10.3	Cummings et al. (1997a)	CAP law	Unintentional firearm death rate	Aged 0–14	0.77		0.63	0.94			In text (p. 1085)
10.3	Cummings et al. (1997a)	CAP law	Unintentional firearm death rate	Aged 15–19	0.91		0.77	1.08			In text (p. 1085)
10.3	Cummings et al. (1997a)	CAP law	Unintentional firearm death rate	Aged 20–24	0.84		0.68	1.03			In text (p. 1085)
10.3	Webster and Starnes (2000)	CAP law	Unintentional firearm death rate	Aged 0–14	0.83		0.71	0.97			Table 1
10.3	Webster and Starnes (2000)	Felony CAP law	Unintentional firearm death rate	Aged 0–14	0.69		0.56	0.85			Table 1
10.3	Webster and Starnes (2000)	Misdemeanor CAP law	Unintentional firearm death rate	Aged 0–14	1.00		0.81	1.22			Table 1
10.3	Webster and Starnes (2000)	Florida CAP law	Unintentional firearm death rate	Aged 0–14	0.49		0.25	0.69			Table 1
10.3	Webster and Starnes (2000)	Non-Florida CAP law	Unintentional firearm death rate	Aged 0–14	0.95		0.80	1.12			Table 1
10.3	Hepburn et al. (2006)	CAP law	Unintentional firearm death rate	Aged 0–14	0.78		0.61	0.99			Table 3: Col 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
10.3	Hepburn et al. (2006)	CAP law	Unintentional firearm death rate	Aged 55–74	0.88		0.63	1.22			Table 3: Col 2
10.3	Hepburn et al. (2006)	Felony CAP law	Unintentional firearm death rate	Aged 0–14	0.64		0.46	0.89			Table 3: Col 1
10.3	Hepburn et al. (2006)	Felony CAP law	Unintentional firearm death rate	Aged 55–74	0.90		0.72	1.12			Table 3: Col 2
10.3	Hepburn et al. (2006)	Misdemeanor CAP law	Unintentional firearm death rate	Aged 0–14	0.93		0.76	1.13			Table 3: Col 1
10.3	Hepburn et al. (2006)	Misdemeanor CAP law	Unintentional firearm death rate	Aged 55–74	0.88		0.54	1.44			Table 3: Col 2
10.3	Hepburn et al. (2006)	CAP law (exclude Fla.)	Unintentional firearm death rate	Aged 0–14	0.86		0.72	1.03			Table 3: Col 1
10.3	Hepburn et al. (2006)	CAP law (exclude Fla.)	Unintentional firearm death rate	Aged 55–74	0.87		0.61	1.28			Table 3: Col 2
10.3	Hepburn et al. (2006)	CAP law (exclude Calif.)	Unintentional firearm death rate	Aged 0–14	0.77		0.56	1.06			Table 3: Col 1
10.3	Hepburn et al. (2006)	CAP law (exclude Calif.)	Unintentional firearm death rate	Aged 55–74	0.86		0.45	1.27			Table 3: Col 2

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
10.3	Gius (2015b)	CAP law	Unintentional firearm death rate	Aged 0–19	−0.036				−0.8		Table 5
10.3	DeSimone, Markowitz, and Xu (2013)	CAP law, negligent storage (11 states)	Unintentional firearm injury rate	Aged 0–17	−0.273	0.184					Table 3: Col 3
10.3	DeSimone, Markowitz, and Xu (2013)	CAP law, negligent storage (11 states)	Unintentional firearm injury rate	Aged 18+	−0.343	0.143					Table 3: Col 4
10.3	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Unintentional firearm injury rate	Aged 0–17	−0.191	0.154					Table 3: Col 1
10.3	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Unintentional firearm injury rate	Aged 18+	−0.283	0.121					Table 3: Col 2
10.4	Lott (2003)	Safe storage law	Shooting fatalities and injuries	All ages	1.073774				0.459		Appendix Table 6.2: Col 3
10.4	Lott (2003)	Safe storage law	Number of shooting incidents	All ages	0.8250622				0.628		Appendix Table 6.2: Col 4
11.1	Vigdor and Mercy (2006)	Confiscation law	Total IPH rate	All ages	0.95		0.87	1.04			Table 5: Panel 1
11.1	Vigdor and Mercy (2006)	Confiscation law	Firearm IPH rate	All ages	0.94		0.83	1.07			Table 5: Panel 1
11.1	Vigdor and Mercy (2006)	Confiscation law	Total IPH rate	Female victims	0.98		0.89	1.09			Table 5: Panel 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
11.1	Vigdor and Mercy (2006)	Confiscation law	Firearm IPH rate	Female victims	0.96		0.82	1.11			Table 5: Panel 1
11.1	Zeoli and Webster (2010)	Confiscation law	Total IPH rate	All ages	1.10		0.92	1.31			Table 1
11.1	Zeoli and Webster (2010)	Confiscation law	Firearm IPH rate	All ages	1.19		0.97	1.46			Table 1
11.1	Raissian (2016)	Gun Control Act expansion	Firearm IPH rate	All intimate partners	−0.0667	0.0309					Table 3: Model 3
11.1	Raissian (2016)	Gun Control Act expansion	Firearm IPH rate	Female IPH victims	−0.136	0.0443					Table 3: Model 3
11.1	Raissian (2016)	Gun Control Act expansion	Firearm IPH rate	Male IPH victims	0.0053	0.0312					Table 3: Model 3
12.1	Webster et al. (2004)	State minimum purchase age	Total suicide rate	Aged 14–17	1.04		0.90	1.21			Table 2: Col 1
12.1	Webster et al. (2004)	State minimum purchase age	Total suicide rate	Aged 18–20	0.97		0.91	1.05			Table 2: Col 2
12.1	Webster et al. (2004)	State minimum purchase age	Firearm suicide rate	Aged 14–17	1.04		0.87	1.16			Table 2: Col 1
12.1	Webster et al. (2004)	State minimum purchase age	Firearm suicide rate	Aged 18–20	0.91		0.83	1.00			Table 2: Col 2
12.1	Webster et al. (2004)	State minimum purchase age	Nonfirearm suicide rate	Aged 14–17	1.05		0.85	1.31			Table 2: Col 1
12.1	Webster et al. (2004)	State minimum purchase age	Nonfirearm suicide rate	Aged 18–20	1.05		0.94	1.17			Table 2: Col 2
12.1	Webster et al. (2004)	State minimum possession age	Total suicide rate	Aged 14–17	0.97		0.90	1.05			Table 2: Col 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
12.1	Webster et al. (2004)	State minimum possession age	Total suicide rate	Aged 18–20	1.13		1.01	1.27			Table 2: Col 2
12.1	Webster et al. (2004)	State minimum possession age	Firearm suicide rate	Aged 14–17	1.02		0.92	1.12			Table 2: Col 1
12.1	Webster et al. (2004)	State minimum possession age	Firearm suicide rate	Aged 18–20	1.14		0.98	1.34			Table 2: Col 2
12.1	Webster et al. (2004)	State minimum possession age	Nonfirearm suicide rate	Aged 14–17	0.93		0.82	1.05			Table 2: Col 1
12.1	Webster et al. (2004)	State minimum possession age	Nonfirearm suicide rate	Aged 18–20	1.07		0.90	1.27			Table 2: Col 2
12.1	Webster et al. (2004)	Federal minimum purchase age	Total suicide rate	Aged 14–17	1.02		0.91	1.14			Table 2: Col 1
12.1	Webster et al. (2004)	Federal minimum purchase age	Firearm suicide rate	Aged 14–17	1.00		0.87	1.16			Table 2: Col 1
12.1	Webster et al. (2004)	Federal minimum purchase age	Nonfirearm suicide rate	Aged 14–17	1.08		0.91	1.28			Table 2: Col 1
12.1	Webster et al. (2004)	Federal minimum possession age	Total suicide rate	Aged 14–17	0.98		0.90	1.08			Table 2: Col 1
12.1	Webster et al. (2004)	Federal minimum possession age	Firearm suicide rate	Aged 14–17	0.99		0.89	1.09			Table 2: Col 1
12.1	Webster et al. (2004)	Federal minimum possession age	Nonfirearm suicide rate	Aged 14–17	1.12		0.99	1.26			Table 2: Col 1
12.1	Gius (2015b)	State minimum possession age	Firearm suicide rate	Aged 0–19	−0.046				−1.05		Table 4
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Total suicide rate	All ages	1.02		0.98	1.07			Table 4

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	p	Source Table
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Total suicide rate	Aged 0–19	1.1		0.94	1.29			Table 3
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Total suicide rate	Aged 20+	1.04		0.99	1.1			Table 3
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm suicide rate	All ages	1		0.94	1.06			Table 4
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm suicide rate	Aged 0–19	0.94		0.8	1.06			Table 3
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm suicide rate	Aged 20+	1.02		0.96	1.08			Table 3
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Total suicide rate	All ages	1.03		0.96	1.11			Table 4
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Total suicide rate	Aged 0–19	1.15		0.93	1.42			Table 3
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Total suicide rate	Aged 20+	1.04		0.95	1.13			Table 3
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Firearm suicide rate	All ages	0.99		0.88	1.13			Table 4
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Firearm suicide rate	Aged 0–19	0.93		0.77	1.12			Table 3
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Firearm suicide rate	Aged 20+	0.99		0.88	1.13			Table 3
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Total homicide rate	All ages	1		0.94	1.05			Table 2
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Total homicide rate	Aged 0–19	0.92		0.81	1.05			Table 3

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Total homicide rate	Aged 20+	1.01		0.95	1.06			Table 3
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm homicide rate	All ages	0.98		0.91	1.06			Table 2
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm homicide rate	Aged 0–19	0.92		0.8	1.06			Table 3
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm homicide rate	Aged 20+	0.99		0.93	1.06			Table 3
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Total homicide rate	All ages	1.02		0.89	1.18			Table 2
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Total homicide rate	Aged 0–19	0.98		0.79	1.2			Table 3
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Total homicide rate	Aged 20+	1.03		0.88	1.2			Table 3
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Firearm homicide rate	All ages	1.06		0.88	1.27			Table 2
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Firearm homicide rate	Aged 0–19	0.91		0.72	1.15			Table 3
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Firearm homicide rate	Aged 20+	1.08		0.89	1.31			Table 3
12.2	Rudolph et al. (2015)	State minimum purchase age of 21	Firearm homicide rate	All ages	0.6					0.04	In text (p. e51) and Table 2, "2xMSPE"
12.3	Gius (2015b)	State minimum possession age	Unintentional firearm death rate	Aged 0–19	−0.0636				−1.6		Table 5

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	p	Source Table
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 18	Any mass shooting incident	N/A	0.007	0.025					Table C2: Col 1
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 18	Any mass shooting incident	N/A	0.01	0.026					Table C2: Col 2
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 21	Any mass shooting incident	N/A	−0.059	0.051					Table C2: Col 1
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 21	Any mass shooting incident	N/A	−0.075	0.051					Table C2: Col 2
13.1	Rosengart et al. (2005)	Shall-issue law	Total suicide rate	All ages	0.98		0.96	1.01			Table 4
13.1	Rosengart et al. (2005)	Shall-issue law	Firearm suicide rate	All ages	1		0.97	1.02			Table 4
13.1	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Self-inflicted firearm injury rate	Aged 0–17	0.662	0.747					Table 5
13.1	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Self-inflicted firearm injury rate	Aged 18+	0.742	0.163					Table 6
13.2	Rosengart et al. (2005)	Shall-issue law vs. no CC permitted	Total homicide rate	All ages	1.07		0.98	1.17			Table 2
13.2	Rosengart et al. (2005)	Shall-issue law vs. no CC permitted	Firearm homicide rate	All ages	1.11		0.99	1.24			Table 2
13.2	Grambsch (2008)	Shall-issue vs. no CC (random effects)	Murder rate	All ages	0.005	0.011					Table 3
13.2	Grambsch (2008)	Shall-issue vs. no CC (fixed effects)	Murder rate	All ages	0.06	0.015					Table 3

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
13.2	French and Heagerty (2008)	Shall-issue law vs. no CC	Firearm homicide rate	All ages	1.101		0.993	1.22			In text (p. 14)
13.2	Roberts (2009)	May-issue vs. shall-issue	Total IPH rate	All ages	1.7128	0.216					Table 2
13.2	Roberts (2009)	No CC vs. shall-issue	Total IPH rate	All ages	0.9621	0.212					Table 2
13.2	Roberts (2009)	May-issue vs. shall-issue	Firearm IPH rate	All ages	1.1202	0.128					Table 3
13.2	Roberts (2009)	No CC vs. shall-issue	Firearm IPH rate	All ages	0.8608	0.19					Table 3
13.2	La Valle and Glover (2012)	May-issue	Total homicide rate	All ages	−0.214	0.065					Table 8
13.2	La Valle and Glover (2012)	Shall-issue	Total homicide rate	All ages	0.206	0.08					Table 8
13.2	La Valle and Glover (2012)	May-issue	Firearm homicide rate	All ages	−0.263	0.08					Table 7
13.2	La Valle and Glover (2012)	Shall-issue	Firearm homicide rate	All ages	0.274	0.075					Table 7
13.2	La Valle (2013)	Shall-issue law vs. no CC permitted	Total homicide rate	All ages	−0.137	0.062					Table 7
13.2	La Valle (2013)	Shall-issue law vs. no CC permitted	Firearm homicide rate	All ages	−0.166	0.073					Table 7
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Total homicide rate	All ages	0.38	0.23					Corrected Supplement Table 3
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Firearm homicide rate	All ages	0.25	0.21					Corrected Supplement Table 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Nonfirearm homicide rate	All ages	0.21	0.12					Corrected Supplement Table 2
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Murder/ manslaughter rate	All ages	0.58	0.42					Corrected Supplement Table 4
13.2	Gius (2014)	Restrictive vs. lenient CC laws	Firearm murder rate	All ages	0.365				3.74		Table 1
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Murder rate	All ages	0.0331	0.0651					Table 8A
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Rape rate	All ages	0.1153	0.0573					Table 8A
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Robbery rate	All ages	0.1385	0.0803					Table 8A
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Assault rate	All ages	0.0803	0.0446					Table 8A
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Violent crime	All ages	−0.0566				−3.067		Table 6: Model V
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Murder rate	All ages	−0.0492				−1.696		Table 6: Model V
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Rape rate	All ages	−0.0161				−0.739		Table 6: Model V
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Aggravated Assault	All ages	−0.0705				−2.927		Table 6: Model V
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Robbery rate	All ages	−0.0385				−1.322		Table 6: Model V

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Murder rate	All ages	–0.003				1.52		Table 3
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Rape rate	All ages	–0.002				0.99		Table 3
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Robbery rate	All ages	0.001				0.55		Table 3
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Assault rate	All ages	0				0.05		Table 3
13.3	Lott and Mustard (1997)	Shall-issue law	Unintentional handgun death rate	All ages	0.00478				0.096		Table 18: Col 1
13.3	Lott and Mustard (1997)	Shall-issue law	Unintentional nonhandgun death rate	All ages	0.098				1.706		Table 18: Col 2
13.3	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Unintentional firearm injury rate	Aged 0–17	0.53	0.364					Table 5
13.3	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Unintentional firearm injury rate	Aged 18+	0.823	0.191					Table 6
13.4	Lott (2003)	Shall-issue law	Multiple-victim gun deaths, injuries	All ages	0.2151				9.609		Appendix Table 6.2: Col 3
13.4	Lott (2003)	Shall-issue law	No. of multiple-victim gun incidents	All ages	0.3280486				3.82		Appendix Table 6.2: Col 4
13.4	Luca, Deepak, and Poliquin (2016)	Permitless carry	Any mass shooting incident	All ages	0.152	0.182					Table C2: Col 1

Table B.1—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Estimate	Standard Error	Lower CI	Upper CI	Test Statistic	*p*	Source Table
13.4	Luca, Deepak, and Poliquin (2016)	Permitless carry	Any mass shooting incident	All ages	0.207	0.18					Table C2: Col 2
13.4	Luca, Deepak and Poliquin (2016)	Shall-issue law	Any mass shooting incident	All ages	–0.011	0.039					Table C2: Col 1
13.4	Luca, Deepak and Poliquin (2016)	Shall-issue law	Any mass shooting incident	All ages	–0.009	0.038					Table C2: Col 2
13.5	Duggan (2001)	Right-to-carry laws	Gun ownership	None	0.0038	0.0099					Table 10: Col 3

NOTE: CAP = child-access prevention; CC = concealed carry; Col = column; IPH = intimate partner homicide; N/A = not applicable; NICS = National Instant Criminal Background Check System.

Table B.2 shows the most-common methodological concerns we identified for analyses included in this report's forest plot figures. When we identified no such concerns for a study, the forest plots show that study's IRR values with green circles (see, for example, Figure 3.1). In Table B.2, we identify five categories of concerns:

- The *Parameter* column identifies with an *X* the analyses we believed to have been performed with fewer than ten observations per parameter estimate. In several cases, models with random effects were conducted, but no estimate of the effective number of parameters was reported. In these cases, we guessed that the effective number of random effect parameters was about half the total number of random effects. This resulted in none of the random effects models having fewer than ten observations per parameter estimate.
- The *Tx Units* column identifies the analyses that we believed identified a causal effect with three or fewer units (states, usually) exposed to the law.
- The *Cluster* column identifies the analyses that appeared to make no adjustments to the standard error to account for either serial correlation in the longitudinal data or heteroscedasticity. We were sparing in assigning this concern to analyses, giving credit for some type of standard error adjustment even when papers reported, for instance, having checked for the presence of serial correlation or performing adjustments of doubtful validity. Studies that made no reference to any type of adjustment or check are identified with this concern.
- The *Model* column identifies the analyses that reported results from models we believe may have been misspecified. We assigned this concern to just two types of models: those using ordinary least squares (OLS) to model dichotomous outcomes and those using OLS to model rates, many of which are close to zero. We did not assign this concern to OLS models of logged rate values, although this too is problematic.
- The *Other* column identifies studies with other methodological features that raised significant concerns for us. It was often the case that studies had multiple idiosyncratic methodological features that concerned us. However, we did not assign the *Other* concern to studies that had already been identified as having one of the other four common concerns. When a study is listed as having an *Other* concern, that concern is described in the text of the report whenever the study is discussed.

Table B.2
Methodological Concerns Identified for Analyses Included in the Report's Forest Plot Figures

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
3.1	Ludwig and Cook (2000)	Brady Act	Firearm suicide rate	Aged 21+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Firearm suicide rate	Aged 55+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Nonfirearm suicide rate	Aged 21+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Nonfirearm suicide rate	Aged 55+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Proportion of suicides with firearm	Aged 21+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Proportion of suicides with firearm	Aged 55+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Total suicide rate	Aged 21+	X				
3.1	Ludwig and Cook (2000)	Brady Act	Total suicide rate	Aged 55+	X				
3.1	Sen and Panjamapirom (2012)	Check on fugitive status	Firearm suicide rate	All ages		X			
3.1	Sen and Panjamapirom (2012)	Check on fugitive status	Total suicide rate	All ages		X			
3.1	Sen and Panjamapirom (2012)	Check on mental illness	Firearm suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Check on mental illness	Total suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Check on misdemeanor	Firearm suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Check on misdemeanor	Total suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Firearm suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Total suicide rate	All ages					

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
3.1	Sen and Panjamapirom (2012)	Check on restraining order	Firearm suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Check on restraining order	Total suicide rate	All ages					
3.1	Sen and Panjamapirom (2012)	Background check comprehensiveness	Firearm suicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Total homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on "other miscellaneous" records	Firearm homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Background check comprehensiveness	Firearm homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on restraining order	Total homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on restraining order	Firearm homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on mental illness	Total homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on mental illness	Firearm homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on fugitive status	Total homicide rate	All ages		X			
3.2	Sen and Panjamapirom (2012)	Check on fugitive status	Firearm homicide rate	All ages		X			
3.2	Sen and Panjamapirom (2012)	Check on misdemeanor	Total homicide rate	All ages					
3.2	Sen and Panjamapirom (2012)	Check on misdemeanor	Firearm homicide rate	All ages					
3.2	La Valle (2013)	Brady Act	Total homicide rate	All ages					

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
3.2	La Valle (2013)	Brady Act	Firearm homicide rate	All ages					
3.2	Gius (2015a)	State dealer background check	Gun-related murder rate	All ages				X	
3.2	Gius (2015a)	State private-seller background check	Gun-related murder rate	All ages		X		X	
3.2	Ludwig and Cook (2000)	Brady Act	Total homicide rate	Aged 21+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Firearm homicide rate	Aged 21+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Nonfirearm homicide rate	Aged 21+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Proportion of homicides with a firearm	Aged 21+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Total homicide rate	Aged 55+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Firearm homicide rate	Aged 55+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Nonfirearm homicide rate	Aged 55+	X				
3.2	Ludwig and Cook (2000)	Brady Act	Proportion of homicides with a firearm	Aged 55+	X				
3.2	Swanson et al. (2016)	NICS reporting (Fla.)	Violent crime arrest	No crim. disqualified		X			
3.2	Wright, Wintemute, and Rivara (1999)	No felony prohibition/ checks	Any offense	Calif. purchasers					
3.2	Wright, Wintemute, and Rivara (1999)	No felony prohibition/ checks	Gun offense	Calif. purchasers					
3.2	Wright, Wintemute, and Rivara (1999)	No felony prohibition/ checks	Violent offense	Calif. purchasers					

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all handgun sales)	Any mass shooting incident	N/A			X	X	
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all handgun sales)	Any mass shooting incident	N/A				X	
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all firearm sales)	Any mass shooting incident	N/A				X	
3.3	Luca, Deepak, and Poliquin (2016)	Background check (all firearm sales)	Any mass shooting incident	N/A				X	
4.1	Lott (2010)	State/federal assault weapon bans	Total homicide	All ages	X		X		
4.1	Gius (2014)	State assault weapons ban	Firearm murder rate	All ages			X	X	
4.2	Gius (2015c)	State assault weapons ban	Mass shooting deaths	All ages			X		
4.2	Gius (2015c)	State assault weapons ban	Mass shooting injuries	All ages			X		
4.2	Luca, Deepak, and Poliquin (2016)	State assault weapons ban	Any mass shooting incident	N/A				X	
4.2	Luca, Deepak, and Poliquin (2016)	State assault weapons ban	Any mass shooting incident	N/A				X	
5.1	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Total suicide rate	All ages		X			
5.1	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Firearm suicide rate	All ages		X			
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Homicide	All ages	X				

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Burglary	All ages	X				
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Robbery	All ages	X				
5.2	Cheng and Hoekstra (2013)	Castle doctrine law	Aggravated assault	All ages	X				
5.2	Webster, Crifasi, and Vernick (2014)	Stand-your-ground law	Total homicide rate	All ages	X	X		X	
5.2	Webster, Crifasi, and Vernick (2014)	Stand-your-ground law	Firearm homicide rate	All ages	X	X		X	
5.2	Webster, Crifasi, and Vernick (2014)	Stand-your-ground law	Nonfirearm homicide rate	All ages	X	X		X	
5.2	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Total homicide rate	All ages		X			
5.2	Humphreys, Gasparrini, and Wiebe (2017)	Stand-your-ground law	Firearms homicide rate	All ages		X			
5.3	Cheng and Hoekstra (2013)	Castle doctrine law	Justifiable homicide	All ages	X				
6.1	Sen and Panjamapirom (2012)	Check on mental illness	Total suicide rate	All ages					
6.1	Sen and Panjamapirom (2012)	Check on mental illness	Firearm suicide rate	All ages					
6.2	Sen and Panjamapirom (2012)	Check on mental illness	Total homicide rate	All ages					
6.2	Sen and Panjamapirom (2012)	Check on mental illness	Firearm homicide rate	All ages					
6.2	Swanson et al. (2016)	NICS reporting (Fla.)	Violent crime arrest	No crim. disqualified		X			
8.1	Webster et al. (2004)	Permit-to-purchase law	Total suicide rate	Aged 14–17		X			
8.1	Webster et al. (2004)	Permit-to-purchase law	Total suicide rate	Aged 18–20		X			

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
8.1	Webster et al. (2004)	Permit-to-purchase law	Firearm suicide rate	Aged 14–17		X			
8.1	Webster et al. (2004)	Permit-to-purchase law	Firearm suicide rate	Aged 18–20		X			
8.1	Webster et al. (2004)	Permit-to-purchase law	Nonfirearm suicide rate	Aged 14–17		X			
8.1	Webster et al. (2004)	Permit-to-purchase law	Nonfirearm suicide rate	Aged 18–20		X			
8.1	Crifasi et al. (2015)	Permit-to-purchase law	Total suicide rate	All ages		X			
8.1	Crifasi et al. (2015)	Permit-to-purchase law	Firearm suicide rate	All ages		X			
8.1	Crifasi et al. (2015)	Permit-to-purchase law	Nonfirearm suicide rate	All ages		X			
8.1	Crifasi et al. (2015)	Repeal of Missouri permit-to-purchase	Total suicide rate	All ages		X			
8.1	Crifasi et al. (2015)	Repeal of Missouri permit-to-purchase	Firearm suicide rate	All ages		X			
8.1	Crifasi et al. (2015)	Repeal of Missouri permit-to-purchase	Nonfirearm suicide rate	All ages		X			
8.2	Webster, Crifasi, and Vernick (2014)	Repeal of Missouri permit-to-purchase	Total homicide rate	All ages	X	X		X	
8.2	Webster, Crifasi, and Vernick (2014)	Repeal of Missouri permit-to-purchase	Firearm homicide rate	All ages	X	X		X	
8.2	Webster, Crifasi, and Vernick (2014)	Repeal of Missouri permit-to-purchase	Nonfirearm homicide rate	All ages	X	X		X	
8.2	Rudolph et al. (2015)	Connecticut permit-to-purchase	Firearm homicide rate	All ages		X			
8.3	Luca, Deepak, and Poliquin (2016)	Handgun permit system	Any mass shooting incident	All ages				X	

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
8.3	Luca, Deepak, and Poliquin (2016)	Handgun permit system	Any mass shooting incident	All ages				X	
10.1	Cummings et al. (1997a)	CAP law	Firearm suicide rate	Aged 0–14					
10.1	Cummings et al. (1997a)	CAP law	Nonfirearm suicide rate	Aged 0–14					
10.1	Webster et al. (2004)	CAP law	Total suicide rate	Aged 14–17					
10.1	Webster et al. (2004)	CAP law	Total suicide rate	Aged 18–20					
10.1	Webster et al. (2004)	CAP law	Firearm suicide rate	Aged 14–17					
10.1	Webster et al. (2004)	CAP law	Firearm suicide rate	Aged 18–20					
10.1	Webster et al. (2004)	CAP law	Nonfirearm suicide rate	Aged 14–17					
10.1	Webster et al. (2004)	CAP law	Nonfirearm suicide rate	Aged 18–20					
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage (11 states)	Firearm self-inflicted injury rate	Aged 0–17					X
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage (11 states)	Firearm self-inflicted injury rate	Aged 18+					X
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Firearm self-inflicted injury rate	Aged 0–17					X
10.1	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Firearm self-inflicted injury rate	Aged 18+					X
10.1	Gius (2015b)	CAP law	Firearm suicide rate	Aged 0–19				X	
10.2	Cummings et al. (1997a)	CAP law	Firearm homicide rate	Aged 0–14					
10.2	Cummings et al. (1997a)	CAP law	Nonfirearm homicide rate	Aged 0–14					

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
10.2	Lott and Whitley (2001)	Safe storage law	Murder rate	All ages	X		X	X	
10.2	Lott and Whitley (2001)	Safe storage law	Rape rate	All ages	X		X	X	
10.2	Lott and Whitley (2001)	Safe storage law	Robbery rate	All ages	X		X	X	
10.2	Lott and Whitley (2001)	Safe storage law	Assault rate	All ages	X		X	X	
10.3	Cummings et al. (1997a)	CAP law	Unintentional firearm death rate	Aged 0–14					
10.3	Cummings et al. (1997a)	CAP law	Unintentional firearm death rate	Aged 15–19					
10.3	Cummings et al. (1997a)	CAP law	Unintentional firearm death rate	Aged 20–24					
10.3	Webster and Starnes (2000)	CAP law	Unintentional firearm death rate	Aged 0–14					
10.3	Webster and Starnes (2000)	Felony CAP law	Unintentional firearm death rate	Aged 0–14		X			
10.3	Webster and Starnes (2000)	Misdemeanor CAP law	Unintentional firearm death rate	Aged 0–14					
10.3	Webster and Starnes (2000)	Florida CAP law	Unintentional firearm death rate	Aged 0–14		X			
10.3	Webster and Starnes (2000)	Non-Florida CAP law	Unintentional firearm death rate	Aged 0–14					
10.3	Hepburn et al. (2006)	CAP law	Unintentional firearm death rate	Aged 0–14					X
10.3	Hepburn et al. (2006)	CAP law	Unintentional firearm death rate	Aged 55–74					X

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
10.3	Hepburn et al. (2006)	Felony CAP law	Unintentional firearm death rate	Aged 0–14		X			X
10.3	Hepburn et al. (2006)	Felony CAP law	Unintentional firearm death rate	Aged 55–74		X			X
10.3	Hepburn et al. (2006)	Misdemeanor CAP law	Unintentional firearm death rate	Aged 0–14					X
10.3	Hepburn et al. (2006)	Misdemeanor CAP law	Unintentional firearm death rate	Aged 55–74					X
10.3	Hepburn et al. (2006)	CAP law (exclude Fla.)	Unintentional firearm death rate	Aged 0–14					X
10.3	Hepburn et al. (2006)	CAP law (exclude Fla.)	Unintentional firearm death rate	Aged 55–74					X
10.3	Hepburn et al. (2006)	CAP law (exclude Calif.)	Unintentional firearm death rate	Aged 0–14					X
10.3	Hepburn et al. (2006)	CAP law (exclude Calif.)	Unintentional firearm death rate	Aged 55–74					X
10.3	Gius (2015b)	CAP law	Unintentional firearm death rate	Aged 0–19				X	
10.3	DeSimone, Markowitz, and Xu (2013)	CAP law, negligent storage (11 states)	Unintentional firearm injury rate	Aged 0–17					X
10.3	DeSimone, Markowitz, and Xu (2013)	CAP law, negligent storage (11 states)	Unintentional firearm injury rate	Aged 18+					X
10.3	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Unintentional firearm injury rate	Aged 0–17					X

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
10.3	DeSimone, Markowitz, and Xu (2013)	Negligent storage or reckless provision (11 states)	Unintentional firearm injury rate	Aged 18+					X
10.4	Lott (2003)	Safe storage law	Shooting fatalities + injuries	All ages	X		X		
10.4	Lott (2003)	Safe storage law	Number of shooting incidents	All ages	X		X		
11.1	Vigdor and Mercy (2006)	Confiscation law	Total IPH rate	All ages					
11.1	Vigdor and Mercy (2006)	Confiscation law	Firearm IPH rate	All ages					
11.1	Vigdor and Mercy (2006)	Confiscation law	Total IPH rate	Female victims					
11.1	Vigdor and Mercy (2006)	Confiscation law	Firearm IPH rate	Female victims					
11.1	Zeoli and Webster (2010)	Confiscation law	Total IPH rate	All ages					
11.1	Zeoli and Webster (2010)	Confiscation law	Firearm IPH rate	All ages					
11.1	Raissian (2016)	Gun Control Act expansion	Firearm IPH rate	All intimate partners				X	
11.1	Raissian (2016)	Gun Control Act expansion	Firearm IPH rate	Female IPH victims				X	
11.1	Raissian (2016)	Gun Control Act expansion	Firearm IPH rate	Male IPH victims				X	
12.1	Webster et al. (2004)	State minimum purchase age	Total suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	State minimum purchase age	Total suicide rate	Aged 18–20					

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
12.1	Webster et al. (2004)	State minimum purchase age	Firearm suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	State minimum purchase age	Firearm suicide rate	Aged 18–20					
12.1	Webster et al. (2004)	State minimum purchase age	Nonfirearm suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	State minimum purchase age	Nonfirearm suicide rate	Aged 18–20					
12.1	Webster et al. (2004)	State minimum possession age	Total suicide rate	Aged 14–17		X			
12.1	Webster et al. (2004)	State minimum possession age	Total suicide rate	Aged 18–20		X			
12.1	Webster et al. (2004)	State minimum possession age	Firearm suicide rate	Aged 14–17		X			
12.1	Webster et al. (2004)	State minimum possession age	Firearm suicide rate	Aged 18–20		X			
12.1	Webster et al. (2004)	State minimum possession age	Nonfirearm suicide rate	Aged 14–17		X			
12.1	Webster et al. (2004)	State minimum possession age	Nonfirearm suicide rate	Aged 18–20		X			
12.1	Webster et al. (2004)	Federal minimum purchase age	Total suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	Federal minimum purchase age	Firearm suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	Federal minimum purchase age	Nonfirearm suicide rate	Aged 14–17					

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
12.1	Webster et al. (2004)	Federal minimum possession age	Total suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	Federal minimum possession age	Firearm suicide rate	Aged 14–17					
12.1	Webster et al. (2004)	Federal minimum possession age	Nonfirearm suicide rate	Aged 14–17					
12.1	Gius (2015b)	State minimum possession age	Firearm suicide rate	Aged 0–19				X	
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Total suicide rate	All ages	X				
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Total suicide rate	Aged 0–19	X				
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Total suicide rate	Aged 20+	X				
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm suicide rate	All ages	X				
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm suicide rate	Aged 0–19	X				
12.1	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm suicide rate	Aged 20+	X				
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Total suicide rate	All ages	X				
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Total suicide rate	Aged 0–19	X				
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Total suicide rate	Aged 20+	X				

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Firearm suicide rate	All ages	X				
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Firearm suicide rate	Aged 0–19	X				
12.1	Rosengart et al. (2005)	State minimum possession age of 21	Firearm suicide rate	Aged 20+	X				
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Total homicide rate	All ages	X				
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Total homicide rate	Aged 0–19	X				
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Total homicide rate	Aged 20+	X				
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm homicide rate	All ages	X				
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm homicide rate	Aged 0–19	X				
12.2	Rosengart et al. (2005)	State minimum purchase age of 21	Firearm homicide rate	Aged 20+	X				
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Total homicide rate	All ages	X				
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Total homicide rate	Aged 0–19	X				
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Total homicide rate	Aged 20+	X				
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Firearm homicide rate	All ages	X				

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Firearm homicide rate	Aged 0–19	X				
12.2	Rosengart et al. (2005)	State minimum possession age of 21	Firearm homicide rate	Aged 20+	X				
12.2	Rudolph et al. (2015)	State minimum purchase age of 21	Firearm homicide rate	All ages		X			
12.3	Gius (2015b)	State minimum possession age	Unintentional firearm death rate	Aged 0–19				X	
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 18	Any mass shooting incident	N/A				X	
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 18	Any mass shooting incident	N/A				X	
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 21	Any mass shooting incident	N/A				X	
12.4	Luca, Deepak, and Poliquin (2016)	State minimum purchase age of 21	Any mass shooting incident	N/A				X	
13.1	Rosengart et al. (2005)	Shall-issue law	Total suicide rate	All ages	X				
13.1	Rosengart et al. (2005)	Shall-issue law	Firearm suicide rate	All ages	X				
13.1	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Self-inflicted firearm injury rate	Aged 0–17		X			
13.1	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Self-inflicted firearm injury rate	Aged 18+		X			
13.2	Rosengart et al. (2005)	Shall-issue law vs. no CC permitted	Total homicide rate	All ages	X				

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
13.2	Rosengart et al. (2005)	Shall-issue law vs. no CC permitted	Firearm homicide rate	All ages	X				
13.2	Grambsch (2008)	Shall-issue vs. no CC (random effects)	Murder rate	All ages			X		
13.2	Grambsch (2008)	Shall-issue vs. no CC (fixed effects)	Murder rate	All ages	X		X		
13.2	French and Heagerty (2008)	Shall-issue law vs. no CC	Firearm homicide rate	All ages					
13.2	Roberts (2009)	May-issue vs. shall-issue	Total IPH rate	All ages			X		
13.2	Roberts (2009)	No CC vs. shall-issue	Total IPH rate	All ages			X		
13.2	Roberts (2009)	May-issue vs. shall-issue	Firearm IPH rate	All ages			X		
13.2	Roberts (2009)	No CC vs. shall-issue	Firearm IPH rate	All ages			X		
13.2	La Valle and Glover (2012)	May-issue	Total homicide rate	All ages					
13.2	La Valle and Glover (2012)	Shall-issue	Total homicide rate	All ages					
13.2	La Valle and Glover (2012)	May-issue	Firearm homicide rate	All ages					
13.2	La Valle and Glover (2012)	Shall-issue	Firearm homicide rate	All ages					
13.2	La Valle (2013)	Shall-issue law vs. no CC permitted	Total homicide rate	All ages					
13.2	La Valle (2013)	Shall-issue law vs. no CC permitted	Firearm homicide rate	All ages					
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Total homicide rate	All ages	X			X	
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Firearm homicide rate	All ages	X			X	

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Nonfirearm homicide rate	All ages	X			X	
13.2	Webster, Crifasi, and Vernick (2014)	Shall-issue law vs. no CC permitted	Murder/manslaughter rate	All ages	X			X	
13.2	Gius (2014)	Restrictive vs. lenient CC laws	Firearm murder rate	All ages			X	X	
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Murder rate	All ages					
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Rape rate	All ages					
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Robbery rate	All ages					
13.2	Aneja, Donohue, and Zhang (2014)	Shall-issue vs. any other CC law	Assault rate	All ages					
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Violent crime	All ages	X		X	X	
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Murder rate	All ages	X		X	X	
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Rape rate	All ages	X		X	X	
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Aggravated assault	All ages	X		X	X	
13.2	Martin and Legault (2005)	Shall-issue (vs. other CC law)	Robbery rate	All ages	X		X	X	

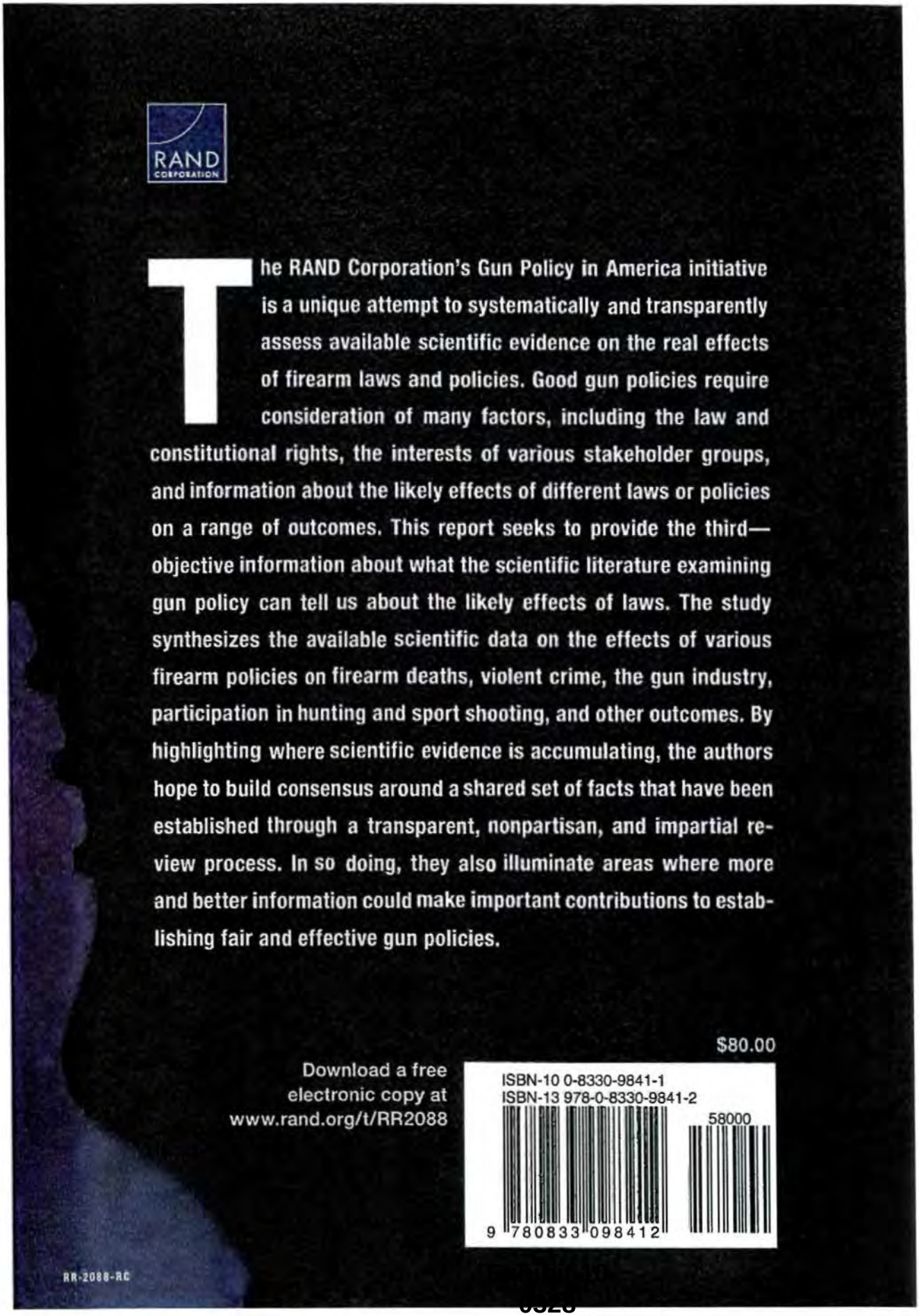
Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Murder rate	All ages					
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Rape rate	All ages					
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Robbery rate	All ages					
13.2	Kendall and Tamura (2010)	Shall-issue (vs. other CC law)	Assault rate	All ages					
13.3	Lott and Mustard (1997)	Shall-issue law	Unintentional handgun death rate	All ages	X		X		
13.3	Lott and Mustard (1997)	Shall-issue law	Unintentional nonhandgun death rate	All ages	X		X		
13.3	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Unintentional firearm injury rate	Aged 0–17		X			
13.3	DeSimone, Markowitz, and Xu (2013)	Shall-issue law	Unintentional firearm injury rate	Aged 18+		X			
13.4	Lott (2003)	Shall-issue law	Multiple-victim gun deaths, injuries	All ages	X		X		
13.4	Lott (2003)	Shall-issue law	No. of multiple-victim gun incidents	All ages	X		X		
13.4	Luca, Deepak, and Poliquin (2016)	Permitless carry	Any mass shooting incident	All ages				X	
13.4	Luca, Deepak, and Poliquin (2016)	Permitless carry	Any mass shooting incident	All ages				X	

Table B.2—Continued

Report Figure	Study	Specific Policy or Independent Variable	Specific Outcome	Population	Parameter	Tx Units	Cluster	Model	Other
13.4	Luca, Deepak, and Poliquin (2016)	Shall-issue law	Any mass shooting incident	All ages				X	
13.4	Luca, Deepak, and Poliquin (2016)	Shall-issue law	Any mass shooting incident	All ages				X	
13.5	Duggan (2001)	Right-to-carry laws	Gun ownership	None	X				

NOTE: CAP = child-access prevention; CC = concealed carry; IPH = intimate partner homicide; N/A = not applicable; NICS = National Instant Criminal Background Check System.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The RAND Corporation's Gun Policy in America initiative is a unique attempt to systematically and transparently assess available scientific evidence on the real effects of firearm laws and policies. Good gun policies require consideration of many factors, including the law and constitutional rights, the interests of various stakeholder groups, and information about the likely effects of different laws or policies on a range of outcomes. This report seeks to provide the third—objective information about what the scientific literature examining gun policy can tell us about the likely effects of laws. The study synthesizes the available scientific data on the effects of various firearm policies on firearm deaths, violent crime, the gun industry, participation in hunting and sport shooting, and other outcomes. By highlighting where scientific evidence is accumulating, the authors hope to build consensus around a shared set of facts that have been established through a transparent, nonpartisan, and impartial review process. In so doing, they also illuminate areas where more and better information could make important contributions to establishing fair and effective gun policies.
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EXHIBIT "11"

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The Impact of Mass Shootings on Gun Policy

Michael Luca
Deepak Malhotra
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Working Paper 16-126



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The Impact of Mass Shootings on Gun Policy

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Abstract

There have been dozens of high-profile mass shootings in recent decades. This paper presents three main findings about the impact of mass shootings on gun policy. First, mass shootings evoke large policy responses. A single mass shooting leads to a 15% increase in the number of firearm bills introduced within a state in the year after a mass shooting. This effect increases with the extent of media coverage. Second, mass shootings account for a small portion of all gun deaths, but have an outsized influence relative to other homicides. Third, when looking at bills that were actually enacted into law, the impact of mass shootings depends on the party in power. The annual number of laws that loosen gun restrictions doubles in the year following a mass shooting in states with Republican-controlled legislatures. We find no significant effect of mass shootings on laws enacted when there is a Democrat-controlled legislature, nor do we find a significant effect of mass shootings on the enactment of laws that tighten gun restrictions.

We thank Joseph Hall and Jessica Li for excellent research assistance.

1. Introduction

Recent decades have witnessed a series of high-profile mass shootings throughout the United States. While most homicides receive little attention from the public, mass shooting incidents are extremely salient. Nonetheless, a common and frequently articulated view is that despite extensive discussion about mass shootings, they have little influence on policymaking.

Should we expect policymakers to propose new legislation in the wake of a mass shooting? Given that the vast majority of gun deaths do not result from mass shootings, it would be difficult to reconcile large responses to mass shootings with basic models of optimal policy aimed exclusively at reducing gun violence. However, mass shootings may have another effect—bringing attention to the issue of gun violence. Mass shootings could potentially lead to policy changes by focusing attention on gun violence, even if they do not provide new information regarding effective policy or change politicians' preferences.

Political scientists have noted that issues tend to rise and fall in importance within a policy agenda, creating periods in which specific policies shift very rapidly and other periods in which they do not change at all (Baumgartner and Jones 1993, Kingdon 1984). In the context of gun violence, events like the Columbine High School shooting in Colorado have led to calls for new restrictions on guns as well as vehement responses from groups that oppose such changes and favor the loosening of gun laws (Goss 2006; Spitzer 2012). More generally, mass shootings may create "policy windows" during which legislatures become receptive to change—potentially due to shifts in the attention of the media and constituents. Nonetheless, the extent to which mass shootings affect policy and the nature of the resulting changes are empirical questions.

In this paper, we explore the impact of mass shootings on gun policy, constructing a dataset of all U.S. gun legislation and mass shootings over a period of twenty-five years (1989–2014)—combining data from a variety of media and government sources. We begin by looking at the extent of deaths resulting from mass shootings relative to other gun deaths. Overall, there are more than 30,000 gun related fatalities in the United States per year. Approximately 56% of these are suicides and 40% are homicides. The remaining 4% are accidents or incidents of undetermined intent. Mass shootings accounted for about 0.13% of all gun deaths and 0.34% of gun murders between 1989 and 2014.

Because mass shootings are salient and plausibly random occurrences, we are able to implement a difference-in-differences strategy around the timing of mass shootings to estimate their causal impact on gun regulation. Specifically, we compare gun laws before and after mass shootings, in states where mass shootings occur relative to all other states.

We then present three main findings about the impact of mass shootings on policy. First, mass shootings evoke large policy responses. A single mass shooting leads to an approximately 15% increase in the number of firearm bills introduced within a state in the year after a mass shooting. This effect is largest after shootings with the most fatalities and is greatest in the Republican-controlled legislatures.

Second, although mass shootings account for a small portion of all gun deaths, they have an outsized influence relative to other homicides. Our estimates suggest that the per-death impact of mass shootings on bills introduced is much larger than the impact of gun homicides in non-mass shooting incidents.

Third, when looking at enacted laws, the impact of mass shootings depends on the party in power. A mass shooting roughly doubles the number of laws enacted in a year that loosen gun

restrictions in states with Republican-controlled legislatures. We find no significant effect of mass shootings on laws enacted when there is a Democrat-controlled legislature. We also find no significant effect of mass shootings on the number of enacted laws that tighten gun restrictions.

These findings contribute to the political economy literatures on public attention, accountability, policymaking, and law. Empirical research on policymaking emphasizes that factors beyond social welfare—such as ideology, opportunism, and fiscal considerations—influence policy (Makowsky and Stratmann 2009; Bardhan and Mookherjee 2010). As we show, mass shootings cause intense legislative activity despite accounting for less than 1% of firearm deaths, suggesting factors beyond optimal deterrence affect debates concerning gun policy.

Additionally, our results contribute to the literature on issue selection and salience, which examines when and why politicians emphasize or downplay elements of their policy platform (Riker 1996; Petrocik 1996; Dragu and Fan 2016). Our finding that Republican-controlled states loosen restrictions on firearms following mass shootings is consistent with the literature's prediction that politicians in the majority tend to focus policymaking on issues they "own"—i.e. those which they have a reputation for successfully handling in the interests of their constituents. Using this definition, and at least during our sample period, Republicans do appear to have "owned" the gun issue (Goss 2006).

Finally, our results relate to the literature on media and public attention (Eisensee and Strömberg 2007; Durante and Zhuravskaya 2018). We find that mass shootings receive considerable media attention and that this attention is correlated with the number of gun bills introduced following mass shootings, suggesting that increased attention is a plausible mechanism for the higher levels of legislative activity we observe following mass shootings. This sheds light

on the role of attention and salience in policymaking, and on the interaction between issue salience and political preferences in shaping the degree and direction of enacted policies.

2. Background and Data

As described above, of the roughly 30,000 annual gun deaths in the United States, fewer than 100 occur in mass shootings. For the purpose of this paper, we define a "mass shooting" as an incident in which 4 or more people, other than the perpetrator(s), are unlawfully killed with a firearm in a single, continuous incident that is not related to gangs, drugs, or other criminal activity. This definition closely matches the one used by Krouse and Richardson (2015) and the FBI's definition of "mass murder" as 4 or more murders "occurring during the same incident, with no distinctive time period between the murders… typically involv[ing] a single location" (Morton and Hilts 2008). We further restrict our analysis to cases where at least three of the fatalities were individuals unrelated to, and not romantically involved with, the shooter(s). We include spree murders—homicides at multiple locations without a significant pause between incidents —if they result in four or more deaths.

We assemble a list of mass shootings since 1989 from a variety of government and media sources because there is no single, comprehensive government database of mass murders. We first extract all gun-related mass murders (four or more dead) that are not felony related from the FBI supplementary homicide reports (SHR). We then verify each incident in the SHR using media accounts; the SHR may contain errors in which separate homicides in a month are reported as a single incident, which is why it is necessary to verify the incidents with media coverage. Participation in the SHR program is voluntary and many law enforcement agencies do not report detailed data to the FBI. We therefore supplement the FBI data with mass shootings gathered from

media accounts or compiled by other researchers and journalists interested in the topic. Specifically, we combine the SHR data with data on mass shootings collected by the Mass Shootings in America (MSA) project at Stanford University (Stanford Geospatial Center and Stanford Libraries 2015) and a list created by *USA Today* (2013). For each shooting, we determine the event location as well as the number of victim fatalities and injuries. We also classify shootings based on the relationship (if any) between the alleged shooter(s) and victims. Previous work on mass shootings (Duwe 2007; Krouse and Richardson 2015) distinguishes between public mass shootings that occur in places frequented by the public, felony-related murders, and familicide. We categorize shootings by whether they are public events or primarily related to domestic conflicts, and we focus on incidents in which at least three people not related or romantically involved with the shooter died. This restriction filters out family-killings in residences as well as family-related murders in public places.[1]

Figure 1 shows the number of incidents and fatalities in mass shootings by year. The data show a slight upward trend in the number of incidents and fatalities over time, but both incidents and fatalities vary substantially from year to year. Figure 2 shows a map of the locations of mass shootings in the United States between 1989 and 2014.

2.2. Gun Legislation

State governments are the primary regulators of firearms. Federal laws establish a minimum level of gun control, which is augmented to varying degrees by state and local policies. The federal government has put some restrictions on firearm commerce, the possession of guns by potentially dangerous individuals, and ownership of certain types of firearms and ammunition.

[1] A 2006 shooting at a church in Louisiana is one example. A man killed his wife and in-laws while abducting her and their children from a church. Only the wife's family was present at the church during the shooting.

States decide a variety of gun policies ranging from who can purchase and possess a gun to what types of guns are allowed in different situations to how guns should be stored and what types of training should be undertaken by gun owners. Local ordinances can also restrict firearm possession and use, but state statutes enacted in the past few decades have limited the importance of local government in this arena by pre-empting local regulations.

We create a comprehensive dataset of gun legislation in all fifty states using the bill tracking reports service from LexisNexis, which includes all bills introduced in state legislatures since at least 1990 with a synopsis and timeline of each bill's progress. This allows us to determine whether bills pass the legislature and become law. We identify firearm bills by searching for the firearm-related terms "firearm", "handgun", "pistol", "revolver", "rifle", "shotgun", "long-gun", and "assault weapon." We identify 20,409 firearm bills and 3,199 laws between 1990 and 2014. In other words, there were 20,409 *proposals* made and 3,199 laws passed in the twenty-five-year sample period across all fifty states. This includes laws that loosen or tighten gun restrictions, and many that do neither or both. We exclude resolutions, executive orders, and ballot initiatives from the analysis.[2] Figure 3 shows the total number of bills introduced and laws enacted by year.

To explore whether gun control is tightened or loosened after mass shootings, we hired eight people to manually code the summary of bills that became law. Coders were given instructions explaining how to code legislation, but were otherwise blind to the topic and design of the study. We presented bill summaries from LexisNexis to coders in randomly chosen groups

[2] Our data source—Lexis Advance—includes resolutions, but it's unclear whether it includes all executive orders or ballot initiatives. Including those we do have along with all resolutions does not meaningfully change the results—the correlation between our measure of legislation and a measure including these other actions is 0.99. In addition, legislators in some states first submit ideas for bills in the form of a "draft request" or similar document. We exclude these from our analyses because they result in double counting some legislation. We instead focus only on actual bills.

of 50. Two people coded each summary, and no coder saw the same summary multiple times. For each summary, coders decided whether the bill was tightening (stricter gun control), loosening (weaker gun control), uncertain (insufficient information), both tightening and loosening, or neither tightening nor loosening (neutral). There were therefore five possible labels for bills: tighten, loosen, both, neutral, or uncertain. Appendix A shows example bill summaries and their expected labels.

To cross-validate (and incentivize) the bill coding, we coded a small fraction of bills ourselves as a baseline comparison point. For this process, we blinded ourselves from any information about when or where the bill was proposed. We then used our scores to assess the quality of coders. Specifically, each group of 50 bills given to a coder contained five bills that we had also coded (they did not know which bills were and weren't coded by us, and did not have access to any of our assessments of whether a bill was looser or tighter). Coders were paid up to a 50% bonus based on the extent to which their coding matched ours (which we simply told them was a "gold standard" of known codes).

Across all five categories, the two coders for each bill agreed with each other 52% of the time (the agreement rate would be 20% by chance) and agreed with the gold standard 71% of the time. Coders performed worst on the neutral category, and best on the tighten-only and loosen-only categories; when a bill tightens gun control (according to the gold standard), the two coders agree on tightening 67% of the time, and when a bill loosens gun control, they agree on loosening 60% of the time. The fact coders were not able to agree on a category for 48% of laws reduces the sample available for analysis and is a limitation of our study. In principle, laws might be unclear for coders either because the law is relatively minor and intended to be window dressing, or because it was complicated for the coders to read (leading to coder errors or ambiguity). To

explore, we compared 100 random laws that coders disagreed about to 100 they agreed on. We then classified each as a minor (e.g. convening a committee to study an issue) or major (e.g. allowing guns in schools) policy change. We find a similar number of minor laws in both samples, suggesting that coder disagreement likely results from coder inattention rather than laws being especially likely to be minor policy changes. We do not see differences in the rate of disagreement among coders about laws enacted in the wake of a mass shooting, relative to laws enacted at other times. Appendix A includes a breakdown of the coding for all 3,199 laws, further discussion of coder agreement, and examples of bills that coders found difficult.

Most importantly for the purposes of our analysis, however, is that when the two coders of a bill agree with each other on tightening, they also agree with our coding 93% of the time; when the two coders agree on loosening, they are consistent with our scores 91% of the time. When analyzing the direction of policy change, we leverage this high degree of reliability by restricting our analysis to laws that coders agreed were designed to tighten or loosen gun control.[3] Because states can pass either, none, or both types of laws in a year, our dependent variable is the count of laws in each direction.

Figure 4 shows mean bills introduced, laws enacted, and tightening and loosening laws by political control of the state legislature. Republicans enact more laws loosening gun control, and fewer laws tightening gun control, than do Democrats. Republican, Democratic, and split legislatures enact a similar number of total gun laws. The coders who classified the legislation were only given summaries of each bill; they were not provided with the state, year, or any information on political affiliation.

[3] This is 37% of all enacted laws in our data. As mentioned, nearly half of laws cannot be categorized because coders disagreed on the classification. Another 13% are not used because coders agreed they were neutral or uncertain.

2.3. Control Variables

Our main specification controls for state and year fixed effects, as well as an indicator for whether the legislature is in a regular session in the given year, and whether it is the first year of a legislative biennium (since bills are more likely to be enacted then). Specifically, we create two dummy variables. First, we create a dummy for legislatures that held a regular session in a given year because not all legislatures meet annually. Legislatures that are not in regular session would have to rely on special sessions, which can be difficult to call, in order to consider new gun legislation (though some do this). Second, we control for the first year of each legislative biennium (a two-year period of law making), which varies by whether states hold elections in odd or even years. Typically, more bills are introduced during the first year of the biennium, which leads to alternating years of high and low bill introductions (Figure 3). Building on this main specification, we then add time varying controls as a robustness check. These include economic and demographic factors such as unemployment, divorce rates, and rates of military service. We then layer on controls for the political party in power, since the direction of proposed changes often vary between Democrats (who generally favor more restrictive gun laws) and Republicans (who generally favor less restrictive gun laws). Table 1 contains summary statistics for all variables used in the analyses.

3. The Impact of Mass Shootings on Gun Policy

3.1 Identification Strategy

We implement a difference-in-differences strategy that compares gun laws before and after mass shootings, in states where mass shootings occur relative to all other states. Our dependent variables are counts of bills or enacted laws at the state-year level. We study the effect of mass shootings using Poisson regressions with conditional mean:

$$\mathbf{E}\left[y_{s,t}\middle|\alpha_s, \lambda_t, Shoot_{s,t-1}, X_{s,t}\right] = \exp\left(\alpha_s + \lambda_t + \delta_s t + \beta\, Shoot_{s,t-1} + \gamma' X_{s,t}\right)$$

where $y_{s,t}$ is a count of bills introduced or laws enacted in state s and year t; α_s and λ_t are state and year fixed effects; the $\delta_s t$ are state-specific time trends; $Shoot_{s,t-1}$ is either an indicator for states with a mass shooting or the fatality count in mass shootings, and $X_{s,t}$ is a vector of time-varying political, economic, and demographic factors. We estimate the parameters via maximum likelihood by conditioning on the sum of $y_{s,t}$ within states and including year indicators.[4]

Our identification allows us to measure the impact of a mass shooting within that state, controlling for other changes that are happening at the national level. Because this identification strategy does not identify national responses to mass shootings (which would be absorbed by our year effect), our estimates of changes in gun policy may underestimate the total impact of a mass shooting. We can and do account for potential spillovers into neighboring states, but do not see significant spillover effects; these results are presented in Appendix B.

3.2 The Effect of Mass Shootings on Gun Bill Introductions

Table 2 shows that a mass shooting leads to a 15% increase in firearm bills introduced (column 4). For the average state, this amounts to an additional 2.4 firearm bills introduced in the year following a mass shooting. Mass shootings with more deaths lead to larger effects. On average, each additional death in a mass shooting leads to a 2.3% increase in the number of gun bills introduced (column 8). These results hold for both Republican-controlled and Democrat-controlled legislatures, for alternative victim thresholds used to define mass shootings, models that

[4] It is possible that the number of bills introduced in a given year within a state would depend on the number introduced in recent years in ways that we do not capture with the state fixed effects or time trends. To allow for this possibility, we also estimated an exponential feedback model in which past legislative activity can affect current activity. Our results suggest past legislation does not substantively affect current legislation; state fixed effects adequately capture time series persistence in legislation and the coefficient estimate for the impact of mass shootings is similar in the exponential feedback model.

Exhibit 11
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examine the year of the shooting in addition to the previous year, and models that use the log of fatalities instead of the count.[5]

3.3 Comparing Mass Shootings and Non-Mass Shootings

Table 3 shows that fatalities resulting from mass shootings lead to much larger increases in gun bill introductions than gun homicides in non-mass shooting incidents. We estimate the models in this table using mass shooting fatalities and ordinary gun homicides per 100,000 people to facilitate comparison between the two types of murder. Our estimates are imprecise, but suggest it would take approximately *125 people dying in individual gun homicide incidents* to have as much impact on bills introduced as each person who dies in a mass shooting. There are, however, a number of caveats to this estimate. First, ordinary gun homicides are less random than mass shootings and therefore not exogenous in the model. Second, the victims of mass shootings and ordinary gun homicides have different attributes; the impact of mass shootings is not easily decomposed into the effect of victim count, media salience, and attributes of the victims. Any differences in response between ordinary and mass shootings could be driven in part by attributes of the victims. Our estimates, however, are still suggestive evidence that mass shootings tend to have a greater impact on legislative activity than changes in the ordinary gun homicide rate.

3.4 The Role of Political Party on Laws Enacted

As mentioned previously, the two major political parties in the United States differ dramatically in their stances on how restrictive gun policy should be, with the Republican Party favoring fewer gun restrictions.[6] To look at the impact of political parties on gun policy, we restrict

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[5] Results by political affiliation are presented in Table 4 and discussed in section 3.4 below. Results using alternative victim thresholds for the definition of mass shooting (e.g. 5+, 7+, 10+ deaths) and alternative models are available from the authors upon request.

[6] See, for example, https://www.gop.com/platform/ and https://www.democrats.org/party-platform.

our analysis to enacted laws, all of which were coded for whether they loosened or tightened gun restrictions (see data description for more details).

Tables 4 and 5 show the effect of mass shootings interacted with Democrat and Republican control of state legislatures. The results show that Democrats and Republicans respond differently to mass shootings. Table 4 shows that Republicans introduce 48% more bills and Democrats introduce 11% more bills following mass shootings than in other years, although the coefficient for Democrats is not statistically significant.[7] The results also indicate that Republican legislatures enact 32% more laws the year after a mass shooting than in other years, a statistically significant increase. Democratic legislatures enact 7% more laws the year after a mass shooting, but this estimate is imprecise and not statistically significant.[8]

When there is a Republican-controlled legislature, mass shootings lead to more firearm laws that loosen gun control (Table 5). Our point estimates indicate that a mass shooting in the previous year increases the number of enacted laws that loosen gun restrictions by 115% in states with Republican-controlled legislatures. When there is a Democrat-controlled legislature, mass shootings lead to a statistically insignificant reduction in laws that loosen gun control. This result is similar across models using the count of fatalities instead of a shooting indicator, across alternative victim thresholds, with or without year fixed effects, with or without control variables, and when we include only a limited set of controls.[9] We find no significant effects of mass shootings on laws that tighten gun restrictions, but the estimates are imprecise.

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[7] The difference between Republicans and Democrats is statistically significant at the 0.05 level.
[8] The difference between Republicans and Democrats in terms of enacted laws is not statistically significant. Without interacting mass shooting with political party, there is a 9% increase in gun laws enacted (i.e. bills that become law) after a mass shooting relative to other years, but this estimate is imprecise (Appendix C).
[9] Available from authors upon request. The coefficients tend to be larger in magnitude for shootings resulting in more deaths (e.g. a dummy for shootings that causes 6–9 deaths has a larger coefficient than a dummy for shootings causing 4–5 deaths). The effect for tightening laws is statistically significant and positive—for both

The finding that Republicans—who typically favor fewer restrictions on gun owners—are more active in introducing and passing new legislation following mass shootings is consistent with hypotheses in the literature on how issue salience affects policy decisions (Riker 1996; Petrocik 1996; Dragu and Fan 2016). These models of issue selection suggest that Republican-controlled legislatures might respond to increased attention to gun policy by introducing new legislation because Republican voters: (a) tend to be in favor of expanding gun rights and access to guns (Parker et al. 2017), (b) often argue that such actions reduce gun crime (Parker et al. 2017), and (c) are more likely than Democratic voters (during our sample period) to mobilize for political action on this issue (Goss 2006).[10] Research suggests that supporters of gun rights are more likely to advocate for their positions by writing letters or donating money (Schuman and Presser 1981) and are better-organized than citizens favoring gun control; membership in pro-gun-control organizations, for example, is less than 10% of the National Rifle Association's membership (Goss 2006).[11]

Anecdotally, there are several examples of Republican lawmakers proposing looser gun laws in response to mass shootings. In the year after the mass shooting at Marjory Stoneman Douglas High School, Florida passed legislation allowing teachers and volunteers to carry guns in schools. Republican Rep. Chuck Brannan explained the rationale: "It allows the good guys to stop the bad. The bad guys will never know when the good guys are there to shoot back."[12] Similarly, Texas expanded its school marshal program, which trains teachers to carry weapons, the year after

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Democrats and Republicans—only for shootings causing 10+ deaths. This result, however, is identified from only 11 state-year observations due to the rarity of mass shootings that kill 10 or more people.

[10] Republicans appear more likely than Democrats to enact new gun legislation in the absence of a mass shooting (see Table 4, $p = 0.08$).

[11] Goss (2006) further analyzes the reasons why gun rights organizations have been better organized and more successful than gun control advocates.

[12] Anderson, Curt. "Florida lawmakers pass bill allowing more armed teachers." *AP News*. 1 May 2019.

a shooting at Santa Fe High School. Republican Rep. Tony Tinderholt suggested that "what stops people with guns is other people with guns."[13]

Overall, the observed effects of mass shootings in Republican-controlled states on bill introductions, laws enacted, and loosening laws suggest that there are relevant changes to gun policy following mass shootings. However, it is possible that mass shootings also lead to an uptick in minor proposals as well; legislators may want to signal that they are making changes even if the new laws have only unsubstantial effects on policy in practice. To further examine this possibility, we look at the impact of mass shootings on laws our coders agreed where neutral since these tend to be more minor proposals (e.g. changing the official responsible for storing certain records). As seen in Appendix D, we do not see statistically significant changes in the number of neutral law changes, although the point estimate is positive.

3.5 Media Coverage and Mass Shootings

To explore the potential role of media in increasing the salience of mass shootings, we assemble a dataset of television news coverage related to guns. We measure the seconds of gun-related news coverage on the national, evening news programs of the three major television networks—NBC, ABC and CBS—using data from the Vanderbilt Television News Archive (VTNA).[14] This source has been used in prior research to measure media attention to natural disasters (Eisensee and Strömberg 2007) and the Israeli-Palestinian conflict (Durante and Zhuravskaya 2018). We exclude cable news networks because data on their news coverage is not available for our sample period. To calculate total gun-related news coverage, we take all news segments that mention gun-related words in either the segment title or summary provided by

[13] Vertuno, Jim. "Texas seeks more armed school personnel after mass shooting." *AP News.* 7 May 2019.
[14] The Vanderbilt Television News Archive is accessible online at https://tvnews.vanderbilt.edu.

VTNA and exclude segments that include the names of foreign countries.[15] We then sum the duration of these news stories by day to create a measure of total gun-related news coverage.

To capture variation in news coverage across shootings, we aggregate news coverage in the ten days following each mass shooting (including the day of the shooting). The five most covered mass shootings between 1989 and 2014 are the shootings at Sandy Hook Elementary School, a Gabrielle Giffords constituent meeting, Virginia Tech, an Aurora movie theater, and Columbine High School.

Mass shootings increase gun-related media coverage, and shootings that kill more people result in more coverage. Figure 5 shows total seconds of evening news coverage devoted to gun-related stories around the time of mass shootings. Mass shootings resulting in 10 or more fatalities receive substantially more coverage than shootings resulting 6–9 fatalities, which in turn receive more coverage than shootings with 4–5 fatalities. Appendix E provides further support for this relationship in the form of regression results.

To examine whether the amount of gun-related news coverage following a mass shooting affects policy, we add the measure of media coverage to our model by totaling the amount of gun-related news coverage following each shooting within a state during the previous year. The results in Table 6 show that the coefficient on news coverage is positive and statistically significant, indicating that more media attention is associated with a greater policy response. One hour of gun-related news coverage following a mass shooting is associated with a 13 percent increase in the number of gun-related bills introduced in state legislatures (column 4). This suggests that increased salience of gun policy after mass shootings is a plausible mechanism for the relationship between shootings and gun legislation. Media coverage, however, is strongly related to the number of

[15] This filter removes news stories about foreign wars.

fatalities (see Figure 5), making it difficult to distinguish the impact of media coverage from other attributes of the shooting event.

Unlike other studies of the media's effect on public policy (Eisensee and Strömberg 2007; Durante and Zhuravskaya 2018), our ability to detect policy responses to gun-related news coverage is limited by the small number of events and by the delay between when a mass shooting occurs and when legislatures can act, which is usually not until the next legislative session. The natural disasters studied by Eisensee and Strömberg (2007) and military attacks studied by Durante and Zhuravskaya (2018) number in the thousands, whereas we observe 169 mass shootings. Furthermore, these authors focus on executive actions—whether to provide disaster relief (Eisensee and Strömberg 2007) or launch a military attack (Durante and Zhuravskaya 2018)—that can be taken within hours or days of an event and accompanying news story. Legislative action on the other hand must wait until a legislature is in session and rules allow for the introduction of new bills. Our results overall, however, show that attention shifts to gun violence following mass shootings, and shootings that kill more people receive more media attention. These shifts in attention are a plausible mechanism behind increased legislative activity related to guns in the year following mass shootings

3.6 Robustness Checks

In this section, we present four sets of robustness checks. First, we collapse our data into two-year intervals (e.g. by legislative biennium) to ensure the saw-edge pattern in bill introductions (see Figure 3) does not drive our results. Second, we provide support for the exogeneity of mass shootings. Third, we perform a falsification exercise in which we use randomly generated placebo shootings instead of actual shootings; we show there are no effects using the placebo shootings, providing support for our identification strategy. Fourth, we individually drop each state from the

sample and re-estimate the models to ensure our effect is not driven by a single state or shooting event.

3.6.1 Analysis by Legislative Biennium

Figure 3 shows that bill introductions vary substantially between odd- and even-numbered years. We believe this pattern is driven by most states starting their two-year legislative biennium in odd-numbered years, following elections in November of even-numbered years. Many states allow legislators to "carryover" bills that do not pass in the first year of the biennium for consideration in the second year. This means the agenda in the second year of each biennium includes both newly introduced bills and bills introduced the previous year that have been carried over.[16] Our models control for this pattern by including both year fixed effects and an indicator for the first year of each biennium. To ensure this pattern does not drive our results, however, we estimate models that collapse the data to two-year intervals and regress the total number of bills introduced on the mean of mass shootings (e.g. a variable equal to one if both years of the biennium follow a mass shooting and equal to 0.5 if only one year of the biennium follows a mass shooting). The results are shown in columns 3 and 7 in Table 2, and column 3 in Tables 3 and 6. The coefficient estimates are less precise, but remain statistically significant and suggest similar effect sizes. The estimate in column 3 of Table 2, for example, suggests mass shootings lead to the introduction of 3.5 more bills for an average state.

3.6.2 Determinants of Mass Shootings

Our ability to identify the causal impact of mass shootings on policy rests on the assumption that they are plausibly exogenous to other factors that would drive gun control in a

[16] Our analyses count each bill once, including it only in the year it was introduced. We count enacted laws in the year of enactment.

given year. Given the erratic nature of mass shootings, this is a plausible assumption. Nonetheless, one might be concerned that both mass shootings and gun policy are being driven by a third variable. To provide support for our assumption and interpretation, we regress an indicator for whether a mass shooting occurs on economic, demographic, and policy variables.

Consistent with the assumption that mass shootings are exogenous with respect to potential confounds, the results in Appendix F show that, out of 32 variables we consider, only unemployment is significantly associated with a higher probability of mass shootings. Because higher unemployment is also associated with a reduction in gun bill introductions (Table 2), the potential bias of this would work in the opposite direction of our finding—making it unlikely that this is driving our results. To further support our interpretation, we control for unemployment in all models. Importantly, bills introduced, laws enacted, and major gun policies do not predict future mass shootings (Appendix F).

3.6.3 Placebo Tests

We perform a falsification exercise based on the insights of Bertrand, Duflo, and Mullainathan (2004) and Donald and Lang (2007). Specifically, we randomly assign placebo mass shootings to state-years in which no actual shooting occurred with probability equal to each state's frequency of shootings, and randomly draw a fatality count from the empirical distribution of fatalities. Appendix G shows percentiles of the test statistic based on 1,000 repetitions of this procedure and our actual test statistics from Tables 2 and 5. The results suggest our tests do not over-reject the null hypothesis that mass shootings have no effect on gun policy.

3.6.4 Excluding Individual States

To ensure our results are not driven by a single state or shooting, we separately remove each state from the sample and re-estimate the models. Appendix H presents graphs of the resulting

50 coefficients for the effect of mass shootings on bills and laws, and coefficients for the Republican and Democrat interaction terms in our analysis of laws that tightened or loosened gun policy. The results show that dropping individual states has little effect on our estimates.

4. Discussion

Mass shootings account for a small fraction of gun deaths in the United States, but have a significant impact on gun policy. More gun laws are proposed in the year following a mass shooting. Furthermore, mass shootings seem to have much larger effects on policy, per fatality, than do ordinary gun homicides. These results are broadly consistent with qualitative research that has hypothesized the possibility of mass shootings precipitating change. For example, Godwin and Schroedel (1998) argue that the Stockton schoolyard massacre in 1989 led to the enactment of California's assault weapons ban. We find large sample empirical evidence that sporadic events such as mass shootings can lead to major policy changes.

We also find that media coverage related to guns increases following mass shootings and that Democrat-controlled and Republican-controlled legislatures differ significantly when it comes to enacting gun laws. Republicans are *more* likely to loosen gun laws in the year after a mass shooting than in other years. The effect for Democrats, which tends toward a reduction in the loosening of gun restrictions after a mass shooting, is statistically insignificant. This result aligns with the prediction from the political economy literature on issue selection, that political parties emphasize issues that they have a reputation for successfully handling in the eyes of their constituents (Riker 1996; Petrocik 1996; Dragu and Fan 2016).

Our findings raise a number of additional questions, and suggest several directions for future research. First, future research might directly explore the preferences of politicians.

Republican legislatures could loosen gun restrictions because Republican politicians themselves prefer looser restrictions (as would be the case in a citizen-candidate model) or due to pressure from constituents or interest groups. Consistent with this latter possibility, and our findings, survey evidence suggests that those opposed to increased gun control are more likely than those in favor of additional restrictions to take actions like writing a letter or donating money to support their side (Schuman and Presser 1981). If constituent preferences are driving results, we might expect increased loosening of gun policies in areas with higher rates of gun ownership. To provide exploratory evidence, Appendix I shows the results from adding a proxy for gun ownership to the models. Following Cook and Ludwig (2006), we calculate the percentage of suicides that are firearm related as a proxy for gun ownership and interact this variable with the mass shooting indicator. The coefficient on this variable is not significant either in isolation or when added to the specification with all political interactions. This suggests that changes in support for guns (as proxied by gun ownership) is not the main driver of the policy changes.

Second, our estimates focus on the impact on policy within the state in which each shooting took place. Some mass shootings get national media attention and potentially affect policy nationwide, a result that would not be identified by our fixed effects model. One direction for future research is to develop strategies to identify national responses. With respect to our findings, this suggests that the total impact of mass shootings on gun policy may be even larger than our estimates.

Third, there is a large literature on the impact of gun policies on crime (Duggan 2001; Ludwig and Cook 2000; Ludwig and Cook 2003; Abrams 2012; Luca, Malhotra, and Poliquin 2017). While some gun policies have been extensively researched, many have been difficult to study, which complicates analysis of which policies would be most effective. The relationship we

find between mass shootings and gun policy raises the possibility of using mass shootings as an instrumental variable to further study the impact of gun laws on gun deaths. Unfortunately, in our sample, mass shootings are not a sufficiently strong instrument to estimate the effects of gun policy on gun deaths, due to their relative infrequency. (Appendix J presents results of this analysis.) This leaves open the possibility of using salient and plausibly random events to instrument for policy changes in future research.

Overall, our results show that even random and infrequent events that account for a relatively small portion of total societal harm (as measured by fatalities in the current study) might nonetheless be crucial levers for policy consideration and change. This does not imply that politicians and policy makers are over-reacting; it may be that on issues where there is usually political deadlock, salient events create opportunities for change that has been sought all along. Whether these changes reflect appropriate responses to the problem remains an open question.

References

Abrams, David S. 2012. "Estimating the Deterrent Effect of Incarceration Using Sentencing Enhancements." *American Economic Journal: Applied Economics* 4 (4): 32-56.

Andrews, Donald W. K., Marcelo J. Moreira, and James H. Stock. 2006. "Optimal Two-Sided Invariant Similar Tests for Instrumental Variables Regression." *Econometrica* 74 (3): 715-52.

Bardhan, Pranab, and Dilip Mookherjee. 2010. "Determinants of Redistributive Politics: An Empirical Analysis of Land Reforms in West Bengal, India." *American Economic Review* 100 (4): 1572–1600.

Baum, Christopher F., Mark E. Schaffer, and Steven Stillman. 2007. "Enhanced Routines for Instrumental Variables/generalized Method of Moments Estimation and Testing." *The Stata Journal* 7 (4): 465–506.

Bertrand, Marianne, Esther Duflo, and Sendhil Mullainathan. 2004. "How Much Should We Trust Differences-in-Differences Estimates?" *The Quarterly Journal of Economics* 119 (1): 249-75.

Baumgartner, Frank R. and Bryan D. Jones. 1993. *Agendas and Instability in American Politics.* Chicago, IL: University of Chicago Press.

Bouton, Laurent, Paolo Conconi, Francisco Pino, and Maurizio Zanardi. 2015. "Guns and Votes," *working paper*.

Cook, Phillip J., and Jens Ludwig. 2006. "The Social Costs of Gun Ownership." *Journal of Public Economics* 90 (1–2): 379–391.

Donald, Stephen G, and Kevin Lang. 2007. "Inference with Difference-in-Differences and Other Panel Data." *Review of Economics and Statistics* 89 (2): 221-33.

Dragu, Tiberiu and Xiaochen Fan. 2016. "An Agenda-Setting Theory of Electoral Competition." *The Journal of Politics* 78 (40): 1170–1182.

Duggan, Mark. 2001. "More Guns, More Crime." *Journal of Political Economy* 109 (5): 1086-1114.

Durante, Ruben and Ekaterina Zhuravskaya. 2018. "Attack When the World is Not Watching? US News and the Israeli-Palestinian Conflict." *Journal of Political Economy* 126 (3): 1085–1133.

Duwe, Grant, 2007. *Mass Murder in the United States.* North Carolina: McFarland & Company, Inc.

Egan, Patrick J. and Megan Mullin. 2012. "Turning Personal Experience into Political Attitudes: The Effect of Local Weather on Americans' Perceptions about Global Warming." *The Journal of Politics 74* (3): 796–809.

Eisensee, Thomas and David Strömberg. 2007. "News Droughts, News Floods, and U.S. Disaster Relief." *The Quarterly Journal of Economics*, *122* (2): 693–728.

Finlay, Keith, and Leandro M. Magnusson. 2009. "Implementing Weak-Instrument Robust Tests for a General Class of Instrumental-Variables Models." *The Stata Journal* 9 (3): 398–421.

Fuller, Wayne A. (1977). "Some Properties of a Modification of the Limited Information Estimator." *Econometrica* 45 (4): 939–53.

Godwin, Marcia L., and Jean Reith Schroedel. 1998. "Gun Control Politics in California." In *The Changing Politics of Gun Control*, edited by John M. Bruce and Clyde Wilcox, 88–110. Lanham, MD: Rowman & Littlefield Publishers, Inc.

Goss, Kristin A. 2006. *Disarmed: The Missing Movement for Gun Control in America*. Princeton, NJ: Princeton University Press.

Kingdon, John W. 1984. *Agendas, Alternatives, and Public Policies*. Boston, MA: Little, Brown & Company.

Krouse, William and Daniel J. Richardson. 2015. *Mass Murder with Firearms: Incidents and Victims, 1999-2013* (CRS Report No. 7-5700). Washington, DC: Congressional Research Service, 2015. https://fas.org/sgp/crs/misc/R44126.pdf.

Levitt, Steven D. 1996. "The Effect of Prison Population Size on Crime Rates: Evidence from Prison Overcrowding Litigation." *The Quarterly Journal of Economics* 111 (2): 319–51.

Luca, Michael, Deepak Malhotra, and Christopher Poliquin. 2017. "Handgun Waiting Periods Reduce Gun Deaths." *Proceedings of the National Academy of Sciences* 114 (46): 12162–12165.

Ludwig, Jens, and Philip J. Cook. 2000. "Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence Prevention Act." *JAMA* 284 (5): 585-91.

Ludwig, Jens, and Philip J Cook. 2003. Evaluating Gun Policy Effects on Crime and Violence. Washington, D.C.: Brookings Institution Press.

Makowsky, Michael D., and Thomas Stratmann. 2009. "Political Economy at Any Speed: What Determines Traffic Citations?" *The American Economic Review* 99 (1): 509–27.

Moreira, Marcelo J. 2003. "A Conditional Likelihood Ratio Test for Structural Models." *Econometrica* 71 (4): 1027-48.

Morton, Robert J. and Mark A. Hilts, eds. 2008. "Serial Murder: Multi-disciplinary perspectives for investigators." *Serial Murder Symposium, San Antonio, TX, August 29-September 2, 2005*. Washington, DC: Federal Bureau of Investigation, http://www.fbi.gov/stats-services/publications/serial-murder/serial-murder-july-2008-pdf.

Parker, Kim, Juliana Menasce Horowitz, Ruth Igielnik, J. Baxter Oliphant, and Anna Brown. 2017. "America's Complex Relationship with Guns." *Pew Research Center*. 22 June 2017. https://www.pewsocialtrends.org/2017/06/22/americas-complex-relationship-with-guns/.

Petrocik, John R. 1996. "Issue Ownership in Presidential Elections, with a 1980 Case Study." *American Journal of Political Science* 40 (3): 825–850.

Riker, William H. 1996. *The Strategy of Rhetoric.* New Haven, CT: Yale University Press.

Schuman, Howard and Stanley Presser. 1981. "The Attitude-Action Connection and the Issue of Gun Control." *The ANNALS of the American Academy of Political and Social Science 455* (1): 40–47.

Spitzer, Robert J. 2012. *The Politics of Gun Control*. 5th Ed. Boulder, CO: Paradigm Publishers.

Stanford Geospatial Center and Stanford Libraries. 2015. "Stanford Mass Shootings in America," July 31 release, https://library.stanford.edu/projects/mass-shootings-america.

Stock, James H., and Motohiro Yogo. 2005. "Identification and Inference for Econometric Models." In *Identification and Inference for Econometric Models*, edited by Donald W. K. Andrews and James H. Stock, 80–108. New York: Cambridge University Press.

USA Today. 2013. "Behind the Bloodshed: The Untold Story of America's Mass Killings," http://www.gannett-cdn.com/GDContent/mass-killings/index.html.

Figures

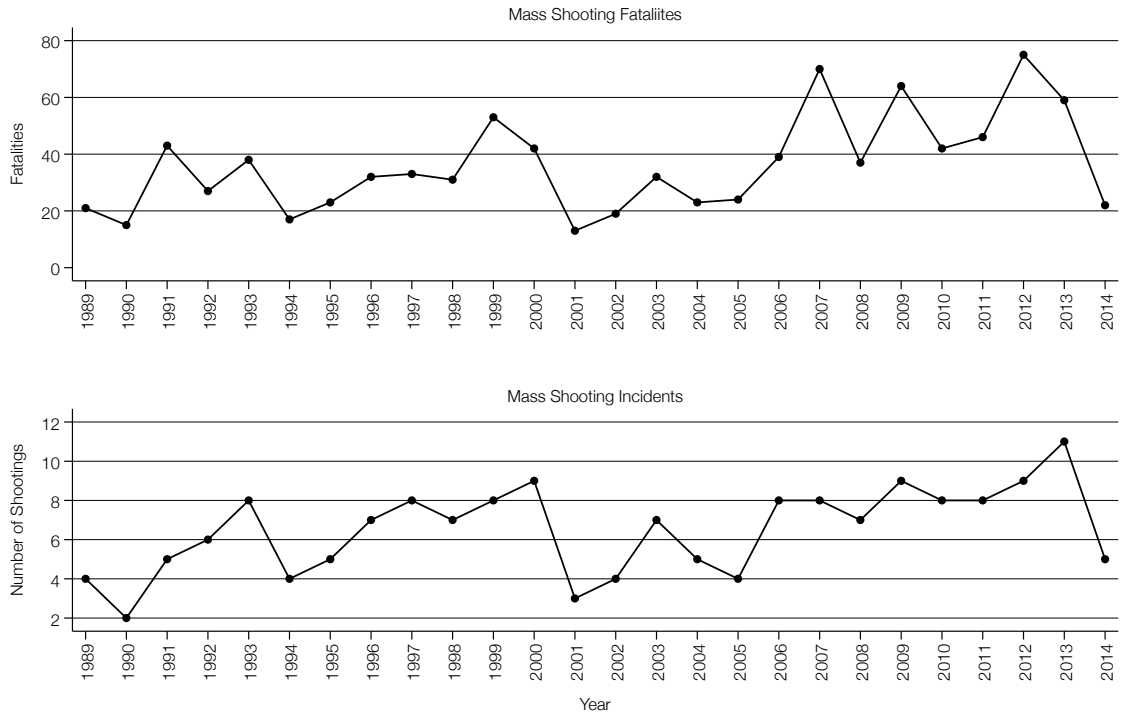

Figure 1 Mass shooting incidents and fatalities by year, 1989-2014. The upper panel shows the number of fatalities in mass shootings in which at least 3 people not related or romantically connected to the shooter were killed. The bottom panel shows the number of these incidents. Washington, D.C. is not included in the sample.

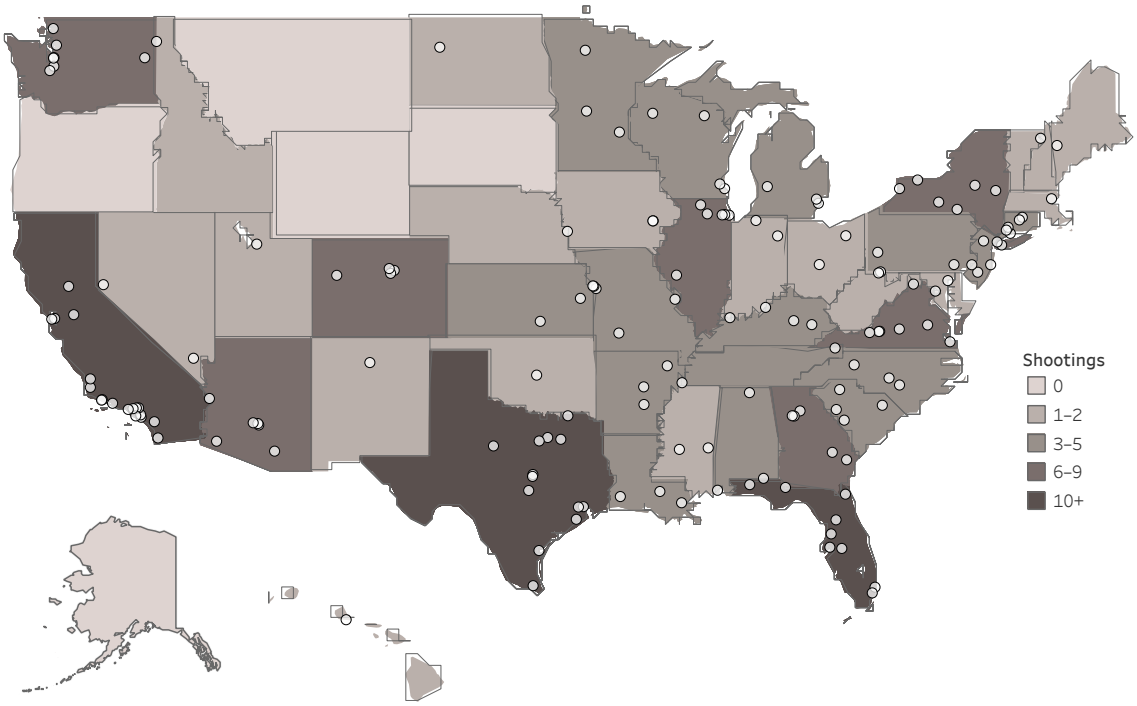

Figure 2 Locations of public mass shootings in the United States, 1989–2014. States are shaded based on the total number of shootings during the sample period. Points represent the locations of events.

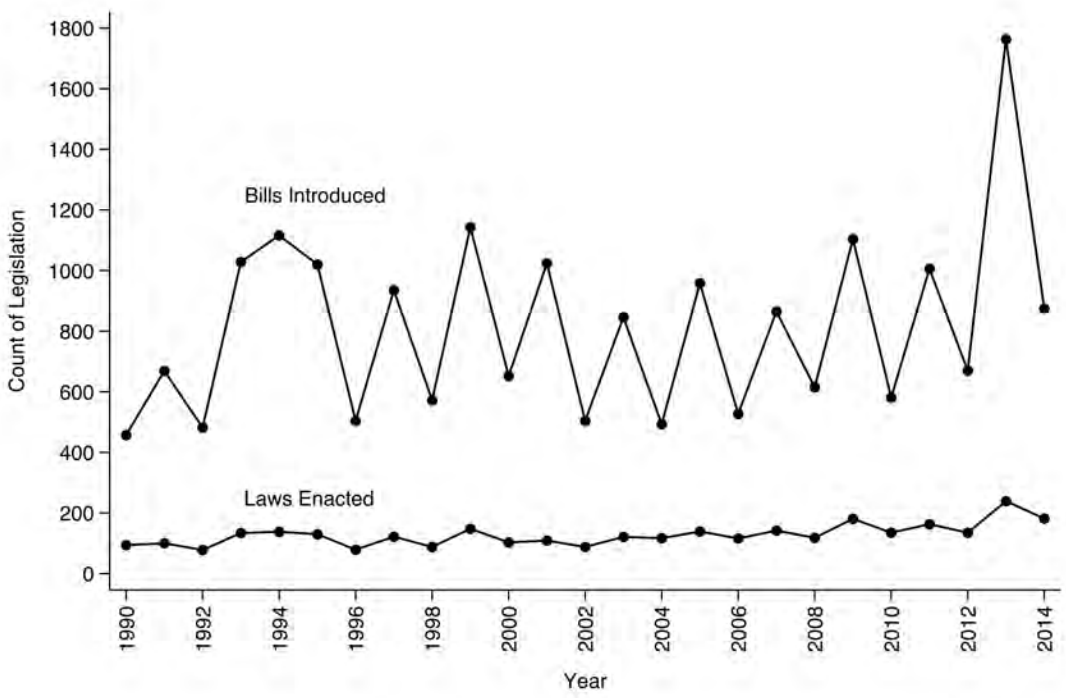

Figure 3 Total gun bills introduced and laws enacted by year, 1990–2014.

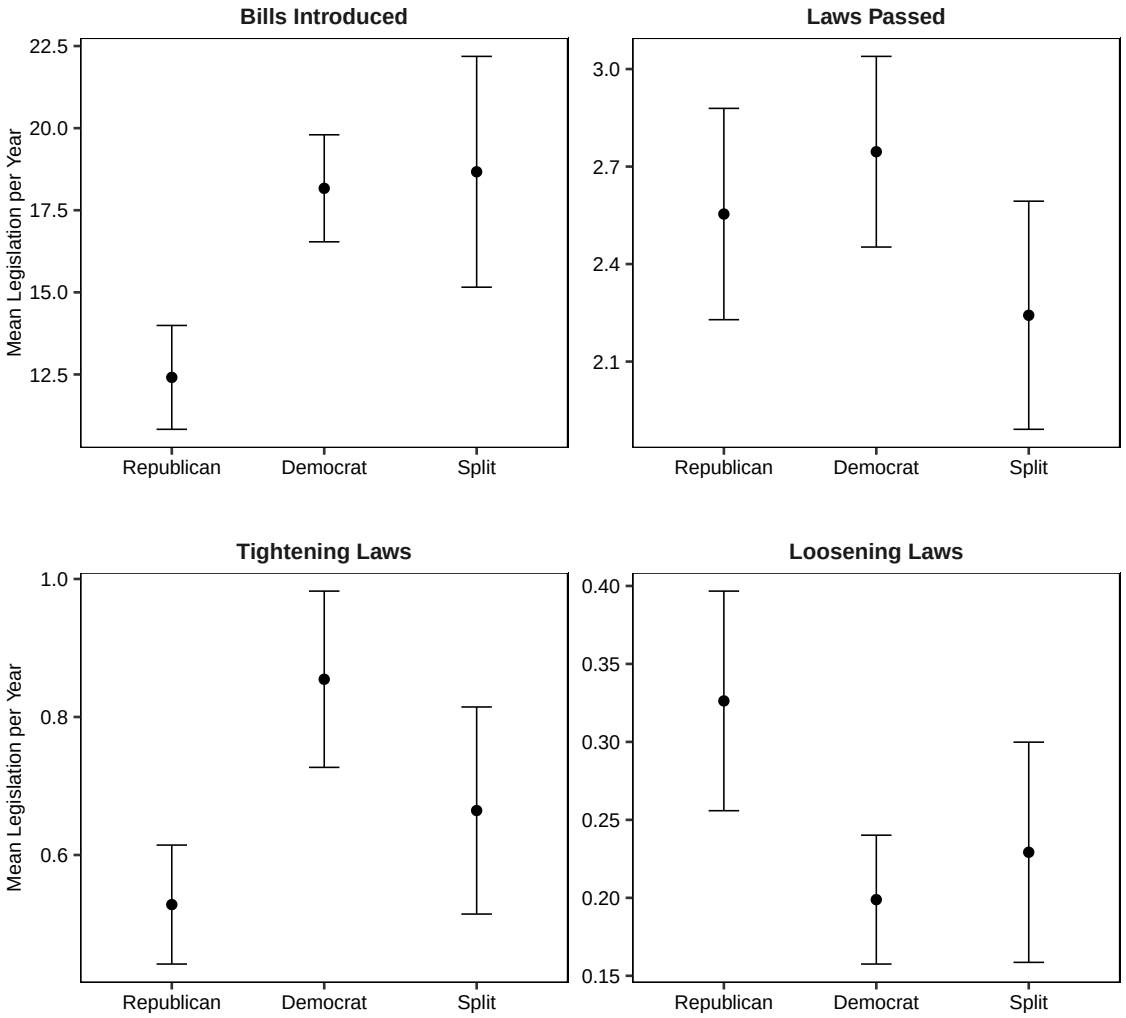

Figure 4 Comparison of annual legislation introduced by political party. Points represent the mean and lines are 95% confidence intervals. Legislature control means one political party includes both chambers of the legislature. The counts of tightening and loosening laws are based on laws with coder agreement (see section 2.2 of text).

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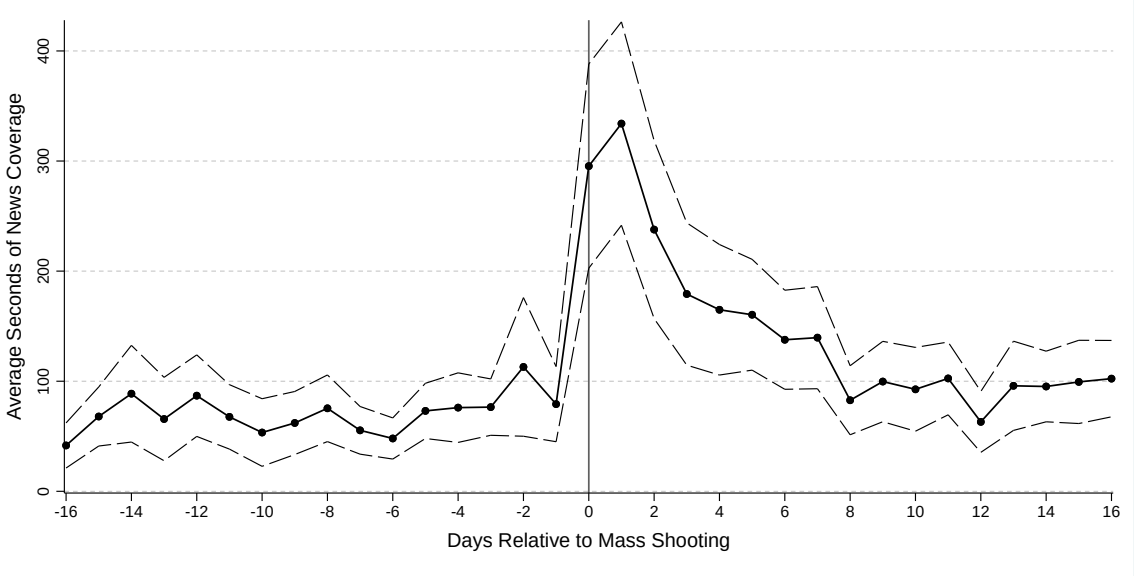
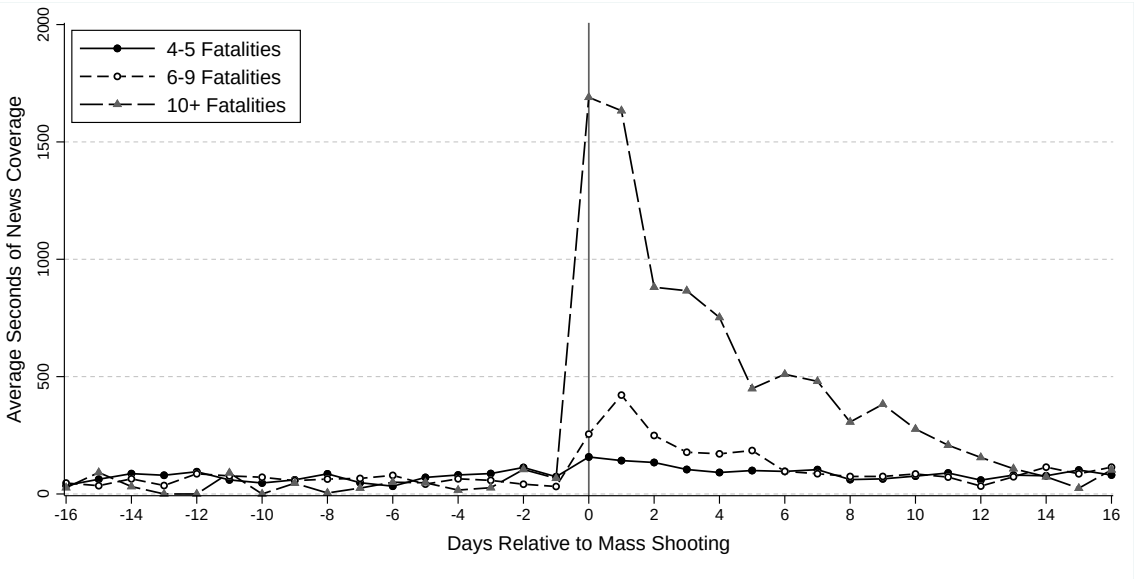


(a) Coverage around time of mass shootings



(b) Coverage by number of fatalities

Figure 5 Evening news coverage related to guns before and after mass shootings. Panel (a) shows average coverage around the time of all mass shootings; panel (b) shows coverage around the time of shootings by the number of fatalities caused. News coverage is measured in seconds.

Tables

Table 1: Summary Statistics

	mean	sd	p5	p10	p50	p90	p95
Gun Legislation							
Bills introduced	16.33	22.04	0	1	10	38	53
Laws enacted	2.56	3.35	0	0	1	6	9
Tightening laws	0.70	1.29	0	0	0	2	3
Loosening laws	0.25	0.62	0	0	0	1	1
Gun Violence and Media							
Mass shooting	0.12	0.32	0	0	0	1	1
Fatalities	0.72	2.40	0	0	0	4	5
Gun homicide rate	3.76	2.55	0.72	0.98	3.42	7.40	8.65
News coverage	0.06	0.34	0	0	0	0.06	0.29
Political Controls							
Democratic legislature	0.42	0.49	0	0	0	1	1
Republican legislature	0.34	0.47	0	0	0	1	1
Republican governor	0.53	0.50	0	0	1	1	1
Institutional Controls							
Regular session	0.94	0.24	0	1	1	1	1
First year of biennium	0.48	0.50	0	0	0	1	1
Demographic Controls							
Elderly (65+) %	12.9	2.0	9.8	10.7	13.1	15.2	15.7
Under 25 %	35.1	2.7	31.4	32.2	34.8	38.0	39.5
Black %	10.3	9.5	0.6	0.8	7.4	26.4	30.1
Hispanic %	8.3	9.2	0.8	1.2	5.1	20.3	29.9
Unemployment %	5.7	1.9	3.1	3.5	5.4	8.1	9.3
Income per capita	19.1	3.3	14.1	15.0	18.7	23.3	25.8
High school %	85.2	5.2	75.7	78.4	86.1	91.2	92.0
Veteran %	11.8	2.4	7.9	8.8	11.8	15.0	16.1
Divorce %	11.8	1.8	8.9	9.5	11.8	14.1	14.7

Note: Sample includes 1,250 state-year observations from 1990 to 2014. *Bills introduced* is the number of bills introduced in the legislature; *Laws enacted* is the number of bills that became law. *Tightening* and *Loosening laws* are numbers of enacted laws that tightened and loosened gun control respectively. *Mass shooting* is an indicator for state-years with a mass shooting in which three or more people not romantically involved with or related to the shooter(s) were killed. *Fatalities* is the total number of deaths in mass shootings in a state-year. The *Gun homicide rate* is expressed as deaths per 100,000 residents. *News coverage* is the hours of nightly news coverage of mass shootings occurring in a state. *Democratic* and *Republican legislature* are indicators for party control of the state legislature. *Republican governor* is an indicator for Republican governors. *Regular session* indicates whether the legislature convened a regular (as opposed to special) session to consider bills; some state legislatures only meet every other year. *First year of biennium* is an indicator for the first year of the two-year legislative biennium (the calendar year immediately following elections). *Income per capita* is measured in thousands of 1987 U.S. dollars. Other demographic variables are percentages.

Table 2: The Effect of Mass Shootings on Gun Bill Introductions

Dependent variable: number of firearm-related bills introduced in state legislature.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Mass Shooting	0.145**	0.153**	0.198*	0.143**				
	(0.071)	(0.070)	(0.101)	(0.069)				
Fatalities					0.023***	0.024***	0.030***	0.023***
					(0.008)	(0.007)	(0.011)	(0.007)
Regular Session	1.581***	1.572***	-0.201*	1.573***	1.596***	1.586***	-0.181	1.580***
	(0.389)	(0.394)	(0.115)	(0.411)	(0.378)	(0.384)	(0.118)	(0.401)
First Year of Biennium	0.464***	0.462***	0.031	0.462***	0.457***	0.453***	0.051	0.454***
	(0.125)	(0.128)	(0.086)	(0.131)	(0.133)	(0.137)	(0.087)	(0.140)
Democratic Legislature		-0.130	-0.068	-0.052		-0.126	-0.057	-0.055
		(0.087)	(0.076)	(0.062)		(0.090)	(0.076)	(0.065)
Republican Legislature		0.078	0.119	0.030		0.082	0.134	0.032
		(0.075)	(0.535)	(0.042)		(0.075)	(0.556)	(0.044)
Republican Governor		-0.025	0.629***	-0.051		-0.019	0.630***	-0.042
		(0.066)	(0.222)	(0.057)		(0.065)	(0.223)	(0.054)
Demographic Controls	No	No	No	Yes	No	No	No	Yes
State Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes†	Yes	Yes	Yes	Yes†	Yes
State-Specific Trends	No	No	No	Yes	No	No	No	Yes
Observations	1,250	1,250	650	1,250	1,250	1,250	650	1,250

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). See note to Table 1 for variable definitions.

† Sample collapsed to two-year intervals and year effects replaced with two-year interval fixed effects.

Table 3: Comparing Mass Shootings and Non-Mass Shootings

Dependent variable: number of firearm-related bills introduced in state legislature.

	(1)	(2)	(3)	(4)
Mass Shooting Fatalities / 100,000	1.339***	1.355***	1.952***	1.427***
	(0.212)	(0.207)	(0.385)	(0.221)
Ordinary Gun Homicides / 100,000	0.014	0.013	0.012	0.011
	(0.031)	(0.035)	(0.037)	(0.048)
Regular Session	1.559***	1.548***	0.125	1.541
	(0.390)	(0.397)	(0.566)	(0.415)
First Year of Biennium	0.455***	0.452***	0.599***	0.454***
	(0.131)	(0.134)	(0.217)	(0.136)
Democratic Legislature		-0.119	-0.177	-0.049
		(0.090)	(0.116)	(0.063)
Republican Legislature		0.084	0.052	0.030***
		(0.071)	(0.082)	(0.041)
Republican Governor		-0.016	-0.056	-0.032
		(0.066)	(0.077)	(0.050)
Demographic Controls	No	No	No	Yes
State Fixed Effects	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes[†]	Yes
State-Specific Trends	No	No	No	Yes
Observations	1,250	1,250	650	1,250

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). *Mass Shooting Fatalities / 100,000* is the number of deaths in mass shootings per 100,000 state residents. *Ordinary Gun Homicides / 100,000* is the number of gun homicides not in mass shootings per 100,000 state residents. See note to Table 1 for other variable definitions.

[†] Sample collapsed to two-year intervals and year effects replaced with two-year interval fixed effects.

Table 4: Mass Shootings, Bills, and Laws by Political Party

Dependent variable: number of firearm-related bills introduced or laws passed in state.

	Bills Introduced		*Laws Passed*	
	(1)	**(2)**	**(3)**	**(4)**
Dem. Leg. × Shooting	0.116	0.104	0.079	0.073
	(0.080)	(0.080)	(0.101)	(0.109)
Rep. Leg. × Shooting	0.393***	0.402***	0.307***	0.283***
	(0.147)	(0.130)	(0.100)	(0.100)
Split Leg. × Shooting	0.026	0.007	-0.120	-0.112
	(0.072)	(0.063)	(0.099)	(0.097)
Democratic Legislature	-0.149	-0.070	-0.064	-0.022
	(0.095)	(0.067)	(0.086)	(0.104)
Republican Legislature	0.021	-0.031	0.190**	0.155*
	(0.080)	(0.054)	(0.094)	(0.092)
Republican Governor	-0.026	-0.049	0.016	-0.049
	(0.065)	(0.054)	(0.046)	(0.051)
Regular Session	1.614***	1.626***	3.424***	3.474***
	(0.372)	(0.387)	(0.792)	(0.781)
First Year of Biennium	0.468***	0.468***	0.040	0.032
	(0.124)	(0.127)	(0.056)	(0.053)
Demographic Controls	No	Yes	No	Yes
State Fixed Effects	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes
State-Specific Trends	No	Yes	No	Yes
Observations	1,250	1,250	1,250	1,250

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). The omitted group in all models is states without a mass shooting. See note to Table 1 for all variable definitions.

Table 5: Mass Shootings and Enacted Laws

Dependent variable: number of firearm-related laws enacted (i.e. bills that became law).

	Tightening Laws				*Loosening Laws*			
	(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**
Mass Shooting	-0.057	-0.050			0.282*	0.258		
	(0.100)	(0.103)			(0.171)	(0.171)		
Dem. Leg. × Shooting			-0.014	0.007			-0.213	-0.245
			(0.134)	(0.141)			(0.371)	(0.389)
Rep. Leg. × Shooting			-0.003	0.002			0.853***	0.800***
			(0.240)	(0.236)			(0.261)	(0.259)
Split Leg. × Shooting			-0.223	-0.247			0.098	0.137
			(0.256)	(0.261)			(0.341)	(0.339)
Democratic Legislature	0.066	0.102	0.034	0.063	-0.232	-0.293	-0.191	-0.233
	(0.141)	(0.148)	(0.162)	(0.170)	(0.195)	(0.202)	(0.225)	(0.226)
Republican Legislature	0.193	0.157	0.161	0.120	0.497***	0.497***	0.384*	0.391*
	(0.147)	(0.136)	(0.155)	(0.145)	(0.189)	(0.187)	(0.212)	(0.213)
Republican Governor	-0.024	-0.050	-0.023	-0.050	-0.118	-0.098	-0.101	-0.079
	(0.081)	(0.084)	(0.080)	(0.083)	(0.167)	(0.171)	(0.163)	(0.167)
Regular Session	3.231***	3.221***	3.237***	3.226***	16.615***	16.248***	16.290***	15.550***
	(0.770)	(0.778)	(0.771)	(0.779)	(0.457)	(0.462)	(0.454)	(0.466)
First Year of Biennium	0.016	0.032	0.021	0.037	0.421***	0.414***	0.463***	0.455***
	(0.109)	(0.112)	(0.110)	(0.112)	(0.132)	(0.136)	(0.175)	(0.175)
Demographic Controls	No	Yes	No	Yes	No	Yes	No	Yes
State Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,250	1,250	1,250	1,250	1,175	1,175	1,175	1,175

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). Models 3-4 and 7-8 show the effect of mass shootings in Republican, Democratic, and split legislatures; the omitted group in these models is states without a mass shooting. See note to Table 1 for all variable definitions.

Table 6: News Coverage and Bill Introductions

Dependent variable: number of firearm-related bills introduced in state legislature.

	(1)	(2)	(3)	(4)
Mass Shooting × News Coverage	0.125***	0.126***	0.069*	0.127**
	(0.041)	(0.040)	(0.037)	(0.054)
Mass Shooting	0.070	0.078	0.128	0.067
	(0.078)	(0.077)	(0.119)	(0.076)
Regular Session	1.582***	1.573***	0.135	1.570***
	(0.385)	(0.390)	(0.538)	(0.406)
First Year of Biennium	0.456***	0.453***	0.621***	0.454***
	(0.129)	(0.132)	(0.218)	(0.135)
Democratic Legislature		-0.129	-0.196*	-0.055
		(0.089)	(0.117)	(0.064)
Republican Legislature		0.080	0.035	0.030
		(0.075)	(0.087)	(0.043)
Republican Governor		-0.020	-0.062	-0.042
		(0.066)	(0.076)	(0.056)
Demographic Controls	No	No	No	Yes
State Fixed Effects	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes†	Yes
State-Specific Trends	No	No	No	Yes
Observations	1,250	1,250	650	1,250

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). *News Coverage* does not appear by itself in the model because we only have data from the national nightly news; the coefficient is therefore absorbed by the year fixed effects. See note to Table 1 for variable definitions.

† Sample collapsed to two-year intervals and year effects replaced with two-year interval fixed effects.

Appendix A: Coding Gun Laws

This appendix provides examples of coding bills and further investigates coder agreement with our gold standard when deciding whether bills tighten or loosen gun control. As explained in the text, a law can be one of the following five types:

- Tightening (stricter gun control)
- Loosening (weaker gun control)
- Uncertain (insufficient information)
- Both tightening and loosening
- Neutral (neither tightening nor loosening)

Table A1 presents examples of each type and illustrates how coders assigned laws to each category. Table A2 shows the categorization of the gun laws in our sample based on the above coding scheme. Coders agree on the type of law about 52 percent of the time; about half of these laws tighten restrictions on guns and about 20 percent loosen restrictions on guns. The remainder are uncertain, neutral, or both tightened and loosened gun policy.

Table A3 shows the frequency of coder responses for bills we classified as tightening or loosening in the gold standard. The most common response is both coders agreeing with the gold standard. When coders to not agree with the gold standard, it is common for at least one coder to supply the right answer and the other coder to be either uncertain or think the bill both tightens and loosens gun control.

The following is an example of a law that tighten gun control, which coders got wrong:

> *"Increases the penalties for carrying a concealed deadly weapon, when the weapon is a firearm, by reclassifying what is currently a class G felony as a class D violent felony; deletes a penalty provision that is unnecessary and duplicative, since any person previously convicted of a violation of section 1442 is also a person prohibited under section 1448 of Title 11."*

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Coders may have seen "deletes a penalty provision" and assumed the law also loosened gun control because they did not read that the provision was "unnecessary and duplicative." The following is an example of a law loosening gun control, which coders got wrong:

> *"Bars a county or municipality from filing a lawsuit against the manufacturer of firearms or ammunition under certain circumstances; reserves an exclusive right for the State to maintain such an action; repeals conflicting laws."*

Some coders made the mistake of thinking this bill both loosened and tightened gun control, perhaps because "bars" sounds like it relates to tightening and "repeals" sounds like it relates to loosening. Both of these are fairly long synopses; however, the share of coder pairs that supply the right answer is not correlated with the length of the synopsis.

Table A1: Example of Coding Gun Laws

id	summary	tighten	loosen	uncertain
1	Creates a new felony for firing a gun within 1,000 feet of an educational facility.	1	0	0
2	Reduces the age limit for purchase of a handgun from 21 to 18.	0	1	0
3	Allows parole officers to carry a loaded firearm while commuting to and from work.	0	0	0
4	Relates to the use of firearms in state parks and campgrounds.	0	0	1
5	Requires a license to operate a gun show. Eliminates the waiting period for firearm sales if the purchaser has a valid permit to carry a concealed weapon.	1	1	0

Note: Table shows examples of coding gun laws based on bill summaries. Coders were given a full manual to explain the meaning of "tighten", "loosen", "neutral," and "uncertain" along with the following examples. This table mimics the appearance of the Excel workbooks used by the coders. The first bill creates a new crime related to firearms. It tightens restrictions on firearms. The second bill makes it easier for people to acquire guns; it loosens restrictions on firearms. The third bill is exclusively about parole officers; it is neutral because it does not affect the general public. The fourth bill is uncertain because the summary is a generic description that does not specify whether the law tightens or loosens restrictions on firearms. The fifth bill both tightens and loosens; it regulates gun shows, but also eliminates a restriction on firearm purchasers.

Table A2: Results of Coding Gun Laws

Category	Total Laws	Percent of Total
Coders agree		
Tightening	872	27.3
Loosening	312	9.8
Uncertain	245	7.7
Both (Tighten and Loosen)	79	2.5
Neutral	173	5.4
Coders disagree	1,518	47.5
Total	3,199	100.0

Table A3: Coder Agreement with Tightening/Loosening Gold Standard

	Neutral	Tighten	Loosen	Both	Uncertain
Tighten					
Neutral	6	39	2	2	5
Tighten		460	11	53	61
Loosen			0	2	0
Both				13	2
Uncertain					30
Loosen					
Neutral	0	3	15	2	5
Tighten		12	45	7	15
Loosen			337	72	29
Both				10	2
Uncertain					8

Note: Gold Standard—either tightening or loosening—in bold. Cell values represent the frequency of two coder responses across all unique pairs of coders who saw a given law.

Appendix B: Effect of Shootings in Neighboring States

Table B1: Mass Shootings in Neighboring States, Bills and Laws

Dependent variable: number of firearm-related bills introduced or laws enacted in state.

	Bills Introduced				*Laws Enacted*			
	(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**
Mass Shooting	0.142**	0.146*			0.087	0.077		
	(0.071)	(0.079)			(0.073)	(0.086)		
Neighbor Shooting	-0.049				0.050			
	(0.051)				(0.056)			
Cen. Division Shooting		-0.005				0.021		
		(0.041)				(0.054)		
Fatalities			0.023***	0.018**			0.013	0.008
			(0.007)	(0.009)			(0.008)	(0.009)
Neighbor Fatalities			-0.001				0.002	
			(0.004)				(0.004)	
Cen. Division Fatalities				0.007				0.006
				(0.005)				(0.005)
Institutional Controls	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Political Controls	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Demographic Controls	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
State Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
State-Specific Trends	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,250	1,250	1,250	1,250	1,250	1,250	1,250	1,250

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). *Neighbor* variables refer to states with a shared border; *Cen. Division* refers to states within the same Census division. See note to Table 1 for other variable definitions.

Table B2: Mass Shootings in Neighboring States and Directions of Policy Change

Dependent variable: number of firearm-related laws enacted.

	Tightening Laws		*Loosening Laws*	
	(1)	**(2)**	**(3)**	**(4)**
Dem. Leg. × Shooting	0.037	-0.005	-0.287	-0.181
	(0.136)	(0.134)	(0.364)	(0.399)
Rep. Leg. × Shooting	0.007	-0.080	0.794***	0.894***
	(0.223)	(0.256)	(0.263)	(0.287)
Split Leg. × Shooting	-0.275	-0.092	0.136	0.080
	(0.247)	(0.229)	(0.329)	(0.379)
Dem. Leg. × Neighbor Shooting	0.208		-0.061	
	(0.139)		(0.242)	
Rep. Leg. × Neighbor Shooting	-0.266**		0.356	
	(0.120)		(0.244)	
Split Leg. × Neighbor Shooting	-0.163		-0.118	
	(0.207)		(0.227)	
Dem. Leg. × Cen. Division Shooting		0.157		-0.186
		(0.158)		(0.238)
Rep. Leg. × Cen. Division Shooting		0.015		-0.118
		(0.108)		(0.174)
Split Leg. × Cen. Division Shooting		-0.254		0.101
		(0.169)		(0.254)
Political Controls	Yes	Yes	Yes	Yes
Institutional Controls	Yes	Yes	Yes	Yes
Demographic Controls	Yes	Yes	Yes	Yes
State Fixed Effects	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes
Observations	1,250	1,250	1,175	1,175

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). Models show the effect of mass shootings in Republican, Democratic, and split legislatures; the omitted group in these models is states without a mass shooting. *Neighbor* variables refer to states with a shared border; *Cen. Division* refers to states within the same Census division. See note to Table 1 for other variable definitions.

Appendix C: Laws Enacted

Table C1: Laws Enacted and Mass Shootings

Dependent variable: number of firearm-related laws enacted in state.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Mass Shooting	0.078	0.099	0.112	0.089				
	(0.079)	(0.074)	(0.089)	(0.075)				
Fatalities					0.011	0.014	0.005	0.013
					(0.009)	(0.009)	(0.014)	(0.008)
Regular Session	3.399***	3.392***	0.388	3.444***	3.401***	3.393***	0.373	3.443***
	(0.766)	(0.777)	(0.716)	(0.763)	(0.772)	(0.784)	(0.715)	(0.769)
First Year of Biennium	0.037	0.028	0.203	0.022	0.028	0.017	0.178	0.012
	(0.051)	(0.051)	(0.290)	(0.050)	(0.051)	(0.051)	(0.298)	(0.051)
Democratic Legislature		-0.026	-0.107	0.012		-0.022	-0.103	0.011
		(0.079)	(0.093)	(0.097)		(0.082)	(0.088)	(0.098)
Republican Legislature		0.260***	0.168	0.218***		0.266***	0.167*	0.223***
		(0.090)	(0.103)	(0.083)		(0.091)	(0.100)	(0.085)
Republican Governor		0.010	-0.039	-0.055		0.012	-0.040	-0.053
		(0.048)	(0.050)	(0.051)		(0.048)	(0.053)	(0.050)
Demographic Controls	No	No	No	Yes	No	No	No	Yes
State Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes†	Yes	Yes	Yes	Yes†	Yes
State-Specific Trends	No	No	No	Yes	No	No	No	Yes
Observations	1,250	1,250	650	1,250	1,250	1,250	650	1,250

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). Variables are identical to those in Table 2, except for the dependent variable, which is the number of firearm-related laws enacted instead of the number of bills introduced. See note to Table 1 for variable definitions.

† Sample collapsed to two-year intervals and year effects replaced with two-year interval fixed effects.

Appendix D: Mass Shootings and Neutral Laws

Table D1. Neutral Laws Enacted

Dependent variable: number of neutral firearm-related laws enacted.

	(1)	**(2)**
Mass Shooting	0.114	
	(0.195)	
Dem. Leg. × Shooting		0.042
		(0.299)
Rep. Leg. × Shooting		0.206
		(0.381)
Split Leg. × Shooting		0.142
		(0.322)
Political Controls	Yes	Yes
Institutional Controls	Yes	Yes
Demographic Controls	Yes	Yes
State Fixed Effects	Yes	Yes
Year Fixed Effects	Yes	Yes
Observations	1,050	1,050

Note: Sample size differs from other tables due to states with all zero observations (i.e. no years with neutral laws enacted).

Appendix E: Media Coverage and Mass Shootings

This appendix presents regression results showing that mass shootings are associated with large increases in gun-related news coverage and that increased news coverage is associated with greater legislative activity in the form of firearm-related bills introduced in state legislatures.

Table E1 shows results from regressing the log of each day's total seconds of gun-related news coverage on an indicator for the occurrence of a mass shooting and 10 lags of that indicator. The results suggest that media attention to guns increases roughly 300 percent immediately following a mass shooting and that coverage remains elevated from pre-shooting levels for at least a week following the event. Table E2 presents similar results using the count of mass shooting fatalities as the independent variable instead of a mass shooting indicator variable.[17]

[17] Additionally, we estimated models with 10 leads of each indicator variable (not shown to conserve space) and none of the leads are statistically significant at conventional levels. This suggests that gun-related media coverage does not presage mass shootings (as would be the case if media reports about firearms caused shootings or reflected other contemporary events associated with mass shootings).

Table E1: Mass Shootings and News Coverage

Dependent variable: Log(1 + Seconds of News Coverage)

	(1)	(2)	(3)	(4)
Mass Shooting	1.509***	1.510***	1.497***	1.443***
	(0.218)	(0.220)	(0.218)	(0.214)
Lags of Mass Shooting (Days):				
L1	1.667***	1.656***	1.638***	1.584***
	(0.226)	(0.227)	(0.226)	(0.222)
L2		0.735***	0.729***	0.685***
		(0.225)	(0.224)	(0.223)
L3		0.728***	0.726***	0.684***
		(0.214)	(0.213)	(0.204)
L4		0.422**	0.426**	0.384*
		(0.214)	(0.213)	(0.207)
L5		0.844***	0.869***	0.832***
		(0.214)	(0.214)	(0.209)
L6		0.610***	0.620***	0.582***
		(0.206)	(0.206)	(0.194)
L7		0.466**	0.453**	0.419**
		(0.208)	(0.207)	(0.202)
L8		0.255	0.237	0.194
		(0.196)	(0.195)	(0.185)
L9		0.260	0.254	0.212
		(0.197)	(0.197)	(0.187)
L10		0.302	0.300	0.258
		(0.194)	(0.195)	(0.185)
Constant	1.544***	1.463***	1.136***	0.897***
	(0.025)	(0.027)	(0.060)	(0.151)
Fixed Effects				
Day-of-week	No	No	Yes	Yes
Month	No	No	No	Yes
Year	No	No	No	Yes
Observations (Days)	9,496	9,487	9,487	9,487

Table E2: Mass Shooting Fatalities and News Coverage

Dependent variable: Log(1 + Seconds of News Coverage)

	(1)	(2)	(3)	(4)
Mass Shooting Fatalities	0.282***	0.284***	0.280***	0.273***
	(0.028)	(0.028)	(0.027)	(0.026)
Lags of Fatalities (Days):				
L1	0.307***	0.308***	0.306***	0.299***
	(0.030)	(0.030)	(0.030)	(0.029)
L2		0.175***	0.175***	0.169***
		(0.029)	(0.029)	(0.028)
L3		0.167***	0.166***	0.160***
		(0.028)	(0.028)	(0.026)
L4		0.118***	0.119***	0.114***
		(0.033)	(0.033)	(0.031)
L5		0.142***	0.146***	0.141***
		(0.032)	(0.032)	(0.031)
L6		0.119***	0.120***	0.115***
		(0.031)	(0.031)	(0.028)
L7		0.120***	0.117***	0.112***
		(0.028)	(0.028)	(0.028)
L8		0.082***	0.079***	0.073***
		(0.028)	(0.029)	(0.027)
L9		0.053	0.053	0.047
		(0.034)	(0.035)	(0.031)
L10		0.065**	0.064*	0.058*
		(0.033)	(0.033)	(0.031)
Constant	1.543***	1.440***	1.120***	0.905***
	(0.025)	(0.026)	(0.060)	(0.150)
Fixed Effects				
Day-of-week	No	No	Yes	Yes
Month	No	No	No	Yes
Year	No	No	No	Yes
Observations (Days)	9,496	9,487	9,487	9,487

Appendix F: Predicting Mass Shootings

Table F1: Linear Probability Model for Mass Shooting using Control Variables

Dependent variable: indicator for state-year with a mass shooting.

	(1)	(2)	(3)	(4)	(5)	(6)
Lag Bills Introduced			-0.000			
			(0.001)			
Lag Laws Enacted				-0.002		
				(0.006)		
Lag Tightening Laws					-0.002	
					(0.010)	
Lag Loosening Laws						0.009
						(0.015)
Dem. Legislature		0.006	0.004	0.005	0.005	0.006
		(0.044)	(0.046)	(0.046)	(0.045)	(0.045)
Rep. Legislature		-0.030	-0.029	-0.028	-0.028	-0.029
		(0.036)	(0.038)	(0.037)	(0.037)	(0.038)
Rep. Governor		-0.012	-0.011	-0.011	-0.011	-0.011
		(0.020)	(0.022)	(0.022)	(0.022)	(0.022)
Log Population	-0.191	-0.131	-0.200	-0.192	-0.196	-0.199
	(0.279)	(0.265)	(0.291)	(0.290)	(0.288)	(0.290)
Elderly (65+) %	0.001	-0.001	0.004	0.004	0.004	0.004
	(0.025)	(0.024)	(0.024)	(0.024)	(0.024)	(0.024)
Under 25 %	-0.002	0.001	0.003	0.002	0.002	0.002
	(0.020)	(0.019)	(0.020)	(0.020)	(0.019)	(0.020)
Black %	-0.009	-0.009	-0.002	-0.001	-0.001	0.000
	(0.015)	(0.015)	(0.018)	(0.018)	(0.018)	(0.018)
Hispanic %	-0.001	-0.003	-0.002	-0.003	-0.003	-0.003
	(0.015)	(0.015)	(0.016)	(0.016)	(0.016)	(0.016)
Unemployment %	0.025**	0.025**	0.024**	0.024**	0.024**	0.024**
	(0.011)	(0.011)	(0.011)	(0.011)	(0.011)	(0.011)
Income per capita	0.013	0.012	0.011	0.012	0.012	0.011
	(0.013)	(0.013)	(0.014)	(0.014)	(0.014)	(0.014)
High School %	-0.004	-0.003	-0.003	-0.003	-0.003	-0.003
	(0.006)	(0.006)	(0.006)	(0.006)	(0.006)	(0.006)
Veteran %	-0.003	-0.001	-0.005	-0.005	-0.005	-0.004
	(0.012)	(0.012)	(0.013)	(0.013)	(0.012)	(0.012)
Divorced %	-0.004	-0.003	-0.001	-0.001	-0.001	-0.001
	(0.010)	(0.010)	(0.011)	(0.011)	(0.011)	(0.011)
State FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,250	1,250	1,200	1,200	1,200	1,200

Exhibit 11
0380

Table F2: Linear Probability Model for Mass Shooting using Policy Variables

Dependent variable: indicator for state-year with a mass shooting.

	(1)	(2)
Handgun Waiting Period (days)	0.002	0.002
	(0.005)	(0.005)
Long-gun Waiting Period (days)	-0.005	-0.005
	(0.019)	(0.020)
Age 18+ for Transaction	0.031	0.026
	(0.026)	(0.028)
Age 21+ for Transaction	-0.067	-0.080
	(0.057)	(0.056)
Handgun Permit System	-0.137	-0.136
	(0.094)	(0.100)
Background Check, All Handgun Sales	-0.066	-0.066
	(0.080)	(0.085)
Background Check, All Firearm Sales	0.019	-0.005
	(0.116)	(0.127)
Assault Weapons Ban	0.042	0.050
	(0.051)	(0.053)
Shall Issue Concealed Carry	-0.010	-0.006
	(0.038)	(0.039)
No Permit Needed Concealed Carry	0.162	0.181
	(0.188)	(0.184)
Log Population	-0.494	-0.445
	(0.325)	(0.310)
Political Controls	No	Yes
Demographic Controls	Yes	Yes
State FE	Yes	Yes
Year FE	Yes	Yes
Observations	1,250	1,250

Note: Handgun Waiting Period is the number of days purchasers must wait before accepting delivery of a handgun. *Long-gun Waiting Period* is similarly defined for long-guns (e.g. rifles and shotguns). *Age 18+ Transaction* is an indicator for laws that prevent vendors from selling handguns to minors or prevent minors from purchasing handguns. *Age 21+ Transaction* is defined the same way for persons under 21. *Handgun Permit System* is an indicator for states that require permits to purchase a handgun. *Background Check, All Handgun Sales* is an indicator for requiring a background check for all handgun transactions (including private sales). *Background Check, All Firearm Sales* is an indicator for requiring a background check for all firearm transactions (including private sales). *Assault Weapons Ban* is an indicator for states that ban some types of assault rifles or pistols. *Shall Issue Concealed Carry* is an indicator for states that require the permitting authority to grant a license to anyone meeting the minimum statutory qualifications (i.e. do not permit law enforcement discretion in issuing permits). *No Permit Needed Concealed Carry* is an indicator for states that allow concealed carry without a permit.

Appendix G: Placebo Mass Shooting Analyses

Table G1: Placebo Analysis for Bill Introductions (Mirrors Table 2)

		Percentiles of Placebo Test Statistic					
	Actual	**1st**	**5th**	**10th**	**90th**	**95th**	**99th**
Shooting Indicator (model 4)	2.07	-3.98	-2.89	-2.47	0.55	0.87	1.59
Shooting Fatalities (model 8)	3.29	-3.81	-2.87	-2.45	0.71	1.10	1.93

Table G2: Placebo Analysis for Enacted Laws (Mirrors Table 5)

		Percentiles of Placebo Test Statistic					
	Actual	**1st**	**5th**	**10th**	**90th**	**95th**	**99th**
Tightening Laws (models 2, 4)							
Pooled Shooting	-0.49	-2.19	-1.43	-1.07	1.83	2.25	3.10
Dem. Leg. × Shooting	0.05	-2.43	-1.61	-1.35	1.48	1.96	2.84
Rep. Leg. × Shooting	0.01	-2.89	-1.71	-1.23	1.62	2.24	3.41
Split Leg. × Shooting	-0.95	-2.57	-1.49	-1.01	2.07	2.56	3.95
Loosening Laws (models 6, 8)							
Pooled Shooting	1.51	-3.21	-2.26	-1.88	0.82	1.24	2.03
Dem. Leg. × Shooting	-0.63	-2.64	-1.85	-1.41	1.23	1.60	2.97
Rep. Leg. × Shooting	3.09	-3.02	-2.27	-1.98	0.71	1.09	1.73
Split Leg. × Shooting	0.40	-2.93	-2.02	-1.59	1.34	1.79	2.72

Notes: We randomly assign placebo mass shootings to state-years in which no actual shooting occurred with probability equal to each state's frequency of shootings, and randomly draw a fatality count from the empirical distribution of fatalities. We then re-run the models and calculate the test statistic for the placebo shooting and fatality coefficients. The above percentiles are based on 1,000 replications. The "Pooled" rows in Table G2 mirror models 2 and 6 of Table 5 (the models without interaction effects). The legislature effects mirror models 4 and 8 for tightening and loosening laws respectively.

Exhibit 11
0382

Appendix H: Dropping Individual States

These analyses exclude each state, one at a time, from our sample. Each graph plots the resulting 50 regression coefficients (from smallest to largest) along with a 95% confidence interval and estimates using the full sample of all states. The state abbreviations in the figures indicate the state that was dropped from the sample and mark the resulting point estimate. The vertical bars represent 95% confidence intervals. The solid, horizontal line indicates the point estimate from the complete sample (presented in the text and tables). The dotted, horizontal lines represent the lower and upper bounds of the 95% confidence interval for the full sample coefficient estimate.

The results show that removing individual states has little effect on the coefficient estimates, supporting the claim that the effect of mass shootings on gun policy is not driven by an individual state or shooting.

Figure H1 Effect of Mass Shooting on Bill Introductions.

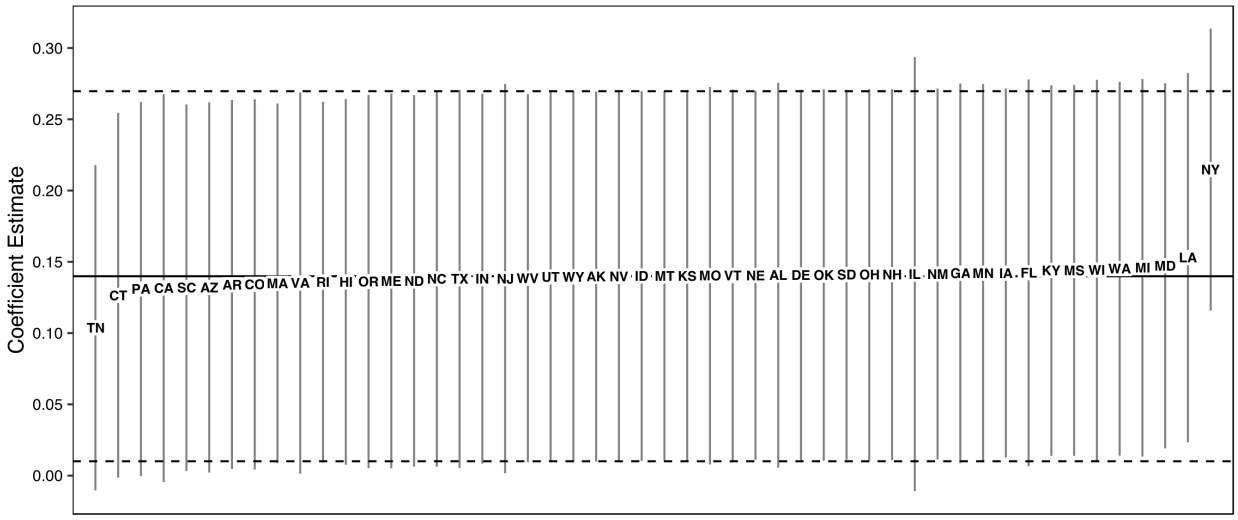

Figure H2 Effect of Mass Shooting on Laws (of Any Type) Enacted.

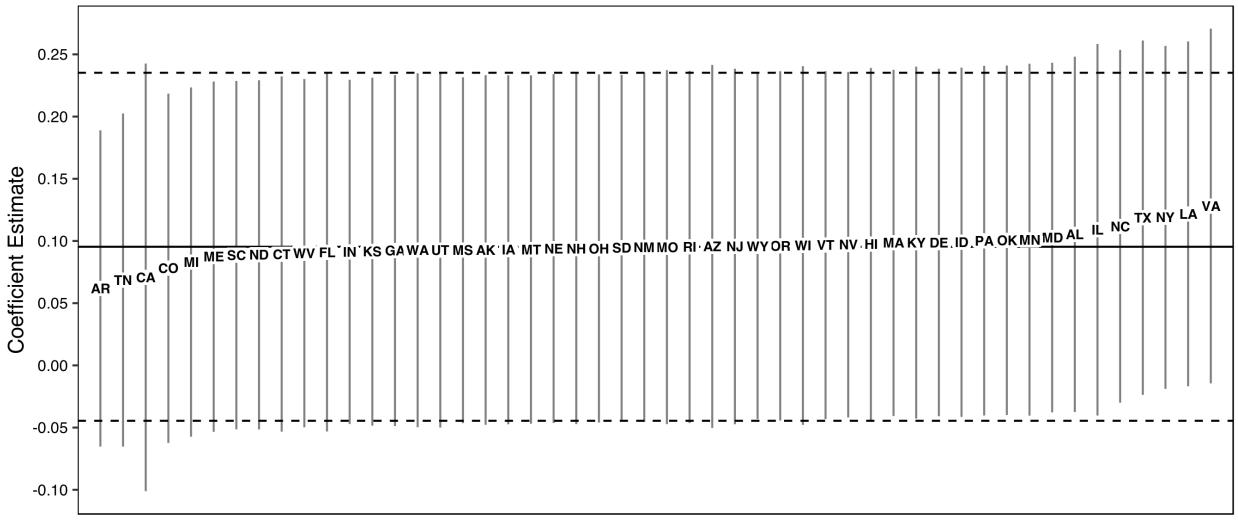

Exhibit 11
0384

Figure H3 Effect of Republican Legislature Mass Shooting on Loosening Laws Enacted.

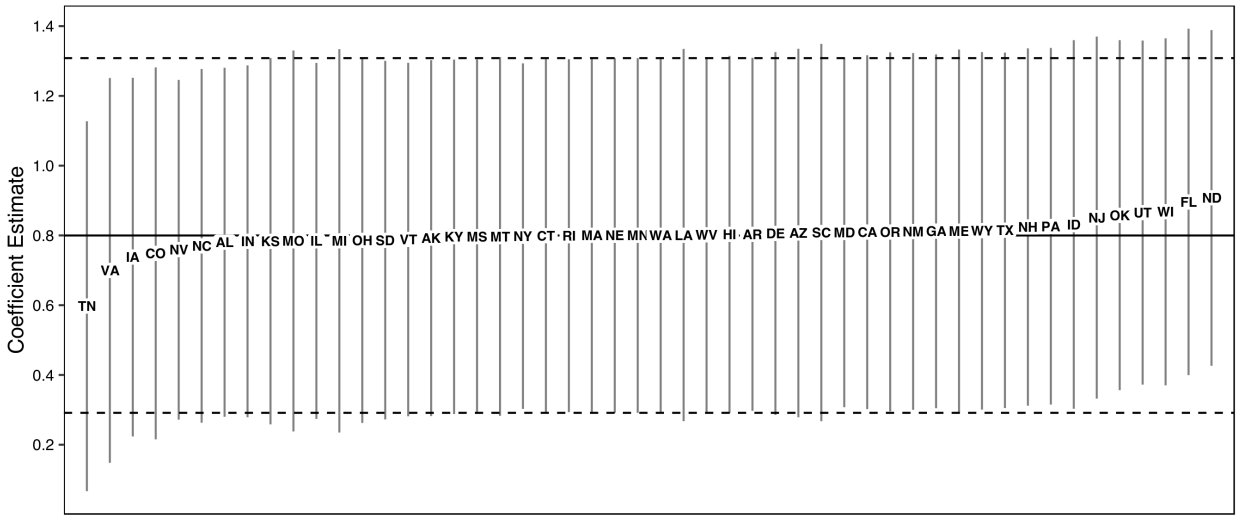

Figure H4 Effect of Democratic Legislature Mass Shooting on Loosening Laws Enacted.

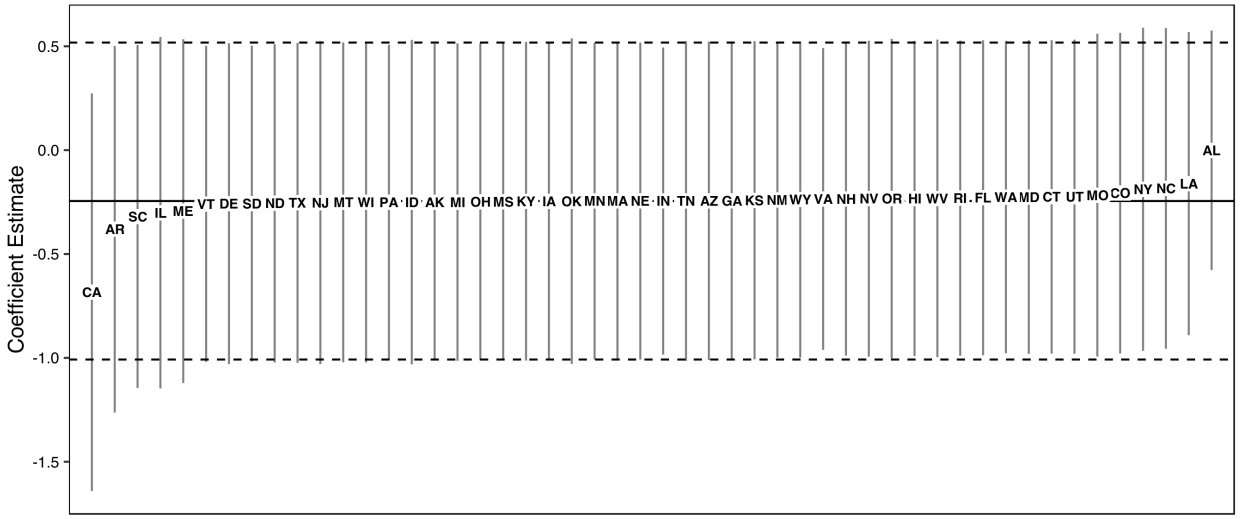

Exhibit 11
0385

Figure H5 Effect of Republican Legislature Mass Shooting on Tightening Laws Enacted.

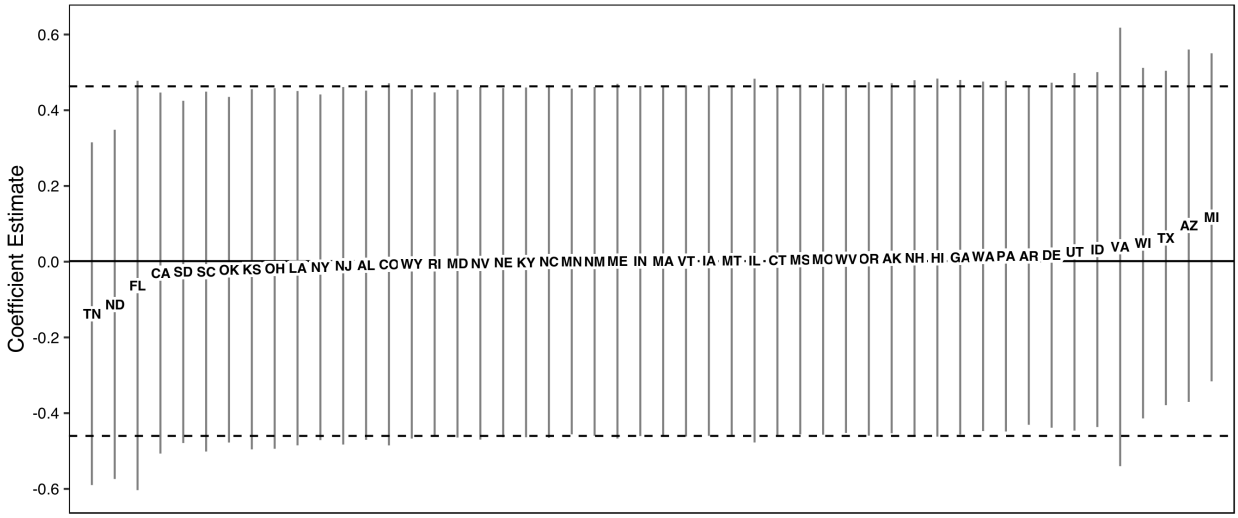

Figure H6 Effect of Democratic Legislature Mass Shooting on Tightening Laws Enacted.

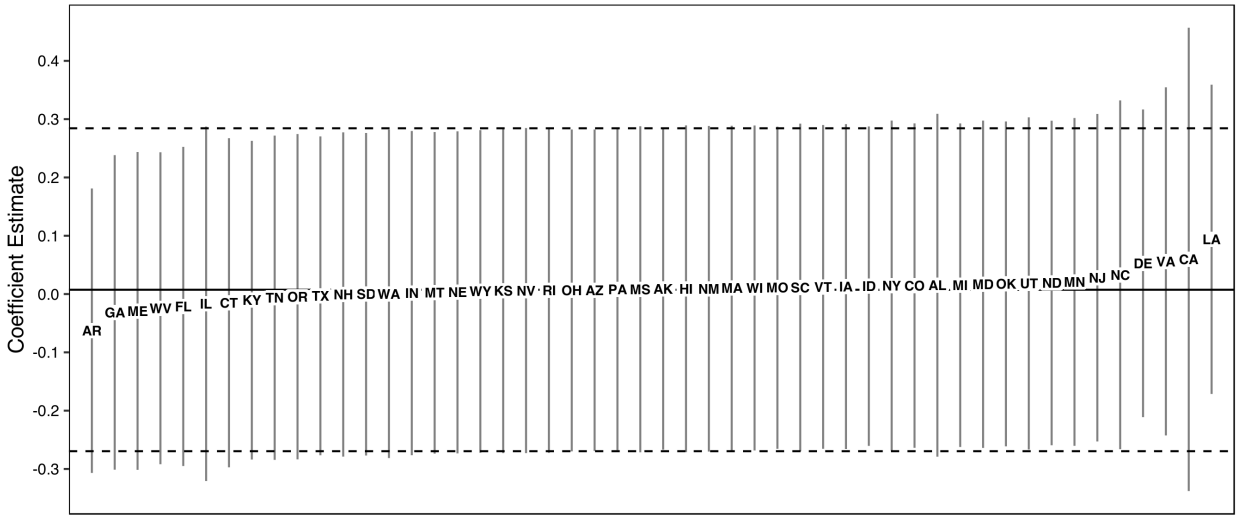

Exhibit 11
0386

Appendix I: Gun Ownership, Mass Shootings and Enacted Laws

Table I1: Effects of Mass Shootings, with Gun Ownership Proxy

Dependent variable: number of firearm-related laws enacted (i.e. bills that became law).	*Tightening Laws*			*Loosening Laws*		
	(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
Dem. Leg. × Shooting	0.016	0.006		-0.192	0.414	
	(0.141)	(0.452)		(0.417)	(0.690)	
Rep. Leg. × Shooting	0.003	-0.008		0.787***	1.439*	
	(0.233)	(0.575)		(0.265)	(0.807)	
Split Leg. × Shooting	-0.240	-0.250		0.157	0.763	
	(0.259)	(0.581)		(0.345)	(0.776)	
Gun Suicide Pct. × Shooting		0.000	-0.001		-0.011	0.005
		(0.009)	(0.002)		(0.013)	(0.003)
Gun Suicide Pct.	0.039	0.039	0.039	0.107*	0.110*	0.113*
	(0.027)	(0.028)	(0.027)	(0.060)	(0.061)	(0.059)
Democratic Legislature	0.054	0.054	0.094	-0.237	-0.245	-0.291
	(0.171)	(0.171)	(0.150)	(0.227)	(0.222)	(0.199)
Republican Legislature	0.131	0.131	0.167	0.412*	0.402*	0.517***
	(0.141)	(0.142)	(0.132)	(0.216)	(0.217)	(0.190)
Republican Governor	-0.042	-0.042	-0.041	-0.077	-0.068	-0.102
	(0.084)	(0.085)	(0.085)	(0.164)	(0.163)	(0.167)
Regular Session	3.225***	3.225***	3.220***	17.931***	17.934***	16.262***
	(0.780)	(0.779)	(0.778)	(0.460)	(0.460)	(0.454)
First Year of Biennium	0.037	0.037	0.032	0.443***	0.439**	0.403***
	(0.112)	(0.110)	(0.110)	(0.168)	(0.171)	(0.129)
Demographic Controls	Yes	Yes	Yes	Yes	Yes	Yes
State Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,250	1,250	1,250	1,250	1,175	1,175

Note: Robust standard errors clustered by state in parentheses. Stars following coefficients represent *p*-values less than .10 (*), .05 (**) and .01 (***). *Gun Suicide Pct.* is the 5-year moving average of the percentage of suicides that are firearm-related and is used to proxy for gun ownership (Cook and Ludwig 2006). Models 1 and 4 show that the main results do not change when adding this control variable; the other models suggest that the response of Republican legislatures cannot be explained by rates of gun ownership. See note to Table 1 for other variable definitions.

Appendix J: Mass Shootings as an Instrument for Gun Policy

In this appendix we use mass shootings as an instrumental variable to study the impact of gun laws on gun deaths. We start with the following model:

$$\ln(D_{st}) = \alpha_s + \theta_t + \beta\ Gun\ Control_{st} + \delta' Z_{st} + \epsilon_{st}$$

where D_{st} is non-mass shooting gun deaths per 100,000 people in state s and year t, α_s and θ_t are state and year effects, $Gun\ Control_{st}$ is an index representing the strictness of gun policy, and Z_{st} is a vector of controls –demographic, political, and economic factors—that potentially affect gun deaths. We use the same variables as Levitt (1996) as controls, but also include dummies for Republican and Democratic trifectas or legislatures, and a dummy for Republican governors.

We do not directly observe $Gun\ Control_{st}$; instead, we observe the enactment of new laws that change gun policy. Therefore, we estimate the equation in first differences:

$$\Delta \ln(D_{st}) = \lambda_t + \beta\ New\ Gun\ Laws_{st} + \Delta Z_{st}\delta + \Delta\epsilon_{st}$$

where $New\ Gun\ Laws_{st} = \Delta Gun\ Control_{st}$ is negative for laws that loosen gun control and positive for laws that increase gun control (according to our coders, see data description). Based on our main results, we instrument for gun laws using the first lags of mass shooting fatalities and the interaction of lagged mass shooting fatalities with Republican control of state government. The former should be positively correlated with new laws and the latter negatively correlated with new laws.

We estimate the model using Fuller's (1977) modified LIML with $\alpha = 1$ (Baum, Schaffer, and Stillman 2007). First stage results suggest the instruments are weak despite being jointly significant ($F = 5.98$) with the expected sign (Stock and Yogo 2005). The coefficients on the exogenous instruments in the reduced form equation for firearm deaths are not significant, but also have the expected signs (negative for lagged mass shooting fatalities and positive for the interaction of lagged fatalities with Republican control of government). Our estimate $\hat{\beta}$ is -0.016 with standard error 0.013.

A conditional likelihood ratio test (Moreira 2003; Andrews, Moreira, and Stock 2004; Finlay and Magnusson 2009) cannot reject the null hypothesis that $\beta = 0$ ($p = 0.24$). We also estimated models that include proxies for gun ownership. Including the percentage of suicides committed with a gun (Cook and Ludwig 2006) does not change our inference.

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF JOHN LOTT IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, John R. Lott, Jr., declare as follows:

I am not a party to the captioned action, am over the age of 18, have personal knowledge of the facts stated herein, and am competent to testify as to the matters stated and the opinions rendered below.

Background/Qualifications

1. I reside in Burke, Virginia, and am an economist. I graduated with a bachelor's degree in economics from the University of California Los Angeles (UCLA) in 1980. I obtained my master's degree in economics from UCLA in 1982; and my PhD in economics from UCLA in 1984. I have held research and/or teaching positions at various higher education academic institutions, including the University of Chicago, Yale University, the Wharton School of the University of Pennsylvania, Stanford University, and Rice University; and was the chief economist at the United States Sentencing Commission during 1988-1989.

2. I have authored numerous academic and popular publications. For example, I have authored (a) nine books, including *More Guns, Less Crime*, *The Bias Against Guns*, and *Freedomnomics;* and (b) more than 100 articles in peer-reviewed academic journals.

3. I am also the founder and president of the Crime Prevention Research Center (CPRC). CPRC is a research and education organization dedicated to conducting academic quality research on the relationship between laws regulating the ownership or use of guns, crime, and public safety; educating the public on the results

of such research; and supporting other organizations, projects, and initiatives that are organized and operated for similar purposes. CPRC has section 501(c)(3) status and does not accept donations from gun or ammunition makers or organizations such as the National Rifle Association (NRA) or any other organizations involved in the gun control debate on either side of the issue.

4. CPRC's goal is to provide an objective and accurate scientific evaluation of both the costs and benefits of gun ownership as well as policing activities. CPRC's core activities include:

(a) Conducting and publishing academic quality research on the relationship between laws regulating the ownership or use of guns, crime, and public safety.

(b) Supporting affiliated academics in conducting and publishing similar research by means such as providing direct financial support, sharing data, and providing technical assistance.

(c) Educating the public, journalists, and policy makers on the results of research on these issues through books, public lectures, newspaper columns, academic seminars, information briefings, and other means.

(d) Making research and data available to researchers, the public, policy makers, and journalists by maintaining a comprehensive website.

(e) Engaging in other related activities consistent with the mission and goals of CPRC.

5. Attached hereto as **Exhibit 1** is a true and correct copy of my Curriculum Vitae. It describes my education, awards, fellowships, work experience, research, books and publications, presentations, and legislative and court testimony.

Gun Law Bans Based on Age are not Justified

6. The 19-year old's attack at the high school in Parkland, Florida have prompted states such as Florida and California to raise the minimum age for purchasing or possessing firearms to 21. The two other often-cited examples are the 20-year-old in 2012 that shot and killed kids and adults at Sandy Hook Elementary School in Newtown, Connecticut, and the 1999 shootings by two high school students at Columbine High School in Colorado. Tragedies no doubt. They garner considerable media attention for long press periods. As such, school shootings are viewed as a widespread problem requiring legislative bodies to "do something." However, in my opinion, and based on my background, qualifications, and experience, no credible evidence exists to support the proposition that raising the age to purchase or acquire a firearm will make any difference in curtailing such mass shootings. The reasons supporting my opinion are described below.

Criminals Buy Guns from Other Sources

7. **First**, the criminals do not buy their firearms legally. In determining where criminals obtain their firearms, the U.S. Bureau of Justice Statistics primarily relies on surveys of state and federal prisoners who possessed a firearm during the offense for which they are serving time. The surveys provide remarkably consistent results over time, with *very few* guns obtained through retail sources (i.e., a gun shop, pawn gun, flea market, or gun show). The latest survey in 2016 showed that among the prisoners who had a gun during their offense, approximately 90% did not obtain it

from retail sources, with just 0.4% from flea markets, 0.8% through gun shows, and slightly more, 1.6%, from pawn shops and 7.5% from gun shops/stores.[1] Attached hereto as **Exhibit 2** is a true and correct copy of Alper, et al. (2019).

8. Interestingly, among the prisoners that obtained a firearm during their offense, more than half (56%) had either stolen it (6%), found it at the scene of a crime (7%), or obtained it off the street or from the underground market (43%). The remainder includes 1.6% obtained in theft from a family member or a friend, 1.5% from burglaries, 0.2% in theft from retail sources, and 3% in other unspecified thefts. (See **Exhibit 2**, Alper, et al. 2019 [Table 5].)

Criminals are Still Going to Obtain Guns

9. **Second**, even if all sources for obtaining firearms were closed off to people 18-to-20 years of age, it is unlikely that such laws would stop the vast majority of criminals in that age group from acquiring guns. Take Mexico where there has been only one-gun store in the country since 1972; where only about 1% of Mexican adults have licenses to legally own guns, with the most powerful legally owned firearms are .22-caliber rifles, hardly the type of weapon used by criminals. Despite that, in 2019, Mexico has a murder rate that is more than five (5) times the

[1] See Mariel Alper and Lauren Glaze, Special Report, "Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016," U.S. Department of Justice, Office of Justice Programs, Jan. 2019 [Alper, et al. 2016]; and for numbers in 2001, see Caroline Wolf Harlow, Special Report, "Firearm Use by Offenders," U.S. Department of Justice, Office of Justice Programs, November 2001 [https://www.bjs.gov/content/pub/pdf/fuo.pdf], last accessed Aug. 2019.)

U.S. rate.[2] The point is simple — criminals have guns and they get them illegally, primarily from drug dealers; and it is just as difficult to stop criminals from obtaining guns as it is to stop drug dealers from obtaining illegal drugs. The age of the criminal has nothing to do with illegally obtaining firearms. Attached hereto as **Exhibit 3** are a true and correct copies of the article from the Associated Press (2019) and the FBI's crime report (2017) [see footnote 2, above].)

Age is not a Significant Factor in Mass Public Shootings

10. **Third**, of all the mass public shootings over that past 21 years, the average age of the shooters is approximately 33.5 years. Thirty-three (33) years of age is also the median age for shooters; therefore, more than half the shooters were over the age of 30 and 80% were at least 21 years of age.[3] So, age is not determinative. Our CPRC research is substantiated by the Rockefeller Institute of Government. It recently found that the average age of mass shooters in the past 50

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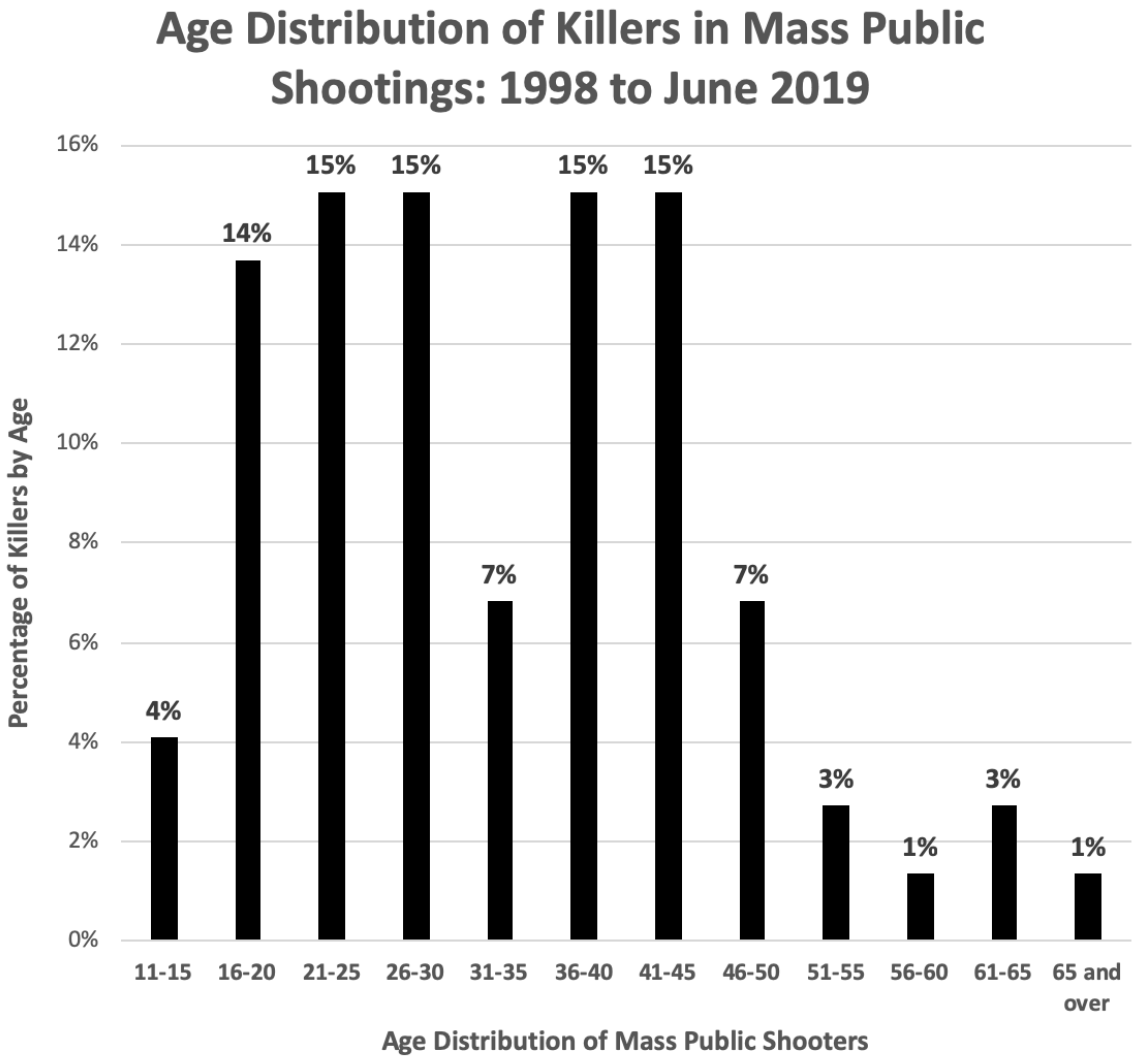
[2] Associated Press, "Mexico sets 1st half murder record, up 5.3%," July 22, 2019 (https://www.apnews.com/c197a3ee34834ea69f745975fa632ea2). Compare these numbers to the FBI Uniform Crime Report for 2017 (https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-1).

[3] The Crime Prevention Research Center's website contains the Excel file with our detailed information on mass public shootings (https://crimeresearch.org/2019/07/breaking-down-mass-public-shooting-data-from-1998-though-june-2019-info-on-weapons-used-gun-free-zones-racial-age-and-gender-demographics/). Mass public shootings are defined as those cases where four or more people are killed at one point in time in a public place and not involving some other type of crime such as a gang fight or a robbery. This definition follows the traditional FBI definition. Our Excel file is incorporated by this reference.

years is 33.4 years old,[4] confirming that age is not determinative. Attached hereto as **Exhibit 4** is a true and correct copy of Formica, et al. (2018). Our age distribution statistics are shown graphically below.



[4] Jaclyn Schildkraut, Margaret K. Formica, Jim Malatros. Rockefeller Institute of Government, Regional Gun Violence Research Consortium, "Can Mass Shootings be Stopped? To Address the Problem, We Must Better Understand the Phenomenon," May 22, 2018 (Formica, et al. 2018) (https://rockinst.org/wp-content/uploads/2018/05/5-22-18-Mass-Shootings-Brief.pdf).

Comparisons to Crime Statistics are Skewed

11. **Fourth**, while persons 18-to-20 commit murders at a higher rate comparatively, the same can be said of persons 21-to-25, who commit murders at a higher rate than people in the 26-30 age range. Persons 36-45 commit crimes at a considerably higher rate than those 46-50. (This finding does *not* mean we ought to ban firearms purchased or acquired by people 36 through 45.) The same is true for persons 51-55, who commit crimes at a higher rate than do persons over 56. Same for persons 61-to-65 — they commit crimes at a higher rate than do persons over 65. Similar findings were made by other researchers.[5] Attached hereto as **Exhibit 5** is a true and correct copy of Lott and Whitley (2006) and FBI UCR (2018).[6]

12. The same point also can be made based on race. For example, the claim that these shooters are overwhelmingly white is misleading. While white males (excluding those from Middle Eastern descent) make up the majority of mass public shootings, that is 6.4% below their share of the U.S. population. Hispanics are even much lower than their percentage of the U.S. population. By contrast, those of Middle Eastern descent, Asians, blacks, and American Indians are all above their shares of the population.

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[5] John R. Lott, Jr., Freedomnomics.

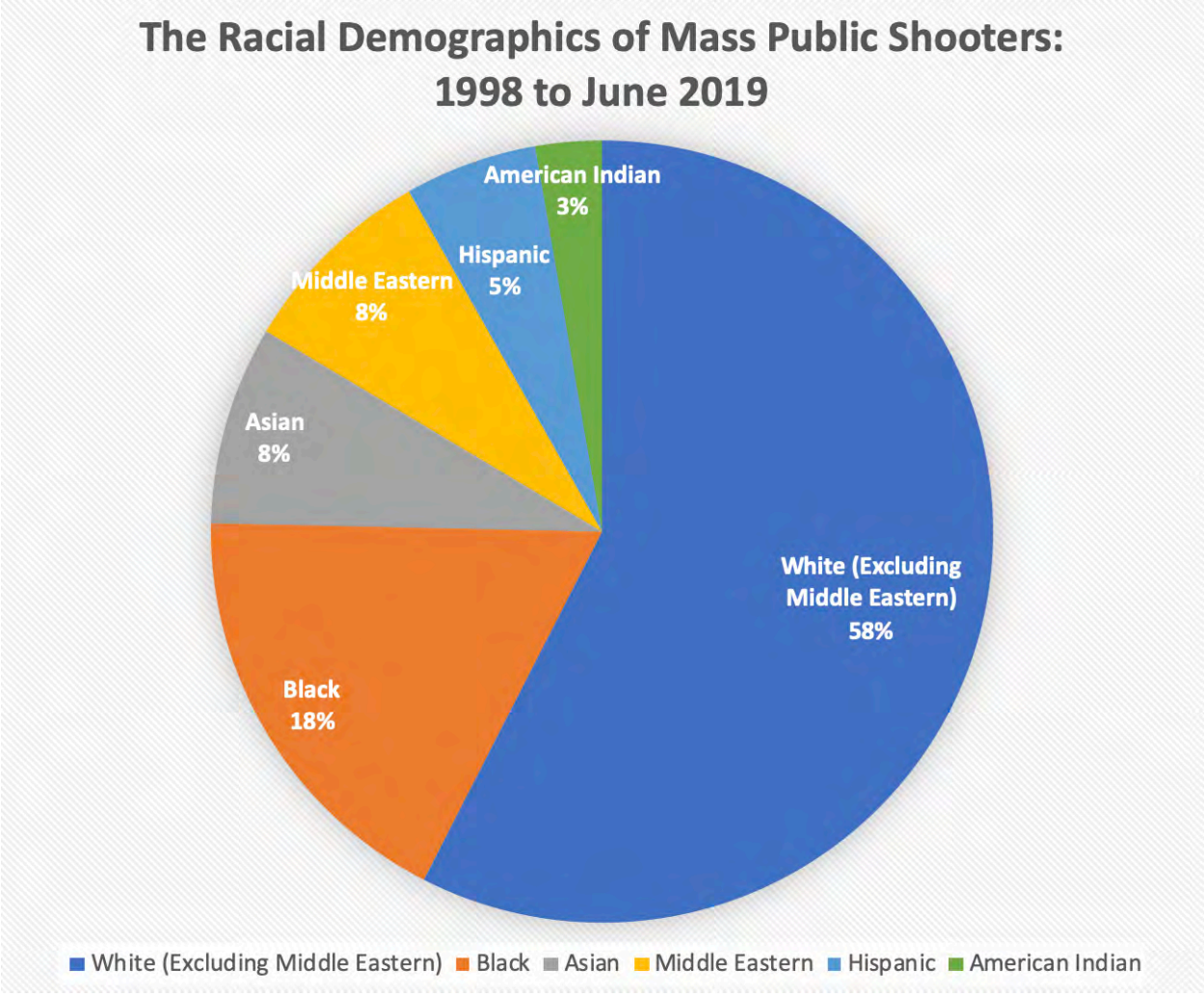
[6] John R. Lott, Jr. and John E Whitley, Abortion and Crime: Unwanted children and out-of-wedlock births," Economic Inquiry, 2006. FBI, Uniform Crime Report. Crime in the United States, 2017, Table 3 (https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/expanded-homicide-data-table-3.xls).

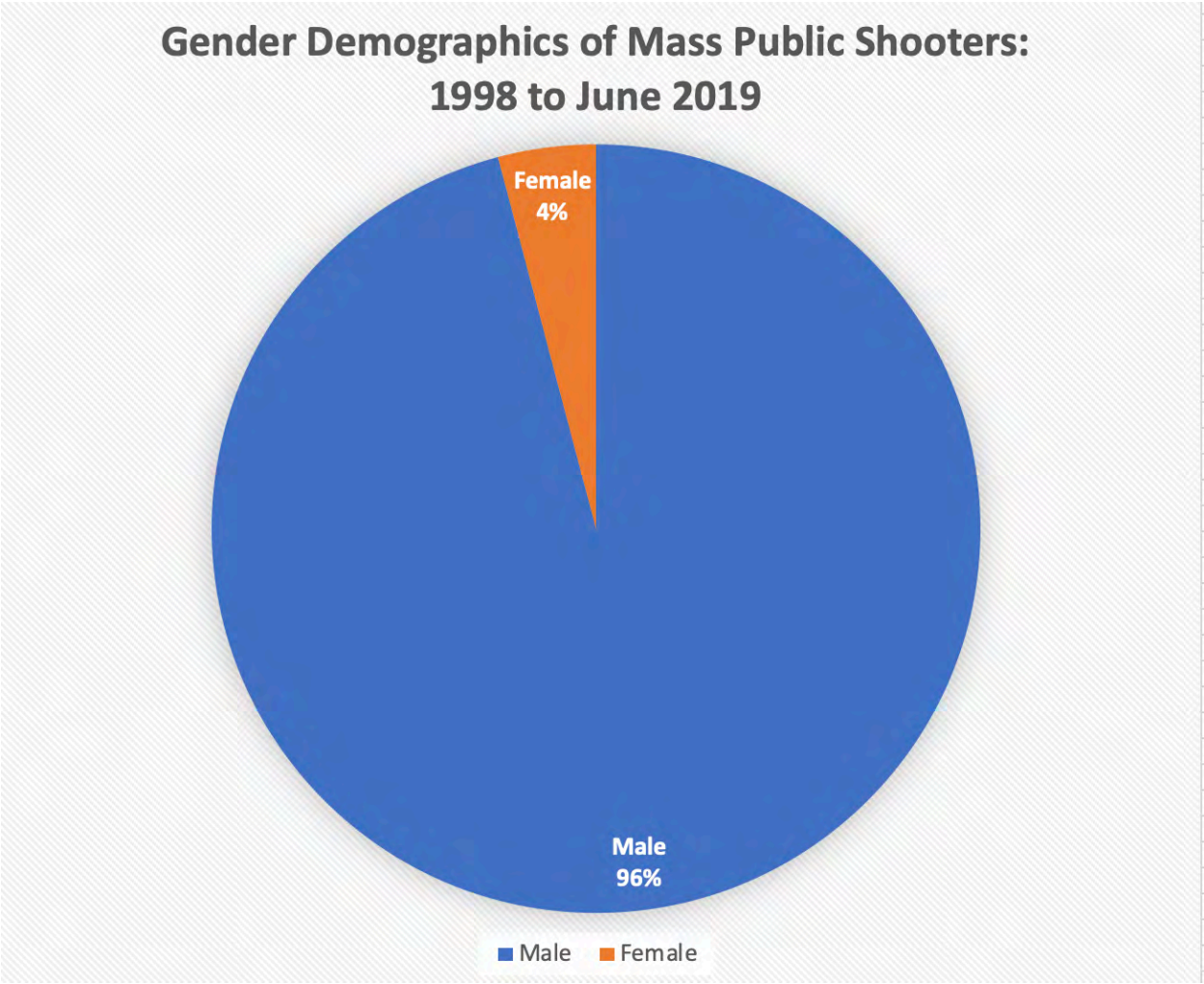
13. One thing is clear — mass public shooters are overwhelmingly male, with 96% of the shooters being male. See data from the Crime Prevention Research Center's website (https://crimeresearch.org/2019/07/breaking-down-mass-public-shooting-data-from-1998-though-june-2019-info-on-weapons-used-gun-free-zones-racial-age-and-gender-demographics/).[7] However, the rights of such groups by age, race, and sex should not be forfeited because of the unlawful behavior by other persons of the same age, race, or sex. This is particularly the case when young adults' use or possession of firearms is made criminal even where they have a legitimate purpose for their use or possession. Indeed, the State of California has not banned the purchase, sale, or transfer of a firearm based on race or sex; it should not do so on the basis of age. Below is the breakdown by race of mass public shooters from 1998 to November 2018. Also presented is our gender-based demographics.[8]

[7] See also Alper, et al. (2019).

[8] And see https://crimeresearch.org/2018/11/the-racial-and-gender-demographics-of-mass-public-shooters-middle-eastern-people-asians-blacks-and-american-indians-overrepresented-hispanics-most-underrepresented/

The Racial Demographics of Mass Public Shooters from 1998 to November 1, 2018			
	Share of Mass Public Shooter	Share of the US population in 2010	Difference
White (Excluding Middle Eastern)	58.0%	64.4%	-6.4%
Black	15.9%	12.8%	3.1%
Asian	8.7%	4.8%	3.9%
Middle Eastern	8.7%	0.4%	8.3%
Hispanic	5.8%	16.6%	-10.8%
American Indian	2.9%	1.0%	1.9%





Unsupported Justifications for the Age-Based Gun Ban

14. California's age-based gun ban is justified by reference to other legislation where law makers have limited the ability of persons under the age of 21 to engage in activities that are otherwise lawful such as the use of alcohol or marijuana; or renting a car. However, these laws do not cause a forfeiture of an enumerated right conferred to individuals under the Second Amendment. So, in my opinion, the legislative comparisons are unsupported.

15. Further, California's age-based gun ban will not result in less crime. In fact, based on my research, every place that has banned guns (either all guns or all handguns) has seen murder rates go up. Examples include Chicago, Illinois, Washington D.C., and island nations such as England, Jamaica, Ireland, Venezuela, and obscure places like the Solomon Islands. Support for my opinion is found at https://crimeresearch.org/2016/04/murder-and-homicide-rates-before-and-after-gun-bans/.

16. Supporters of California's age-based gun ban have stated that mass public shootings carried out at schools are generally committed by people "under 21." This is misleading and inaccurate. Of the 74 people who have committed mass public shootings since 1998, 10 were under the age of 21. Five were under 18, making them too young to purchase a gun under already existing law. Further, even in the five cases where raising the age limit could conceivably have made an impact, it is likely that the shooters would have illegally obtained the firearm like so many other attackers do (see results of research, above). Additionally, if one separates out school shootings, there were *eight K-12* mass public shootings where at least four people were killed, but only three of those involved killers between the ages of 18 and 20 (Columbine, 1999; Newtown, 2012; and Parkland, 2018). There was one of these on average every 2.7 years, and before this period, they were much rarer. The *college* mass public shooters were 23 years-old (Virginia Tech, 2007); 27 (Northern Illinois University, 2008); 40 (near the University of Washington, 2012); and 43

(Oikos University, 2012). As stated above, of all the mass public shooters, the average age is 33.5 years-old; and the median age 33.

17. Another justification for California's age-based gun ban is that 18 to 20-year old adults should not be allowed to purchase a firearm due to their "immaturity" and "impulsive or reckless behavior." This justification is often cited in conjunction with the claim that young adults in California cannot buy alcohol or rent a car due to their "maturity" and "impulsive behavior."[9] The above-referenced committee report cites no supporting evidence for the claim. Further, these same young adults are considered mature enough to vote and register to train and serve in the U.S. armed forces.

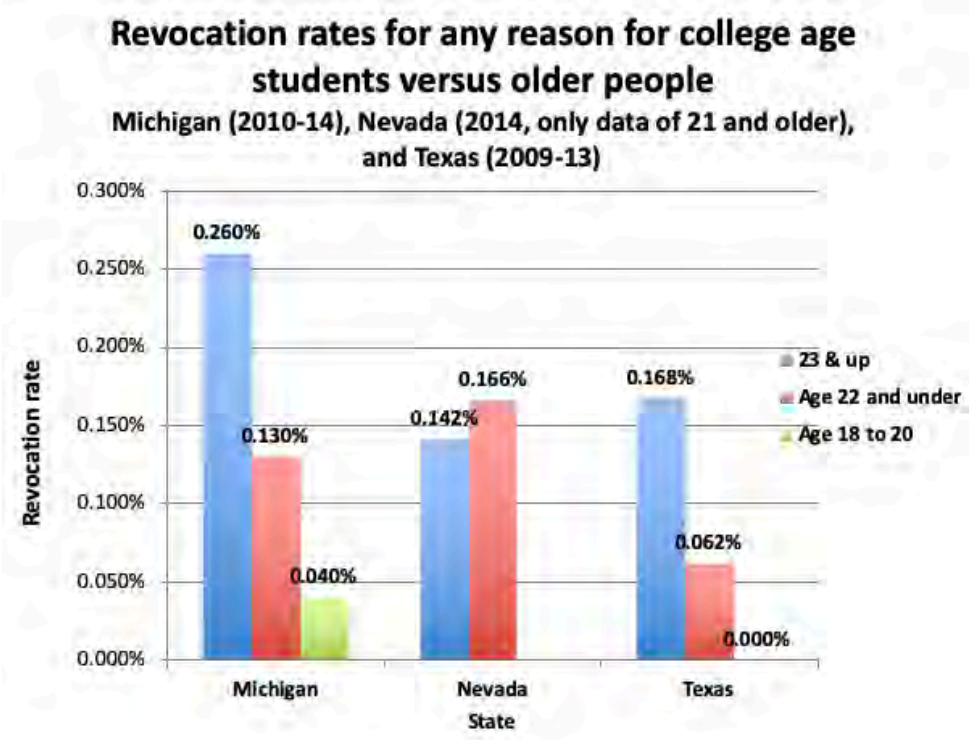
18. One way to look at this is the behavior of 18 to 20-year-old concealed handgun permit holders. Michigan and Texas grant to 18-to-20-year-olds and provide data by year of age of permit holders, though relatively few permits are granted (for 2018, 322 permits).[10] For 18-to-20-year-olds in Texas who were granted such a permit in 2018, only 5 of 322 were revoked (0.015%) and zero were suspended. See **Exhibit 7**, which is a true and correct copy of the 2018 Texas Department of Public

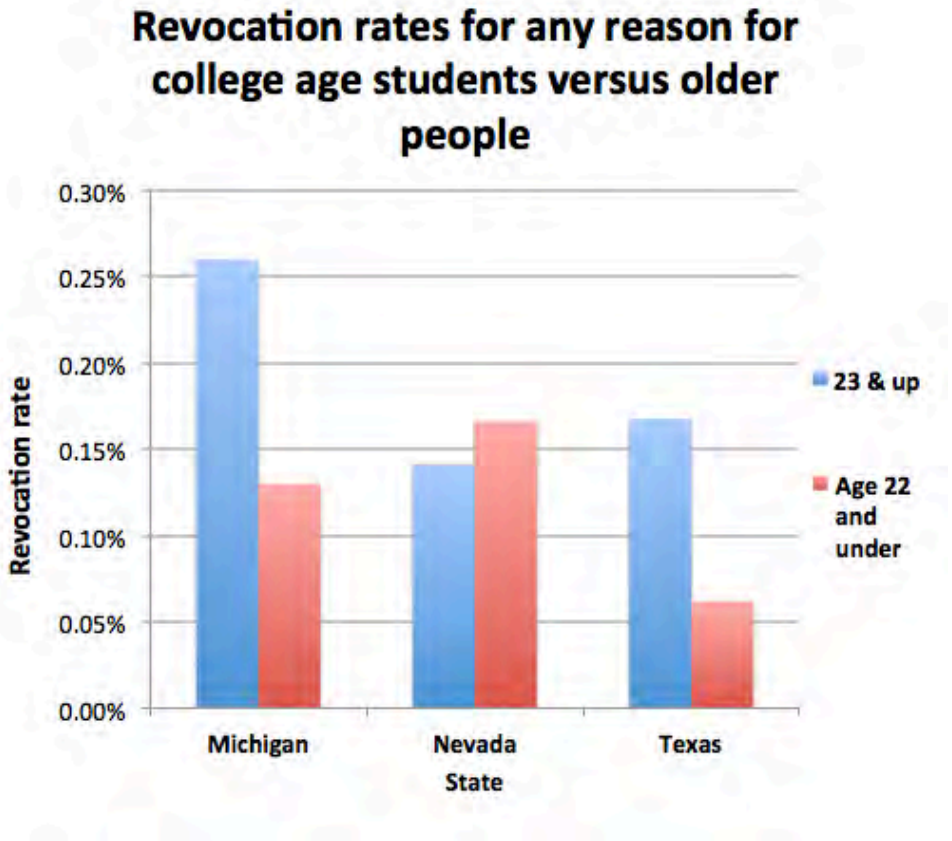
[9] See **Exhibit 6**, which is a true and correct copy of a portion of SB 1100's legislative history (Senate Committee on Public Safety, Bill No. 1100, Author: Portantino, Hearing Date: April 17, 2018, p. 7).

Safety, Regulatory Services Division, Handgun Licensing Program, Demographic Information by Age, Licenses: Issued, Revoked, and Suspended.[11]

19. Nevada doesn't grant permits to 18 to 20-year-olds, but it is still possible to make a comparison between 21 and 22-year-olds and those who are older. To make things comparable with Michigan and Texas, the data for all three states are reported the same way. Unlike Michigan and Texas, the revocation rate for college age permit holders is higher than it is for those who are older than college students, but the difference is very small – just 0.025% and only about a fifth to the differences that go the other way for Michigan and Texas. Yet, even though the revocation rate for college age permit holders in Nevada is higher than for other states, it is still lower than the revocation rate for older adults in Michigan and Texas.

[11] See also 2018 Texas Department of Public Safety, Regulatory Services Division, Handgun Licensing Program, Conviction Rates for Handgun License Holders (https://www.dps.texas.gov/RSD/LTC/Reports/ConvictionRatesReport2018.pdf).


Revocation rates for any reason for college age students versus older people
Michigan (2010-14), Nevada (2014, only data of 21 and older), and Texas (2009-13)
Revocation rate
0.300%
0.250%
0.200%
0.150%
0.100%
0.050%
0.000%
0.260%
0.130%
0.040%
0.142%
0.166%
0.168%
0.062%
0.000%
Michigan
Nevada
Texas
State
23 & up
Age 22 and under
Age 18 to 20


Revocation rates for any reason for college age students versus older people
Revocation rate
0.30%
0.25%
0.20%
0.15%
0.10%
0.05%
0.00%
Michigan
Nevada
Texas
State
23 & up
Age 22 and under

20. A further justification is that California's age-based gun ban is needed because young adults "under 21" are disproportionally linked to crime. Above, I have already addressed why this data is skewed. Also, this comparison is grossly overbroad. Is the next step for the state of California to ban gun ownership for blacks based on blacks committing crime at relatively high rates?

21. While some young people commit crimes at relatively high rates, the victims of crime also tend to be relatively young and thus would benefit from the ability to defend themselves. See, attached hereto as **Exhibit 8**, which is a true and correct copy of the FBI, Uniform Crime Report. Crime in the United States, 2017, Table 2.

22. The basic premise of our laws is that a democratic society prefers to punish the few that commit crimes *after* they violate the law, instead of punishing the few *and* all others beforehand. Those "others" also may indeed have good and lawful reasons for desiring to own or possess a firearm, but the ban's net includes them as well.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 15, 2019.



John R. Lott, Jr.

EXHIBITS
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1	John R. Lott Curriculum Vitae	0001 - 0124
2	Mariel Alper and Lauren Glaze "Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016" U.S. Department of Justice, Office of Justice Programs, (2019)	0125 - 0145
3	Associated Press "Mexico sets 1st half murder record, up 5.3%" (2019); FBI Uniform Crime Report for 2017	0146 - 0151
4	Margaret K. Formica, et al. "Can Mass Shootings be Stopped? To Address the Problem, We Must Better Understand the Phenomenon" (2018)	0152 - 0168
5	John R. Lott, Jr. and John E Whitley Abortion and Crime: Unwanted children and out-of-wedlock births (2006); FBI, Uniform Crime Report Crime in the United States (2017)	0169 - 0191
6	SB 1100's Legislative History Senate Committee on Public Safety Bill No. 1100 (2018)	0192 - 0199
7	2018 Texas Department of Public Safety, Regulatory Services Division, Handgun Licensing Program, Demographic Information by Age, Licenses: Issued, Revoked, and Suspended	0200 - 0203
8	FBI, Uniform Crime Report Crime in the United States (2017)Table 2	0204 - 0205

EXHIBIT "1"

November 20, 2016

Curriculum Vitae

JOHN R. LOTT, JR.

HOME ADDRESS: 212 Lafayette Ave, Swarthmore, PA 19081

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E-MAIL: johnrlott@crimeresearch.org

BIRTH DATE: May 8, 1958 PLACE: Detroit, Michigan CITIZENSHIP: USA

DEGREES: Ph.D.: UCLA, September 1984, Economics
MA: UCLA, 1982, Economics
BA: UCLA, 1980, Economics, Magna cum laude

DISSERTATION: "Alternative Explanations for Public Provision of Education"
CHAIRMAN: Harold Demsetz

RANKINGS: Number 27 among Economics, Law, and Business researchers in terms of lifetime downloads of papers at the Social Science Research Network
Worldwide Rankings of Economists and Economics Departments: 1969-2000 by Tom Coupe listed me 26th worldwide in terms of quality adjusted total academic journal output, 4th in terms of total research output, and 86th in terms of citations.
Listed in various editions of "Who's Who in Economics" by Mark Blaug and Howard Vane.

AWARDS AND FELLOWSHIPS:

Senior Research Scholar, School of Law, Yale University — Sept. 1999 to August 2001.

The John M. Olin Law and Economics Fellow, School of Law, University of Chicago — September 1995 to August 1999.

The John M. Olin Visiting Assistant Professor, The George J. Stigler Center for the Study of the Economy and the State, Graduate School of Business, University of Chicago — July 1994 to August 1995.

The John M. Olin Visiting Fellow, Cornell University Law School, March 1994.

Winner of the Duncan Black Award presented by the Public Choice Society for the best Public Choice paper of the year for 1992.

The John M. Olin National Fellow, Hoover Institution, Stanford University — September 1986 to August 1987.

Honorable Mention, Outstanding Doctoral Dissertation Contest in Government Finance and Taxation sponsored by the National Tax Association and the Tax Institute of America, 1984.

AWARDS AND FELLOWSHIPS (CONTINUED):

Weaver Fellowship, Intercollegiate Studies Institute, 1980-1981.

WORK EXPERIENCE:

President, Crime Prevention Research Center -- August 5, 2013 to Present.
Columnist, Fox News -- March 3, 2008 to Present.
Contributor, Fox News -- March 3, 2008 to November 11, 2013.
Senior Editorial Writer for Economics, Washington Times -- February 2009 to December 1, 2010.
Senior Research Scientist, University of Maryland Foundation, University of Maryland at College Park -- July 2007 to June 2009.
The Dean's Visting Professor, State University of New York at Binghamton – August 2006 to July 2007.

Resident Scholar, American Enterprise Institute — September 2001 to July 2006.

Senior Research Scholar, School of Law, Yale University — September 1999 to August 2001.

The John M. Olin Law and Economics Fellow, School of Law, University of Chicago — September 1995 to August 1999.
The John M. Olin Visiting Assistant Professor, The George J. Stigler Center for the Study of the Economy and the State, Graduate School of Business, University of Chicago — July 1994 to August 1995.
The John M. Olin Visiting Fellow, Cornell University Law School, March 1994.
The Carl D. Covitz Term Assistant Professor, The Wharton School, University of Pennsylvania — July 1991 to June 1995.
Visiting Assistant Professor, John E. Anderson Graduate School of Management, University of California at Los Angeles — July 1989 to June 1991.
Chief Economist (GS-15, Step 6), United States Sentencing Commission, Washington, D.C. — February 1988 to August 1989.

Visiting Assistant Professor, Department of Economics, Rice University — July 1987 to June 1988.

The John M. Olin National Fellow, Hoover Institution, Stanford University — September 1986 to August 1987.

Visiting Assistant Professor, Department of Economics, Texas A&M University — August 1984 to June 1986.

Lecturer, Department of Economics, California State University, Northridge — August 1983 to June 1984.

FIELDS OF INTEREST FOR RESEARCH:

Law and Economics, Public Choice, Industrial Organization, Labor, Public Finance, Microeconomic Theory, Environmental Regulation

COURSES TAUGHT (PARTIAL LIST):

Managerial Economics (MBA), Legal Environment of Business (MBA), Environmental Regulation (MBA), White Collar Crime and Corporate Criminal Penalties (MBA), Public Choice (Graduate), Microeconomics (Principles, Intermediate, and MBA), Macroeconomics (Principles, Intermediate, and MBA), Money and Banking (Undergraduate), Issues in Deterrence (Law), Empirical Law and Economics (Law), Cost-Benefit Analysis (Undergraduate, MBA, Graduate), Political Economy of the Public Sector (MBA), Economics of the Nonprofit Sector (MBA), Research Seminar for Law Students

OTHER AFFILIATIONS:

Adjunct Scholar, American Enterprise Institute, January 1995 to August 2001.
Member, The Mont Pelerin Society, September 1990 to present.
Associate, Political Economy Research Center, March 1987 to present.
Member, National Policy Forum, Economic Growth and Workplace Opportunity, January 1994 to 1996.

EDITORIAL ACTIVITY AND OTHER PROFESSIONAL POSITIONS:

Coeditor, ***Economic Inquiry***, November 1996 to August 1998.
Editorial Board, ***Regulation***, July 1989 to 2006.
Editorial Board, ***Public Choice***, March 1994 to December 2003.
Editorial Board, ***Managerial and Decision Economics***, January 1994 to July 1998.
Co-editor, Special Issue of ***Journal of Law and Economics*** on Penalties: Public and Private, 1999.
Co-editor, Special Issue of ***Economic Inquiry*** in Honor of Armen Alchian's 80th Birthday, July 1996.
Special Editor, ***Managerial and Decision Economics***, special issue on "The Economics of Corporate Crime," July-August 1996.
Nominating Committee for Presidency and Board of Directors of Western Economic Association, Western Economic Association, 1996.

OTHER ACTIVITIES (UNPAID):

Board of Advisers, Business & Media Institute, May, 2008 to present.
Wrote the Statistical Report for the Minority members of the U.S. Commission on Civil Rights on the "Probe of Election Practices in Florida During the 2000 Presidential Election."
Served as a Statistical expert for ***USA Today*** in evaluating the precinct level data that they had put together after the Florida Presidential Election in 2000.
Advisor to the Allied Pilots Association and the Airline Pilots Security Alliance on the issue of arming pilots in the cockpit: January 2002 to present.
Served as the statistical expert for the challenge by Senator Mitch McConnell against McCain-Feingold campaign finance regulations.

OTHER ACTIVITIES (PAID):

Consultant, Federal Trade Commission, April 17, 2002 to July 1, 2003.

BOOKS:

Uncertainty and Economic Evolution: Essays in Honor of Armen Alchian, edited volume, Routledge Press: New York (1997).

More Guns, Less Crime: Analyzing Crime and Gun Control Laws, University of Chicago Press: Chicago, Illinois (1998), translated into Portuguese (1999), Russian (2004), and German (2017). Second edition published 2000, third edition published May, 2010.

Are Predatory Commitments Credible?: Who Should the Courts Believe?, University of Chicago Press: Chicago, Illinois (1999).

The Bias Against Guns: Why Almost Everything You've Heard About Gun Control Is Wrong, Regnery Press, Washington, DC (2003) translated into Portuguese (Brazil and Portugal).

Freedomnomics: Why the Free Market Works and Other Half-Baked Theories Don't, Regnery Press, Washington, DC (2007), translated into Portuguese (Brazil and Portugal), Chinese, and Korean.

Straight Shooting: Firearms, Economics and Public Policy, Merril Press: Seattle, Washington, (2010).

Debacle: Obama's War on Jobs and Growth and What We Can Do Now to Regain Our Future, co-authored with Grover Norquist, John Wiley & Sons: New York, NY (March, 2012).

At the Brink, Regnery Press, Washington, DC (February 9, 2013)

Dumbing Down the Courts: How Politics Keeps the Smartest Judges Off the Bench, Hillcrest Media: Minneapolis, MN (September 8, 2013).

The War on Guns, Regnery Press, Washington, DC (2016)

PUBLICATIONS:

LAW AND ECONOMICS:

(1) "Licensing and Nontransferable Rents," ***American Economic Review***, Vol. 77, no. 3, June 1987: 453-455; "Licensing and Nontransferable Rents: Reply," ***American Economic Review***, Vol. 79, no. 4, September 1989: 910-912.

LAW AND ECONOMICS (CONTINUED):

(2) "Juvenile Delinquency and Education: A Comparison of Public and Private Provision," ***International Review of Law and Economics***, Vol.7, no. 2, December 1987: 163-175.

(3) "Should the Wealthy Be Able to 'Buy Justice'?" ***Journal of Political Economy***, Vol. 95, no. 6, December 1987: 1307-1316.

(4) "Why Comply: The One-Sided Enforcement of Price Controls and Victimless Crime Laws," co-authored with Russell Roberts, ***Journal of Legal Studies***, Vol. 18, no. 2, June 1989: 403-414, reprinted in ***The Economics of Corruption and Illegal Markets***, edited by Gianluca Fiorentini and Stefano Zamagni, Cheltenham, U.K.: Edward Elgar Publishing Limited, forthcoming.

(5) "A Transaction Costs Explanation For Why the Poor are More Likely to Commit Crime," ***Journal of Legal Studies***, Vol. 19, no. 1, January 1990: 243-245.

(6) "Optimal Penalties Versus Minimizing the Level of Crime: Does it Matter Who is Correct?" ***Boston University Law Review***, invited conference volume on the United States Sentencing Commission's proposed Organizational Sanctions, March 1991: 439-446.

(7) "An Attempt at Measuring the Total Monetary Penalty from Drug Convictions: The Importance of an Individual's Reputation," ***Journal of Legal Studies***, Vol. 21, no. 1, January 1992: 159-187, reprinted in ***The Economics of Corruption and Illegal Markets***, edited by Gianluca Fiorentini and Stefano Zamagni, Cheltenham, U.K.: Edward Elgar Publishing Limited, forthcoming.

(8) "Low-Probability-High-Penalty Enforcement Strategies and the Efficient Operation of the Plea Bargaining System," co-authored with Bruce H. Kobayashi, ***International Review of Law and Economics***, Vol. 12, no. 1, March 1992: 69-77.

(9) "Do We Punish High Income Criminals too Heavily?" ***Economic Inquiry***, Vol. 30, no. 4, October 1992: 583-608.

(10) "The Reputational Penalty Firms Bear for Committing Fraud," co-authored with Jonathan M. Karpoff, ***Journal of Law and Economics***, Vol. 36, no. 2, October 1993: 757-803, closely related version reprinted in ***The Economics of Organized Crime***, edited by Gianluca Fiorentini and Sam Peltzman, London: Cambridge University Press, 1995: 199-246.

(11) "The Expected Penalty for Committing a Crime: An Analysis of Minimum Wage Violations," co-authored with Russell Roberts, ***Journal of Human Resources***, Vol. 30, no. 2, Spring 1995: 397-408.

(12) "Should Criminal Penalties Include Third-Party Avoidance Costs?" co-authored with Kermit Daniel, ***Journal of Legal Studies***, Vol. 24, no. 2, June 1995: 523-534.

LAW AND ECONOMICS (CONTINUED):

(13) "The Optimal Level of Criminal Fines in the Presence of Reputation," ***Managerial and Decision Economics***, invited conference volume, Vol. 17, no. 4, July-August, 1996: 363-380.

(14) "In Defense of Criminal Defense Expenditures and Plea Bargaining," co-authored with Bruce Kobayashi, ***International Review of Law and Economics***, Vol. 16, no. 4, December 1996: 397-416.

(15) "Crime, Deterrence, and Right-to-Carry Concealed Handguns," co-authored with David Mustard, ***Journal of Legal Studies***, Vol. 26, no. 1, January 1997: 1-68; portion reprinted in ***The Gun Control Debate: A Documentary History***, edited by Marjolin Bijlefeld, Westport, CT.: Greenwood Publishing (1997): 88-91; single authored summary reprinted in the ***Valparasio University Law Review***, Vol. 31, no. 2 Spring 1997: 355-364; Reprinted in ***Guns in America: a reader***. 1999. edited by Jan E. Dizard, Robert M. Muth, Stephen P. Andrews, NYU Press. Reprinted in ***The Economics of Crime***. 2005. edited by Isaac Ehrlich and Zhiqiang Liu, The International Library of Critical Writings in Economics, Edward Elgar Pub.. Reprinted in ***Economics, Law and Individual Rights***, 2008, edited by Hugo M. Mialon, Paul H. Rubin, Routledge.

(16) "The Concealed Handgun Debate," ***Journal of Legal Studies***, Vol. 27, no. 1, January 1998: 221-243.

(17) "Deterrence, Right-to-Carry Concealed Handgun Laws, and the Geographic Displacement of Crime," co-authored with Stephen G. Bronars, ***American Economic Review***, Vol. 88, no. 2 (May 1998): 475-479.

(18) "Do Concealed Handgun Laws Save Lives?" ***American Journal of Public Health***, Vol. 88, no. 6 (June 1988): 980-982.

(19) "Punitive Damages: Their Determinants, Effects on Firm Value, and the Impact of Supreme Court and Congressional Attempts to Limit Awards," co-authored with Jonathan M. Karpoff, ***Journal of Law and Economics***, Vol. 42, no. 1 (part 2) (April 1999): 527-573.

(20) "Have changing Liability Rules Compensated Workers Twice for Occupational Hazards?: Earnings Premiums and Cancer Risks," co-authored with Richard Manning, ***Journal of Legal Studies***, Vol. 29, no. 1 (January 2000): 99-130.

(21) "Does a Helping hand Put Others At Risk?: Affirmative Action, Police Departments, and Crime," ***Economic Inquiry***, Vol. 38, no. 2 (April 2000): 239-277; republished in *The Economics of Affirmative Action*, edited by Harry J. Holzer, Edward Elgar Publishing Ltd.: Surrey, UK (2004).

(22) "The American Bar Association, Judicial Ratings, and Political Bias," ***Journal of Law & Politics***, (Winter 2001): 41-61.

LAW AND ECONOMICS (CONTINUED):

(23) "Safe Storage Gun Laws: Accidental Deaths, Suicides, and Crime," co-authored with John Whitley, ***Journal of Law and Economics***, Vol. 44, no. 2, part 2, (October 2001): 659-689.

(24) "Non-Voted Ballots and Discrimination in Florida." ***Journal of Legal Studies***, Vol. 32, no. 1 (January 2003): 181-220.

(25) "Measurement Error in County-Level UCR Data," with John Whitley, ***Journal of Quantitative Criminology***, Vol. 19, No. 2 (June 2003): 185-198.

(26) "The Judicial Confirmation Process: The Difficulty in Being Smart," ***Journal of Empirical Law and Economics***, Vol. 2, no. 3, 2005: 407-447 (Lead article).

(27)"The Reputational Penalties for Environmental Violations: Empirical Evidence," with Jonathan Karpoff and Eric Wehrly, ***Journal of Law and Economics***, Vol., no. 2 (October 2005): 653-675.

(28) "Abortion and Crime: Unwanted Children and Out-of-Wedlock Births***,"*** co-authored with John Whitley, ***Economic Inquiry***, Vol. 45, no. 2, (April 2007): 304-324.

(29) "Peer Effects in Affirmative Action: Evidence from Law Student Performance," co-authored with Mark Ramseyer and Jeffrey Standen, ***International Review of Law and Economics***, Vol. 31, no. 1 (March 2011): 1-15 (Lead article).

(30) "What a balancing test will show for Right-to-Carry Laws," ***University of Maryland Law Review***, Vol. 71, no. 4 (2012): 1205-1218.

PUBLIC CHOICE AND PUBLIC FINANCE:

(1) "Brand Names and Barriers to Entry in Political Markets," ***Public Choice***, Vol. 51, no. 1, 1986: 87-92.

(2) "Political Cheating," ***Public Choice***, Vol. 52, no. 2, 1987: 169-186.

(3) "The Effect of Nontransferable Property Rights on the Efficiency of Political Markets: Some Evidence," ***Journal of Public Economics***, Vol. 32, no. 2, March 1987: 231-246.

(4) "The Institutional Arrangement of Public Education: The Puzzle of Exclusive Territories," ***Public Choice***, Vol. 54, no. 1, 1987: 89-96.

(5) "Why is Education Publicly Provided?: A Critical Survey," ***Cato Journal***, Vol. 7, no. 2, Fall 1987: 475-501, reprinted in ***The Economic Value of Education***, edited by Mark Blaug, Cheltenham, U.K.: Edward Elgar Publishing Limited, 1992, Chapter 27.

PUBLIC CHOICE AND PUBLIC FINANCE (CONTINUED):

(6) "Explaining Challengers' Campaign Expenditures: The Importance of Sunk Nontransferable Brand Name," ***Public Finance Quarterly***, Vol. 17, no. 1, January 1989: 108-118.

(7) "Deadweight Losses and the Saving Response to a Deficit," co-authored with Gertrud Fremling, ***Economic Inquiry***, Vol. 27, no. 1, January 1989: 117-129.

(8) "Shirking and Sorting in a Political Market with Finite-Lived Politicians," co-authored with W. Robert Reed, ***Public Choice***, Vol. 61, no. 1, April 1989: 75-96.

(9) "Time Dependent Information Costs, Price Controls, and Successive Government Intervention," co-authored with Gertrud Fremling, ***Journal of Law, Economics, and Organization***, Vol. 5, no. 2, Fall 1989: 293-306.

(10) "Attendance Rates, Political Shirking, and the Effect of Post-Elective Office Employment," ***Economic Inquiry***, Vol. 28, no. 1, January 1990: 133-150.

(11) "An Explanation for Public Provision of Schooling: The Importance of Indoctrination," ***Journal of Law and Economics***, Vol. 33, no.1, April 1990: 199-231.

(12) "Predation by Public Enterprises," ***Journal of Public Economics***, Vol. 43, no. 2, November 1990: 237-251.

(13) "Does Additional Campaign Spending Really Hurt Incumbents?: The Theoretical Importance of Past Investments in Political Brand Name," ***Public Choice***, Vol. 72, October 1991: 87-92.

(14) "A Critical Review and An Extension of the Political Shirking Literature," co-authored with Michael L. Davis, ***Public Choice***, Vol. 74, no. 4, December 1992: 461-484, winner of the Duncan Black Award presented by the Public Choice Society for the best Public Choice paper of the year.

(15) "Reconciling Voters' Behavior with Legislative Term Limits," co-authored with Andrew R. Dick, ***Journal of Public Economics***, Vol. 50, no. 1, January 1993: 1-14, reprinted in ***Term Limits: A Public Choice Perspective***, edited by Bernard Grofman, Dordrecht, Netherlands: Kluwer Academic Publishers, forthcoming 1996.

(16) "Time Series Evidence on Shirking by Members of the U.S. House of Representatives," coauthored with Stephen G. Bronars, ***Public Choice***, invited conference volume, Vol. 76, no. 1-2, June 1993: 125-149, reprinted in ***Foundations of Regulatory Economics***, edited by Robert B. Ekelund, Jr., London: Edward Elgar Publishing Limited, 2000.

(17) "An Explanation for Why Senators from the Same State Vote Differently So Frequently," coauthored with Gi-Ryong Jung and Lawrence W. Kenny, ***Journal of Public Economics***, Vol. 54, no. 1, May 1994: 65-96.

PUBLIC CHOICE AND PUBLIC FINANCE (CONTINUED):

(18) "Do Deficits Affect the Level of Insurance?" co-authored with Gertrud M. Fremling, ***Journal of Money, Credit, and Banking***, Vol. 26, no. 4, November 1994: 934-940.

(19) "Are Government or Private Enterprises More Likely to Engage in Dumping?: Some International Evidence," ***Managerial and Decision Economics***, Vol. 16, no. 3, May-June 1995: 185-204.

(20) "Legislator Voting and Shirking: A Critical Review of the Literature," co-authored with Bruce Bender, ***Public Choice***, Vol. 87, nos. 1 and 2, April 1996: 67-100.

(21) "Term Limits and Electoral Competitiveness: Evidence from California's State Legislative Races," co-authored with Kermit Daniel, ***Public Choice***, Vol. 90, nos. 1-4, March 1997: 165-184, reprinted in ***Constitutional Political Economy in a Public Choice Perspective***, edited by Charles K. Rowley, Kluwer Academic Publishers: Boston, 1997, Chapter 7, pp. 165-184.

(22) "Does Political Reform Increase Wealth?: Or, Why the Difference Between the Chicago and Virginia Schools is Really an Elasticity Question," ***Public Choice***, Vol. 91, nos. 3-4, June 1997: 219-227.

(23) "A Review Article on Donald Wittman's The Myth of Democratic Failure," ***Public Choice***, Vol. 92, no. 1-2, July 1997: 1-13 (Lead article).

(24) "How Term Limits Enhance the Expression of Democratic Preferences," coauthored with Einer Elhauge and Richard Manning, ***Supreme Court Economic Review***, Vol. 5, 1997: 59-81.

(25) "Do Campaign Donations Alter How a Politician Votes?," coauthored with Steve Bronars, ***Journal of Law and Economics***, Vol. 40, no. 2, October 1997: 317-350.

(26) "Did Women's Suffrage Change the Size and Scope of Government?," co-authored with Larry Kenny, ***Journal of Political Economy***, Vol. 107, no. 6, part 1, December 1999: 1163-1198.

(27) "Public Schooling, Indoctrination, and Totalitarianism," ***Journal of Political Economy***, Vol. 107, no. 6, part 2, December 1999: S127-S157.

(28) "A Simple Explanation for Why Campaign Donations are Increasing: The Government is Getting Bigger," ***Journal of Law and Economics***., Vol. 42, no. 2, October 2000: 359-393.

(29) "Documenting Unusual Declines in Republican Voting Rates in Florida's Western Panhandle Counties in 2000," ***Public Choice***, Vol. 123, June 2005: 349-361.

(30) "Campaign Finance Reform and Electoral Competition," ***Public Choice***: Vol. 129 (3-4), 2006: 263-300.

PUBLIC CHOICE AND PUBLIC FINANCE (CONTINUED):

(31) "Non-voted Ballots, The Cost of Voting, and Race," ***Public Choice***, Vol. 138, no. 1, (January 2009): 171-197.

(32) "What Does the American Bar Association Judicial Rating Really Measure?" ***Public Choice***, 2013.

(33) "Is Newspaper Coverage of Economic Events Politically Biased?" co-authored with Kevin Hassett, ***Public Choice***, (July 2014): 65-108.

INDUSTRIAL ORGANIZATION:

(1) "Brand Names, Ignorance, and Quality Guaranteeing Premiums," ***Applied Economics***, Vol. 20, no. 2, February 1988: 165-176.

(2) "Qualitative Information, Reputation, and Monopolistic Competition," co-authored with Michael Darby, ***International Review of Law and Economics***, Vol. 9, no. 1, June 1989: 87-103.

(3) "A Guide to the Pitfalls of Identifying Price Discrimination," co-authored with Russell D. Roberts, ***Economic Inquiry***, Vol. 29, no. 1, January 1991: 14-23, reprinted in ***Who Sets Prices?***, Pittsburgh, PA.: Enterprise & Education Foundation, 1991.

(4) "Do Some Firms Rely on Preferences Instead of Sunk Investments to Guarantee Performance?" coauthored with Andrew R. Dick, ***Managerial and Decision Economics***, invited conference volume, Vol. 14, no. 2, March-April 1993: 109-118.

(5) "Profiting from Induced Changes in Competitors' Market Values: The Case of Entry and Entry Deterrence," co-authored with Robert G. Hansen, ***Journal of Industrial Economics***, Vol. 43, no. 3, September 1995: 261-276.

(6) "Externalities and Corporate Objectives in a World with Diversified Shareholder/Consumers," co-authored with Robert G. Hansen, ***Journal of Financial and Quantitative Analysis***, Vol. 31, no. 1, March 1996: 43-68.

(7) "Testing Whether Predatory Commitments are Credible," co-authored with Tim Opler, ***Journal of Business***, Vol. 69, no. 3, July 1996: 339-382.

OTHER AREAS:

(1) "Why Do Workers Join Unions?: The Importance of Rent-Seeking," co-authored with Stephen G. Bronars, ***Economic Inquiry***, Vol. 27, no. 4, April 1989: 305-324.

(2) "The Winner's Curse and Public Information in Common Value Auctions: Comment," co-authored with Robert G. Hansen, ***American Economic Review,*** Vol. 81, no. 1, March 1991: 347-361, reprinted in ***Recent Developments in Experimental Economics***, Vol. II, edited by John D. Hey and Graham Loomes, Cheltenham, U.K.: Edward Elgar Publishing Limited, 1993, Chapter 9, pp. 154-168.

(3) "The Bias Towards Zero in Aggregate Perceptions: An Explanation Based on Rationally Calculating Individuals," co-authored with Gertrud Fremling, ***Economic Inquiry***, Vol. 34, no. 2, April 1996: 276-295; "The Bias Towards Zero in Identifying Relationships: Reply to Kennedy," co-authored with Gertrud Fremling, ***Economic Inquiry***, Vol. 37, no. 2, April 1999: 385-386.

(4) "The Effect of Macroeconomic News on Stock Returns: New Evidence from Newspaper Coverage," co-authored with Gene Birz, ***Journal of Banking and Finance***, Vol**.** 35, November 2011: 2791-2800 (Semifinalist for Best Paper in Investments Award at 2009 FMA Annual Meetings).

SHORTER PAPERS, BOOK CHAPTERS, AND BOOK REVIEWS:

(1) "A Note on Law, Property Rights, and Air Pollution," ***Cato Journal***, Vol. 3, no. 3, Winter 1983/1984: 875-878.

(2) "Education," Economics Research Directory, New York: Manhattan Institute, 1984: Chp. 7.

(3) "Rates of Return Promised by Social Security to Today's Young Workers," co-authored with Peter Ferrara, in Social Security: The Prospects for Real Reform, Peter Ferrara ed., Washington: Cato Institute, 1985: Chp. 1.

(4) Review of Unnatural Monopolies, edited by Robert Poole, ***Southern Economic Journal***, Vol. 53, no. 1, July 1986: 287-288.

(5) "On Nationalizing Private Property and the Present Value of Dictators," co-authored with David Reiffen, ***Public Choice***, Vol. 48, no. 1, 1986: 81-87.

(6) "Externalities, Agency Structure, and the Level of Transfers," ***Public Choice***, Vol. 53, no. 3, 1987: 285-287.

(7) "Televising Legislatures: Some Thoughts on Whether Politicians are Search Goods," co-authored with Gertrud Fremling, ***Public Choice***, Vol. 58, no. 1, July 1988: 73-78.

SHORTER PAPERS, BOOK CHAPTERS, AND BOOK REVIEWS (CONTINUED):

(8) "Some Thoughts on Tullock's New Definition of Rent-Seeking," ***Contemporary Policy Issues***, Vol. 6, no. 4, October 1988: 48-49.

(9) "Racial Employment and Earnings Differentials: The Impact of the Reagan Administration: Comment," ***The Review of Black Political Economy***, Vol. 17, no. 4, Spring 1989: 83-84.

(10) "Production Costs and Deregulation," co-authored with Morgan Reynolds, ***Public Choice***, Vol. 61, no. 2, May 1989: 183-186.

(11) Review of Televised Legislatures: Political Information, Technology, and Public Choice by W. Mark Crain and Brian Goff, ***American Political Science Review***, Vol. 83, December 1989: 1377-1378.

(12) "Getting Tough on White-Collar Crime," ***Regulation***, Vol. 13, no. 1, Winter 1990: 18-19.

(13) "A Comment on 'The Role of Potential Competition in Industrial Organization,'" co-authored with Andrew Dick, ***Journal of Economic Perspectives***, Vol. 4, no. 2, Spring 1990: 213-215.

(14) "Why is Education Publicly Provided?: Some Further Thoughts," ***Cato Journal***, Vol. 10, no. 1, Summer 1990: 293-297.

(15) "Nontransferable Rents and an Unrecognized Social Cost of Minimum Wage Laws," ***Journal of Labor Research***, Vol. 11, no. 4, Fall 1990: 453-460.

(16) "The Effect of Conviction on the Legitimate Income of Criminals," ***Economics Letters***, Vol. 34, no. 12, December 1990: 381-385.

(17) "Why the Commission's Corporate Guidelines May Create Disparity," ***Federal Sentencing Reporter***, co-authored with Jonathan Karpoff, November/December 1990: 140-141.

(18) Review of Institutions, Institutional Change, and Economic Performance, by Douglas C. North, ***Journal of Policy Analysis and Management***, Vol. 11, no. 1, 1992: 156-159.

(19) "Goring the U.S. Economy," Review of Earth in the Balance: Ecology and the Human Spirit, by Senator Albert Gore, Jr., ***Regulation***, Vol. 15, no. 3, Summer 1992: 76-80.

(20) Review of Reforming Products Liability, by W. Kip Viscusi, ***Journal of Policy Analysis and Management***, Vol. 11, no. 4, 1992: 726-728.

(21) Review of The Future of Economics, by John D. Hey (ed.), ***Public Choice***, Vol. 75, no. 4 (April 1993): 389-394.

SHORTER PAPERS, BOOK CHAPTERS, AND BOOK REVIEWS (CONTINUED):

(22) "Regulatory Common Sense vs. Environmental Nonsense," Reviews of Environmental Overkill: Whatever Happened to Common Sense? by Dixy Lee Ray with Lou Guzo and Science Under Siege: Balancing Technology and the Environment by Michael Fumento, ***Regulation***, Vol. 16, no. 1, Fall 1993: 80-82.

(23) "Regulating Indoor Air Quality: The Economist's View," coauthored with Robert G. Hansen, ***The EPA Journal***, Vol. 19, no. 4 (October-December, 1993): 30-31.

(24) "Environmental Economics: Fallacies and Market Incentives," Chapter 3 in Balancing the Earth's Economy and Ecology: Analysis and Constructive Alternatives to Earth in the Balance, John Baden (ed.), San Francisco: Pacific Research Institute, 1994: 77-89.

(25) "The Regulatory Quest for Safety at Any Cost," Review of Collision Course: The Truth About Airline Safety by Ralph Nader and Wesley J. Smith, ***Regulation***, Vol. 17, no. 1, Winter 1994: 80-81.

(26) "Armen A. Alchian's Influence on Economics," ***Economic Inquiry*** , Vol. 34, no. 3, July, 1996: 409-411, reprinted in Uncertainty and Economic Evolution: Essays in Honor of Armen Alchian, John R. Lott, Jr. (ed.), Routledge Press: New York (1997): 1-3.

(27) Moderated and Participated in "Roundtable discussion in Celebration of Armen Alchian's 80th Birthday," ***Economic Inquiry*** Vol. 34, no. 3 (July 1996): 412-426.

(28) "Corporate Criminal Penalties," ***Managerial and Decision Economics*** Vol. 17, no. 4 (July-August 1996): 349-350.

(29) "In Praise of Lost Mail and $900 Toilet Seats?" Review of The Myth of Democratic Failure: Why Political Institutions are Efficient, by Donald Wittman, ***Regulation***, no. 1, 1996: 85-89.

(30) "Concealed Handguns Can Save Lives," ***Agenda***, Vol. 3, no. 4, 1996: 499-502.

(31) "Freedom, Wealth, and Coercion," co-authored with Gertrud Fremling, in Uncertainty and Economic Evolution: Essays in Honor of Armen Alchian, John R. Lott, Jr. (ed.), Routledge Press: New York (1997): 151-164.

(32) "Survey of the Economics of Corporate Crime," ***Encyclopedia of Law and Economics***, Boudewijn Bouckaert and Gerrit De Geest, editors, forthcoming.

(33) "The Reputational Penalty Imposed on Criminals," ***The New Palgrave Dictionary of Economics and Law***, Peter Newman, editor, 1998.

(34) "Do Concealed Handgun Laws Save Lives?," ***Spectrum: The Journal of State Government***, Vol. 70 (Spring 1997): 28 and 29.

SHORTER PAPERS, BOOK CHAPTERS, AND BOOK REVIEWS (CONTINUED):

(35) "Who is Really Hurt By Affirmative Action?," ***Police Executive Research Forum***, Vol. 12, No. 5, May 1998: 1 and 3.

(36) "How to Stop Mass Shootings," ***The American Enterprise***, Vol. 9, no.4, July/August 1998: 66-67.

(37) "More Guns, Less Crime," Letter to the Editor, ***The New England Journal of Medicine***, May 20, 1999.

(38) "Refusing to Let Facts Get In The Way of A Good Story," ***The American Enterprise***, Vol. 10, No. 3 (May/June 1999): p. 68.

(39) "Public and Private Penalties: Introduction," ***Journal of Law and Economics***, Vol. 42, June 1999: 239-243.

(40) "Does Allowing Law-Abiding Citizens to Carry Concealed Handguns Save Lives?" in Guns in America: A Reader, edited by Jan Dizard, Robert Muth, and Stephen Andrews, New York University Press: New York (1999): 322-330.

(41) "Violence Prevention and Concealed Weapons Laws," Letter to the Editor, ***Journal of the American Medical Association***, Vol. 283 No. 9, March 1, 2000.

(42) "When Gun Control Costs Lives," ***Phi Kappa Phi Journal***, Vol. 80, Fall 2000: 29-32.

(43) "Another Media Murder of the Truth," ***The American Enterprise***, Vol. 11, no.8, December 2000: p. 10.

(1) "Impact of the Brady Act on Homicide and Suicide Rates," Letters to the Editor, ***Journal of the American Medical Association***, Vol. 284 No. 21, December 6, 2000, p. 2718.

(2) "Carrying Concealed Weapons Prevents Crime," Chapter 3, in Crime and Criminals, edited by Tamara L. Roeff, University of Michigan Press, 2000.

(3) "Guns, Crime, and Safety: Introduction," ***Journal of Law and Economics***, Vol. 44, no. 2, part 2, (October 2001): 605-614.

(47) "The Surprising Finding that 'Cultural Worldviews' Don't Explain People's Views on Gun Control," co-authored with Gertrud M. Fremling, ***University of Pennsylvania Law Review***, Vol. 151, no. 4 (April 2003): 1341-1348.

(48) "Correcting 'The March of Science' Editorial," ***Archives of Pediatrics & Adolescent Medicine***, June 2008: 589.

(49) "Civil Rights: Racial Preferences in Higher Education," ***Chapman Law Review***, Winter 2009: 344-350.

SHORTER PAPERS, BOOK CHAPTERS, AND BOOK REVIEWS (CONTINUED):

(50) "Reforms that ignore the black victims of crime," ***Cato Unbound***, March 13, 2009.

(51) "An Unsatisfying Change?: Canadians' satisfaction with their health care isn't much different from uninsured Americans," ***Regulation***, Summer 2009: 38-44.

(52) Forward to ***From Luby's to the Legislature: One Woman's Fight Against Gun Control***, by Suzanna Gratia Hupp, Privateer Publications (December 1, 2009).

(53) "Making Guns Less Available Does Not Reduce Gun Violence," in ***Opposing Viewpoints: Gun Violence***, Louise Gerdes, editor, Gale Publishing: Dallas, Texas (2011).

(54) Forward to ***Power Divided is Power Checked***, Jason Lewis, Bascom Hill Publishing (January 2011).

(56) "How do Multiple Victim Public Shooters Decide Where to Attack?" ***ACJS (Academy of Criminal Justice Sciences) Today***, September, 2012: pp. 14-17.

(55) "The Cost-Benefit Analysis of Crime," in ***Developing Standards for Benefit-Cost Analysis***, Richard Zerbe, editor, the University of Washington Benefit-Cost Center (2011).

(56) "How do Multiple Victim Public Shooters Decide Where to Attack?" ***Academy of Criminal Justice Sciences Today***, September, 2012: 14-17.

(57) "Did John Lott Provide Bad Data to the NRC?: A Note on Aneja, Donohue, and Zhang," co-authored with Carlisle E. Moody and Thomas Marvell, ***Econ Journal Watch***, January 2013.

REFEREED FOR:

American Economic Review; American Economic Journal: Applied Economics; American Journal of Political Science; Contemporary Economic Policy; Criminology; Criminology & Public Policy; Eastern Economic Journal; Economic Inquiry; Economica; Economics of Education Review; Economics of Governance; International Economic Review; International Journal of Industrial Organization; International Review of Law and Economics; Journal of the American Medical Association; Journal of Corporate Finance; Journal of Economic Behavior and Organization; Journal of Economic Education; Journal of Human Resources; Journal of Interpersonal Violence; Journal of Law and Economics; Journal of Law, Economics, and Organization; Journal of Legal Studies; Journal of Financial and Quantitative Analysis; Journal of Policy Analysis & Management; Journal of Political Economy; Journal of Politics; Journal of Public Economics; Legislative Studies Quarterly; Managerial and Decision Economics; National Science Foundation; Oxford University Press; Policy Studies Journal; Public Choice; Public Finance Quarterly; Quarterly Journal of Economics; Quarterly Review of Economics and Finance; RAND Journal of Economics; Rationality and Society; Research in Law and Economics; Review of Economics and Statistics; Review of Economics of the Household; Social Choice and Welfare; Southern Economic Journal; and Regulation.

SELECTED PRESENTATIONS:

PRESENTATIONS AT GOVERNMENT AGENCIES AND OTHER NON-UNIVERSITY INSTITUTIONS:

Ad Hoc Working Group on the Economics of the Pharmaceutical Industry: 1995; American Legislative Exchange Council (National Meeting): 1998; Cato Institute: 1996, 2000, 2007, 2010; City of Philadelphia Continuing Legal Education for Municipal Attorneys: 1999; Commodity Futures Trading Commission: 1991; Commonwealth Club of California (San Jose): 2008; Comstock Club (Stockton, California): 1997; Congressional Hispanic Caucus Institute: 2001; Contemporary Club (Charlottesville, Virginia): 2008; Doctors for Disaster Preparedness (San Francisco, Ca.): 2000; Eagle Council: 1999, 2000; Federal Trade Commission: 1990, 1992, 1996; Fortune Society debate on "Should Convicted Felons Have a Vote?": 2004; Frontiers of Freedom: 2000; Goldwater Institute (Phoenix, Arizona): 1998; Heartland Institute: 1999, 2007, 2010; Heritage Foundation: 1997; Illinois Police Association Annual State Convention (Luncheon Keynote Speaker): 1997; Innocenzo Gasparini Institute for Economic Research (Milan, Italy): 1993; Intelligence Squared: 2008; Koch Crime Commission (Topeka, Kansas): 1998; Lone Star Foundation: 1999; National Association of Treasury Agents Annual Convention: 1997; New Jersey Conference of Mayors: 2000; New Zealand Department of Justice: 2006; Orange County Federalist Society: 2007, 2009, 2013, 2016; "Bully Pulpit Speaker" series Sponsored by Wisconsin State House Speaker before legislative staff: 2000; Rand Corporation: 1991, 1999; Reason Weekend: 2000; Republican National Lawyers Association, National Summer Election Law Seminar & School: 2006; Seattle Economic Council: 2007; Souix Falls (South Dakota) City club: 2000; St. Louis Police Officers Association: 1999; Sunday Morning Breakfast Club (Philadelphia): 2000; U.S. Department of Education: 1988; U.S. Department of Justice: 1987, 1988, 1989, 1991, 1993; U.S. Office of Management and Budget: 1991; U.S. Securities and Exchange Commission: 1988, 1989; World Affairs Council of Philadelphia: 1993.

Conferences (Excluding Multiple Presentations at a conference):

American Bar Association's conference on Gun & Media Violence - Issues for the Litigator: 2001; American Criminology Society: 1996, 1998, 2003; American Economics Association: 1993, 1995, 1996, 1997, 1998, 1999, 2001, 2011; American Enterprise Institute's Panel to Discuss my book entitled More Guns, Less Crime: 1998; American Enterprise Institute's Panel to Discuss my paper on multiple victim shootings: 1999; American Enterprise Institute Conference on "Guns, Crime, and Safety": 1999; American Law and Economics Association Annual Meeting: 1993, 1994, 1995, 1996, 1997, 2000, 2001; American Statistical Association: 2001; Association of American Law Schools Meetings: 1999; Association of Managerial Economists Meetings: 1993; Association of Private Enterprise Economists: 2001 (Luncheon Speaker); Atlantic Economic Association Meetings: 1993; Cato Institute's Conference on The U.S. Sentencing Commission's Corporate Penalty Guidelines: 1991; Centre for Economic Policy Research Conference on the Economics of Organized Crime (Bologna, Italy): 1993; Constitutional Rights Foundation Youth Summit (Chicago), 2006; Cornell Political Forum: 2000; Economic Science Association Meetings: 1989; Federalist Society Faculty Division Conference: 1999; Federalist Society Southern Leadership: 1999; Firearm Safety Seminar (Sponsored by the New Zealand Police): 2006; Guns, Crime, and Punishment in America (University of Arizona): 2001; Handgun Control, Inc. Sponsored Debate on my Concealed Handgun Research: 1996; Harvard Law School Conference on the Economics of Law Enforcement: 1998; Heritage Foundation, Legal Strategy Form: 1999; International Symposium on Forecasting: 2007; Law and Economics Center's Conference to Discuss the fourth Edition of Economic Analysis of Law by Richard Posner: 1993; Law and Economics Center's National Conference on Sentencing of the Corporation: 1990; Missouri Farmer's Association: 2005; Neoliberal Policies for Development: Analysis and Criticism, sponsored by the Program for Studies in Capitalism, Yale University and Faculdade de Direeito da Universidade de Sao Paulo (Sao Paulo, Brazil): 2000; Penalties: Public and Private (held at the University of Chicago): 1997; National Lawyers Convention: 1999; Public Choice: 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1994, 1995, 1996, 1997, 1999, 2001, 2005, 2011; Southern Economic Association: 1991, 1997; Strategy and Politics sponsored by the University of Maryland Collective Choice Center: 1996; Symposium on the Economic Analysis of Social Behavior to honor Gary Becker's 65th Birthday: 1995; Symposium on Election Law, Federalist Society National Conference: 2000; Symposium on Guns and Liability in America at the University of Connecticut School of Law: 2000; Western Economic Association: 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 2007; Wharton Health Care Conference: 1992; Young Republican Conference, 2006.

PRESENTATIONS AT UNIVERSITIES (REFERS TO BUSINESS SCHOOLS OR ECONOMICS DEPARTMENTS UNLESS NOTED OTHERWISE AND EXCLUDES PRESENTATIONS AT HOME INSTITUTION):

Arizona State University: 1988, 1989, 1991, 1998; Arizona State University Law School: 2016; Auburn University: 1999; Australian National University: 1996; Baylor University: 2007; Baylor University Law School: 2004, 2016; Boston University School of Law: 1998; Boston University Law School: 2000; Brigham Young University: 1992; Brigham Young University Law School: 2002; California State University, East Bay: 2008; Campbell University Law School: 2008; Carnegie Mellon University: 1994; Case Western Reserve University Law School: 2002, 2012, 2015; Catholic University School of Law: 2003; Chicago-Kent School of Law: 2000; Claremont Graduate School: 1989, 1998, 2012; Clemson University: 1988, 2008, 2010; Columbia University School of Law: 1999, 2003; Cornell University: 1989, 1994; Cornell University School of Law: 1994, 1998, 2005; California State University at Hayward: 1987, 1993, 2004, 2010; California State University at Northridge: 1984; Capitol University: 2000; Cardozo School of Law: 1999, 2000, 2012; Catholic University Law School: 2003; Chapman University School of Law: 2005; Dartmouth College: 1985, 2000; Detroit Mercy Law School: 2007; Duke University School of Law: 1998, 2003, 2008; Duquesne Law School: 2012, 2015; Elon University Law School: 2008; Emory University: 1993, 1996; Florida Coastal University School of Law: 2006, 2009; Florida International University School of Law: 2006; Florida State University School of Law: 2005, 2009, 2016; Florida State University: 2005, 2009; Fordham University School of Law: 1996; Furman University: 2009; George Mason University: 1988, 1989, 1991, 1994, 1995, 2001; George Mason University School of Law: 1988, 1990, 1992, 1993, 1996, 1999, 2001, 2005, 2008; George Washington University Law School: 2000; Georgetown University School of Law: 1997, 2000; Golden Gate Law School: 2012; Gonzaga University: 2003, 2010; Hamline University School of Law: 2007; Harvard University School of Law: 1996, 1999; University of Hawaii Law School: 2011, 2011; Hillsdale College: 2004, 2007; Hitotsubashi University: 2007; Hoover Institution, Stanford University: 2001; Indiana University: 1994; Indiana University Law School: 2016; Indiana University-Purdue University at Indianapolis: 1997; Johns Hopkins University: 2001; Lewis & Clark Law School: 2004, 2007; Louisville University: 1999; Loyola College (Maryland): 2000; McGeorge Law School: 2012; McKendree College: 2001; Michigan State University: 1997; University of Minnesota School of Law: 2007; Montana State University: 1986; University of Nevada at Las Vegas: 2010; New York University: 1988; New York University School of Law: 1998, 2001, 2008; North Carolina State University: 1990; Northwestern University: 1994; Northeastern University School of Law: 2016; Northwestern University School of Law: 1993, 1996, 2008; Northwestern University Medical School: 2003; Notre Dame University: 1995; Notre Dame University Law School: 2008; Nova Southeastern Law School: 2005; Ohio State University: 1989, 2000; Ohio State University Law School: 2000, 2003; Ohio University: 2003, 2004; Oklahoma City University School of Law: 1999; Pennsylvania State University: 1999; Pepperdine University: 1989; Pepperdine University Law School: 2012; Rice University: 1998; Roger Williams Law School: 2016; Rutgers University: 1991; Rutgers University Law School: 2012; Samford University Law School: 2005; St. Mary's University Law School: 2008, 2010; Santa Clara University: 1991, 2001; Santa Clara University Law School: 2012; Savanah University Law School: 2016; Seattle University School of Law: 2003, 2007; Simon Fraser University: 1991, 2001, 2007; South Dakota University: 2000; Southern Illinois University: 2000; Southern Methodist University: 1985, 1992;

PRESENTATIONS AT UNIVERSITIES (CONTINUED):

Southern Methodist University School of Law: 1999, 2004; Stanford School of Law: 1987, 1989, 1996, 2010; SUNY - Binghamtom: 1997; Texas A&M University: 1992; Texas Tech University: 2004; Trinity College: 2000; Tulane University: 1989; Touro Law School: 2012; University of Akron Law School: 2012; University of Alabama Law School: 2005; University of Alberta: 1991; University of Arizona: 1991; University of Arizona School of Law: 1991; University of Baltimore Law School: 2004; University of British Columbia: 2007; University of Canterbury (New Zealand): 2006; University of Chicago: 1990, 1992, 1993; University of Chicago Law School: 2004; UC Berkeley Law School: 1998, 2001, 2001, 2010; UC Davis: 1987, 1993, 1998; UC Irvine: 1989, 1991; UCLA: 1989, 1993, 1995, 1997; UCLA School of Law: 1991, 2005; UC Santa Barbara: 1987, 1990; University of Colorado at Bolder: 2016; University of Florida: 1988, 2000, 2009; University of Florida Law School: 2009; University of Georgia: 1992, 1993; University of Houston: 1984, 1985, 1986, 1987, 1992, 1999, 2010; University of Houston Law School: 1999; University of Idaho: 2003; University of Idaho Law School: 2004, 2010, 2012; University of Illinois (Champaign-Urbana): 1994; University of Illinois School of Law (Champaign-Urbana): 1998; University of Illinois (Chicago): 1996; University of Iowa School of Law: 2003; University of Kansas: 1999; University of Kansas School of Law: 1999; University of Kentucky: 1995, 2008; University of Maine Law School: 2012; University of Maryland Computer Science Department: 2004; University of Miami: 1989, 1990, 1998, 2005, 2006, 2009; University of Miami School of Law: 2005; University of Michigan: 1995, 1997, 2001; University of Michigan School of Law: 2000, 2001; University of Missouri at St. Louis: 2001; University of Memphis: 2005; University of Montana School of Law: 2003; University of Nebraska: 2016; University of New Hampshire Law School: 2016; University of New Mexico: 1984; University of Oklahoma: 1999; University of Oklahoma School of Law: 1999, 2012; University of Oregon School of Law: 2003, 2007; University of Pennsylvania: 1991; University of Pennsylvania School of Law: 1999; University of San Diego School of Law: 2000, 2003, 2005, 2008; University of South Carolina: 2005, 2010; University of Southern California: 1990, 1999; University of Southern California School of Law: 1999, 2012; University of Utah School of Law: 2002; Saint Cloud State University: 2002; St. Louis University: 2001; St. Louis University (general University talk): 2002; St. Mary's University Law School: 2015; St. Thomas University Law School: 2015; Stetson University School of Law: 2006, 2009; Thomas Cooley Law School (Grand Rapids: 2007) (Lansing: 2007) (Oakland: 2007); University of Tennessee School of Law: 2005; University of Texas (Austin): 1985, 2004, 2007; University of Texas School of Law (Austin): 1999, 2004, 2010, 2016; University of Texas (Dallas): 1992, 1998, 2007; Tiffin University: 1999; University of Tokyo School of Law: 2007; University of Toronto: 1991, 1995; University of Tulsa: 2012; University of Virginia: 1988; University of Virginia School of Law: 2000; University of Washington: 1990, 1997 (business school), 1997, 2007 (economics);, 2004 (Law); University of Western Ontario: 1993, 2006; Vanderbilt University School of Law: 2005; West Virginia University School of Law: 2003; Willamette University Law School: 2003, 2007; Williams College: 1999; University of Wisconsin (Madison): 1995; University of Wisconsin Law School (Madison): 1999; University of Wisconsin (Milwaukee): 1992; Virginia Polytechnic Institute: 1988; Wake Forest University: 1998; Washington State University: 1990;Washington University in St. Louis: 2000;

PRESENTATIONS AT UNIVERSITIES (CONTINUED):

Washington University in St. Louis School of Law: 2003; Wayne State University: 2000; Widener University Law School: 2016; College of William and Mary: 1999, 2006; William and Mary School of Law: 1999, 2007; William Mitchell Law School: 2003; Xavier University: 2004; Yale University School of Law: 1985, 1996.

LEGISLATIVE TESTIMONY:

U.S. House of Representatives, Subcommittee on Health and the Environment, Public Hearing on Prescription Drugs in the Health Security Act, Tuesday, February 8, 1994.

U.S. House of Representatives, Subcommittee on Health, Committee on Ways and Means, Public Hearing on Alternative Health Reform Proposals, Thursday, February 10, 1994.

Nebraska State Senate, Judiciary Committee, Public Hearings on Concealed Handgun Permits, Thursday, February 6, 1997 (lead witness).

Kansas State Senate, State and Federal Affairs Committee, Public Hearings on Concealed Handgun Permits, Monday, February 10, 1997 (lead witness).

Kansas State House, State and Federal Affairs Committee, Public Hearings on Concealed Handgun Permits, Monday, February 10, 1997 (lead witness).

Illinois State House, Transportation Committee, Public Hearings on Concealed Handgun Permits, Tuesday, March 18, 1997 (lead witness).

California State Assembly, Committee on Public Safety, Public Hearings on Concealed Handgun Permits, Tuesday, November 18, 1997.

City of Toledo (Ohio), City Council; Public Hearings on Ordinances to require handgun registration, require gun locks, and ban assault weapons; Monday, Dec. 13, 1998 (lead witness).

Minnesota Joint State Assembly and Senate Hearing, Committee on Public Safety, Public Hearings on Concealed Handgun Permits, February 19, 1999 (lead witness).

Ohio State House, Judiciary Committee, Public Hearings on Concealed Handgun Permits, Tuesday, March 2, 1999 (lead witness).

Maryland State House, Judiciary Committee, Public Hearings on Concealed Handgun Permits, Wednesday, March 17, 1999.

Maryland State Senate, Judicial Procedures Committee, Public Hearings on Concealed Handgun Permits, Wednesday, March 17, 1999 (lead witness).

LEGISLATIVE TESTIMONY (CONTINUED):

U.S. Senate, Rules and Administration Committee, Public Hearings on Campaign Finance Reform, Wednesday, March 24, 1999.

Michigan State House, Conservation and Outdoor Recreation Committee, Public Hearings on Concealed Handgun Permits, Wednesday, April 22, 1999 (lead witness).

U.S. House of Representatives, Judiciary Committee, Subcommittee on Crime, Public Hearing on Gun Control Legislation, Thursday, May 27, 1999.

Utah Joint State Assembly and Senate Hearing, Committees on the Judiciary and Law Enforcement, Wednesday, July 21, 1999 (lead witness).

Hawaii State Senate Joint Committee Hearing, Committee on the Judiciary and Committee on Transportation and Intergovernmental Affairs, Tuesday, February 15, 2000.

Maryland State House, Budget Committee, Public Hearings on Tax Credit for Gun Locks, Wednesday, February 16, 2000

Wisconsin State House, Judiciary and Privacy Committee, Public Hearings on Concealed Handgun Law, Tuesday, February 29, 2000.

Maryland State Senate, Judicial Procedures Committee, Public Hearings on Smart Gun Locks, Wednesday, March 15, 2000.

New Jersey State Senate, Law and Public Safety Committee, Public Hearings on Smart Gun Locks and raising the age at which a gun can be purchased to 21, Thursday, May 15, 2000.

Ohio State House, Civil and Commercial Law Committee, Public Hearings on Concealed Handgun Law, Wednesday, June 13, 2001 (lead witness).

U.S. Senate, Rules and Administration Committee, Public Hearing to examine a report from the U.S. Commission on Civil Rights regarding the November 2000 election and election reform in general, Wednesday, June 27, 2001.

U.S. House of Representatives, Judiciary Committee, Public Hearing on the "Help America Vote Act of 2001," Wednesday, December 5, 2001.

Wisconsin State Senate, Judiciary Committee, Public Hearings on Concealed Handgun Law, Saturday, March 9, 2002.

Ohio State Senate, Judiciary – Civil Justice Committee, Public Hearing on Concealed Handguns – License to Carry, Wednesday, May 22, 2002.

LEGISLATIVE TESTIMONY (CONTINUED):

Maryland State House, Judiciary Committee, Public Hearings on Concealed Handgun Law, Wednesday, March 16, 2004.

U.S. Election Assistance Commission, Public Meeting on Voting Systems, Wednesday, February 23, 2005.

U.S. House of Representatives, House Government Reform Committee, Public Hearing on the "District of Columbia Gun Ban," Tuesday, June 28, 2005.

U.S. Election Assistance Commission, Public Meeting on Voting Systems, Wednesday, August 23, 2005.

Illinois State House, Special Committee on Concealed Carry, Monday, April 10, 2012 (lead witness).

Governor's School Safety Task Force, Virginia, Hearing to examining Delegate Bob Marshall's bill to allow teachers to carry guns on school property, January 27, 2013, 5:30 to 6:00 PM.

U.S. Senate Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Human Rights, Hearing on "'Stand Your Ground' Laws: Civil Rights and Public Safety Implications of the Expanded Use of Deadly Force," October 29, 2013.

Joint Mexican Senate and House Constitution Committee Hearing on rewriting Article 10 of the Mexican Constitution that deals with gun ownership, November 16, 2016.

COURT TESTIMONY:

California Pro-life Council Political Action Committee v. Jan Scully, et al., United States District Court, Eastern District of California, NO. CIV. S-96-1965 LKK/DAD.

Colorado Right to Life Committee v. Buckley, United States District Court, District of Colorado, Case No. 96-S-2844.

Florida Right to Life, Inc., et al. v. Sandra Mortham, etc. et al., United States District Court, Central District of Florida , No. 98-770-CIV-ORL-19A.

Montana Right to Life Association et. al. v. Robert Eddelman et. al., United States District Court, District of Montana, NO. CIV. 96-165-BLG-JDS.

Daggett v. Webster, 74 F.Supp.2d 53(D.Maine 1999) and 81 F.Supp.2d 128 (D.Maine 2000).

Marcella Landell, et al. v. William Sorell, et al., United States District Court, District of Vermont , 118 F.Supp.2d 459 (D.Vt 2000).

Stewart, et. al. v. J. Kenneth Blackwell, et al., United States District Court, Northern District of Ohio, Eastern Division (February 20, 2004 and September 30, 2004), Case No. 5:02 CV 2028.

DEPOSITIONS ONLY:

Expert for the Virginia State Attorneys General, State Legislative Redistricting, September 2001.

Expert for *National Middle School Association v. Lloyds London,* Franklin County Court of Common Pleas, August, 2012.

CONFERENCES ORGANIZED AND RAISED MONEY:

Corporate Sentencing: The Guidelines Take Hold, held at the Four Seasons Hotel under the auspices of the Cato Institute, October 31, 1991.

"Penalties: Public and Private," held at the University of Chicago, December 1997 and published in the ***Journal of Law and Economics***, June 1999.

"Guns, Crime, and Safety," held at the American Enterprise Institute and co-sponsored with the Yale Law School, December 1999 and published in the ***Journal of Law and Economics***, October 2001.

SELECTED PUBLIC APPEARANCES (all times are EST, except where otherwise noted, primarily limited to National appearances):

C-SPAN, Press conference presenting letter that I authored which was signed by 565 economists on President Clinton's Health-care Plan, 8:00 AM, Friday, January 14, 1994 and 2:00 PM, Sunday, January 16, 1994.

CNN and **CNN** Headline News, Thursday, January 13, 1994.

All Things Considered, National Public Radio, Thursday, January 13, 1994.

Market Place, Public Radio International, Thursday, January 13, 1994.

The Nightly Business Report, National Public Television, Thursday, January 13, 1994.

At least 50 local television stations around the nation covered the letter, from Thursday, January 13, 1994 to Friday, January 14, 1994.

Appeared on 61 radio talk shows around the nation to discuss the economists' letter on President Clinton's Health-care Plan from Friday, January 14, 1994 to Friday, January 28, 1994.

CNN, Inside Business, Sunday, January 23, 1994.

New Jersey Network and National Empowerment Television, National Policy Forum "Taxpayers, Speak Out!: A National Tax Day Policy Forum," 1 to 3 PM, Friday, April 15, 1994.

ABC National Evening News, Friday, August 2, 1996.

SELECTED PUBLIC APPEARANCES (CONTINUED):

British Broadcasting Corporation Radio, Sunday, August 4, 1996.

Monitor Radio, Thursday, August 8, 1996.

MSNBC, 10:05 AM and 3:05 PM, Thursday, August 8, 1996.

NBC National Evening News, Thursday, August 8, 1996.

CNN and **CNN Headline News**, Thursday, August 8, 1996.

NBC - Nightside, Friday, August 9, 1996.

NBC News at Sunrise, Friday, August 9, 1996.

NBC Today Show, twice, Friday, August 9, 1996.

C-SPAN, Presentation of Concealed Handgun Study, 11:30 AM, Friday, August 9, 1996.

At least 41 local television stations around the nation (along with radio stations in at least New York, Los Angeles, Chicago, Hartford, and Miami) covered the findings of my concealed handgun study, from Thursday, August 8, 1996 to Saturday, August 10, 1996.

Appeared on approximately 100 radio talk shows around the nation to discuss the concealed handgun study from Thursday, August 8, 1996 to December 31, 1996.

Australian Broadcasting Corporation, The Breakfast with Peter Thompson, National Morning Radio Broadcast, 8:05 AM, Thursday, August 15, 1996, Sydney time.

As It Happens, Canadian Broadcasting Corporation, Tuesday, August 20, 1996.

Morning Edition, "Study Says Concealed Weapons Law Decreases Crime Rate," National Public Radio, Monday, September 23, 1996, 6:40, 8:40, and 10:40 AM.

CNN Early Prime, "Handguns are Becoming More Powerful, But More Compact," Monday, October 14, 1996, 4:38 PM.

British Broadcasting Corporation Radio, Wednesday, October 16, 1996.

C-SPAN, Presentation of Concealed Handgun Study, 9:00 AM, 2:30 PM, and 9:30 PM, Monday, December 9, 1996; 2:30 AM Tuesday, December 10, 1996; and 5:36 PM Saturday, December 14, 1996.

Morning Edition, National Public Radio, "Concealed Weapons Laws," Tuesday, December 10, 1996, 10:00 AM.

MSNBC, 4:08 to 4:20 PM, Monday, February 24, 1997.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The O'Reilly Report, ***Fox News*** Channel, "Concealed Handguns and Crime," 6:10 to 6:17 PM, Thursday, April 10, 1997.

The Impact of Term Limits, C-SPAN, 11:00 AM, Wednesday, August 27, 1997; 7:00 AM Thursday, August 28, 1997.

The Hannity and Colmes Show, ***Fox News*** Channel, 9:30 to 10:00 PM, Tuesday, October 7, 1997.

Appeared on approximately 160 radio talk shows and 13 local television shows around the nation to discuss my book entitled More Guns, Less Crime, from Monday, March 30, 1998 to July 1, 1998.

The O'Reilly Factor, ***Fox News*** Channel, 8:40 to 8:45 PM, Monday, March 30, 1998.

The John Robbie Morning Radio Show (Johannesburg, Pretoria, and Cape Town), 5:44 to 5:55 AM (South Africa), Wednesday, April 15, 1998.

The John Mason Morning Radio Show (Cape Town), 6:38 to 6:49 AM (South Africa), Friday, April 17, 1998.

America's Voice Tonight, America's Voice Channel, 8:35 to 8:45 PM, Tuesday, April 28, 1998.

MSNBC, 4:10 to 5:30 PM, Thursday, May 21, 1998.

SkyNews Television, 4:51 to 4:55 PM (London), Friday, May 22, 1998.

Fox News Channel, 2:40 to 2:50 PM, Friday, May 22, 1998.

Anne Petrie's TalkTV, Canadian Broadcasting Corporation Newsworld, 6:15 to 6:50 PM, Monday, May 25, 1998.

American Family, America's Voice Channel, 9:07 to 9:30 AM, Thursday, June 11, 1998.

About Books, Discussion of More Guns, Less Crime at the American Enterprise Institute, ***C-SPAN2***, 9:00 PM to 10:30 PM, Saturday, June 20, 1998; 12:00 AM to 11:30 AM and 10:00 AM to 11:30 AM, Sunday, June 21, 1998.

The Today Show, ***NBC***, 7:40 to 7:45 AM, July 21, 1998. Replayed several times on ***MSNBC*** on July 21, 1998.

Interview with Philipa Thomas, The World Today, British Broadcasting Corporation, August 12, 1998.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Interview with Fred Graham, Washington Watch, ***Court TV***, Friday, August, 28, 1998, 7:30 PM; Saturday, August, 29, 1998, 5:30 PM; and Sunday, August, 30, 1998, 5:30 PM.

Politics, Canadian Broadcasting Corporation Newsworld, Tuesday, September 22, 1998, 5:10 to 5:20 PM.

Newsworld Reports, Canadian Broadcasting Corporation Newsworld, Tuesday, September 22, 1998, 7:05 to 7:15 PM.

National Magazine, Canadian Broadcasting Corporation, Tuesday, September 22, 1998, 9:10 to 9:20 PM.

The ***CBS Morning News***, "Cities to go after gun makers to convince them to change manufacturing and distribution policies," Friday, December 11, 1998, 7:00 AM.

About Books, More Guns, Less Crime, ***C-SPAN2***, 10:50 AM to 12:17 PM and 3:12 PM to 4:39 PM, Saturday, February 20, 1999; 7:00 AM to 8:27 AM, Sunday, February 21, 1998.

Armstrong Williams Show, America's Voice Channel, 6:40 to 7:00 PM, Monday, March 15, 1999.

Howard Stern Radio Show, 8:10 to 8:35 AM, Tuesday, March 30, 1999.

Michael Medved Radio Show, 5:07 to 5:45 PM, Wednesday, April 6, 1999.

"Should We Have More Gun Control?" Debates/Debates, National Public Television, Week of April 21, 1999.

Interview, Canadian Television News, 8:05 to 8:12 PM, Thursday, April 22, 1999.

Rush Limbaugh Radio Show, 2:30 to 2:45 PM, Friday, April 23, 1999.

Sunday Morning Live, Canadian Broadcasting Corporation, 10:00 to 10:10 AM, Sunday, April 24, 1999.

Fox News Channel, 10:05 to 10:10 PM, Tuesday, April 27, 1999.

MSNBC, 6:08 to 7:00 PM, Tuesday, April 27, 1999.

CNN's "Talkback Live," 3:00 to 4:00 PM, Wednesday, April 28, 1999.

Fox News Channel, 10:15 to 10:30 AM, Thursday, April 27, 1999.

NBC National Evening News, Friday, April 30, 1999.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Special on Columbine School Shooting, selective segments, ***Fox News*** Channel, 11:00 to 11:30 PM, Friday, April 30, 1999.

MSNBC, 11:45 to 11:55 AM, Saturday, May 1, 1999.

Fox News Channel, 12:35 to 12:45 PM, Monday, May 3, 1999.

The Fox News Report, ***Fox News*** Channel, 7:35 to 7:45 PM, Monday, May 3, 1999.

MSNBC, 11:45 to 11:55 AM, Sunday, May 9, 1999.

CNN & Company, 11:30 AM to 12:00 PM, Thursday, May 20, 1999.

Interview with Tony Snow, ***Fox News*** Channel, 10:20 to 10:30 AM, Friday, May 21, 1999.

Fox News Channel, 3:10 to 3:16 PM, Friday, May 21, 1999.

Internight with John Gibson, ***MSNBC***, 7:00 to 7:30 PM, Friday, May 21, 1999.

Fox News Channel, 4:10 to 4:15 PM, Sunday, May 23, 1999.

Hardball with Chris Matthews, ***CNBC***, Wednesday, May 26, 1999, 8:00 PM.

C-SPAN, Testimony Before House Judiciary Committee's Subcommittee on Crime, 2:00 PM, Thursday, May 27, 1999; 12:16 AM Friday, May 28, 1999; 2:00 PM Saturday, May 29, 1999.

Fox News Channel, 9:50 to 9:55 AM, Tuesday, June 1, 1999.

Fox News Channel, 1:40 to 1:45 PM, Wednesday, June 16, 1999.

"Gun Control Debate: Good Legislation or Bad Legislation?" CNN Today, ***CNN***, 1:29 TO 1:38 PM, Friday, June 18, 1999.

Hardball with Chris Matthews, ***CNBC***, Tuesday, June 22, 1999, 8:00 PM.

"Airlines and Government," ***C-SPAN3***, 11:30 AM to 1:30 PM, Monday, June 28, 1999; ***C-SPAN***, 9:20pm to 11:19 PM, Monday, June 28, 1999; ***C-SPAN2***, 1:20 to 3:20 AM, Tuesday, June 29, 1999.

"Gun Life," ***A&E*** series on "Guns in America," 9:00 to 10:00 PM, Monday, June 28, 1999.

The Hannity and Colmes Show, ***Fox News*** Channel, 9:20 to 9:40 PM, Wednesday, August 11, 1999.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Hardball with Chris Matthews, ***CNBC***, Wednesday, August 18, 1999, 8:40 to 9:00 PM.

"*Buckley V. Valeo* Revisited: Are Existing Campaign Contribution Limits Consistent with the First Amendment?" ***C-SPAN1***, 2:30 to 3:40 PM, Friday, September 10, 1999; ***C-SPAN1***, 3:48 to 5:00 AM, Tuesday, September 14, 1999.

"Gunmakers Coming Under Increasing Pressure From All Areas to Make Guns Safer," ***National Public Radio***, Thursday, December 9, 1999.

"Watch It" with Laura Ingraham, ***MSNBC***, 6:15 to 6:30 PM, Thursday, December 9, 1999.

"Guns, Crime, and Safety," Conference at the American Enterprise Institute, ***C-SPAN1***, 3:30 PM to 5:40 PM, Friday, December 10, 1999; C-SPAN2, 8:00 AM to 10:40 AM, Monday, December 13, 1999. Also carried on C-SPAN radio.

"A Society of Violence," segment on The NewsHour with Jim Lehrer, 6:32 to 6:50 PM, Thursday, December 16, 1999.

"The spotlight is back on US gun laws," Australian Broadcasting Corporation's AM program, 8:20 to 8:25 AM AEDT, March 2, 2000.

"The Diane Rehm Show," National Public Radio, 11:00 to 11:50 AM, Thursday, May 11, 2000.

"The Michael Reagan Show," 7:30 to 8:00 PM, Friday, May 12, 2000.
"The News with Brian Williams," ***MSNBC***, 9:15 to 9:22 PM, Friday, May 12, 2000.

"Armed Informed Mothers March" ***C-SPAN1***, 4:00 to 6:00 PM, Sunday, May 14, 2000; ***C-SPAN1***, 2:00 to 4:00 AM, Monday, May 15, 2000; ***C-SPAN2***, and 10:09 PM to 12:44 AM, Monday, May 15, 2000.

Australian Broadcasting Corporation's "Late Line," 10:45 to 11:15 AEDT, Monday, May 15, 2000.

"Special Report with Brit Hume," ***Fox News*** Channel, 6:18 to 6:23 PM, Monday, May 15, 2000.

Gun Buyback Programs," Fox Report, ***Fox News*** Channel, 7:15 to 7:17 PM, Thursday, June 1, 2000.

The Hannity and Colmes Show, ***Fox News*** Channel, 9:00 to 9:15 PM, Friday, June 3, 2000.

Think Tank with Ben Wattenberg, ***National Public Television***, Week starting June 8, 2000.

SELECTED PUBLIC APPEARANCES (CONTINUED):

About Books, Discussion of More Guns, Less Crime at the Cato Institute, ***C-SPAN2***, 1:20 PM to 3:10 PM, Sunday, July 10, 2000.

Fox Report, ***Fox New*** Channel, 7:50 to 7:55 PM, Thursday, October 19, 2000.

"The Election and Guns," ***CNN NewsStand***, CNN, 10:32 to 10:55 PM, Tuesday, October 24, 2000 and 1:32 to 1:55 AM, Wednesday, October 25, 2000.

Politically Incorrect, ***ABC***, 12:05 to 12:35 PM, Monday, February 26, 2001.

"Reaction to Bancroft Winner Arming America," Columbia College Conservative Club, ***C-SPAN2***, 9:45 to 11:05 PM, Sunday, April 29, 2001; ***C-SPAN2***, 5:30 to 6:50 PM, Monday, April 30, 2001.

Special Report with Brit Hume, ***Fox News*** Channel, 6:25 to 6:27 PM, Tuesday, May 1, 2001.

"Zero Tolerance Policy," The News with John Gibson, ***Fox News*** Channel, 5:35 to 5:38 PM, Tuesday, June19, 2001.

"Shifting Gun Control Policy," To the Point, Public Radio International, 2:30 to 2:50 PM, Thursday, August 9, 2001.

"Should Guns be Allowed Near Schools?" interviewed by Rick Sanchez, ***MSNBC***, 1:33 to 1:38 PM, Monday, August 21, 2001.

The Sean Hannity Radio Show, 3:35 to 3:50 PM, Friday, September 28, 2001.

"Can Guns Stop Terrorists?" interviewed by Neil Cavuto, ***Fox News*** Channel, 4:43 to 4:46 PM, Monday, October 1, 2001.

"The Terrorist Threat," ***MSNBC***, Thursday, October 11, 2001, 4:32 to 5:00 PM.

"Mischaracterization of History?" ***Fox News*** Channel, Wednesday, January 9, 2002, 7:50 to 7:53 PM.

"Study: Guns No Safer When Locked Up," Special Report with Bret Hume, Fox News Channel, Friday, July 5, 2002, 6:35 to 6:38 PM and July 6, 2002, 12:35 to 12:38 AM; also presented on Fox Fair & Balanced, Fox News Channel, 3:55 to 3:58 PM.

"The Abrams Report," MSNBC, Monday, October 7, 2002, 6:25 to 6:28 PM.

Fox News, Friday, October 11, 2000, 1:50 to 1:56 PM.

"Ballistic Fingerprinting," Connie Chung Tonight, CNN, Wednesday, October 16, 2002, 8:33 to 8:40 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Laura Ingraham Radio Show, 8:41 to 8:57 PM, Wednesday, October 16, 2002.

"Advocates of Gun Control Use Killing Spree to Take Aim at Gun Lobby," The Big Story with John Gibson, Fox News Channel, Friday, October 18, 2002, 5:13 to 5:16 PM; also replayed on The Fox Report with Shepard Smith and other segments that day.

Dennis Praeger Radio Show, 12:05 to 12:55 PM, Tuesday, October 22, 2002.

"Interview with John Lott," Special Report with Bret Hume, Fox News Channel, Tuesday, October 22, 2002, 6:19 to 6:29 PM.

CNNfn, Thursday, October 24, 2002, 11:50 to 11:59 AM.

"Political Bias in Publishing," Fox Report, Saturday, January 19, 2003, 8:24 to 8:26 PM.

Buchanan & Press, MSNBC, Monday, May 26, 2003, 3:30 to 3:35 PM.

Scarborough Country, MSNBC, Tuesday, June 17, 2003, 10:03 to 10:11 PM and Wednesday, June 18, 2003, 1:03 to 1:11 AM.

Hardball with Chris Matthews, MSNBC, Monday, June 30, 2003, 7:30 to 7:38 PM and 11:30 to 11:38 PM.

News Conference, Armed Pilots Program, Airline Pilots Security Alliance, C-SPAN2, 5:12 AM to 5:52 AM, 8:48 AM to 9:28 AM, 1:20 PM to 2:00 PM, 8:48 PM to 9:28 PM, Wednesday, August 27, 2003 and 12:28 AM to 1:08 AM, Thursday, August 28, 2003.

"Are the Skies Safe?" Lou Dobbs Moneyline, CNN and CNNfn, Tuesday, September 2, 2003, 6:27 to 6:30 PM.

"Will Democrat candidates opt out of public funding?" NPR's Marketplace, Friday, October 17, 2003.

"A 'Jobless' Recovery?" CNBC, Friday, January 23, 2004, 5:35 to 5:41 PM.

"Granny Get Your Gun," Fox Report with Shepard Smith, Fox News, Monday, February 2, 2004; also replayed on Sunday Best, Fox News Channel, February 8, 2004, 9:35 to 9:37 PM.

"Big Story: Getting A Bead On The New Gun Control Law," CNNfn, Friday, February 27, 2004, 11:05 to 11:25 AM.

"The Lars Larson Show," nationally syndicated radio show, Monday, March 1, 2004, 7:45 to 7:58 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Voting Rights for Felons," National Public Radio's The Connection, Monday, April 4, 2004, 10:00 to 11:00 AM.

"Ohio's New Concealed Handgun Law," National Public Radio's Day to Day, Friday, April 8, 2004, 9:20 to 9:25 AM.

"Five years after Columbine," Tony Snow's Radio Show, Tuesday, April 20, 2004, 10:50 to 10:55 AM.

"Guns: Self Defense or Public Health Crisis," Duquesne University Debate, Pennsylvania Cable Network TV, Tuesday, April 27, 2004, 10:30 AM to 12:10 PM; Wednesday, April 28, 2004, 9:00 AM to 10:40 AM.

"The Bias Against Guns: Why Almost Everything You've Heard About Gun Control Is Wrong," Book TV, C-SPAN2, Saturday, May 15, 2004, 1:00 to 2:39 PM; Sunday, May 16, 1:00 to 2:39 AM; and Monday, May 31, 3:15 to 5:00 AM; C-SPAN Radio, Sunday, May 16, 5:00 to 6:39 PM; C-SPAN2, Saturday, August 28, 10:30 AM to 12:09 PM.

The Michael Dresser Show, Friday, May 29, 2004, 9:05 to 9:30 PM.

"Electronic Voting Machines and Fraud," State Circle, Maryland Public Television, Friday, June 4, 2004.

Geoff Metcalf, nationally syndicated radio show, Friday June 18, 2004, 8:30 to 9:00 PM.

"Preventing Another Florida?: Will the Changes Make Things Better?" C-SPAN1, Monday, June 21, 2004, 10:15 AM to 12:15 PM and 1:00 to 2:00 PM; C-SPAN3, Tuesday, June 22, 2004, 6:52 to 8:57 PM; C-SPAN2, Tuesday, June 29, 2004, 2:28 to 4:30 PM; C-SPAN3, Wednesday, June 30, 2004, 5:50 to 7:45 PM; C-SPAN3, Tuesday, August 17, 2004, 4:12 to 6:03 PM.

Linda Chavez's nationally syndicated radio show, Friday, July 2, 2004, 11:15 to 11:30 AM.

Alan Colmes' nationally syndicated radio show, Friday, July 2, 2004, 10:15 to 10:30 PM.

"Electronic Voting Machines in Florida," Nightly Business Report, National Public Television, Thursday, July 22, 2004.

"Assault Weapons Ban," On the Point, National Public Radio, Friday, August 13, 2004, 7:29 to 7:33 PM.

"The Quiet Death of the Assault Gun Ban," The Connection, National Public Radio, Friday, September 10, 2004, 10 to 11 AM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Media Bias," MSNBC with Lester Holt, Monday, September 10, 2004, 5:45 to 5:52 PM.

"Assault Weapons Ban," KNX Radio, Monday, September 10, 2004, 6:30 to 6:38 PM.

"Assault Weapons Ban," Larry Elder's Radio Talk Show, Monday, September 10, 2004, 7:10 to 7:30 PM.

"Media Bias" CNBC, Thursday, September 16, 2004, 5:45 to 5:50 PM.

"Gun Bias and the Media," C-SPAN3, Monday, September 27, 2004, 2:00 to 3:30 PM.

"Are the Elections any more Secure than 2000?" Lou Dobbs Tonight, Thursday, October 21, 2004, 6:30 to 6:37 PM and 11:30 to 11:37 PM and Friday, October 22, 2004, 4:30 to 4:37 AM.

"Judicial Confirmation Process," C-SPAN3, Monday, February 14, 2005, 9:00 to 10:30 AM; C-SPAN2, Monday, February 14, 2005, 9:55 to 11:25 PM; C-SPAN2, Tuesday, February 15, 2005, 1:30 to 3:00 AM; C-SPAN3, Tuesday, February 15, 2005, 12:30 to 2:00 PM; C-SPAN3, Tuesday, February 15, 2005, 7:00 to 8:30 PM; and C-SPAN3, Wednesday, February 16, 2005, 7:00 to 8:30 PM.

"Michael Reagan Radio Show," Friday, February 18, 2005, 7:45 to 8:30 PM.

Joe Scaraborough's national syndicated radio show, Tuesday, March 1, 2005, 10:15 to 10:40 AM.

Linda Chavez's nationally syndicated radio show, Thursday, March 3, 2005, 8:15 to 8:30 AM.

Laura Ingraham's national syndicated radio show, Thursday, March 3, 2005, 9:35 to 9:48 AM.

Connected: Coast to Coast, MSNBC, Tuesday, March 22, 2005, 12:03 to 12:20 PM.

To the Point, Public Radio International, Tuesday, March 22, 2005, 2:03 to 12:30 PM.

Scarborough Country, MSNBC, Tuesday, March 22, 2005, 10:50 to 10:58 PM.

Interview With John Lott, The Big Story with John Gibson, Fox News Channel, Thursday, April 21, 2005, 7:50 to 7:53 PM.

"Affirmative Action Factor in Atlanta Shooting?"*Fox Report with Shepard Smith*, Fox News Channel, Tuesday, April 26, 2005, 5:44 to 5:54 PM.

"Guns," Penn & Teller: BULLSHIT!: Gun Control," Showtime, June 27, 2005, 10:00 to 10:30 PM and 11:00 to 11:30 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"The Truth of Statistics: Freakonomics," Culture Time, German Television 3sat-Suchmaschine, July 14th.

"Campaign Spending Limits," C-SPAN 1, Wednesday, August 3, 2005, 2:05 to 4:05 PM and C-SPAN 1, Wednesday, August 3, 2005, 4:21 to 6:21 AM.

"Price Gouging," Dateline, Radio America, September 21, 2005, 6:10 to 6:20 PM.

"Brazilian Referendum Gun Ban Won't Make Country Safer, says American," British Broadcasting Corporation, October 18, 2005.

"Guns and Road Rage," The Lars Larson Show, February 2, 2006, 7:05 to 7:25 PM.

"Convenor say gun safety conference not forum for pro-gun lobby," Radio New Zealand, February 22, 2006, 8:15 AM (New Zealand time).

Tom Gresham's Gun Talk, March 26, 2006, 2:05 to 3:00 PM (on more than 100 radio stations).

Alan Colmes' Radio Show, April 18, 2006, 11:05 to 11:30 PM.

Mayor Bloomberg's Summit on Guns, Regional News Network (Cable News Channel in New York, New Jersey, and Connecticut), April 26, 2006, 5:05 to 5:15 PM.

Concealed Handgun Laws, G. Gordon Liddy Radio Show, Talk American Radio Network, Thursday, April 27, 2006, 11:30 AM to 12:00 PM.

"Special Report with Brit Hume," Fox News Channel, 6:15 to 6:18 PM, Monday, May 20, 2006.

Gunlocks, G. Gordon Liddy Radio Show, Talk American Radio Network, Thursday, April 27, 2006, 11:20 AM to 11:30 AM.

Abortion and Crime, Janet Parshall's America, Salem Radio Network, Tuesday, September 5, 2006, 3:30 to 4:00 PM.

Abortion and Crime, Lars Larson, nationally syndicated radio show, Friday, September 22, 2006, 6:35 to 6:49 PM.

Multiple Victim Public Shootings, Dennis Prager, nationally syndicated radio show, Tuesday, October 3, 2006, 1:35 to 1:42 PM.

Electronic Voting Fraud Claims, The Greg Knapp Experience, nationally syndicated radio show, October 24, 2006, 3:35 to 3:49 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Should Felons have the Right to Vote?" National Public Radio's Justice Talking, play at various times nationally during the week of October 23, 2006, debate lasted 35 minutes.

"Guns in the Workplace," the Jerry Doyle Show, February 13, 2007, 5:35 to 6:00 PM.

The Lars Larson Show, March 30, 2007, 7:35 to 8:00 PM.

The G. Gordon Libby Radio Show, April 11, 2007, 12:05 PM to 1:00 PM.

Virginia Tech Shooting, Larry Elder, nationally syndicated radio show, Monday, April 16, 2007, 4:05 to 4:42 PM.

Virginia Tech Shooting, Lars Larson, nationally syndicated radio show, Monday, April 16, 2007, 6:05 to 6:30 PM.

Virginia Tech Shooting, The Mark Levine Show, nationally syndicated radio show, Tuesday, April 17, 2007, 6:05 to 6:24 PM.

Guns and Crime, Al-Jazeera main news broadcast, Tuesday, April 17, 2007, 5:20 to 5:24 PM.

Virginia Tech Shooting, The Alan Colmes Show, nationally syndicated radio show, Tuesday, April 17, 2007, 11:05 to 11:30 PM.

Virginia Tech Shooting, Wisconsin Public Radio, statewide syndicated radio show, Wednesday, April 18, 2007, 8:05 to 8:30 AM.

Virginia Tech Shooting, Laura Ingraham, nationally syndicated radio show, Wednesday, April 18, 2007, 10:40 to 10:55 AM.

Virginia Tech Shooting, Dennis Miller, nationally syndicated radio show, Wednesday, April 18, 2007, 11:05 to 11:30 AM.

Virginia Tech Shooting, Sean Hannity, nationally syndicated radio show, Wednesday, April 18, 2007, 5:05 to 5:17 PM.

Virginia Tech Shooting, Larry Elder, nationally syndicated radio show, Wednesday, April 18, 2007, 6:40 to 6:48 PM.

Gun Control, The John Gibson Show, nationally syndicated radio show, Thursday, April 19, 2007, 7:35 to 7:47 PM.

Virginia Tech Shooting, The Jerry Doyle Show, nationally syndicated radio show, Friday, April 20, 2007, 3:05 to 3:25 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Gun Control, The Bill Bennett Show, nationally syndicated radio show, Monday, April 23, 2007, 7:35 to 7:47 AM.

Virginia Tech Shooting, Mancow in the Morning, nationally syndicated radio show, Wednesday, April 25, 2007, 7:07 to 7:15 AM.

The Jerry Doyle Show, May 31, 2007, 4:05 to 4:30 PM.

The G. Gordon Liddy Show, Tuesday, June 5, 2007, 11:35 AM to 12:30 PM.

Michael Medved Show, Wednesday, June 6, 2007, 5:05 to 6:00 PM.

The G. Gordon Liddy Show, Friday, June 9, 2007, 12:05 to 1:00 PM.

The Source with Paul Anderson, Sunday, June 10, 2007, 9:06 to 10:00 PM.

Mike McConnell Show, Monday, June 11, 2007, 10:06 to 10:30 AM.

Radio Rusy Humphries Show, Tuesday, June 12, 2007, 9:36 to 10:00 PM.

The Jerry Doyle Show, Wednesday, June 13, 2007, 4:35 to 5:00 PM.

The Christian Broadcasting Network, Friday, June 15, 2007, 2 minutes.

Dennis Miller, Monday, June 18, 2007, 11:15 to 11:45 AM.

Lars Larson, nationally syndicated radio show, Monday, June 16, 2007, 6:20 to 6:50 PM.

Thom Hartman, Air America, Monday, June 16, 2007, 1:06 to 1:30 PM.

"New Union Rules," Kudlow & Company, CNBC, Monday, June 21, 2007, 4:42 to 4:47 PM.

Michael Medved Show, Friday, June 29, 2007, 4:05 to 5:00 PM.

The Dennis Prager Show, July 2, 2007, 2:35 to 3:00 PM.

The Laura Ingraham Show, Monday, July 16, 2007, 11:23 to 11:30 AM.

Book TV, Discussion of Freedomnomics: Why the Free Market Works and Other Half-Baked Theories Don't at the Heritage Foundation, C-SPAN2, 11:00 AM to Noon, Sunday, August 12, 2007; Midnight to 1 AM, Sunday, August 12, 2007; and 7:00 to 8:00 PM, Saturday, August 18, 2007; and 5:00 PM to 6:0 PM, Monday, September 3, 2007.

Lars Larson, nationally syndicated radio show, Monday, August 13, 2007, 6:20 to 6:30 PM.

The Dennis Prager Show, August 13, 2007, 12:35 to 12:45 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The G. Gordon Liddy Show, Tuesday, August 14, 2007, 10:05 to 10:45 AM.

Washington Post Radio, Tuesday, August 14, 2007, 4:08 to 4:15 PM.

The Glenn Beck Show, CNN Headline News, Wednesday, August 29, 2007, 7:07 to 7:11 PM and 9:07 to 9:11 PM.

The Glenn Beck Radio Show, Thursday, August 30, 2007, 10:35 to 10:53 AM.

Lars Larson Radio Show, Tuesday, September 18, 2007, 6:20 to 6:30 AM.

Freedomnomics: Why the Free Market Works and Other Half-Baked Theories Don't at the Eagle Forum, C-SPAN2, 46 minutes, Friday, September 12, 2007; 7:00 PM to 7:46 PM, Sunday, November 25, 2007.

The G. Gordon Liddy Show, Monday, September 24, 2007, 10:05 to 10:45 AM.

Hugh Hewitt, Monday, October 9, 2007, 8:34 to 8:50 PM.

The Glenn Beck Show, CNN Headline News, Tuesday, October 10, 2007, 7:21 to 7:25 PM and 9:21 to 9:25 PM, Monday, October 11, 2007, 12:21 to 12:25 AM Saturday, October 13, 2007, 7:21 to 7:25 PM and 9:21 to 9:25 PM; and Sunday, October 14, 2007, 12:21 to 12:25 AM.

Should teachers carry guns in US School, World Have Your Say, BBC World Service radio, Tuesday, October 24, 2007, 1:50 to 2:00 PM.

The G. Gordon Liddy Show, Monday, November 12, 2007, 11:05 to 11:30 AM.

Lars Larson Radio Show, Monday, November 12, 2007, 6:35 to 6:50 PM.

Interview on carrying concealed handguns on university campuses, CNN Radio News, Wednesday, November 22, 2007.

Women Voting and the Growth of Government, C-SPAN 1, Thursday, November 29, 2007, 10:40 to 11:00 AM.

Women Voting and the Growth of Government, The Thom Hartmann Show, Air America, November 29, 2007, 12:05 to 12:15 PM.

The G. Gordon Liddy Show, Friday, November 30, 2007, 12:15 to 1:00 PM.

The Dennis Prager Show, Thursday, December 6, 2007, 12:15 to 12:30 PM.

Andrew Wilkow, The Wilkow Majority, Sirius Satellite Radio Patriot 144, Thursday, December 6, 2007, 1:40 to 2:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Lars Larson Radio Show, Thursday, December 6, 2007, 6:35 to 7:00 PM.

Bill Cunningham Radio Show, Premiere Radio Network, Sunday, December 9, 2007.

The Greg Knapp Experience, Thursday, December 20, 2007, 5:07 to 5:20 PM.

Lars Larson Radio Show, Monday, January 14, 2008, 6:20 to 6:30 PM.

The G. Gordon Liddy Show, Tuesday, January 15, 2008, 11:35 AM to Noon.

Dennis Miller Show, Wednesday, February 13, 2008, 10:35 AM to 10:50 AM.

The G. Gordon Liddy Show, Wednesday, February 13, 2008, 12:35 PM to 12:48 PM.

Dennis Miller Show, Monday, March 10, 2008, 11:35 AM to 11:42 AM.

Martha Zoller Show, Wednesday, March 12, 2008, 1:15 PM to 1:50 PM.

Rusty Humphries Show, Wednesday, March 12, 2008, 9:48 PM to 10:00 PM.

The G. Gordon Liddy Show, Monday, March 17, 2008, 10:06 AM to 10:30 AM.

Lars Larson Radio Show, Monday, March 17, 2008, 6:15 PM to 6:30 PM.

Mancow in the Morning, nationally syndicated radio show, Tuesday, March 18, 2008, 7:45 to 8:00 AM.

Brian and the Judge, Fox News Radio, Tuesday, March 18, 2008, 9:22 to 9:30 AM.

The Michael Reagan Show, Tuesday, March 18, 2008, 7:20 to 7:30 PM.

Debate with Paul Helmke, the president of the Brady Campaign, Bloomberg Television, Tuesday, March 18, 2008, 9:35 to 9:41 PM.

Greg Garrison Show, Wednesday, March 19, 2008, 10:35 to 11:00 AM.

The Glenn Beck Show, Wednesday, March 19, 2008, 11:06 to 11:20 AM.

Discussion on the Economy, Dennis Miller Show, Wednesday, April 2, 2008, 10:35 AM to 10:42 AM.

Discussion on the Economy, Fox & Friends, Fox News, Thursday, April 3, 2008, 6:22 AM to 6:27 AM.

"Charlton Heston and Guns," Weekend Breakfast, BBC Radio 5 Live, Sunday, April 6, 2008, 2:06 AM to 2:15 AM EDT.

The G. Gordon Liddy Show, Tuesday, April 15, 2008, 12:22 PM to 1:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The G. Gordon Liddy Show, Tuesday, April 29, 2008, 10:35 AM to 10:50 AM.

Lars Larson Radio Show, Tuesday, April 29, 2008, 7:35 PM to 7:45 PM.

The G. Gordon Liddy Show, Tuesday, May 13, 2008, 12:07 PM to 12:19 PM.

Lars Larson Radio Show, Friday, May 30, 2008, 6:23 PM to 6:30 PM.

The G. Gordon Liddy Show, Monday, June 16, 2008, 10:06 AM to 10:30 AM.

"The Cost of the Iraq War," Lars Larson Radio Show, Monday, June 16, 2008, 6:20 PM to 6:50 PM.

Supreme Court Decision on Heller, Michael Gallagher Radio Show, June 26, 2008, 10:45 AM to 10:55 AM.

Supreme Court Decision on Heller, Tom Sullivan Radio Show, June 26, 2008, 2:05 PM to 2:15 PM.

Supreme Court Decision on Heller, Kresta in the Afternoon, June 26, 2008, 4:07 PM to 4:20 PM.

Supreme Court Decision on Heller, The Jason Lewis Radio Show, June 26, 2008, 5:30 PM to PM.

Supreme Court Decision on Heller, Jerry Johnson Live, June 26, 2008, 6:15 PM to 6:30 PM.

Supreme Court Decision on Heller, The Rusty Humphries Show, June 26, 2008, 9:15 PM to 9:30 PM.

Debate with Brady Campaign President Paul Helmke over Supreme Court Decision on Heller, The Alan Colmes Show, June 26, 2008, 9:15 PM to 9:30 PM.

The Steve Malzberg Radio Show, Monday, June 30, 2008, 4:35 PM to 4:50 PM.

Discussion about profits in health care, The Mark Levin Show, July 10, 2008, 7:35 to 7:43 PM.

Discussion of Oil Company Profits, The Thom Hartmann Show, Air America, July 18, 2008, 1:06 to 1:16 PM.

Tom Gresham Radio Show, Sunday, July 27, 2008, 2:06 PM to 3:00 PM.

Lars Larson Radio Show, Thursday, July 31, 2008, 6:23 PM to 6:46 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Handguns on College Campuses," a debate with Paul Helmke, president of the Brady Campaign, C-SPAN1, Friday, August 1, 2008, 1:10 to 2:15 PM; reboadcast on C-SPAN1, Friday, August 1, 2008, 9:02 to 10:07 PM.

"The Second Amendment, post Heller decision," C-SPAN2, Monday, August 4, 2008, 4:10 to 5:06 PM; rebroadcast 1:06 to 1:58 AM, Tuesday, August 19, 2008, C-SPAN2; 1:43 to 2:35 PM, Thursday, August, 21, 2008, C-SPAN2.

The Mark Levin Show, Thursday, August 28, 2008, 7:35 to 7:50 PM.

Obama on Gun Control, The Steve Malzberg Radio Show, Monday, September 1, 2008, 5:35 PM to 5:50 PM.

"The Cost of the Iraq War," Lars Larson Radio Show, Wednesday, September 17, 2008, 6:24 PM to 6:50 PM.

"The Bailout Bill," Lars Larson Radio Show, Thursday, October 2, 2008, 7:07 PM to 7:20 PM.

The Michael Medved Show, Tuesday, October 14, 2008, 5:05 PM to 6:00 PM.

The Michael Medved Show, Friday, October 24, 2008, 5:05 PM to 6:00 PM.

Jason Lewis Show, Friday, October 31, 2008, 6:05 PM to 7:00 PM.

"Minnesota Ripe for Election Fraud," Lars Larson Radio Show, Monday, November 10, 2008, 8:20 PM to 8:30 PM.

"Minnesota Ripe for Election Fraud," Glenn Beck Show, Tuesday, November 11, 2008, 10:45 to 10:52 AM.

Thom Hartmann's Show, Air America, Tuesday, November 11, 2008, 2:09 to 2:30 AM.

"Minnesota Ripe for Election Fraud," interviewed by Neil Cavuto, Fox News Network, Tuesday, November 11, 2008, 4:37 to 4:41 PM.

"Minnesota Ripe for Election Fraud," Steve Malzberg Show, Wednesday, November 12, 2008, 4:47 to 5:00 PM.

"Minnesota Ripe for Election Fraud," Bill Bennett's Morning In America, Thursday, November 13, 2008, 8:05 to 8:15 AM.

"Minnesota Ripe for Election Fraud," Mike Gallagher Show, Thursday, November 13, 2008, 9:47 to 9:55 AM.

"Minnesota Ripe for Election Fraud," Dennis Prager Show, Thursday, November 13, 2008, 2:06 to 2:16 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Minnesota Ripe for Election Fraud," Fox News Live with Jamie Colby, Fox News, Sunday, November 16, 2008, 11:41 to 11: 45 AM.

Terrorist Attack in India, The Steve Malzberg Show, Wednesday, December 3, 2008, 3:35 to 3: 45 PM.

Terrorist Attack in India, The Greg Knapp Experience, nationally syndicated radio show, Friday, December 6, 2008, 4:35 to 4:43 PM.

Terrorist Attack in India, Lars Larson, nationally syndicated radio show, Friday, December 6, 2008, 7:35 to 7:45 PM.

The G. Gordon Liddy Show, Monday, December 15, 2008, 12:35 PM to 1:00 PM.

The Auto Bailout, The Steve Malzberg Show, Wednesday, December 16, 2008, 4:35 to 4: 45 PM.

Tim Farley, The Morning Briefing, POTUS, XM Radio, December 18, 2008, 6:20 AM to 6:30 AM.

The G. Gordon Liddy Show, Monday, December 22, 2008, 12:35 PM to 1:00 PM.

Minnesota Recount and Gun Control, Dennis Miller Show, Tuesday, December 23, 2008, 11:35 AM to 11:47 AM.

Minnesota Recount, the Jerry Doyle Show, Tuesday, December 23, 2008, 4:05 to 4:30 PM.

The G. Gordon Liddy Show, Tuesday, January 13, 2009, 12:22 PM to 12:30 PM.

Lars Larson Radio Show, Thursday, January 28, 2009, 6:38 PM to 6:53 PM.

Gun Control, Coast to Coast AM, Thursday, February 5, 2009, 1:17 to 2:00 AM.

Gun Control and Gangs in Canada, The Roy Green Show, Corus Radio Network (National Canadian Network), Saturday, February 7, 2009, 3:35 to 4:00 PM.

A. Gordon Liddy, Tuesday, February 10, 2009, 12:35 PM to 12:55 PM.

The Dennis Miller Show, Thursday, February 12, 2009, 10 minutes.

"The Cost of the Stimulus Bill," ***Fox News***, Monday, February 16, 2009, 11:10 to 11:12 AM; and other times during the day.

"Nationalizing Banks," Glenn Beck Show, ***Fox News***, Monday, February 16, 2009, 5:04 to 5:11 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The G. Gordon Liddy Show, Wednesday, February 25, 2008, 11:35 to 11:45 AM.

Mancow in the Morning, Friday, February 27, 2009, 7:55 to 8:03 AM.

The Jason Lewis Show, Thursday, March 12, 2009, 8:05 to 9:00 PM.

G. Gordon Liddy, Wednesday, April 1, 2009, 11:35 AM to 12:00 PM.

Gun Control, Coast to Coast AM, Saturday, April 4, 2009, 1:03 to 1:08 AM.

The Jason Lewis Show, Monday, April 13, 2009, 8:05 to 9:00 PM.

Washington Journal, ***C-SPAN***, Tuesday, April 14, 2009, 8:02 to 8:30 AM.

Freedomnomics and Gun Control, Coast to Coast AM, Monday, May 4, 2009, 1:15 to 4:00 AM.

Health care debate, Street Signs, ***CNBC***, Friday, May 8, 2009, 2:20 to 2:30 PM.

The Jason Lewis Show, Wednesday, May 13, 2009, 8:05 to 9:00 PM.

The Dennis Miller Show, Tuesday, May 19, 2009, 11:34 to 11:46 AM.

Gun Control, Coast to Coast AM, Thursday, May 21, 2009, 1:10 to 1:55 AM.

Lars Larson Radio Show, Friday, May 29, 2009, 6:21 PM to 6:30 PM.

"Discussing the Obama Administration's spending policy when it comes to issues such as health care, U.S. automakers, & the financial system," Washington Journal, ***C-SPAN***, Sunday, June 14, 2009, 7:30 to 8:30 AM.

G. Gordon Liddy, Wednesday, June 25, 2009, 11:35 AM to 12:00 PM.

Greg Garrison Show, Wednesday, July 1, 2009, 10:35 to 11:00 AM.

Steve Malzberg Show, Wednesday, July 1, 2009, 5:35 to 6:00 PM.

The Jason Lewis Show, Tuesday, July 14, 2009, 8:05 to 9:00 PM.

The G. Gordon Liddy Show, Monday, July 20, 2009, 11:35 AM to 12:00 PM.

Gun Control, Coast to Coast AM, Wednesday, July 22, 2009, 1:10 to 1:15 AM.

The Thom Hartmann Show, Air America, Monday, August 3, 2009, 12:06 to 12:17 PM.

The G. Gordon Liddy Show, Tuesday, August 4, 2009, 11:05 AM to 12:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The John Gibson Show, Tuesday, August 4, 2009, 1:10 to 1:20 PM.

Cash for Clunkers and Health care, ***FOX Business***, Thursday, August 6, 2009, 7:05 to 7:12 PM.

The Jason Lewis Show, Friday, August 14, 2009, 8:05 to 9:00 PM.

Greg Garrison Show, Thursday, August 20, 2009, 10:35 to 11:00 AM.

Discussion of Health Care Debate, The Thom Hartmann Show, Air America, Thursday, August 20, 2008, 12:06 to 12:16 PM.

The Thom Hartmann Show, Air America, Tuesday, September 1, 2009, 1:15 to 1:30 PM.

Greg Garrison Show, Monday, September 7, 2009, 10:05 to 11:00 AM.

The G. Gordon Liddy Show, Monday, September 7, 2009, 11:05 AM to 12:00 PM.

The Jason Lewis Show, Monday, September 7, 2009, 8:05 to 9:00 PM.

The G. Gordon Liddy Show, Thursday, September 17, 2009, 11:05 AM to 12:00 PM.

Lars Larson Radio Show, Thursday, September 17, 2009, 6:35 PM to 6:45 PM.

The Thom Hartmann Show, Air America, Monday, September 21, 2009, 1:05 to 1:15 PM.

The Dennis Miller Show, Wednesday, September 23, 2009, 11:08 to 11:18 AM.

Mancow & Cassidy, WLS, September 30, 2009, 11:33 to 11:43 AM.

The Jason Lewis Show, Monday, October 5, 2009, 8:05 to 9:00 PM.

The Thom Hartmann Show, Air America, Tuesday, October 20, 2009, 12:05 to 12:15 PM.

The Thom Hartmann Show, Air America, Monday, October 27, 2009, 12:05 to 12:15 PM.

The Thom Hartmann Show, Air America, Monday, November 9, 2009, 2:05 to 2:15 PM.

Gun Control, Coast to Coast AM, Wednesday, November 18, 2009, 1:10 to 1:15 AM.

"White House Aims to Cut Deficit With TARP Cash," ***FOX Business***, Friday, November 13, 2009, 7:02 to 7:15 PM.

The G. Gordon Liddy Show, Tuesday, November 24, 2009, 12:15 to 1:00 PM.

Climate-gate, The Ryan Doyle Show, simulcast in Montreal and Toronto, Friday, November 27, 2009, 8:05 to 8:22 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Jason Lewis Show, Wednesday, December 2, 2009, 8:05 to 9:00 PM.

The Steve Malzberg Show, Wednesday, December 16, 2009, 4:34 to 4:49 PM.

The Mark Levine Show, nationally syndicated radio show, Wednesday, December 16, 2009, 8:35 to 8:45 PM.

The Thom Hartmann Show, Tuesday, January 12, 2010, 1:05 to 1:15 PM.

The Jason Lewis Show, Tuesday, January 19, 2010, 8:05 to 9:00 PM.

The Thom Hartmann Show, Wednesday, January 27, 2010, 2:05 to 2:15 PM.

Lars Larson Radio Show, Tuesday, March 2, 2010, 8:20 PM to 8:30 PM.

Supreme Court Gun Control, Coast to Coast AM, Tuesday, March 2, 2010, 1:10 to 1:55 AM.

Supreme Court Gun Control, Freedom Watch, Judge Napolitano, Tuesday, March 2, 2010, 1:15 to 1:30 PM.

Supreme Court Gun Control, Lou Dobbs Radio Show, Tuesday, March 2, 2010, 4:20 to 4:30 PM.

Supreme Court Gun Control, Lars Larson Radio Show, Tuesday, March 2, 2010, 8:20 to 8:30 PM.

Supreme Court Gun Control, Jason Lewis Radio Show, Tuesday, March 2, 2010, 8:30 to 9:00 PM.

Supreme Court Gun Control, Ave Maria Radio Show, Wednesday, March 3, 2010, 7:30 to 8:00 PM.

Knowing Barack Obama at Chicago, Mark Levin Radio Show, Wednesday, March 3, 2010, 7:30 to 8:00 PM.

Steve Malzberg Show, Monday, April 5, 2010, 5:20 to 5:30 PM.

Gun Control, Coast to Coast AM, Friday, April 9, 2010, 1:03 to 1:08 AM.

The Lars Larson Radio Show, Friday, April 16, 2010, 7:35 PM to 7:46 PM.

The Jason Lewis Show, Friday, April 16, 2010, 8:05 to 9:00 PM.

The Thom Hartmann Show, Wednesday, April 28, 2010, 12:05 to 12:15 PM.

The Jim Bohannon Show, Thursday, April 29, 2010, 10:05 to 11:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Jason Lewis Show, Thursday, May 13, 2010, 8:05 to 9:00 PM.

The Lars Larson Show, Monday, May 24, 2010, 7:35 to 7:45 PM.

The Steve Malzberg Show, Tuesday, May 25, 2010, 4:35 to 5:00 PM.

The Jim Bohannon Show, Tuesday, May 25, 2010, 11:05 PM to 11:58 PM.

Coast to Coast AM, Wednesday, May 26, 2010, 1:10 to 1:15 AM.

The Greg Garrison Radio Show, May 26, 2010, 10:05 to 10:30 AM.

The Lou Dobbs Radio Show, Wednesday, May 26, 2010, 2:35 to 2:55 PM.

The Ed Morrissey Hot Air Radio, Wednesday, May 26, 2010, 4:05 to 4:30 PM.

The Dennis Miller Show, Friday, May 28, 2010, 11:35 to 11:57 AM.

The G. Gordon Liddy Show, Wednesday, June 2, 2010, 12:05 AM to 1:00 PM.

The Michael Savage Show, Thursday, June 3, 2010, during third hour.

The Jason Lewis Show, Monday, June 21, 2010, 8:05 to 9:00 PM.

The Steve Malzberg Show, Monday, June 28, 2010, 4:22 to 4:30 PM.

American Family Radio, Monday, June 28, 2010, 6:15 to 6:30 PM.

The Alan Colmes Show, Monday, June 28, 2010, 11:06 to PM.

Coast to Coast AM, Tuesday, June 29, 2010, 1:10 to 2:00 AM.

The Mancow Show, Tuesday, June 29, 2010, 7:05 to 7: AM.

The John McCaslin Show, Tuesday, June 29, 2010, 8:15 to 8:30 AM.

The Michael Savage Show, Tuesday, June 29, 2010, during third hour.

Discussing Supreme Court Ruling on Gun Rights, Washington Journal, C-SPAN, Wednesday, June 30, 2010, 9:15 to 10:10 AM.

Kagan's Confirmation Hearing, CBS's Unplugged, Wednesday, June 30, 2010, 1:15 to 1:50 PM.

The Jason Lewis Show, Monday, July 5, 2010, 8:05 to 9:00 PM.

Fox News' "Strategy Room," Tuesday, September 7, 2010, 9:30 to 9:42 AM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Lou Dobbs Radio Show, Tuesday, September 7, 2010, 3:35 to 3:45 PM.

Coast to Coast AM, Wednesday, September 8, 2010, 1:10 to 3:00 AM.

Fox News' "Strategy Room," Thursday, September 23, 2010, 10:30 to 10:40 AM.

The Thom Hartmann Program, Free Speech TV Network and the RT America Channel, Friday, October 22, 2010.

The Thom Hartmann Program, Free Speech TV Network and the RT America Channel, Monday, November 1, 2010, 8:05 to 8:09 PM.

The Jason Lewis Show, Friday, November 5, 2010, 8:05 to 9:00 PM.

The Thom Hartmann Program, Free Speech TV Network and the RT America Channel, Wednesday, December 8, 2010, 7:32 to 7:42 PM.

The Jason Lewis Show, Monday, December 13, 2010, 8:05 to 9:00 PM.

The Lars Larson Show, Tuesday, December 14, 2010, 6:35 to 6:45 PM.

The Thom Hartmann Program, Free Speech TV Network and the RT America Channel, Wednesday, December 22, 2010, 7:32 to 7:42 PM.

The Thom Hartmann Program, Free Speech TV Network and the RT America Channel, Wednesday, December 29, 2010, 7:32 to 7:42 PM.

"Should the debt limit be raised?" Fox News Live with Kimberly Guilfoyle, Fox News, Friday, January 7, 2011, 1:40 to 11: 47 PM.

Discussion of Representative Gabrielle Giffords' shooting, Fox News, Sunday, January 9, 2011, 5:23 to 5:29 PM.

Armed American Radio, Sunday, January 9, 2011, 8:30 to 9:00 PM.

Arizona Shooting, Coast to Coast AM, Tuesday, January 11, 2011, 1:10 to 2:00 AM.

The Jason Lewis Show, Tuesday, January 11, 2011, 8:05 to 9:00 PM.

Gun Control Legislation after the Arizona Shooting, Bloomberg TV, Wednesday, January 12, 2011, 5:00 to 5:30 PM.

State and Federal Gun Laws, Washington Journal, C-SPAN, Thursday, January 22, 2011, 7:51 to 8:36 AM; replayed C-SPAN, Thursday, January 13, 2011, 12:17 to 1:00 PM.

The Jim Bohannon Show, Thursday, January 13, 2011, 10:05 to 11:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Fred Thompson Radio Show, Friday, January 14, 2011, 12:34 to 12:45 PM.

Rusty Humphries Radio Show, Tuesday, January 18, 2011, 4:35 to 4:45 PM.

Dennis Miller Radio Show, Wednesday, January 19, 2011, 11:07 to 11:39 PM.

The G. Gordon Liddy Show, Friday, January 21, 2009, 10:35 to 11:00 AM.

The Thom Hartmann Show, Thursday, February 3, 2011, 12:05 to 12:15 PM.

The Steve Malzberg Show, Thursday, February 3, 2011, 4:05 to 4:15 PM.

"Why Obama Can't Do the Math On Jobs?" Fox News Live, Tuesday, February 8, 2011, 11:23 to 11:30 AM.

"University of Guns," Fox Business, Thursday, February 24, 2011, 8:42 to 8:47 PM.

"Is our government seeing double?" Fox News Live, Wednesday, March 2, 2011, 12:24 to 12:40 PM.

"The Truth About Obama and Budget Cuts," Fox News Live, Wednesday, March 9, 2011, 12:50 to 12:57 PM.

The Jason Lewis Show, Friday, March 25, 2011, 8:05 to 9:00 PM.

S&P Warning on Downgrading US Debt, Fox News Live, Thursday, April 15, 2011, 10:30 to 10:45 AM.

Budget Deficit Debate, Fox News Live, Thursday, April 21, 2011, 9:35 to 9:45 AM.

Gun Ownership, Coast to Coast AM, Tuesday, May 3, 2011, 1:10 to 3:00 AM.

"Texas State Senate passes Concealed Carry on Campus," Coast to Coast AM, Tuesday, May 10, 2011, 1:08 to 1:10 AM.

"Gun Control," Freedom Watch with Judge Andrew Napolitano, Fox Business Channel, Friday, May 20, 2011, 8:40 to 8:45 PM.

The Jason Lewis Show, Wednesday, June 8, 2011, 8:05 to 9:00 PM.

Coast-to-Coast AM, Thursday, June 16, 2011, 1:15 to 2 AM.

"Winnipeg carried a handgun for protection," The Caldwell Account, Sun News Network, June 28, 2011.

"Gun Myths," The Source with Ezra Levant, Sun News Network, July 5, 2011.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Discussion of Operation Fast and Furious, Fox News Live, Friday, July 8, 2011, 11:35 to 11:45 AM.

"Myths about Debt Ceiling 'Disaster'," Fox News Live, Monday, July 18, 2011, 10:30 to 10:41 AM.

Discussion of the Norway Bombing and Shooting, Al Jazeera Television, Saturday, July 23, 2011, 2:30 to 2:45 AM.

"Gang of Six Not Ready for Prime Time?" ***Fox News Live***, Monday, July 25, 2011, 10:30 to 10:41 AM.

"Winners & Losers from the Debt Limit Deal," ***Fox News Live***, Wednesday, August 3, 2011, 10:16 to 10:23 AM.

Lars Larson, Wednesday, August 3, 2011, 7:35 to 7:55 PM.z

"Guns on College Campuses," a debate between myself and the Brady Campaign's Colin Goddard took about 50 minutes of this conference, C-SPAN3, Monday, August 8, noon to 3:30 PM; replayed C-SPAN3, Tuesday, August 9, 2011, 6:44 to 10:03 AM; C-SPAN2, Tuesday, August 9, 2011, 9:57 to 11:07 AM; C-SPAN2, Wednesday, August 10, 2011, 3:45 to 5:43 PM.

Lars Larson, Monday, September 19, 2011, 6:35 to 6:45 PM.

The Jason Lewis Show, Monday, October 24, 2011, 7:05 to 8:00 PM.

The Jason Lewis Show, Friday, November 11, 2011, 8:05 to 9:00 PM.

Coast-to-Coast AM, Thursday, November 17, 2011, 1:07 to 1:10 AM.

Lars Larson, Friday, December 3, 2011, 8:20 to 8:30 PM.

The Jason Lewis Show, Friday, December 16, 2011, 8:05 to 9:00 PM.

Discussing the January Unemployment Report, The Mark Levine Show, Friday, February 3, 2012, 7:20 to 7:45 PM.

Jason Lewis Show, Friday, February 10, 2012, 8:05 to 9:00 PM.

Larry Elder Show, Tuesday, March 6, 2012, 8:35 to 8:45 PM.

Crime after DC and Chicago Supreme Court Decisions, Fox News, Thursday, March 8, 2012, 12:10 to 12:12 PM.

Jason Lewis Show, Friday, March 11, 2012, 8:05 to 9:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Kudlow Report, ***CNBC***, Tuesday, March 13, 2012, 8:50 to 8:54 PM.

The Dennis Miller Show, Wednesday, March 14, 2012, 12:07 to 1:00 PM.

The G. Gordon Liddy Show, Thursday, March 15, 2012, 12:05 to 12:30 PM.

Michael Medved Radio Show, Monday, March 19, 2012, 5:07 to 5:55 PM.

Jason Lewis Show, Thursday, March 22, 2012, 8:05 to 9:00 PM.

The Drive Home with Steve Ray and Rachel Crowson, Tuesday, March 27, 2012, 8:15 to 8:25 PM.

The Phil Valentine Show, Thursday, March 29, 2012, 4:35 to 4:50 PM.

The Rusty Humphries Show, Friday, March 30, 2012, 6:10 to 6:20 PM.

Discussing "Debacle: Obama's War on Jobs and Growth and What We Can Do Now to Regain Our Future," Washington Journal, C-SPAN 2 Book TV, Saturday, March 31, 2012, 2:00 to 3:04 PM; Sunday, April 15th at 12:15 AM and at 10:45 AM.

Dateline Washington, Greg Comoros, national radio show, Wednesday, April 4, 2012, 3:05 to 3:15 PM.

The Dennis Miller Show, Friday, April 6, 2012, 11:35 to 11:45 AM.

America's Morning News with John McCaslin, Monday, April 9, 2012, 7:30 to 7:40 AM.

Fox News Live, Monday, April 9, 2012, 10:40 to 10:45 AM.

American Now with Andy Dean, Tuesday, April 10, 2012, 8:35 to 8:55 PM.

Point of View with Kerby Anderson, Wednesday, April 11, 2012, 2:05 to 3:00 PM.

Dateline Washington, Thursday, Wednesday, April 12, 2012, 2:05 to 2:20 PM.

The Jason Lewis Show, Friday, April 20, 2012, 7:05 to 8:00 PM.

Debate on Stand Your Ground Laws, The Sean Hannity Show, Monday, April 23, 2012, 5:07 to 5:20 PM.

Clothing being made for concealed handgun permit holders, ***BBC Radio Scotland***, Wednesday, April 25, 2012, 12:45 to 12:55 PM.

Discussion on Stand Your Ground Laws, The Phil Valentine Show, Friday, April 27, 2012, 3:35 to 3:50 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Debate on Stand Your Ground Laws, The Daily Rundown, MSNBC, Tuesday, May 1, 2012, 9:35 to 9:45 AM.

The Jason Lewis Show, Wednesday, May 23, 2012, 8:20 to 9 PM.

Coast-to-Coast AM, Tuesday, June 19, 2012, 1:10 to 1:12 AM.

The Jason Lewis Show, Wednesday, June 27, 2012, 7:35 to 7:50 PM.

The Lars Larson Show, Friday, July 6, 2012, 6:20 to 6:30 PM.

The Jason Lewis Show, Friday, July 6, 2012, 8:05 to 9:00 PM.

UN Arms Trade Treaty, Coast-to-Coast AM, Thursday, July 12, 2012, 1:15 AM to 2:00 AM.

UN Arms Trade Treaty, The Sean Hannity Show, Thursday, July 12, 2012, 5:05 to 5:20 PM.

Colorado Shooting, BBC World Radio Service, Friday, July 20, 2012, 12:15 to 12:50 PM.

Colorado Shooting, Rusty Humphries Show, July 20, 2012, 3:07 to 3:20 PM.

Colorado Shooting, ***BBC World Television News***, Saturday, July 21, 2012, 8:10 to 8:15 PM.

Mark Levin Radio Show, Monday, July 23, 2012, 6:35 to 6:49 PM.

Bret Baier's Special Report, ***Fox News***, Monday, July 23, 2012.

Piers Morgan Tonight, ***CNN***, Monday, July 23, 2012, 9:30 to 9:46 PM.

Mike Huckabee Radio Show, Tuesday, July 24, 2012, 12:35 to 12:45 PM.

Sean Hannity Radio Show, Tuesday, July 24, 2012, 5:05 to 5:21 PM.

Dennis Miller Radio Show, Wednesday, July 25, 2012, 11:05 to noon.

"More or Less," ***BBC Radio 4***, Wednesday, July 25, 2012.

Laura Ingraham Show, Friday, July 27, 2012, 10:35 to 10:42 AM.

Mike Huckabee Radio Show, Friday, July 27, 2012, 2:35 to 2:45 PM.

Lou Dobbs Tonight, ***Fox Business***, Friday, July 27, 2012, 7:07 to 7:15 PM.

USA Radio Network, Thursday, August 2, 2012, 1:15 to 1:40 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Sean Hannity Radio Show, Thursday, August 2, 2012, 5:36 to 5:52 PM.

Outfront with Erin Burnett, ***CNN***, Monday, August 6, 2012, 7:51 to 7:57 PM.

Jason Lewis Radio Show, Monday, August 6, 2012, 8:05 to 9:00 PM.

Coast to Coast AM, Tuesday, August 7, 2012, 1:05 to 1:08 AM.

Wall Street Shuffle, Tuesday, August 22, 2012, 6:35 to 6:45 PM.

Jason Lewis Radio Show, Tuesday, August 22, 2012, 8:05 to 9:00 PM.

Coast to Coast AM, Tuesday, September 4, 2012, 1:09 to 1:13 AM.

Hugh Hewitt Radio Show, Friday, September 8, 2012, 7:05 to 7:12 PM.

Coast to Coast AM, Saturday, December 1, 2012, 1:05 to 1:08 AM.

Mark Levin Radio Show, Monday, December 3, 2012, 6:05 to 6:14 PM.

Jason Lewis Radio Show, Wednesday, December 12, 2012, 8:05 to 9:00 PM.

Mark Levin Radio Show, Friday, December 14, 2012, 7:35 to 7:55 PM.

Piers Morgan Tonight, ***CNN***, Friday, December 14, 2012, 9:30 to 9:46 PM.

Coast to Coast AM, Saturday, December 15, 2012, 1:12 to 2:00 AM.

CTV (Canadian Television), Saturday, December 15, 2012, 7:15 to 7:19 PM.

State of the Union, ***CNN***, Sunday, December 16, 2012, 10:07 to 10:12 AM.

BBC World Service Radio, Sunday, December 16, 2012, 3:35 to 3:40 PM.

BBC Newsday, ***BBC***, Sunday, December 16, 2012, 9:00 to 9:05 PM.

Starting Point with Soledad O'Brien, ***CNN***, Monday, December 17, 2012, 7:33 to 7:43 AM.

"Sandy Hook Massacre Changes Gun Control Conversations," Talk of the Nation, NPR, Monday, December 17, 2012, 1:03 to 1:12 PM.

"Would more guns make America safer?" Washington Post, Monday, December 17, 2012.

Dennis Prager Show, Monday, December 17, 2012, 1:05 to 1:30 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Heated Gun Debate Begins, ***CNN*** International, Monday, December 17, 2012, 3:07 to 3:17 PM.

BBC Newsnight, television, ***BBC***, Monday, December 17, 2012, 5:30 to 5:35 PM.

Coast to Coast AM, Tuesday, December 18, 2012, 1:05 to 1:08 AM.

Mark Levin Radio Show, Tuesday, December 18, 2012, 6:35 to 6:55 PM.

"Kudlow Report," ***CNBC***, Wednesday, December 19, 2012, 7:00 to 7:05 PM.

"Chat: Chat: Gun control, nation after Newtown," Video conference call, ***USA Today***, Wednesday, December 19, 2012, 2:00 to 2:45 PM.

"Examining the Efficacy and Limitations of Gun Control Laws to Stop Violence," ***PBS Newshour***, Wednesday, December 19, 2012, 7:12 to 7:20 PM.

Piers Morgan Tonight, ***CNN***, Wednesday, December 19, 2012, various points from 9:20 to 9:50 PM.

World Have Your Say, ***BBC World Service***, Friday, December 21, 2012, 1:50 to 1:58 PM.

Megan Kelly, ***Fox News***, Friday, December 21, 2012, 2:10 to 2:20 PM.

America's Gun Debate, CBC, Friday, December 21, 2012, 5:12 to 5:18 PM.

Today Show, NBC, Saturday, December 22, 2012, 7:03 to 7:07 AM.

"Control de armas," Noticiero, Telemundo, Sunday, December 23, 2012, 12:05 to 12:10 PM.

Coast to Coast AM, Wednesday, December 26, 2012, 1:05 to 1:08 AM.

Gun Control, The Bill Bennett Show, nationally syndicated radio show, Thursday, December 27, 2012, 7:05 to 7:12 AM.

Byline, Sun News, Monday, December 31, 2012, 11:35 to 11:45 AM.

Coast to Coast AM, Friday, January 4, 2013, 1:05 to 1:08 AM.

Gun Control, The Bill Bennett Show, nationally syndicated radio show, Thursday, December 27, 2012, 8:05 to 8:15 AM.

Kilmeade & Friends, nationally syndicated radio show, Friday, January 11, 2013, 9:20 to 9:30 AM.

Laura Ingraham, Friday, January 11, 2013, 9:35 to 9:45 AM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Geraldo Rivera, Friday, January 11, 2013, 10:12 to 10:20 AM.

CNN, Saturday, January 12, 2013, 8:10 to 8:18 AM.

CBS Radio, January 14, 2013, five minutes taped.

Dennis Prager Show, Wednesday, January 16, 2013, 1:05 to 2:00 PM.

Washington Journal, C-SPAN, Saturday, January 19, 2013, 8:30 to 9:15 AM.

Fox News, Saturday, January 19, 2013, 4:30 to 4:40 PM.

Coast to Coast AM, Friday, January 25, 2013, 1:05 to 1:08 AM.

Geraldo Rivera, Thursday, January 31, 2013, 10:08 to 10:30 AM.

Sean Hannity Radio Show, Friday, February 1, 2013, 5:07 to 5:20 PM.

WSJ Live, Monday, February 11, 2013, 1:25 to 1:29 PM.

WSJ Live, "Gun Control: Smart or Illegal," Monday, February 11, 2013, 3:57 to 4:01 PM.

The Dennis Miller Show, April 2, 2013, 12:05 to 12:30 PM.

Steve Malzberg's Show on News Max, April 2, 2013, 3:35 to 3:45 PM.

Geraldo Rivera Radio Show, April 4, 2013, 10:35 to 10:47 AM.

The Dennis Miller Show, April 10, 2013, 11:05 to 11:30 AM.

Mark Levin Show, Wednesday, April 10, 2013, 6:35 to 6:47 PM.

Geraldo Rivera Radio Show, April 11, 2013, 11:35 to 11:45 AM.

Senate Debate over Gun Control, Fox News Live, April 11, 2013, 12:10 to 12:17 PM.

The Scott Hennen Show, April 11, 2013, 1:35 to 1:50 PM.

Mike Huckabee's Radio Show, Thursday, April 11, 2013, 2:35 to 2:47 PM.

Jason Lewis Show, Thursday, April 11, 2013, 8:05 to 9:00 PM.

BBC World TV, Thursday, April 11, 2013, 10:05 to 10:10 PM.

The Rusty Humphries Show, Friday, April 12, 2013, 5:35 to 5:45 PM.

SELECTED NATIONAL PUBLIC APPEARANCES (CONTINUED):

Bill Cunningham's "The Great Show," Sunday, April 14, 2013, 10:35 to 11:00 PM.

"Am Agenda," Sun News Network, Thursday, April 18, 2013, 9:20 to 9:28 AM.

Senate Vote on Gun Control, Fox News Live, Thursday, April 18, 2013, 12:20 to 12:28 PM.

NY1's The Call Tonight: Senate votes against expanding background checks, Thursday, April 18, 2013, 9:15 to 9:20 PM.

Jim Bohannon Show, Thursday, April 18, 2013, 10:35 to 11:00 PM.

Coast to Coast AM, Wednesday, May 8, 2013, 1:15 to 2:00 AM.

Lars Larson Show, Tuesday, June 11, 2013, 7:10 to 8:00 PM.

Substitute host for Jason Lewis Show, Thursday, June 13, 2013, 6:05 to 9:00 PM.

Substitute host for Jason Lewis Show, Friday, June 14, 2013, 6:05 to 9:00 PM.

Mike Huckabee's Radio Show, Tuesday, July 15, 2013, 12:35 to 12:47 PM.

Wilkow!, The Blaze TV, Friday, July 19, 2013, 4:50 to 4:57 PM.

Stand Your Ground Laws, C-SPAN Washington Journal, Saturday, July 20, 2013, 7:45 to 9:15 AM.

Steve Malzberg Show, News Max Radio, Tuesday, July 23, 2013, 3:45 to 3:55 PM.

Coast to Coast AM, Wednesday, July 25, 2013, 1:07 to 1:10 AM.

Steve Malzberg Show, News Max Radio, Wednesday, July 31, 2013, 5:32 to 5:45 PM.

Dana Loesch Show, Thursday, August 1, 2013, 1:35 to 1:45 PM.

"Opinion: Cory Booker: Reality v. Rhetoric," WSJ Live, Thursday, August 15, 2013, 1:10 to 1:15 PM.

Byline, Sun News, Monday, August 29, 2013, 9:06 to 9:11 PM.

Sandy Rios, American Family Radio, September 3, 2013, 8:45 to 8:55 AM.

Steve Malzberg Show, News Max Radio, Tuesday, September 3, 2013, 5:32 to 5:45 PM.

Coast to Coast AM, Friday, September 13, 2013, 1:07 to 1:10 AM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Shooting in Washington, DC, Sky News UK, Monday, September 16, 2013, 1:14 to 1:19 PM.

Shooting in Washington, DC, Sean Hannity Radio Show, Monday, September 16, 2013, 5:32 to 5:50 PM.

Shooting in Washington, DC, Piers Morgan Tonight, CNN, Monday, September 16, 2013, 9:25 to 9:41 PM.

Sandy Rios, American Family Radio, Tuesday, September 17, 2013, 8:20 to 8:45 AM.

Dennis Miller Radio Show, Wednesday, September 18, 2013, 11:15 to 11:45 AM.

Steve Malzberg Show, News Max Radio, Thursday, September 19, 2013, 4:20 to 4:30 PM.

Lou Dobbs, Fox Business, Thursday, September 19, 2013, 7:35 to 7:40 PM.

Lars Larson Radio Show, Thursday, September 19, 2013, 8:08 to 8:30 PM.

Bill Martinez Live!, Friday, September 20, 2013, 9:16 to 9:50 AM.

Fox News, Friday, September 20, 2013, 1:40 to 1:45 PM.

Dana Loesch Show, Friday, September 20, 2013, 2:35 to 2:50 PM.

The Source, Sun New, Friday, September 20, 2013, 5 PM hour, 7 minutes.

The Alan Colmes Radio Show, Friday, September 20, 2013, 7:06 to 7:30 PM.

Jason Lewis Radio Show, Friday, September 20, 2013, 8:05 to 9:00 PM.

Fox & Friends, Saturday, September 21, 2013, 6:45 to 6:49 AM.

"Dumbing Down the Courts," Federalist Society Teleforum, Wednesday, September 25, 2013, 12:00 to 1:00 PM.

"Obama's call for continued gun control," Voice of Russia, Moscow, Wednesday, September 25, 2013, 1:05 to 1:10 PM.

Sun New, Wednesday, September 25, 2013, 3:17 to 3:23 PM.

Glenn Beck, The Blaze TV, October 1, 2013, 3:20 to 3:25 PM.

"Is the push for gun control over?" Fox News Live, Wednesday, October 2, 2013, 12:33 to 12:40 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Book Discussion on 'Dumbing Down the Courts,'" C-SPAN2, Saturday, October 20, 2013, 11:00 PM to 12:06 AM; C-SPAN2, Sunday, October 21, 2013, 3:45 to 4:51 PM; and C-SPAN2, Saturday, October 26, 2013, 9:45 to 10:51 AM.

The Dennis Miller Show, Monday, October 22, 2013, 10:46 to 11:00 PM.

"Gun sales a snap on Instagram," New Day, CNN, Saturday, October 26, 2013, 9:15 to 9:20 AM.

"Stand Your Ground Laws," Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, C-SPAN2, Thursday, October 31, 2013, 8:00 to 10:00 AM; C-SPAN2, Thursday, October 31, 2013, 5:26 to 7:26 PM; C-SPAN3, Friday, November 1, 2013, 8:00 to 10:00 PM; and C-SPAN3, Saturday, November 2, 2013, 2:00 to 4:00 AM.

Steve Malzberg Show, News Max Radio, Thursday, November 21, 2013, 4:35 to 4:45 PM.

Mike Huckabee's Radio Show, Friday, November 22, 2013, 11:35 to 1:45 PM.

"Kudlow Report," ***CNBC***, Friday, November 22, 2012, 7:50 to 7:57 PM.

Dana Loesch Show, Friday, December 6, 2013, 1:35 to 1:50 PM.

Lars Larson Radio Show, Wednesday, December 11, 2013, 8:35 to 8:55 PM.

Glenn Beck TV Show, Friday, December 13, 2013, 5:50 to 6:00 PM.

The Jim Bohannon Show, Monday, December 16, 2013, 10:05 to 11:00 PM.

Geraldo Rivera, Tuesday, December 17, 2013, 10:06 to 10:15 AM.

Coast-to-Coast AM, Wednesday, December 18, 2013, 1:05 to 1:07 AM.

The Jerry Agar Show, Sun News (Canada), Tuesday, December 24, 2013, 4:35 to 4:41 PM.

Lars Larson Radio Show, Friday, January 3, 2014, 6:22 to 6:30 PM.

"Will More Guns Keep You Safe?" Outfront with Erin Burnett, CNN, Friday, January 3, 2014, 7:33 to 7:40 PM.

Jason Lewis Radio Show, Friday, January 3, 2014, 8:05 to 9:00 PM.

"Gun Myths Shot Down," Byline with Brian Lilley, Sun News (Canada), Tuesday, January 7, 2014, 6:03 to 6:10 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Coast-to-Coast AM, Wednesday, January 8, 2014, 1:06 to 1:09 AM.

The Mancow Experience, Wednesday, January 29, 2014, 11:37 to 11:50 AM.

Sean Hannity Show, Tuesday, March 4, 2014, 5:06 to 5:21 PM.

Lars Larson Radio Show, Friday, March 7, 2014, 5:35 to 5:50 PM.

Jason Lewis Radio Show, Friday, March 7, 2014, 7:35 to 8:00 PM.

"Putting America Back to Work," Byline with Brian Lilley, Sun News (Canada), Friday, March 7, 2014, 10:23 to 10:30 PM.

The Source with Paul Anderson, Sunday, March 9, 2014, 10:05 to 10:40 PM.

Dennis Miller Show, Monday, March 10, 2014, 12:35 to 12:50 PM.

The Gary Nolan Radio Show, Thursday, March 13, 2014, 11:35 to noon.

The Dana Show, Thursday, March 20, 2014, 1:36 to 1:47 PM.

Sandy Rios' Radio Show, Friday, March 21, 2014, 8:20 to 8:35 AM.

The Steve Malzberg Show, Friday, March 21, 2014, 5:20 to 5:30 PM.

Blaze TV, Friday, March 21, 2014, 5:21 to 5:26 PM.

Coastal Daybreak, Tuesday, March 25, 2014, 8:45 to 9 AM.

Bill Bennett's Morning in America, Friday, March 28, 2014, 7:06 to 7:15 AM.

The Lars Larson Show, Wednesday, April 2, 2014, 7:45 to 7:53 PM.

The Jim Bohannon Show, Wednesday, April 2, 2014, 10:35 to 10:42 PM.

WMAL, Thursday, April 3, 2014, 7:05 to 7:14 AM.

KTSA Radio, Thursday, April 3, 2014, 7:36 to 7:45 AM.

The Sandy Rios, Thursday, April 3, 2014, 8:36 to 8:51 AM.

The Dana Show, Thursday, April 3, 2014, 1:35 to 1:48 PM.

The Sean Hannity Show, Thursday, April 3, 2014, 3:35 to 3:51 PM.

The Janet Mefferd Show, Thursday, April 3, 2014, 4:10 to 4:20 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Phil Valentine Show, Thursday, April 3, 2014, 4:35 to 4:48 PM.

The Mark Levin Show, Thursday, April 3, 2014, 6:07 to 6:30 PM.

The David Webb Show, Thursday, April 3, 2014, 10:05 to 10:15 PM.

Big John and Amy Show, Friday, April 4, 2014, 7:35 to 7:45 AM.

Michigan Talk Radio, Friday, April 4, 2014, 8:35 to 8:45 AM.

"Fort Hood Shooting," Jansing & Co with Chris Jansing, MSNBC, Friday, April 4, 2014, 10:05 to 10:14 AM.

The Jason Lewis Radio Show, Friday, April 4, 2014, 8:05 to 9:00 PM.

Tom Gresham's Gun Talk, Sunday, April 6, 2014, 3:35 to 3:45 PM.

The Dennis Miller Show, Tuesday, April 8, 2014, 1:05 to 1:30 PM.

Coast to Coast AM, Thursday, April 10, 2014, 1:08 to 1:11 AM.

The Ed Morrissey Show, Tuesday, April 22, 2014, 4:48 to 5:00 PM.

Jason Lewis Radio Show, Tuesday, April 22, 2014, 8:05 to 9:00 PM.

Peter Schiff Radio Show, Wednesday, April 23, 2014, 10:35 to 11:00 AM.

Phil Valentine Radio Show, Wednesday, April 23, 2014, 3:35 to 3:45 PM.

Conservative News/Talk KNUS, Wednesday, April 23, 2014, 4:35 to 4:45 PM.

Fox News, Thursday, April 24, 2014, 3:33 to 3:37 PM.

The Michigan Talk Network, Thursday, April 24, 2014, 8:35 to 8:41 AM.

Coast to Coast AM, Thursday, April 24, 2014, 1:08 to 1:10 AM.

Greg Garrison Radio Show WIBC in Indianapolis, Thursday, April 24, 2014, 9:35 to 10:00 AM.

"New Georgia Law Expands Rights of Gun Owners," The Real Story with Gretchen Carlson, Fox News, Thursday, April 24, 2014, 3:33 to 3:37 PM.

Nancy Grace, CNN Headline News, Thursday, April 24, 2014, 10:40 to 10:45 PM.

Justice with Judge Jeanine, Fox News, Saturday, April 26, 2014, 9:33 to 9:37 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Southern California Public Radio, KPCC, Monday, April 28, 2014.

The Peter Boyle Show, Wednesday, April 30, 2014, 7:10 to 7:30 AM.

The Source with Ezra Levant, Canada's Sun News, Monday, May 5, 2014.

Dennis Miller Radio Show, Wednesday, May 7, 2014, 2:06 to 2:30 PM.

Dennis Miller Radio Show, Wednesday, May 14, 2014, 2:06 to 2:30 PM.

Dennis Miller Radio Show, Friday, May 16, 2014, 12:33 to 1:00 PM.

WMAL, Tuesday, May 20, 2014, 5:37 to 5:45 PM.

Larry Elder Show, Tuesday, May 27, 2014, 7:14 to 7:21 PM.

Lars Larson Show, Tuesday, May 27, 2014, 7:35 to 8:00 PM.

The Real Side, Tuesday, May 27, 2014, 6:08 to 6:30 PM.

The Marc Bernier Show, Tuesday, May 27, 2014, 5:20 to 5:30 PM.

Dr. Gina Loundon Show, Tuesday, May 27, 2014, 4:20 to 4:30 PM.

Istook Live!, Tuesday, May 27, 2014, 1:05 to 1:20 PM.

John Gibson Radio Show, Tuesday, May 27, 2014, 12:35 to 12:50 PM.

The C4 Show, WBAL, Tuesday, May 27, 2014, 11:05 to 11:20 AM.

Doug McIntyre KABC Los Angeles, Tuesday, May 27, 2014, 9:05 to 9:14 AM.

The Tom Woods Radio Show, Thursday, May 29, 2014.

Byline with Brian Lilley, Canada's Sun News Network, "Moncton Shooting," Thursday, June 5, 2014, 6 to 7 PM.

The Jason Lewis Radio Show, Thursday, June 5, 2014, 8:17 to 9 PM.

The Sandy Rios Show, Monday, June 9, 2014, 8:40 to 9:00 AM.

News Max, Midpoint, Monday, June 9, 2014, 12:15 to 12:26 PM.

KTTH Radio in Seattle, Tuesday, June 10, 2014.

The David Boze Show, Tuesday, June 10, 2014, 10:05 to 10:30 AM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Arena with Michael Coren, Canada's Sun News, "More Control, More Violence," Wednesday, June 11, 2014.

The Jim Bohannon Show, Monday, June 16, 2014, 10:35 to 11 PM.

"Gun Rights" a presentation to a dinner for Gun Rights North Carolina, C-SPAN3, Saturday, July 5, 2014, 4:36 to 6:11 PM and C-SPAN2, Thursday, September 4, 2014, 10:35 AM to 12:10 PM.

The Jason Lewis Radio Show, Sunday, July 20, 2014.

"Mayor Emanuel to blame for Chicago violence," Fox TV Chicago, Monday, July 28, 2014.

WMAL, Tuesday, July 29, 2014, 5:07 to 5:15 PM.

An interview with Cam & Company and Katie Pavlich, Monday, August 4, 2014, 2:40 to 2:51 PM.

Jim Bohannon Radio Show, Monday, August 4, 2014, 10:35 to 11:00 PM.

Michigan Talk Network, Wednesday, August 13, 2014, 8:30 to 8:40 AM.

KFI, John and Ken Show, Wednesday, August 13, 2014, 8:35 to 8:45 PM.

Coast to Coast AM, Thursday, August 14, 2014, 1:07 to 1:09 AM.

Sportsman Channel, Thursday, August 14, 2014, 5:15 to 5.25 PM.

The Dana Loesch Show (radio), Tuesday, August 19, 2014, 2:06 to 2:20 PM.

The Glenn Beck TV Show, Tuesday, August 19, 2014, 4:30 to 4:50 PM.

The Lars Larson National Radio Show, Monday, August 25, 2014, 6:20 to 6:30 PM.

Coast to Coast AM, Tuesday, August 26, 2014, 1:07 to 1:10 AM.

Women stalking victims and guns used for self protection, The Blaze TV with Dana Loesch, Tuesday, August 26th, 2014, 5:20 to 5:40 PM.

Washington, DC's WMAL, Friday, August 29, 2014, 5:35 to 5:40 PM.

The Michigan Talk Network, Friday, August 29, 2014, 8:35 to 8:55 AM.

The Larry Elder Show, Wednesday, September 3, 2014, 8:20 to 8:30 PM.

WVON, Thursday, September 4, 2014, 8:05 to 9:15 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

"Russian versus US murder rates," Voice of Russia, Saturday, September 20th, 2014, 9:07 to 9:16 AM.

Mistakes by police and civilians using guns, The Blaze TV with Dana Loesch, Tuesday, September 30, 2014, 6:09 to 6:19 PM.

"It's a Mean, Mean World?" The John Stossel Show, Fox News, Saturday, October 4, 2014, 5 PM and 10 PM; Sunday, October 5, 2014, 10 PM; Monday, October 6, 2014, 1 AM. Also shown on Fox Business, Thursday, October 2, 2014, 9 PM; Friday, October 3, 2014, 1 AM; Saturday, October 4, 2014, 9 PM and Midnight; Sunday, October 5, 2014, 9 PM.

Michael Smerconish Show, CNN, Saturday, October 11, 2014, 9:30 to 9:35 AM and 6:30 to 6:35 PM.

The Lars Larson National Radio Show, Tuesday, October 14, 2014, 6:35 to 6:43 PM.

The Dennis Miller National Radio Show, Tuesday, October 14, 2014, 1:15 to 1:30 PM.

The Tom Gresham's National Radio Show, Sunday, October 19, 2014, 2:07 to 2:19 PM.

The Sand Rios National Radio Show, Monday, October 20, 2014, 8:20 to 8:37 AM.

Errors in FBI report on public shootings, The Blaze TV with Dana Loesch, Monday, October 20, 2014, 5:20 to 5:30 PM.

Coast-to-Coast AM Radio, Thursday, October 14, 2014, 1:07 to 1:11 AM.

The Lars Larson National Radio Show, Thursday, October 23, 2014 from 6:37 to 6:45 PM.

"Does gun control save lives or does it tilt the battlefield in favour of terrorists?" The Source with Ezra Levant, Sun News (Canada), Tuesday, November 3, 2014, 8:48 PM.

The Bill Martinez Live Radio Show, Tuesday, December 2, 2014, 9:20 to 9:45 AM.

Coast-to-Coast AM Radio, Wednesday, December 3, 2014, 1:06 to 1:09 AM.

The Lars Larson National Radio Show, Monday, December 8th, 2014, 6:35 to 6:44 PM.

The Dennis Miller National Radio Show, Wednesday, December 10th, 2014, 2:05 to 2:30 PM.

The Lars Larson National Radio Show, Thursday, December 12th, 2014, 7:35 to 7:40 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Sean Hannity Radio Show, Friday, December 19th, 2014, 5:09 to 5:16 PM.

The Steve Malzberg Show, Monday December 22nd, 2014, 5:20 to 5:30 PM.

Michigan Talk Network, Monday, December 22nd, 2014, 7:45 to 7:52 AM.

The Flipside, Tuesday, December 23, 2014.

"Shoot an intruder in Idaho & the intruder goes to jail. In Canada the shooter might," Byline with Brian Lilley, Sun News (Canada), Monday, January 19, 2015.

The Dana Loesch Radio Show, Thursday, January 22nd, 2015, 2:23 to 2:30 PM and 3:05 to 3:16 PM.

The Lars Larson National Radio Show, Thursday, January 22nd, 2015, 6:05 to 6:15 PM.

Michigan Talk Network, Thursday, January 22, 2015, 8:35 to 8:41 AM.

The Frank Beckmann Show on WJR, Friday, January 30th, 2015.

The Lars Larson National Radio Show, Thursday, February 12th, 2015, 6:21 to 6:30 PM.

The Jim Bohannon National Radio Show, Wednesday, February 18th, 2015, 10:05 to 11:00 PM.

Jim Bohannon's America in the Morning, Friday, February 20th, 2015, 5 AM hour.

John Gambling on WOR, Friday, February 27, 2015, 11:20 to 11:30 AM.

Coast-to-Coast AM, Friday, February 27, 2015 from 1:07 to 1:09 AM.

Wyoming Public Television, Friday, February 27th, 2015 at 8 PM.

Mark Levin Radio Show, Tuesday, March 10th, 2015 from 7:35 to 7:46 PM.

Sean Hannity Radio Show, Monday, March 16th, 2015, 5:06 to 5:20 PM.

Steve Malzberg NewsMax TV Show, March 20, 2015.

John Stossel's Show on **Fox News** and **Fox Business**, March 22, 23, and 24, 2015.

Lars Larson's National Radio Show, Wednesday, March 25, 2015, 6:20 to 6:30 PM.

The Jim Bohannon National Radio Show, Friday, March 13, 2015, 10:35 to 11:00 PM.

The Jim Bohannon National Radio Show, Wednesday, March 18, 2015, 10:35 to 11:00 PM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

The Phil Valentine Show, Monday, March 30, 2015, 2:35 to 3:00 PM.

Larry O'Connor's Show, WMAL, Thursday, April 16th, 2015 from 5:35 to 5:50 PM.

Michigan Talk Network, Tuesday, April 21, 2015 from 6:40 to 6:47 AM.

Washington Journal, C-SPAN, April 25, 2015, 7:51 to 8:20 AM.

Michigan Talk Network, Tuesday, April 28, 2015 from 7:35 to 7:43 AM.

Coast-to-Coast AM, Tuesday, April 28th, 2015, 1:15 to 3:00 AM.

Michigan Talk Network, Tuesday, May 5, 2015 from 6:40 to 6:47 AM.

Lars Larson's National Radio Show, Monday, May 4, 2015, 6:20 to 6:30 PM.

"What National Crime Wave?" Wall Street Journal's Opinion Journal, June 9, 2015.

The Jim Bohannon National Radio Show, Wednesday, June 4, 2015, 11:05 to 12:00 PM

Larry O'Connor's Show, WMAL, Thursday, June 11th, 2015 from 5:07 to 5:14 PM.

Lars Larson's National Radio Show, Thursday, June 11th, 8:20 to 8:42 PM.

Coast-to-Coast AM, Friday, June 12th, 1:07 to 1:10 AM.

Coast-to-Coast AM, Friday, June 19, 2015 from 1:07 to 1:10 AM.

Bill Bennett's Morning in America, Friday, June 19, 2015 from 7:05 to 7:16 AM.

Lars Larson's National Radio Show, Friday, June 19, 2015 from 6:22 to 6:30 PM.

Dennis Prager National Radio Show, Monday, June 22, 2015 form 2:05 to 3:00 PM.

Sean Hannity's Television Show, Fox News, Monday, June 22, 2015 from 10:18 to 10:20 PM.

The Daily Wrap's co-hosted by Joe Concha and Rick Ungar, NewsMax TV, Tuesday, June 23, 2015 from 7:10 to 7:17 PM.

Larry O'Connor's Show, WMAL, Thursday, July 2nd, 2015 from 8:40 to 8:45 AM.

Lars Larson Show on Thursday, July 16th, 2015 from 7:20 to 7:30 PM.

Larry Elder Show on Friday, July 17th, 2015 from 3:20 to 3:30 PM.

Laura Ingraham Radio Show, Friday, July 24, 2015 from 10:07 to 10:16 AM.

SELECTED PUBLIC APPEARANCES (CONTINUED):

Coast-to-Coast AM, Tuesday, July 28, 2015 from 1:08 to 1:11 AM.

The John Stossel Show on Fox News and Fox Business on Friday, July 31, 2015.

Aljazeera America, Monday, August 10, 2015.

Lars Larson's National Radio Show, Thursday, August 13, 2015 from 6:22 to 6:30 PM.

UN Arms Trade Treaty, Radio America, Thursday, August 27, 2015.

Steve Malzberg's Show, NewsMax TV, Thursday, August 27, 2015 from 7:34 to 7:40 PM.

CBS Evening News, Thursday, August 27th, 2015, 6:45 to 6:47 PM.

Coast-to-Coast AM, Friday, August 28th, 2015 from 1:15 to 2 AM.

Jim Bohannon's America in the Morning, Tuesday, August 18, 2015, 5 AM hour.

The Daily Wrap's co-hosted by Joe Concha and Rick Ungar, NewsMax TV, Friday, August 28, 2015, 6:05 to 6:09 PM.

Sandy Rios National Radio Show, Tuesday, September 1, 2015, 8:15 to 8:50 AM.

Dana TV, The Blaze, October 1, 2015.

Aljazeera International, October 2, 2015 from 11:10 to 11:15 AM.

CNN Newsroom with Carol Costello, ***CNN***, October 2, 2015.

Coast-to-Coast AM, Friday, October 2, 2015 from 1:07 to 1:10 AM.

Mark Levin National Radio Show, Friday, October 2, 2015 from 6:35 to 6:53 PM.

Laura Ingraham Radio Show, Friday, October 2, 2015 from 1:15 to 1:23 PM.

John Gibson National Radio Show, Friday, October 2nd, 2012 from 1:05 to 1:17 PM.

Sean Hannity Radio Show, Monday, October 6, 2015, 5:06 to 5:21.

"The Danger of Gun-free Zones," ***Wall Street Journal's*** Opinion Journal, October 5, 2015.

NewsMax TV, Friday, October 5, 2015 from 8:24 to 8:29 PM.

"Would New Guns Laws Make You Safer?" ***Fox & Friends***, October 10, 2015.

Not yet updated after this date.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS:

"Stop Subsidizing the Future Rich," ***USA Today***, February 19, 1985, p. 8A.

"Social Security's a Bad Deal That's Also Difficult to Justify," ***Houston Post***, Sunday, October 27, 1985, p. B3, also appeared in ***The Orange County Register*** and ***Peoria (Illinois) Star Journal***, Sunday, November 3, 1985.

"Competition Would Benefit Schools," ***Bozeman (MT) Daily Chronicle***, Thursday, July 31, 1986, p. 4.

"Teachers: They Could Stand Some Competition," ***Detroit News***, Thursday, July 17, 1986, also appeared in the ***St. Louis Post-Dispatch***, Friday, July 18, 1986; ***Pittsburgh Post-Gazette***, Saturday, July 12, 1986; and the ***Washington Times***, Monday, July 14, 1986.

"Advantage, Incumbents," coauthored with Gertrud Fremling, ***The Orange County Register***, April 18, 1987, p. A28.

"Incumbents Benefit if Spending Caps are Equal," ***The Wall Street Journal***, Wednesday, June 10, 1987, p. A10.

"Academic Freedom at a Public University," ***The Freeman***, March 1990, pp. 112-115.

"Blaming the Bad News Bearer," ***Los Angeles Times***, Monday, August 13, 1990, p. B5; also appeared in the ***Courier-Journal*** (Louisville, Kentucky), Tuesday, August 14, 1990, p. 9A; the ***Sacramento Bee***, Wednesday, August, 15, 1990, p. B7; and carried on ***Los Angeles Times*** newswire service.

"Raising Commodity Prices Justifiable?" debate with U.S. Senator Joseph Lieberman, ***PM Editorial Services***, August 1990.

"What Should We Do About the Deficit?" ***United Press International Newswire***, October 11, 1990.

"Strong Arm of the Law Left Milken Defenseless," ***The Orange County Register***, Sunday, March 31, 1991, p. G1 and G2.

"Is Curbing Crime Worth the Cost?" ***New York Times***, coauthored with Michael Block, Sunday, May 5, 1991, p. F 13.

"Our Economy is Still the World's Leader," ***New York Newsday***, Tuesday, April 7, 1992, p. 85; also appeared in the ***Indianapolis Star***, Wednesday, April 22, 1992, p. A13; carried on ***Los Angeles Times*** newswire service.

"Clinton Economic Plan Won't Work," ***Philadelphia Inquirer***, Sunday, April 19, 1992, p. D13, also appeared in the ***Richmond Times-Dispatch***, Sunday, April 26, and carried on Knight-Ridder newswire service.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Czechoslovak Mutual Funds Fuel Reform," ***The Wall Street Journal Europe***, coauthored with Robert G. Hansen, Friday, July 17, 1992, p. 6.

"Al Gore on the Environment: Warped and Extremist Thinking," ***Philadelphia Inquirer***, Friday, August 27, 1992, p. A23, also appeared in the ***Detroit News***, Monday September 28, 1992, p.7A.

"If Al Gore's a Conservative, Clinton Must Be Waaay Out," ***New York Newsday***, Tuesday, October 6, 1992, p. 75, carried on ***Los Angeles Times-Washington Post*** newswire service.

"But Look at the Price Tag," ***Philadelphia Inquirer***, Thursday, October 15, 1992, p. A23, also appeared in the ***St. Louis Post-Dispatch***, Sunday, October 11, 1992, p. 7E, ***The Seattle Times***, Friday, October 23, 1992, and carried on Knight-Ridder newswire service.

"Clinton's 'Big Lie' on Economy," ***Philadelphia Inquirer***, Monday, November 2, 1992, p. A15.

"Give Reagan-Bush Their Due: They Did Build Up the Economy," ***Philadelphia Inquirer***, Wednesday, January 20, 1993, p. A9; also appeared in the ***Orange County Register***, Sunday, January 24, 1993; ***Long Beach (Ca.) Press-Telegram***, Friday, January 22, 1993; ***Lexington (KY) Herald-Leader***, Monday, January 25, 1993; ***The Wichita Eagle***, Sunday January 24, 1993; ***Corpus Christi (TX) Caller Times***, Saturday, January 23, 1993; ***News Sentinel*** (Fort Wayne, Indiana), Saturday, January 23, 1993; and carried on Knight-Ridder newswire service."Energy Tax Hits the Middle Class," ***Philadelphia Inquirer***, Monday, February 8, 1993, p. A13; also appeared in the ***Orange County Register***, Sunday, February 21, 1993, pp. J1 and J2; and carried on Knight-Ridder newswire service.

"Drug Research: Pay Now or Later," ***Philadelphia Inquirer***, Saturday, March 20, 1993, p. A11, carried on Knight-Ridder newswire service.

"Clinton: Proteger a EE UU," ***Cinco Dias*** (Second largest business newspaper in Spain), Friday, April 16, 1993, pp. 2 and 3.

"U.S. Taxpayers Will Pay Dearly for that Biodiversity Treaty," ***Philadelphia Inquirer***, Wednesday, May 19, 1993, p. A11; also appeared in the ***Washington Times***, Tuesday, June 1, 1993, pp. E1 and E4; the ***Phoenix Gazette***, Saturday, May 22, 1993, p. A13; and the ***Montgomery County (PA.) Observer***, Wednesday, May 26, 1993, p. 11.

"Who Gets Socked — Salmon or Energy Consumers?: The True Cost of Clinton's Energy Bill," ***Philadelphia Inquirer***, Thursday, June 10, 1993, p. A23.

"Clinton Plan Isn't Campaign Reform," ***Philadelphia Inquirer***, Saturday, August 21, 1993, p. A7.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Toxic Land, Toxic Fears," Reviews of Environmental Overkill: Whatever Happened to Common Sense? by Dixy Lee Ray with Lou Guzo and Science Under Siege: Balancing Technology and the Environment by Michael Fumento, ***Philadelphia Inquirer***, Sunday, August 22, 1993, pp. K1 and K4.

"Galbraith, Speculating About Economic Cycles," Review of A Short History of Financial Euphoria by John Kenneth Galbraith, ***Philadelphia Inquirer***, Sunday, September 5, 1993, p. K3.

"Vouchers Would Foster A Healthy Competition," ***Richmond Times-Dispatch***, Tuesday, September 7, 1993 and the ***Daily Oklahoman***, Saturday, October 9, 1993, p. 4.

"Clinton's Plan Needs a Doctor," ***Philadelphia Inquirer***, Thursday, September 23, 1993, p. A23; also appeared in the ***San Francisco Chronicle***, Friday, September 24, 1993, p. A25; the ***Orange County Register***, Wednesday, September 29, 1993; the ***Charlotte (N.C.) Observer***, Wednesday, September 29, 1993; the ***Phoenix Gazette***, Thursday, September 23, 1993, p. A27; the ***Milwaukee Sentinel***, Thursday, September 30, 1993; the ***Daily Oklahoman***, Monday, October 18, 1993, p. 6; and carried on Knight-Ridder newswire service.

"Public Schools Need More Competition," ***Philadelphia Inquirer***, Wednesday, October 13, 1993, p. A11.

"Are Oxygenated Fuels Worth All the Extra Cost?: Drivers Pay 5 to 7 Cents More A Gallon, and The Special Fuel Isn't Even Necessary," ***Philadelphia Inquirer***, Monday, November 1, 1993, p. A19; also appeared in the ***Washington Times***, Monday, November 1, 1993, p. A17; the ***Phoenix Gazette***, Tuesday, November 2, 1993, p. B15; the ***Salt Lake City Tribune***, Friday, October 29, 1993; and the ***Albuquerque Journal***, Friday, December 17, 1993, p. A19.

"Look at What Drugs Are Doing, and Elders' Idea Doesn't Look Bad," ***Philadelphia Inquirer***, Thursday, December 23, 1993, p. A15.

"Rush Limbaugh Vents about Clinton, Gore and 'the Decade of Fraud,' " Review of See, I Told You So by Rush H. Limbaugh, III, ***Philadelphia Inquirer***, Sunday, December 26, 1993, p. C3.

"Whitman Can Close the Gap Through School Choice," ***Philadelphia Inquirer***, Saturday, January 22, 1994, p. A9.

"Drug Policy Frees Prisons for Real Criminals," the ***Detroit News***, Sunday, January 23, 1994, p. B3.

"The Government Exaggerates the Secondhand Smoke Threat," ***Philadelphia Inquirer***, Wednesday, April 6, 1994, p. A15; also appeared in the ***Cincinnati Post***, Thursday, April 7, 1994, p. A14; and the ***Cythiana Democrat (Kentucky)***, April 14, 1994, p. 4.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Danger of Medical Price Controls," Letters to the Editor, ***The Wall Street Journal***, Monday, May 9, 1994, p. A15.

"With Clinton's Health Care, We also Get Price Controls," ***Philadelphia Inquirer***, Saturday, July 23, 1994, p. A7; also appeared in the ***Cythiana Democrat (Kentucky)***, June 23, 1994, p. 4.

"On the World Bank's Debit Side: Progress that Brings Problems," Review of Mortgaging the Earth: The World Bank, Environmental Improverishment, and the Crisis of Development by Bruce Rich, ***Philadelphia Inquirer***, Sunday, July 24, 1994, p. H3.

"Clinton Pollster Looks at Politics and Power," Review of Middle Class Dreams: The Politics and Power of the New American Majority, by Stanley B. Greenberg, ***Philadelphia Inquirer***, Sunday, March 12, 1995, p. H1.

"An Environmental Optimist Sees A Good Earth Likely to Get Better," Review of A Moment on the Earth: The Coming Age of Environmental Optimism, by Gregg Easterbrook, ***Philadelphia Inquirer***, Sunday, April 30, 1995, p. M3.

"An Assessment that Finds Fault with Liberal Social Policies," Review of The Vision of the Anointed: Self-congratulations as a Basis for Social Policy, Thomas Sowell, ***Philadelphia Inquirer***, Sunday, October 1, 1995, p. H3.

"Laws that Permit Handguns Save Lives," ***Seattle Times***, Thursday, August 22, 1996, p. B5; ***Philadelphia Inquirer***, Thursday, August 29, 1996, p. A23; ***Chicago Sun-Times***, Sunday, October 13, 1996, p. 44.

"Do Concealed Handgun Laws Save Lives?" ***The Wall Street Journal***, Wednesday, August 28, 1996, p. A13; reprinted in Guns and Violence: Current Controversies, edited by Henny H. Kim (Greenhaven Press: San Diego, Ca., 1999) and also numerous other places.

"It Would be Criminal to Ignore How Concealed-Carry Laws Cut Murder Rates," Letters to the Editor, ***The Washington Times***, Monday, September 9, 1996, p. A18.

"America Still the Richest of Countries," ***Philadelphia Inquirer***, Sunday, September 29, 1996, p. E6.

"What Deters Criminals?" Letters to the Editor, ***The Washington Post***, Thursday, October 31, 1996, p. 20.

"Bulletproof," Letters to the Editor, ***The Economist***, January 11th-17th, 1997, pp. 6 and 8.

"Study on Handgun Permit Laws," Letters to the Editor, ***Los Angeles Times***, Sunday, February 2, 1997, p. M4.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Gun Study Extensive, Thorough," ***Omaha World Herald***, Sunday, March 9, 1997, p. B9.

"Concealed Handguns; Letting citizens carry them leads to drop in murder rates," ***Minneapolis Star Tribune***, Friday, March 21, 1997, p. 21.

"Concealed Handguns and Crime," Letters to the Editor, ***Washington Post***, Wednesday, April 9, 1997, p. A20; also appeared in ***Dallas Morning News***, May 14, 1997.

"Concealed Guns, Study finds they help keep peace," ***The Honolulu Advertiser***, Sunday, June 8, 1997, p. B3.

"Childproof Gun Locks: Bound to Misfire," ***The Wall Street Journal***, Wednesday, July 16, 1997, p. A22.

"Unraveling Some Brady Law Falsehoods; Guns: Part of the National Drop in Crime is Because More Citizens are Lawfully Armed, Not Because of the Background Checks," ***Los Angeles Times***, Wednesday, July 2, 1997, p. B7; also appeared in ***Newsday*** (Long Island, New York), Tuesday, July 8, 1997, p. A30;***The Times Union*** (Albany, NY), Tuesday, July 8, 1997, p. A9; ***Las Vegas Review-Journal*** (Las Vegas, NV), Tuesday, July 8, 1997, p. B9; ***The Houston Chronicle***, Monday, July 21, 1997, p. 17; ***Sacramento Bee***, Friday, July 25, 1997, p. B7; and the ***Bozeman Chronicle*** (Bozeman, Montana), Sunday, July 6, 1997.

"Faulty Link on Guns and Death," ***Chicago Tribune***, Sunday, January 11, 1998, p. A20.

"License to Kill?: Careful Look at Critical Study Actually Backs Gun Permit Holders," ***Dallas Morning News***, Sunday, February 8, 1998, p. J6.

"Do Concealed Handgun Laws Save Lives?," ***Intellectual Capital.Com***, Thursday through Wednesday, March 26 through April 1, 1998.

"The Real Lesson of the School Shootings,"***The Wall Street Journal***, Friday, March 27, 1998, p. A14; also appeared in the ***South China Morning Post***, Monday, May 25, 1998, p. 13.

"Citizens Packing Heat Reduce Murder Rates," Letters to the Editor, ***The Wall Street Journal***, Tuesday, April 14, 1998, p. A23.

"Concealed Weapons," Letters to the Editor, ***Chicago Sun-Times***, Tuesday, April 14, 1998, p. 24.

"Gun Control Becomes a Shell Game," ***Newsday***, Wednesday, April 15, 1998, p. A43; also appeared in the ***Star Tribune*** (Minneapolis, MN), Sunday, April 26, 1998, p. A25; ***Las Vegas Review-Journal***, Wednesday, April 22, 1998, p. 9B; ***St. Petersburg Times*** (Florida), April 18, 1998; ***Palm Beach Post*** (Florida), Sunday, April 19, 1998, p. 3E; ***Santa Rosa Press-Democrat*** (Santa Rosa, Ca.), Friday, April 17, 1998; and carried on ***Los Angeles Times*** newswire service.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Bullet Points," Letters to the Editor, ***The Economist***, April 25, 1998, p. 8.

"Do Guns Help Prevent Violence?: Areas that Allow Concealed Firearms Find Violent Crime Reduced," ***St. Louis Post-Dispatch***, Sunday, May 3, 1998, p. B3.

"The Cold, Hard Facts About Guns," ***Chicago Tribune***, Friday, May 8, 1998, p. 27; as well as ***The Honolulu Advertiser***, Sunday, May 24, 1998, p. 3 and Guns and Violence: Current Controversies, edited by Henny H. Kim (Greenhaven Press: San Diego, Ca., 1999).

"Book carefully researched," Letters to the Editor (Response to Op-ed by Tom Teepen), the ***Atlanta Journal and Constitution***, Sunday, May 24, 1998, p. 6B; as well as the ***Commercial Appeal*** (Memphis, TN), Wednesday, May 27, 1998, p. A9; ***News & Record*** (Greensboro, NC), Monday, June 1, 1998, p. A6; ***Arizona Republic***, Saturday, June 6, 1998, p. B7.

"How to Stop Mass Public Shootings; When Citizens are Allowed to Carry Concealed Weapons, Deaths and Injuries from Shootings Decline," ***Los Angeles Times***, Monday , May 25, 1998, p. B5; also appeared in the ***Arizona Republic***, Thursday, May 28, 1998, p. B5; the ***Denver Post***, Thursday, May 28, 1998, p. B11; ***The Record*** (Bergen County, NJ), Thursday, May 28, 1998, p. L9; ***Raleigh News and Observer*** (North Carolina), Friday, May 29, 1998; ***Courier-Journal*** (Louisville, Kentucky), Saturday, May 30, 1998; ***Tulsa World*** (Oklahoma), Sunday, May 31, 1998; ***Las Vegas Review-Journal*** (Las Vegas, NV), Monday, June 1, 1998, p. 9B.

"Will Suing Gun Manufacturers Save Lives?" ***Inverstor's Business Daily***, Wednesday, May 27, 1998, p. A34; somewhat different version also appeared in the ***Detroit News***, Friday, June 19, 1998, p. A19 and as a letter to the editor in the ***Chicago Sun-Times***, Thursday, June 25, 1998, p. 38.

"Gun Study Targeted All Counties in US," Letters to the Editor, ***The Wall Street Journal***, Tuesday, June 13, 1998, p. A23.

"Trigger Happy," ***National Review***, June 22, 1998, pp. 49-50.

"Keep Guns out of Lawyers' Hands," ***The Wall Street Journal***, Tuesday, June 23, 1998, p. A20.

"Revisiting the Five-day Waiting Period," ***Intellectual Capital.Com***, Thursday through Wednesday, July 2 through July 8, 1998.

"Can Government Crime Data be Trusted?" ***Inverstor's Business Daily***, Thursday, July 16, 1998, p. A32.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Armed Citizens Stop Mass Killings," ***Omaha World Herald***, Sunday, July 26, 1998.

"More About Concealed Handguns," Letters to the Editor, ***Time*** magazine, July 27, 1998, p. 8, also appeared in the International edition, August 3, 1998.

"A well-armed public," Letters to the Editor, ***Chicago Sun-Times***, Wednesday, July 29, 1998, p. 40.

"Gun Lock Proposal Bound to Misfire," ***Chicago Tribune***, Thursday, August 6, 1998, p. 23; also appeared in ***Washington Times***, Friday, August 14, 1998, p. A17.

"Research Data Show that Concealed Handguns Deter Crime," ***St. Louis Post-Dispatch***, Thursday, August 6, 1998, p. B7.

"Concealed guns reduce crime: If people are packing, crooks think twice," ***Minneapolis Star Tribune***, Sunday, August 16, 1998, p. 25A; fairly similar pieces also appeared in the ***Albuquerque Journal***, Sunday, October 18, 1998.

"No gun toady," Letters to the Editor, ***St. Louis Post-Dispatch***, Monday, August 24, 1998, p. B6

Review of two books by David Kopel in "Breakthrough Books," ***Linguafranca***, September 1998, p. 17.

"Study shows women safer packing a gun," Letters to the Editor, ***Chicago Sun-Times***, Thursday, September 24, 1998, p. 30.

Response to editorial "Gun Policy That Misfires" attacking my research, Letters to the Editor, ***Los Angeles Times***, Friday, October 2, 1998, p. B8.

"Is Microsoft A Predator or Prey," ***Inverstor's Business Daily***, Wednesday, October 21, 1998, p. A24.

"Gun Control Advocates Purvey Deadly Myths," ***The Wall Street Journal***, Wednesday, November 11, 1998, p. A22.

"Will Suing Gunmakers Endanger Lives?" ***Chicago Tribune***, Tuesday, November 17, 1998, p. 19; also appeared in the ***Orange County Register***, Sunday, November 29, 1998, Commentary p. 5.

"Cities Target Gun Makers in Bogus Lawsuits; More People are Killed by Cars; More Children Drown or Die in Fires," ***Los Angeles Times***, Tuesday, December 1, 1998, p. B7; also appeared in ***The News and Observer*** (Raleigh, NC), Thursday, December 10, 1998; the ***Houston Chronicle***, Monday, December 28, 1998, p. A23; ***Idaho Statesman*** (Boise, Idaho), Saturday, December 5, 1998, p. 8B; ***Salt Lake City Tribune***, December 6, 1998, page A-7; ***Cincinnati Enquirer***, Thursday, February 4, 1999, p. A12; and the ***Bozeman (MT) Daily Chronicle***.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Defending Gun Study," Letters to the Editor, ***The New York Times***, Thursday, December 17, 1998, p. A32.

"Gun Shy: Cities turn from regulation to litigation in their campaign against guns," ***National Review***, December 21, 1998, pp. 46-48.

"Will More Guns Mean Less Crime?" ***Consumer's Research***, December, 1998: pp. 18-22.

"Lethal handgun fears," Review of Making A Killing: The Business of Guns in America by Tom Diaz, ***Washington Times***, Wednesday, February 24, 1999: p. A17.

"Suits Targeting Gun Makers are Off the Mark," ***The Wall Street Journal***, Tuesday, March 2, 1999: p. 18A.

"Do Concealed Guns Deter Crime?" ***Kansas City Star***, Saturday, March 20, 1999: p. B7.

"Proposition B: More Security or Greater Danger?: Clear Evidence from States with Concealed Carry," ***St. Louis Post-Dispatch***, Sunday, March 21, 1999: p. B3; a related version also appeared in the ***Kansas City Star***, Saturday, April 3, 1999.

"Does News Coverage Endanger Lives?" ***Inverstor's Business Daily***, Thursday, April 29, 1999, p. A20.

"Think Twice On New Gun Laws," ***Newsday*** (New York, NY), Friday, April 30, 1999, p. A53.

"When self-defense is banned," ***Washington Times***, Wednesday, May 5, 1999, p. A19; also appeared in ***The Detroit News***, Monday, May 3, 1999, p. A6 and the ***Orange County Register***,.

"Gun Laws Can Be Dangerous, Too," ***The Wall Street Journal***, Wednesday, May 12, 1999: p. A22.

"Guns and Crime and Traditional Myths," Letters to the Editor, ***The Wall Street Journal***, Tuesday, May 25, 1999: p. A27.

"Gun Show: Why gun laws will not prevent public shootings," ***National Review***, Monday, May 31, 1999, No. 10, Vol. 51: p. 32.

Voices From the Front, ***ABCNews.com***, Monday, June 7, 1999.

"New Gun Controls Will Pose Greater Dangers to Persons Threatened by Armed Criminals," ***Insight Magazine***, June 21, 1999, pp. 25 and 27.

"Questions, gun experiences affect polls," ***Detroit News***, Wednesday, June 16, 1999, p. A8.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Disarming good people," ***Washington Times***, Wednesday, June 16, 1999, p. A17.

"More Gun Controls?: They Haven't Worked in the Past," ***The Wall Street Journal***, Thursday, June 17, 1999, p. A26.

"More Laws Won't Cure Gun Problems," ***Los Angeles Times***, Thursday, June 17, 1999, p. B9; also reprinted in the ***Atlanta Journal-Constitution***, Monday, June 21, 1999 and ***Denver Post***, Sunday, July 11, 1999, p. H1.

"Guns and Crime," Letters to the Editor, ***Chicago Tribune***, Sunday, June 20, 1999, Magazine p. 4.

"Bathtubs Kill More Babies than Guns Do," ***Human Events***, July 2, 1999, p. 6.

"Shoot Down Anti-Gun Plans," ***Inverstor's Business Daily***, Thursday, July 22, 1999: A22.

"Should We Sue the Lawyers?," ***Intellectual Capital.Com***, Thursday through Wednesday, August 5 through August 11, 1999.

"Anti-gun diatribe riddled with inaccuracies," (Response to Op-ed by Molly Ivins), ***Denver Rocky Mountain News***, Friday, September 3, 1999, p. 64A; also reprinted in the ***Fort Worth Star-Telegram***, Thursday, August 26, 1999 and ***Chicago Sun-Times***, Monday, September 13, 1999, p. 30.

"Furor over firearms," ***Newsweek***, Letters, September 13, 1999, p. 16; reprinted in ***Newsweek***,September 20, 1999, Atlantic Edition.

"Will Gun Bans Stop Shootings?: Analysis of data hints they may not," coauthored with William Landes, ***Honolulu Advertiser***, Sunday, November 7, 1999, p. B1.

"Don't chill debate on how to protect children," ***Cincinnati Enquirer***, Wednesday, November 17, 1999, p. A19.

"Tighter Gun Laws are Not the Solution," Letters to the Editor, ***The Wall Street Journal***, Monday, November 22, 1999: p. A23.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"U.S. Aim is Bad in Gun Lawsuits," ***Newsday***, Thursday, December 23, 1999, p. A43; also reprinted in ***Union Leader*** (Manchester, New Hampshire), Tuesday, December 28, 1999; ***Deseret News*** (Salt Lake City, UT), Tuesday, December 28, 1999, p. A11; ***Palm Beach Post*** (Palm Beach, Fla.), Tuesday, December 28, 1999; ***Birmingham News*** (Alabama), Wednesday, December 29; ***Saint Paul Pioneer Press*** (Minnesota), Thursday, December 30, 1999; ***Dallas Morning News***, Friday, December 31, 1999; ***Fresno Bee*** (Fresno, Ca.), Sunday, January 2, 2000, p. G4; ***Cincinnati Enquirer***, Sunday, January 2, 2000, p. B6; ***Post and Courier*** (Charleston, SC), Sunday, January 2, 2000, p. A11; ***News and Observer*** (Raleigh, NC), Wednesday, January 5, 2000, p. A17; ***Commercial Appeal*** (Memphis, TN), Sunday, January 16, 2000, p. B6; ***Calgary Journal*** (Calgary, Canada); ***Missoulian*** (Missoula, MT); ***Ogden Standard*** (Ogden, Utah).

"Campaign Finance Reform?" ***Inverstor's Business Daily***, Thursday, January 27, 2000, p. A26. Also published in the ***Washington Times***, Monday, February 16, 2000, p. A15 and the ***Hartford Courant***.

"Creating hysteria over guns," ***Washington Times***, Sunday, January 30, 2000, p. B4.

"Not-So-Smart Locks," Letters to the Editor, ***Washington Post***, Tuesday, February 1, 2000, p. A14.

"Gun-safety laws proposed for Ohio only would backfire," ***Columbus Dispatch*** (Columbus, Ohio), Tuesday, February 1, 2000, p. A9.

"Sometimes, Guns can save lives," ***Philadelphia Daily News***, Wednesday, February 9, 2000.

"Gun locks will cost, not save, lives in Maryland," ***Baltimore Sun***, Friday, February 25, 2000.

"Gun control proposals will end up producing more violent crime," ***Honolulu Advertiser***, Sunday, February 27, 2000.

"Guns Save Lives," Guns in America, ***CBS News Interactive***, http://cbsnews.cbs.com/now/story/0,1597,167661-412,00.shtml.

"Gun Locks," Letters to the Editor, ***Washington Post***, Saturday, March 11, 2000, p. A18.

"Clinton Shoots from Hip with Loaded Claims," ***Los Angeles Times***, Sunday, March 19, 2000, p. M5.

"Gun Locks Bound to Misfire," ***New York Post***, Monday, March 20, 2000.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

Interrogatory: Yale Law School's John Lott, ***National Review Online***, Monday, April 3, 2000.

"Dangerous Myths About Guns," ***Hartford Courant***, Sunday, April 9, 2000.

"How the Government Preyed on a 'Predator,'" Review of Richard B. McKenzie's "Trust on Trial," ***The Wall Street Journal***, Wednesday, April 12, 2000, p. A24; reprinted in ***Wall Street Journal Europe***, Monday, April 17, 2000; ***Asian Wall Street Journal***, Tuesday, April 18, 2000.

"Rampage killing facts and fantasies," ***Washington Times***, Wednesday, April 26, 2000, p. A15.

"Legal Tactic Destroys Lives and Businesses," Letters to the Editor, ***The Wall Street Journal***, Thursday, April 27, 2000, p. A27.

"Gun Advocate Slams The New York Times," ***APBnews.com***'s special report on Truth in Crime Reporting, Thursday, May 18, 2000.

"When It Comes to Firearms, Do As I Say, Not As I Do; Guns: Rosie O'Donnell, Who Opposes Handgun Permits for Others, Doesn't See Problem with Her Bodyguards Having Them," ***Los Angeles Times***, Thursday, June 1, 2000, p. 11; reprinted in the ***National Review Online***, Friday, June 2, 2000; ***Omaha World Hearld***, Sunday, June 4, 2000; ***Dallas Morning News***, Tuesday, June 6, 2000, p. 23A; ***Cincinnati Enquirer***, Tuesday, June 6, 2000, p. A8; ***New Haven Register***, Tuesday, June 6, 2000; ***Insight on the News***, Monday, July 3, 2000, p. 44.

"Gun locks may increase crime," ***Detroit News***, Friday, June 2, 2000, p. A15.

"Gore Doesn't Seem to Trust People to Handle the Truth," ***Hartford Courant***, Tuesday, June 6, 2000, p. A9; ***Deseret News*** (Salt Lake City, Utah), Wednesday, June 6, 2000, p. A15;***Cincinnati Enquirer***, Sunday, June 11, 2000, p. E7; ***Houston Chronicle***, Friday, June 16, 2000, p. 43; and carried on ***Los Angeles Times-Washington Post*** newswire service.

"'The Patriot' is right," ***New York Post***, Thursday, June 22, 2000; reprinted in the ***Philadelphia Inquirer***, Friday, June 23, 2000; ***Washington Times***, Friday, June 23, 2000; ***Detroit News***, Tuesday, July 4, 2000, p. 6; ***Boston Hearld***, Tuesday, August 1, 2000, p. 6.

"The Gun-Shy Press: Few Stories Appear When Citizens Use Arms to Save Lives," ***Inverstor's Business Daily***, Tuesday, July 18, 2000, p. A26.

"Gun Control: Strictly Symbolism," ***The Wall Street Journal***, Tuesday, August 1, 2000, p. A22.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Fables that Aren't Worth The Price of a Tulip," Review of Peter M. Garber's "Famous First Bubbles," ***The Wall Street Journal***, Wednesday, August 2, 2000, p. A20.

"Gun laws intimidate criminals," ***Cincinnati Enquirer,*** Monday, August 7, 2000, p. 11 and ***Cincinnati Post***, Friday, July 21, 2000.

"One case for guns," ***Christian Science Monitor***, Monday, August 21, 2000, p. 9 and ***The Record*** (Bergen County, NJ), Friday August 25, 2000, p. L9.

"Gun Licensing Leads to Increased Crime, Lost Lives," ***Los Angeles Times***, Wednesday, August 23, 2000, p. B9.

"Gore's Threats Could Stop Drug Research, Cost Lives," ***Hartford Courant,*** Friday, August 25, 2000; reprinted in the ***Washington Times***, Sunday, September 3, 2000, p. B3; ***Boston Herald***, Tuesday, September 5, 2000, p. 21; and ***Star-Telegram*** (Fort Worth, Texas), Tuesday, September 5, 2000, p. 11B.

"Bush Is Not a Trigger-Happy Cowboy," ***Newsday***, Tuesday, August 29, 2000, p. A33; updated version published in the ***Philadelphia Daily News***, Wednesday, October 4, 2000, p. 18; ***Washington Times,*** Tuesday, October 10, 2000, p. A15..

"Gore is Enamored of Price Controls," Letters to the Editor, ***The Wall Street Journal***, Thursday, September 14, 2000, p. A27; reprinted in ***Wall Street Journal Europe***, Tuesday, September 19, 2000.

"A Look into the Details Shows that Bush's Plan on Taxes Tops Gore's," ***Philadelphia Inquirer,*** Sunday, September 17, 2000, p. D7.

"Gun Locks can Kill," ***Inverstor's Business Daily***, Friday, September 22, 2000, p. A24.

"Gore-ing the Truth," ***Hartford Courant***, Friday, September 29, 2000, p. A15, also published in the ***Philadelphia Daily News***, Tuesday, October 17, 2000.

"Regulating gun show sales of firearms," ***Oregonian***, Friday, October 13, 2000.

"Gore's Social Security Scare Tactics," ***Philadelphia Daily News***, Thursday, November 2, 2000.

"Gore might lose a second round: Media suppressed the Bush vote," ***Philadelphia Inquirer***, Tuesday, November 14, 2000.

"Was Gore Harmed by the Buchanan Vote?" ***National Review Online***, November 15, 2000.

"Gore Rewrites the Rules to Win," coauthored with Stephen Bronars, ***The Wall Street Journal***, Tuesday, November 20, 2000, p. A26, also published on ***OpinionJournal.com***.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Nation's High Court Had to Stop Florida's," ***Hartford Courant***, Tuesday, December 12, 2000.

"A recount not a sure victory for Gore," coauthored with Stephen Bronars, ***Philadelphia Inquirer***, Monday, December 18, 2000, a longer version of this was also published on ***NationalReview.com***, Monday, December 18, 2000.

"Its the Fraud, Stupid," coauthored with Stephen Bronars, ***New York Post***, Wednesday, December 20, 2000.

"What Can We do After Wakefield?" ***Boston Globe***, Thursday, December 28, 2000, p. A15; also published in the ***San Diego Union-Tribune***, Friday, December 29, 2000, p. B9; ***Chicago Sun-Times***, Tuesday, January 2, 2001, p. 21.

"Guns Decrease Crime," Letters to the Editor, ***New York Times***, Tuesday, January 9, 2001, p. A18.

"Should Michigan keep new concealed weapons law?: Don't believe gun foe scare tactics; experience shows no horror stories," ***Detroit News***, Sunday, January 14, 2001, p. 15.

"The Real Extremists: Gun Control Crowd links John Ashcroft to a Mass Murderer," ***Inverstor's Business Daily***, Wednesday, January 17, 2001, p. A24; a longer version is also published in ***Philadelphia Daily News***, Wednesday, January 17, 2001, p. 19.

"Some Time To Kill: In Waiting Periods, Gun Buyers Are At Mercy Of Criminals," ***Inverstor's Business Daily***, Friday, March 3, 2001, p. A26.

"What can be done to stop hate crimes?" ***San Diego Union-Tribune***, Friday, February 23, 2001, p. B-9; also published in the ***Boston Herald***, Saturday, March 10, 2001, p. 013 ***Philadelphia Daily News***, Thursday, March 15, 2001, p. 17.

"Others Fear Being Placed at the Mercy of Criminals," ***Los Angeles Times***, Friday, March 30, 2001, p. 9; also published in ***The Record*** (Bergen County, NJ), Tuesday, April 3, 2001, p. L19; ***Hartford Courant,*** Tuesday, April 3, 2001; ***Post and Courier*** (Charleston, SC), Wednesday, April 4, 2001; ***The Virginian-Pilot*** (Norfolk, Va.), Thursday, April 5, 2001; ***Dallas Morning News***, Tuesday, April 10, 2001, p. 13A.

"Do Donations Alter Votes?" ***National Review Online***, Friday, March 30, 2001.

"Gun Proponents Shoot Back," ***Newsweek***, letters to the editor, April 2, 2001, p. 16.

"Less Gun Control Means Less Crime," ***Reason Online***, Tuesday, May 22, 2001.

"The Effect is Clear: Disarming law-abiding citizens leads to more crime," ***Reason Online***, Thursday, May 24, 2001.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Cost of gun locks too high: More deaths, crime and reliability problems aren't worth it," ***Philadelphia Inquirer***, Saturday, June 2, 2001, p. ; similar expanded version in the ***San Diego Union-Tribune***, Thursday, June 8, 2001.

"When Gun Control Costs Lives," ***National Review Online***, June 12, 2001.

"Zero Tolerance Equals Zero Thinking," ***Los Angeles Times***, Wednesday, June 13, 2001, part 2, pg. 13; also published in ***The Times Union*** (Albany, NY), Friday, June 15, 2001, p. A17; ***San Jose Mercury News***, Sunday, June 17, 2001, p. C7; ***The Record*** (Bergen County, NJ), Sunday, June 24, 2001, p. O6; ***Bismarck Tribune*** (Bismarck, North Dakota).

"Gun Permit Statistics Shoot Down Unfounded Fears," ***Albuquerque Journal***, Sunday, June 24, 2001, p. B3.

"Kmart Sells Out: Ammo Sales End, Under Pressure from PC Prankster," ***Inverstor's Business Daily***, Tuesday, July 10, 2001, p. A18; related rewritten versions also published in the ***Philadelphia Daily News***, Friday, July 20, 2001, p. 23; ***National Review Online***, Friday, July 20, 2001.

"Predictions of increased violence won't pan out," ***Detroit Free Press***, Wednesday, July 11, 2001; also published in the ***Grand Rapids Press*** (Grand Rapids, Michigan), Tuesday, July 10, 2001.

"Elections, Emotions & Stats," ***National Review Online***, Thursday, July 12, 2001.

"Should Doctors Counsel Patients About Guns in the Home?: No," ***Physician's Weekly***, July 16. 2001.

"Small Arms Save Lives," ***Wall Street Journal Europe***, Monday, July 30, 2001; also reprinted on ***RealClearPolitics.com***, Tuesday, July 31, 2001; ***FrontPageMag.com***, Wednesday, August 1, 2001.

"On Thin Ice; Florida Voter Discrimination Claims Groundless," ***Washington Times***, Tuesday, July 31, 2001, p. A17; also published in the ***Boston Herald***, Tuesday, July 31, 2001; ***RealClearPolitics.com***, Sunday, August 5, 2001; ***Philadelphia Daily News***, Tuesday, August 14, 2001, p. 19.

"Insurance for school shootings?" Letters to the Editor, ***USA Today***, Wednesday, August 1, 2000, p. 10A.

"Gun News You Never See," ***New York Post***, Monday, August 6, 2001; also published in the ***Chicago Sun-Times***, Friday, August 10, 2001.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Great Gun Fight," ***Reason Magazine***, August/September 2001, pp. 52-60

"The Quota Costs: Change Standards, And Quality Slips Across The Board," ***Inverstor's Business Daily***, Tuesday, August 21, 2001, p. A18.

"Will Questioning Our Neighbors Make Us Safer?" ***Hartford Courant,*** Wednesday, August 29, 2001; also published in the ***New York Post***, Saturday, September 1, 2001; ***Times Union*** (Albany, NY), Sunday, September 2, 2001, p. B3.

"Shocking Numbers, But Do They Add Up?" Review of "It Ain't Necessarily So" by David Murray, Joel Schwartz and S. Robert Lichter and "Damned Lies and Statistics" by Joel Best, ***The Wall Street Journal***, Thursday, August 30, 2001, p. A11.

"Gun Panel Hears With an Ear Shut," ***Los Angeles Times***, Friday, August 31, 2001, part 2, p. 15; also published in the ***Fort Worth Star-Telegram***, Sunday, September 9, 2001; ***Valley New*** (Hanover, N.H.), September 6, 2001, p. A6.

"Only Guns can Stop Terrorists," ***Wall Street Journal***, Friday, September 28, 2001, p. A14; also published on ***OpinionJournal.com***, Friday, September 28, 2001.

"Switzerland Needs Less Gun Control, Not More," ***Wall Street Journal Europe***, Monday, October 1, 2001.

"Arming The Free: Let Airline Pilots And Passengers Terrorize Thugs," ***Inverstor's Business Daily***, Thursday, October 11, 2001, p. A16.

"Don't Go Postal on Airport Security," ***Los Angeles Times***, Friday, October 19, 2001, Sec. 2, p. 15; also published in ***Deseret News*** (Salt Lake City, UT), Tuesday, October 23, 2001, p. A13.

"Don't unfairly target .50-caliber rifles," ***Chicago Sun Times***, Tuesday, November 6, 2001.

"GOP Was the Real Victim in Fla. Vote," ***Los Angeles Times***, Monday, November 12, 2001, p. 11; also published on ***RealClearPolitics.com***, Monday, November 12, 2001.

"Israeli Homeland Security Tips," ***New York Post***, Monday, November 12, 2001; also published in ***RealClearPolitics.com***, Monday, November 12, 2001; the ***Detroit News***, Sunday, December 30, 2001.

"Stimulus Bull: Congress May Simply Deepen The Recession," ***Inverstor's Business Daily***, Thursday, December 20, 2001, p. A16.

"Derail the Tenure-Track Train," Letters to the Editor, ***Wall Street Journal***, Friday, January 18, 2002, p. A11.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Missing Gun," ***New York Post***, Friday, January 25, 2002; also published on ***RealClearPolitics.com***, Friday, January 25, 2002; a more complete version is in the ***Star-Telegram*** (Fort Worth, Texas), Monday, February 4, 2002.

"Off-Target News: When It's Guns, Media Miss Big Part Of Picture," ***Inverstor's Business Daily***, Thursday, February 7, 2002, p. A17.

"The Left, the Right And the Budget," Letters to the Editor, ***New York Times***, Friday, February 8, 2002, p. A22.

"Records of retiring politicians defy campaign-reform logic," ***Philadelphia Inquirer***, Sunday, February 10, 2002; also published in ***Detroit News***, March 15, 2002, p. 7A.

"Beware the Democratic Trap," with Kevin A. Hassett, ***National Review Online***, March 8, 2002.

"Arming Pilots Is the Best Way to Get Air Security," ***Los Angeles Times***, Monday, March 11, 2002, Part 2, pg. 11; also published in the ***Milwaukee Journal Sentinel***, Sunday, March 17, 2002, p. J4.

"Banning Guns Won't Stop Terrorism," ***Hartford Courant***, Monday, March 18, 2002.

"A Charter-School Showdown," ***Philadelphia Daily News***, Tuesday, March 19, 2002, p. 19.

"Security Games: When are we going to get real about security?" ***National Review Online***, Tuesday, April 2, 2002.

"Unemployment Lines, Lies, and Statistics," with Kevin A. Hassett, ***New York Post***, Friday, April 12, 2002.

"Self Defense: Antigun Laws Haven't Worked," ***Wall Street Journal Europe***, Monday, April 30, 2002, p. A12.

"Gun Control Misfires in Europe," ***Wall Street Journal***, Monday, April 30, 2002, p. A16; also appeared on ***OpinionJournal.com***, Saturday, May 4, 2002.

"Gun Laws Don't Reduce Crime," ***USA Today***, May 9, 2002, p. 11A.

"No Gas Price Conspiracy, Just Econ 101," with James K. Glassman, ***Houston Chronicle***, May 7, 2002; also appeared on ***TechCentralStation.com***, May 10, 2002.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Voting and Race," with Abigail Thernstrom, Letters to the Editor, ***New York Times***, Saturday, June 1, 2002, p. A14.

"On guns, Ed Rendell can't seem to shoot straight," ***Philadelphia Daily News***, Thursday, June 6, 2002, p. 21; revised versions also appeared in the ***Tribune-Review*** (Pittsburgh, PA.), Sunday, September 21, 2002 and ***National Review Online***, Friday, October 11,2002.

"Armed citizens can defuse terrorist threat," ***USA Today***, Monday, June 17, 2002, p. 13A.

"Terrorism Insurance: A Risk For Taxpayers," co-authored with Eric Engen, ***Hartford Courant***, June 19, 2002, p. A7.

"The Dow Congress: An alternative theory of why the market collapsed," co-authored with James K. Glassman, ***The Weekly Standard***, August 5, 2002.

"A Woman's Choice: Letting her defend herself," ***National Review Online***, August 9, 2002; also appeared in the ***Record*** (Bergen County, NJ), Thursday, August 15, 2002, p. L11; ***Sacramento Bee*** (Sacramento, Ca.), Saturday, August 17, 2002; ***Windsor Star*** (Windsor, Ontario, Canada), Friday, August 30, 2002, p. A8.

"Richard Blumenthal Goes too Far," ***Hartford Courant***, Tuesday, August 20, 2002, p. A7; also appeared on ***National Review Online***, Thursday, August 22, 2002.

"Much Ado About Nothing: The Bush Speech that Wasn't," ***National Review Online***, Monday, September 30, 2002.

"Gun Locks: Are they bound to misfire?" ***The Record*** (Bergen County, NJ), Thursday, October 3, 2002, p. L9.

"Untold Tale Behind Philly's Failing Schools," co-authored with Brent Mast, ***Tribune-Review*** (Pittsburgh, PA.), Thursday, October 3, 2002; also appeared in ***Philadelphia Daily News***, Thursday, October 17, 2002.

"Tough gun laws don't reduce crime," ***The Australian***, Wednesday, October 23, 2002, p. 15; a response to the letters published appeared on Monday, October 28, 2002, p. 8.

"Bullets and Bunkum: The futility of 'ballistic fingerprinting,'" ***National Review***, November 11, 2002, pp. 28 and 30; related versions also appeared in ***Star-Ledger*** (New Jersey), Monday, October 28, 2002; ***Pittsburgh Tribune-Review***, Monday, October 28, 2002, ***Detroit News***, Sunday, November 10, 2002, p. 19A.

"Econometric modeling, guns, and murder statistics; Follow-Up," ***Skeptical Inquirer***, November 1, 2002, p. 59.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Gun laws are a lock to leave us less safe," ***Star-Ledger*** (New Jersey), Friday, January 3, 2003.

"Can U.S. be more Secure by Arming Off-duty Cops?" ***Investors Business Daily***, April 2, 2003, p. A13.

"When Gun Laws Don't Make Sense," ***Pittsburgh Tribune-Review***, Wednesday, April 2, 2003.

"Arming of Pilots is Way Overdue," ***Los Angeles Times***, Monday, April 14, 2003, part 2, p. 11.

"Concealed Carry would benefit Ohio," ***Columbus Dispatch*** (Columbus, Ohio), Thursday, April 24, 2003.

"Gun Control Advocates Credibility on Line," ***Star-Tribune*** (Minneapolis, MN.), Sunday, May 4, 2003.

"The Gun Control Debate," ***Washington Times***, Tuesday, May 13, 2003, p. A19.

"There are no gun-free, safe zones," ***Plain Dealer*** (Cleveland, Ohio), Tuesday, May 13, 2003.

"Wrong Aim: Congress Misfires," ***National Review Online***, Wednesday, May 14, 2003.

"Pattern of Deceit is Deeper than Times Wants to Admit," ***Inverstor's Business Daily***, May 22, 2003.

"Scare Tactics on Guns and Terror," ***Star-Ledger*** (New Jersey), Friday, May 30, 2003.

"Bad Sports: A church turns down $10,000 from sportsmen," ***Washington Times***, June 12, 2003, p. A12.

"Dems have not dropped Gun Control Agenda," ***Fox News Channel*** Web Site, June 20-21, 2003.

"Armed, and Safer, Iraqis," ***New York Post***, June 26, 2003, p. 31.

"States May Regret Reforms," ***USA Today***, July 1, 2003, p. A11.

"When Welfare is Disguised as a Tax Cut," ***Inverstor's Business Daily***, Wednesday, July 2, 2003, p. A14.

"U.N. vs. Guns: An international gun-control fight," ***National Review Online***, Friday through Sunday, July 11 to 13, 2003.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Right to Carry Would Disprove Horror Stories," ***Kansas City Star***, Saturday, July 12, 2003.

"Letting Teachers Pack Guns Will Make America's Schools Safer," ***Los Angeles Times***, Sunday, July 13, 2003, p. M5; also published in ***Star-Ledger*** (New Jersey), Tuesday, July 16, 2003, p. 13; ***The Record*** (Bergen County, NJ), Tuesday, July 16, 2003, p. L11; ***Portland Post Herald*** (Portland, Maine), Thursday, July 17, 2003; ***Hartford Courant***, Thursday, July 17, 2003; ***Salt Lake City Tribune***, Thursday, July 17, 2003; ***Tribune-Review*** (Pittsburgh, PA.), Sunday, July 20, 2003; ***Milwaukee Journal Sentinel***, Monday, July 21, 2003, p. 13A; ***Herald*** (Rock Hill, S.C.), Monday, July 21, 2003; and ***Windsor Star*** (Canada), Wednesday, August 6, 2003, p. A6.

"Valid Gun Research," Letters to the Editor, ***St. Louis Post-Dispatch***, Monday, July 21, 2003, p. B6.

"The Drug World's Easy Riders," co-authored with James K. Glassman, ***Wall Street Journal Europe***, Wednesday, July 23, 2003.

"City Hall's Gun Folly," ***New York Post***, Monday, July 28, 2003, p. 27.

"Why Don't Media Cover the Good-news Stories about Guns?" ***Philadelphia Inquirer***, Friday, August 1, 2003, p. A15.

"Al-Qaida Won't Forget Our Security Issues," ***Inverstor's Business Daily***, Monday, August 11. 2003, p. A14.

"The Ban Against Public Safety: D.C. Gun Laws Have Increased Crime," ***Washington Times***, co-authored with Eli Lehrer, Monday, August 11. 2003, p. A19.

"Should Off-duty Police be Banned from Carrying Guns?" ***National Review Online***, August 13, 2003.

"Gun control laws may be partly at fault in massacre," ***Chicago Sun-Times***, Friday, August 29, 2003, p. .

"PC Air Security: When will Our Pilots be Armed," ***National Review Online***, Tuesday, September 2, 2003.

"Divorcing Voters, Again: Supreme-court campaign Finance reform case gets heard," ***National Review Online***, Monday, September 8, 2003.

"Why High Court May Slam McCain's Law," ***New York Post***, Monday, September 8, 2003.

"NYC's Latest Gun Misfires," ***New York Post***, Tuesday, September 16, 2003.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Voting Data: Sometimes mistakes aren't mistakes," ***National Review Online***, Monday, September 22, 2003.

"Guns, Crime, and Health," ***World & I*** magazine, October 2003, pp. 32-37.

"Swiss Miss: Policymakers aiming in wrong direction," ***National Review Online***, Thursday, October 2, 2003.

"Rush, by the Numbers: The Face of 'Social Concern'?" ***National Review Online***, Wednesday, October 8, 2003; also appeared in the ***Washington Times***, Friday, October 10, 2003: ***Pittsburgh Tribune-Review***, Sunday, October 26, 2003.

"Assaulting the Ban," ***Tech Central Station***, Tuesday, November 4, 2003.

"Caps on Campaign Spending Firmly Entrench Incumbents," ***Inverstor's Business Daily***, Tuesday, November 4, 2003; also appeared in the ***Philadelphia Inquirer***, Wednesday, November 12, 2003.

"Bound to Misfire," ***Tech Central Station***, Friday, November 7, 2003.

"Banning 'Terrorist Specials'?" ***Tech Central Station***, Wednesday, November 12, 2003.

"The Spin on Gun Control: Who controls Congress will determine regulations," ***Washington Times***, Friday, November 14, 2003, p. A23.

"Cheaper Drugs Are No Cure-All," with James Glassman, ***The Globe and Mail*** (Canada), Monday, November 17, 2003.

"The 2004 Hunt: Presidential candidates on guns," ***National Review Online***, Tuesday, November 18, 2003; related version also appear on ***Foxnews.com***, Wednesday, November 19, 2003.

"It's definitely time to get over Florida," ***National Review Online***, Wednesday, December 10, 2003.

"Baghdad's Murder Rate Irresponsibly Distorted," ***Inverstor's Business Daily***, Friday, December 12, 2003, p. A14; related version also appear on ***Foxnews.com***, Tuesday, December 15, 2003.

"Supreme Irrelevance: Will be high court be undone by political reality?" ***National Review Online***, Friday, December 19, 2003.

"Marshals Are Good, But Armed Pilots Are Better," ***Wall Street Journal Europe***, Friday, January 2, 2004.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Why People Fear Guns," ***Foxnews.com***, Friday, January 2, 2004.

"Pilots Still Unarmed," ***New York Post***, Tuesday, January 6, 2004.

"Statistical Mishmash Muddles Unemployment Rates," ***Foxnews.com***, Wednesday, January 14, 2004; also appeared in ***Inverstor's Business Daily***, Friday, January 16, 2004.

"Is that a gun in your pocket?" Letters to the Editor, ***The Economist***, January 22, 2004, p. 16.

"Athletes and Guns," ***Foxnews.com***, Wednesday, January 28, 2004.

"Oops," ***The American Enterprise***, January/February 2004, p. 11.

"Gun Control Remains a Loaded Issue for Democratic Candidates: The rhetoric may be toned down, but the aim remains the same," with Grover Norquist, ***Los Angeles Times***, February 6, 2004, p. B13; also published in the Minneapolis ***Star Tribune***, Tuesday, February 10, 2004; ***Union Leader*** (Manchester, New Hampshire), Tuesday, February 10, 2004.

"Gun Suit Reform Could Still Be Shot Down," with Grover Norquist, ***Foxnews.com***, Thursday, February 26, 2004.

"Senate bill can end misleading debate on guns," ***Philadelphia Inquirer***, Tuesday, March 2, 2004, p. A11; also appeared in the ***Washington Times***, Tuesday, March 2, 2004, p. A19.

"'Sentencing Fairness' Rules Backfired in Martha's Case." ***Inverstor's Business Daily***, Thursday, March 11, 2004, p. A15.

"Unemployment rate remains fairly low at 5.6%; survey reports firm deaths quicker than births." ***Detroit News***, Sunday, March 21, 2004.

"Weapons Bans Miss the Mark," ***The Australian***, Wednesday, March 24, 2004.

"A Weapon Surrendered: Gun-control groups concede the frivolity of the 'assault-weapons ban,'" ***National Review Online***, Thursday, March 25, 2004.

"Who Can Oppose Letting Retired Police Carry Guns?" ***Chicago Sun-Times***, Sunday, April 4, 2004.

"Debating Guns," ***Pittsburg Tribune-Review***, Saturday, April 17, 2004.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Glorifying Guns?: The Dems' lip service is just empty rhetoric," ***National Review Online***, April 22, 2004.

"Change to concealed carry law will make NH safer," ***Union Leader*** (Manchester, New Hampshire), Thursday, April 29, 2004.

"Voting Machine Conspiracy Theories," ***San Diego Union-Tribune***, Friday, April 30, 2004.

"Hacker Hysteria: Electronic Ballots Won't Byte Back," ***Washington Times***, Tuesday, May 11, 2004, p. A23; related versions were also published on ***National Review Online***, Monday, May 3, 2004 and ***Star-Ledger*** (New Jersey), Monday, May 24, 2004.

"Whither Gun Control?" ***Foxnews.com***, Friday through Sunday, May 21 to 23, 2004.

"More gun control isn't the answer," ***National Post*** (Canada), Tuesday, June 15, 2004.

"Are they right?" ***Tech Central Station***, Monday, June 21, 2004.

"Add Gun Control To Litany Of Misbegotten Gov't Plans," with Eli Lehrer, ***Inverstor's Business Daily***, Tuesday, June 29, 2004, p. A15.

"Exploding the Firework 'Threat'," with Ruth R. Smith, ***Los Angeles Times***, Wednesday, June 30, 2004; also published in ***New York Newsday***, Friday, July 2, 2004 and ***Houston Chronicle***, Friday, July 2, 2004; ***Buffalo News***, Saturday, July 3, 2004; ***Daily Review*** (Hayward, Ca.), Saturday, July 3, 2004; ***Tampa Tribune***, Sunday July 4, 2004; ***Union Leader*** (Manchester, New Hampshire), Sunday, July 4, 2004; ***Morning Call*** (Allentown, Pennsylvania), Sunday, July 4, 2004; ***Journal Gazette*** (Fort Wayne, Indiana) Sunday, July 4, 2004; ***Tribune-Review*** (Pittsburg, Pennsylvania), Sunday, July 4, 2004; and ***Virginia Pilot***, Sunday July 4, 2004.

"Moore's Myths," with Brian Blase, ***New York Post***, Monday, July 12, 2004, p. 29.

"Unequal Punishment," ***Wall Street Journal***, Tuesday, July 13, 2004, p. A14; also published in ***National Post's Financial Post*** (Canada), July 15, 2004, p. FP11.

"Dems Won't Permit Facts to Get in Way of '00 Election Myth," with Brian Blase, ***Inverstor's Business Daily***, Wednesday, July 28, 2004, p. A14.

"Sampling of entire state refutes selective error-data," ***Columbus Dispatch***, Tuesday, August 17, 2004.

"Does Release Of Terror Info Do More Harm Than Good?" ***Inverstor's Business Daily***, Tuesday, August 17, 2004, p. A14.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Let the Market Work Even During Disasters," ***Inverstor's Business Daily***, Tuesday, August 14, 2004, p. A14.

"Media Bias Against Guns," ***Imprimis***, September, 2004 (http://www.hillsdale.edu/newimprimis/2004/september/default.htm).

"Assault Weapons Ban Was Useless Anyway," ***Los Angeles Times***, Friday, September 10, 2004, p. B10; also published in ***Houston Chronicle***, Saturday, September 11, 2004; ***Hartford Courant***, Sunday, September 12, 2004; ***Concord Monitor***, Sunday, September 12, 2004; ***San Francisco Chronicle***, Monday, September 13, 2004; ***New York Newsday***, Monday, September 13, 2004.; ***Journal Gazette*** (Fort Wayne, Indiana), Tuesday, September 14, 2004; ***The Record*** (Bergen County, NJ), September 17, 2004; ***Contra Costa Times*** (California), Sunday, September 19, 2004; ***The American Enterprise***, March 1, 2005.

"Misfires: John Kerry aims all over the map on guns," ***National Review Online***, Tuesday, September 14, 2004.

"Sun Sets On Assault Weapons Ban, Legislation Conceived In Darkness," ***Inverstor's Business Daily***, Tuesday, September 14, 2004, p. A15.

"District of Inequality: Citizens go unarmed in D.C. while pols are free to protect themselves," ***National Review Online***, Wednesday, September 29, 2004.

"Partisan bias in newspapers?: A study of headlines says yes," with Kevin A. Hassett, ***Philadelphia Inquirer***, Wednesday, October 6, 2004; longer version of piece published in ***Inverstor's Business Daily***, Friday, October 8, 2004.

"Gunning for Cheney," ***Tech Central Station***, Wednesday, October 6, 2004.

"Breaking the Siege in the Judge War," with Sonya Jones, ***Los Angeles Times***, Tuesday, November 16, 2004, p. A15.

"What's Wrong with Players on Steroids?" with Sonya Jones, ***New York Post***, Tuesday, December 7, 2004; also published on ***Foxnew.com***, Tuesday, December 7, 2004 and the ***Philadelphia Inquirer***, Wednesday, December 8, 2004; ***Orange County Register***.

"Shooting Blanks," ***New York Post***, Wednesday, December 29, 2004; also published ***San Diego Union Tribune***, Tuesday, January 4, 2005; ***Chicago Sun-Times***, Saturday, January 8, 2005; and ***Orange County Register***, Sunday, January 9, 2005.

"Drug Re-importation: A Doomed Disaster," ***Foxnews.com***, Sunday, January 9, 2005; a version was also published in ***Inverstor's Business Daily***, Thursday, January 13, 2005, p. A13.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Ballistic Fingerprinting's a Dud: Another failed gun-control strategy," ***National Review Online***, Friday, February 4, 2005.

"Eliminating Sentencing Guidelines Would Make Penalties More Equal," ***Investors Business Daily***, Monday, February 7, 2005, p. A19.

"Social Security Reform Won't Boost U.S. Debt," co-authored with Robert G. Hansen," ***Investors Business Daily***, Monday, March 1, 2005, p. A19.

"The Felon Vote," co-authored with James K. Glassman, ***New York Post***, Tuesday, March 2, 2005; also on ***TechCentralStation.com***, Friday, March 4, 2005.

"Good Samaritan Gun Use," ***Foxnews.com***, Wednesday, March 3, 2005.

"High on Hype: Congress 'takes on' steroids," co-authored with Sonya D. Jones, ***National Review Online***, Thursday, March 17, 2005.

"If Gun Background Checks Don't Work, Will 'Watch Lists' Be Any More Effective?," co-authored with Sonya D. Jones, ***Inverstor's Business Daily***, Tuesday, March 22, 2005.

"Disarming Facts: The road to bad laws is paved with good intentions," ***National Review Online***, Wednesday, March 23, 2005.

"60 Minutes, Terrorists and Guns," ***TechCentralStation.com***, Friday, March 25, 2005.

"Affirmative Action Has Mixed Results for Cops," ***Foxnews.com***, Monday, March 28, 2005.

"Right-to-carry law is the way to go," ***Philadelphia Inquirer***, Tuesday, March 29, 2005, p. A19.

"Wrongheaded in Philly," ***Pittsburgh Tribune-Review***, Thursday, April 7, 2005.

"Watch-list 'justice': Liberal overreach on guns, terror," with Sonya D. Jones, ***Washington Times***, Monday, April 11, 2005, p. A19.

"Abortion Legalization and the Crime Rate," ***Wall Street Journal***, Thursday, April 21, 2005, p. A17.

"Time to Level Playing Field for Gun Makers," ***Inverstor's Business Daily***, Tuesday, April 26, 2005, p. A13.

Graphic on "Judicial Nominations," ***Boston Globe***, Sunday, May 8, 2005, p. A1.

"Bogus discrimination claims," with Stephen G. Bronars, ***Washington Times***, Thursday, May 12, 2005.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

Graphic on "Judicial Nominations," ***Boston Globe***, Tuesday, May 17, 2005, p. A8.

"A bias against the best and brightest," ***Inverstor's Business Daily***, Thursday, May 19, 2005; also published in the ***Star-Ledger*** (New Jersey), Thursday, May 19, 2005.

"Gun Banners Who Can't Shoot Straight," ***New York Post***, Friday, June 3, 2005.

"The Big Lie of the Assault Weapons Ban: The death of the law hasn't brought a rise in crime -- just the opposite," ***Los Angeles Times***, Tuesday, June 28, 2005***; Star-Ledger***, Tuesday, July 5, 2005; ***Akron Beacon Journal*** (Ohio), Tuesday, July 5, 2005; ***Pittsburgh Tribune Revie***w, Tuesday, July 5, 2005; ***Commercial Appeal*** (Memphis, TN), Wednesday, July 6, 2005; ***Dallas Morning News***, Monday, July 11, 2005.

"Igniting a Controversy: Big-government vs. fireworks," ***National Review Online***, Friday, July 01, 2005.

"Unserious Suggestions: Silly Democratic consultations," with Sonya Jones***, National Review Online***, Friday, July 17, 2005.

"City's assault-weapons ban ineffective and unneeded," ***Columbus Dispatch*** (Ohio), Wednesday, July 20, 2005.

"Abortion 'Bans' aren't absolute," ***USA Today***, Wednesday, August 3, 2005.

"An Organization Pregnant with Contradictions," with April Dabney, ***Tech Central Station***, Tuesday, April 16, 2005.

"Roberts Can Expect Difficult Confirmation Process," ***Foxnews.com***, Tuesday, August 30, 2005.

"A Look at the Positive Side of Price-Gouging and Greed," with Sonya D. Jones, ***Houston Chronicle***, Wednesday, August 31, 2005, p. B9; also appeared in the ***Orange County Register***, Wednesday, August 31, 2005; ***San Diego Union-Tribune***, Thursday, September 1, 2005; ***Chicago Sun-Times***, Thursday, September 1, 2005; ***Fort Worth Star-Tribune***, Thursday, September 1, 2005; ***Newsday***, Tuesday, September 6, 2005; ***Philadelphia Inquirer***, Wednesday, September 7, 2005.

"Supreme Rhetoric: Remember the past when watching hearings," ***NationalReview.com***, Tuesday, September 13, 2005.

"A Photo-fix for Voting," with Mario Villarreal, ***New York Post***, September 23, 2005.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Suiting Down: Congress guns for fairness?" with Jack Soltysik, ***NationalReview.com***, Thursday, October 20, 2005.

"Why Judges Aren't Smarter The less sterling a candidate's record, the more likely Congress is to confirm," ***Forbes magazine***, October 22, 2005, p. 48.

"Hype and Reality," ***Washington Times***, October 28, 2005.

"Don't Blame American Guns," ***National Post*** (Canada), October 28, 2005; also published in the ***Vancouver Sun***, November 14, 2005, p. A10.

"Alito Will Be Hard to Portray as an Extremist," ***Bloomberg.com***, Thursday, November 3, 2005; also appeared in ***The Daily Record*** (Baltimore, MD), Friday, November 4, 2005 and the ***Kansas City Daily Record***, Sunday, November 6, 2005.

"Power to the People: The Brazilian public has spoken, and they want their guns," co-authored with Fern E. Richardson, ***National Review Online***, Tuesday, November 8, 2005.

"Now We're Getting Somewhere: A silver lining in a gun ban," ***National Review Online***, Wednesday, November 9, 2005.

"Does Regression Work," ***New York Post***, Sunday November 20, 2005.

"Crime increased after handguns outlawed," letters to the editor, ***Washington Times***, Wednesday, November 23, 2005.

"Biden's Risky Business," ***Washington Times***, Tuesday, November 29, 2005, p. A21.

"Silver's 'Controls' Don't Work," ***New York Post***, Monday, December 19, 2005.

"A Girl's Guide to Guns," ***New York Post***, Sunday, January 1, 2006.

"Gun Control Lessons for Bloomberg," ***New York Sun***, Monday, January 9, 2006.

"Pulling Rank," ***New York Times***, Wednesday, January 25, 2006, p. 21.

"Uncertain Effects," ***Chicago Tribune***, "More Letters" Section on Newspaper Website, Friday, January 27, 2006.

"The Criminal Constituency," ***Baltimore Sun***, Thursday, February 16, 2006, p. 21A.

"Don't Blame Hunters," co-authored with Joni Ogle, ***New York Post***, Thursday, February 16, 2006.

"Liberal Road Rage," ***New Scientist***, Letters to the Editor, February 25, 2006, p. 24.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Don't Mess with Texas," ***Wall Street Journal***, March 1, 2006, p. A14.

"Defenseless Decision: Why were guns taken from law-abiding citizens in New Orleans?" ***National Review Online***, Tuesday, March 21, 2006; and ***CBSNews.com***, Wednesday, March 22, 2006.

"Friendly Fire: If McCain's going to claim he's a conservative on guns, then he's got some explaining to do," ***National Review Online***, Wednesday, May 17, 2006.

"A False Safety," ***Washington Times***, Thursday, July 6, 2006, p. A17.

"Look South: Americans could learn from Mexican elections," co-authored with Maxim C. Lott, ***National Review Online***, Thursday, July 6, 2006.

"Firearms Sales and Red Tape," co-authored with Maxim C. Lott, ***Washington Times***, July 28, 2006, p. A19; also published in ***National Review Online***, July 26, 2006.

"Stealing Garbage: Why would Republicans want to co-opt Democrats' Bad Ideas?" ***National Review Online***, August 3, 2006.

"Guns and Children," Letters to the Science Editor, ***New York Times***, August 8, 2006, Section F, p. 4.

"NY Gun Laws & The Granny" ***New York Post***, Thursday, September 14, 2006.

"Data in Gun Piece Disputed," ***Deseret News***, Saturday, September 16, 2006.

"Hiring more police is the real answer," ***Philadelphia Inquirer***, Tuesday, September 26, 2006, p. A15.

"Special treatment for Air America," with Bradley A. Smith, ***Washington Times***, Thursday, October 26, 2006.

"Electric Politics: Democrats are spreading fear over new computerized voting machines," with Bradley A. Smith, ***National Review Online***, Tuesday, November 7, 2006.

"Courting Controversy," review of Ben Wittes' book Confirmation Wars, ***New York Post***, Sunday, January 28, 2007.

"Gun Scruples," Letters to the Editor, ***Washington Times***, January 28, 2007.

"Concealing the Facts," Letters to the Editor, ***New York Sun***, February 7, 2007.

"The All-American Gun," review of Clayton Cramer's book Armed America, ***New York Post***, Sunday, March 11, 2007.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Rearming: The D.C. Gun Ban Gets Overruled," ***National Review Online***, Monday, March 12, 2007.

"Law and Order on Guns," ***National Review Online***, Monday, March 22, 2007.

"The Crime-Statistics Con Job," ***Fox News***, Sunday, March 25, 2007.

"Flawed Laws Help Stalkers Victimize Women," co-authored with Sonya Jones, ***Fox News***, April 9, 2007.

"Gun Laws Disarm the Vulnerable, Not Criminals," ***The Australian***, Thursday, April 19, 2007.

"Bans Don't Deter Killers," ***USA Today***, Monday, April 23, 2007.

"Debating Gun Control Laws," ***Washington Post.com***, Tuesday, April 24, 2007, 12:00 PM.

"Garbling the data on guns and crime," Letters to the Editor, ***Baltimore Sun***, Thursday, May 3, 2007.

"Concealed-carry was factor in stopping attack," ***Columbus Dispatch***, May 11, 2007.

"Billion-Dollar Bloomberg Run For White House Exposes Flaws in Campaign Finance Laws," ***Fox News***, May 20, 2007.

"Moore's Myths," ***Fox News***, May 29, 2007.

"It's Not Enought to be 'Wanted': Illegitmacy has risen despite -- indeed, because of -- legal abortions," ***Opinion Journal.com***, Tuesday, June 19, 2007.

"Death as Deterrent," ***Fox News***, Tuesday, June 19, 2007.

"Pumping Out Bad Policies," ***Tech Central Station***, Monday, June 25, 2007.

"Immigration Debate May Be Dead, But Flaws in Legislation Remain," ***Fox News***, Monday, July 02, 2007.

"Property-Rights Dispute," with Sonya D. Jones, ***Washington Times***, Tuesday, July 17, 2007.

"Guns Don't Kill People, Phila. Does," ***Philadelphia Inquirer***, Tuesday, July 17, 2007.

"Driving the Lemon Myth Off the Lot," ***Fox News***, Thursday , July 26, 2007.

"Life, Liberty . . . And the Protection of Property," ***National Review Online***, July 27, 2007.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Are Salmon Really Endangered?" with Sonya D. Jones, ***Statesman Journal*** (Salem, Oregon), Thursday , August 2, 2007.

"Should a Web Site Post Best Ideas for Successful Terrorist Plots?" ***Fox News***, Friday, August 10, 2007.

"Does Government Weather Forecasting Endanger Lives?" ***Fox News***, Monday, August 20, 2007.

"More Guns, Not Less, Would Prevent Shooting Massacres," ***Fox News***, Tuesday , August 28, 2007.

"The Endangered Species Act Out of Control," ***Fox News***, Friday, August 31, 2007.

"D.C.'s Flawed Reasoning," ***Washington Times***, Friday, September 7, 2007.

"Falling Bridges: The Nation Doesn't Face a Crisis," with Maxim C. Lott, ***New York Post***, Friday, September 7, 2007.

"D.C. Handgun Ban," ***Fox News***, Thursday, September 13, 2007.

"Unfair Press Power," with Bradley A. Smith, ***New York Post***, Monday, September 17, 2007.

"Giuliani Bobs and Weaves on Gun Control Record," ***Fox News***, Wednesday, September 26, 2007.

"Guns Don't Kill Kids, Irresponsible Adults With Guns Do," ***Fox News***, Wednesday, October 10, 2007.

"Teachers Packing Heat?" ***Tech Central Station Daily***, Friday, October 19, 2007.

"Get Your Hunt On: It's good for the animals," ***National Review Online***, Friday, October 19, 2007.

"Death Penalty's Deadly Vacation," ***New York Post***, Friday, November 2, 2007; also on ***Fox News***, Friday, November 2, 2007.

"A 'Tip' for Hillary: Admit Your Mistakes," ***Fox News***, Tuesday, November 13, 2007.

" Gun bans lead to increase in violent crime," ***Jurist: Legal News & Research***, University of Pittsburgh School of Law, Saturday, November 24, 2007.

"Women's Suffrage Over Time: The gender gap isn't what most think," ***Washington Times***, Tuesday, November 27, 2007, p. A19.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Does the Fear of Jail Actually Prevent Crime?" ***Fox News***, Tuesday, November 27, 2007.

"Media Coverage of Mail Shooting Fails to Reveal Mall's Gun-Free-Zone Status," ***Fox News***, Thursday, December 6, 2007.

"Facts Back Up Death Penalty's Effectiveness," ***Inverstor's Business Daily***, Thursday, December 20, 2007.

"The High Cost of Higher MPG Restrictions," ***Human Events***, Thursday, December 27, 2007.

"Bloomy's Billions: 'Reforms' Boost His '08 Edge," ***New York Post***, Monday, January 7, 2008.

"Bad Brief: The Bush DOJ shoots at the Second Amendment," ***National Review Online***, Monday, January 14, 2008,

"'Stimulus' Package Won't Jolt Economy," ***Fox News***, Monday, January 28, 2008.

"Columbine To Va. Tech To NIU: Gun-Free Zones Or Killing Fields?" ***Inverstor's Business Daily***, Tuesday, February 26, 2008.

"Global Warming: Is it really a crisis?" ***Fox News***, Monday, March 3, 2008.

"Campaign-Finance Breakdown," co-authored with Bradley A. Smith, ***Wall Street Journal***, Wednesday, March 5, 2008.

"D.C. Gun Ban Proponents Ignore the Facts," co-authored with Maxim C. Lott, ***Fox News***, Tuesday, March 11, 2008.

"Financial Markets are in a Mess," ***Fox News***, Monday, March 17, 2008.

"Going Up for Second: Gun rights @ SCOTUS," ***National Review Online***, Tuesday, March 18, 2008.

"Gun locks targeted in DC gun ban oral arguments," ***Jurist: Legal News & Research***, University of Pittsburgh School of Law, Wednesday, March 19, 2008.

"Blacks Have a Choice to Be, or Not Be a 'Victim'," ***Fox News***, Monday, March 24, 2008.

"The 'Recession' Is a Media Myth," ***Fox News***, Monday, March 31, 2008.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Obama and Guns: Two Different Views," ***Fox News***, Monday, April 7, 2008.

"Abortion Rate Among Black Women Far Exceeds Rate for Other Groups," co-authored with Sonya D. Jones, ***Fox News***, Wednesday, April 9, 2008.

"Obama Bitter About Free Markets," ***Fox News***, Monday, April 14, 2008.

"Analysis: McCain's Centrist Credentials Ranked Equally by Disparate Sources," ***Fox News***, Thursday, April 17, 2008.

"Gun-Free Zones Are Not Safe," ***Fox News***, Monday, April 21, 2008.

"Ethanol Mandates Cause Rising Food Prices," ***Fox News***, Monday, April 28, 2008.

"Real Economic Truth," ***Fox News***, Monday, May 5, 2008.

"High Gas Prices are not Something New," ***Fox News***, Monday, May 12, 2008.

"Secret Ballots May End in Union Elections If Obama Becomes President," ***Fox News***, Monday, May 19, 2008.

"There's no evidence that banning guns cuts crime," ***Philadelphia Inquirer***, Sunday, May 25, 2008.

"Is There Really a Bias Against Woman in Politics?: History Suggests Otherwise," ***Fox News***, Monday, May 26, 2008.

"Looking at Fluorescent Bulbs in Different Light," ***Fox News***, Tuesday, June 3, 2008.

"The Big Picture Behind Abortion," ***Fox News***, Tuesday, June 10, 2008.

"Is it really a '$3 Trillion War'?" ***Fox News***, news article, Monday, June 16, 2008.

"No Profits, No Oil," ***Fox News***, Tuesday, June 17, 2008.

"Why Flip-Flopping Matters," ***Fox News***, Monday, June 23, 2008.

"Handgun Bans Don't Cut Crime," ***National Post (Canada)***, Wednesday, June 25, 2008.

"Reacting to D.C. Gun Ban Decision," ***Fox News***, Monday, June 30, 2008.

"The Myth About Abortion and Crime," ***Fox News***, Monday, July 7, 2008.

"Gun Debate is Hardly Over," ***Fox News***, Monday, July 14, 2008.

"Obama Comes Up Short in Approach to Poverty," ***Fox News***, Monday, July 21, 2008.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Gun Debate is Hardly Over," ***Inverstor's Business Daily***, Thursday, July 24, 2008.

"Why Give Taxpayers' Money to Freddie Mac and Fannie Mae's Shareholders," ***Fox News***, Monday, July 28, 2008.

"Where There's Smoke, There's Government Intrusion," ***Fox News***, Monday, August 4, 2008.

"Obama's Call to Check Tire Pressure Falls Flat," ***Fox News***, Monday, August 11, 2008.

"Obama's Tax Proposals Make a Complex System Worse," ***Fox News***, Monday, August 18, 2008.

"Obama's Running Mate Biden Has Rare Political Trait: Decency," ***Fox News***, Saturday, August 23, 2008.

"Bad Impression: Did the Media Take Swipes at Sarah Palin?" ***Fox News***, Tuesday, September 2, 2008.

"In Judging Obama, Question His Judgment," ***Fox News***, Monday, September 8, 2008.

"Unions Bargain At Table With Governor Whose Re-election They're Helping Fund," with Sonya Jones, ***Inverstor's Business Daily***, Thursday, September 11, 2008.

"In Defense of Price Gougers," ***Fox News***, Monday, September 15, 2008.

"Media One-Sided in Covering Palin," ***Fox News***, Tuesday, September 16, 2008.

"Analysis: Reckless Mortgages Brought Financial Market to Its Knees," ***Fox News***, Thursday, September 18, 2008.

"McCain a Bush clone? These numbers dispute that," ***Philadelphia Inquirer***, Friday, September 19, 2008.

"Plausible deniability?" ***Fox News***, Monday, September 22, 2008.

"Analysis: Fact-Checkers Fall Short in Criticizing NRA's Anti-Obama Ads," ***Fox News***, Wednesday, September 24, 2008.

"More Benefits, More Unemployment," ***Fox News***, Monday, September 29, 2008.

"Economists Raise Concerns About Bailout Plan," ***Fox News***, Thursday, October 2, 2008.

"Did Biden Get it Wrong? You Betcha," ***Fox News***, Monday, October 6, 2008.

"Barack Obama's Pattern of False Statements on Bill Ayers," ***Fox News***, Monday, October 13, 2008.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Subsidize Unemployment, Get More of It," ***Inverstor's Business Daily***, Tuesday, October 14, 2008.

"Taking Aim at Obama's Stance on Gun Control: The Candidate Says He Supports the Right to Bear Arms. The Record Says Otherwise," ***Philadelphia Inquirer***, Tuesday, October 14, 2008.

"How Felons Who Vote Can Tip an Election," ***Fox News***, Monday, October 20, 2008.

"The Barack Obama We Hardly Know," ***Fox News***, Monday, October 27, 2008.

"Obama a Uniter?: Actions Speak Louder Than Words," ***Fox News***, Monday, November 3, 2008.

"Workers, Be Wary," ***New York Post***, Tuesday, November 4, 2008.

"Minnesota Ripe for Election Fraud," ***Fox News***, Monday, November 10, 2008.

"Franken 'Fixes' Stalk Senate Race," ***New York Post***, Thursday, November 13, 2008.

"The Democrats' Recession," ***Fox News***, Monday, November 17, 2008.

"Statistics Don't Lie, Even in Minnesota," ***Fox News***, Wednesday, November 19, 2008.

"Counterpoint: The Recount," Minneapolis ***Star Tribune***, Sunday, November 23, 2008.

"Obama Misses the (Extra) Point," ***Fox News***, Monday, November 24, 2008.

"The Money Has to Come From Somewhere," ***Fox News***, Monday, December 1, 2008.

"The Life-and-Death Cost of Gun Control," ***Fox News***, Tuesday, December 2, 2008.

"The Long Winding Road of the Minnesota Senate Recount," ***Fox News***, Wednesday, December 3, 2008.

"Increasing Unemployment Benefits Yields Higher Unemployment," ***Fox News***, Monday, December 8, 2008.

"The Auto Bailout: Too Risky an Investment," ***Fox News***, Monday, December 15, 2008.

"Ballot Madness: Tipping the Scales in Minnesota's Senate Recount," with Ryan S. Lott, ***Fox News***, Monday, December 22, 2008.

"Donor Disclosure Has Its Downsides: Supporters of California's Prop. 8 have faced a backlash," with Bradley Smith, ***Wall Street Journal***, Friday, December 26, 2008.

"Obama and the Second Amendment," ***Fox News***, Monday, January 13, 2009.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Whose Money is it, Anyway?" ***Fox News***, Monday, January 19, 2009.

"Democrats' Economic Plan: Blame the Republicans for Everything," ***Fox News***, Monday, January 26, 2009.

"Obama's Senate Games," ***Fox News***, Monday, February 2, 2009.

"A Wish List that Shifts $$ Around: Stimulus package lacks economic logic: How does it create jobs or spending?" ***Philadelphia Inquirer***, Tuesday, February 3, 2009.

"Obama's Stimulus Package Will Increase Unemployment?" ***Fox News***, Tuesday, February 3, 2009.

"Obama and the Economy: When, if ever, was he telling us the truth?" ***Fox News***, Monday, February 9, 2009.

"Government Spending: Is it worth $62,000 to you?" ***Fox News***, Monday, February 16, 2009.

"Obama's Car Cash Plan," ***Fox News***, Friday, February 20, 2009.

"If We Nationalize Our Banks They will become Political Institutions," ***Fox News***, Monday, February 23, 2009.

"New Assault Weapons Ban Will Not Reduce Crime in this Country," ***Fox News***, Thursday, February 26, 2009.

"Obama's Crutch -- Why is he so afraid of speaking without a teleprompter," ***Fox News***, Saturday, March 7, 2009.

"Yes, the Massacres in Alabama and Germany ARE Horrible But More Gun Control Is Not the Answer," ***Fox News***, March 12, 2009.

"Obama's Fearmongering Has Damaged The Economy," ***Fox News***, Saturday, March 16, 2009.

"Obama's Driving the Car Now," ***Fox News***, Saturday, March 31, 2009.

"Gun-Free Zones Are a Magnet for Attacks Like the Tragedy In Binghamton," ***Fox News***, Saturday, April 3, 2009.

"Obama's Education Policy Gets an 'F'," ***Fox News***, Saturday, April 10, 2009.

"ABC's Shameful '20/20' Experiment," ***Fox News***, Saturday, April 15, 2009.

"Ammunition in the debate," ***The Economist***, letters to the editor, April 23, 2009.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Uh Oh…Team Obama Claims Americans Use TOO MUCH Health Care," ***Fox News***, Saturday, April 27, 2009.

"Thugs In the White House," ***Fox News***, Saturday, May 8, 2009.

"These Guns Require Permits, So What's the Problem?" ***New York Times*** website, Friday, May 22, 2009.

"Is the Stimulus Working?" ***Fox News***, Tuesday, June 2, 2009.

"Obamacare will save money? Don't believe a word of it," ***Fox News***, Wednesday, June 17, 2009.

"Analysis: As Obama Pushes National Health Care, Most Americans Already Happy With Coverage," ***Fox News***, Wednesday, June 24, 2009.

"Serious Questions About Sotomayor and Race," ***Fox News***, Wednesday, June 24, 2009.

"Stimulus Spending Is Making Things Worse Not Better," ***Fox News***, Tuesday, June 29, 2009.

"Did Sotomayor Lie to Senators?" ***Fox News***, Thursday, July 16, 2009.

"ANALYSIS: States Hit Hardest by Recession Get Least Stimulus Money," ***Fox News***, Sunday, July 19, 2009.

"Fears of Interstate Handgun Laws Soon Forgotten?" ***Fox News***, Sunday, July 21, 2009.

"No Apology for Sergeant Crowley?" ***Fox News***, Monday, July 27, 2009.

"Opposition to citizens crossing state lines with concealed guns lacks factual basis," ***Jurist: Legal News & Research***, University of Pittsburgh School of Law, Thursday, July 30, 2009.

"Cash for Clunkers Falls Flat," ***Fox News***, Monday, August 3, 2009.

"Obama's Misinformation Campaign on Health Care," ***Fox News***, Friday, August 7, 2009.

"Guess What? Unemployment's Really at 16.3 Percent," ***Fox News***, Friday, August 7, 2009.

"Why are Democrats Pretending They're Fighting Giant Insurance Companies?" ***Fox News***, Monday, August 17, 2009.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Media Gets it Wrong, Again, On Guns," ***Fox News***, Monday, Thursday 20, 2009.

"The Trouble with Trillions," ***Fox News***, Monday, Tuesday 25, 2009.

"White House Puts Parents In an Awkward Position," ***Fox News***, Friday, September 4, 2009.

"Supreme Court Must Throw Out Campaign Finance Laws," ***Fox News***, Friday, September 11, 2009.

"Will Obama Take 'Responsibility' For the Baucus Bill?" ***Fox News***, Tuesday, September 15, 2009.

"Democrats -- Who Do Your Trust?" ***Fox News***, Tuesday, September 15, 2009.

"Lott's Numbers: Obama's Top 2 Most Outrageous Health Care Myths," ***Fox News***, Wednesday, September 16, 2009.

"Lott's Numbers: The Truth About Obama's Health Care Plan, Part 2," ***Fox News***, Wednesday, September 23, 2009.

"Lott's Numbers: Comparing American Health Care to Other Countries," ***Fox News***, Monday, October 5, 2009.

"Baucus Bill Encourages Americans to DROP Insurance Coverage," ***Fox News***, Monday, October 12, 2009.

"Lott's Numbers: Happy Days Aren't Quite Here Again," ***Fox News***, Wednesday, October 14, 2009.

"Lott's Numbers: Why Is Unemployment Rising Faster In the U.S. Than Other Countries?," ***Fox News***, Thursday, October 22, 2009.

"Blame Obama for Sky-High Unemployment," ***Fox News***, Tuesday, November 10, 2009.

"Time to Put An End to Army Bases as Gun-Free Zones," ***Fox News***, Tuesday, November 10, 2009.

"Why You Should Be Hot and Bothered About 'Climate-gate'," ***Fox News***, Tuesday, November 24, 2009.

"Climate Change E-Mails Cry Out for a National Conversation," ***Fox News***, Monday, November 30, 2009.

"Think 'Climate-Gate' Is Nonevent? Think Again," ***Fox News***, Wednesday, Tuesday 1, 2009.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Jobs 'Created' -- The White House's Dirty Little Secret," ***Fox News***, Thursday, December 3, 2009.

"What Are Global Warming Supporters Trying to Hide?" ***Fox News***, Friday, December 4, 2009.

"Surprise, Surprise, Many Scientists Disagree On Global Warming," ***Fox News***, Tuesday, December 8, 2009.

"Passing the Proposed Drug Amendment Could Be Harmful to Your Health," ***Fox News***, Monday, December 14, 2009.

"Unemployment: The Dirty Little Secret Everyone's Ignoring," ***Fox News***, Friday, January 8, 2010.

"The Supreme Court Protected Us On Thursday," ***Fox News***, Friday, January 22, 2010.

"Bernanke Doesn't Deserve a Second Term," ***Fox News***, Tuesday, January 26, 2010.

"What Obama's Not Going to Tell You About Jobs," ***Fox News***, Wednesday, January 27, 2010.

"The Real Story Behind Our Unemployment Numbers," ***Fox News***, Wednesday, January 27, 2010.

"The Next Climate-gate?" ***Fox News***, Wednesday, February 10, 2010.

"Fact Checking Team Obama's Stimulus Claims," ***Fox News***, Friday, February 19, 2010.

"Why We Shouldn't Fear an End to the Ban on Guns In National Parks," ***Fox News***, Monday, February 22, 2010.

"Will the Supreme Court Recognize the Truth About Chicago's Handgun Ban?" ***Fox News***, Monday, March 1, 2010.

"What Gore Missed When He Broke His Silence," ***Fox News***, Monday, March 1, 2010.

"What Do the Supremes Think of Chicago's Gun Ban?" ***Fox News***, Tuesday, March 2, 2010.

"The Truth About Unemployment," ***Fox News***, Wednesday, March 10, 2010.

"The CBO's Sleight of Hand On Health Care," ***Fox News***, Thursday, March 18, 2010.

"Demonizing the Insurance Industry Is Not the Answer," ***Fox News***, Friday, March 19, 2010.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Democrats' Hypocrisy Is Staggering," ***Fox News***, Wednesday, March 24, 2010.

"Obama's Health Care Bill Is Not What He Promised," ***Fox News***, Monday, March 29, 2010.

"A Gun Ban By Any Other Name...," ***Fox News***, Tuesday, March 30, 2010.

"Unemployment Numbers Are a Mixed Bag," ***Fox News***, Friday, April 2, 2010.

"Our Bloated Goverment Is Already Much, Much Bigger Than You Think," ***Fox News***, Thursday, April 8, 2010.

"The Real Reason for Our High Unemployment Numbers," ***Fox News***, Friday, April 16, 2010.

"Poland's Economic Architect Will Be Missed," ***Fox News***, Saturday, April 17, 2010.

"Time for the Government to Start Playing Fair," ***Fox News***, Monday, April 19, 2010.

"Obama's Plan -- A Regulatory Mess," ***Fox News***, Thursday, April 22, 2010.

"Fears of Arizona's Immigration Law Are Bogus," ***Fox News***, Monday, April 26, 2010.

"Why Our Unemployment Rate Is So Much Higher Than Others," ***Fox News***, Wednesday, April 28, 2010.

"Creepy Claims Made By Dems About Arizona Immigration Law Are False," ***Fox News***, Thursday, May 6, 2010.

"Greece Offers a Frightening Glimpse of the Future," ***Fox News***, Friday, May 7, 2010.

"Guess What, America, You're Bailing Out Banks All Over the World!," ***Fox News***, Thursday, May 13, 2010.

"Mr. Obama, Please Read Arizona's Immigration Law," ***Fox News***, Wednesday, May 19, 2010.

"Mexico's Calderon Knows Nothing About America's Gun Laws," ***Fox News***, Saturday, May 22, 2010.

"Jamaica's Bloody Lesson On Guns," ***Fox News***, Tuesday, May 25, 2010.

"Calderon's False Statements On Guns," ***Inverstor's Business Daily***, May 25, 2010.

"Illegal Alien Legal Challenge," ***Fox News***, Wednesday, June 2, 2010.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Guns and Crime in Chicago," ***National Review Online***, and "Pulling Chicago's Gun Ban Trigger," ***National Public Radio***, June 2, 2010.

"Think Tough Gun Laws Keep Europeans Safe? Think Again...," ***Fox News***, Thursday, June 10, 2010.

"Gun Control and Mass Murders," ***National Review Online***, Friday, June 11, 2010.

"In Debate Over Gun-Carry Laws, Critics Are Quick to Shoot Down the Facts," ***Fox News***, Thursday, June 24, 2010.

"Court's Gun Decision An Important Win for Americans Who Want to Defend Themselves," ***Fox News***, Monday, June 28, 2010.

"A Vote for Kagan Is a Vote to Take Away Your Guns," ***Fox News***, Wednesday, June 30, 2010.

"New York Times Swallows Brady Campaign's Anti-Gun Rhetoric Whole," ***Big Journalism***, Wednesday, July 7, 2010.

"Let's Face It, Chicago's Mayor Richard Daley Wants to Ban Guns, All Guns," ***Fox News***, Monday, July 12, 2010.

"Guess What, Felons Favor Democrats,"***Fox News***, Monday, July 12, 2010.

"What Al Franken's Election Tells Us," ***Fox News***, Wednesday, July 14, 2010.

"Show Me State Sends a Message On Obama's Health Care Law," ***Fox News***, Wednesday, August 04, 2010.

"Where Are the Jobs, Mr. President?" ***Fox News***, Friday, August 06, 2010.

"Trash Drudge, Bash Rush and Get a Career Boost?" ***Fox News***, Saturday, August 07, 2010.

"Democrats Play Favorites On Jobs," ***Fox News***, Tuesday, August 10, 2010.

"Believe It or Not, the U.S. Is In Worse Financial Shape Than Greece," ***Fox News***, Thursday, August 19, 2010.

"More Bad Economic News, Yet Here Comes ANOTHER Wall Street Bailout," ***Fox News***, Tuesday, August 24, 2010.

"You Call This a 'Recovery'?" ***Fox News***, Friday, August 27, 2010.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"President Obama, You're Not Fooling All of Us On Immigration," ***Fox News***, Thursday, September 02, 2010.

"Obama Is Repeating the Mistakes of the 1937 Economic Collapse," ***Fox News***, Friday, September 03, 2010.

"Another Proposal From Obama to Throw Your Money Down the Drain," ***Fox News***, Wednesday, September 08, 2010.

"Austan Goolsbee -- Spinning Like a Top," ***Fox News***, Monday, September 13, 2010.

"The Recession May Be Over -- But the 'Recovery' Is Very Weak," ***Fox News***, Monday, September 20, 2010.

"Would Unemployment Really Have Been Worse Without the Stimulus?" ***Fox News***, Monday, September 27, 2010.

"Why Gun Bans Still Don't Work September," ***Fox News***, Wednesday, September 29, 2010.

"Despite White House Spin, Obama Believes Government Should Run Our Economy," ***Fox News***, Thursday, October 7, 2010.

"The Worst Recovery on Record," ***Fox News***, Tuesday, October 12, 2010.

"If Republicans Win Big on Tuesday, Stocks Will Go Up," ***Fox News***, Sunday, October 31, 2010.

"Promises, Promises: Will Obama, GOP Keep Theirs?" ***Fox News***, Friday, November 5, 2010.

"We Don't Need More Inflation, We Need to Put An End to Obama's Job Killing Policies," ***Fox News***, Tuesday, November 16, 2010.

"GM's Bailout Is a Financial Disaster," ***Fox News***, Thursday, November 18, 2010.

"Playing Chicken With China," ***Fox News***, Friday, November 26, 2010.

"Who Knew? Cutting Government Spending IS Actually Possible," ***Fox News***, Wednesday, December 1, 2010.

"Assault Weapons and the Truth," ***National Review Online***, Thursday, December 2, 2010.

"What the new job numbers mean," ***Fox News***, Friday, December 3, 2010.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Does President Obama Understand Economics?" ***Fox News***, Tuesday, December 7, 2010.

"The Democrats Flip-Flop On Tax Cuts," ***Fox News***, Friday, December 10, 2010.

"The First Entirely 'Temporary Help Service' Job Recovery," ***Fox News***, Monday, December 13, 2010.

"Class Warfare May Make Good Politics But Is It Fair to the American Taxpayer?" ***Fox News***, Wednesday, December 15, 2010.

"Americans very gloomy about the economy," ***Fox News***, Wednesday, December 29, 2010.

"Rationing Revealed at the Heart of Obamacare," ***Fox News***, Wednesday, December 29, 2010.

"The Truth About Fox News Viewers," ***Fox News***, Wednesday, January 5, 2011.

"Obama Officials Play Chicken Little With the Debt Ceiling," ***Fox News***, Thursday, January 6, 2011.

"Gun Control Debate: Political Opportunists Swarm In," ***AOL News***, Tuesday, January 11, 2011.

"The Case for Arming Yourself," ***New York Times*** website, Wednesday, January 12, 2011.

"Rounding Up the Guns: What not to do," ***National Review Online***, Thursday, January 13, 2011.

"The Arizona Shootings, Gun Violence Research and the Facts vs. The New York Times," ***Fox News***, Friday, January 14, 2011.

"Gun Control Emotions vs. Gun Control Fact," ***AOL News***, Thursday, January 20, 2011.

"After Tucson, a New Focus on Guns," Letters, ***New York Times***, Saturday, January 22, 2011, p. A16.

"My Scary Encounter With Chicago's Mayor Richard Daley," ***Fox News***, February 1, 2011

"Mayor Bloomberg's Arizona Gun Show P.R. Stunt," ***Fox News***, February 2, 2011

"Another Mistake in The New York Times," ***Fox News***, February 5, 2011

"Why Can't Obama Do the Math On Jobs?" ***Fox News***, February 7, 2011

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Stimulus, Not Oil Prices, Is Hammering Consumers," ***Fox News***, February 23, 2011.

"So How Much Do Public Union Workers Really Make?" ***Fox News***, March 1, 2011.

"GAO Report and Government Waste -- Can You Spell O-U-T-R-A-G-E?" ***Fox News***, March 1, 2011.

"Illinois Gun Info Plan Is Misguided and Dangerous," ***Fox News***, March 3, 2011.

"The Truth About Obama, Democrats and Budget Cuts," ***Fox News***, March 8, 2011.

"Should Bans Against Carrying Concealed Weapons Be Lifted On College Campuses?" ***Fox News***, March 9, 2011.

"Why Unions Are Harmful to Workers," ***Fox News***, March 18, 2011.

"What's Really Behind Obama's New Push for Gun Control?" ***Fox News***, March 24, 2011.

"The Folly of Public Campaign Funding," ***National Review Online***, March 28, 2011.

"Paul Ryan Is Right About the Budget -- Americans Cannot Afford Another Decade of Massive Government Spending," ***Fox News***, April 5, 2011.

"Obama Lacks Credibility as a Leader on Spending Cuts," ***National Review Online***, April 12, 2011.

"If Obama Had Kept His Campaign Promises, We Wouldn't Have a Deficit Today," ***Fox News***, April 14, 2011.

"Don't Single Out Standard & Poor's for Being 'Political'," ***Fox News***, April 19, 2011.

"Where Are the Jobs, Mr. President? The Jobless Obama Recovery Continues," ***Fox News***, May 9, 2011.

"Team Obama's Debt Limit Scare Tactics Are Getting Old -- Fast," ***Fox News***, May 19, 2011.

"Who Has the Best Plans to Rescue America from the Budget Crisis?" ***Fox News***, May 28, 2011.

"Don't Single Out Standard & Poor's for Being 'Political'," ***Fox News***, June 8, 2011.

"Greece Needs to Pay Off Debts While It Still Has a Chance," ***Fox News***, June 22, 2011.

"Canada's cold proof: Job growth without 'stimulus'," ***New York Post***, Friday, July 8, 2011.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Puzzle of 'Operation Fast and Furious'," ***Fox News***, Friday, July 8, 2011.

"Seven Myths About the Looming Debt-Ceiling 'Disaster'," ***Fox News***, July 15, 2011.

"Pelosi Is Right -- The Gang of Six Plan Is Not Ready for Prime Time," ***Fox News***, July 21, 2011.

"Congress Can Learn From 1995-96 Debt-Ceiling Debate," ***Fox News***, July 26, 2011.

"Risk of a U.S. default has been exaggerated: History and the bond markets contradict the hype," ***Philadelphia Inquirer***, July 27, 2011.

The Debt Deal's Three Biggest Winners and Losers, ***Fox News***, Tuesday, August 02, 2011.

The S&P Downgrade Is a Wake Up Call for All Americans, ***Fox News***, Friday, August 05, 2011.

Looks Like We're In a Recession, Not a 'Recovery', ***Fox News***, Friday, August 05, 2011.

The Texas Miracle Is No Myth, ***National Review Online***, Friday, August 19, 2011.

Liberals and the Texas Unemployment Miracle, ***Fox News***, Friday, August 19, 2011.

Obama Gets the Numbers Wrong In His Tax Plan!, ***Fox News***, Monday, September 19, 2011.

Has Your Job Been 'Saved'?, ***Fox News***, Tuesday, September 20, 2011.

Media Silence Is Deafening About Important Gun News, ***Fox News***, Friday, September 30, 2011.

The China Currency Bill Will Make Americans Poorer, Not Richer, Thursday, ***Fox News***, October 06, 2011.

Is the Public Sector Hurting?, ***National Review Online***, Wednesday, October 26, 2011.

Yes, the Economy Is Growing But Obama's Policies Are Not Helping, ***Fox News***, Thursday, October 27, 2011.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

Goolsbee's Gaffes, ***National Review Online***, Wednesday, November 2, 2011.

Blame Bush -- Is That Holder's Strategy to Get Out of the 'Fast and Furious' Mess?, ***Fox News***, Tuesday, November 08, 2011.

What's Wrong With Making It Easier to Carry a Gun Across State Lines?, ***Fox News***, Tuesday, November 15, 2011.

What the New Unemployment Numbers Are Telling Us, ***Fox News***, Friday, December 02, 2011.

Fast and Furious Scandal Cries Out for Answers, ***Fox News***, Friday, December 09, 2011.

President Obama's Anti-gun Agenda Shows No Sign of Stopping, ***Fox News***, Wednesday, December 28, 2011.

Obama has learned nothing from the Mortgage Meltdown, ***Fox News***, Monday, January 2, 2012.

Should New York tourists have their lives destroyed because of concealed carry laws?, ***Fox News***, Wednesday, January 17, 2012.

Lessons to be learned from Europe's debt downgrades, ***Fox News***, Monday, January 23, 2012.

President Obama's strange definition of fairness, ***Fox News***, Monday, January 26, 2012.

The bad news behind the January jobs report, ***Fox News***, Friday, February 3, 2012.

David Brock, Media Matters and gun control hypocrisy, ***Fox News***, Thursday, February 16, 2012.

Death of a Long-Gun Registry, ***National Review Online***, co-authored with Gary Mauser, Monday, February 20, 2012.

Obama's contraception deception, ***Fox News***, Thursday, March 1, 2012.

What's the truth about the unemployment numbers?, ***Fox News***, Sunday, March 4, 2012.

Amendment II: The Right of the People to Keep & Bear Arms, Shall Not Be Infringed, ***Constituting America***, Tuesday, March 6, 2012.

Speculators smooth out the rough spots, ***Philadelphia Inquirer***, co-authored with Grover Norquist, Sunday, March 11, 2012.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

Yes, government policies could help bring down the price of gas -- today, ***Fox News***, Tuesday, March 13, 2012.

If lead bullets are banned, it could compromise self-defense, ***Fox News***, Friday, March 16, 2012.

Where did stimulus money really go?, ***Fox News***, Friday, March 23, 2012.

Ask Canada -- gun registration won't make D.C. safer, ***Washington Examiner***, co-authored with Gary Mauser, Tuesday, March 27, 2012.

It's not about Stand Your Ground, ***National Review Online***, Wednesday, March 28, 2012.

Big Labor's Endorsement For Obama Is All About Repaying Favors, ***Inverstor's Business Daily***, co-authored with Grover Norquist, Wednesday, March 28, 2012.

Author Claims Obama's War On Jobs and Growth a 'Debacle,' ***CNBC***, Friday, March 30, 2012.

Obama's stimulus delayed recovery, ***Politico***, co-authored with Grover Norquist, Monday, April 2, 2012.

Trayvon Martin, George Zimmerman and the media's misleading rhetoric on guns, ***Fox News***, Tuesday, April 3, 2012.

Defending Fiscal Insanity "Demagoguery" is not too strong of a word to describe Obama's speech, ***National Review Online***, Thursday, April 5, 2012.

Team Obama and the phantom jobs that never were, ***Fox News***, Friday, April 6, 2012.

Where's the 'Probable Cause'? The affidavit in the Zimmerman case fails to justify a second-degree-murder charge, ***Fox News***, Friday, April 13, 2012.

Krugman's bad predictions, ***Fox News***, Friday, April 13, 2012.

Stand Your Ground makes sense: These are sane laws that protect people, ***New York Daily News***, Tuesday, April 24, 2012.

U.S. money give to GM has been a bad investment, ***Philadelphia Inquirer***, Sunday, May 6, 2012.

Media Matters, 'Stand Your Ground' and me, ***Fox News***, Tuesday, May 8, 2012.

Obama and GM Cook the Books, ***National Review Online***, Wednesday, May 16, 2012.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

What Zimmerman, Martin medical reports tell us and the media didn't, ***Fox News***, Wednesday, May 16, 2012.

Bloomberg's Soda Ban, ***National Review Online***, Tuesday, June 5, 2012.

Two mistakes in Obama's press conference last week, ***Fox News***, Monday, June 11, 2012.

Obama's revisionism: He predicted a strong economy, but blames his failure on Bush, ***National Review Online***, Monday, June 18, 2012.

Fast and Furious -- Holder's day of reckoning has finally arrived, ***Fox News***, Wednesday, June 20, 2012.

The Obama Debacle, ***National Review Online***, Thursday, June 21, 2012.

A Nation too scared to quit, ***New York Post***, Monday, June 25, 2012.

Holder contempt citation -- just remember that people died because of 'Fast and Furious,' ***Fox News***, Thursday, June 28, 2012.

A disappointing jobs picture and no, we're not doing better than Europe, ***Fox News***, Friday, July 6, 2012.

The truth about Obama's tax cut extension plan, ***Fox News***, Monday, July 9, 2012.

Austerity Works: It's Time to Give It a Try, co-authored with Sherwin Lott, ***Real Clear Markets***, Monday, July 16, 2012.

Obama needs a history lesson on business and the US, ***Fox News***, Monday, July 16, 2012.

UN gun control treaty will reveal gun laws Obama really supports, ***Fox News***, Thursday, July 19, 2012.

Concealed Weapons Save Lives, ***New York Daily News***, Wednesday, July 25, 2012.

'Military-Style Weapons': Function, not cosmetics, should govern gun policy, ***National Review Online***, Friday, July 27, 2012.

New gun laws will do nothing to stop mass shooting attacks, ***Fox News***, Monday, July 30, 2012.

What Mayor Bloomberg Doesn't Know About Police and Guns, ***Wall Street Journal***, Wednesday, August 2, 2012, p. A13.

President Obama, and the Myth About 4.5 Million New Jobs, ***Real Clear Markets***, Monday, August 13, 2012.

"Guns in Schools can save lives," ***USA Today***, December 26, 2012.

"After Newtown shooting, how should nation respond?" USA Today Roundtable on Guns in America, ***USA Today***, December 27, 2012, p. 9A.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"The Facts About Gun Bans," ***Philadelphia Inquirer***, January 2, 2013.

"The Facts About Assault Weapons and Crime," ***Wall Street Journal***, Thursday, January 17, 2013.

"The '40 Percent' Myth: The figure gun-control advocates are throwing around is false," ***National Review Online***, Thursday, January 25, 2013.

"Don't Rush, but Really Think How to Reduce Murders," Letters, ***Wall Street Journal***, Monday, January 28, 2013.

"Obama's spending failure," ***Daily Caller***, Wednesday, February 13, 2013.

"Misleading claims about what new proposals will do," ***Philadelphia Inquirer***, Tuesday, February 21, 2013.

"Will Obama push us over the edge?," ***Fox News***, Friday, February 22, 2013.

"Ted Cruz Sets the Record Straight on Guns," ***National Review Online***, Friday, February 22, 2012, 2013.

"Obama's Sequester Cuts Are A Mere 1% Of Budget," ***Inverstor's Business Daily***, Monday, February 25, 2013.

"The truth about assault weapons bans and background checks," ***Fox News***, Thursday, February 28, 2013.

"February's jobs report only looks good because our expectations are so low?" ***Fox News***, Friday, March 8, 2013.

"Can poor people be trusted with guns?" ***Fox News***, Tuesday, March 12, 2013.

"Fact vs. fiction on background checks and the gun control debate," ***Fox News***, Tuesday, April 9, 2013.

"Who is really lying in the gun debate?" ***Fox News***, Thursday, April 18, 2013.

"What Should We Do about Guns?" ***National Review Online***, Wednesday, May 1, 2013.

"Children and Guns: The Fear and the Reality," ***National Review Online***, Monday, May 13, 2013.

"Why gun control just got even more difficult," ***Fox News***, Friday, May 31, 2013.

"The real hole in the border bill," ***New York Post***, Monday, June 10, 2013.

"Gabrielle Giffords and Mark Kelly are wrong about gun control," ***New Hampshire Union Leader***, Thursday, July 4, 2013.

"Polls give a skewed picture of gun issues," ***Columbus Dispatch***, Friday, July 5, 2013.

"The Zimmerman trial is already over," ***Fox News***, Saturday, July 5, 2013.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Celebrating quasi-freedoms," ***Philadelphia Inquirer***, Saturday, July 6, 2013.

"Trayvon Martin's testimony wouldn't have changed anything in Zimmerman trial," ***Fox News***, Wednesday, July 10, 2013.

"We never should have witnessed a Zimmerman trial," ***Fox News***, Friday, July 14, 2013.

"Focus is on the wrong law," ***Fox News***, Saturday, July 20, 2013.

"What liberal media won't tell you -- blacks benefit most from Stand Your Ground laws," ***Fox News***, Wednesday, July 31, 2013.

Gun toting teachers' names must remain private," ***Fox News***, Friday, August 9, 2013.

"Speeches won't boost economy," ***Philadelphia Inquirer***, Friday, August 23, 2013.

"Don't Rush, but Really Think How to Reduce Murders," Letters, ***Scientific American***, Friday, August 23, 2013.

"Obama's Racial Imbalance: He professes outrage when there's little evidence of bias against blacks, but ignores attacks on whites," ***National Review Online***, Saturday, August 24, 2013.

"The truth about Obama's new executive orders targeting guns," ***Fox News***, Thursday, August 29, 2013.

"Jobs numbers reflect another bleak month for American workers," ***Fox News***, Friday, September 6, 2013.

"No, Obama's judicial nominees don't have unusually long confirmation times," ***Daily Caller***, Wednesday, September 11, 2013.

"Democrats knew what they wanted in Colorado, but they overreached," ***National Review Online***, Wednesday, September 11, 2013.

"What we've learned from the very partial government slimdown," ***Fox News***, Friday, October 11, 2013.

"The dumbing down of America's judges," ***Politico***, Thursday, October 17, 2013.

"In defense of stand your ground laws," ***Chicago Tribune***, Tuesday, October 28, 2013.

"No Such Thing as a Free Lunch," ***National Review Online***, Thursday, October 31, 2013.

"Are you a racist if you own a gun?" ***Fox News***, Friday, November 1, 2013.

"New gun rules for Neighborhood Watch volunteers in Sanford, Fla. about race, politics not saving lives," ***Fox News***, Tuesday, November 5, 2013.

"Why insurance companies who follow the ObamaCare 'fix' could face legal troubles," ***Fox News***, Friday, November 15, 2013.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Blame the Dems for blocking judges," ***New York Post***, Thursday, November 21, 2013.

"NFL hypocrisy -- Bloomberg anti-gun ads ok but ad about 'protection' is banned?," ***Fox News***, Wednesday, December 4, 2013.

"Why insurance companies who follow the ObamaCare 'fix' could face legal troubles," ***Fox News***, Friday, November 15, 2013.

"Blame the Dems for blocking judges," ***New York Post***, Thursday, November 21, 2013.

"NFL hypocrisy -- Bloomberg anti-gun ads ok but ad about 'protection' is banned?," ***Fox News***, Wednesday, December 4, 2013.

"1 year after Newtown, support for stricter gun control has disappeared," ***Fox News***, Friday, December 13, 2013.

"New York's Fact-Free Gun Ruling," ***National Review Online***, Friday, January 3, 2014.

"Why most Americans believe the US economy is poor (and they're right)," ***Fox News***, Monday, January 6, 2014.

"Some realities to consider before passing more gun-control bills," ***The Philadelphia Inquirer***, Sunday, January 12, 2014.

"How the Courts Got Dumbed Down," ***Cato Unbound***, Monday, January 13, 2014.

"Potential concealed weapon databases by Civitas Media won't make US safer," ***Fox News***, Saturday, January 25, 2014.

"The Cruelty of Gun-Free Zones," ***National Review Online***, Friday, January 31, 2014.

"ABC News reports on guns mislead Americans," ***Fox News***, Friday, February 7, 2014.

"It may soon be easy to carry a permitted concealed handgun in California," ***Fox News***, Thursday, February 13, 2014.

"We're looking at 2.5 million discouraged workers thanks to ObamaCare," ***Fox News***, Thursday, February 13, 2014.

"Bloomberg's latest stats on school gun violence ignore reality," ***Fox News***, Monday, February 17, 2014.

"Media cherry picks Missouri gun data to make misleading case for more control," ***Fox News***, Friday, February 21, 2014.

"Piers Morgan's Revealing Rancor," ***National Review Online,*** Monday, February 24, 2014.

"Don't believe mainstream media mistruths about firearms research," ***Fox News***, Thursday, February 27, 2014.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Brady Law Has Done Little To Keep Guns Out Of Criminals' Hands," ***Inverstor's Business Daily***, Monday, March 3, 2014.

"The Police Should Carry Guns Off The Job To Protect Us," ***Inverstor's Business Daily***, Thursday, March 13, 2014.

"Surgeon General nomination forces Senate Democrats to hide gun views," ***Fox News***, Wednesday, March 19, 2014.

"No more sitting ducks — we must arm our soldiers on their bases," ***Pittsburgh Tribune***, Saturday, March 22, 2014.

"Michael Bloomberg, Gun Control And Fabricated Numbers," ***Inverstor's Business Daily***, Thursday, April 3, 2014.

"After Fort Hood: Should soldiers be allowed to bear arms on base?," ***Fox News***, Wednesday, April 9, 2014.

"Let soldiers carry guns on bases," ***Chicago Tribune***, Wednesday, April 9, 2014.

"What the press is missing in Bloomberg's anti-gun push," ***Fox News***, Thursday, April 17, 2014.

"Shaping the gun-control debate," ***Pittsburgh Tribune-Review***, Sunday, April 26, 2014.

"Media bias on gun free zones," ***Fox News***, Thursday, May 1, 2014.

"The Shaky Case against the Death Penalty," ***National Review Online***, Thursday, May 8, 2014.

"Another Round in the Death-Penalty Debate," ***National Review Online***, Tuesday, May 13, 2014.

"A Reply to The Atlantic on the Death Penalty," ***National Review Online***, Tuesday, May 20, 2014.

"Memo to gun-control advocates: Even Elliot Rodger believed guns would have deterred him," ***Fox News***, Wednesday, May 28, 2014.

"Bloomberg's Bogus Gun-Control Numbers," ***National Review Online***, Thursday, May 29, 2014.

"Media feeding frenzy over open carry guns in restaurants much ado about nothing," ***Fox News***, Tuesday, June 3, 2014.

"Killers seek gun-free zones for attacks," ***Philadelphia Inquirer***, Friday, June 13, 2014.

"Making up facts about guns," ***Fox News***, Monday, June 16, 2014.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"What liberal media won't tell you: School shooting deaths down, not up, across America," ***Fox News***, Friday, June 20, 2014.

"What the Supreme Court still doesn't understand about guns," ***Fox News***, Wednesday, June 25, 2014.

"Beware of Populist Economics," ***Barron's***, Saturday, July 5, 2014.

"Soccer may be 'in,' but it's not an injury-free sport," ***Philadelphia Inquirer***, Monday, July 7, 2014.

"Mr. Obama, you can't blame our economic troubles on weather," ***Fox News***, Monday, July 7, 2014.

"Chicago violence: The buck stops with you, Rahm Emanuel." ***Fox News***, Wednesday, July 16, 2014.

"False claims may allow illegal immigrants to stay in the US," ***Fox News***, Tuesday, July 29, 2014.

"Armed doctor saved lives," ***Philadelphia Inquirer***, Tuesday, July 29, 2014.

"Why Legalizing Concealed Carry Is The Answer To Persistent Stalkers," ***The Daily Caller***, Tuesday, August 5, 2014.

"The facts about Dartmouth student Taylor Woolrich and her stalker," ***Fox News***, Tuesday, August 12, 2014.

"Studies show right-to-carry laws reduce crime," ***Indianapolis Star***, Tuesday, August 19, 2014.

"Violent Crime, Not Police Abuse, Is The Real Threat To Black Americans," ***The Daily Caller***, Friday, August 22, 2014.

"Michael Bloomberg's anti-gun propaganda," ***Fox News***, Monday, October 6, 2014.

"The truth about young black men and police shootings." ***Fox News***, Wednesday, October 22, 2014.

"Every time that guns have been banned murder rates go up," co-authored with Kesten Green, ***The Advertiser*** (Adelaide, South Australia), Thursday, October 23, 2014.

"'Lone Wolf' terror attacks: We're sitting ducks and Americans with guns are last line of defense." ***Fox News***, Thursday, October 30, 2014.

"Hidden consequences of Washington State's gun background check Initiative 594," ***Fox News***, Saturday, November 1, 2014.

"It's shocking how little was spent on the midterms," with Bradley A. Smith, ***The Wall Street Journal***, Saturday, November 7th, 2014.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"America Should Make It Easier To Carry Guns," ***Investors Business Daily***, Thursday, November 20, 2014.

"'New' research on gun laws and crime was flawed," co-authored with Lloyd Cohen and Carl Moody, ***Washington Post***, Letters, Tuesday, November 25, 2014.

"Dangerous distortions about cops shooting black men," ***New York Daily News***, Tuesday, December 2, 2014.

"Ferguson: Obama continues to undermine police departments around the country," ***Fox News***, Wednesday, December 3, 2014.

"Media Matters, the facts and me," ***Fox News***, Tuesday, December 9, 2014.

"Expert: Blacks trust police more than whites do," ***Fox News***, Friday, December 19, 2014.

"When Security Fails, Gun Rights Are The Last Line Of Defense," ***Daily Caller***, Friday, December 19, 2014.

"Why most Americans oppose more gun control," ***Fox News***, Tuesday, December 30, 2014.

"Do Blacks Really Feel Especially Distrustful Of Cops?" ***Investors Business Daily***, Tuesday, January 6, 2015.

"There are limits to how well police and security agencies can protect us," co-authored with Kesten Green, ***The Advertiser*** (Adelaide, South Australia), Thursday, January 8, 2015.

"The bias against guns: What the media isn't telling you," ***Fox News***, Friday, January 9, 2015.

"Let's not be so quick to believe gun-control rhetoric," ***Fox News,*** Friday, January 16, 2015.

"Terrorists can strike any time, anywhere: Self defense saves lives," ***Fox News***, Tuesday, January 27, 2015.

"Open Carry versus Campus Carry: What should be the priority," ***Austin Statesman (Texas)***, Monday, February 12, 2015.

"What is more likely to kill you-a gun or a car?" ***Fox News,*** Monday, February 12, 2015.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Let's not be so quick to believe gun-control rhetoric," ***Fox News,*** Monday, February 16, 2015.

"Guns and the New York Times: Why shouldn't Americans be able to defend themselves?" ***Fox News,*** Tuesday, February 24, 2015.

"Take a gun to the mall," ***Chicago Tribune,*** Tuesday, February 24, 2015.

"Facts on police & race," ***Pittsburgh Tribune Review,*** Friday, February 27, 2015.

"Justice Department reached only possible conclusion in Michael Brown case," ***Fox News,*** Thursday, March 5, 2015.

"Gun-free zones put innocent in danger," ***Las Vegas Review Journal,*** Friday, March 6, 2015.

"Ferguson fake-out: Justice Department's bogus report," ***New York Post,*** Monday, March 9, 2015.

"Rare Victory: Obama Administration temporarily drops ammo ban proposal," ***Fox News,*** Tuesday, March 10, 2015.

"Is gun ownership really down in America?" ***Fox News,*** Thursday, March 12, 2015.

"Why Michael Bloomberg's latest push for gun control is all wrong," ***Fox News,*** Friday, March 13, 2015.

"Ferguson Justice Department report misleads on racism," ***Inverstor's Business Daily,*** Thursday, March 19, 2015.

"French Alps crash shows psychiatrists cannot be last line of defense," ***Fox News,*** Tuesday, March 31, 2015.

"The truth about gun-free zones," ***Fox News,*** Tuesday, April 21, 2015.

"Baltimore Riots Point to Failure of Gun Control Laws," ***Investor's Business Daily,*** Friday, May 1, 2015.

"Hillary Clinton's dishonest crime dodge: Her Columbia speech betrays a failure to understand the forces that have made America safer," ***New York Daily News,*** Thursday, May 7, 2015.

"Where's the coverage of heroes who stop mass killings?" ***Fox News,*** Friday, May 22, 2015.

"Twisting statistics to smear cops," ***Pittsburgh Tribune Review,*** Saturday, May 23, 2015.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

'Covering Guns': Columbia University's 'Workshop' for journalists far from objective," ***Fox News,*** Friday, May 29, 2015.

"Chancellor fires blanks at Texas College Camous Carry Law," ***Investor's Business Daily,*** Tuesday, June 2, 2015.

"There is no nationwide crime wave (and police killings are not up)," ***Fox News,*** Tuesday, June 9, 2015.

"Connecticut's strict gun licensing law linked to steep drop in Homicides? Not really," ***Fox News,*** Tuesday, June 16, 2015.

"Gun Free Zones an easy target for killers," ***Fox News,*** Thursday, June 18, 2015.

"Myths of American gun violence," ***New York Daily News,*** Wednesday, June 24, 2015.

"Obama uses tragic murders, false claims to bash gun rights," ***Investor's Business Daily,*** Monday, June 29, 2015.

"Lynne Russell, ex CNN Anchor, and her husband are alive thanks to a gun," ***Fox News,*** Friday, July 3, 2015.

"Chattanooga shootings: Why should we make it easy for killers to attack our military?" ***Fox News,*** Thursday, July 16, 2015.

"Older people need guns too," ***Fox News,*** Tuesday, July 21, 2015.

"Gun-free zones are killing us," ***Fox News,*** Tuesday, July 28, 2015.

"Don't leave our military personnel defenseless," ***Pittsburgh Tribune-Review,*** Wednesday, July 29, 2015.

"Obama's Not done with Guns: New regulations to reduce gun ownership target veterans, the elderly," ***PoliZette,*** Sunday, August 2, 2015.

"What Mother Jones missed in its hit piece about me," ***The Daily Caller,*** Monday, August 3, 2015.

"More guns make Americans feel safer," ***Newsday,*** Sunday, August 9, 2015.

"The New York Times believes MoJo's gun-control myths," ***The Daily Caller,*** Thursday, August 13, 2015.

"Researchers are wrong about private guns, police deaths," ***Fox News,*** Monday, August 17, 2015.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Gun-control Shills won't let Roanoke journalists' murders go to waste," ***The Daily Caller,*** Tuesday, September 1, 2015.

"Wal-Mart decision to drop AR-15 leaves poor vulnerable," ***Investor's Business Daily,*** Tuesday, September 1, 2015.

"11 year old thwarts home invasion with a gun, Cops criticize mother," ***The Daily Caller,*** Friday, September 4, 2015.

"Gun-free zones are magnets for murderers," ***The Orange County Register,*** Friday, September 18, 2015.

"Keeping guns out of the hands of mentally ill solves nothing," ***Investor's Business Daily,*** Thursday, September 24, 2015.

"On Ahmed's Clock, President Obama once again spoke too soon," ***The Daily Caller,*** Monday, September 28, 2015.

"Why Hillary Clinton's gun control proposal is all wrong," ***Fox News,*** Monday, October 5, 2015.

"Would-be killers target gun-free zones," ***The Philadelphia Inquirer,*** Wednesday, October 7, 2015.

"Lott: Criminals target gun-free zones," ***The Detroit News,*** Thursday, October 15, 2015.

"A look at the facts on gun-free zones," ***National Review,*** Tuesday, October 20, 2015.

"Hillary Clinton is wrong about gun laws in Australia and the UK," ***The Daily Caller,*** Thursday, October 22, 2015.

'Demographic Death' of the NRA just another big media myth," ***Investor's Business Daily,*** Thursday, October 22, 2015.

"The New York Times keeps getting its gun facts shockingly wrong," ***The Daily Caller,*** Monday, November 2, 2015.

"Mass Incarceration: Tell Hillary Clinton Punishment Matters," ***Investor's Business Daily,*** Monday, November 2, 2015.

"Gun ownership, NRA retain popular support," ***The Orange County Register,*** Thursday, November 5, 2015.

"Maryland's long overdue goodbye to ballistic fingerprinting," ***The Washington Post,*** Friday, November 13, 2015.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Keeping guns out gets us nowhere in staying safer," ***Michigan Live,*** Tuesday, November 17, 2015.

"As Paris attacks show, Europe in denial about gun rights," ***Investor's Business Daily,*** Thursday, November 19, 2015.

"Hillary Clinton locks up the gun-grabber vote," ***The Daily Caller,*** Friday, November 20, 2015.

"America could use more concealed carry gun permit holders," ***Pittsburgh Tribune-Review, Saturday***, November 28, 2015.

"Mass Shootings and Gun Control," ***National Review Online***, December 3, 2015.

"The facts shoot holes in Obama's claim that US is only host to mass killings," ***Fox News***, December 3, 2015.

"Obama Strategy Focuses On Guns, Not Terrorism," ***Investor's Business Daily***, December 7, 2015.

"Think background checks prevent gun violence? Think again," Letter to the Editor, ***Los Angeles Times***, December 15, 2015.

"Open carry comes to Texas: Why the Lone Star state will be safer in 2016," ***Fox News***, December 30, 2015.

"Allow permit holders to carry guns on college campuses," co-authored with Michael R. Gordiner, ***St. Louis Post-Dispatch***, January 6, 2016. The same piece was also published in the ***Columbia Daily Tribune*** (Missouri), December 27, 2015.

"Obama and Guns: Eleven False or Misleading Claims from the President's Remarks this Week," ***Fox News***, January 7, 2016.

"Obama's Gun-Control Order Is Dictatorial, and It Won't Work," ***National Review Online***, January 8, 2016.

"Bloomberg Twists Gun Research To Political Ends," ***Investor's Business Daily***, January 12, 2016.

"A Semi-Automatic Handgun Ban Wouldn't Stop Mass Shooters," ***National Review Online***, January 20, 2016.

"What Bernie Sanders misses about the rise in campaign cash," ***New York Post***, January 20, 2016.

"Guns vs Traffic Accident Deaths: Getting the data straight," ***Investor's Business Daily***, January 30, 2016.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Clinton and the gun control lobby get it wrong," ***Union Leader*** (New Hampshire), February 5, 2016.

"Even liberal academics are turning pro-gun ownership," ***Investor's Business Daily***, February 11, 2016.

"Gun-free Zones Increase Danger for the Public," ***News Sentinel*** (Knoxville, Tennessee), February 13, 2016.

"What Obama doesn't know about firearms in the U.S. Military," ***National Review Online***, February 15, 2016.

"Concealed carry permits help police officers and civilians stay in the fight," ***Fox News***, February 15, 2016.

"Obama has impacted the courts, Scalia replacement or no," ***Investor's Business Daily***, February 23, 2016.

"Don't Expect Supreme or Appeals Court Confirmations in 2016," ***Investor's Business Daily***, March 3, 2016.

"You know the case for background checks is weak if . . . . ," ***Fox News***, March 12, 2016.

"Allowing guns at legislative plaza would increase safety," ***The Tennessean***, March 15, 2016.

"In wake of the shooting, should the capitol remain gun-free?" ***Investor's Business Daily***, March 30, 2016.

"Will President Obama Regulate Guns Out of Existence?" ***Investor's Business Daily***, April 16, 2016.

"On guns, Clinton runs both, left and right, depending on her audience," ***National Review Online***, April 25, 2016.

"Is Trump right about Hillary's Views on Guns," ***Daily Caller***, May 25, 2016.

"When 'smart-gun' laws are not so smart," ***National Review Online***, May 26, 2016.

"Obama just got one giant step closer towards creating a national gun registry," ***Fox News***, May 27, 2016.

"Four Ways Hillary Clinton will work to End Gun Ownership as President," ***Fox News***, June 6, 2016.

"Gun-free Zones, Like at UCLA, are Magnets for Murderers," ***Orange County Register***, June 9, 2016.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Concealed Carry, California and the 9th Circuit's Misrepresentation of the Facts," ***Fox News***, June 10, 2016.

"Why Terrorists Target Gun-free Zones," ***New York Post***, June 16, 2016.

"After Orlando, disarming would not make public safer," ***Philadelphia Inquirer***, June 19, 2016.

"Background checks, watch lists ineffective," ***Orange County Register***, June 20, 2016.

"The dirty secret about the four Senate gun control bills," ***Fox News***, June 21, 2016.

"The case for more concealed handguns," ***National Review***, June 30, 2016.

"Hillary dodged criminal charges for one simple reason," ***Fox News***, July 5, 2016.

"Obama's false racism claims are putting cop's lives in danger," ***New York Post***, July 9, 2016.

"When the subject is guns, politics trumps history," ***The Weekly Standard***, July 22, 2016.

"Gun control is not the answer to shootings that kill police officers," ***National Review***, July 26, 2016.

"Do Democrats want to disarm minorities," ***Fox News***, July 29, 2016.

"We adjust for population with murder rates, why not for mass shootings," ***Los Angeles Times***, Sunday, July 31, 2016.

"It's about time for Texas' guns on campus law," ***Fox News***, August 2, 2016.

"Why is Apple so afraid of a little picture of a gun?" ***Fox News***, August 5, 2016.

"Hillary refuses to seek the endorsement of police unions," ***National Review***, August 10, 2016.

"Trump wasn't calling for Clinton's assassination," ***Philadelphia Inquirer***, August 10, 2016.

"The Myth of the Big Bad Gun Lobby," ***National Review***, August 16, 2016.

"Trump Foes Miss the Mark on Clinton's Second Amendment Stand," ***Fox News***, August 16, 2016.

"Sorry, Hillary: Trump's Policies are Clearly Better for Blacks," ***New York Post***, August 28, 2016.

SELECTED NONACADEMIC WRITINGS ON ECONOMICS (CONTINUED):

"Gun Ownership is Up in America. So Why Isn't the Media Telling Your About it?" ***Fox News***, September 9, 2016.

"What Donald Trump Knows About Hillary Clinton and Her Bodyguards," ***Fox News***, September 22, 2016.

"A Real Difference in How to Battle Terror," ***Star Tribune*** (Minneapolis, Minnesota), September 30, 2016.

"Trump Law-and-Order Platform would Help Blacks," ***Philadelphia Inquirer***, October 3, 2016.

"Guns, The Second Amendment and What You Should Hear From Clinton and Trump," ***Fox News***, October 9, 2016.

"The Gun Question," ***Las Vegas Review-Journal***, October 13, 2016.

"Too many problems with Question 3," ***Sun Journal*** (Lewistown, Maine), Sunday, October 16, 2016.

"If Clinton Wins, America, Kiss Your Right to Self-Defense Good-Bye," ***Fox News***, October 20, 2016.

"Feds can fight gun crime by fixing flaws in universal background checks," ***New York Daily News***, October 24, 2016.

"Mistakes, Consequences if Question 1 Passes," ***Reno Gazette-Journal***, November 4, 2016.

"There is no particular risk in allowing concealed carry on campus," Letter to the Editor, ***Washington Post***, Tuesday, November 8, 2016.

"The Government May Be Allowed to Ban Books and Movies," co-authored with Bradley Smith, ***Real Clear Policy***, Tuesday, November 8, 2016.

"Vote Fraud is not a Myth," ***National Review Online***, Tuesday, November 8, 2016.

"It's Already too Late for Gun Control to Work," ***Washington Post***, Tuesday, November 8, 2016.

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EXHIBIT "2"

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

SPECIAL REPORT

JANUARY 2019 NCJ 251776

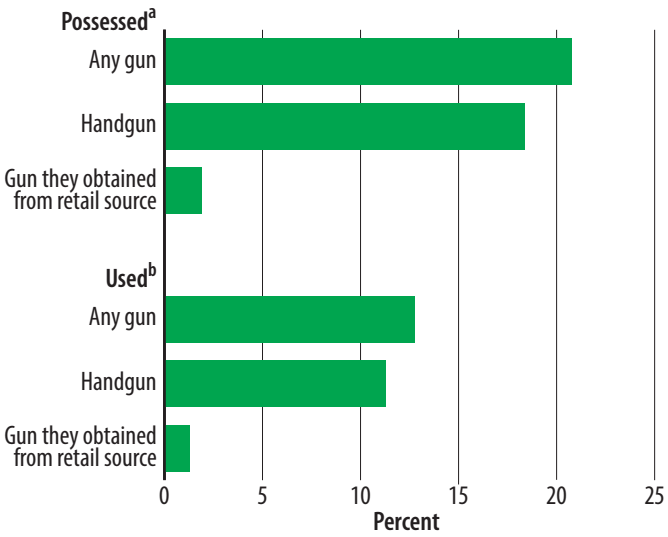
Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016

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.
[a]Includes prisoners who carried or possessed a firearm during the offense.
[b]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:[1]
  - ***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.

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

Exhibit 2
0127

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[a]	Estimated number of state prisoners[b]	Percent of state prisoners who— Possessed a firearm[b]	Used a firearm[c]	Estimated number of federal prisoners[b]	Percent of federal prisoners who— Possessed a firearm[b]	Used a firearm[c]
Total	1,211,200	20.9%	13.9%	170,400	20.0%	5.0%
Violent*	667,300	29.1%	23.0%	20,900	36.2%	25.3%
Homicide[d]	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[e]	32,200	17.0	12.6	1,200	34.1	:
Property	186,100	4.9% †	2.0% †	12,000	2.6% †	:
Burglary	88,100	6.7	3.2	300	:	:
Other property[f]	98,000	3.3	1.0	11,800	2.4	:
Drug	180,800	8.4% †	0.8% †	80,500	12.3% †	0.6% †
Trafficking[g]	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	:	:
Public order	158,300	21.5% †	5.6% †	52,900	30.2%	5.3% †
Weapons[h]	43,800	67.2	15.7	22,200	66.9	11.3
Other public order[i]	114,400	4.0	1.7	30,700	3.6	:
Other	3,900	:	:	1,800	:	:
Unknown	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%.

[a]See *Methodology* for information on how controlling offense was measured.

[b]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.

[c]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.

[d]Includes murder and both negligent and non-negligent manslaughter.

[e]Includes kidnapping, blackmail, extortion, hit-and-run driving with bodily injury, child abuse, and criminal endangerment.

[f]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.

[g]Includes possession with intent to distribute.

[h]Includes being armed while commiting 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.

[i]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.[2]

[2]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

			State prisoners		Federal prisoners	
Firearm use	State prisoners*	Federal prisoners	Violent offense*	Non-violent offense[a]	Violent offense*	Non-violent offense[a]
Total	100%	100%	100%	100%	100%	100%
Obtained firearm because planned to use in controlling offense[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
Used firearm[c]	68.0%	25.9% †	81.0%	24.8% †	72.5%	12.9% †
Discharged	46.5%	11.9% †	55.9%	15.4% †	27.3%	7.5% †
Killed victim	27.1	4.1 †	35.0	:	16.5	:
Injured/shot victim but did not kill victim	12.4	2.2 †	14.5	5.3 †	:	:
Discharged firearm but did not shoot anyone	7.0	5.6	6.4	9.0	5.7	5.4
Did not discharge[d]	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)[e]	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%.

[a]Includes property, drug, public order, and other non-violent offenses.

[b]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.

[c]Includes prisoners who showed a firearm to anyone, pointed a firearm at anyone, or discharged the firearm during the offense.

[d]Includes prisoners who showed or pointed a firearm at anyone during the offense but did not discharge it.

[e]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

	Percent of prisoners who possessed a firearm			Percent of prisoners who used a firearm[a]		
Type of firearm	All prisoners	State*	Federal	All prisoners	State*	Federal
Total	100%	100%	100%	100%	100%	100%
Firearm[b]	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)[c]	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.

[a]Percentages exclude 0.6% of state prisoners and 0.7% of federal prisoners who were missing responses on firearm use.

[b]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.

[c]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.

Exhibit 2
0130

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

	State		Federal	
Demographic characteristic	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
Sex				
Male*	1,124,200	21.8%	159,800	20.9%
Female	87,000	9.5 †	10,600	6.6 †
Race/Hispanic origin[a]				
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
Age at time of survey				
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 †
Marital status				
Married*	168,500	16.7%	36,800	14.4%
Widowed/widowered	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 †
Education[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 †
Citizenship				
U.S. citizen*	1,156,800	21.0%	127,500	24.2%
Non-U.S. citizen	53,100	18.5	42,400	7.2 †
Military service				
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%.

[a]Excludes persons of Hispanic/Latino origin, unless specified.

[b]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
Purchased/traded at retail source	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
Obtained from individual	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
Off the street/underground market[a]	43.2%	43.2%	42.9%
Theft[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[c]	3.1	3.3	1.8
Other source	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[d]	5.9	5.6	8.5
Multiple sources[e]	2.5%	2.6%	2.0%
Estimated number of prisoners who possessed a firearm, excluding prisoners who did not report source[f]	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%.

[a]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.

[b]Excludes theft from victim.

[c]Includes theft where the source could not be identified and theft other than from a burglary, retail location, family, or friend.

[d]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.

[e]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.

[f]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
Total	100%	100%	100%
Not purchased or traded at retail source	89.9%	90.3%	86.3%
Purchased or traded at retail source[a]	10.1%	9.7%	13.7%
Licensed firearm dealer at retail source	8.2	7.9	10.9
Purchased under own name[b]	6.9	6.8	8.4
Background check was reportedly conducted[c]	6.7	6.3	9.4
Private seller at retail source[d]	1.2	1.1	2.3
Unknown[e]	0.7	0.8	:
Estimated number of prisoners who possessed a firearm (with valid data)[f]	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%.

[a]Includes prisoners who purchased or traded from a retail source, including a retail store, pawn shop, flea market, or gun show.

[b]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.

[c]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.

[d]Excludes private sellers other than at a retail source.

[e]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.

[f]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

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

[a]See *Methodology* for more information on how controlling offense was measured.

[b]Includes state and federal prisoners who reported a valid response to firearm possession.

[c]Includes state and federal prisoners who reported a valid response to firearm possession and source.

[d]Includes state and federal prisoners who reported a valid response to firearm possession and use.

[e]Includes state and federal prisoners who reported a valid response to firearm possession, source, and use.

[f]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).[3] 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).[4]

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.

[3]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).

[4]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.[5]

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.

[5]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).

Exhibit 2
0136

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.

Exhibit 2
0137

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

Exhibit 2
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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

Exhibit 2
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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

		Percent of state prisoners who—			Percent of federal prisoners who—	
Controlling offense	Estimated number of state prisoners	Possessed a firearm	Used a firearm	Estimated number of federal prisoners	Possessed a firearm	Used a firearm
Total	31,100	0.69%	0.57%	8,300	1.76%	0.71%
Violent	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	:
Property	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	:
Drug	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	:	:
Public order	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	:
Other	600	:	:	300	:	:
Unknown	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
Obtained firearm because planned to use in controlling offense						
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
Used firearm	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%
Did not use firearm	1.11%	1.92%	0.85%	1.83%	3.86%	1.57%
Estimated number of prisoners who possessed a firearm (with valid data)	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
Firearm	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
No firearm	0.64	0.69	1.76	0.51	0.57	0.71
Estimated number of prisoners (with valid data)	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

	State		Federal	
Demographic characteristic	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
Sex				
Male	30,700	0.74%	8,200	1.88%
Female	5,200	0.96	1,300	1.00
Race/Hispanic origin				
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
Age at time of survey				
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
Marital status				
Married	6,300	1.06%	3,100	1.77%
Widowed/widowered	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
Education				
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
Citizenship				
U.S. citizen	30,000	0.69%	10,700	1.87%
Non-U.S. citizen	3,700	2.04	9,500	1.09
Military service				
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.

Exhibit 2
0142

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
Purchased/traded at retail source	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
Obtained from individual	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
Off the street/underground market	1.07%	1.13%	3.26%
Theft	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
Other source	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
Multiple sources	0.27%	0.29%	0.50%
Estimated number of prisoners who possessed a firearm, excluding prisoners who did not report source	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
Not purchased or traded at retail source	0.66%	0.70%	2.07%
Purchased or traded at retail source	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	:
Estimated number of prisoners who possessed a firearm (with valid data)	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

	Percent of state and federal prisoners who—		Percent of state and federal prisoners who—	
Controlling offense	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
Total	0.64%	0.13%	0.51%	0.12%
Violent	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
Property	0.50%	0.15%	0.30%	:
Drug	0.52%	0.17%	0.15%	0.04%
Public order	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.

Exhibit 2
0144

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.

January 2019, NCJ 251776

NCJ251776

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EXHIBIT "3"

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Mexico sets 1st half murder record, up 5.3%

July 22, 2019



MEXICO CITY (AP) — Mexico set a new record for homicides in the first half of the year as the number of murders grew by 5.3% compared to the same period of 2018, fueled partly by cartel and gang violence in several states.

Mexico saw 3,080 killings in June, an increase of over 8% from the same month a year ago, according to official figures. The country of almost 125

million now sees as many as 100 killings per day nationwide.

The 17,608 killings in the first half of 2019 is the most since comparable records began being kept in 1997, including the peak year of Mexico's drug war in 2011. Officials said 16,714 people were killed in the first half of 2018.

In particular, drug cartel turf wars have become increasingly bloody in the northern state of Sonora, where the number of homicides was up by 69% in the first half of the year. But in Sinaloa, where the cartel of convicted drug lord Joaquin "El Chapo" Guzman is based, homicides declined by 23% so far this year compared to last.

Given cutbacks and a widespread reorganization of security forces under President Andrés Manuel López Obrador, it is not clear who, if anyone, is doing the analysis and intelligence work to find out exactly which conflicts are causing the rise in homicides.

"I could give you 10 potential, plausible reasons, but the truth is we don't know, and that is perhaps the biggest problem," said security analyst Alejandro Hope. "There is very little systematic research that would allow us to conclude what is really happening."

And other types of crime, like extortion, have become increasingly frequent and violent.

As if to underscore that, officials said Monday the five men killed Sunday at a bar in the resort of Acapulco were allegedly part of a gang of extortionists who shook down business owners for protection payments.

Guerrero state prosecutor Jorge Zuriel "we now know that the members of this gang met daily at this bar to coordinate charging extortion payments and to collect the daily take."

One suspect has been arrested in the shootings, which left six people wounded. Zuriel said the killers were members of a rival gang.

Table 1

Crime in the United States

by Volume and Rate per 100,000 Inhabitants, 1998–2017

Year	Population[1]	**Violent crime[2]**	*Violent crime rate*	Murder and nonnegligent manslaughter	*Murder and nonnegligent manslaughter rate*	Rape (revised definition)[3]	*Rape (revised definition) rate*[3]	Rape (legacy definition)[4]	*Rape (legacy definition) rate*[4]	Robbery	*Robbery rate*	Aggravated assault	*Aggravated assault rate*	**Property crime**	*Property crime rate*	Burglary	*Burglary rate*	Larceny-theft	*Larceny-theft rate*	Motor vehicle theft	*Motor vehicle theft rate*
1998	270,248,003	1,533,887	567.6	16,974	6.3			93,144	34.5	447,186	165.5	976,583	361.4	10,951,827	4,052.5	2,332,735	863.2	7,376,311	2,729.5	1,242,781	459.9
1999	272,690,813	1,426,044	523.0	15,522	5.7			89,411	32.8	409,371	150.1	911,740	334.3	10,208,334	3,743.6	2,100,739	770.4	6,955,520	2,550.7	1,152,075	422.5
2000	281,421,906	1,425,486	506.5	15,586	5.5			90,178	32.0	408,016	145.0	911,706	324.0	10,182,584	3,618.3	2,050,992	728.8	6,971,590	2,477.3	1,160,002	412.2
2001[5]	285,317,559	1,439,480	504.5	16,037	5.6			90,863	31.8	423,557	148.5	909,023	318.6	10,437,189	3,658.1	2,116,531	741.8	7,092,267	2,485.7	1,228,391	430.5
2002	287,973,924	1,423,677	494.4	16,229	5.6			95,235	33.1	420,806	146.1	891,407	309.5	10,455,277	3,630.6	2,151,252	747.0	7,057,379	2,450.7	1,246,646	432.9
2003	290,788,976	1,383,676	475.8	16,528	5.7			93,883	32.3	414,235	142.5	859,030	295.4	10,442,862	3,591.2	2,154,834	741.0	7,026,802	2,416.5	1,261,226	433.7
2004	293,656,842	1,360,088	463.2	16,148	5.5			95,089	32.4	401,470	136.7	847,381	288.6	10,319,386	3,514.1	2,144,446	730.3	6,937,089	2,362.3	1,237,851	421.5
2005	296,507,061	1,390,745	469.0	16,740	5.6			94,347	31.8	417,438	140.8	862,220	290.8	10,174,754	3,431.5	2,155,448	726.9	6,783,447	2,287.8	1,235,859	416.8
2006	299,398,484	1,435,123	479.3	17,309	5.8			94,472	31.6	449,246	150.0	874,096	292.0	10,019,601	3,346.6	2,194,993	733.1	6,626,363	2,213.2	1,198,245	400.2
2007	301,621,157	1,422,970	471.8	17,128	5.7			92,160	30.6	447,324	148.3	866,358	287.2	9,882,212	3,276.4	2,190,198	726.1	6,591,542	2,185.4	1,100,472	364.9
2008	304,059,724	1,394,461	458.6	16,465	5.4			90,750	29.8	443,563	145.9	843,683	277.5	9,774,152	3,214.6	2,228,887	733.0	6,586,206	2,166.1	959,059	315.4
2009	307,006,550	1,325,896	431.9	15,399	5.0			89,241	29.1	408,742	133.1	812,514	264.7	9,337,060	3,041.3	2,203,313	717.7	6,338,095	2,064.5	795,652	259.2
2010	309,330,219	1,251,248	404.5	14,722	4.8			85,593	27.7	369,089	119.3	781,844	252.8	9,112,625	2,945.9	2,168,459	701.0	6,204,601	2,005.8	739,565	239.1
2011	311,587,816	1,206,005	387.1	14,661	4.7			84,175	27.0	354,746	113.9	752,423	241.5	9,052,743	2,905.4	2,185,140	701.3	6,151,095	1,974.1	716,508	230.0
2012	313,873,685	1,217,057	387.8	14,856	4.7			85,141	27.1	355,051	113.1	762,009	242.8	9,001,992	2,868.0	2,109,932	672.2	6,168,874	1,965.4	723,186	230.4
2013	316,497,531	1,168,298	369.1	14,319	4.5	113,695	35.9	82,109	25.9	345,093	109.0	726,777	229.6	8,651,892	2,733.6	1,932,139	610.5	6,019,465	1,901.9	700,288	221.3
2014	318,907,401	1,153,022	361.6	14,164	4.4	118,027	37.0	84,864	26.6	322,905	101.3	731,089	229.2	8,209,010	2,574.1	1,713,153	537.2	5,809,054	1,821.5	686,803	215.4
2015	320,896,618	1,199,310	373.7	15,883	4.9	126,134	39.3	91,261	28.4	328,109	102.2	764,057	238.1	8,024,115	2,500.5	1,587,564	494.7	5,723,488	1,783.6	713,063	222.2
2016[6]	323,405,935	1,250,162	386.6	17,413	5.4	132,414	40.9	96,970	30.0	332,797	102.9	802,982	248.3	7,928,530	2,451.6	1,516,405	468.9	5,644,835	1,745.4	767,290	237.3
2017	325,719,178	1,247,321	382.9	17,284	5.3	135,755	41.7	99,856	30.7	319,356	98.0	810,825	248.9	7,694,086	2,362.2	1,401,840	430.4	5,519,107	1,694.4	773,139	237.4

[1] Populations are U.S. Census Bureau provisional estimates as of July 1 for each year except 2000 and 2010, which are decennial census counts.

[2] The violent crime figures include the offenses of murder, rape (legacy definition), robbery, and aggravated assault.

[3] The figures shown in this column for the offense of rape were estimated using the revised Uniform Crime Reporting Program's (UCR) definition of rape. See data declaration for further explanation.

[4] The figures shown in this column for the offense of rape were estimated using the legacy UCR definition of rape. See data declaration for further explanation.

[5] The murder and nonnegligent homicides that occurred as a result of the events of September 11, 2001, are not included in this table.

[6] The crime figures have been adjusted.

NOTE: Although arson data are included in the trend and clearance tables, sufficient data are not available to estimate totals for this offense. Therefore, no arson data are published in this table.

Table 1A

Crime in the United States

Percent Change in Volume and Rate per 100,000 Inhabitants for 2 years, 5 years, and 10 years

Years	**Violent crime**[1]	*Violent crime rate*	Murder and nonnegligent manslaughter	*Murder and nonnegligent manslaughter rate*	Rape (revised definition)[2]	*Rape (revised definition) rate*[2]	Rape (legacy definition)[3]	*Rape (legacy definition) rate*[3]	Robbery	*Robbery rate*	Aggravated assault	*Aggravated assault rate*	**Property crime**	*Property crime rate*	Burglary	*Burglary rate*	Larceny-theft	*Larceny-theft rate*	Motor vehicle theft	*Motor vehicle theft rate*
2017/2016	-0.2	-0.9	-0.7	-1.4	+2.5	+1.8	+3.0	+2.2	-4.0	-4.7	+1.0	+0.3	-3.0	-3.6	-7.6	-8.2	-2.2	-2.9	+0.8	*
2017/2013	+6.8	+3.7	+20.7	+17.3	+19.4	+16.0	+21.6	+18.2	-7.5	-10.1	+11.6	+8.4	-11.1	-13.6	-27.4	-29.5	-8.3	-10.9	+10.4	+7.3
2017/2008	-10.6	-16.5	+5.0	-2.0			+10.0	+2.7	-28.0	-32.8	-3.9	-10.3	-21.3	-26.5	-37.1	-41.3	-16.2	-21.8	-19.4	-24.7

[1] The violent crime figures include the offenses of murder, rape (legacy definition), robbery, and aggravated assault.

[2] The figures shown in this column for the offense of rape were estimated using the revised Uniform Crime Reporting Program's (UCR) definition of rape. See data declaration for further explanation.

[3] The figures shown in this column for the offense of rape were estimated using the legacy UCR definition of rape. See data declaration for further explanation.

* Less than one-tenth of 1 percent.

Overview

Table 1—Crime in the United States, by Volume and Rate per 100,000 Inhabitants, 1998–2017

Table 1A—Crime in the United States, Percent Change in Volume and Rate per 100,000 Inhabitants for 2 years, 5 years, and 10 years

- In 2017, the estimated number of violent crime offenses was 1,247,321, a decrease of 0.2 percent from the 2016 estimate.

- The violent crime of murder and nonnegligent manslaughter decreased 0.7 percent in 2017 when compared with the 2016 estimate. Rape offenses (legacy definition) increased 3.0 percent, and aggravated assault offenses increased 1.0 percent. The violent crime of robbery decreased by 4.0 percent when compared with the 2016 estimate.

- The 2017 violent crime rate was 382.9 per 100,000 inhabitants, down 0.9 percent when compared with the 2016 violent crime rate.

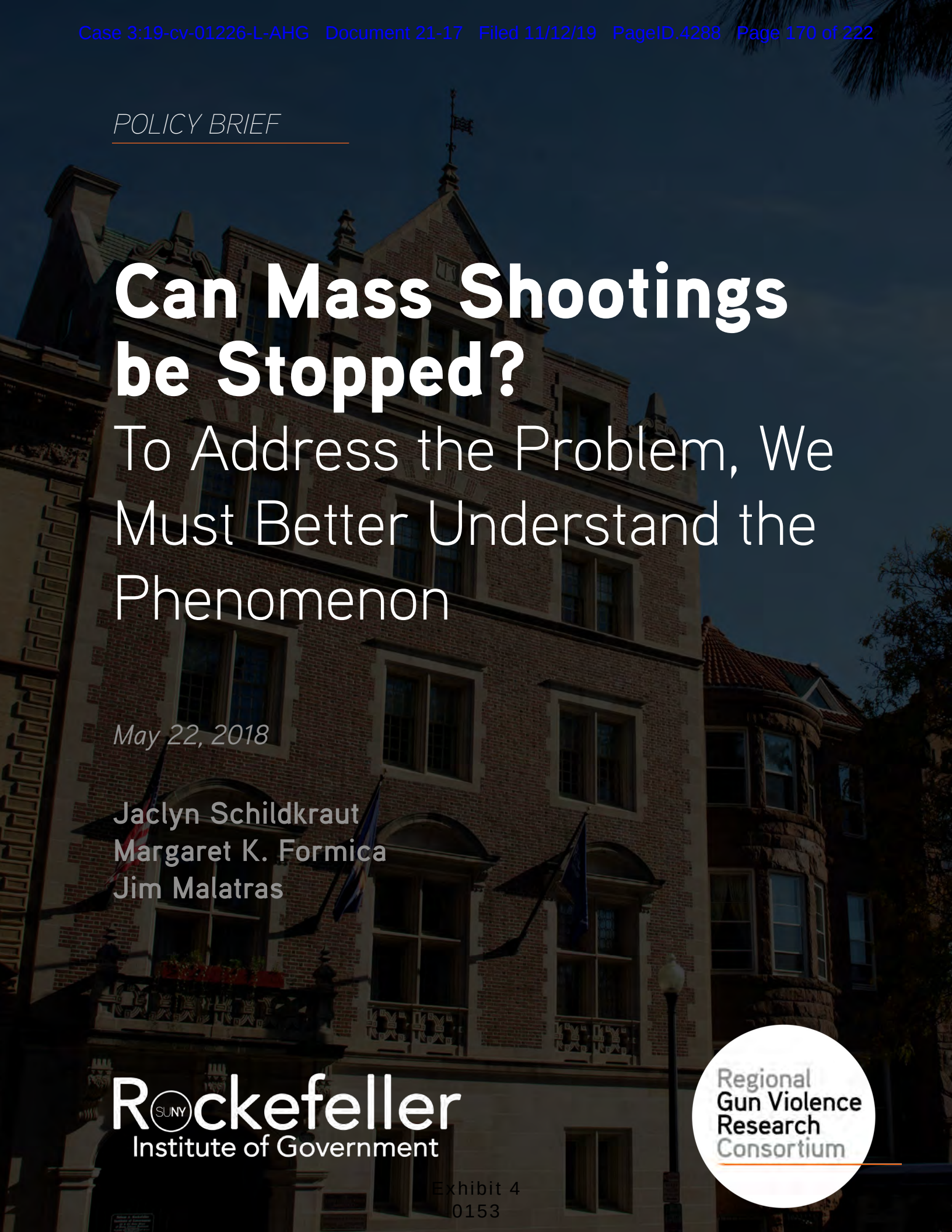
- The murder rate was 5.3 per 100,000 inhabitants in 2017, a 1.4 percent decrease when compared with the estimated rate for the previous year.

- The estimated number of property crimes in 2017 was 7,694,086, a 3.0 percent decrease from the 2016 estimate.

- Of the property crimes, the estimated number of burglary offenses decreased 7.6 percent, and larceny-theft offenses declined 2.2 percent. The estimated number of motor vehicle thefts increased 0.8 percent.

- The 2017 property crime rate was 2,362.2 per 100,000, a 3.6 percent decrease when compared with the 2016 rate.

EXHIBIT "4"



POLICY BRIEF

Can Mass Shootings be Stopped?

To Address the Problem, We Must Better Understand the Phenomenon

May 22, 2018

Jaclyn Schildkraut
Margaret K. Formica
Jim Malatras

Rockefeller SUNY Institute of Government

Regional Gun Violence Research Consortium



Columbine High School in Littleton, Colorado



March for Our Lives in Albany, New York, on March 24, 2018

The mass shooting at Columbine High School in Littleton, Colorado, happened nearly two decades ago, yet it remains etched in the national consciousness. Columbine spurred a national debate — from personal safety to the security of schools, workplaces, and other locations and to broader considerations of guns and mental illness. To this day, communities still are grappling to find solutions to the complex and multifaceted nature of mass shootings.

Exacerbating this already complex issue is the prevalence of social media and never-ending wall-to-wall media coverage. Mass shootings, and those that are particularly lethal, are amplified by the news cycle, making them appear more commonplace when they are, in fact, statistically rare. Despite their episodic and highly sensational nature, however, not all mass shootings garner the same attention by the media.[1] Those shootings that are the most lethal may receive more coverage, while those events that are perceived as more "routine" by the media may not even be covered at all.

As a result of the intense and often unbalanced media coverage of mass shootings, members of the public may hold disproportional attitudes about the events themselves. Certain shootings, for example, may be perceived as indicators of a broader social problem, while others are considered to be isolated events.[2] Still, the collective phenomenon of mass shootings has been found to produce a host of outcomes for the public, including fear

ABOUT THE AUTHORS

Jaclyn Schildkraut is an assistant professor of public justice at SUNY Oswego and a national expert on mass shootings.

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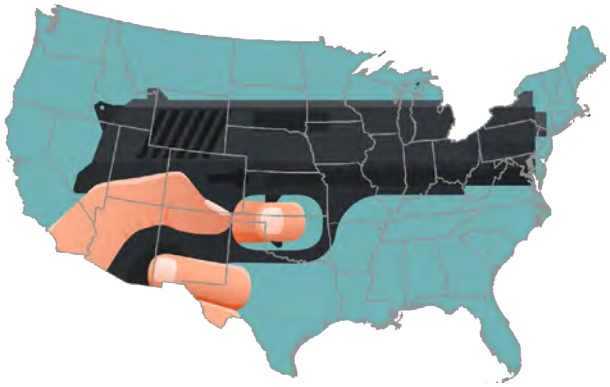
1 Jaclyn Schildkraut, H. Jaymi Elsass, and Kimberly Meredith, "Mass shootings and the media: why all events are not created equal," online article, *Journal of Crime and Justice*, February 5, 2017, https://www.tandfonline.com/doi/full/10.1080/0735648X.2017.1284689.

2 For example, the 2012 shooting at Sandy Hook Elementary School was identified as reflective of broader societal problems, while those events in Tucson, Arizona (2011), and Aurora, Colorado (2012), were perceived to be isolated events. See "Washington Post-ABC News Poll," WashingtonPost.com, accessed March 29, 2018, http://www.washingtonpost.com/wp-srv/politics/polls/postabcpoll_20121216.html.

Mass Shooting Myths



MYTH Mass shootings only happen in the United States.

REALITY Mass shootings occur in countries worldwide, including on six of the seven continents.



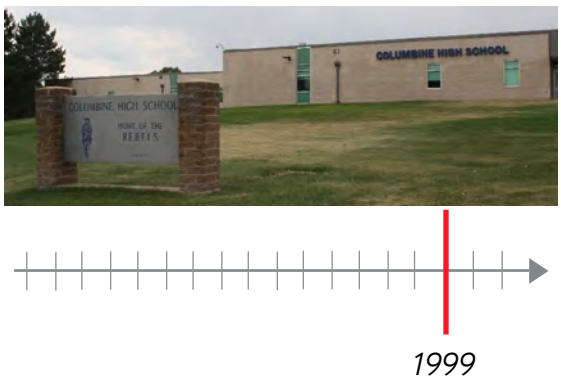
MYTH Mass shootings are only perpetrated by white men.

REALITY Though mass shooters are most commonly (but not exclusively) male, only about half are white.



MYTH Mass shootings are always carried out with assault rifles.

REALITY Handguns are nearly three times more likely to be used in mass shootings than rifles.



MYTH Columbine was the first (or one of the first) mass shooting in the United States.

REALITY Mass shootings have been traced back to the 1800s. Columbine, however, was a watershed moment that redefined how Americans think about the phenomenon of mass shootings.

of crime, a potential moral panic, and the general belief that these events are more prevalent than their actual occurrence.[3]

Like the public, policymakers also have struggled with how to respond to mass shootings. Most policies center on either further restricting or expanding rights related to gun ownership and carrying, with a lesser emphasis on mental health protocols, regulating violent media, or policies related to security practices. More often than not, in the immediate aftermath of a mass shooting, a flurry of bills are introduced, but few, if any, are ever enacted into legislation.[4] Further compounding the issue is that the new laws that are passed, or even those that have been on the books for decades, often are not enforced, leading them to be ineffective at preventing the next mass shooting.[5]

Problems Defining Mass Shootings

A central challenge in developing public policy solutions to mass shootings in America is the absence of a precise and generally accepted definition. Without this, the result is a distorted understanding of the actual context of the problem of mass and school shootings. Put plainly, we cannot solve a problem we do not fully understand.

There is wide variation on how mass shootings are defined. Various government organizations (e.g., the Centers for Disease Control, U.S. Department of Education), advocacy organizations (e.g., Everytown for Gun Safety), and other entities (e.g., GunViolenceArchive.org's Mass Shootings Tracker) offer data that are based on their own descriptions that vary based on the number of victims (either killed or total shot), location, and the like. As a result, these definitions — several of which are discussed

3 See, for example, Robert J. Kaminski, Barbara A. Koons-Witt, Norma Stewart Thompson, and Douglas Weiss, "The impacts of the Virginia Tech and Northern Illinois University shootings on fear of crime on campus," *Journal of Criminal Justice* 38, 1 (2010): 88-98; Ronald Burns and Charles Crawford, "School shootings, the media, and public fear: Ingredients for a moral panic," *Crime, Law and Social Change* 32, 2 (1999): 147-68; and Jaclyn Schildkraut, H. Jaymi Elsass, and Mark C. Stafford, "Could it happen here? Moral panic, school shootings, and fear of crime among college students," *Crime, Law and Social Change* 63, 1-2 (2015): 91-110.

4 Jaclyn Schildkraut and Tiffany Cox Hernandez, "Laws That Bit The Bullet: A Review of Legislative Responses to School Shootings," *American Journal of Criminal Justice* 39, 2 (2014): 358-74. There are, however, exceptions to this. After the Columbine shooting, the state of Colorado was successful in passing several gun control measures, including a reinstatement of background checks and prohibitions on "straw purchase" (the buying of a gun on someone else's behalf). Similarly, after the Sandy Hook event, New York State enacted comprehensive antigun violence laws called the SAFE Act.

5 When the investigation subsequent to the 2007 shooting at Virginia Tech revealed a loophole that prevented the shooter's involuntary detention for mental health concerns from being reported into the National Instant Criminal Background Check System (NICS) — which, as required by the Gun Control Act of 1968, would have disqualified him from legally purchasing his firearms — new legislation was passed aimed at addressing the issue. By the time of the 2012 shooting at Sandy Hook Elementary School, it still was estimated that millions of records were missing from the system. In 2017, after a gunman killed twenty-six at a church in Sutherland Springs, Texas, it was revealed that his domestic violence conviction (another disqualifying factor) also had not been reported to the NICS by the U.S. Air Force. He too had legally purchased the gun used in the shooting. Similarly, in the aftermath of many high profile mass shootings, gun control proponents often call for a renewed assault weapons ban, even though one was in effect when the Columbine shooting happened and that one of the guns used in the attack (the Intratec TEC-DC) was on the list of prohibited weapons.

below — are inconsistent, overly broad, and ultimately lead to inflated statistics.

After the February 14, 2018, shooting at Marjory Stoneman Douglas High School in Parkland, Florida, for example, headlines around the country reported it to be the seventeenth school shooting of the year.[6] Many news outlets relied on data from a prominent gun control organization, Everytown for Gun Safety. Everytown defines school shootings as "any time a firearm discharges a live round inside or into a school building or on or onto a school campus or grounds, as documented by the press and, when necessary, confirmed through further inquiries with law enforcement or school officials."[7] Based on this definition, and subsequently included in their compiled data, are attempted or completed suicides, accidental discharges, and purposeful discharges in which no one is injured or killed. When the seventeen events reported by Everytown for 2018 (through the Marjory Stoneman Douglas shooting) are separated based on their context, the number of school shootings in the more "traditional" sense (using Columbine as a template) is reduced to three. This, of course, creates issues developing appropriate policies and responses. Since these situations all required qualitatively different responses from school administrators, law enforcement officials, and other vested stakeholders, treating them all the same for the purpose of providing more compelling statistics is problematic.

When the seventeen events reported by Everytown for 2018 (through the Marjory Stoneman Douglas shooting) are separated based on their context, the number of school shootings in the more "traditional"sense (using Columbine as a template) is reduced to three.

More broadly, mass shootings also suffer from the same definitional issues. Often, whether an event qualifies as a mass shooting is contingent upon how many people are killed without consideration of the context surrounding the attack. Like school shootings, however, there are situational differences between multiple victim fatality situations such as familicides (the killing of one's family), gang shootings, and even terrorism events in terms of prevention and response.

Further, events may not qualify as mass shootings when they do not meet a requisite number of fatalities (typically four, depending on the definition), despite that the intent and opportunity for the perpetrator was present. For example, a 2015 Congressional Research Service report defines a mass shooting as "a multiple homicide incident in which four or more victims are murdered with firearms, within one event, and in one or more locations in close proximity."[8] Such a definition, however, can be limited in that it misses events — thereby creating false negatives in the accompanying data.[9] The May 21, 1998, shooting at Thurston High School in Springfield, Oregon, highlights

6 Chloe Aiello, "17 school shootings in 45 days — Florida Massacre is one of many tragedies in 2018," *CNBC*, February 16, 2018, https://www.cnbc.com/2018/02/14/florida-school-shooting-brings-yearly-tally-to-18-in-2018.html.

7 "School Shootings In America Since 2013," Everytown For Gun Safety, accessed March 30, 2018, https://everytownresearch.org/school-shootings/5837/.

8 William J. Krouse and Daniel J. Richardson, *Mass Murder with Firearms: Incidents and Victims, 1999-2013* (Washington, DC: Congressional Research Service, July 30, 2015), https://fas.org/sgp/crs/misc/R44126.pdf.

9 David Deacon, "Yesterday's Papers and Today's Technology: Digital Newspaper Archives and 'Push Button' Content Analysis," *European Journal of Communication* 22, 1 (2007): 5-25.

this issue. The fifteen-year-old shooter killed two students and wounded twenty-five others. Despite twenty-seven total victims, this case would have been excluded from this particular study for not having met the criteria for number of fatalities. Similarly, the twenty-two-year-old perpetrator in the December 11, 2012, shooting at the Clackamas Town Center in Clackamas, Oregon, killed two and wounded a third before his gun jammed. Despite that there were between 8,000 and 10,000 potential victims in the mall at the time of the event, this shooting too would have been excluded as a false negative.

An Analysis of Mass Shootings

In one of the most comprehensive studies of mass shootings in the United States to date, researchers Jaclyn Schildkraut and H. Jaymi Elsass evaluated existing definitions of mass shootings from a number of sources, identifying the benefits and deficiencies of each.[10] In doing so, they crafted their own definition aimed at overcoming the limitations of these previous descriptors, which serves as the basis for this report:

> A mass shooting is an incident of targeted violence carried out by one or more shooters at one or more public or populated locations. Multiple victims (both injuries and fatalities) are associated with the attack, and both the victims and location(s) are chosen either at random or for their symbolic value. The event occurs within a single 24-hour period, though most attacks typically last only a few minutes. The motivation of the shooting must not correlate with gang violence or targeted militant or terroristic activity.

In addition to definitional issues of school and mass shootings, the absence of a single national database of mass shooting events makes it difficult to properly understand and address the problem. Using the above criteria, Schildkraut and Elsass created a comprehensive dataset of mass shootings. Identifying potential events through media accounts, existing databases, and web searches, they cross-referenced each shooting through at least three sources to ensure that it aligned with the definition.

In addition to definitional issues of school and mass shootings, the absence of a single national database of mass shooting events makes it difficult to properly understand and address the problem.

What they found was that over a fifty-year period stretching between 1966 and 2016, a total of 340 mass shootings occurred in the United States.[11] Collectively, these events resulted in 1,141 deaths and a total of 2,526 victims (both injured and killed). Across mass shooting events, the number of deaths ranged from zero to forty-nine, with the total number of victims (both injuries and fatalities) varying between two and 102. While the number of victims resulting from some events is high,

10 Jaclyn Schildkraut and H. Jaymi Elsass. *Mass Shootings: Media, Myths, and Realities* (Santa Barbara: Praeger, 2016).

11 Due to the primary reliance on media accounts to identify incidents, it is possible that not every single mass shooting event has been captured. Still, it is believed that these data are among the most comprehensive of sources, as all will have an inherent margin of error for missing events.

the majority of shootings have far fewer victims, resulting in median number of deaths and total victims of two and five, respectively.

Variation in Location Selection

Mass shootings occur in a variety of locations, including (but not limited to), schools; workplaces; places of worship (e.g., churches, temples); restaurants; nightlife establishments (e.g., bars, clubs); malls; movie theaters; airports; hospitals; and government buildings. In some instances, they may occur in residential areas or may span multiple locations, with shooters adopting a spree-like format by going mobile.[12] Mass shootings occurred most frequently at workplaces and schools, which combined were the settings for more than 57 percent of events (Table 2). This finding is not entirely unexpected as the shooters have relative ease of access to their victims in their roles as current or former employees or students.

TABLE 1. Mass Shooting by Location Type

LOCATION TYPE	EVENTS	% OF TOTAL
Workplace	101	29.7%
School	94	27.6%
Other	35	10.3%
Multiple Locations	30	8.8%
Restaurant/Nightlife	24	7.1%
Shopping/Entertainment	19	5.6%
Government/Military	16	4.7%
Place of Worship	12	3.5%
Residential	9	2.6%

Weapons Selection across Mass Shootings

The majority of mass shooting events were carried out with a single firearm (67.1 percent), although multiple weapons were used in approximately one-third of events (Figure 2). Handguns were the most commonly used weapon, with at least one being used in 75.6 percent of events (Figure 3). When only a single weapon was involved, handguns were significantly more likely to be used than any other type of gun (68.9 percent of events).[13] In 28.5 percent of events, at least one rifle, which may include assault-style weapons, was used. To a lesser extent (0.9 percent), other types of guns, such as machine guns, were used by shooters.

FIGURE 1. Weapons Usage in Mass Shootings, 1966-2016

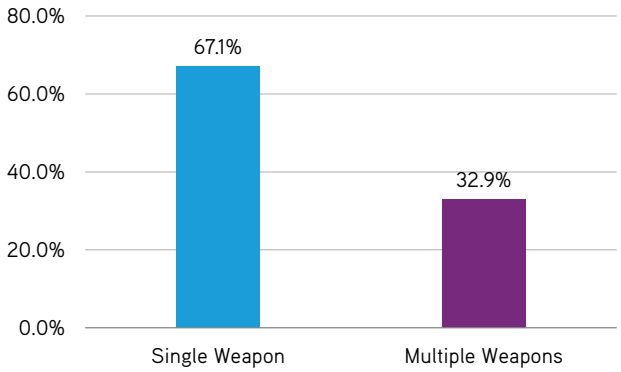
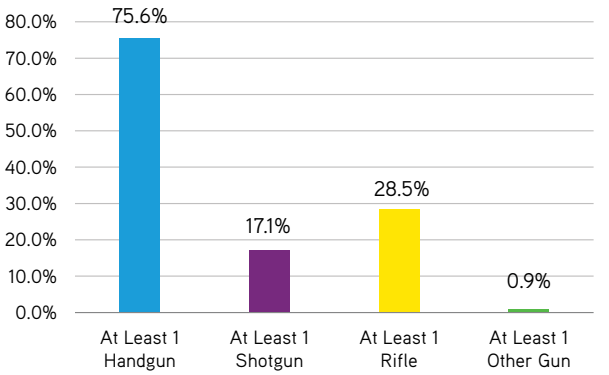


FIGURE 2. Types of Weapons Used in Mass Shootings



12 One example of this is the 2014 shooting in the Isla Vista community of Santa Barbara, California.
13 Based on author computations. This calculation is not included in the figures presented.

Demographics of the Perpetrators

Across the 340 mass shootings identified between 1966 and 2016, there were 352 perpetrators. Just over 96 percent of the shooters were male, most of whom acted on their own (Figure 4). Conversely, there were just fourteen female offenders, twelve of whom acted alone. In just eight shootings (2.4 percent), multiple shooters were present. Mass shootings with co-offenders more commonly involved two or more males.

The distribution of age of the shooters is presented in Figure 5. The average age of a mass shooter is 33.4 years. The youngest shooter was eleven years of age, while the oldest was eighty-eight. Nearly half (46 percent) of the 352 shooters were under the age of thirty at the time of their crimes, with 16 percent of those perpetrators being juveniles (those individuals under the age of eighteen).

Race was reported for 304 (86 percent) of the shooters, the distribution of which is illustrated in Figure 6. Despite common misperceptions that all mass shooters are white, the findings indicate that while a majority are, this proportion is just over half of the perpetrators (53.9 percent). More than one in four shooters is black and nearly one in ten is of Hispanic descent. Fewer than 5 percent of mass shooters were classified as Asian, Native American, or of other racial or ethnic descent.

FIGURE 3. Sex of Mass Shooters by Event Circumstance

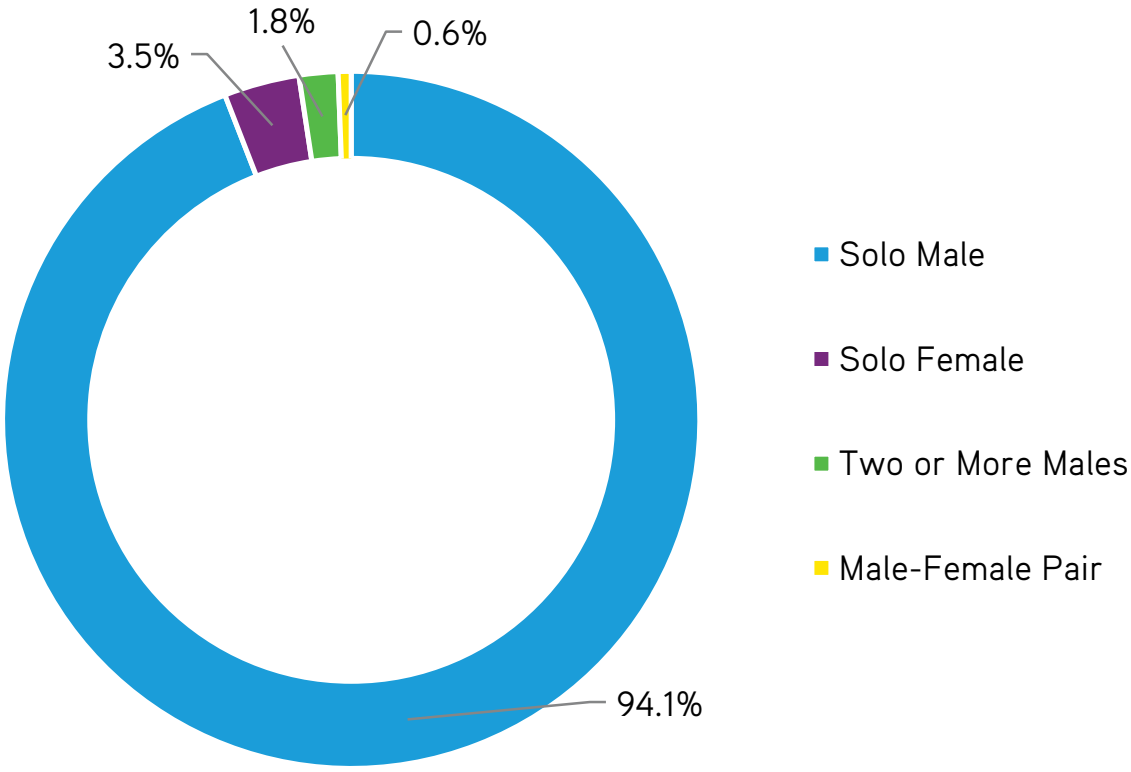


Exhibit 4
0161

FIGURE 4. Distribution of Age across Mass Shooters

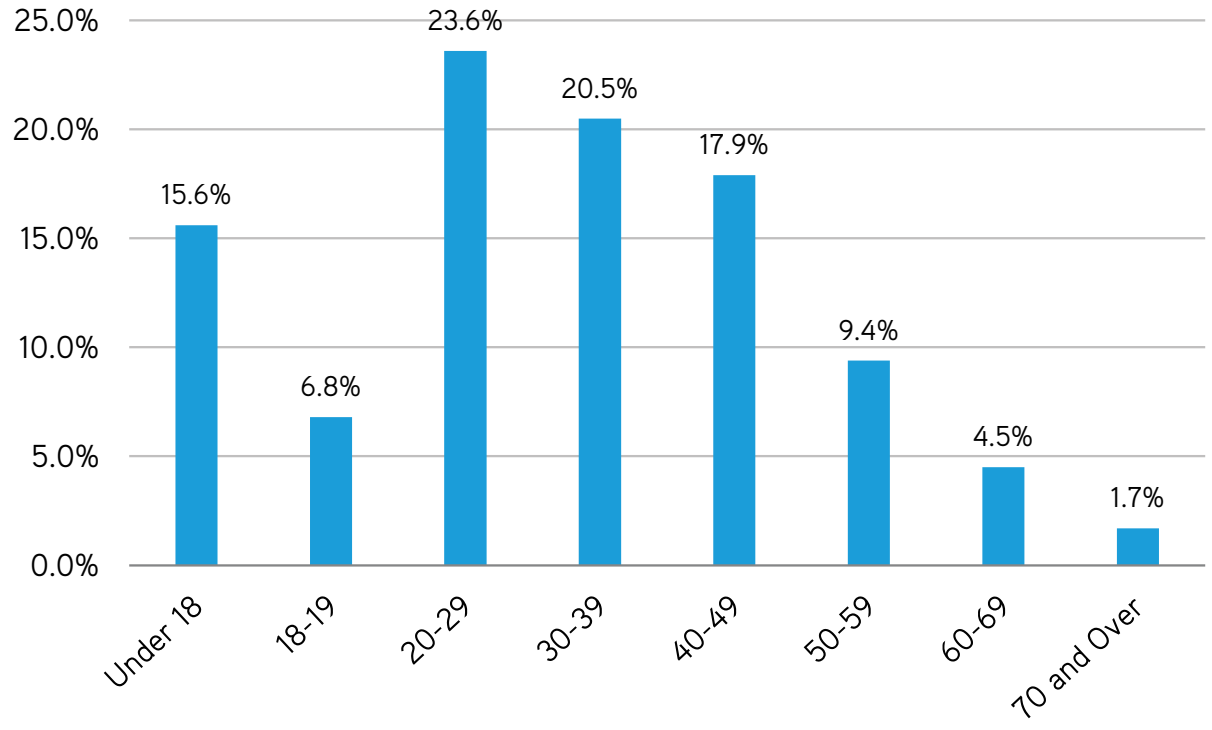


FIGURE 5. Distribution of Race/Ethnicity across Mass Shooters

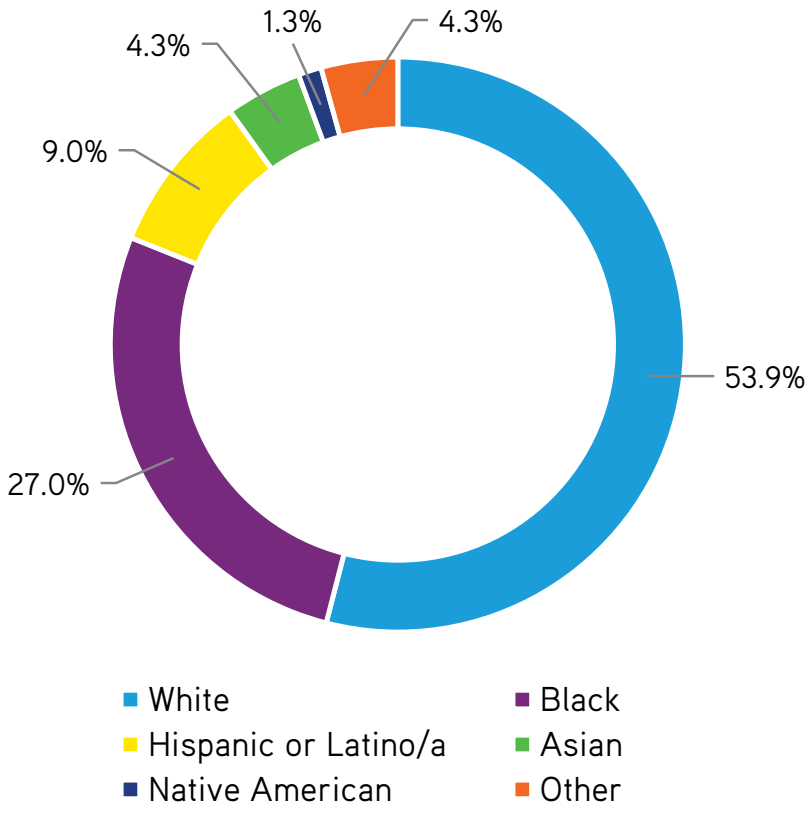


Exhibit 4
0162

Mass Shooting Trends over Time

Over the fifty-year period examined (1966-2016), mass shootings have been steadily increasing each year (Figure 7). While several of the earlier years experienced no mass shootings (based on the definition used here), five years exceeded twenty events, all of which occurred within a six-year period (2009-14). The most shootings in one year (twenty-two) took place in 2009.

When examining the distribution of the number of events by decade, as illustrated in Figure 8, we again can observe the continual increase in mass shootings. While there were only twelve such events between 1966 and 1975, 183 mass shootings were identified during the period between 2006 and 2016. Additionally, there is a steady increase in the average number of events per year when examining mass shootings over the last five decades. Still, on average, there are fewer than twenty mass shootings annually.

Finally, while the risk of becoming the victim of a mass shooting is extremely low, there has been a similar increase in this rate over time (Figure 9). Using data from the U.S. Census to account for changes in population over time, the average incidence rate for total victimization (both injuries and fatalities) due to mass shootings between 2006 and 2016 was nearly 0.04 per 100,000 people in the population, almost seven times greater than the incidence rate between 1966 and 1975. Since 1986, individuals victimized in a mass shooting were more likely to be injured rather than killed. This is due, at least in part, to improvements in medical technology, advances in active shooter training and related protocols, and faster response times by law enforcement and other first responders.

There is a steady increase in the average number of events per year when examining mass shootings over the last five decades. On average, under Schildkraut and Elsass's definition, there are between nineteen and twenty mass shootings annually.



FIGURE 6. Distribution of Mass Shootings by Year

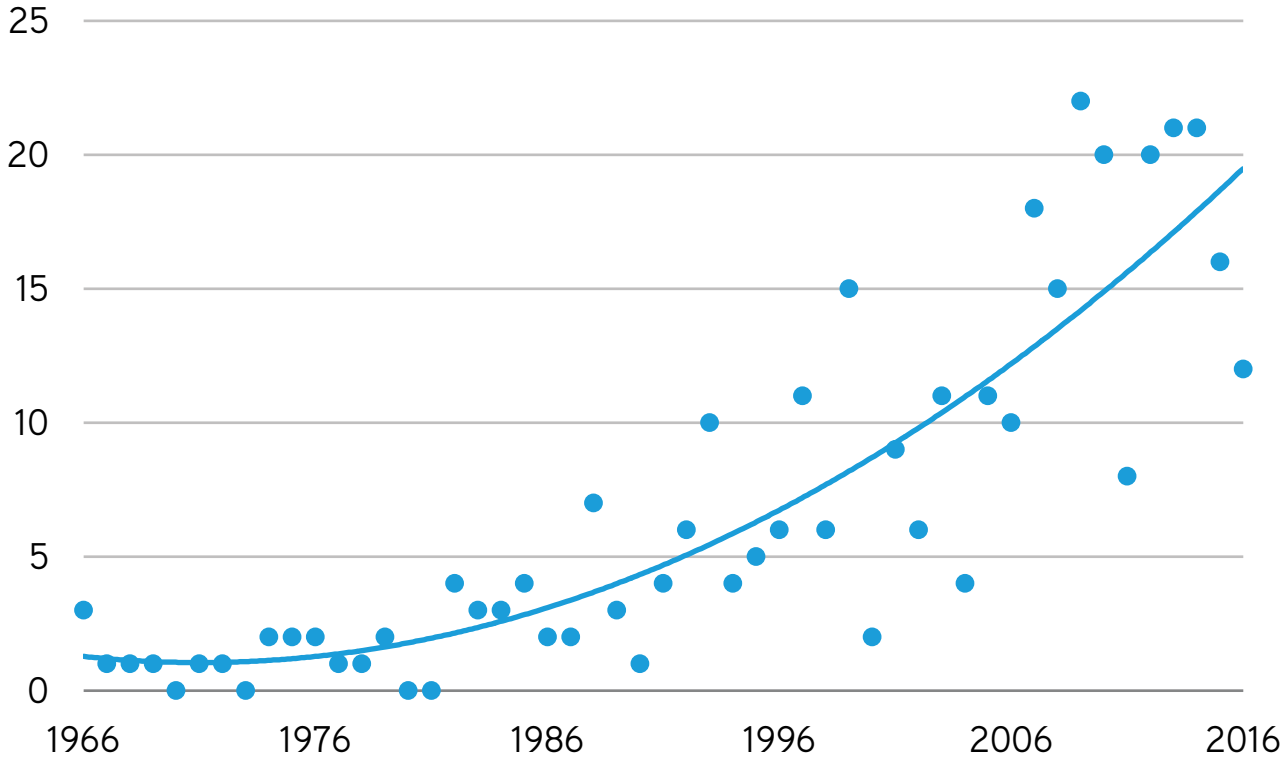


FIGURE 7. Frequency of Mass Shootings by Decade and Average Number of Shootings by Year, 1966-2016

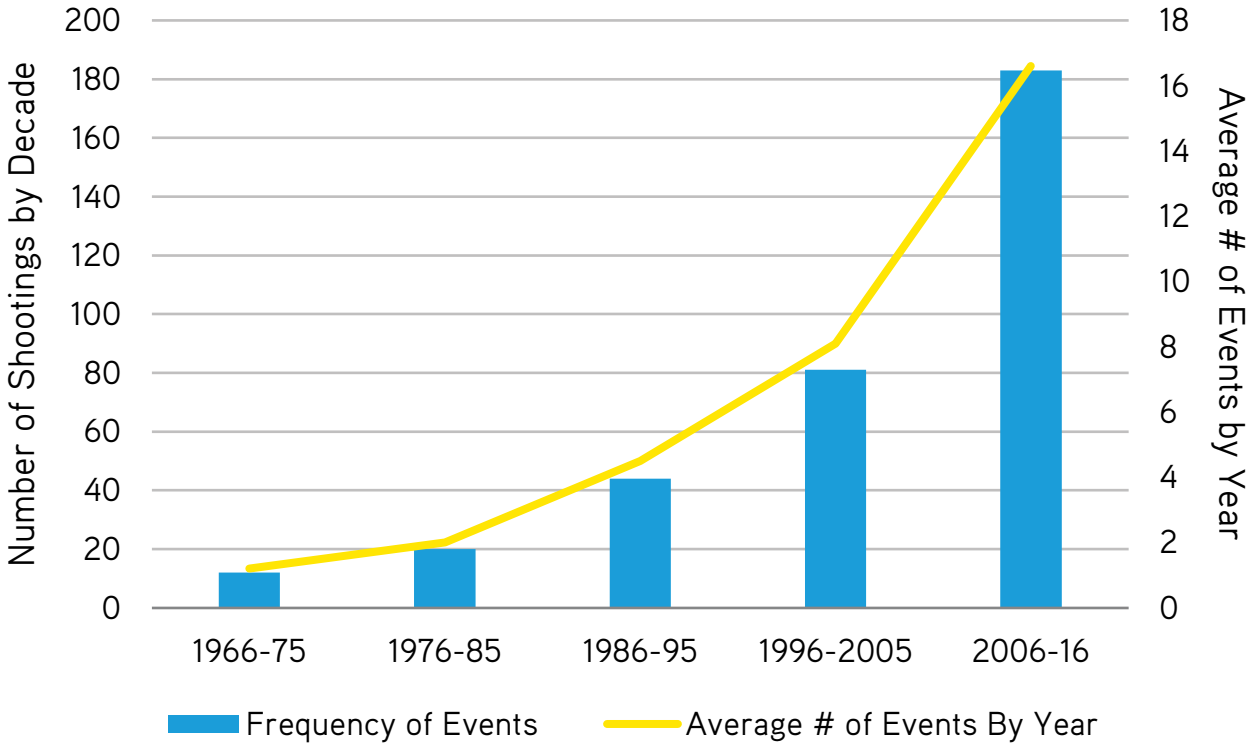
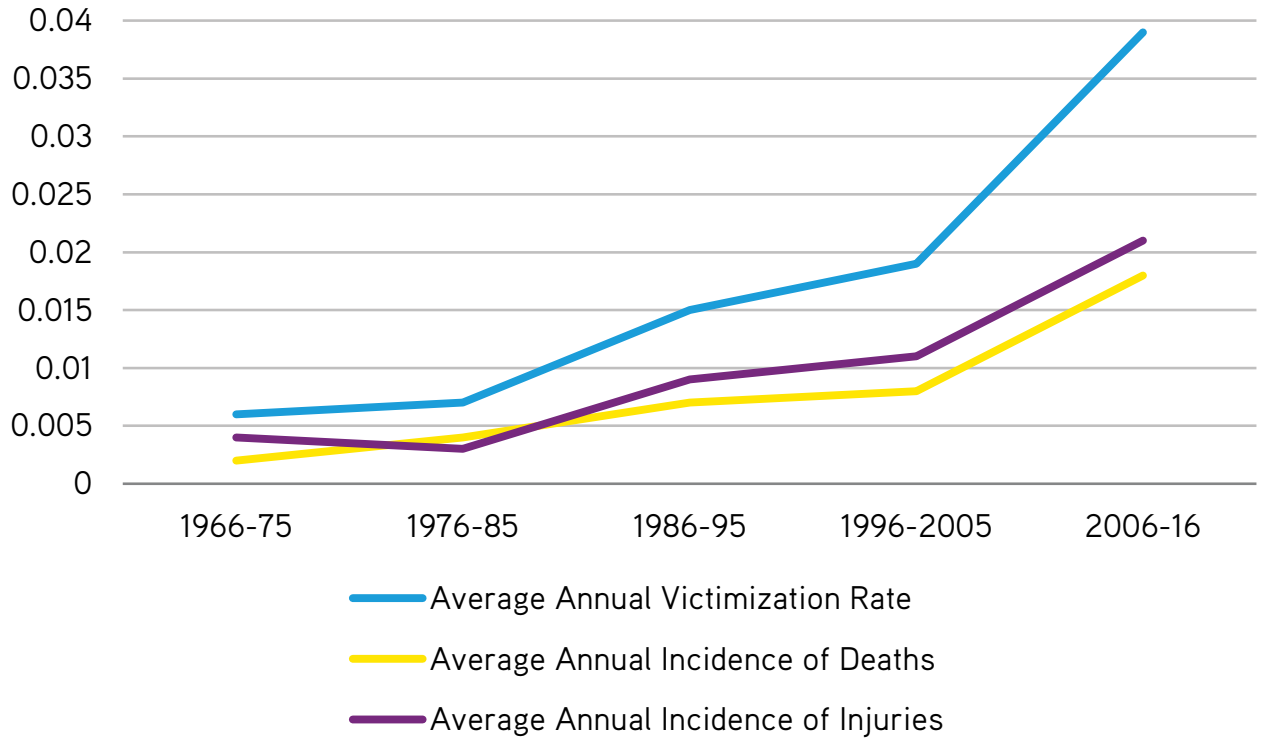


FIGURE 8. Average Annual Incidence Rates of Victimization Due to Mass Shootings by Decade



A Roadmap for Policymakers

Knee-jerk reactions rooted in emotion will not solve the problem. The evidence produced to date shows that the problem requires solutions that are versatile and grounded in evidence in order to be effective. Although mass shootings occur considerably less frequently than portrayed by the media, the findings are that they have increased over time. While some of our most populous states have experienced a majority of the mass shootings over time, there are states that have never had one. Schools and workplaces are more likely to be the site of a mass shooting and policy efforts should focus more intensely in those areas. Further, although common public perceptions of mass shootings include use of assault rifles, more than three-quarters of mass shootings actually involve handguns. Therefore, it is incumbent to find evidence-based solutions to this growing problem. Given the regional, demographic, and type of gun used data, a one-size-fits-all approach may not work — tailored solutions may work better depending on the state and the community. Future works by the consortium will explore these issues.



States for Gun Safety

Gun Violence Research Consortium

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EXHIBIT "5"

Economic Inquiry Advance Access published June 29, 2006

ABORTION AND CRIME: UNWANTED CHILDREN AND OUT-OF-WEDLOCK BIRTHS

JOHN R. LOTT JR. and JOHN WHITLEY*

Legalizing abortion can either increase or decrease investments in children's human capital. This article finds that abortion increases the number of out-of-wedlock births. Using data that more directly links the criminal with age when the crime was committed, not age when arrested, and fixing the assumption in previous research that no abortions took place prior to the Roe v. Wade *decision in the 45 states affected by that decision, we find consistent significant evidence that legalizing abortions increased murders by over 7%. Linear estimates indicate that legalization increased total annual victimization costs by at least $3.2 billion.* (*JEL* K42, K14, J24)

I. INTRODUCTION

With violent crime rates dropping by 31% from their peak in 1991 to 1999 and murder rates declining by 42%, many explanations have been offered. This drop is all the more interesting because it occurred while some academics had predicted the rise of super predators and an explosion of crime.[1] In the debate, many plausible explanations for this decline have been advanced, such as increased arrest and conviction rates, longer prison sentences, "broken windows" or "problem-oriented" police policies, the ending of the crack epidemic, a strong economy, right to carry concealed handgun laws, and legalizing abortion during the early 1970s.[2] Generally, all these explanations could be simultaneously true. Most scholars agree that the crime reduction must be due to a range of factors, though they disagree on which ones are important.

Recently Donohue and Levitt (2001) suggested that "legalized abortion may account for as much as one-half of the overall crime reduction" during the 1990s, legalization accounted for even more of the drop in murder rates. One of their estimates implies legalizing abortion accounts for 25 percentage points of the 31-percentage-point drop in murder between 1991 and 1997 (2001, table IV, column 6). Two possible hypotheses were advanced. Abortion may have prevented "unwanted" children from being born. These unwanted children might, if born, have had smaller investments in human capital by their parents and thus been more prone to end up in trouble when they grew older (e.g., Bouza (1990) or Morgentaler (1998)).[3] Second, there is the less savory issue of whether abortion simply heavily culls out certain groups disproportionately involved in crime (e.g., poor black males).

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1. Lynette Clemetson, "The Gospel According to John," *Newsweek*, February 12, 2001, p. 25.

2. For evidence on all these explanations except for abortion see Lott (2000, chap. 9).

3. Henry Morgantaler, one of the leading proponents of abortion in Canada for several decades, notes (1998) that "it is well documented that unwanted children are more likely to be abandoned, neglected and abused. Such children inevitably develop an inner rage that in later years may result in violent behaviour against people and society.... I predicted a decline in crime and mental illness 30 years ago when I started my campaign to make abortion in Canada legal and safe. It took a long time for this prediction to come true. I expect that things will get better as more and more children are born into families that want and desire them, and receive them with joy and anticipation" (Morgentaler 1998). Similarly, Bouza, the Minneapolis police chief, wrote (1990) that abortion is "arguably the only effective crime-prevention device adopted in this nation since the late 1960s."

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Given the possible racial implications, it is important to separate these two hypotheses. This concern has been particularly raised by those pointing out that blacks account for over 30% of the abortions since the early 1970s.[4] One simple test would have been to measure whether the drop in crime still occurred after directly accounting for the changing racial composition of the population.[5]

Although it is indeed quite plausible that abortion would result in fewer unwanted children who have smaller investments in human capital and higher probabilities of engaging in crime, the legalization of abortion may have increased the number of out-of-wedlock first births.[6] If true, the prediction for crime is the opposite of the Bouza-Morgentaler-Donohue-Levitt hypothesis. Others note that the legalizing of abortion might contribute to a coarsening of society and thus lead to more crime.[7]

This article directly links the number of abortions when a cohort was born to the crimes that cohort later commits using the Supplemental Homicide Report to more directly link murders to the age of the murderer and the Centers for Disease Control (CDC) estimates on the number of abortions. We find that legalizing abortion was associated with a statistically significant increase in murder rates.

II. THE RELATIONSHIP BETWEEN LEGALIZING ABORTION AND CRIME

The central question is really how abortions alter human capital investments in marginal children. To Donohue and Levitt, the marginal children are "unwanted" ones whose parents would not have taken good care of them.[8]

But the legalization of abortion might also cause women to have children out of wedlock. Akerlof et al. (1996) focus on the fate of the children who were born (not on what fate would have awaited each child had they not been aborted). From the 1960s through to the late 1980s (the last years in which births could have any effect on crime rates during the 1990s), there has been a tremendous increase in the rate of out-of-wedlock births. On average during 1965–69, only 4.8% of whites were born out of wedlock, rising to 16.1% 20 years later (1985 to 1989). For blacks, the numbers rose from 34.9% to 61.8%. As Akerlof et al. (1996) point out, unmarried women used to be much more likely to put up their children for adoption. In 1969 only about 28% of children born out of wedlock were being raised by mothers who were still unmarried within three years. By 1984, that same fraction doubled to 56%. Hence, before legalized abortion most of the children born out of wedlock ended up in families with a father.

To Akerlof et al., the legalization of abortion reduced women's ability to withhold premarital sexual favors from men. Women who are willing to obtain an abortion are more likely to engage in premarital sexual activity without a promise of marriage should pregnancy occur. However, other women who are unwilling to obtain an abortion face competition from women who are willing to obtain an abortion as men "seek satisfaction elsewhere" (Akerlof et al. 1996, pp. 296–97). Furthermore, as premarital sex and out-of-wedlock births became more common, the stigma declined and social pressure for couples to marry also declined, hence reducing investment in the child.[9]

4. *Abortion Surveillance: Preliminary Analysis—United States, 1996*, CDC, December 4, 1998, 47(47); 1025–1028, 1035.

5. In a response to this article when it was presented at the American Law and Economic Association meetings in 2001, Donohue argued, "If abortion is changing a state's demographics, then controlling for demographics is inappropriate when trying to measure the impact of legalized abortion." We argue that is precisely what you want to account for if you want to see whether the impact of crime is due to the changing quality of people within groups as opposed to eugenics-type claim that the drop in crime results from culling out those portions of the population who are likely to engage in crime. However this article goes further and examines the results both with and without demographics.

6. Recent work by Klick and Stratmann (2003) indicates that sexual activity increased dramatically after legalized abortion. Grossman and Joyce (1990, pp. 1000–1) provide interesting results that the number of abortion providers in New York City is negatively related to birth weight.

7. George F. Will, "More Abortions, Fewer Crimes?" *Newsweek*, April 30, 2001, p. 84.

8. They cite evidence that aborted pregnancies would have resulted in children who "would have been 60 percent more likely to live in a single-parent household, 50 percent more likely to live in poverty, 45 percent more likely to be in a household collecting welfare, and 40 percent more likely to die during the first year of life" (Gruber et al. 1999, p. 265). They point to evidence that unwanted children and those raised in "an adverse family environment" are "strongly linked to future criminality" (p. 11). However, the discussion relating human investments in crime is more complicated than this because assumptions must be made about how the reduction reduces the return to legitimate relative to illegitimate activities (Lott 1987).

9. Contraceptives make abortion less of an issue, and it seems likely that the knowledge and correct use of contraceptives is much higher among intelligent women. For them the cost of premarital sex is lower, and they will face relatively few unwanted pregnancies.

Both effects are likely to be going on at the same time. "Unwanted" children may indeed become less common after abortion, with those potential children avoiding the problems of an adverse family environment and a higher likelihood of crime. At the same time, other women who want children and are unwilling to have abortions find that they are raising children on their own, which also entails a smaller investment in human capital compared to the situation that existed before abortion was legalized. It is unclear which effect will dominate, and thus whether the investment in children's human capital will increase or decline.

Both effects are also consistent with an observed reduction in fertility rates. Women who do not want children obviously can terminate pregnancies. Women who do not want to avail themselves of abortions are now more willing to engage in risky premarital sex and more likely to end up with more out-of-wedlock births, but this is still a less attractive option than they faced before abortion was legal when they would have been able to wait until marriage for sex and have had children within a marriage. Women with children may also find marriage at a later date more difficult.

Finally, whereas Akerlof et al. don't extend their discussion to crime, both theories relate abortion to crime rates through the level of investment in a child's human capital. The percentage of children born out of wedlock and the rate at which those children are raised by their unwed birth mother are easily observable, yet it is more problematic to link such time-series evidence to the legalization of abortion. In contrast, the types of homes in which children had they not been aborted would have grown up in is even more hypothetical. By 1980, 665,747 children were born out of wedlock and almost 1.3 million were aborted; both numbers are large, but more information is needed to answer what happens to investment in human capital and thus crime.

III. CHANGES IN MURDER RATES BY AGE RANGE

Five states are classified by Donohue and Levitt as legalizing abortion prior to the *Roe v. Wade* decision in January 1973. California's Supreme Court legalized abortion in late 1969 and Alaska, Hawaii, New York, and Washington legalized abortions through legislation the following year. The data used in their regressions assume that no abortions occur in any state other than these five prior to 1973.[10] However, there are doubts whether this simple classification accurately reflects the ease of obtaining abortions: abortion data from the CDC indicate that other states that allowed abortions only when the life or health of the mother was in danger actually had higher abortion rates than some states where it was legal (see Table 1).[11] For example, in 1972, Maryland, Oregon, New Mexico, Kansas, and the District of Columbia had abortion rates that were as high or higher than the states where abortion was legal. Still other states such as Wisconsin, Colorado, and Delaware were not very far behind.

Overall, 23 states in 1972, 20 in 1971, and 5 in 1970 are incorrectly listed in their data as not having abortions.[12] Other publications also use Donohue and Levitt's abortion data (e.g., Joyce 2004; Garmaise and Moskowitz 2004; though Joyce 2006 now makes similar points to the ones raised here).

The assumption of zero legal abortions in the late adopting states prior to *Roe v. Wade* is not a random error and systematically lowers their abortion rates relative to the early adopting states during the years between when the early adopting states started allowing abortions and the *Roe v. Wade* decision.

10. The correlation between the CDC's measure of abortions and those used by Donohue and Levitt is 0.91 for abortions from 1973 to 1985, but it falls to 0.84 from 1970 to 1985 because of the assumption that there are no abortions in the nonlegalizing states prior to 1973. Using data we provided them, Donohue and Levitt (2004, p. 34) do report three regressions with the CDC data up until 1981 (not 1985), but these are only for the regressions that create their aggregate measure of abortion and not the arrest rate data that they also use that roughly tries to link the criminal's year of birth with the year of the murder. The estimates employed here will be more equivalent to their more disaggregated regressions that use the arrest rate data, not their estimates using the aggregate effective abortion rate. As will be discussed later, the Supplemental Homicide Report is the standard data set used for linking the characteristics of the murderer with the victim (not the Uniform Crime Report used by Donohue and Levitt), and that is the data set that we will use in this article. One comment should also be made: We were the ones who supplied Donohue and Levitt with the CDC data on abortion rates.

11. We originally discovered the abortion data from the CDC when the data that Donohue and Levitt used from the Alan Guttmacher Institute was not made available to us when we put this article together.

12. Donohue and Levitt do not include data on the number of abortions prior to 1970.

TABLE I

Comparing Abortion Rates for States Where Abortions were Legal (in bold) versus Those where Abortions Could be Done When the Life or Health of the Mother is in Danger

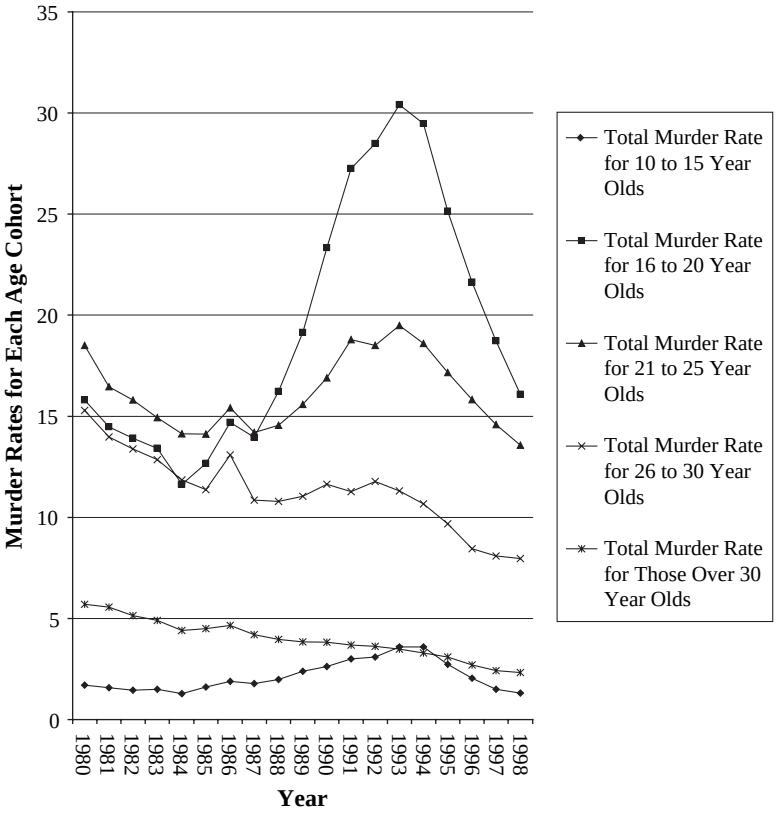
1969		1970		1971		1972	
State	No. Abortions per 1,000 Live Births	State	No. Abortions per 1,000 Live Births	State	No. Abortions per 1,000 Live Births	State	No. Abortions per 1,000 Live Births
California	**35**	**Alaska**	**120**	Alabama	7	Alabama	19
Colorado	25	**California**	**172**	**Alaska**	**160**	**Alaska**	**169**
Georgia	2	Colorado	53	Arizona	20	Arizona	7
Maryland	31	D.C.	268	Arkansas	18	Arkansas	24
		Delaware	55	**California**	**344**	**California**	**420**
		Georgia	7	Colorado	101	Colorado	136
		Hawaii	**204**	Connecticut	16	Connecticut	66
		Maryland	101	DC	703	DC	1801
		New Mexico	73	Delaware	114	Delaware	151
		New York	**534**	Georgia	17	Florida	42
		North Carolina	13	**Hawaii**	**261**	Georgia	29
		Oregon	199	Kansas	277	**Hawaii**	**295**
		South Carolina	8	Maryland	145	Kansas	369
		Virginia	14	Massachusetts	33	Maryland	178
		Washington	**83**	Mississippi	2	Massachusetts	41
				New Mexico	219	Mississippi	1
				New York	**927**	Nebraska	34
				North Carolina	46	New Mexico	291
				Oregon	206	**New York**	**1183**
				Pennsylvania	36	North Carolina	94
				South Carolina	14	Oregon	228
				Vermont	1	Pennsylvania	52
				Virginia	46	South Carolina	17
				Washington	**265**	Tennessee	0
				Wisconsin	65	Vermont	32
						Virginia	60
						Washington	**377**
						Wisconsin	116

Donohue and Levitt have argued since the publication of their article that excluding abortions in the "nonlegal" states is justified because only relatively well-to-do mothers were able to "game the system" and obtain abortions and that the offspring of these mothers were not the type who would likely have engaged in criminal activity.[13] Although there is no direct data on the wealth of the women who have abortions, we can proxy their wealth by using information on a woman's race. Two different racial categories are available from the CDC: blacks and others or whites. The evidence indicates that if anything relatively poorer women made up a larger share of abortions in the nonlegal states. Blacks and other women make 24% of the female population between 10 and 49 years of age and the same percentage of live births, but they account for 30% of the abortions in nonlegal states prior to 1973. By contrast, they make up 32% of the female population and 33% of live births in the five legal states, but only 21% of the abortions.

Although we will rely on Donohue and Levitt's classification in this section, including other states as early adopters, with abortion rates at least as high as those where it was legal, produces results that were more inconsistent

13. Based on comments made at the 2001 American Law and Economics Association meetings.

FIGURE 1
Timing of Changes in Murder Rates for Different Age Cohorts



with their hypothesis.[14] We will graphically examine the changes in crime rates, first comparing murder rates across different age groups in United States over time and second by comparing crime rates in the states that first legalized abortion to other states.

Also important, we will use the Supplemental Homicide Reports instead of the arrest reports in the Uniform Crime Reports because they allow us to much more accurately disaggregate the number of murders committed by each age for each state.[15] Suppose the legalization of abortion can explain up to 80% of the drop in murder during the 1990s, as suggested by Donohue and Levitt. Such a huge drop in crime should be readily observed first in the youngest age categories and then gradually appear in progressively older age groups as they were born after abortion was legalized. To examine this, we broke down the number of murderers into five age categories: 10- to 15-year-olds, 16- to 20-year-olds, 21- to 25-year-olds, 26- to 30-year-olds, and over age 30. By far the highest murder rates (the number of murderers in an age category divided by the number

14. Joyce (2004) and Foote and Goetz (2006) argue that the District of Columbia should also be included as an early adopter, and making this change would strengthen our findings that legalization increases crime. Simply to be consistent with Donohue and Levitt, we primarily use the number of abortions reported in a state, though we also provide results that adjust for whether people are coming from other states to have their abortion. We measure the total number of abortions by state, though the results are extremely similar if we simply used the number of abortions for a state's residents. This is shown in Table 3, and doing so makes the affect of abortion more positive and statistically significant.

15. Arrests are a poor measure of crimes because arrests can frequently occur in different years from when the crime took place. The Supplemental Homicide Reports also do a much better and much more complete linking of the characteristics of the murderer with those of the victim. The simple arrest rate data from the Uniform Crime Report contains many missing observations for the age of the murder that are not found in the Supplemental Homicide Reports.

FIGURE 2
Comparing Early versus Late Legalizing States

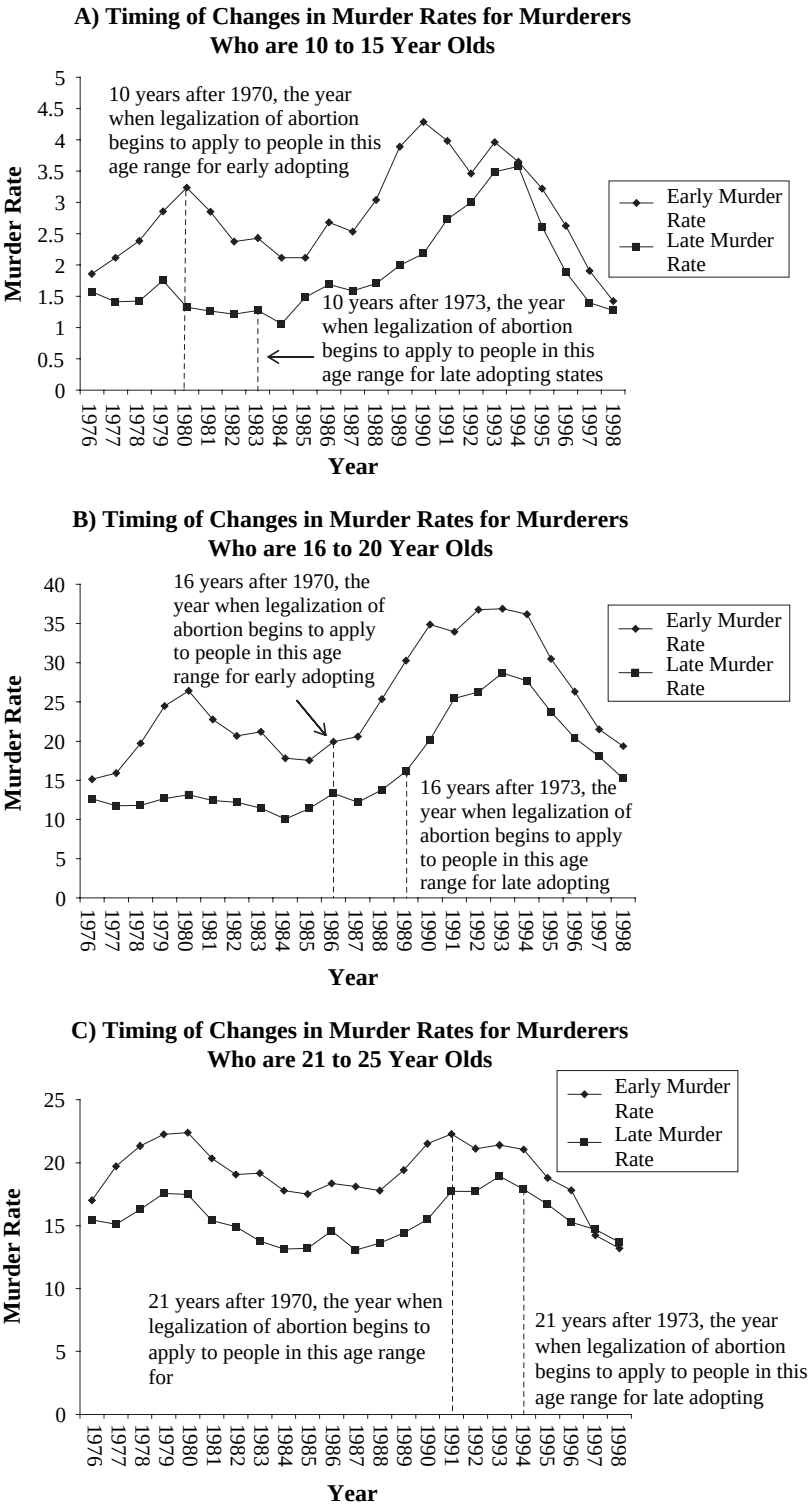
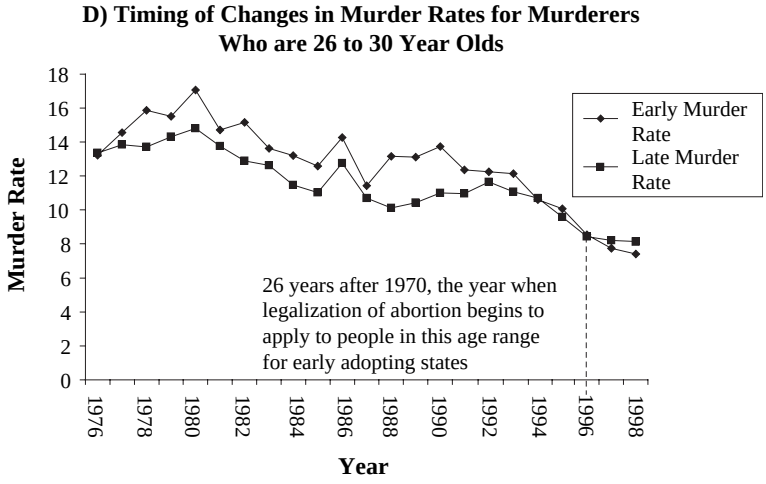


FIGURE 2
Continued



of people of that age) are concentrated in two age categories 16–20 and 21–25, with the murder rate for 26–30-year-olds ranking third.

Figure 1 shows how the murder rates varied by age for the period from 1976 to 1998. The murder rate changes appear to be more consistent with the theory that legalizing abortion increased (rather than reduced) murder rates. The murder rates for the two oldest age groups (26–30 and over 30 years of age) fall almost over the entire time period. The next two oldest age groups (16–20 and 21–25 years of age) both peak in 1993. Finally, the youngest age group peaks last in 1994.[16]

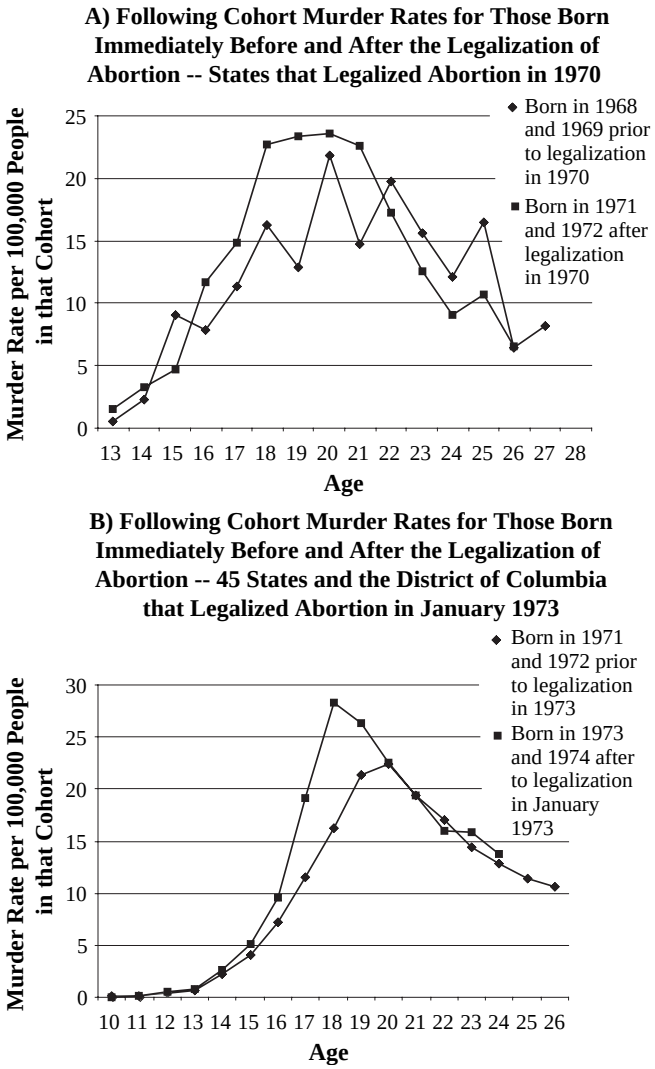
16. Foote and Goetz (2006) provide similar figures for violent and property crime rates. Although we are focusing on who is committing the crimes, it is also possible to produce a figure for the victimization rate, and it produces a similar pattern where the victimization rate for the oldest people begins to decline first. Another way of summarizing this information is to examine the average age of murderers. If murder rates first declined among the youngest, the average age of murderers should be rising. Yet, as Figure 1 implies, the average age of murderers fell almost continually from the mid-1970s to the 1994, declining from 30.9 years of age in 1977 to 27 in 1994. Only after 1994 has there been a slight rebound in the average age as the younger age groups began to reverse their increase in rates of committing murder which began in the mid-1980s. By 1998, the average age of murderers had risen back up to 28 years of age. This diagram also provides a caution for Donohue and Levitt's use of an aggregate abortion rate that creates an index that assumes the share of murders committed by different ages remains constant over time. Using a constant weighting over time causes the early drop in murder rates to be driven by the oldest cohort of criminals even though their theory depends on the drop occurring because of a change in the behavior of younger people.

The next set of figures contrasts the changes in crime over time for five early legalizing states with all the other late legalizing states. Figures 2A–2D make this comparison for 10–15-year-olds, 16–20-year-olds, 21–25-year-olds, and 26–30-year-olds. We also investigated murderers where the age of the murderer is not known were also examined, but not shown. Murders by those over age 30 are excluded because no one in that category was born after the legalization of abortion. Besides the murder rates for the early and late legalizers, the dotted vertical lines indicate the years when legalization begins to apply to people in the age range.[17] For example, the first people born after the legalization of abortion in the early legalizing states were born in 1970 and didn't start to enter the 10–15 age category until 1980. Because legalization is not assumed by Donohue and Levitt to have occurred for the late adopters until 1973, there should be no affect on crime by 10–15-year-olds in those states until 1983.

Figures 2A, 2B, and 2C show several striking similarities. The patterns are remarkably similar over time when one compares the "early" legalization patterns across age groups to each other. The 10 to 15 year olds in the

17. The numbers in Figure 2A prior to 1980 are calculated slightly differently than the other numbers because of the inability to precisely link the ages of population with crimes by this age group. To make this link we assumed that the population group for 5–13-year-olds was uniformly distributed.

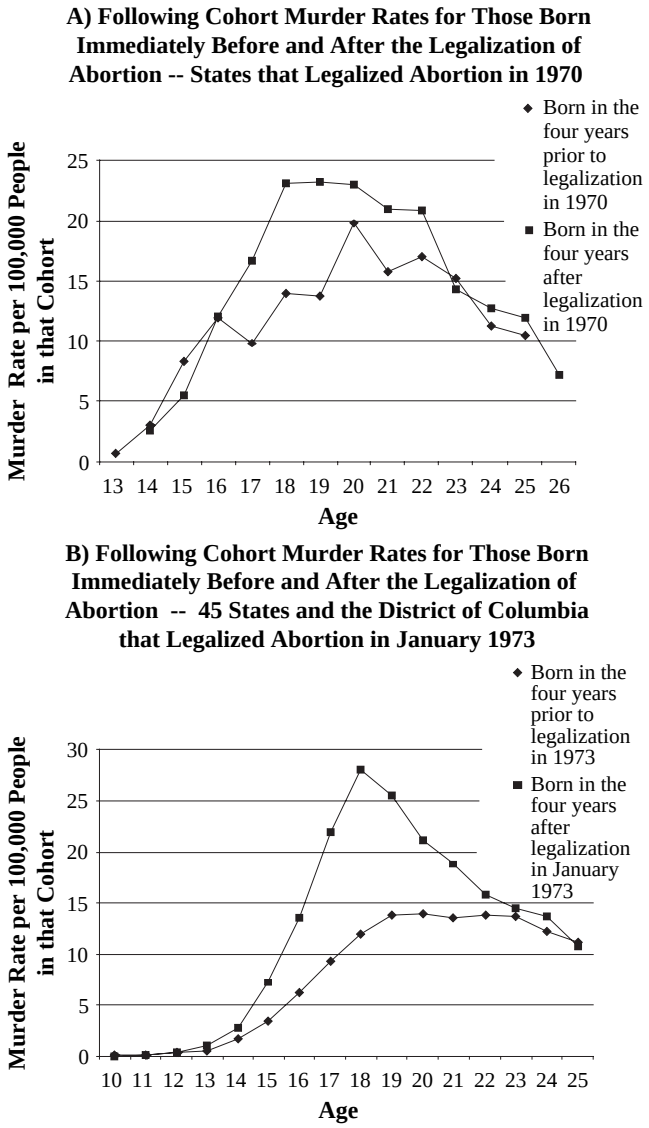
FIGURE 3
Tracing Cohorts over Time by Using a Two-Year Period on Either Side of the Legalization of Abortion



early adopters in Figure A can not be affected by abortions until 1980 and the early adopters in the older age groups in Figures B and C can not affected until 1986 and 1991, respectively. Thus, if abortion is driving the murder rates for the early adopters in the first three figures, the patterns should be lagged by about six years for 16 to 20 year olds and then another five years for 21 to 25 year olds. Instead the three early adopter patterns are remarkably similar to each other. All three rise from 1976 to 1980, then fall from 1980 to 1984, then rise into the 1990s, and finally fall together again over the last five years. The same similarity also holds true for the three late adopting patterns. All three decline from 1980 to 1984, then rise, and then fall together again.

Figures 2A to 2D further show a remarkably similar pattern across early and late adopting states despite abortion legalization affecting the late legalizers with a three-year lag. It is also clear that despite legalization beginning to affect people in the different age groups at different times there is little obvious relation to any changes in murder rates. Although murder rates declined when abortions were legalized for early

FIGURE 4
Tracing Cohorts over Time by Using a Four-Year Period on Either Side of the Legalization of Abortion



adopters for 10–15-year-olds and early and late adopters for 21–25-year-olds, murder rates rose after legalization for late adopters in the 10–15-year-old age range and early and late adopters for 16–20-year-olds. Examining both early and late adopters for the 26–30-year old age group, the legalization of abortion does not seem to speed up what had been a fairly continuous drop in murder rates over the whole period. If legalizing abortion is having any effect on murder rates, it is not obvious from this raw data.[18]

The murder rates for murderers of unknown age also show a similar pattern in murder rates for both sets of states. The murder rates peak in 1993 for the early adopters and 1994 for the late adopters. Again, the

18. The gap between early and late adopters also does not vary in ways that can be explained by the legalization of abortion. For example, in Figures 2A and 2B the gap between early and late adopters falls from 1980 to 1985 in both graphs even though legalization cannot possibly begin to impact the 16–20-year-olds in Figure 2B until 1986.

timing of these peaks do not seem consistent with legalized abortion: There is no difference in when the peaks in murder rates occurred and there is too long of a lag after legalization.

It is also possible to compare the murder rates by people born immediately before and after abortion legalization. The top panel in Figure 3 is for people born immediately two years before or two years after the legalization of abortion in the five early adopting states. The second panel does the same thing for those living in the 45 states and the District of Columbia that were affected by *Roe v. Wade*. The graphs tack these cohorts crime rates from their teens through their twenties. There is some difference in murder rates as these cohorts age, particularly during the late teenage years. For example, in B, while the murder rate among those born after legalization rises faster up until age 18, this group also has a slightly faster decline in murder rates after that point. In A, those born prior to legalization have higher murder rates for nine ages, and the reverse is true for five ages. It is possible to include additional years before and after legalization, and this does show a somewhat higher murder rates during middle age years for those born after legalization (e.g., see Figure 4 for a period of four years before and after legalization), but allowing more years to elapse between cohorts makes comparisons more difficult because other factors may be changing.[19]

Finally, a breakdown according to the sex of the murderer is also possible. Some abortions are done to selectively choose the sex of infants, and this has become progressively easier over time. The presumption is usually that female offspring are less desired than males and thus aborted at relatively higher rates, possibly implying greater drops in violent crime by women.[20] Yet murders by women fell continually during the 1980s and 1990s. The entire difference between overall murder rates increasing in the last half of the 1980s and the dropping during the 1990s is driven by males. Breaking down murders for women and men by the age of the killer (not shown here) again confirms what was reported in Figure 1: The drop in murder rates is first observed for the oldest age categories. The abortion argument does not seem to apply to abortions of females.

IV. HOW TO TEST THE RELATIONSHIP BETWEEN ABORTION AND CRIME

As just noted, the major benefit of the Supplemental Homicide Report is to move beyond these aggregate crime and abortion numbers and directly link the age of the murderer with the year in which the crime occurs.[21] To use this data in a regression

19. Graphs showing one and also three years before and after the legalization are also available.

20. The explicit systematic use of abortion to select male offspring appears most widespread in Asian countries and India, but discussions also arise in the U.S. press. See Michael Breen, "Daugthers Unwanted: Asian's Preference for Sons Makes Abortion Rate Soar," *Washington Times*, February 13, 1993, p. A1; Sharon Rutenberg, "'Custom-Made' Families by Sex Selection," United Press International, May 31, 1983; Owen D. Jones, "Made-to-Orders Babies," *Connecticut Law Tribune*, September 6, 1993, p. 19.

21. Donohue and Levitt create an "effective abortion rate" that weights the number of abortions in different past years by the percent of total arrests for a particular crime that occur for people who were born in that year. It is a creative approach, but as with most aggregation problems, there are risks. One of the dangers in using the aggregate crime rate across all ages is that they may incorrectly link changes in total crime rates to the wrong age groups. Donohue and Levitt also made other compromises in creating the effective abortion rate. They assume that the relative rates at which different age groups commit crime is not only the same across all states but is also constant over time. This assumption causes these results to miss that it is the drop in murders by older people that is responsible for the drop in murder rates to occur during the early 1990s (Figure 1). For example, while murders by 16–20-year-olds made up 12% of total identified murders in 1984, they made up 21% in 1994. Similarly, the assumption that crime is committed at the same rate by different age groups across states and over time is another oversimplification (see figure 5 at http://ssrn.com/abstract=270126). We redid the results reported in Donohue and Levitt's table IV: (1) assuming that no abortions occurred when not defined as legal by Donohue and Levitt or using CDC abortion data for all years in calculating the effective abortion rate, (2) using national average weights for 1985 or state- and year-specific weights in calculating the effective abortion rate, and (3) using either the Uniform Crime Report murder rate or the murder offender rate from the Supplemental Homicide Report (more details are available in table 2 at http://ssrn.com/abstract=270126). Donohue and Levitt's (2001) results in their table IV column 6 implied a 0.43% drop in murder for each 1% increase in abortions. This accounts for 25% of the 30% drop in murder between 1991 and 1997. By contrast, when we used all the abortion data available and used state and year weights in determining the share of crimes committed by each age group instead of assuming constant shares across states and years, the same specification implies that each 1% increase in abortion raises the murder rate by 0.08%. Everything else equal, abortion slightly increased murder rates by 1.3% between 1991 and 1997. Results are available that examine how the results found by Donohue and Levitt change even when the FBI's Uniform Crime rate data are used. See the discussion in section IV here: http://ssrn.com/abstracat-270126.

analysis, we set up panel data to examine the number of murders committed by each year of age by state by year. We break down the individual ages by year from 10 to 30 years of age and then aggregate together all the murders committed by those over age 30. The age groupings are disaggregated by year born for those born when abortion may have been allowed. This panel allows us to track each cohort as they age and account for the number of legal abortions in their state in their year of birth. If abortion eliminates those in the population who are most likely to commit murder, we should observe a significantly lower murder rate among those who were born immediately after legalization. Furthermore, that difference should be traceable over time as each cohort ages.

In their estimates explaining arrests for violent crime (table VII), Donohue and Levitt drop observations where there are zero arrests for a given age. Yet excluding observations based on on the realization of the dependent variable creates potential selection bias. This problem is particularly acute for murder, which is less frequently committed than either overall violent or property crime, and it is the reason they cite for not reporting these estimates for murder. The distribution is clearly not normal. In our sample, almost a third of the observations by age by state by year have zero murders (see Appendix Figure A2 at http://ssrn.com/abstract=270126 for the entire distribution). Though the mean and variance of murders is consistent with a Poisson distribution, we deal with the count nature of the data by estimating both Poisson and negative binomial regressions (Plassman and Tideman 2001).

Obviously many factors affect the rate at which people commit murder. The most basic regressions include age, state, and year fixed effects. We also include the population in the state that are the same age as the murderers. Law enforcement efforts against murder are measured by arrest rates for murder, the execution rate in the year that the crime occurred, and the percent of the population in prison.[22] Both the last two variables are problematic because crime and enforcement rates in the past as opposed to current efforts are much more important in determining their current values. This is probably less of a difficulty for execution rates because changes in who is governor or changes in the composition of the state supreme court can have a big impact on the number of executions that take place. Using the general prison population as a percent of the total population also has the problem that only about 1% or 2% of prisoners are incarcerated for murder and any changes in enforcement against murder are likely to have small changes in even this tiny fraction because prison sentences for murder are so long.[23]

The bottom line is that the variable we would like to measure—prison sentences as deterrence against murder—would likely be swamped by the changes in enforcement for other crimes. However, the results reported here are not much affected by the inclusion of any of these variables, and we include the percent of the population in prison simply to make our results consistent with those of Donohue and Levitt.

Other factors that we account for are the unemployment rate; the poverty rate; real per capita personal income; real per capita government payments for income maintenance; unemployment insurance and retirement payments; state population density in miles; a set of demographic variables that subdivide a state's population into 36 different race, sex, and age groups (see Appendix Table 1);[24] and the trends before and after the passage of right-to-carry laws. With the exceptions of demographics and broader measures of income, the variables are similar to those used by Donohue and Levitt. We have included these other variables because they have been used in our past work (e.g., Lott 2000) and because of the importance of demographics in accounting for whether changes in crime are simply due to groups that commit crime at high rates being culled out of the population. Still, as we will show shortly, the

22. For discussions of these variables, see Lott (2000).

23. There are other theoretical problems with using the prison population. For example, prison population is a stock while the crime rate is a flow. The difficulty that this creates is that the prison population is determined by enforcement over many years, but it is the current level of enforcement that is important for determining the crime rate.

24. Available online at http://ssrn.com/abstract=270126.

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results we report are not dependent on any particular set of control variables.[25]

V. MEASURING THE IMPACT OF ABORTION ON CRIME

The panel data set covers murders committed by murderers in 22 age categories (by year of age from 10 to 30 and over 30), 50 states and the District of Columbia, and years from 1976 to 1998. In addition, 23% of the murders are in a twenty-third category covering murders committed by criminals of unknown age. Potentially there are 26,979 observations, though missing observations reduce it to 21,480, particularly the population by year of age, which is only available starting in 1980.

The first issue is what to do with the unknown age category. There are several possible approaches: (1) exclude murders where the age of the criminal is unknown, (2) include all murders but use additional dummy and trend variables to proxy for the impact of abortion for those observations because abortions numbers are not available for murderers of unknown age, or (3) use estimates included in the Supplemental Homicide Reports that distribute the unknown murderers based on the known distribution by age/race/sex of offenders by state and year. The first two approaches create problems by either censoring the endogenous variable or not being able to link the unknown murderer category to the abortion variable. The third approach is problematic because unknown murderers may be different from murderers who have been identified if only because they are more difficult cases.[26] The chief advantage of the second approach is that it does not discard any information. We primarily report the results using the second approach, but we tried all three, and the abortion variable estimate differed little across specifications.

For the second approach, we estimated the following regression:

$$
\begin{aligned}
(1)\quad \text{Murders}_{ijk} &= \beta_1(\text{Abortions}/1{,}000\ \text{Females age 15–44})_{ijk} + \beta_2\text{Population of Age Cohort}_{ijk} \\
&\quad + \beta_3\text{Control Variables}_{jk} + \beta_4(\text{State Fixed Effects} \\
&\quad \times \text{Time trend that is nonzero when the age of murderer is unknown}) \\
&\quad + \beta_5\text{State Fixed Effects} + \beta_6\text{Age Fixed Effects} + \beta_7\text{Year Fixed Effects} + \alpha + \varepsilon_{ijk}.
\end{aligned}
$$

"Murders" are the number of murders committed by a murderer of age i in state j and year k. "Abortions/1,000 Females age 15–44" are the abortions that took place in that state when that cohort was born divided by the number of women age 15–44 in that state and year (multiplied by 1,000),[27] and "population" is the number of residents of

25. Although it is difficult to directly measure the violence caused by cocaine/crack, limited cocaine price data is available for a portion of the sample from 1980 to 1992 (with the exceptions of 1988 and 1989) to proxy for the relative accessibility of cocaine in different markets. Using yearly state-level pricing data (as opposed to more short-run changes in prices) also has the advantage of picking up cost and not demand differences between counties, thus measuring the differences in availability across counties. The data was obtained from Grossman et al. (1996). The county level data is aggregated to the state level by weighting the prices by the population in the counties. The reduced number of observations provides an important reason that we do not include this variable in the regressions shown in the text. Including it leaves the coefficient on abortions virtually unchanged. Whereas simply using the price does not allow one to perfectly disentangle local differences in demand and supply, arbitrage basically ensures that except for short periods of time the differences in prices between these local markets will equal differences in selling costs. If the total cost of selling cocaine was the same in two different cities, any price differentials resulting from sudden shifts in demand would result in distributors sending cocaine to the city with the higher price until the price had fallen enough so that the prices between the two cities were equal. Distributors could even remove cocaine from the low-price city and move it to were it could obtain a higher price. Sellers could also hold inventories and not sell their cocaine during periods with unusually low demand. To the extent that it is costly to instantly move drugs between different cities or to store drugs, any price differentials in the short run can be due to demand shifts, but because we are dealing with a period of a year, it seems difficult to believe that any noncost based price differentials will not be arbitraged away.

26. Joyce (2004) uses the imputation method provided by the Supplemental Homicide Report and he is aware of the problems that this creates, though he appears to be unaware that the data are available without this lumping of known and unknown data together.

27. If the number of murders is regressed on the number of abortions, there is a scaling problem. Estimates that do those types of regressions produce similar results to those reported here (see http://ssrn.com/abstract=270126).

age i in state j and year k. For murders where the age of the murderer is unknown, the abortion variable equals zero, but the vector of state specific time trends for just that category is nonzero (to account for the otherwise unmeasured impact of abortion for unknown age murderers). We also have vectors of control variables and state, age, and year fixed effects.

Table 2 examines the simplest specifications that include all the variables and observations and examines whether the results are affected by how the law enforcement variables are accounted for. The columns show different specifications with various sets of control variables, though all include state, year, and age fixed effects. Yet to account for clustering at the state level, STATA requires that a population-averaged estimator is included. Clustering is used at the state level, and we use robust standard errors.[28]

The first column in Table 2 shows the relationship between the number of murders and abortions, and the second specification includes all the other control variables. One concern with this simple specification is that the total arrest rate for all ages for murder affects the number of murders, and the reverse is also true. Simultaneity also exists for the overall prison population, but it is much less of a problem because murderers make up only 1% or so of the total prison population. The next two columns deal with this problem. The third specification uses lagged values for the arrest rate and prison population,[29] whereas the fourth specification replaces the arrest rate for murder with the arrest rate for overall violent crimes. The arrest rate for violent crimes will still proxy for the effectiveness of police but avoids being very closely tied to current changes in the number of murders.

The final two specifications use a dummy variable for the legalization of abortion as well as the natural log of all the abortion and population variables.[30] An advantage of using the simple dummy variable is that it is more clearly exogenous, especially because other social factors might be changing over time that influence both the abortion rate and how children are raised. On the other hand, although the dummy variable will give us a measure of the average impact of the law, the number of abortions allows us to measure the differential impact of legalization across different states. The log specification not only allows the interaction of the abortion and population variables, but it allows us to use nonlinear values for those variables and puts a smaller weight on the impact of abortion in the larger states.

The top row of Table 2 reports the percent change in murders by people of a certain age from 1,000 abortions for people of that age. These incident rate ratios are reported throughout the paper and indicate that murders are increasing when the coefficient is greater than one and declining when the values are less than one. Interestingly, all the estimates imply that more abortions produce significantly more murderers when children get older, and the coefficients for the first four specifications are remarkably consistent.

To interpret the coefficients, note that the average state had 25,443 abortions in 1980 and 1,039,797 females age 15–44. The average abortion rate (abortions per 1,000 females age 15–44) was thus 24.5 (the simple average across states was 23). One more abortion per 1,000 females age 15–44 (i.e., about 4% of the average) is associated with about a 0.9% increase in murders in any given year.[31]

The last two columns imply somewhat different impacts from abortion. The dummy variable reported in column 5 indicates that legalizing abortion was associated with, on average, a 7.2% increase in murder. Whether this increase is due to the legalization of abortion for the two sets of states in 1970 and 1973 and not other general cultural factors that are also changing at about this same time is hard to say simply because there is so little difference in the adoption dates. When evaluated at the mean, the sixth column, which examines the log of the number of abortions

28. The results without clustering are available on request, though the difference is that the estimates are much more statistically significant.

29. Lagged values are problematic because in theory the current arrest and punishment levels should matter most in deterring criminals. The benefit from lagging the prison population also seems extremely small because murderers make up such a small portion of prisoners.

30. For observations where the abortion variable equals zero we added. 1 before taking the natural log.

31. One concern is whether the results are consistent across states or are being driven by a few unusual outliers. To test this, we interacted the abortion variable with a set of state dummy variables. With Alabama serving as the left out state, 41 states have higher crime rates as abortion increases, 39 of them statistically significant at least at the 10% level for a two-tailed t-test. For six states the effect was negative, but more abortions significantly reduced murder rates in only two states (Nebraska and Vermont).

TABLE 2

Do Abortions Affect Murders?: Using Poisson or Negative Binomials Regressions

Poisson Estimates	**No. of Murderers by Age by State by Year**					
Variable	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
Number of abortions during the year in which people of that age were born/the number of births	1.405 (2.24)	1.3874 (2.32)	1.38753 (2.31)	1.3928 (2.33)		
Dummy variable for whether abortions are legal in a state					1.0718 (2.82)	
ln(Number of abortions rate during the year in which people of that age were born/the number of births)						1.105 (3.43)
Population in state that is the age of the murders		1 (−8.76)	1 (−8.78)	1 (−9.14)	1 (−9.48)	
ln(Population in state that is the age of the murders)						0.71834 (−3.17)
Population density per square mile in state		1.00054 (.95)	1.000622 (1.11)	1.000596 (1.08)	1.00047 (0.85)	
ln(Population density in state)						1.33101 (7.06)
Number of people in prison		0.999995 (−6.18)		0.9999952 (−6.56)	0.999995 (−5.87)	
Number of people in prison lagged one year			0.999995 (−6.26)			
ln(Number of people in prison)						0.763888 (−3.34)
Execution rate		0.4925 (−0.47)	0.3438 (−0.7)	0.44016 (−0.58)	0.4154 (−0.59)	0.4907 (−0.43)
Arrest rate for murder		0.99977 (−0.85)			0.9998 (−0.85)	0.999665 (−1.12)
Arrest rate for murder lagged one year			.9996363 (−1.39)			0.999665 (−1.12)
Arrest rate for violent crime				0.9994108 (−0.7)		
Unemployment rate		0.98944 (−0.86)	0.98995 (−0.85)	.0989052 (−0.83)	0.9904 (−0.78)	0.996341 (−0.28)
Poverty rate		0.99968 (−0.06)	1.000162 (0.03)	1.00004 (0.01)	0.99975 (−0.04)	0.99786 (−0.38)
Per capita income		1.00006 (1.8)	1.00005 (1.57)	1.000069 (2.26)	1.00006 (1.90)	1.00008 (2.5)
Per capita income maintanence		0.99908 (−.94)	0.999047 (−1.02)	0.99936 (−.71)	0.9991 (−0.90)	0.998223 (−1.79)
Per capita unemployment insurance payments		1.00058 (0.81)	1.00043 (0.64)	1.00068 (0.86)	1.0006 (0.84)	1.00044 (.69)
Per capita retirement payments for those over age 65		0.999763 (−2.09)	0.99968 (−2.98)	0.9997545 (−2.4)	0.9998 (−2.01)	0.99988 (−0.96)
Percent annual rate of change in murders after right-to-carry law − annual rate of change in murders before right-to-carry law (*F*-statistic in parentheses)		−1.87 (1.71)	−2.5 (2.77)	−2.4 (3.41)	−1.85 (1.69)	−1.0 (1.47)
Chi-square	196144	2563166	1649367	1641310	2911502	237549.
No. of observations	21756	21480	21411	21319	21480	21480
Same as Above but Using Negative Binomials	**(7)**	**(8)**	**(9)**	**(10)**	**(11)**	**(12)**
Three different measures of abortion are used in correspondence to the columns used above	1.29 (4.18)	1.317 (3.18)	1.3189 (3.15)	1.3165 (3.21)	1.127 (8.21)	1.097 (4.64)
Same as First Regressions but Using Number of Abortions	**(13)**	**(14)**	**(15)**	**(16)**	**(17)**	**(18)**
Number of abortions during the year in which people of that age were born/1000	1.00217 (1.90)	1.00179 (2.03)	1.0018 (2.03)	1.00182 (2.04)		
ln(Number of abortions during the year in which people of that age were born/1000)						1.033 (7.11)

Notes: The coefficients are incident rate ratios, with absolute z-statistics reported in parentheses. Values of the coefficients greater than 1 show the percent increase in crime, and values less than 1 indicate the percent decline. The demographics and fixed age, state, and year effects are not reported. Robust SEs with clustering are reported and a population-averaged estimator is used. The last set of estimates using the number of abortions have a scaling problem, but are provided for comparison purposes.

per 1,000 females age 15–44, implies that one more abortion per female age 15–44 is associated with an increase in murders of 0.12%, about one-seventh the magnitude estimated by the linear specification.[32]

The specifications corresponding to those in Table 2 when we use the Supplemental Homicide Reports' method of distributing unknown murderers or exclude murders where the age of the criminal is unknown are reported in Appendix 2 (available from the authors). In all but one of these specifications the impact of abortion is statistically significant at well above the 0.01 level for a two-tailed *t*-test, and the effect ranges from between 33% smaller than what was reported in Table 2 to 48% larger.[33]

Most of the law enforcement variables have the expected effects, with more executions and more people in prison associated with reductions in murder, though the effect is not significant for the execution rate (the arrest rate effect appears positive, but statistically insignificant). Consistent with past research, murder rates fall at least 1% per year faster after the adoption of right-to-carry laws.[34] The population density coefficient estimates show a negative relationship but are not statistically significant. Surprising results include the negative relationship estimated for the unemployment rate and the positive relationship for income levels, but these results are generally not statistically significant. Estimates using weighted least squares instead of the Poisson and negative binomial regression examined here are reported in Appendix 3 found that five of the six results are similar in size to those shown in Table 2 (available from the authors).

The second section of Table 2 shows the impact of changes in abortions per 1,000 live births on the murder rate. The results continue to show a strong consistent positive relationship between abortions and murder. The average abortion ratio (abortions per 1,000 live births) was thus 359 (the simple average across states was 294). The estimate for the specifications where abortions enter linearly (columns 1–4) imply that an increase of one abortion per live birth (about 0.3% of the total) is associated with a 0.06% increase in murders, about the same magnitude of the results using abortions per 1,000 females age 15–44. The log specification with abortions per 1,000 live births is similar to the log specification with abortions per 1,000 females age 15–44.

To put these results differently, if legalizing abortion meant that the abortions per female and per birth went from zero to those observed from 1973 to 1988, Table 2's estimates (specifications 2, 6, 8, and 11) imply that there will be between 854 and 1,916 more murders in 1998. The simply dummy estimate implies about 1,543 more murders.[35]

The results in Table 3 correspond with the sensitivity test provided in Donohue and Levitt's Table V, with two exceptions: an additional row limiting the sample to just those of known ages affected by the legalization of abortion and replacing all the nonage specific state-year level variables with state specific year fixed effects. For the linear and log specifications, a column with results using abortions per 1,000 females age 15–44 and a column with results using abortions per 1,000 live births are presented. The full set of control variables and sample is reported in the first row as the baseline. Each row represents a separate specification. Donohue and Levitt tested whether the results were sensitive to "large states," states with "very high or low abortion rates" as well as different types of trends and fixed effects. The large states excluded are California and New York, and the jurisdiction with the high abortion rate that is excluded is Washington, DC. Each is excluded separately, and then all three are excluded as a group. Individual state-specific trends and

32. Though not reported, we also ran the simple dummy variable and natural log specifications that correspond to specifications 1, 3, and 4 and the abortion results changed little from those reported in columns 5 and 6.

33. However, as we were concerned that would happen, excluding those cases for which the age of the offender was never known did alter other coefficients, such as the arrest and execution rates.

34. A data set with information on other gun control laws for a portion of the time period studied here from 1980 to 1997 was also used to estimate these regressions, but their inclusion had little impact on the size or significance of the abortion variable. The data are discussed in Lott (2000) and include information on waiting periods, background checks, penalties for using guns in the commission of crime, and so-called safe storage laws, which impose penalties on adults who do not lock up there guns if the guns are used improperly by a juvenile.

35. If legalizing abortion meant that one went from zero abortions to the mean abortions per female and per birth seen in 1980, specifications 2, 6, 8, and 11, respectively, imply 22%, 27.5%, 20%, and 52% increases in murder rates. If instead of going from zero murders to those that were actually allowed prior to legalization, specifications 2, 6, 8, and 11, respectively, imply 16%, 16%, 6%, and 9.3% increases in murder rates.

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TABLE 3

Sensitivity of Abortion Coefficients for the Poisson Estimates Using the Alternative Specifications Used by Donohue and Levitt (Only Incident Rate Ratios for Abortion Effects Shown)

Specification	Coefficient for the No. Abortions by In-State Residents (divided by 1000) Except Where Noted	
	Incident Rate Ratio Coefficient	Absolute *z*-Statistic
(1) Linear value of abortion rate (corresponding to specification 2 in Table 2)		
Baseline	1.3874	2.32
Exclude New York	1.5155	1.56
Exclude California	1.3391	2.55
Exclude District of Columbia	1.89695	1.76
Exclude New York, California, District of Columbia	1.64996	8.25
Adjust abortion rate for nonresidents	1.99059	3.57
Include control for flow of immigrants	1.3868	2.33
Include state-specific trends	1.2575	1.96
Include region-year interactions	1.3878	2.33
Include control for overall fertility	1.1736	3.02
Limiting sample to only those ages affected by abortion (eliminating observations for those over 29 and of unknown age)	1.4707	2.62
Allowing for state-specific year fixed effects in addition to the number of abortions and the age specific population	1.388	2.33
(2) Dummy variable for legalizing abortion (corresponding to specification 5 in Table 2)		
Baseline	1.0718	2.82
Exclude New York	1.0701	2.70
Exclude California	1.0621	2.45
Exclude District of Columbia	1.0711	2.78
Exclude New York, California, District of Columbia	1.0594	2.35
Adjust abortion rate for nonresidents	1.1011	3.43
Include control for flow of immigrants	1.0717	2.81
Include state-specific trends	1.0997	3.90
Include region-year interactions	1.0706	2.82
Include control for overall fertility	1.0452	1.84
Limiting sample to only those ages affected by abortion (eliminating observations for those over 29 and of unknown age)	1.0541	2.21
Allowing for state-specific year fixed effects in addition to the number of abortions and the age specific population	1.0690	2.77
(3) Natural logs of abortion rate and population variables (corresponding to specification 6 in Table 2)		
Baseline	1.105	3.43
Exclude New York	1.125	3.82
Exclude California	1.081	3.35
Exclude District of Columbia	1.104	3.33
Exclude New York, California, District of Columbia	1.094	3.27
Adjust abortion rate for nonresidents	1.0958	3.30
Include control for flow of immigrants	1.1053	3.43
Include state-specific trends	1.1105	3.61
include region-year interactions	1.1044	3.45
Include control for overall fertility	1.0105	1.00
Limiting sample to only those ages affected by abortion (eliminating observations for those over 29 and of unknown age)	1.1066	4.81
Allowing for state-specific year fixed effects in addition to the ln(number of abortions) and the ln(age specific population)	1.1044	3.45

separate regional fixed effects by year are also tried. Because of our statistical package's (STATA) limit on the number of control variables using state-specific year fixed effects may more effectively control for year-to-year variations in factors that affect the overall level of crime, but it comes at a cost of having to restrict the number of years that can be examined. The last row in each of the three sections in Table 3 reports regressions that account for the number of abortions, the age specific population, a state-specific trend variable for unknown age murders, as well as state-specific year effects for the period from 1989 to 1998.

The results remain consistent across the various sensitivity tests. Excluding the California, the District of Columbia, and New York individually or together generally increases the effect of abortion. Controlling for fertility reduces the abortion coefficient and makes it statistically insignificant in the log specification.

Other sensitivity tests are available. We categorized the control variables used in Table 2 into 10 groups: the execution rate, prison population, arrest rate, the four measures of income, population density, unemployment rate, poverty rate, right-to-carry laws, population of the age group committing murder, and the 36 demographic variables. Running all combinations of these groups results in 1,024 regressions. The estimates all account for state, age, and year fixed effects. Doing this for all the linear, dummy variable, and the natural log specifications with abortions/1,000 females age 15–44 triples the number of regressions. Adding the linear and natural log specifications with abortions/1,000 live births adds an additional 2,048 regressions. Altogether, we ran 5,200 regressions.

The results from this specification search show a very consistent set of results. The range of coefficient estimates for the linear specification for the number of abortions by in-state residents (/1,000) ranges from a low of 1.3449 to a high of 1.4564, with a median of 1.4002. For the dummy variable the estimates range from 1.069 to 1.087 and for the natural logs from 1.022 to 1.0275.[36]

We finally examined whether abortion had a different effect on crime as people aged. It is not obvious that the percentage increase in crime should be the same for all ages. To do this, the five measures that we have been using (abortions per 1,000 females age 15–44, abortions per 1,000 live births, the natural log of these two measures, and the dummy variable for legalization) were interacted with the age dummy variables. The results (available from the authors) imply a more complicated story than we have seen thus far. Although abortions imply more murders, the impact is not the same for all ages nor consistent across all the specifications. The different specifications only consistently imply higher crime rates for criminals between the ages of 13 and 17. (Comparing the rate regressions there are consistently higher murder rates from for abortions for ages 13–22 and ages 27–29.) Only the coefficients for one year of age—29-year-olds—show a consistent decline in murder rates from abortions. The four regressions on the number of abortions as well as the natural logs of those values show much more consistency both in terms of the ages associated with increases or decreases in crime.

There is a possible explanation for why the legalization dummy produces different results from the abortion rate measures. As noted earlier, abortion data from the CDC indicate that many states where abortions were illegal actually had higher abortion rates than some states where it was legal. The dummy variable for the law wrongly assumes that legalization always produces more abortions than when abortions were illegal (only allowed when the life or health of mother are endangered), and that is obviously not true. These results raise concerns with assuming that no abortions took place in states prior to legalization.

VI. DISAGGREGATING CRIME AND ABORTION RATES BY RACE AND SEX

Legalized abortion need not affect all population groups equally. Whites, blacks, and other groups obtain abortions and have out-of-wedlock births at different rates. The net effect of legalization is unclear because the groups that have a high levels of abortions also tend to have out-of-wedlock births more frequently. For example, whereas blacks account for 29% of abortions during our sample, they account for 40% of the out-of-wedlock births from 1980 to 1995. Fortunately, the Supplemental Homicide Report disaggregates

36. In an earlier version of the article, we ran these 6,144 specifications without the category of unknown murderers. The ranges of estimates were similar to those reported here.

murders by race and sex, as well as age. The CDC abortion data does list the number of abortions in each state by whether the mother is white or nonwhite, though this information is missing for 1969 and 1982–86. With the exception of replacing the earlier endogenous variable for the total number of murders with the number of murder broken down by race and sex, replacing the total number of abortions with the number of abortions by the birth mother's race, and examining only those murders for which the race and sex of the murder is available, the regressions correspond to those reported earlier in Table 2. Unfortunately, the abortion data does not disaggregate nonwhite abortions further by race.

The regressions imply that more abortions by white or nonwhite mothers are associated with more murders by people in their respective groups. White males consistently and statistically significantly are more adversely affected by higher abortion rates than white females, and the difference are always statistically significant at least at the 5% level for a two-tailed test. For nonwhites the difference between males and females is more mixed: In one case males face the significantly greater loss, in two cases, females did.

The different specifications do not imply that any one group is harmed consistently more than another. The linear and natural log estimates imply that on average additional abortions harm nonwhites the most, whereas the dummy variable indicates that this is true for whites.

The bottom line is that increasing the abortion rate consistently results in more murderers when the remaining offspring of that race come of age, and the effect is larger for white males than for white females. Generally the coefficients are similar in size to what was reported earlier, though some are as large as two or three times as much as the average effects reported earlier. Why white males exhibit a larger percentage increase than white females in becoming murderers from additional abortions is not clear, but the effect is consistent and large.[37]

VII. MEASURING THE IMPACT OF ABORTION ON ARREST RATES

Donohue and Levitt's publications directly link abortions to the arrests by year for 15–24-year-olds using data from 1985 to 1996, though as Foote and Goetz (2006) discovered, they did not run the regressions that they thought they had and correcting the estimates showed a positive and significant increase in violent crime.[38] Also as noted earlier, there are problems with using arrest rates as opposed to the Supplemental Homicide Report because arrest data do not directly link the criminal to the crime and arrests frequently do not occur in the year the crime was committed. Unfortunately, an equivalent of the Supplemental Homicide Report does not exist for violent and property crimes.

Although some control variables differ between our studies (e.g., the lack of any demographic variables in their regressions), the last two regressions reported at the end of the sections for violent and property crime and murder correspond to the odd numbered regressions in their table 4.[39] The big difference between their results and ours stems from them assuming that no abortions took place in the late adopting states from 1970 to 1973 and particularly that no observations were included for births that took place prior to 1970. Expanding the data set so that it covers arrests over the period 1980–96 also produces stronger evidence that abortion increases arrests for violent crime and murder. The other estimates are based on the Poisson and negative binomial regressions that we reported earlier. However, with few of the age groups examined experiencing zero violent crime arrests in any given state during a year and none of the age groups experiencing this for property crime, the benefit from using the Poisson regressions is limited to analyzing murder.

The results generally show either a positive relationship or no relationship between abortion and arrests for violent crime and murder

37. There is also the question of who the victims are of this increased crime. We disaggregated murders by the race of the victim and criminal. Abortions seem to produce similar increases in murders by whites of both whites and nonwhites. The data are more mixed for nonwhites and others with the linear and natural log specifications implying much bigger percentage increases in murders of nonwhites and others than for whites, but the reverse is true for the dummy variable specification.

38. We limited our sample to that reported by Donohue and Levitt for consistency, but using a sample that for the ages and years reported earler produces results, which are generally less consistent with their estimates.

39. Our inability to replicate their "state × age interactions" turns out to be because they did not estimate the regressions they said that they had run (Foote and Goetz 2006). We were unable to determine this at the time we wrote this article because we were not provided with the regressions that Donohue and Levitt estimated.

TABLE 4

The Impact of Abortions on Out-of-Wedlock Births: Explaining the Number of Out-of-Wedlock Births by State by Year

Variable	Coefficients and Absolute z-Statistics		
	1	2	3
Number of in-state abortions during the year in which people of that age were born/1000	1.006198 (3.27)	...	...
Dummy variable for whether abortions are legal in a state	...	1.449155 (8.82)	...
ln(Number of abortions during the year in which people of that age were born/1000)	...	...	1.035199 (7.45)
Number of births	0.9999989 (0.35)	1.000003 (1.85)	1.000004 (3.93)
Population density in state	0.9999487 (0.38)	0.9998297 (1.28)	0.8965998 (2.16)
Unemployment rate	1.015146 (2.66)	1.005642 (1.17)	1.01354 (2.91)
Poverty rate	1.000791 (0.0011821)	1.002454 (1.97)	0.9999112 (0.07)
Per capita income	1.000017 (1.05)	1.000008 (0.62)	1.000027 (1.92)
Per capita income maintanence	1.000245 (0.83)	0.9998943 (0.30)	0.9997004 (0.80)
Per capita unemployment insurance payments	0.999859 (9.59)	0.9994682 (1.72)	0.9997257 (1.20)
Per capita retirement payments for those over age 65	1.000004 (9.19)	.9999284 (2.60)	1.00002 (9.57)
Chi-square	2453649	149e+07	6.90e+07
No. of observations	7640	7640	7640

Notes: Again the coefficients are incident rate ratios. Demographics and fixed state and year effects are not reported. Robust SEs with clustering are reported and a population-averaged estimator is used.

while suggesting a weak negative relationship between abortion and property crime (available upon request). For the weighted ordinary least squares regressions that most closely correspond with their original estimates, only the regressions for property crimes imply that higher abortion rates reduce that type of crime. Overall only the arrest for murder regressions always imply the same relationship between abortion and crime, and indeed the effect is similar to what we found using the Supplemental Homicide Report, though this is really a result of the narrower age group being examined. It is unfortunate that Donohue and Levitt do not provide results for this crime category so that we can make a comparison. Although there are estimates for both violent and property crime that imply both increases and decreases from abortion, one conclusion is clear: The effects are always small and imply that going from zero abortions to the mean number in 1980 had only around a percentage point or so effect on crime.

There are difficulties with using arrests and not data such as that provided by the Supplemental Homicide Report, but neither the different data source nor the limited sample alone is sufficient to explain the different results. Part of the difference between our results and theirs goes away when we assume that abortions only occurred in the five states they define as early legalizers, but that stil does not qualitatively change our results.

Combining our earlier results from Table 2 with these general estimates for violent and property crime allow some rough estimates of the victimization costs of crime. Donohue and Levitt suggest that abortion reduces annual victimization costs by $30 billion, with most of this coming from reductions in murder (Miller et al. 1993). Using their same calculations for our results from Table 2 for 1998 imply that abortion raises victimization costs from these higher murder rates alone by between $3.3 and $7.4 billion per year in 2003 dollars. Even if we take our estimates on the

most optimistic reductions in property crime, the net effect of abortion is to increase victimization costs by $3.2 to $7.3 billion per year.

VIII. DOES ABORTION LEAD TO MORE OUT-OF-WEDLOCK BIRTHS?

Akerlof et al. raise the issue of whether abortions and contraceptives lead to more out-of-wedlock births. Yet their empirical work is based on purely time-series evidence.[40] ARMA regressions are used to examine whether there was a change in abortions, use of the Pill during first intercourse, and the percent of women before and after 1970 or 1971 who had sex by 16 years of age. They also examine whether there was a change in so-called first-birth shotgun marriages, where couples were pressured to marry, before and after 1968. All the variables change in the expected way. Abortions, use of the Pill, and early intercourse are all higher after the early 1970s, and shotgun marriages are lower, but only for whites.

Compared to panel data, it is rather difficult to disentangle different factors when using time-series data. Fortunately, state-level data are available by year on the rate of out-of-wedlock births, and as we have discussed there is a clear difference over time and across states in abortion rates. Alternatively, state-level measures of the availability and use of contraceptives are less obvious, though year fixed effects combined with demographics and income data should serve as a proxy.

With a few exceptions, we estimated Poisson regressions that account for the same factors that we used in the earlier regressions.[41] The three differences are: excluding the deterrence variables, including a variable for the number of births, and excluding the age fixed effects. Deterrence variables and age fixed effects are no longer relevant to explaining out-of-wedlock births.

The results in Table 4 provide support for the Akerlof et al. hypothesis, though the effect represents just a fraction of a percentage point. In column 1, each 1,000 more abortions is associated with a 0.6% increase in out-of-wedlock births. With about 1.6 million abortions taking place a year from around 1980 on that implies about 9,600 more out-of-wedlock births annually. The linear estimates for abortion implied that legalization resulted in around 700 more murders annually in 1998, about 4% of a year's worth of out-of-wedlock births. Obviously the effective rate of murderers is much lower as these people may commit multiple murders over many different years. If the higher estimates of around 1,000 more murders per year arising from abortion are true, this figure represents around 11% of the annual number of out-of-wedlock births, and this number only appears plausible if a small number of these people are responsible for a large number of murders over multiple years.

The other estimates in the second and third columns indicate similarly small effects. They imply that it is not the legalization of abortion per se that is associated with more out-of-wedlock births but that those states that had the biggest increase in abortion are somehow different than other states. Higher unemployment, poverty, and income are associated with more out-of-wedlock births, though surprisingly more densely populated states have slightly fewer out-of-wedlock births.

Other possible explanations for why abortions increase crime (e.g., the legalization of abortion leading to a coarsening of society) are beyond the scope of this article, though this section raises questions about exactly how abortion increases crime.

IX. CONCLUSION

There are many factors that reduce murder rates, but the legalization of abortion is not one of them. Of the over 6,000 regressions that we estimated here, only one implied even a small reduction in murder rate. All the other estimates implied significant increases in murder rates: allowing abortions after 1973 implies at least 850 more murders in 1998. Donohue and Levitt suggest that abortion reduces annual victimization costs by $30 billion, with most of this coming from reductions in murder. Our results indicate that total annual victimization costs rose by at least $3.2 billion as a result of abortion.

Many times academics cannot avoid using aggregate crime data. Yet the linking of abortion and crime is not such a situation: Examining total crime rates and not directly linking

40. Recent work by Alesina and Giuliano (2006), done after our paper was accepted, also finds that the legalization of abortion increases out-of-wedlock births and reduces births in marriages, thus confirming our results here. Gruber et al. (1999) question Akerlof et al.'s findings.

41. Klick and Stratmann (2003) use weighted least squares to find that sexual activity greatly increased after legalized abortion.

abortions and the crimes committed by individual cohorts missed catching obvious patterns and incorrectly attributes the initial drop in murder rates to older cohorts. Even if Donohue and Levitt believe that the correct approach links crimes committed by all ages with their aggregate effective abortion rate, sensible minor adjustments such as allowing the share of crime committed by different ages to vary across states and years rather than assuming that the weights are constant reverses their estimates.

This is not to suggest that the hypothesis provided by Bouza-Morgentaler-Donohue-Levitt is not plausible, but at least that it is not the most important part of the story.[42] Abortion can eliminate unwanted children and can benefit many women, but it can also make other women who are unable to bring themselves to have an abortion worse off and more likely to have out-of-wedlock births. Like many laws there appear to be both winners and losers, but here the net effect appears to be a net reduction in human capital and an increase in crime.

REFERENCES

Akerlof, George A., Janet L. Yellen, and Michael L. Katz. "An Analysis of Out-of-Wedlock Childbearing in the United States." *Quarterly Journal of Economics*, 111(2), 1996, 277–317.

Alesina, Alberto F., and Paulo Giuliano. "Divorce, Fertility, and the Shot Gun Marriage." Department of Economics, Harvard University Working Paper, May 2006.

Bouza, Anthony V. *The Police Mystique: An Insider's Look at Cops, Crime, and the Criminal Justice System.* New York: Plenum Press, 1990.

Donohue, John J., and Steven Levitt. "The Impact of Legalizing Abortion on Crime Rates." *Quarterly Journal of Economics*, 116(2), 2001, 379–420.

———. "Further Evidence that Legalized Abortion Lowered Crime: A Reply to Joyce." *Journal of Human Resources*, 39(1), 2004, 29–49.

Foote, Christopher L., and Christopher F. Goetz. "Testing Economic Hypotheses with State-Level Data." Federal Reserve Bank of Boston, March 16, 2006.

Garmaise, Mark J., and Tobias J. Moskowitz. "More Banks, Less Crime? The Real and Social Effects of Bank Competition." University of Chicago Working Paper, January 13, 2005.

Grossman, Michael, Frank J. Chaloupka, and Charles C. Brown. "The Demand for Cocaine by Young Adults: A Rational Addiction Approach." NBER Working Paper, July 1996.

Grossman, Michael, and Theodore Joyce. "Unobservables, Pregnancy Resolutions, and Birth Weight Production Functions in New York City." *Journal of Political Economy*, 98(5), 1990, 983–1007.

Gruber, Jonathan, P. B. Levine, and D. Staiger. "Abortion Legalization and Child Living Circumstances: Who Is the 'Marginal Child'?" *Quarterly Journal of Economics*, 114(2), 1999, 263–91.

Joyce, Ted. "Did Legalized Abortion Lower Crime?" *Journal of Human Resources*, 39(1), 2004, 1–28.

———. "The Inconsequential Association between Legalized Abortion and Age-Specific Crime Rates." Baruch College working paper, March 2006.

Kahane, Leo H., David Paton, and Rob Simmons. "The Abortion-Crime Link: Evidence from England and Wales." California State University East Bay working paper, March 2006.

Klick, Jonathan, and Thomas Stratmann. "The Effect of Abortion Legalization on Sexual Behavior: Evidence from Sexually Transmitted Diseases." *Journal of Legal Studies*, 32(2), 2003, 407–33.

Leo H. Kahane, David Paton, and Rob Simmons. "The Abortion-Crime Link: Evidence from England and Wales." Department of Economics Working Paper, California State University, January 2006.

Lott, John R. Jr. "Juvenile Delinquency and Education: A Comparison of Public and Private Provision." *International Review of Law and Economics*, 7(2), 1987, 163–75.

———. *More Guns, Less Crime: Understanding Crime and Gun Control Laws*, 2nd ed. Chicago: University of Chicago Press, 2000.

Miller, Ted, Mark Cohen, and Shelli Rossman. "Victim Costs of Violent Crime and Resulting Injuires." *Health Affairs*, 12, 1993, 186–97.

Morgentaler, Henry. "Message from Henry." Online document available at http://prochoice.about.com/newsissues/ prochoice/gi/dynamic/offsite.htm?site=http://www.morgentaler.ca, 1998.

Plassmann, Florenz, and T. Nicolaus Tideman. "Does the Right to Carry Concealed Handguns Deter Countable Crimes? Only a Count Analysis Can Say." *Journal of Law and Economics*, 44(1), 2001, 771–98.

42. Kahane et al. (2006) provide strong evidence using British data that abortion legalization did not reduce crime rates when abortion is treated as endogenous. They also note (p. 26) the surprising point that "total recorded crime in the U.K. began to decrease at about the same time as in the U.S., despite the fact that abortion legalization occurred about five years earlier." Though the international evidence that does exist has not allowed the panel analysis by age offered here, it still does not really suggest a relationship between abortion and crime (Foote and Goetz 2006). The Romanian data do not differentiate the increase in crime that occurred after the fall in communism from the increase recorded all across Eastern Europe and Russia (an increase at least partly related to more accurately reported statistics). Foote and Goetz's graphs of the Australian data make it very difficult to see any pattern. The Canadian data are mixed but are estimated differently than the Donohue and Levitt regressions.

Expanded Homicide Data Table 3

Murder Offenders

by Age, Sex, Race, and Ethnicity, 2017

		Sex			Race			Ethnicity[1]			
Age	Total	Male	Female	Unknown	White	Black or African American	Other[2]	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
Total	**17,251**	**10,665**	**1,443**	**5,143**	**5,125**	**6,444**	**314**	**5,368**	**1,505**	**6,324**	**5,353**
Percent distribution[3]	100.0	61.8	8.4	29.8	29.7	37.4	1.8	31.1	11.4	48.0	40.6
Under 18[4]	803	730	73	0	295	488	10	10	113	401	73
Under 22[4]	2,932	2,626	284	22	1,045	1,766	57	64	430	1,494	267
18 and over[4]	10,669	9,264	1,351	54	4,736	5,464	301	168	1,336	5,621	1,082
Infant (under 1)	0	0	0	0	0	0	0	0	0	0	0
1 to 4	0	0	0	0	0	0	0	0	0	0	0
5 to 8	1	0	1	0	0	1	0	0	0	0	1
9 to 12	7	6	1	0	4	3	0	0	0	5	0
13 to 16	405	365	40	0	151	242	5	7	56	199	40
17 to 19	1,467	1,327	135	5	524	903	21	19	224	755	123
20 to 24	2,519	2,222	279	18	858	1,545	63	53	347	1,298	251
25 to 29	2,053	1,764	282	7	826	1,152	54	21	274	1,068	227
30 to 34	1,465	1,259	197	9	676	718	52	19	184	786	148
35 to 39	1,062	916	145	1	543	472	33	14	132	546	107
40 to 44	754	627	123	4	387	330	26	11	81	398	80
45 to 49	566	480	86	0	323	214	20	9	60	289	61
50 to 54	421	357	57	7	233	159	18	11	34	249	37
55 to 59	335	290	43	2	213	109	8	5	31	182	32
60 to 64	179	163	16	0	110	61	5	3	19	102	17
65 to 69	93	84	9	0	69	21	1	2	5	55	7
70 to 74	53	49	4	0	42	7	1	3	0	29	9
75 and over	92	85	6	1	72	15	4	1	2	61	15
Unknown	5,779	671	19	5,089	94	492	3	5,190	56	302	4,198

[1] Not all agencies provide ethnicity data; therefore, the race and ethnicity totals will not equal.

[2] Includes American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.

[3] Because of rounding, the percentages may not add to 100.0.

[4] Does not include unknown ages.

EXHIBIT "6"

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2017 - 2018 Regular

Bill No:	SB 1100	**Hearing Date:**	April 17, 2018
Author:	Portantino		
Version:	March 19, 2018		
Urgency:	No	**Fiscal:**	Yes
Consultant:	GC		

Subject: ***Firearms: Transfers***

HISTORY

Source: Author

Prior Legislation: AB 1674 (Santiago), 2015, vetoed
AB 202 (Knox), Ch. 128, Stats. of 1999

Support: California Chapters of the Brady Campaign; Giffords Law Center to Prevent Gun Violence

Opposition: Firearms Policy Coalition

PURPOSE

The purpose of this bill is to extend the prohibition on purchasing more than one handgun a month to include all firearms and increases the age from 18 to 21 years for a person to purchase a firearm from a licensed dealer.

Existing law prohibits a person from making more than one application to purchase a handgun within any 30-day period. (Pen. Code § 27535.)

Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime. (Pen. Code § 27540.)

This bill extends the prohibition on purchasing more than one handgun a month to all firearms, including long guns.

Existing law exempts the following from the one handgun a month prohibition: (Pen. Code, § 27535, subd. (b).)

- Any law enforcement agency.
- Any agency duly authorized to perform law enforcement duties.
- Any state or local correctional facility.

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- Any private security company licensed to do business in California.
- Any person who is properly identified as a full-time paid peace officer and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.
- Any person who may make a valid claim an exemption from the waiting period set forth in Section 27540.
- Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).
- Any person who is licensed as a collector and has a current certificate of eligibility issued by the Department of Justice.
- The exchange of a handgun where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
- The replacement of a handgun when the person's handgun was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.
- The return of any handgun to its owner.
- A community college that is certified by the Commission on Peace Officer Standards and Training to present the law enforcement academy basic course or other commission-certified law enforcement training.

This bill adds the following exceptions to the one gun a month prohibition:

- The purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license issued by the Department of Fish and Wildlife.
- The acquisition of a firearm, other than a handgun, at an auction or similar event conducted by a nonprofit public benefit or mutual benefit corporation to fund the activities of that corporation or local chapters of that corporation.

Existing law prohibits the sale or transfer of a handgun, except as specifically exempted, to any person below the age of 21 years. (Pen. Code § 27510.)

Existing law also prohibits the sale or transfer of a firearm, other than a handgun, except as specifically exempted, to any person below the age of 18 years. (Pen. Code § 27510.)

This bill prohibits the sale or transfer by a licensed dealer of a long gun to a person below the age of 21 years, increasing the age from 18 years to 21 years of age. The bill exempts long gun purchases or transfers when the purchaser or transferee has a valid, unexpired hunting permit.

COMMENTS

1. Need for This Bill

According to the author:

> While handguns are used in the majority of gun deaths, long guns have been used to perpetrate many of the largest mass shootings in U.S. history, including the tragic event that took place in San Bernardino, California.
>
> California is home to the most stringent gun laws in the county. One example is requiring an individual to be 21 years of age in order to purchase a handgun. Another is the general limitation on a gun dealer delivery of only one handgun to an individual in a 30 day period.
>
> Since these laws have taken effect, data shows that there has been a successful reduction in the incidence of gun trafficking while not burdening legitimate gun owners or persons who wish to acquire guns.
>
> In order to be uniformly consistent, California should apply the 30 day delivery period and 21 year age limit to long guns.
>
> Firearms will not be delivered whenever the dealer is notified by the DOJ that within the preceding 30-day period the purchaser has made another application to purchase a firearm. In addition, because of the interaction of state and federal law, receivers or frames (the gun minus the barrel) are also applicable to the 30-day purchase period. This bill will also define a frame or a receiver of a firearm.
>
> Lastly, this bill would also prohibit the sale or transfer of any firearm by a licensed dealer, except as specially exempted, to any person below the age of 21 years.

2. One Gun a Month

According to the Senate Public Safety Analysis of Assembly Bill 202 (Knox, of 1999), which created the one-handgun-a-month law in California:

> The State of Virginia enacted a "one-handgun-a-month" law in 1993 (before the Federal Brady Bill, which required at least a five day waiting period plus a background check for states without such requirements). That state had weak restrictions on handgun sales and it has been stated that gun traffickers from New York City routinely traveled to Virginia to purchase quantities of weapons to take back for illegal sale in other states. Purchases of more than one handgun per 30-day period in Virginia is allowed upon completion of an "enhanced" background check when the purchase is for lawful business or personal use, for purposes of collectors, bulk sales and purchases from estates, to replace a lost or stolen weapon, and similar situations.

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> Supporters of limits on purchases of handguns assume that the Virginia limits and the limits in this bill would only affect a very small proportion of legitimate handgun purchasers. A family of two adults could still purchase 24 handguns a year under the provisions of both this bill and the Virginia law.

Virginia repealed this law in 2012. But, according to the Law Center to Prevent Gun Violence:

> Virginia's one-gun-a-month law – which was in effect from 1993 to 2012 and prohibited the purchase of more than one handgun per person in any 30-day period – significantly reduced the number of crime guns traced to Virginia dealers. Virginia initially adopted its law after the state became recognized as a primary source of crime guns recovered in states in the northeastern U.S. After the law's adoption, the odds of tracing a gun originally acquired in the Southeast to a Virginia gun dealer (as opposed to a dealer in a different southeastern state) dropped by:
>
> - 71% for guns recovered in New York;
> - 72% for guns recovered in Massachusetts; and
> - 66% for guns recovered in New Jersey, New York, Connecticut, Rhode Island and Massachusetts combined.
>
> (http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/ [footnotes omitted].)

Other states that have limits on the number of firearms that can be sold in one month include:

- California: California law prohibits any person from purchasing more than one handgun within any 30-day period. In addition, a licensed firearms dealer may not deliver a handgun to any person following notification from the California Department of Justice that the purchaser has applied to acquire a handgun within the preceding 30-day period. Finally, firearms dealers must conspicuously post in their licensed premises a warning, in block letters at least one inch in height, notifying purchasers of these restrictions.

- District of Columbia: A person may not register more than one handgun in the District during any 30-day period. Since every handgun must be registered, this amounts to a purchase and sale limitation of one handgun per 30-day period. . .

- Maryland: Maryland prohibits any person from purchasing more than one handgun or assault weapon within a 30-day period. Under limited circumstances, a person may be approved by the Secretary of the Maryland State Police to purchase multiple handguns or assault weapons in a 30-day period. Maryland also penalizes any dealer or other seller who knowingly participates in an illegal purchase of a handgun or assault weapon. . .

- New Jersey: New Jersey prohibits licensed firearms dealers from knowingly delivering more than one handgun to any person within any 30-day period. With limited exceptions, no person may purchase more than one handgun within any 30-day period. New Jersey requires a handgun purchaser to obtain a separate permit for

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> each handgun purchased, and present the permit to the seller. The seller must keep a copy of each permit presented.

(http://smartgunlaws.org/multiple-purchases-sales-of-firearms-policy-summary/[footnotes omitted].)

Senate Bill 1674 (Santiago), of 2015: Veto Message

The Governor stated in his veto message of Senate Bill 1674, which would have prohibited any person from making an application to purchase more than one firearm within any 30-day period:

> This bill generally prohibits the purchase of more than one firearm within any 30-day period. It should be noted that California already bans the purchase of more than one handgun per month.
>
> While well-intentioned, I believe this bill would have the effect of burdening lawful citizens who wish to sell certain firearms that they no longer need.
>
> Given California's stringent laws restricting gun ownership, I do not believe this additional restriction is needed.

3. Increasing the Age for Purchase of Long Guns

This bill would increase the minimum age from 18 to 21 years for a person to purchase all firearms in California. The age restriction would also impact the ability to transfer a weapon. Under current law a person must be 21 years of age to purchase a handgun, and this bill applies those same rules to the purchase and transfer of all firearms (including long guns). The bill creates an exception to this rule when the purchaser or transferee has a valid, unexpired hunting license issued by the Department of Fish and Wildlife.

On February 14, 2018 Nikolas Cruz shot and killed seventeen people and wounded an additional seventeen people at Marjory Stoneman Douglas High School in Parkland, Florida. The perpetrator was 19-years old at the time of the incident, and he used assault rifles. Following the incident Florida passed legislation to increase the minimum age for buying rifles to 21-years. The National Rifle Association challenged the law and filed a lawsuit in the United States District court for the Northern District of Florida alleging that the ban on gun sales to people under 21 years of age is unconstitutional because it violates their rights under the Second and Fourteenth Amendments to the U.S. Constitution because 18-year-olds are classified as adults.

On March 1, 2018 George Skelton wrote an editorial for the LA Times[1] on this bill. He stated the following regarding this provision:

> In Sacramento, state Sen. Anthony Portantino (D-La Cañada Flintridge) proposes taking an even bigger step. He introduced legislation Wednesday to increase the legal age to 21 in California for buying any gun, including a shotgun or rifle with low ammo capacity. A shooter with a hunting license would be exempt because he'd taken a gun safety course.

[1] http://www.latimes.com/politics/la-pol-ca-skelton-guns-schools-teachers-20180301-story.html

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> What about a skeet shooter? Or someone who just likes to plink tin cans out by the barn?
>
> Doesn't make sense that an 18-year-old can enlist in the Army and be armed with an automatic M-16 to fight terrorists, but can't buy a bolt-action plinker back home until he's 21.
>
> In Florida, where the gun lobby usually prevails in the Legislature, a House committee bucked the NRA on Tuesday and approved a bill to raise the rifle-buying age from 18 to 21. This came after emotional testimony from parents of students killed in the school shooting.
>
> The committee also voted to allow arming of teachers. But it rejected a ban on assault weapons.
>
> Everyone needs to get their priorities straight: Let the teachers teach. Treat 18-year-olds like adults. Get rid of all assault weapons.

However, there are a number of instances when lawmakers have limited the ability of person's under the age of 21 to engage in activities which are otherwise lawful. Notably, persons under the age of 21 are not allowed to ingest alcohol or marijuana under California law.

4. California Hunting Licenses

This bill creates an exemption from the prohibition on persons under the age of 21 purchasing or receiving a long gun if the person under the age of 21 has a valid, unexpired hunting license. In order to obtain a hunting license in California a person must:

- Complete the California Hunter Education Certification requirements
- Choose the correct type of hunting license.
- Purchase a license through the California Department of Fish and Wildlife website or a California approved agent.

The Official California Hunter Safety Course is an online course that costs $28.95. There is no minimum age for the course. The course requires a follow-up course that is a 4-hour review of the online course with a certified hunter education instructor. The course includes a student demonstration of safe firearm handling and a test. Following completion of the follow-up course the enrollee receives a Hunter Education Certificate.

5. Argument in Support

According to the California Chapters of the Brady Campaign:

> The California Brady Campaign generally believes that handguns and long guns (rifles, shotguns and lower receivers) should be subject to the same laws. Modern sporting rifles are often high powered semi-automatic weapons with exchangeable magazines that can pose a greater threat than handguns. In the early 1990s, it was thought that handguns made up an overwhelming share of crime guns, but the data shows that is no longer the case. Of the 26,682 crime guns entered into the

Department of Justice Firearms Systems database in 2009, 11,500 were long guns.[i]

Existing law prohibits the sale or transfer of a handgun to a person below the age of 21 years. SB 1100 will similarly prohibit, with exceptions, the sale or transfer of a long gun by a licensed firearm dealer to a person under age 21. Additionally, the bill will require those who manufacture or assemble a long gun to be at least 21 years old in order to obtain a serial number for the firearm and register it with the California Department of Justice. These provisions makes sense as those under age 21 are disproportionally linked to crime. In 2015, 23.4 percent of those arrested for murder and non-negligent manslaughter in the U.S. were under 21[ii] and 26.5 percent of those arrested for "weapons carrying, possession, etc." were under age 21.[iii] Individuals age 18 to 20 comprise only 4% of the population but commit 17% of gun homicides.[iv]

Maturity, impulsive or reckless behavior, and responsibility vary greatly among 18-20 year olds. This is recognized in other areas – those under age 21 cannot buy alcohol, rent a car, or purchase a handgun – and the same age restriction should apply to long guns.

Additionally, SB 1100 will limit purchases of long guns from licensed firearms dealers in California to no more than one gun per person per 30-day period, with appropriate exemptions. This is current law for handguns and is a recognized strategy for curbing the illegal flow of guns by taking the profit out of selling guns from bulk purchases on the black market. It stands to reason that a person buying large quantities of guns at one time may be acting as a straw purchaser or gun trafficker. Moreover, many of these bulk purchases are for lower receivers, which can be built up into military-style weapons and sold for a big profit. Firearms acquired in bulk are frequently used in crime. A University of Pennsylvania report found that a quarter of all guns used in crime were purchased as part of a multiple-gun sale and that guns purchased in bulk were up to 64% more likely to be used for illegal purposes than guns purchased individually.[v] Limiting multiple-gun sales within a short period of time for all firearm, including long guns, is clearly in the interest of public safety.

-- END –

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[i] Data provided by the California Department of Justice, April 6, 2010.
[ii] FBI 2015 Crime in the United States, https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-41.
[iii] Ibid.
[iv] "Uniform Crime Reporting Program Data: Supplementary Homicide Reports, 2015," US Department of Justice, Federal Bureau of Investigation, https://ucr.fbi.gov/nibrs/addendumfor-submitting-cargo-theft-data/shr.
[v] Koper, Christopher S.; Jerry Lee Center of Criminology, Univ. of Penn., *Crime Gun Risk Factors: Buyer, Seller, Firearm, and Transaction Characteristics Associated with Gun Trafficking and Criminal Gun Use -- A report to the National Institute of Justice, U.S. Department of Justice* (2007). https://www.ncjrs.gov/pdffiles1/nij/grants/221074. pdf.

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EXHIBIT "7"

TEXAS DEPARTMENT OF PUBLIC SAFETY

REGULATORY SERVICES DIVISION

HANDGUN LICENSING PROGRAM
Box 4087 MSC 0245 - Austin, Texas 78773-0245
(512) 424-7293
www.dps.texas.gov

STEVEN C. McCRAW
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MANNY FLORES
A. CYNTHIA LEON
JASON K. PULLIAM
RANDY WATSON

Demographic Information by Age

Period: 01/01/2018 - 12/31/2018
License Applications: Issued

Age	Number of Applicants	Percent
18	37	0.01%
19	100	0.03%
20	185	0.05%
21	6,681	1.95%
22	4,460	1.30%
23	3,883	1.14%
24	3,774	1.10%
25	4,645	1.36%
26	5,262	1.54%
27	5,282	1.54%
28	5,281	1.54%
29	5,401	1.58%
30	5,682	1.66%
31	6,079	1.78%
32	6,160	1.80%
33	6,314	1.85%
34	6,314	1.85%
35	6,713	1.96%
36	6,548	1.91%
37	6,527	1.91%
38	6,417	1.88%
39	6,420	1.88%
40	6,323	1.85%
41	6,370	1.86%
42	6,303	1.84%
43	6,572	1.92%
44	6,607	1.93%
45	6,929	2.03%
46	7,370	2.15%
47	7,684	2.25%
48	7,377	2.16%
49	6,999	2.05%
50	6,695	1.96%
51	6,758	1.98%
52	6,610	1.93%
53	6,992	2.04%
54	7,151	2.09%
55	7,342	2.15%
56	7,111	2.08%
57	7,179	2.10%
58	6,895	2.02%
59	6,935	2.03%
60	6,717	1.96%
61	6,630	1.94%
62	6,330	1.85%
63	6,240	1.82%
64	6,189	1.81%
65	5,921	1.73%
66	5,577	1.63%
67	5,333	1.56%
68	4,980	1.46%
69	4,996	1.46%
70	5,011	1.46%
71	5,048	1.48%
72	3,540	1.03%
73	3,267	0.96%
74	3,120	0.91%
75	2,858	0.84%
76	2,245	0.66%
77	1,941	0.57%
78	1,659	0.48%
79	1,489	0.44%
80	1,193	0.35%
81	976	0.29%
82	931	0.27%
83	864	0.25%
84	625	0.18%
85	530	0.15%
86	428	0.13%
87	315	0.09%
88	235	0.07%
89	183	0.05%
90	110	0.03%
91	101	0.03%
92	57	0.02%
93	32	0.01%
94	21	0.01%
95	10	0.00%
96	5	0.00%
97	7	0.00%
98	1	0.00%
99	1	0.00%
100	0	0.00%
Total	**342,083**	**100.00%**

End of Report

Exhibit 7

EQUAL OPPORTUNITY EMPLOYER
COURTESY - SERVICE - PROTECTION

TEXAS DEPARTMENT OF PUBLIC SAFETY

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RANDY WATSON

Demographic Information by Age

Period: 01/01/2018 - 12/31/2018
Licenses: Revoked

Age	Number of Applicants	Percent
18	0	0.00%
19	1	0.08%
20	4	0.32%
21	3	0.24%
22	12	0.95%
23	24	1.91%
24	37	2.94%
25	31	2.46%
26	28	2.23%
27	32	2.54%
28	44	3.50%
29	33	2.62%
30	43	3.42%
31	44	3.50%
32	41	3.26%
33	50	3.97%
34	38	3.02%
35	41	3.26%
36	31	2.46%
37	40	3.18%
38	36	2.86%
39	29	2.31%
40	28	2.23%
41	23	1.83%
42	30	2.38%
43	21	1.67%
44	25	1.99%
45	36	2.86%
46	31	2.46%
47	28	2.23%
48	34	2.70%
49	33	2.62%
50	25	1.99%
51	21	1.67%
52	26	2.07%
53	27	2.15%
54	21	1.67%
55	23	1.83%
56	21	1.67%
57	15	1.19%
58	9	0.72%
59	13	1.03%
60	13	1.03%
61	13	1.03%
62	11	0.87%
63	8	0.64%
64	10	0.79%
65	8	0.64%
66	5	0.40%
67	7	0.56%
68	3	0.24%
69	3	0.24%
70	11	0.87%
71	9	0.72%
72	5	0.40%
73	4	0.32%
74	1	0.08%
75	4	0.32%
76	2	0.16%
77	1	0.08%
78	2	0.16%
79	1	0.08%
80	1	0.08%
81	2	0.16%
82	1	0.08%
83	0	0.00%
84	0	0.00%
85	0	0.00%
86	0	0.00%
87	0	0.00%
88	1	0.08%
89	0	0.00%
90	0	0.00%
91	0	0.00%
92	0	0.00%
93	0	0.00%
94	0	0.00%
95	0	0.00%
96	0	0.00%
97	0	0.00%
98	0	0.00%
99	0	0.00%
100	0	0.00%
Total	**1,258**	**100.00%**

End of Report

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RANDY WATSON

Demographic Information by Age

Period: 01/01/2018 - 12/31/2018
Licenses: Suspended

Age	Number of Applicants	Percent
18	0	0.00%
19	0	0.00%
20	0	0.00%
21	13	0.47%
22	39	1.41%
23	73	2.64%
24	70	2.54%
25	69	2.50%
26	68	2.46%
27	71	2.57%
28	80	2.90%
29	78	2.83%
30	119	4.31%
31	75	2.72%
32	68	2.46%
33	96	3.48%
34	109	3.95%
35	90	3.26%
36	96	3.48%
37	94	3.40%
38	80	2.90%
39	81	2.93%
40	70	2.54%
41	93	3.37%
42	66	2.39%
43	55	1.99%
44	62	2.25%
45	77	2.79%
46	59	2.14%
47	50	1.81%
48	56	2.03%
49	56	2.03%
50	53	1.92%
51	51	1.85%
52	39	1.41%
53	58	2.10%
54	38	1.38%
55	32	1.16%
56	39	1.41%
57	23	0.83%
58	27	0.98%
59	28	1.01%
60	33	1.20%
61	36	1.30%
62	27	0.98%
63	18	0.65%
64	11	0.40%
65	15	0.54%
66	13	0.47%
67	14	0.51%
68	14	0.51%
69	18	0.65%
70	11	0.40%
71	12	0.43%
72	7	0.25%
73	1	0.04%
74	5	0.18%
75	9	0.33%
76	3	0.11%
77	2	0.07%
78	5	0.18%
79	2	0.07%
80	2	0.07%
81	0	0.00%
82	0	0.00%
83	0	0.00%
84	0	0.00%
85	0	0.00%
86	0	0.00%
87	0	0.00%
88	2	0.07%
89	0	0.00%
90	0	0.00%
91	0	0.00%
92	0	0.00%
93	0	0.00%
94	0	0.00%
95	0	0.00%
96	0	0.00%
97	0	0.00%
98	0	0.00%
99	0	0.00%
100	0	0.00%
Total	**2,761**	**100.00%**

End of Report

Exhibit 7

EXHIBIT "8"

Expanded Homicide Data Table 2

Murder Victims

by Age, Sex, Race, and Ethnicity, 2017

		Sex			Race				Ethnicity		
Age	Total	Male	Female	Unknown	White	Black or African American	Other[1]	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
Total	**15,129**	**11,862**	**3,222**	**45**	**6,579**	**7,851**	**456**	**243**	**2,354**	**9,761**	**2,085**
Percent distribution[2]	100.0	78.4	21.3	0.3	43.5	51.9	3.0	1.6	16.6	68.7	14.7
Under 18[3]	1,208	864	341	3	512	642	33	21	215	754	178
Under 22[3]	2,994	2,405	583	6	1,113	1,767	73	41	548	1,863	429
18 and over[3]	13,754	10,893	2,840	21	6,010	7,149	417	178	2,120	8,941	1,840
Infant (under 1)	167	93	74	0	85	74	6	2	25	103	31
1 to 4	248	150	97	1	127	108	7	6	41	153	41
5 to 8	91	56	35	0	44	41	5	1	15	59	11
9 to 12	61	29	31	1	31	22	1	7	9	36	11
13 to 16	365	298	67	0	136	218	10	1	77	226	46
17 to 19	1,132	985	146	1	373	734	16	9	204	712	156
20 to 24	2,428	2,055	369	4	827	1,513	54	34	453	1,532	311
25 to 29	2,457	2,059	397	1	840	1,526	63	28	379	1,557	317
30 to 34	1,790	1,441	348	1	719	983	68	20	282	1,188	230
35 to 39	1,508	1,191	315	2	637	810	44	17	259	958	216
40 to 44	1,077	834	242	1	521	507	37	12	187	672	141
45 to 49	928	684	238	6	479	393	31	25	134	610	125
50 to 54	832	622	204	6	475	310	30	17	101	549	120
55 to 59	691	515	176	0	426	235	24	6	75	483	89
60 to 64	456	324	132	0	286	143	21	6	47	318	63
65 to 69	314	206	108	0	204	97	11	2	29	219	53
70 to 74	151	91	60	0	100	41	9	1	6	113	14
75 and over	266	124	142	0	212	36	13	5	12	207	43
Unknown	167	105	41	21	57	60	6	44	19	66	67

[1] Includes American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.

[2] Because of rounding, the percentages may not add to 100.0.

[3] Does not include unknown ages.

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DAVID BOGAN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

(Part 1 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, David Bogan, declare as follows:

I am not a party to the captioned action, am over the age of 18, have personal knowledge of the facts stated herein, and am competent to testify as to the matters stated and the opinions rendered below.

Personal Information, Education, and Employment Background

1. I reside in Temecula, California, and am currently employed by HP Communications Inc. in Corona, California, as a Fleet Administrator. I am also self-employed as a private investigator and California Hunter's Education instructor. The private investigation work is conducted under DMB Investigators. It is a private investigation firm specializing in insurance fraud. In addition to my work as a Hunter's Education instructor, I am also a firearms instructor, home safety instructor, and firearms range safety officer instructor.

2. I graduated from metropolitan State College B.S. in Criminal Justice. I also obtained a certificates in Advanced Accident Reconstruction and Vehicle Dynamics from Northwestern University in 1993.

3. I hold a California Department of Fish and Wildlife Hunter's Education Instructor Certificate (No. 004392). This certificate expires annually and will be renewed on December 31, 2020. I also hold National Rifle Association certifications as a Chief Range Safety Officer, Pistol Instructor, Rifle Instructor, Shotgun Instructor, and Defense in the Home Instructor (No. 209851445). I am a Board

Member of the Hunter Education Instructors Association and the Southern California Region Liaison to the Boy Scouts of America.

4. I worked for the Corpus Christi Police Department as a Police Sergeant/Detective from 1981 to 1998. In this role, I held positions of Patrol Officer, Vice–Squad, Narcotics Street Interdiction Team, and Narcotics Major Offenders Team; and I directed the Enforcement Unit responsible for writing all probable cause statements for Narcotics and Vice-Squad Units and executed numerous search and arrest warrants.

5. I was also on the Narcotics–Major Offender's Task Force where I was responsible for large-volume Narcotics Interdiction investigations as Case Manager and Under Cover Operative. I was responsible for writing all probable cause statements for Narcotics and Vice-Squad Units; I was the liaison with the United States Drug Enforcement Administration and Customs; and I cross certified as U.S. Customs Officer and U.S. DEA Special Agent for joint investigations of narcotics smuggling and distribution.

6. I am currently an Executive Board member of the Southern California Fraud Investigators Association where I hold the position of Secretary.

7. I have also completed the application process to receive my California Department of Justice, Firearms Bureau, Firearms Safety Certificate Instructors

license and currently hold a California Department of Justice, Certificate of Eligibility.

8. Attached hereto as **Exhibit 1** is a true and correct copy of my Curriculum Vitae. It describes my education, employment background, career experience.

9. To date, I have provided instruction for 35 California Hunter's Education courses and instructed 638 Hunter's Education students.

Hunter's Education Application Process and Course Requirements

10. California requires on-line registration for the Hunter's Education course. A requirement for Online Registration is obtaining a CDFW "GO ID." To obtain a GO ID, the customer must provide the following: (i) date of birth; (ii) last name; and (iii) if the student is an adult it will prompt them to provide an identification number (e.g., State ID/DMV, Passport); or (iv) if the student is a youth, they will register using the Parent/Guardian's ID. If no matching customers are found, a "New Customer Record" is created. A new "GO ID" number will be provided in the Customer Profile Info webpage. The student must then return to the Hunter's Education Class Registration form and input their valid GO ID to start the Hunter's Education course process.

11. There are two pathways to obtaining the Hunter's Education Certificate of Completion. The applicant may choose to take the traditional Hunter's Education

course, or they may take the online course.

12. The traditional Hunter's Education course is a minimum 10-hour course of classroom study. Although there is no gun range/shooting proficiency requirement, students must satisfactorily complete a "Safe-Gun Handling" demonstration. The online course requires 4-hours of on-line study, followed by an in-person 3-hour review course and one-hour examination.

13. The Hunter's Education course curriculum is separated into distinct categories. The areas of study include: (1) firearms safety and handling; (2) sportsmanship and ethics; (3) wildlife management and conservation; (4) archery hunting; (5) black powder firearms; (6) wildlife identification; (7) game care; (8) first aid; and (9) wilderness survival.

14. Based on my experience as a Hunter's Education Instructor and my personal observations of the minimum time required to sign up and complete the Hunter's Education course, the minimum amount of time needed to complete the course is either 10 hours (or 8 hours if taking the online course). However, in reality, completing the requirements to obtain a Hunter's license can take much longer than 8-or-10 hours. The main reason for this is the limited amount of Hunter's Education courses available in any one County every month and the seating availability for each course.

15. As of August 21, 2019, there is only one Hunter's Education course

listed as available in San Diego County for the entire month of September (Escondido Fish and Game Range, Escondido, CA 92027 on September 14, 2019). However, this class is limited to 22 seats and completely filled.

16. Additionally, there is only one course listed in San Diego County for the month of August (Las Flores Ranch House Barn, Camp Pendleton, CA 92055 on August 25, 2019). However the August class is limited to 25 seats and completely filled. Thus, in approximately a two-month period, only two Hunter's Education courses were offered and the courses were filled to capacity.

17. Considering the number of Hunter's Education courses available in San Diego County, it can take more than a month to complete the online course and then find and attend the follow-up course.

Hunter's Education Test and Test Categories

18. Upon completion of both the traditional Hunter's Education course and the online course, students are required to take and pass a 100-question test. The questions are divided into seven categories with the quantity of the question based on the time allocated to each section in the course. The following is a breakdown of the allocation of test questions for each topic:

• Firearm and Safe Gun Handling — 30% (30 questions)

• Sportsmanship, Hunters Ethics and Hunter Responsibilities — 20%

(20 questions)

- Principles of Wildlife Management —15% (15 questions)
- Survival and First Aid —10% (10 questions)
- Black Powder Firearms —10% (10 questions)
- Archery — 10% (10 questions)
- Game Care — 5% (5 questions)

19. The test is closed book and closed note. Hunter's Education students must answer 80 or more questions correctly (e.g., scoring 80%) in order to pass the test and receive their Hunter's Education completion certificate. If a student scores under an 80% (less than 80 correct answers), they may retake the test on another date. Course materials are provided to the student for home study.

20. Attached hereto as **Exhibit 2** is a true and correct copy of the Hunter's Education course materials – Today's Hunter in California: A Guide to Hunting Responsibly and Safely.

21. Based on my review of the Hunter's Education certification test, due to the apportionment of questions, a student could miss 20 of 30 questions (or 66% of all questions) relating to firearms and safe gun handling and still pass the test. In other words, if the student scored a perfect score in all other areas, they could still pass the Hunter's Education test and receive a Hunter's Education certificate while

only correctly answering 33% of the questions related to firearms and safe gun handling.

22. It is my opinion, although the California Hunter's Education course contains firearm safety curriculum, the course, as a whole, is better described as a hunting course rather than a firearms safety course because 30% of the course is dedicated to firearms safety and handling, while 70% of the course is dedicated to topics specifically related to the act of hunting (e.g., sportsmanship, ethical hunting, conservation).

23. In my opinion, due to the possibility of being able to pass the Hunter's Education test while still scoring a failing grade in the firearms safety and safe handling category, the Hunter's Education course does not require a satisfactory minimum level of firearm safety and safe handling knowledge.

Comparison of Firearms Safety Certificates and Hunter's Education

24. In my review of the Hunter's Education curriculum, specifically focusing on firearm safety and handling, I compared the Hunter's Education curriculum to the curriculum for obtaining a Firearms Safety Certificate in California. There are significant differences in the course of study for each program.

25. Pursuant to Penal Code section 26840, any person who acquires a firearm must have a Firearm Safety Certificate (FSC), unless they are statutorily exempt from the FSC requirement. Instructors are generally private-entity firearms

instructors who are certified by California Department of Justice. Attached hereto as **Exhibit 3** is a true and correct copy of Penal Code section 26840.

26. The FSC study guide and subsequent tests provide safety information and tests all potential firearm purchasers in California on firearm safety and safe handling of a firearm; however, in contrast, the Hunter's Education course does not provide detailed study of legal requirements of firearms safety. The Firearm Safety Certificate is valid for 5 years and must be renewed after the expiration date. In contrast, the Hunter's Education certificate is valid for life and does not require renewal.

27. Based on my direct comparison to the Hunter's Education and Firearms Safety Certificate curriculum, it is my opinion that the firearm safety curriculum in the Hunter's Education program is entirely duplicative of the curriculum covered in the Firearm Safety Certificate program. Moreover, the Hunter's Education curriculum does not cover as many topics in regard to firearm safety and safe handling of firearms as the Firearms Safety Certificate program. In other words, students who take the Hunter's Education course do not cover as many gun safety-related topics as is required by law through the Firearm Safety certificate program.

28. According to the Firearms Safety certificate study guide, the course curriculum is separated into seven broad categories: (a) Introduction; (b) Gun Safety

Rules; (c) Firearms and Children; (d) Firearm Operation and Safe Handling; (e) Firearm Ownership; (f) Prohibited Firearms Transfers and Straw Purchases, and (g) Firearms Laws. Each of these broad categories contains a number of subcategories that discuss basic gun safety rules, firearm owner responsibility, rules for kids, safe-handling demonstration, firearm types, firearm parts and operation, safety and storage laws, and general California firearms laws. This list of subcategories is not exhaustive. For a complete description of the subjects covered, please refer to **Exhibit 4** hereto, which contains a true and correct copy of the California Firearm Safety Certificate Study Guide, Office of the Attorney General, Department of Justice Bureau of Firearms (January 2019).

29. In comparison, though the Hunter's Education program does cover some of the same firearms safety and handling topics covered by the Firearms Safety certificate program, there are numerous topics covered in the FSC program that are only minimally covered or not covered at all in the Hunter's Education program.

30. For example, the Hunter's education program does not cover: (a) "you cannot be too careful with children and guns;" (b) talking to children about guns; (c) instill a mindset of safety and responsibility; (d) how semiautomatic pistols work; (e) enrolling in a firearms training course; (f) methods of childproofing firearms; (g) prohibited firearms transfers and straw purchases; (h) sales and transfers of firearms; (i) new California resident requirements; (j) carrying a concealed weapon;

(k) firearms aboard common carriers; (l) firearms in the home; business or at a campsite; (m) the use of lethal force in self-defense; (n) firearm storage during prohibition; and (o) persons ineligible to possess firearms.

31. Additionally, the Hunter's Education program only minimally covers the following topics that are covered in the FSC program: (a) rules for kids; (b) double-action revolver safe handling; (c) single-action revolver safe handling; and (d) semiautomatic pistol safe handling.

32. Thus, the Firearms Safety Certificate program requires a more thorough understanding and knowledge of gun safety and safe handling based on the apportionment of study material and percentage of questions required to be answered correctly in relation to firearms and safe gun handling. In other words, the Hunter's Education program does not provide any additional instruction on firearms safety and safe handling than what is already required by the FSC program.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 24th, 2019.

David Bogan

EXHIBITS
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1	David Bogan, Curriculum Vitae	0001 – 0004
2	Hunter's Education course materials – Today's Hunter in California	0005 – 0129
3	Penal Code section 268450	0130 – 0132
4	California Firearm Safety Certificate Study Guide, Office of the Attorney General, Department of Justice Bureau of Firearms (January 2019)	0133 – 0184

EXHIBIT "1"

Curriculum Vitae

David M. Bogan: CFE,CFS, FCLS, WCLS, CWCP

David.Bogan@DMBInvestigators.com / (858) 926-0496

PROFESSIONAL EXPERIENCE

DMB Investigators, President 2004-Present

DMB Consultants: Co-Founder/Director of Consulting Services 2018-Present

CA Department of Fish and Wildlife: Hunter Education Instructor 2017-Present

St. Mother Teresa of Calcutta Parish: Security Ministry 2015-2019

PC550 Holdings, Inc., President, CEO 2008-2016

Holding company which maintains either wholly-owned or majority shares of companies providing anti-fraud/claim services to the insurance industry. Companies include:

- **DMB Investigators**, President 2008-Present
- **Bogan Fraud Consult**, President 2008-2016
- **Safe Claims, LLC**, President 2011-2013
- **Med Claims Analysis, Inc.** President 2011-2013

CGI Insurance Business Services, Inc., SIU Senior Investigator 2005-2009

Responsible to conduct and oversee complex investigations of questionable matters related to personal and commercial insurance lines.

HUB Enterprises, Inc., California State Manager 2002-2005

Responsible for investigative product and business development and maintenance of existing accounts in California; headed company expansion into new market in California.

Bogan Investigative Group, Owner/Operator, Houston, TX 1998-2002

US Dept of Justice, DEA: Special Agent, Houston, TX 1993-1998

Undercover and Case Agent investigation and prosecution of Schedule 1 Narcotics Smuggling and distribution systems throughout the United States.

US Department of Treasury, United States Customs Service

Customs Officer, Corpus Christi, TX
1988 – 1990

Undercover and Case Agent responsible for the investigation and prosecution of Schedule 1 Narcotics Sea and Air Drug Smuggling into the United States throughout the Gulf of Mexico.

Corpus Christi Police Department: Police Sergeant/Detective 1981-1993

- Patrol Officer
- Vice–Squad
- Narcotics
- Major Offenders Directed Enforcement Unit
- Narcotics–Major Offenders Task Force
- Field Training Officer
- Criminal Investigation–Theft/Fraud
- Emergency Response Unit
- SWAT
- FBI, Joint Counter Terrorism Task
- Dive Master-Underwater Search and Recovery Dive Team
- School Resource Officer - Corpus Christi Independent School District, Roy Miller High School

United States Department of Interior:
Payroll Fraud Investigator Denver Federal Center 1978-1981

PROFESSIONAL DESIGNATIONS

- **CFE:** Certified Fraud Examiner, Association of Certified Fraud Examiners
- **CFS:** Certified Fraud Specialist, Association of Certified Fraud Examiners
- **CWCP**: Certified Workers' Compensation Professional, Michigan State University, School of Labor Relations, Ambassador, Employers' Fraud Taskforce
- **FCLS**: Fraud Claim Law Specialist, American Educational Institute
- **WCLS**: Workers' Compensation Law Specialist, American Educational Institute
- **WCLA**: Workers' Compensation Law Associate, American Educational Institute
- **Hunter Education Instructor**: California Department of Fish and Wildlife

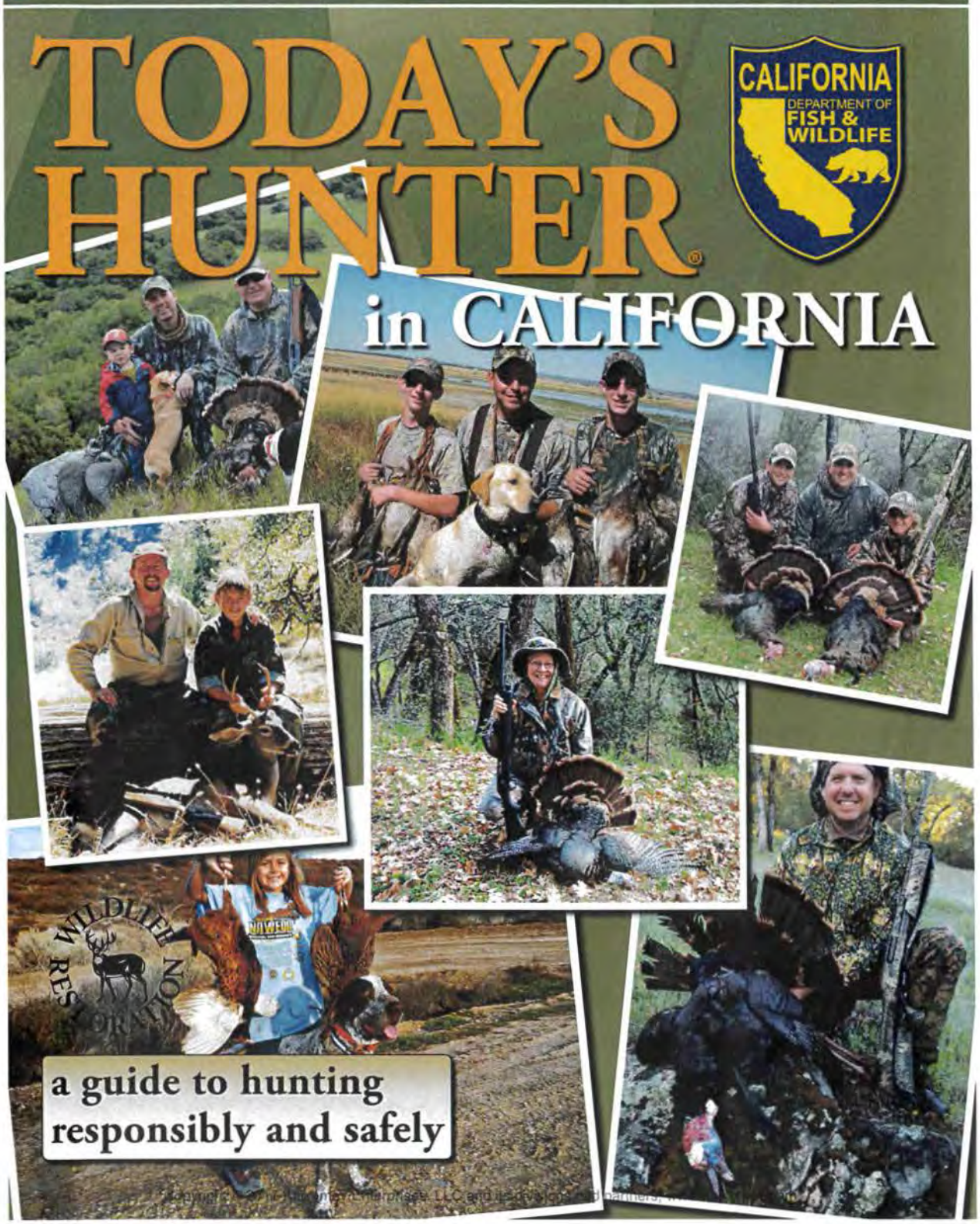
- **Hunter Education Instructor Association:** Boy Scout Liaison
- **Boy Scouts of America:** California Inland Empire Council – Shooting Sports Committee Member
- **BSA Murrieta CA Troop 300:** Past Scoutmaster/Shooting Sports Firearms Instructor
- **A.L.I.C.E.:** Active Shooter Response Instructor
- **Rifle Instructor**: National Rifle Association
- **Shotgun Instructor**: National Rifle Association
- **Pistol Instructor**: National Rifle Association
- **Defense in the Home Instructor**: National Rifle Association
- **Chief Range Safety Officer**: National Rifle Association

TASKFORCE/ASSOCIATION PARTICIPATION

- Self-Reliance Association
- San Diego County Gun Owners Association
- California Hunter Education Instructors Association
- Southern California Fraud Investigators Association – Current Secretary
- Orange County Auto Theft Investigators
- Western States Auto Theft Investigators
- National Association of Traffic Accident Reconstructionist & Investigators
- South Texas Narcotics Interdiction Task Force -Houston Texas
- FBI, Joint Counter Terrorism Task - South Texas
- FBI, Fraud Initiative, San Diego, CA
- Association of Certified Fraud Examiners
- Association of Certified Fraud Specialist – Past President
- Fraternal Order of Police, Texas Lodge 27 – Past President
- Auto Theft Roundtable, San Diego District Attorney's Office, San Diego, CA
- Premium Fraud Task Force, San Diego District Attorney's Office, San Diego, CA
- Insurance Service Provider, Tax Evasion and Billing Fraud Task Force, Los Angeles District Attorney's Office, Los Angeles, CA
- California Department of Insurance Fraud Consortium, Department of Insurance, Fraud Division, Rancho Cucamonga, CA
- Employers' Fraud Task Force, Anaheim Hills, CA – Past Senior Advisor

EXHIBIT "2"

(Part 1 of 2)


TODAY'S HUNTER
CALIFORNIA
DEPARTMENT OF FISH & WILDLIFE
in CALIFORNIA
WILDLIFE RESTORATION
a guide to hunting responsibly and safely

THE TEN COMMANDMENTS OF FIREARM SAFETY



Courtesy of T.A. Blake



Courtesy of Texas Parks & Wildlife



Courtesy of Steve Farrel

1. **Watch that muzzle!** *Keep it pointed in a safe direction at all times.*
2. **Treat every firearm with the respect due a loaded gun.** *It might be, even if you think it isn't.*
3. **Be sure of the target and what is in front of it and beyond it.** *Know the identifying features of the game you hunt. Make sure you have an adequate backstop—don't shoot at a flat, hard surface or water.*
4. **Keep your finger outside the trigger guard until ready to shoot.** *This is the best way to prevent an accidental discharge.*
5. **Check your barrel and ammunition.** *Make sure the barrel and action are clear of obstructions, and carry only the proper ammunition for your firearm.*
6. **Unload firearms when not in use.** *Leave actions open, and carry firearms in cases and unloaded to and from the shooting area.*
7. **Point a firearm only at something you intend to shoot.** *Avoid all horseplay with a gun.*
8. **Don't run, jump, or climb with a loaded firearm.** *Unload a firearm before you climb a fence or tree, or jump a ditch. Pull a firearm toward you by the butt, not the muzzle.*
9. **Store firearms and ammunition separately and safely.** *Store each in secured locations beyond the reach of children and careless adults.*
10. **Avoid alcoholic beverages before and during shooting.** *Also avoid mind- or behavior-altering medicines or drugs.*

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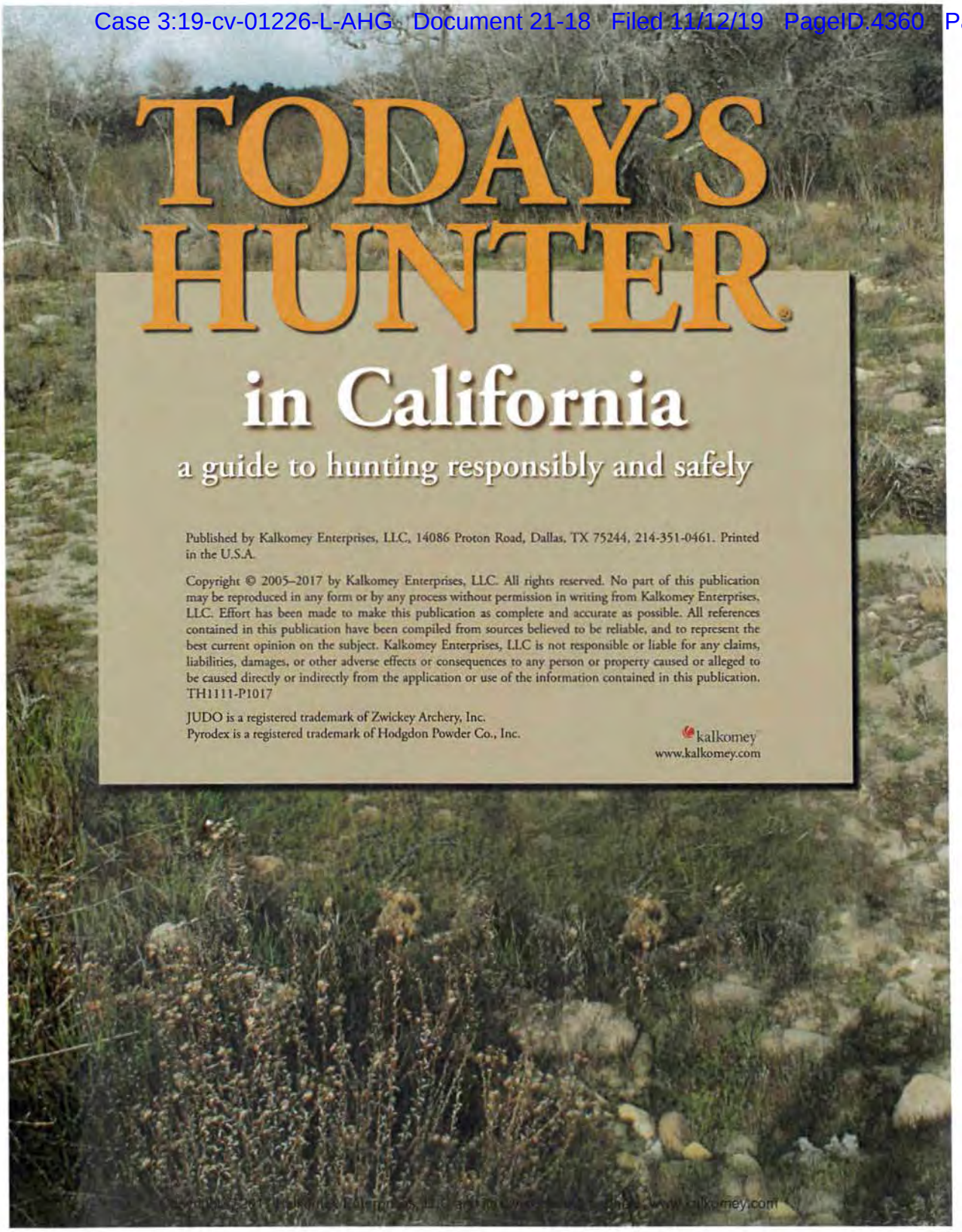

TODAY'S HUNTER®

in California

a guide to hunting responsibly and safely

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Introduction to Hunter Education

You should be able to...

- Give two reasons why hunter education is important.
- Name three hunting-related projects for which the Federal Aid in Wildlife Restoration Act (Pittman–Robertson Act) funds are used.
- Describe the behavior of a responsible hunter.
- Give an example of how you can be involved in making hunting a respected sport.
- Name five sources of hunter education funding.

INTERNATIONAL HUNTER EDUCATION ASSOCIATION
IHEA-USA
Responsible Hunting

International Hunter Education Association-United States of America (IHEA-USA)

The organization's mission is to continue the heritage of hunting worldwide by developing safe, responsible, and knowledgeable hunters. Since its inception, IHEA-USA has endeavored to:

- Serve as the primary resource for information on hunter education.
- Promote hunter education by providing opportunities for the exchange of ideas, knowledge, and experiences.
- Promote hunter education by fostering cooperative efforts among government agencies, organized groups, and industry.
- Uphold the image of hunting as a legitimate tool of wildlife management and as a recreational activity throughout North America.
- Promote programs that prevent hunting incidents.
- Cultivate honesty, self-discipline, self-reliance, responsible behavior, and good citizenship among hunters.
- Strive for constant improvement in hunter education programs.
- Fully involve volunteers and other associate members in all affairs of the IHEA-USA.

Why Hunter Education?

The first mandated hunter education program began in New York in 1949 to reduce hunting incidents. As hunter education programs spread across the country, safety coordinators formed what is now the International Hunter Education Association to create a core curriculum, which is the basis for this course.

- Hunter education programs have always taught young hunters the practice of firearm and hunting safety. Today, hunter education programs are about more than safety. They have been expanded to produce responsible, knowledgeable, and involved hunters—hunters who understand the importance of complying with hunting laws and behaving ethically. These programs give beginners a good foundation, and they provide a refresher for veteran hunters.
- Ultimately, the mission of hunter education programs is to develop safe, ethical, and responsible hunters and to ensure the continuation of the hunting tradition.



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Responsibility, Safety Skills, Knowledge, and Involvement

Hunter education strives to instill responsibility, improve skills and knowledge, and encourage the involvement of beginner and veteran hunters. Responsible, ethical behavior and personal involvement are both essential to the survival of hunting.

- **Responsibility**
  A knowledgeable and skillful student of hunting will never be a true hunter unless he or she also behaves responsibly. Responsible behavior includes courtesy, respect of others and of wildlife, and involvement. Responsible hunters do not poach or act carelessly. Responsible hunters obey hunting laws, hunt fairly, practice safety rules, and wait for a clean kill before shooting. How you behave and how other people see you will determine hunting's future.
- **Safety Skills**
  Hunting-related safety skills are gained through hands-on training and practice. It is most valuable to learn these skills from an experienced hunter.
- **Knowledge**
  Knowledge is learning and understanding the basics of safe gun handling and hunting. Before being trained in the skill of firearm shooting, you should know how the firearm operates and how to handle it safely.
- **Involvement**
  Part of the process of becoming a true, responsible sportsman is becoming involved in efforts to keep hunting a respected sport. That includes teaching others, working with landowners, and cooperating with game wardens. It also includes joining conservation organizations, which will help preserve habitat and promote wildlife management.

Hunter Education Funding Sources

- The U.S. Fish & Wildlife Service provides federal aid to state wildlife agencies to support a variety of hunting-related projects, including hunter education, land acquisition, and improvement of wildlife habitat. The Federal Aid in Wildlife Restoration funding was established in 1937 by the Pittman–Robertson Act.
- State wildlife agencies sponsor the hunter education programs that are found in each state or province.
- Non-governmental organizations (Ducks Unlimited, National Rifle Association, IHEA-USA, etc.) offer hunter education and firearm safety education materials and training.
- Many firearm and archery manufacturers provide training materials to teach hunters how to use their products safely.
- Local hunting clubs, civic clubs, and businesses often provide the facilities and equipment for hunter education courses.

Pittman–Robertson Act

- The Federal Aid in Wildlife Restoration Act, popularly known as the Pittman–Robertson Act, was approved by Congress in 1937. The act provides funding for the selection, restoration, and improvement of wildlife habitat and for wildlife management research. The act was amended in 1970 to include funding for hunter education programs and for the development and operation of public target ranges.
- Funds for the act come from an 11% federal excise tax on sporting arms, ammunition, and archery equipment, as well as a 10% tax on handguns. One-half of the excise tax on handguns and archery equipment is used for hunter education and target ranges. These funds are collected from the manufacturers and are distributed each year to the states and territorial areas by the Department of the Interior.
- Each state's proportion of the federal funds is based on the area of the state and the number of licensed hunters in the state. The state covers the full amount of an approved project and then applies for reimbursement through federal aid for up to 75% of the project's expenses; the state is responsible for the other 25% of the project's cost.

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Know Your Firearm Equipment

You should be able to...

- Define "firearm."
- Identify the basic parts of a rifle, shotgun, and handgun.
- Identify the basic components of rifle and shotgun ammunition.
- Explain how ammunition is fired from a firearm.
- Identify six types of firearm actions.
- Demonstrate proper loading and unloading of firearms with two different types of actions.
- Identify the location(s) of safeties on firearms, and explain how they are used.
- Name five types of sights found on firearms.
- Describe how a rifle is different from other firearms.
- Identify and explain a rifle's caliber and a shotgun's gauge.
- Name the four common shotgun chokes, and explain how they differ.
- Explain the difference between lead shot and steel shot.
- Correctly match ammunition with firearms.
- Explain the danger of mixing different gauges of shotshells.
- Explain why it is important to know your firearm's range.
- Demonstrate cleaning procedures for a firearm.
- Demonstrate how to make a firearm safe for storage.



The first step to becoming a responsible hunter is knowing your equipment and how to use it safely.

What Is a Firearm?

A firearm is a mechanical device that uses pressure from a burning powder to force a projectile through and out of a metal tube. To appreciate fully the importance of firearm safety, you first must understand how firearms work. This includes knowing the parts of the firearm, the types of ammunition, how ammunition is fired, and the ranges of the various firearms used for hunting.

Basic Parts of a Firearm

Although firearms have changed a great deal since they were first invented, the terms used for their parts have changed very little. All modern firearms have three basic groups of parts.

- **Action:** The action is the heart of the firearm—the moving parts that load, fire, and eject the shells or cartridges. Several types of actions are used in modern firearms. Muzzleloaders have locks instead of actions.
- **Stock:** The stock serves as the handle of the firearm. It can be composed of one or two pieces and is usually made of wood or a synthetic material.
- **Barrel:** The barrel is the metal tube that the projectile travels through (bullets travel through the barrels of rifles and handguns; shot travels through the barrel of shotguns).

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Parts of a Bolt-Action Rifle

Rifles, shotguns, and handguns have many similar parts. Shown here are the parts of a commonly used rifle—the bolt-action rifle.



Other Firearm Parts

bore: Inside of the firearm barrel through which the projectile travels when fired

breech: Rear end of the barrel

firing pin: A pin that strikes the primer of the cartridge, causing ignition

receiver: Metal housing for the working parts of the action

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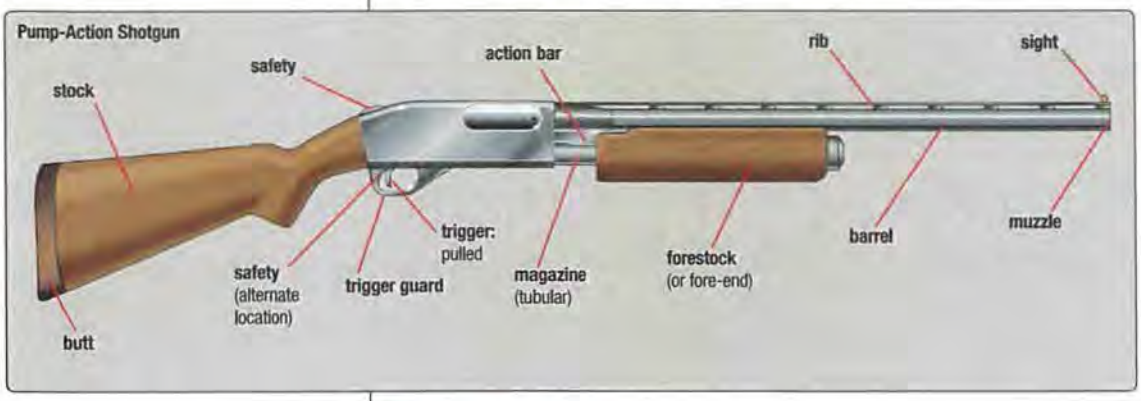
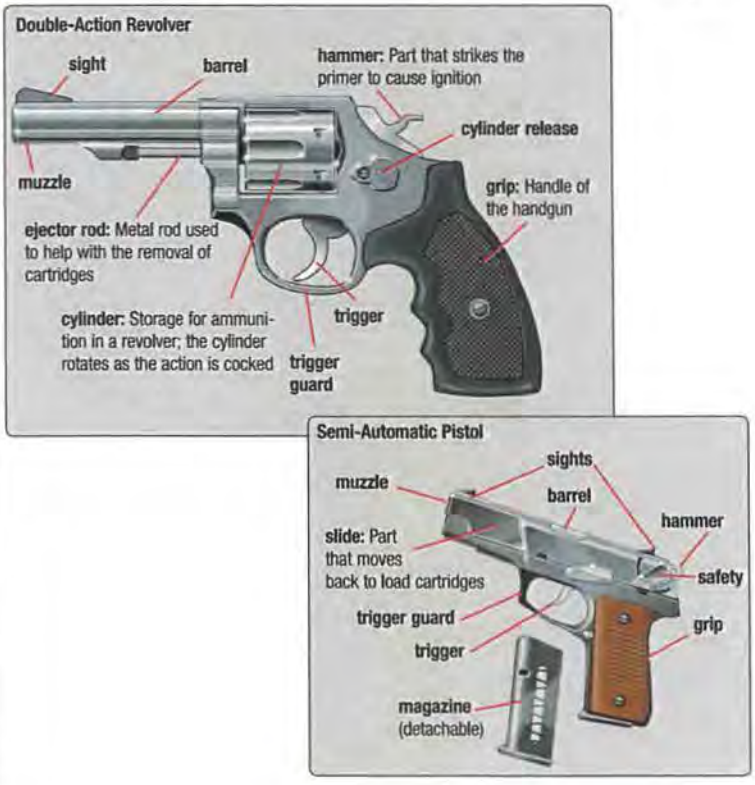
Parts of a Pump-Action Shotgun

Shotguns are another long-barreled firearm used by hunters. Below are the parts of a commonly used shotgun—the pump-action shotgun.



Parts of a Handgun

Handguns (revolvers and pistols) are short-barreled firearms sometimes used for hunting. Below are the parts of a double-action revolver and a semi-automatic pistol.



The Airgun

The airgun is often used by beginning hunters to learn shooting and safety skills. Modern airguns have designs, parts, and sights similar to sporting firearms.

Airguns can be just as dangerous as larger firearms. Youngsters should always be supervised when using airguns.

There are three types of airguns.

- **Pneumatic airguns** use a pump system that forces air into an enclosed chamber. The air is retained in the chamber by a valve that allows air to enter but not escape. When the trigger is released, the compressed air drives the pellet or BB out of the barrel.
- **CO_2-powered or gas-powered airguns** use compressed CO_2 contained in a cylinder. The cylinder attaches to a chamber inside the air rifle or pistol. When the trigger is squeezed, a valve releases a quantity of CO_2 that propels the pellet or BB out of the barrel.
- **Spring-piston airguns** use a spring that is compressed by a lever. When you squeeze the trigger, the spring is released and thrusts a plunger forward. The plunger pushes a compressed column of air through the barrel, driving out the pellet or BB.

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What Is Ammunition?

Modern ammunition varies depending on the type of firearm. Rifles and handguns use a **cartridge** containing a single projectile (bullet). Shotguns use a **shotshell** containing either a single slug or a large number of small projectiles (shot or pellets). However, the basic components of cartridges and shotshells are similar.

Basic Components of Ammunition

The basic components of ammunition are the case, primer, powder, and projectile(s). Shotshells have an additional component called wad.

- **Case:** The container that holds all the other ammunition components together. It's usually made of brass, steel, copper, paper, or plastic.
- **Primer:** An explosive chemical compound that ignites the gunpowder when struck by a firing pin. Primer may be placed either in the rim of the case (rimfire) or in the center of the base of the case (centerfire).
- **Gunpowder:** A chemical mixture that burns rapidly and converts to an expanding gas when ignited. Modern smokeless powder will burn slowly when ignited in the open (outside of the case). Black powder is less stable and can be explosive when impacted or ignited in the open.
- **Projectile:** The object(s) expelled from the barrel. A bullet is a projectile, usually containing lead, fired through a rifle or handgun barrel. A slug is a solid projectile, usually of lead, fired through a shotgun barrel. Shot is a group of lead, steel, tungsten alloy, or bismuth pellets fired through a shotgun barrel.
- **Wad:** A seal and/or shot container made of paper or plastic separating the powder from the slug or shot in a shotshell. The wad prevents gas from escaping through the shot and holds the shot together as it passes through the barrel.

Rifle and Handgun Cartridges

- It's critical to select the correct cartridge for your rifle or handgun. Carefully compare the data stamp on the barrel of the firearm against the description on the ammunition box and the stamp on each cartridge.
- Bullets used in rifle and handgun cartridges come in various designs, sizes, and weights. The bullet usually is made of lead and may have a jacket made of copper, brass, or another metal. Bullets used for hunting game may have soft or hollow points designed to expand (mushroom) upon impact. Bullets used for target shooting usually have solid points that make smaller holes.
  - **Common Types of Rifle Bullets**
    - Pointed Soft Point: High-velocity, accurate bullets with a flat travel path (trajectory); excellent mushrooming
    - Rounded Soft Point: Popular for low-velocity calibers; recommended for tubular magazines
    - Protected Tip: Highly accurate with excellent expansion
    - Full Metal Jacket: Maximum penetration without mushrooming; these bullets are **illegal for big game hunting in most states**
  - **Common Types of Handgun Bullets**
    - Roundnose Lead: Good penetration, little expansion
    - Full Metal Jacket: High penetration, no expansion
    - Semi-Wad Cutter: Balances penetration and expansion
    - Hollowpoint: Designed for high expansion on impact
    - Wad Cutter: Flat-ended, used for target shooting; creates clean hole in paper

cartridge
Ammunition used in modern rifles and handguns; a case containing primer, gunpowder, and a bullet

shotshell
Ammunition used in modern shotguns; a case containing primer, gunpowder, wad, and a slug or shot

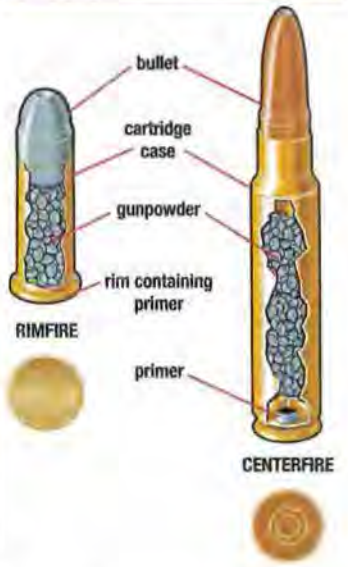
Centerfire and Rimfire Ammunition

- Centerfire ammunition is used for rifles, shotguns, and handguns. In this type of ammunition, the primer is located in the center of the casing base. Most centerfire ammunition is reloadable.
- Rimfire ammunition has the primer contained in the rim of the ammunition casing. Rimfire ammunition is limited to low-pressure loads. Rimfire cartridges are not reloadable.

Safety Tip

In tubular magazines, the bullet tip of one cartridge rests directly on the primer of the cartridge immediately ahead. For this reason, use only rounded or blunt tips in tubular magazines.

Rifle and Handgun Ammunition



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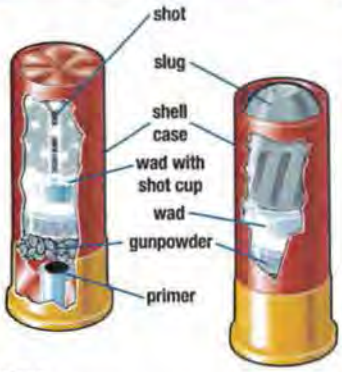
Shotgun Ammunition



gauge
Term used to designate bore diameter of a shotgun; gauge is the number of lead balls with diameters equal to the diameter of the bore that, when combined, weigh one pound

Shotshells

- Shotgun shells (shotshells) use a slug or shot as the projectile(s).
  - A slug is a solid projectile, usually of lead, used for hunting big game with a shotgun.
  - Shot are multiple pellets fired through a shotgun barrel. Shot size is adaptable to the game being hunted. This type of projectile is used typically to hunt game birds and small game animals.
- The shotshells must match exactly the **gauge** and shell length specified by the manufacturer. This information usually is found on the barrel of the shotgun. Shotguns may be chambered for 2½-inch, 2¾-inch, 3-inch, or 3½-inch shells. This refers to the length of the shell *after* it has been fired. Never load a shotshell that exceeds the approved shell length stamped on the barrel of your shotgun.
- You also must choose the correct type and size of shot for the shotshell. In general, as the size of your target decreases, you should decrease the diameter of the shot you use.
  - As pellet diameter decreases, more shot can be placed in a standard shotshell.
  - The smaller the shot "number," the larger the pellet diameter.
  - Shotshell marked as magnum has more shot or more gunpowder than a regular shell. Magnum and regular shotshells are interchangeable *if the correct gauge and shell length are used.*

Shot Sizes

U.S. STANDARD DESIGNATIONS

SHOT SIZES	12	9	8	7½	7	6	5	4	3	2	1	B	BB	BBB	T
Shot Number															
Diameter (in.)	.05	.08	.09	.095	.10	.11	.12	.13	.14	.15	.16	.17	.18	.19	.20
Number of Lead Pellets per Ounce	2,385	585	410	350	300	225	170	135	n/a	90	n/a	n/a	50	n/a	n/a
Number of Steel Pellets per Ounce	n/a	n/a	577	490	420	317	243	192	154	125	103	86	72	61	53

BUCKSHOT SIZES	4	3	1	0	00	000
Shot Number						
Diameter (in.)	.24	.25	.30	.32	.33	.36

Shot size can be adjusted for the game being hunted. As pellet diameter decreases, more shot can be placed in a standard shotshell load. The smaller the shot number, the larger the shot size.

Non-Toxic Shot

Non-toxic shot is required throughout the U.S. for waterfowl hunting. Studies showed that many waterfowl died each year because of lead poisoning. Lead pellets from traditional shotshells were picked up and digested by waterfowl. The toxic effect spread to other birds, such as the bald eagle, which consumed the poisoned waterfowl. To reduce this problem, conservationists worked with shotshell manufacturers to produce effective alternatives to lead shot—steel, tungsten alloy, or bismuth shot.

- Steel shot pellets react differently than lead when shot. Steel weighs one-third less than lead but is much harder. Steel does not deform and is not as unstable in flight. It will produce a tighter pattern than lead shot. If using steel shot for hunting, choose a steel shot size one to two sizes larger than the lead shot you would select, and choose a less constrictive choke.

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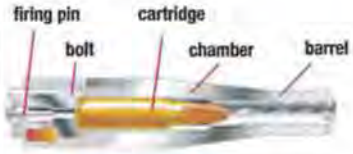
How a Firearm Works

The same physical process is used to shoot shotshells from shotguns or cartridges from rifles or handguns. Pulling the trigger causes the firing pin to strike and explode the primer in the base of the cartridge or shotshell. The spark from the primer ignites the gunpowder, which burns rapidly and converts to a gas. The gas rapidly expands and drives the projectile(s) through the barrel with great force.

- **How the rifle and handgun fire:**
  1. A cartridge is inserted into the chamber.
  2. The action is closed, and the firing pin is pushed back and held back under spring tension.
  3. The trigger is squeezed, releasing the firing pin, which moves forward with great force. The firing pin strikes the primer, causing it to explode.
  4. The spark from the primer ignites the gunpowder. Gas converted from the burning powder rapidly expands in the cartridge.
  5. The expanding gas forces the bullet out of the cartridge and down the barrel with great speed.
  6. The rifling in the barrel causes the bullet to spin as it travels out of the barrel. The bullet's speed and escaping gases produce a "bang."
- **How the shotgun shoots:**
  1. A shotshell is inserted into the chamber.
  2. Closing the action pushes the firing pin back and holds it under spring tension.
  3. Pulling the trigger releases the firing pin. The firing pin strikes the primer, producing sparks.
  4. Heat and sparks from the primer ignite the gunpowder. Gas converted from the burning powder expands in the shell.
  5. The expanding gas forces the wad and shot out of the plastic body of the shell.
  6. The escaping gases produce a "bang" as the wad and shot leave the barrel.
  7. The wad quickly opens and falls away. The shot cluster spreads. This spread is called the shot string.

How Ammunition Is Fired

The firing sequence for handguns and shotguns is very similar to this sequence shown for a bolt-action rifle.



- The bolt moves forward, compressing the firing pin spring and inserting a cartridge into the chamber.



- The firing pin is held back under spring tension.



- When the trigger is squeezed, the firing pin moves forward, crushing and igniting the primer in the cartridge base.



- The primer ignites the gunpowder, generating gas pressure, which forces the bullet forward and out of the barrel.

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Common Actions on Rifles

Single-shot rifles are usually break- or bolt-actions. Repeating rifles include the bolt-action, lever-action, pump-action, and semi-automatic types. Operating the lever, bolt, or forestock ejects the empty cartridge case, chambers a new round of ammunition, and cocks the gun.


Bolt Action


Lever Action


Pump Action


Semi-Automatic Action


Break (Hinge) Action

Common Features of Firearms

All types of firearms have actions and sights, and they may have safeties or magazines. Features unique to rifles or shotguns are discussed in the following sections.

Firearm Actions

Firearms can be classified by their action type. The action of a firearm is made up of parts that load, unload, fire, and eject the shotshell or cartridge. Actions are either single-shot or repeating styles. Single-shot firearms must be reloaded each time the firearm is fired. Repeating firearms have extra cartridges or shotshells ready in a magazine, cylinder, or extra barrel.

- **Bolt Action:** A bolt-action firearm operates like opening and closing a door bolt. The bolt solidly locks into the breech, making it accurate and dependable.
  - To open the action, lift the handle up, and pull it to the rear.
  - If the firearm is loaded, the cartridge or shotshell will be ejected as you pull the bolt to the rear. To make sure it's unloaded, open the action, and check *both* the chamber *and* the magazine for cartridges or shotshells.
  - You can store a bolt-action firearm safely by storing the bolt separately from the firearm.
- **Lever Action:** The lever-action firearm has a large metal lever located behind the trigger. This handle usually forms the trigger guard as well.
  - To open the action, push the lever downward and forward, which extracts the cartridge case from the chamber and ejects it. If a magazine holds extra cartridges, another is immediately ready to be loaded into the chamber.
  - It's often difficult to tell whether a lever-action firearm is loaded. To unload, push the lever downward and forward repeatedly until no more cartridges are ejected. To make sure it's unloaded, open the action, and check *both* the chamber *and* the magazine for cartridges.
  - Most models also have an exposed hammer, which can be dangerous.
  - **Always use extra caution to keep your hands away from the trigger while working the lever action.**
- **Pump Action:** The pump-action firearm is fast and smooth. It allows the shooter to re-cock the firearm without taking his or her eye off the target. The pump action also is referred to as "slide action" or "trombone action."
  - To open the action, slide the forestock to the rear, which extracts the cartridge or shotshell from the chamber and ejects it. Sliding the forestock toward the muzzle closes the action and readies another cartridge or shell for loading. A pump-action firearm will open only after it's fired or if a release lever is pressed and the forestock is pulled to the rear.
  - To make sure it's unloaded, open the action, and check *both* the chamber *and* the magazine for cartridges or shotshells.
- **Semi-Automatic (or Autoloading) Action:** As each shot is fired manually, the case of the cartridge or shotshell is ejected automatically, and the chamber is reloaded automatically.
  - To open the action, you must pull back the bolt's operating handle (on a rifle or shotgun) or the slide (on a pistol). Most semi-automatics, when the bolt or slide is pulled back, will lock in the open position if the magazine is empty. If the firearm does not lock open, it means that a cartridge or shotshell from the magazine has gone into the chamber, making the firearm ready to fire. A few semi-automatics do not lock open and must be held open to check the chamber.

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- To unload, *first remove the magazine,* and lock the action open. Then make sure it's unloaded—check *both* the chamber *and* the magazine for extra cartridges or shells.
- When closing the action for loading, pull back to unlock the bolt or slide and then let go, allowing it to travel forward on its own. Do not guide it forward with your hand because it may not seat properly.
- On a semi-automatic, the trigger must be pulled each time a shot is fired. This makes the semi-automatic different from the fully automatic firearm, which fires continuously as long as the trigger is held down. **The fully automatic firearm may not be used for hunting or sport shooting.**

- **Break (or Hinge) Action:** The break-action firearm operates on the same principle as a door hinge. Simple to load and unload, a hinge action is often chosen as a hunter's first firearm.
  - To open the action, point the barrel(s) at the ground. A release is pressed, and the stock drops downward. This allows the cartridges or shotshells to eject or to be removed manually if the firearm is loaded.
  - Hinge-action firearms have a separate barrel for each shot rather than a magazine. Most models have one or two barrels, but some have up to four.
  - Some models also have an exposed hammer(s), which can be dangerous.
- **Revolving Action:** The revolving action takes its name from a revolving cylinder containing a number of cartridge chambers. One chamber at a time lines up with the barrel as the firearm is fired. Revolving cylinders may rotate either clockwise or counterclockwise, depending on the manufacturer. This type of action is usually found on handguns but may be found on some older rifles. Revolving actions are referred to as either "single action" or "double action."
  - **Single Action:** Will fire only after the hammer has been cocked manually.
  - **Double Action:** Pulling the trigger both cocks and releases the hammer. A double-action revolver typically also can be hammer-cocked like a single-action revolver.

Typical Handgun Actions



Common Actions on Shotguns

Shotguns use many of the same actions as rifles—the pump action, semi-automatic action, and bolt action. They also use a break action as either a single barrel or double barrels. The double barrels can be arranged horizontally (side-by-side) or vertically (over-under).



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Typical Locations of Safeties

The red outlines indicate where safeties are typically located on rifles, shotguns, and handguns.



Safety Tip

You should never replace safe firearm handling with trusting the safety on a firearm. A safety is a mechanical device that could fail. Don't release the safety until just before you shoot.

Knowing where the safety is and how it works is not always as simple as it might seem. There are many types of safeties. Sometimes people alter or modify their guns to disable the safety. This is very dangerous, especially if the gun gets into the hands of an inexperienced shooter. Be sure you know how the safety works on your own gun or any others you handle. Never alter or modify your firearm yourself. Have an experienced gunsmith look at your gun if the safety does not work or if anything else is wrong with it.

Safety Mechanisms

A safety is a device that blocks the action to prevent the firearm from shooting until the safety is released or pushed to the off position. The safety is intended to prevent the firearm from being fired accidentally. However, safeties should never be relied on totally to protect against accidental shooting. Safeties are mechanical devices subject to mechanical failure from wear and other factors, and they can fail when least expected. Also, safeties can be unknowingly bumped from the safe position as your firearm is being handled or as it catches on clothing or tree branches.

All safeties are located around the receiver of the firearm and are usually easy to spot. Common types of safeties are:

- **Cross-Bolt Safety**
  - Common on pump and semi-automatic firearms
  - A simple, push-button action that blocks the trigger or hammer
  - Usually located at the trigger guard or ahead of the hammer
- **Pivot Safety**
  - Common on handguns and bolt-action rifles
  - A pivoting lever or tab that blocks the trigger or firing pin
  - Located on the frame (blocks trigger) or on the bolt or slide (blocks firing pin)
- **Slide or Tang Safety**
  - Common on some rifles and break-action shotguns
  - A sliding bar or button that blocks the firing action
  - Located on the tang (a metal strip behind the receiver) of break-action firearms or on the side of the receiver on some rifles
- **Half-Cock or Hammer Safety**
  - Common on firearms with exposed hammers
  - Positions the trigger at half-cock, away from the firing pin
  - Engaged by placing the trigger at half-cock; some firearms automatically rebound to the half-cock position after the trigger is released
  - While not a true safety, it is sometimes described as a mechanical safety device by firearm manufacturers

Magazines

In repeating firearms, the magazine is the place that stores the ammunition that has not been fired. When you work the action, a cartridge is picked up from the magazine and placed in the chamber ready to be fired.

- Magazines are designed with a spring and follower, which push against the cartridges to move them into the action. When checking a magazine to make sure it's empty, you must be able to either see or feel the follower; if you cannot see or feel the follower, there may be a cartridge jammed in the magazine, which can be dangerous. Tubular magazines require close attention to make sure a cartridge is not jammed in the magazine.
- Magazines may be detachable or fixed.
  - Detachable magazines allow you to remove extra ammunition from the firearm by simply removing the magazine.
  - Fixed magazines require the ammunition to be removed manually from the gun itself. These include tubular, hinged-floor-plate, and revolving magazines.

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Sights

A sight is a device used to line up the muzzle with the shooter's eye so that he or she can hit the target. Sights are more critical on a firearm that fires a single projectile (rifle and handgun) than on a firearm that shoots a pattern of shot (shotgun). Shotguns usually have a simple pointing bead. Rifles typically have an open, aperture (peep), or telescopic sight. Most handguns have an open sight, although some specialized handguns have a dot or a telescopic sight. Read more about using sights in Chapter Three.

- **Bead Sight:** Simple round bead set into the top of the barrel near the muzzle of a shotgun. Some shotguns have a second, smaller bead about halfway back on the barrel. The shooter uses the shotgun to "point" at and follow a moving object. The bead is used only for a reference as the shotgun is pointed and moved to follow flying or running targets.
- **Open Sight:** Combination of a bead or post front sight and a notched rear sight. These sights are simple and inexpensive. Open sights allow quick sighting. To aim, you center the top of the bead or post within the notch of the rear sight, and line up on the target. Open sights can be fixed or adjustable.
- **Aperture (Peep) Sight:** Combination of a bead or post front sight and a round hole set on the rifle's receiver close to the shooter's eye. To aim, you center the target in the rear peep or aperture sight, and then bring the front sight into the center of the hole. An aperture sight lets you aim more accurately and is adjusted more easily than an open sight.
- **Telescopic Sight (Scope):** Small telescope mounted on your firearm. A scope gathers light, brightening the image and magnifying the target, and does away with aligning rear and front sights. The aiming device inside the scope is called the "reticle." To aim, you simply look through the scope, and line up the crosshairs, post, or dot with your target. Telescopic sights provide the most accurate aiming, which makes them popular for hunting.
- **Dot Sight:** Small device mounted on your firearm. A dot sight uses electronics or optical fibers to project a glowing dot or other mark on a lens in front of the shooter's eye. Some dot sights also magnify like telescopic sights.

Types of Rifle Sights



Remember...
Never use the scope on your telescopic sight as a pair of binoculars!

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The Damascus Barrel

Damascus or "Damascus twist" barrels are older shotgun barrels that were typically made before 1900. Iron and steel ribbons were twisted and welded together. Damascus barrels are weaker than modern barrels and are not designed for the high gas pressures created by modern ammunition. Damascus barrels have a distinctive, irregular pattern of short, streak-like marks around the barrel.

If you have a Damascus barrel gun, don't shoot it. The barrel may burst slightly ahead of the chamber, crippling the shooter's hand or forearm. If you have an older firearm and are not sure whether it has a Damascus barrel, go to a qualified gunsmith to identify its make before shooting it.

Differences Between Rifles, Shotguns, and Handguns

The main differences between rifles, shotguns, and handguns are their barrels and the type of ammunition used.

- The rifle barrel is long and has thick walls with spiraling grooves cut into the bore. The grooved pattern is called rifling.
- The shotgun barrel is long and made of fairly thin steel that is very smooth on the inside to allow the shot and wad to glide down the barrel without friction. It's thinner than a rifle barrel because it does not have to withstand as much pressure.
- The handgun barrel is much shorter than a rifle or shotgun barrel because the gun is designed to be shot while being held with one or two hands, rather than being placed against the shooter's shoulder. The bores of most handgun barrels also have a grooved pattern similar to rifles.

Rifle, Handgun, and Shotgun Bores

The bore of a rifle or handgun is grooved, which puts a spiral spin on the bullet for greater accuracy. The bore of the shotgun barrel is smooth because rifling would spread the shot pattern too soon.



Remember...

Reloaded shells may have wrong information or have been improperly reloaded. It's important to mark reloaded shells clearly. Use only shells or cartridges that you have reloaded yourself or that have been reloaded by a person whom you know is competent.

Rifling in the Rifle or Handgun Bore

A bullet fired from a rifle or handgun has a spiral spin that keeps it point-first in flight, increasing accuracy and distance. This is achieved by the rifling inside the barrel, from which the rifle got its name. The barrel is thick and has spiraling **grooves** cut or pressed into the bore. The ridges of metal between the grooves are called **lands**. Together, the grooves and lands make up the "rifling."

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A Rifle's or Handgun's Caliber

Caliber is used to describe the size of a rifle or handgun bore and the size of cartridges designed for different bores.

- Caliber usually is measured as the diameter of the bore from land to opposite land and is expressed in hundredths of an inch, thousandths of an inch, or millimeters. For example, a .270-caliber rifle bore measures 270/1000ths of an inch in diameter between the lands and has a larger bore diameter than a .223-caliber rifle. However, there is no standard established for designating caliber. In some cases, the caliber is given as the diameter of the bullet, which is the distance between the grooves.
- Caliber designations sometimes have a second number that has nothing to do with the diameter. For example, the popular .30-30 is a .30-caliber cartridge, but the second number is a holdover from the days when the cartridge took 30 grains of powder. The "06" in .30-06 refers to the year (1906) it became the official ammunition of the U.S. military.
- Every rifle or handgun is designed for a specific cartridge. The ammunition must match the data stamp on the firearm. For example, there are several .30-caliber firearms that use the same bullet size but are designed for different cartridges (the .30-30, .30-06, .308, and the .300 Savage). If you cannot find the caliber stamped on the firearm, take it to a qualified gunsmith.

A Shotgun's Gauge

Shotguns are classified by gauge, which is a measure related to the diameter of the smooth shotgun bore and the size of the shotshell designed for that bore.

- Common shotgun gauges are 10-gauge, 12-gauge, 16-gauge, 20-gauge, and 28-gauge. The smaller the gauge number, the larger the shotgun bore. Gauge is determined by the number of lead balls of size equal to the approximate diameter of the bore that it takes to weigh one pound. For example, it would take 12 lead balls with the same diameter as a 12-gauge shotgun bore to weigh one pound. Today, however, gauge can be measured much the same way as caliber, by measuring the inside bore diameter.
- The .410-bore shotgun is the only exception to the gauge designation for shotguns. It has an actual bore diameter of 410/1000ths of an inch, which is approximately equivalent to a 67½ gauge.
- Each gauge of shotgun shoots only shells of the same gauge. For example, 12-gauge guns use only 12-gauge shells.
- The gauge of a shotgun is usually marked on the rear of the barrel, and the gauge of a shell is marked on the shell as well as on the factory box.

Rifle and Handgun Calibers

The circles show bore sizes of common calibers. Having the same bore size does not mean different cartridges are interchangeable.



Shotgun Gauge Sizes



Sizes shown are the minimum inside bore diameter with a tolerance of +0.020". Data is presented courtesy of SAAMI.

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shot string
The three-dimensional spread of shot pellets after they leave the barrel

choke
The degree of narrowing at the muzzle end of the shotgun barrel

shot pattern
The spread of shot pellets after they hit a non-moving target

Steel Shot

Steel shot is slightly lighter than lead shot of the same size—reducing its velocity and distance (range). Also, steel shot is harder than lead, so the individual pellets stay round, keeping the pattern tighter.

Some hunters use steel shot one or two sizes larger to make up for the difference in weight from lead shot. Others use the same size steel shot, or even smaller steel shot, to get more shot into their patterns. You should pattern your shotgun with various loads of steel shot before hunting waterfowl with it.

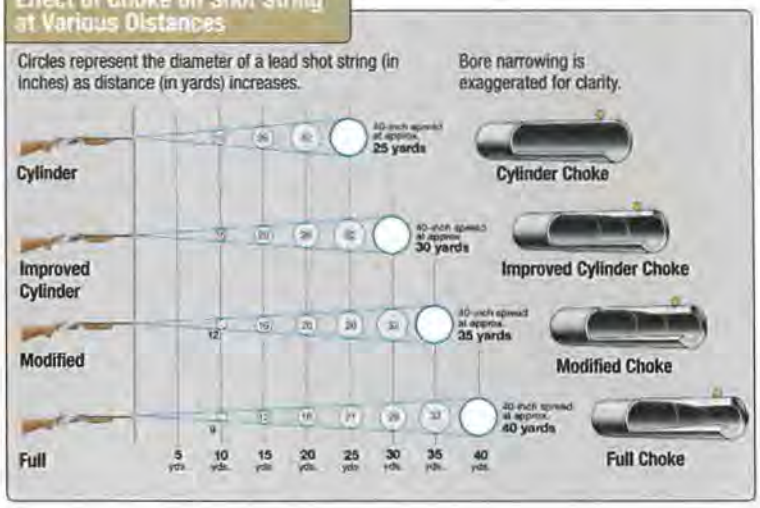
Effective pattern density is the key. Maximum pellet counts spread evenly across a 30-inch circle are best. Full chokes generally produce poor patterns with steel shot.

Shotgun Choke and Shot String

When a shotshell is fired from a shotgun, the pellets leave the barrel and begin to spread or scatter. The farther the pellets travel, the greater the spread of the group of pellets (shot) both in length and diameter. This spread is called the **shot string**. To control the shot string, shotgun barrels have a **choke** that will affect the **shot pattern** when the shot string hits the target. Read more about how to pattern a shotgun in Chapter Three.

- Your distance from the target determines the choke you need. The choke of a shotgun determines shot string only. It has no bearing on shot speed (velocity) or distance (range). That is, the choke does not alter the shotgun's power—it just controls how tight or spread out the pellets will be at a specific distance.
- The spread effect of the most common chokes is illustrated below, showing how many pellets will hit within a certain area at different ranges.
  - **Cylinder** choke is an unconstricted barrel. The shot string spreads quickly.
  - **Improved Cylinder** choke has a slight constriction. It allows the shot string to spread fairly quickly. This is a good choice for quail, rabbits, and other upland game at relatively close ranges.
  - **Modified** choke has moderate constriction. The pellets stay together longer, making the shot string denser and more useful at longer ranges. This choke is used often when dove hunting and when using steel shot to hunt for ducks or geese. There is also an Improved Modified choke that is slightly tighter than Modified.
  - **Full** choke has tight constriction. The shot string holds together even longer, making this choke good for squirrels, turkey, and other game shot at 40-yard and longer ranges. Turkey hunters sometimes use Extra Full or Turkey choke for even denser patterns at long range.

Effect of Choke on Shot String at Various Distances



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Match Firearms and Ammunition...Correctly!

With so many kinds of firearms and types of ammunition, it's not always easy to match the proper ammunition to your firearm correctly—but getting it right is critical. If you match the wrong ammunition to your gun, you can cause an explosion, injuring or possibly killing yourself and any bystanders.

- To match the proper ammunition to your rifle, shotgun, or handgun correctly:
  - Read the specific caliber or gauge designations on the side of the barrel. Match that designation *exactly*. For example, if it says ".270 Winchester," you cannot use ".270 Weatherby." Shotgun barrels will give the gauge and the length of the chamber (for example, "12-gauge for 2¾-inch shells" or "20-gauge magnum for 3-inch shells").
  - Carefully read the information on the lid of the ammunition box. With shotgun ammunition, always check both the gauge and the shell length, and whether it's a magnum **load**, to ensure it matches the data on the barrel.
  - Finally, match the information on the barrel to the information on the cartridge or shotshell *before you shoot*. If in doubt, ask a more experienced shooter or a qualified gunsmith. Some store clerks, although they sell ammunition, may not know about the differences in sizes or the type of firearm you shoot.
- Safety practices that will help you avoid using the wrong ammunition are:
  - Purchase only the correct ammunition for your firearm. Buy the exact caliber or gauge and length of ammunition for which your rifle, handgun, or shotgun was designed. For example, shotshell must be the correct length for the shotgun. The data stamp on the barrel of the shotgun will identify what length shell can be used. Never use a shell that is longer than this length.
  - Carry only the correct ammunition for the firearm you're using. Never mix ammunition, such as carrying a caliber or gauge your companion uses. A common mistake involves putting a 20-gauge shotshell into a 12-gauge shotgun. The smaller gauge shell will slide through the 12-gauge chamber and partly down the barrel, causing an obstruction. The shooter, especially when excited by the presence of game, then might insert a 12-gauge shotgun shell behind the 20-gauge shell.

WARNING!

Smaller shotshells (such as 20-gauge shells), if mistakenly fed into a 12-gauge gun, will slip past the chamber and lodge in the barrel, causing serious personal injury or gun damage if a 12-gauge shell is loaded and fired. Some rifle and handgun ammunition also may fit into the wrong gun, creating a dangerous obstruction. The caliber or gauge stamped on the end of the shell must match that which is stamped on the gun barrel. Some barrels are not stamped. Be sure the right ammunition is used in your gun.



20-gauge shotshell lodged in a 12-gauge barrel

Safety Tip

Hang fires happen when the firing pin has struck the primer and there is a delay before the gun fires. This can occur for several reasons, such as a faulty firing pin or spring, defective primer, or other cartridge-related problems. A misfire is when the primer fails to ignite the powder. Hang fires and misfires can happen with any kind of firearm.

Always treat a "misfire" or a "hang fire" as if the firearm is going to discharge at any second, and keep the firearm pointed in a safe direction. Leave the action closed, and retain your shooting position. Most importantly, maintain safe muzzle control at all times. Failure to follow these safe handling practices could result in a tragedy.

load

The amount of gunpowder in the cartridge or shotshell together with the weight of the bullet or shot charge

The rear of a shotgun barrel should be marked with the gauge and the length of the chamber.





The data stamp of a rifle is usually stamped toward the rear of the barrel.

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History of Firearms

The Chinese are believed to have been the first to use gunpowder, now called "black powder." The first firearms were tubes closed at one end, usually made of brass or cast iron. Early firearms were loaded by pouring black powder and shoving a projectile into the tube from the muzzle end and then igniting the powder using a lighted wick or match. The powder burned, creating pressure that launched metal objects or arrows. These firearms are called "muzzleloaders" due to their loading process.

Advances in ignition systems were the major changes that brought about modern firearms.

- **Matchlock ignition** was developed in the early 1400s. When the trigger is pulled, a lighted wick is lowered into a priming pan located next to a vent hole drilled into the closed end of the barrel. When the priming powder ignites, it lights the main charge.
- **Wheel lock ignition** replaced the wick of the matchlock in the 1500s. When the trigger is pulled, a coiled spring forces the rough-edged steel wheel to spin against a piece of iron pyrite, creating sparks to ignite the powder in the priming pan.
- **Flintlock ignition** appeared in the late 1600s. When the trigger is pulled, the hammer holding a piece of flint falls against a steel cover (the frizzen) sitting over the priming pan. The hammer knocks the cover out of the way, and the collision of flint and steel causes sparks that ignite the powder in the priming pan.
- The **percussion lock** (also called a "caplock") replaced the flintlock in the early 1800s. Early percussion locks used priming compounds inside a metallic foil cap placed over the vent hole. When the hammer strikes the cap, the resulting spark ignites the main charge.
- The next advance, in 1835, was to arrange a series of percussion locks and barrels on a rotating wheel (cylinder) to allow a rapid succession of shots (Paterson revolver). With a single hammer and trigger, multiple shots can be fired without reloading—a **repeating firearm.** The percussion cap revolvers are the forerunners of modern revolvers.
- The **percussion cap** also paved the way to the self-contained ammunition we have today—cartridges and shotshells. In the mid 1800s, gunpowder, the projectile, and the primer were put together into a single housing that could be loaded quickly.
- **Actions** were developed to allow shooters to load cartridges and shotshells at the rear, rather than the muzzle, end of the barrel.

Know Your Firearm's Range

Knowing your firearm's "maximum projectile range" is critical to being a safe and responsible hunter. The maximum projectile range tells you at what distances your firearm's projectile could cause injury or damage to people, animals, or objects. When hunting, knowing the "effective killing range" lets you immediately assess when a shot will give a clean kill. The effective killing range will always be less than the maximum projectile range. Learning to estimate distances and knowing your firearm's projectile range and your effective killing range are important parts of hunting.







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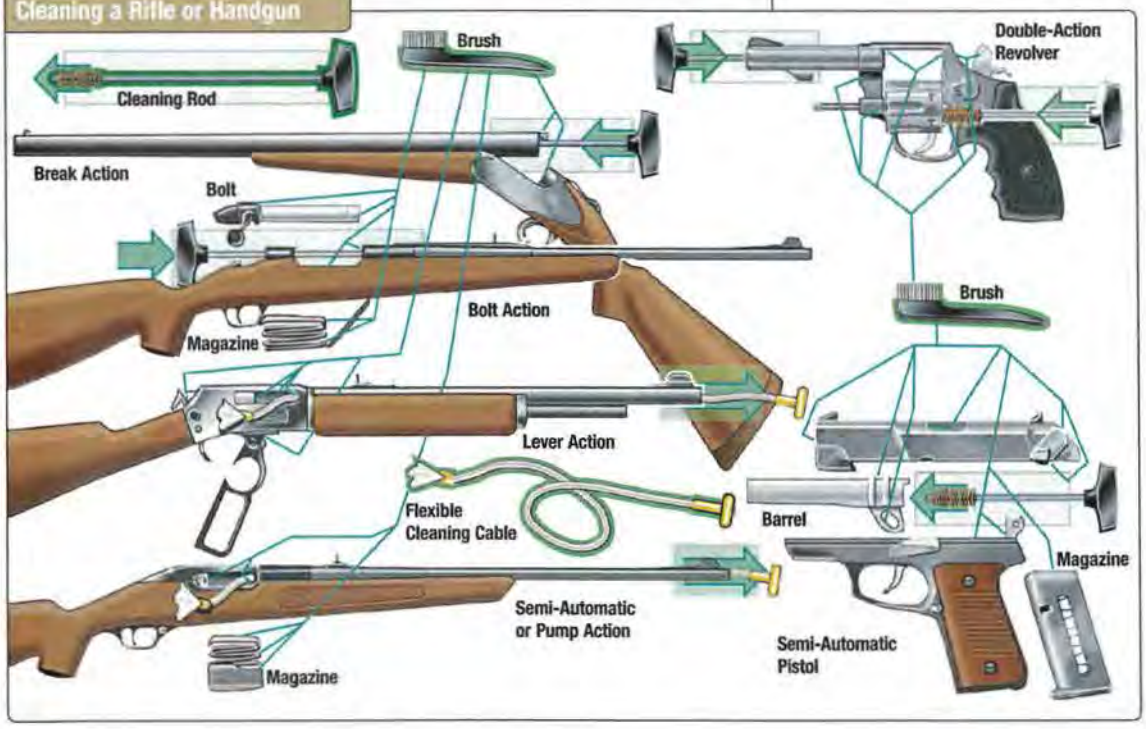
Cleaning Your Firearm

- Clean your firearms after every use to keep them in top condition. Every hunter should own a complete cleaning kit.
- Work on a cleared table or bench. Always give cleaning your full attention. Never clean a firearm while doing something else.
- Follow these basic steps to clean your firearm.
  - Point the muzzle in a safe direction, and make sure the gun is unloaded.
  - Remove all ammunition from the cleaning bench.
  - For the most thorough cleaning, field strip the firearm as directed in the firearm owner's manual. Then clean each part separately.
  - Follow the instructions in your cleaning kit. If possible, clean the barrel from the breech end, using a bore guide and a cleaning rod holding a bore brush or patch wetted with solvent. Pass the brush/patch all the way through the barrel. Repeat several times with fresh patches. You may need a larger brush for the chamber. Use a hand brush to clean the crevices where powder residue accumulates. Follow with a dry patch, and finish with a lightly oiled patch for the barrel. Use cloth for other parts.
- Use a flexible "pull-through" cleaning cable when cleaning firearms with lever or semi-automatic actions to prevent dirt, grime, or debris from being pushed into the action area.
- Use cleaning solvents in a well-ventilated area and only as directed.
- If cleaning from the muzzle end, use a muzzle protector so that you don't damage the rifling near the muzzle.

Cleaning Kit

- Assorted rod tips—brushes, mop tips, slotted tips, jag tips
- Bore light
- Clean cloths
- Cleaning rods
- Cotton swabs
- Dental mirror
- Gun grease
- Gun oil
- Gunsmith screwdrivers
- Patches appropriate for the caliber or gauge of the firearm
- Pipe cleaners
- Solvent
- Stand to hold the firearm securely in a horizontal position
- Toothbrush

Cleaning a Rifle or Handgun



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Storing Firearms

Store firearms with a locking device if stored in an accessible area, such as a closet.





Storing Your Firearm

- Firearms must be stored *unloaded* and in a *locked* location, *separate from ammunition*. The storage area should be cool, clean, and dry. Storing firearms in closed gun cases or scabbards isn't recommended because moisture can accumulate.
- Store guns horizontally, or with the muzzle pointing down. When guns are stored upright, gravity pulls gun oil downward into the action, which forms a sticky film. Oil also can drain onto the stock, softening the wood.
- Displaying guns in glass cabinets or wall racks is an invitation to thieves and curious children. Ideally, guns should be hidden from view and locked. Storage devices with hidden compartments are available. For the best protection against theft and fire damage, purchase a safe.

Storing Ammunition

- Store ammunition, reloading supplies, and firearms in separate locked compartments.
- Keep all ammunition away from flammables.
- Store ammunition in a cool, dry place to prevent corrosion. Corroded ammunition can cause jamming, misfires, and other safety problems.

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You should be able to...

- Define "good marksmanship" and explain why it is important.
- List the three fundamentals of good marksmanship.
- Define "sight alignment" and "sight picture."
- Demonstrate how to determine your master eye.
- Explain the basic steps to sight-in a rifle.
- Explain four rifle-firing techniques that will help improve accuracy.
- Demonstrate four proper positions for rifle firing.
- List the four common shotgun chokes, and give an example of when you would use each.
- Explain the basic steps for patterning a shotgun.
- Explain four shotgun-shooting techniques that will improve accuracy.
- Demonstrate proper shotgun-shooting stance.
- Explain the difference between swing-through and sustained lead when hunting with a shotgun.
- Demonstrate proper handgun-shooting stance and grip.

Good Marksmanship and Accuracy

A fair amount of knowledge, skill, and experience is required to become a successful hunter. One of the essential skills is good marksmanship, which is accurately and consistently hitting the target where planned. When hunting, accuracy is critical for a clean kill. Good marksmanship is built on three fundamentals:

- Proper sight adjustment or patterning
- Proper shooting technique
- Practice

Know Your Accuracy Limits

Ethical hunters know their personal accuracy and limit their shots accordingly.

- An 8-inch paper plate is the standard target for establishing deer hunting accuracy. An 8-inch target is about the same size as the vital area of a deer. You need to be able to hit the paper plate consistently at the same distance and from the same shooting position you will be using when hunting. The fact that you can hit an 8-inch target at 100 yards from a bench rest does not mean you will be able to do the same from a standing or kneeling position.
- Before hunting, practice until you are confident you can hit the required target at the distances and from the shooting positions you expect to use in the field. When hunting, limit your shots to your most accurate range.



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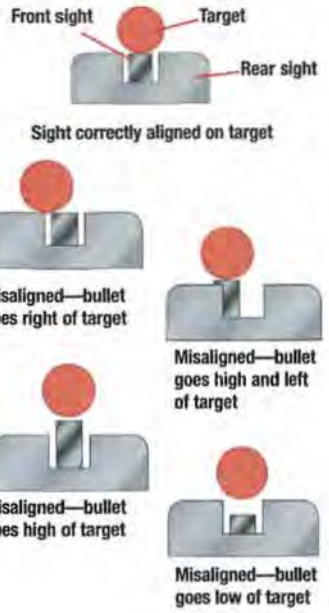
Aligning an Open Sight



Safety Tip

If you are color-blind, you should be especially cautious when hunting. You may not be able to distinguish the fluorescent orange clothing of other hunters, nor the color markings that help identify game.

Remember...

Good vision is the foundation for good shooting and hunting safety. Have your eyes examined on a regular basis.

Rifle Firing

Sight Alignment

Sight alignment is the process of lining up rear and front sights. The sight picture is the image you see when the sights are aligned correctly with the target. To ensure that the bullet will travel to the target in your sight, it's necessary to sight-in your rifle. Before you can do that, you need to determine your dominant or "master" eye.



With an open sight, you line up the target with the blade or bead of the front sight within the notch of the rear sight.

With an aperture sight, you line up the target with the front sight within the rear peephole.

With a telescopic sight with a crosshair reticle, you line up the target with the crosshairs of the sight.

With a telescopic sight with a dot reticle, you line up the target with the dot of the sight. The dot must be centered.

Dominant or Master Eye

- Just as you have a dominant hand, you also have a dominant eye. You need to aim with the dominant—or master—eye for the most accurate shooting. Usually your dominant eye is the same as your dominant hand, but not always.
- To determine your dominant eye:
  1. Form a triangular opening with your thumbs and forefingers.
  2. Stretch your arms out in front of you.
  3. Focus on a distant object while looking through the triangular opening and keeping both eyes open.
  4. Bring your hands slowly to your face, keeping sight of the object through the opening; the opening will come to your dominant eye naturally.



- If you're not sure, close one eye at a time. The weak eye will see the back of your hand; the strong one will be focused on the object in the triangle.

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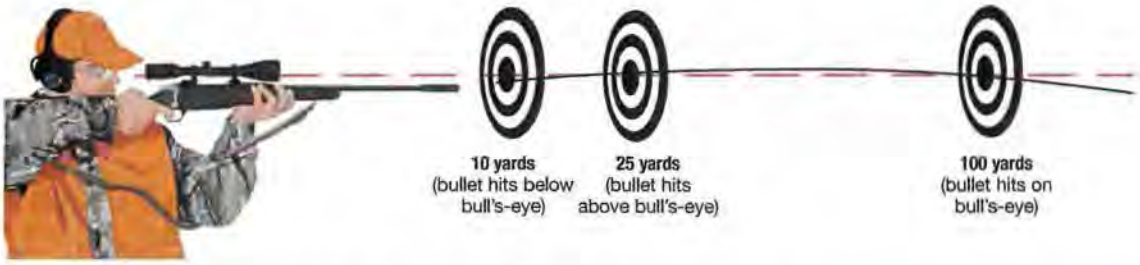
Sighting-In a Rifle

- Rifle bullets don't travel in a straight line. They travel in an arc, formed by the pull of gravity. "Sighting-in" is a process of adjusting the sights to hit a target at a specific range. Deer hunters, for example, often sight-in their rifles to hit the bull's-eye at 100 yards.
- All rifles should be sighted-in before every hunt using the ammunition you plan to use, especially rifles with peep or telescopic sights. Guns you sighted-in prior to your last outing could have been knocked out of alignment by a single jolt. That misalignment could mean the difference between a successful hunt and a disappointing experience.

Remember...
You must sight-in your rifle with the ammunition you plan to use. Be sure you sight-in, and practice firing your rifle before you go hunting.



- Other than ensuring accurate shots, sighting-in a rifle has other advantages:
  - Forces you to practice
  - Makes accurate firing possible
  - Helps identify problems with your firing technique
  - Helps determine the farthest range at which you can hit your target
  - Improves safety by helping you know where your rifle will fire
  - Builds confidence in your firing ability

Optional Sighting-In Techniques

Use bore or collimator sighting-in initially to line up the rifle on the paper target. However, these techniques alone are not sufficient to sight-in a rifle. You must make final adjustments by firing the rifle with the same ammunition you plan to use in the field.

- **Bore sighting-in with bolt-action rifles:** Remove the bolt, brace the firearm on sandbags, and look directly through the bore. Correct the rifle's position until you see the bull's-eye in the center of the bore. Adjust the sights to give you a good sight picture.
- **Collimator sighting-in for rifles without bolt actions:** A collimator slips into the muzzle end of the barrel and allows you to adjust the sights, much like bore sighting-in.

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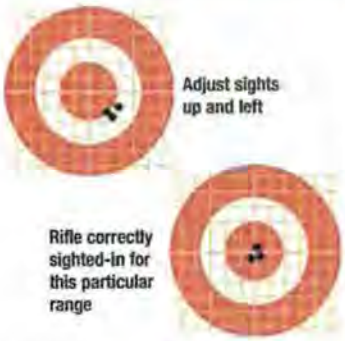

Use a sight-in target to adjust your sights.

minutes-of-angle
The standard measurement unit of shooting accuracy; one minute-of-angle (MOA) is 1/60 of one degree, or approximately one inch, at 100 yards

Four Fundamentals for an Accurate Rifle Shot

1. Aim carefully, aligning your sights.
2. Take a deep breath, and then release about half of it.
3. Squeeze the trigger slowly.
4. Follow through.

parallax
Optical bending of telescopic crosshairs in relation to the target

Sighting-In Procedure

- Fire your rifle from a solid bench rest with the forestock resting on a pad or a sandbag. Don't rest the gun on its barrel—it will shoot higher than normal. Ideally, use an adjustable shooting tripod with sandbags. A spotting scope is also useful.
- Sight-in instructions are printed on some targets available from retail outlets or manufacturers. The sighting-in process for most centerfire rifles begins at 25 yards and then should be repeated at 100 yards. The basic steps involve firing at least three shots carefully and consistently at a target. If the bullets form a relatively small group of holes on the target, but not where you were aiming, the sights will have to be adjusted.
- When adjusting peep or telescopic sights, the rear sights or dials are adjusted by a certain number of **minutes-of-angle**, or "clicks," in a certain direction. Read the sight's instruction manual to see how much each click changes the sight at 100 yards.
- The rear sight is moved in the same direction you want your shot to move on the target. Moving shots from side to side is "adjusting for windage." Moving shots up or down is "adjusting for elevation."
- Specific instructions about trajectory and what fractions or inches you should be above the bull's-eye at 25, 50, or 100 yards are usually included on sight-in targets. You also might consult a ballistics chart or get help from an experienced shooter.

Rifle-Firing Techniques

Using correct firing techniques will help you steady the rifle for the most accurate shooting. Bear in mind that these are only the basics. Further study will help you understand other factors that can affect your accuracy, such as wind, heat, and **parallax**.

- **Shooting From a Rest:** When shooting in the field, the safest and most accurate shots are taken from a rest—a log, large rock, or any other stable object. Don't rest the barrel directly on a hard surface, or the rifle will fire higher than normal—put some padding, such as a hat or a jacket, under the rifle.
- **Breathing:** Your breathing can move the rifle just enough to throw off your shot.
  - When you're ready to fire, draw a deep breath, and exhale about half of it.
  - Then hold your breath as you squeeze the trigger.
  - Bear in mind that if you hold your breath too long, your heart beats faster, which increases your pulse and causes the rifle to move. If you notice this happening, take another breath and start over.
  - At times the excitement of spotting game will make it more difficult to control your breathing. Try to relax and follow the correct procedure.
- **Trigger Squeeze:** Jerking the trigger or abruptly clenching the trigger hand can move the gun enough to cause a miss.
  - To squeeze the trigger without jarring the gun, simply apply slow, steady pressure until the gun fires.
  - Practice makes breath control and proper trigger squeeze habitual.
- **Follow Through:** After the bullet fires, it's important to continue the squeeze or follow through. That prevents you from jerking the gun before the bullet has left the barrel.

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Firing Positions

There are four standard rifle-firing positions: prone, standing, sitting, and kneeling.

Prone

The prone position is the steadiest of the four positions. Because it's the easiest to hold, it's the best position for mastering the fundamentals of firing—aiming, breath control, trigger squeeze, and follow through.



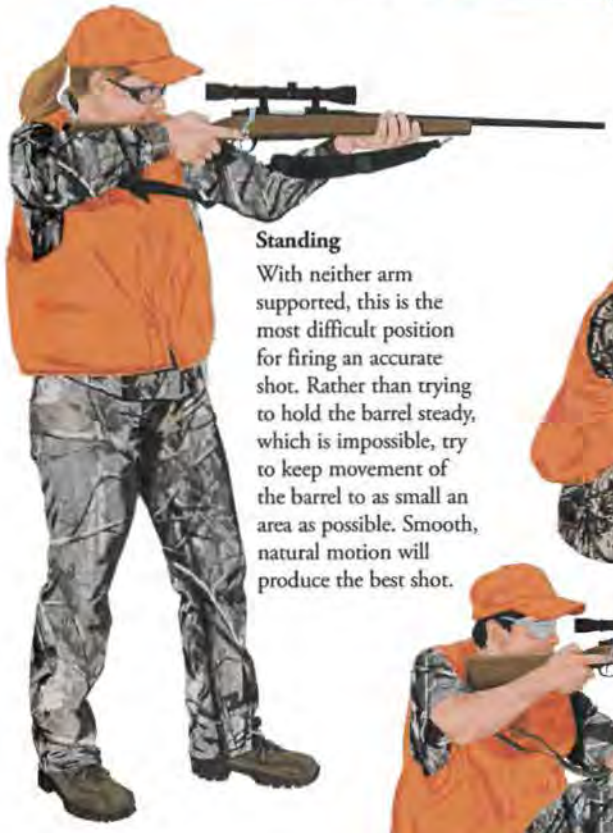
Safety Tip

Shooting a firearm can cause immediate and permanent hearing loss and can damage your vision.

- When shooting any firearm, always wear properly fitting ear protection. For target practice, use an earplug or earmuff (or both) with a high Noise Reduction Rating (NRR).

When hunting, use electronic or non-linear devices that allow normal or even enhanced hearing but block damaging levels of sound. For more information, visit the National Hearing Conservation Association website at **www.hearingconservation.org.**

- Also wear suitable eye protection, such as shooting glasses with high-impact lenses, to protect your vision when shooting.



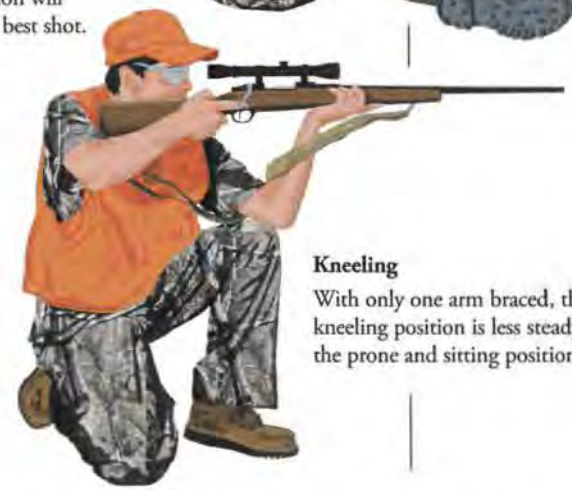
Standing

With neither arm supported, this is the most difficult position for firing an accurate shot. Rather than trying to hold the barrel steady, which is impossible, try to keep movement of the barrel to as small an area as possible. Smooth, natural motion will produce the best shot.



Sitting

Both arms are supported by your legs. Next to the prone position, this is the steadiest position.



Kneeling

With only one arm braced, the kneeling position is less steady than the prone and sitting positions.

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Point a shotgun. Focus your eye on the target.

Shotgun Shooting

As with firing a rifle, good shotgun marksmanship begins with proper preparation, which includes adjusting your gun and ammunition for maximum performance and mastering shotgun techniques.

Matching Choke to Your Quarry

- A choke allows you to fine-tune your shotgun for the type of game you're hunting. Built-in or attached to the muzzle end of the barrel, the choke is a constriction that controls the shot string, thus affecting pellet density at various distances.
- The tighter the constriction, the greater the distance that the cluster of pellets stays together. The looser the constriction, the faster the shot pattern spreads. Recall from Chapter Two that the most common chokes, ranging from tightest to most open, are:
  - Full
  - Modified
  - Improved Cylinder
  - Cylinder (unchoked)
- For example, someone hunting small, fast, close birds would generally use an Improved Cylinder or Modified choke, which creates a broad shot pattern that spreads quickly at close ranges. Conversely, someone hunting a larger, less mobile bird that is usually farther away, such as a turkey, would select a Full choke, which concentrates the shot in a smaller area. Pellet size also varies based on the size of the game. The chart below suggests choke selections for a variety of game. It is intended only as a guide—choice of choke may vary depending on ammunition, target distance, and hunting conditions. Always pattern your shotgun for the quarry you are hunting and the ammunition you are using.

Remember...
Point a shotgun. Pull the trigger.
Aim a rifle. Squeeze the trigger.



Aim a rifle. Focus your eye on the crosshairs or front sight.

Quarry	Commonly Used Choke (based on typical distance from quarry)
Goose	Improved Cylinder or Modified
Duck	Improved Cylinder or Modified
Turkey	Full or Extra Full
Pheasant	Improved Cylinder, Modified, or Full
Grouse	Improved Cylinder or Modified
Woodcock, rail, or snipe	Improved Cylinder or Modified
Dove	Improved Cylinder or Modified
Quail	Improved Cylinder or Modified
Rabbit	Improved Cylinder or Modified
Squirrel	Modified or Full

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Patterning Your Shotgun

- No two shotguns will shoot identical pellet patterns. In some cases, the pattern will be off-center. In other instances, there may be gaps in the pattern. In addition to the firing characteristics of the gun, the gun's choke, the brand of shotshell, the shot size, and the type of shot also affect the pattern. In order to select ammunition that provides the best performance, it's necessary to "pattern" your shotgun.
- Patterning can be done with simple, homemade targets—sheets of blank paper about 4 x 4 feet in size. A commercial target with a bull's-eye also can be used, but the bull's-eye is used only to aim at—it is not used in steps 2–4 below. To pattern your shotgun, follow these steps:
  1. Fire one shot at the center of the target (or bull's-eye) from the distance that you expect to be from your quarry (for example, 35 yards if hunting game birds). Repeat this two more times, each time with a new sheet of target paper.
  2. On each of the three targets, draw a 30-inch circle around the densest part of the shot pattern. (This is not necessarily the center of the paper.)
  3. On each of the three targets, count the number of pellet holes that fall within the 30-inch circle, marking them with the marker as you count each one.
  4. Calculate the percentage of the load that is expected to land in a 30-inch circle at the distance that you expect to be from your quarry.
     - Average the pellet counts within the 30-inch circles (add the three counts from the previous step, and divide the sum by three).
     - Then divide the average pellet count by the number of pellets in the load for the ammunition you are using, and multiply this result by 100.
- The pattern of pellets within a 30-inch circle should be of a proper, even density to ensure a clean kill. The pattern should contain a sufficient percentage of the load, which should be at least 55% to 60%.
- Continue this process, trying different choke and load combinations, until you get an even pattern density with a sufficient percentage of the load within a 30-inch circle while shooting from the distance that you expect to be from your quarry.

Shotgun-Shooting Techniques

Unlike rifle firing, quick reflexes and flexibility are essential for effective shotgun shooting. Proper shotgun techniques will help you develop the rapid, fluid response you need to hit your target.

- **Shooting Stance**
  - A shotgun is almost always shot at a moving target from a standing position. You must be able to swing freely over a wide arc and maintain control. That requires a relaxed, balanced stance.
  - Stand with your feet spread about shoulder-width apart and your knees bent slightly so that you are balanced perfectly. Bring your left foot slightly forward (if you're a right-handed shooter), and lean your body in the same direction. The position of the feet is important. The toes of your forward foot should point at about 45 degrees toward the target. Take the time to place your feet properly, even for a quick shot.
  - Keeping your knees slightly bent makes it easier to swing with a moving target. The bent leg to the rear supports the movements of your hips, allowing you to swing smoothly.

Remember...
Shots at game birds in flight should be limited to your "maximum effective range." This is the distance at which you can hit the target consistently. Shooting beyond this distance leads to an increased number of birds wounded and lost. Also, firing at game too close may destroy the meat.

Shot Patterns



Desirable Pattern



Undesirable Pattern



Use a relaxed, balanced stance with your feet shoulder-width apart and your weight slightly forward on your left foot (if you're a right-handed shooter), and lean your body in the same direction.

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- **Pointing**
  - Because targets usually appear suddenly and move quickly, there's no time to "aim" a shotgun. It's designed to be pointed, with the eye sighting along the top of the barrel or rib.
  - The sight is usually a bead on the front of the gun. Your eye must be in line with the barrel, so it's important to position your head properly on the stock.
  - When you bring the gun to your face, the stock should fit snugly against your cheek with your eye on that side above the centerline of the gun. If you cannot assume that position comfortably, you may need to adjust the "gun fit."
- **Shouldering the Shotgun**
  - When you bring the shotgun to your shoulder, the stock should be brought to your cheek first and then back to your shoulder.
  - A common error is lowering the head and cheek to the stock, instead of bringing the stock all the way up to the cheek. When done properly, with your head naturally erect, the gun butt always should come to the same spot on your shoulder.
- **Pulling the Trigger**
  - Unlike rifle firing, quick trigger action is important when hunting with a shotgun. Slap the trigger rather than squeezing it.
  - Because the trigger is pulled quickly and the body and gun are typically in motion, breath control isn't necessary.
  - Continue the shotgun's swing as you pull the trigger. Stopping the swing as you shoot will cause you to hit behind a moving target.



Snap-Shooting

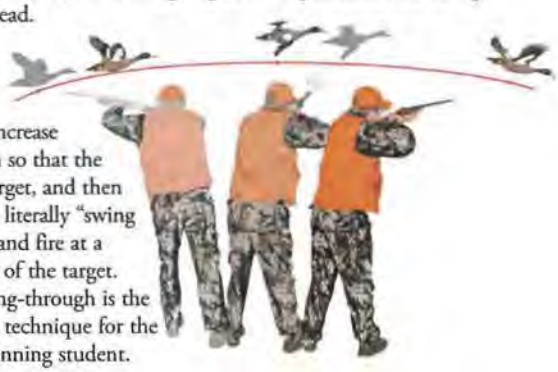
Snap-shooting is a technique to use if you must make a quick shot and the target is straight ahead at close range. You simply raise the shotgun and point where you think the target will be when the shot arrives.

Leading the Target

The two most common methods of leading targets at long distances are swing-through and sustained lead.

- **Swing-Through**

Point your shotgun at a moving target, and swing with it. Increase the speed of the gun so that the muzzle passes the target, and then fire. In other words, literally "swing through" the target and fire at a blank space in front of the target. Swing-through is the best technique for the beginning student.





- **Sustained Lead**

This method is a little more challenging because it requires more experience. You estimate the length of the lead necessary to hit the target, and maintain that lead as you swing with the target, fire, and continue the swing.

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Handgun Shooting

Hunting with handguns has grown in popularity in recent years. Many of the fundamentals of rifle firing also apply to handguns.

Loading and Handling

- Single-action revolvers typically load through a gate on the right side of the frame. To rotate the cylinder, pull the hammer back to half-cock. For a safer carry in the holster or hand, leave an empty chamber in front of the hammer.
- Double-action revolvers have cylinders that fall downward, exposing all chambers for loading.
- Semi-automatics usually fire rounds stored in a magazine that is inserted in the grip or handle.

Position and Grip

- Body position and grip are vital to hitting the target. The hand position on the grip of a pistol is especially critical. Although the grip configuration of the revolver and semi-automatic are different, the gripping procedure is the same.
- Hold the handgun high on the grip so that the recoil is directed back to the hand and arm in a straight line. This allows better repeat shots and more accurate shooting. Use a two-handed hold whenever possible, applying pressure from front to rear.
- When hunting, use a tree trunk, steady limb, or any other stable object as a rest. Placing some padding, such as a hat or a jacket, on top of a hard rest helps with your aim.

Sight Alignment

- Sight alignment, which is important in rifle firing, is even more important in pistol shooting because of the shorter distance between the sights. Typically, handgun sights consist of a square rear notch sight and a heavy square front blade sight. This arrangement is easy to align.
- Most handguns are initially sighted-in at 50 feet.

Aiming

- At the shooting range, many handgunners use a sight picture that places the bull's-eye on the top of the front sight, rather than placing it in the sights over the center of the target. However, hunters should hold the alignment directly over the vital area.
- Scopes with long eye relief have become popular with handgunners and offer exact sighting for hunters. Scopes may take longer to align on a target than open sights, but they're usually more accurate.

Shooting

The pistol-shooting fundamentals of breath control, trigger squeeze, and follow through are almost identical to those in rifle firing. There are, however, some important differences to remember.

- The first joint of the finger should take up trigger pressure, not the tip, as is often done with rifles.
- When a revolver is fired, powder flashing at the front of the cylinder can cause burns. Be sure to keep your fingers away from the front of the trigger area.
- The slide and hammer of a semi-automatic gun can deliver a bruising blow when held too close to the body. All handguns should be fired at arm's length.

Safety Tip

- Permanent hearing loss happens gradually with each handgun blast. Choose an ear protection device with a high Noise Reduction Rating (NRR).
- Eye protection is essential when shooting a handgun to prevent damage from a ruptured shell or firearm malfunction. Wear eye protection also whenever disassembling or cleaning a handgun.



Double-action revolver ready for loading

Semi-automatic with magazine

Remember...

- Use a good holster with a safety strap.
- Draw a handgun only when you see game.
- Cock your gun only when ready to shoot.
- Keep your finger outside the trigger guard until ready to shoot.



Use eye and ear protection. Assume a stable position. Grip the handgun with both hands. Do not cross the thumb of the supporting hand behind the slide of a semi-automatic.

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Basic Hunting Skills

You should be able to...

- Explain why it is important to know how to recognize your quarry.
- Name the four basic animal characteristics that can be used for identification.
- Describe five different hunting strategies.
- Explain why it is important to know where to place a vital shot for the game you are hunting.
- Identify the vital zones for various game when viewed from different angles.
- List four types of shots, and tell when they should be used and when they should be avoided.
- Explain what to do when approaching downed game.
- State the first thing you should do after you are sure your game is dead.
- List the three main causes of meat spoilage.
- List the basic steps for field dressing game.







It is critical that you educate yourself about your quarry when preparing to hunt. Understanding game species will add to your enjoyment and increase your chances of success as well.

Planning and Preparation

- A successful hunt begins with careful planning and preparation. The process usually requires more time than the hunt itself.
- Here are some steps you should take to prepare for a hunt.
  - Educate yourself about the game you'll be hunting and its environment.
  - Obtain the most current state regulations.
  - Buy appropriate clothing and gear for the environment.
  - Secure lease arrangements and permits (dogs and horses may require a veterinarian's certificate or a current vaccination record).
  - Visit the site in the off-season to prepare blinds and cabin facilities.
  - Sight-in rifles, handguns, and bows; pattern shotguns.
  - Sharpen your skills at the shooting range.
  - Pack extra firearms, scopes, bowstrings, etc.

Know Your Quarry

- Of all the steps of preparation, educating yourself about the game you're hunting is one of the most critical. Understanding your quarry will increase your success and add to the enjoyment of the experience as well.
- In many cases, knowing your quarry is also necessary to ensure that you're taking legal game. For example, you may need to determine the sex of game birds on sight or quickly recognize protected species as they move into firing range. If you hunt in a region where white-tailed and mule deer occupy the same area, you'll need to know how to identify both.
- There are many ways that wild animals are classified, but hunters are concerned with four basic categories.
  - **Large mammals:** Big game, such as deer, elk, and bear
  - **Small mammals:** Small game, such as rabbits, squirrels, and raccoons
  - **Upland birds:** Turkey, grouse, quail, and dove
  - **Waterfowl:** Ducks and geese

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Animal Characteristics

Whatever you're hunting, a basic understanding of an animal's characteristics will help you develop an effective strategy for identifying and tracking it.

- Animals can be identified by four basic characteristics.
  - **Distinctive Markings:** The black cheek patch on male pronghorns; the "flags" of the white-tailed deer; the face pattern on a gray fox; the green head on a mallard drake; the red, white, and blue on the head of a male turkey
  - **Sounds:** The wild call of the sandhill crane, the familiar honk of the goose, the gobble of a strutting "tom," the grunt of the deer, the howl of the coyote
  - **Movement:** The bounce of mule deer, the fast or slow wing beats of some waterfowl, the zigzag in-flight pattern of the common snipe when flushed
  - **Group Behavior:** Flock patterns, such as the familiar V shape of certain migratory birds; various types of herd behavior
- Further study will help you learn other ways to identify and understand your quarry, including signs the animal leaves, camouflage capability, and behavior.



Hunting Strategies

Hunting techniques are skills honed through education and experience. Ideally, beginners should seek the guidance of experienced hunters on their initial hunts.

Still Hunting

- As the name implies, still hunting is walking stealthily through an animal's habitat, stopping frequently—sometimes for long periods—to scan and listen for game. Typically, big-game hunters use this method in unfamiliar terrain or where stands are impractical or forbidden.
- As a general rule, spend at least 10 times longer being still and observing than walking. Keep a low profile; a human silhouette will spook many game species. Use a pair of binoculars in open terrain to identify movement properly.
- If you still hunt effectively, game will be unaware of your presence, but so will other sportsmen. To avoid being mistaken for game by other hunters, always wear fluorescent orange.



Still hunting often involves stopping for long periods to scan and listen for game.

Stalking

- The difference between still hunting and stalking is that when stalking, you follow signs leading to a particular type of game or group of animals, or close the distance to game already spotted.
- You may follow tracks on trails or a morning "dew" trail through leaves and brush. Or you may follow sounds or scents of animals, such as elk, sheep, or collared peccaries. Or you may simply need to sneak closer to an animal for a better shot.
- Stalking requires total focus because you must remember to keep downwind, stay quiet, stay alert, and remain patient.
- When turkey hunting, the sound you hear may be another hunter "calling." For safety, you should not stalk turkeys.



Stalking often involves following tracks to lead you to the type of game you are hunting.

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Ground blinds, often made of branches, conceal the hunter.



A skillful hunter uses sounds to attract the quarry close enough for an effective shot.

Remember...
When hunting with a group, it is illegal in most states to use your license tag on another person's kill.

Posting

- Posting involves sitting or standing in one spot. The location may offer a vantage point or a spot near the animal's trails.
- Posting is effective when you know where game is traveling each day, and you're not allowed to use a blind or stand.
- The key to setting up a posting site is finding a location that allows you to freely swing your firearm or draw your bow.

Ground Blinds

- Ground blinds are makeshift or temporary structures located on the ground that conceal the hunter. They're made of everything from plywood to branches.
- You should situate ground blinds:
  - Downwind, based on the normal wind pattern during a given time of day, such as morning
  - Away from the sun
  - Where the foreground and background are safest

Elevated Stands

- Elevated stands (tower stands or tree stands) offer a number of advantages to both firearm and bow hunters. Tower stands are above-ground seats or blinds that conceal the hunter above the level of the quarry. Tree stands are stands placed in or against trees.
- You should check the condition of elevated stands routinely. Also, inspect for insects, owls, and small mammals before entering the stand. Read more in the "Hunting From Elevated Stands" section in Chapter Six.

Game Calling

- Calling is an effective technique for most animals. There are a variety of sounds that can be imitated to draw game to you.
  - **Territorial sounds:** A deer "rattle," elk "bugle," or a turkey "gobble"
  - **Feeding sounds:** A duck's feeding "chuckle"
  - **Distress sounds:** Inviting coyotes, bobcats, or foxes to feed
- There are hundreds of sounds that can attract all types of wildlife. A skillful hunter uses these sounds to attract animals close enough to him or her for an effective shot.

Driving

- Driving involves a group of hunters, some acting as "drivers" and others as "posters."
  - Drivers spread out across a field or woods and push game out of cover.
  - Posters take positions at the end of the cover to intercept game pushed out by the drivers.
- The success of a drive depends on good organization and being familiar with the terrain.
- It is critical that everyone involved in the drive is aware of the position of other drivers and posters. Wear fluorescent orange, and never shoot in the direction of another hunter.

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Flushing

- Flushing involves using noise, movement, or dogs to cause game to become nervous and leave cover.
- Pause frequently when attempting to flush game. When you vary your pace, your quarry may think it has been detected and be more likely to leave cover.

Dogs

- There are several breeds of dogs that can be used for hunting different game species. Some dogs can be used to hunt several types of game animals.
  - **Pointers** are used primarily for upland game birds.
  - **Retrievers** are large, hearty dogs used primarily to retrieve waterfowl; they also can be trained to hunt other game birds.
  - **Spaniels** are used mainly as flushers.
  - **Hunting hounds** are used to hunt raccoons and rabbits in the Southeast, mountain lions and bears in the West, and deer in some states.



A trained hunting dog can be an excellent hunting partner.

Trapping

- Trapping furbearing animals was once a full-time occupation. Today, regulated trapping is an important tool for managing our nation's natural resources.
  - Trapping helps control animal populations by minimizing starvation, reducing spread of disease, and controlling habitat damage or destruction.
  - Trapping helps protect personal property by preventing or decreasing:
    - Flooding caused by beaver dams
    - Damage to homes, trees, gardens, and agricultural crops
    - Killing of livestock or pets
  - Trapping protects certain endangered or threatened species from predatory furbearers.
- When used properly, trapping can be an alternative method to hunting for harvesting furbearers and an effective tool for wildlife management. Trappers should learn about the type of traps appropriate for the animal they're seeking, and follow the trapper's code of ethics:
  - Obtain the landowner's permission.
  - Avoid setting traps in areas where domestic animals may be caught.
  - Set traps to capture the target animal in the most humane way possible.
  - Check traps at least once every 24 hours, preferably in the early morning.
  - Record trap locations accurately.
  - Identify all traps with waterproof name and address tags.
  - Use as much of the animal as possible. Dispose of animal carcasses properly.
  - Make an effort to trap only the surplus animals from each habitat.
  - Assist landowners who are having damage problems with wildlife.
  - **Dispatch** trapped furbearers in a humane manner.
  - Obtain all required licenses, tags, and permits. Because trapping laws vary by state, check the state's regulations before you go trapping.
- Traps can be set either on land or in or near the water. Some types of traps are designed to kill the trapped animal, and others are designed to capture the animal alive and unharmed (live-restraining devices).
  - The most common type of killing devices are bodygrip traps.
  - Live-restraining devices include foothold traps, enclosed foothold devices, cage traps, and some types of cable devices. With these traps, you are able to release non-target animals.
  - Some furbearers are found more often in or near water. For these animals, trappers use submersion trapping systems, which hold the animal underwater until it dies.

dispatch
To put to death quickly



Bodygrip traps catch the animal's entire body.



Foothold traps catch the animal when it steps on the trap.



Snares or cable devices use a loop of cable to catch a furbearer by the neck, body, or leg.

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Remember...
It's difficult to hit a vital area on an animal that is running or moving straight away from you. Rather than risk crippling the animal or ruining the meat, wait for a better shot.

Vital Shots

Every hunter wants to bring home the game he or she is seeking; true sportsmen strive to do it by inflicting a minimal amount of suffering. To achieve these twin goals, it's essential that you understand the anatomy of the game you're after, and learn how to place a shot for a clean kill.

Where to Shoot



- The most effective shots are delivered to an animal's vital organs—heart and lungs. In large game animals, these organs lie in the chest cavity behind the front shoulder. A lung shot is the most effective shot for big game.
- The area of the vital organs also contains major blood vessels and arteries. A shot in this area causes considerable bleeding. If the animal doesn't die immediately and tries to flee, it will leave a blood trail that's easy to track.
- Aside from being a good marksman, the key to a clean kill is patience. Hunters should limit shots to the vital organs only. If you do not have a clear shot to the vital organs, wait until the animal presents the best possible shot.



The most effective firearm shot for a turkey is to the head and neck. The preferred shot angle for bowhunters is broadside, aiming for the heart or lungs.

Choosing the Proper Shot Angle

The shot angle is the angle at which the animal is standing in relation to the hunter. Knowing which angles offer the most effective—and least effective—shots is an essential part of being a responsible hunter.

- **Broadside**
  The broadside shot angle is the preferred shot angle for both firearm and bow hunters for larger game animals, such as elk, deer, and bear.
  - **Firearm:** The broadside position offers several excellent shots for a firearm hunter. The best target is the shoulder and chest area. A bullet of the correct weight that is fired from a firearm adequate for the game will break the shoulder bone and enter the lungs or heart.
  - **Bow:** The broadside angle offers the best shot for the largest big game animals, such as elk, deer, and bear. For most big game, the aiming spot is straight up from the back side of the front leg, one-third of the way up from the bottom of the chest. An arrow will penetrate the ribs but not the shoulder bone; wait until the near leg is forward, and aim behind the shoulder.
- **Quartering-Away**
  The quartering-away shot angle is when your target is facing away from you but at an angle. The animal is usually looking away from you.
  - **Firearm:** For firearm hunters, the quartering-away position offers several aiming spots on all big game. The area just behind the shoulder is the best aiming spot for direct penetration of the vital organs. Focus on hitting the chest area above the opposite front leg.



The preferred shot for larger game animals, such as elk, deer, and bear, is broadside.

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- **Bow:** The quartering-away shot angle offers a good opportunity for a clean kill on antelope, white-tailed deer, mule deer, black bear, and other big game of similar size or smaller. This is not a good shot for bowhunters on larger game because their massive stomachs and intestines will block a clean shot to the lungs or heart. The opposite front leg is a good reference point for aiming.

■ **Quartering-Toward**

The quartering-toward shot angle is when the animal is facing toward you but at an angle. Because the animal is typically looking your way, it most likely will spot your movements.

- **Firearm:** The quartering-toward angle presents a clean shot to the vital organs. A shot can be taken at this angle if the gun is already trained on the animal. For an effective hit, aim at the front of the shoulder of the near front leg. *Caution:* A light bullet may deflect off the shoulder bones of large game, such as elk, deer, or large bears. Be certain to use a firearm and ammunition adequate for the game you hunt and the angle of shot you might select.
- **Bow:** This angle offers a poor shot opportunity and **should not be taken.** Heavy shoulder bones shield the majority of vital organs from broadhead-tipped arrow penetration. Also, bowhunters should never fire an arrow at an animal that is looking at them.

■ **Head-On**

The animal will certainly detect your movements with a head-on shot angle.

- **Firearm:** A head-on shot can be effective if you have an adequate firearm and your firearm is already positioned for the shot. However, head-on shots rarely result in a clean kill and ruin a lot of meat. Aim at the center of the chest to hit the vital organs.
- **Bow:** These angles offer very poor shot selection and **should not be taken.** Heavy bones in front and muscle mass and non-vital organs in back block penetration of the main vital areas.

■ **Rear-End**

The rear-end shot **should not be taken** by hunters using firearms or bows.

Approaching Downed Game

■ A downed deer or other large animal should be approached carefully from above and behind the head.

- If the animal appears to be dead, wait a short distance away for a few minutes. Watch for any rise and fall of the chest cavity.
- Notice whether the eyes are closed—the eyes of a dead animal are usually open. You can be certain that the animal is dead if the eye doesn't blink when touched with a stick.

Trailing Wounded Game

It is a hunter's ethical responsibility to stop the hunt and search for any wounded animal.

- You should wait for at least a half-hour to an hour before trailing a deer, unless the downed deer is in sight.
- Make a practice of carefully observing every movement of a game animal after you shoot it. Investigate the ground and trail after shooting before assuming you missed.
- Once at the site of the shot, look for signs:
  - Blood on the ground or vegetation
  - Broken twigs or branches, or scattered leaves
  - A "dew" line if early in the morning
  - Tracks
  - Hair, meat, or bone fragments
  - Downhill trails, especially toward water
- If you lose a trail, search in a circular or grid pattern, and try to pick up the trail again.
- Use fluorescent orange flagging to mark the blood trail in case darkness or weather forces you to quit the search and return the next day. Marking the blood trail also shows where to look for more signs if you lose the trail. Be sure to remove the orange flagging after use.



Approach downed game from above and behind the head; wait a short distance away, watching for any rise and fall of the chest cavity.

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Game Care Kit



Other typical items include:

- Black pepper to repel insects
- Cheesecloth bags for organs you plan to use as meat (heart, liver)
- Cooler and ice
- Disposable plastic gloves
- Fluorescent orange flagging
- Foil
- Gambrel and pulley system
- Hand towels
- Large bag for caped or trophy head
- Plastic bags for cleanup
- Plastic or cotton gloves
- Salt (non-iodized) for hide care

- If the animal is still alive, it should be finished with a quick shot to the base of the ear. If you wish to mount the head, place your shot in the heart-lung area. For bowhunters, the only option is placing an arrow in the heart-lung area.
- Once the animal is dead, follow the state regulations for reporting or recording a kill. Some states require you to tag the animal immediately and indicate the date of the kill. Then begin field dressing.



Field Care of Game

The way you handle game after it's harvested can have a significant impact on the quality of the meat.

Field Care Basics

- The growth of bacteria is the cause of spoiled meat. Three factors contribute to bacteria growth.
  - **Heat:** Heat is the number-one concern. Bacteria grow rapidly in a carcass, especially if it's allowed to stay warm. Meat begins to spoil above 40° Fahrenheit. The higher the temperature—and the longer the meat is exposed—the greater the chance of spoilage. This is particularly true with large game.
  - **Moisture:** Moisture also encourages the growth of bacteria.
  - **Dirt:** Dirt can introduce bacteria.
- Basic field dressing techniques help cool game by removing entrails, which lowers body heat by allowing air into the body cavity. As a rule, it's best to field dress immediately.
  - When cooling the body, use available shade. Hang deer, if possible. For larger animals, such as deer, elk, and moose, you should prop the carcass open with a clean stick to allow air to circulate.

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- In warm weather, it's helpful to place squirrels and doves in a cooler after dressing, as long as they remain dry.
- Dispose of entrails carefully. Don't leave them lying by the side of a road or near a residence where they can be dragged home by a dog.
- Keep meat clean by covering it with cheesecloth. This also protects it from flies, which lay eggs in exposed flesh. Rubbing meat with black pepper also will repel insects. If you have to drag the game to camp, try to keep dirt and debris out of the chest cavity.
- Because moisture damages meat, don't use excessive amounts of water to wash the cavity. Allow it to dry.
- If you plan to process the animal yourself, skin the animal as soon as possible to allow the carcass to cool.

- Finally, a sure way to ruin meat—as well as earn the disdain of non-hunters—is to tie the animal to the hood or roof of a car, where it's exposed to heat, exhaust fumes, road salt, and airborne dust.

Transporting Game

- Keep the dressed game cool and free of insects. If you've quartered the animal, pack the quarters in ice chests—don't process the deer beyond quartering until you reach your final destination. Be sure to keep proper "evidence of sex" if required by your game laws.
- Most hunters take their game to a commercial meat cooler, where a typical white-tailed deer can be properly aged up to three or four days at 40° Fahrenheit.



When transporting game, be sure to keep it covered to avoid offending others.

Field Dressing Larger Game

Here are some additional tips for dressing large game.

- Because it's harder to move larger animals, you may need to skin and quarter the animal to pack it out, particularly in a remote area.
- If you're unable to hang the animal for skinning, begin by making a lengthwise cut and removing one side of the hide. Then, turn the animal onto the skinned hide, and skin the other side.
- To keep dirt off the meat, use the inside of the removed hide as a protective mat as you quarter the animal.
- Put each quarter in a game sack, and attach the sacks to a backpack frame for the hike out.

Remember...

A clean kill improves the flavor of game meat. A wounded animal that has to be chased down yields strong-flavored meat because waste products, produced by stress, accumulate in the flesh.

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Primitive Hunting Equipment and Techniques

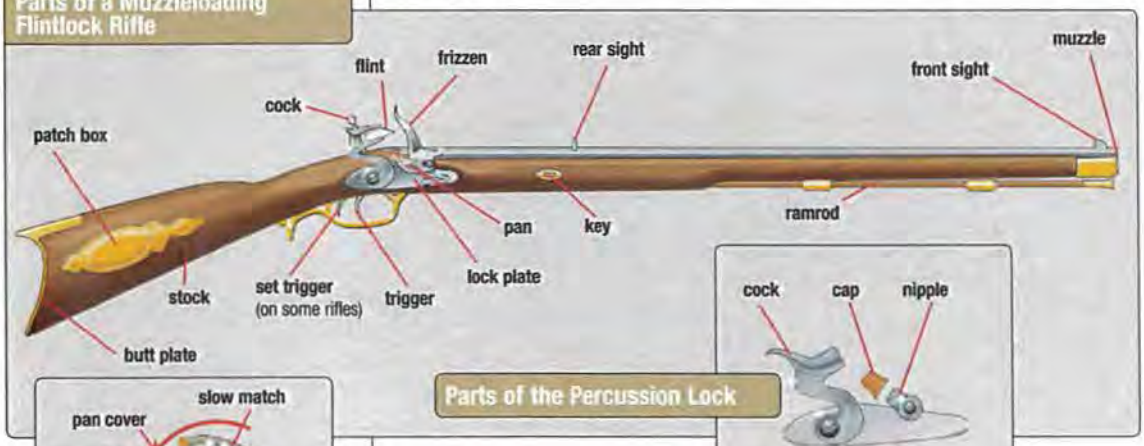
You should be able to...

- Identify the basic parts of a muzzleloader.
- Explain why you should use only black powder or a synthetic substitute in muzzleloaders.
- State three safety practices when using muzzleloaders.
- Demonstrate safe loading and unloading of a muzzleloader.
- Demonstrate safe firing of a muzzleloader.
- Identify the common bow types and their basic parts.
- Identify the basic parts of an arrow.
- List the different types of arrowheads and the primary use of each.
- State three safety practices for archers.
- Explain additional precautions that must be practiced when using broadheads.
- Explain the safety rules that should be followed when using a crossbow.
- Demonstrate how to nock an arrow and how to draw and anchor the bow.
- Demonstrate how to use a bow sight and how to aim a bow instinctively.

Know Your Muzzleloader

Primitive hunting arms include the muzzleloader firearm, the bow and arrow, and the crossbow. Today, these hunting arms are sought as collector's items and used for sporting purposes.

Parts of a Muzzleloading Flintlock Rifle



Parts of the Percussion Lock



Matchlock



Wheel Lock

Muzzleloader is the term given to early firearms because they are loaded from the muzzle or open end. Read about the history of muzzleloaders in Chapter Two.

- On these early firearms, locks played the role of modern-day actions. Matchlock and wheel lock muzzleloaders are rare and valuable, but they also may be unsafe to use. Flintlocks and percussion locks are the muzzleloaders typically used for shooting competitions and for hunting. They are generally less expensive, lighter, more reliable, and easier to load and maintain than matchlocks and wheel locks.

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In-Line Muzzleloader



- Muzzleloaders are most commonly rifles. However, there are also smooth-bored muzzleloaders—shotguns. Shotgun muzzleloaders can have either a single barrel or double barrels joined side by side. When loading the double-barreled muzzleloader, it's critical to avoid putting the two loads down the same barrel. Double-barreled guns usually have two locks, one for each barrel. This allows the shooter to fire each barrel separately before the gun is reloaded. Most double-barreled guns were designed with two triggers.
- Muzzleloading handguns come as both pistols and revolvers. Pistols are mainly single-shot. The revolvers contain multiple-shot chambers. Chain firing muzzleloading revolvers can be dangerous. When the chamber round is fired, it produces sparks that could accidentally ignite loads in another cylinder(s). Therefore, be sure to protect each load in the cylinder with a coating of grease to prevent sparks from entering the open end of the other cylinders.
- Black powder is the only type of powder that should be used in muzzleloaders. However, synthetic substitutes, such as Pyrodex, also can be used. Don't use modern-day smokeless powders in black powder firearms. Smokeless powders can cause serious injury if used in muzzleloaders.

Basic Muzzleloader Safety and Skills

Cleaning a Muzzleloader

- Firing a muzzleloader leaves a corrosive residue inside the barrel that causes pitting and reduces accuracy. The buildup of residue, called fouling, also will make loading difficult.
- To avoid fouling, swab the barrel with a moist patch after each shot. The patches or cleaning rags used to wipe the barrel must be the correct size and should be made of cotton or approved synthetic materials. Follow the recommendations of retailers who sell muzzleloaders or those who regularly use muzzleloaders.
- Thoroughly clean a muzzleloader after each shooting session. Black powder residue can damage the barrel if left overnight.
- Clean the gun's lock periodically. Normally it's held in place by one or two bolts. Once the lock has been removed, scrub both sides with an old toothbrush and hot water. Make sure the entire lock is completely dry, and then lightly oil and replace it.

Ammunition for Muzzleloaders

Three types of projectiles—the round ball, the bullet, and shot—are used in muzzleloaders. Most are melted and cast from pure lead.

Round balls are used mainly for target practice but also can be used for hunting. Bullets are preferred for hunting because they are generally more accurate at certain ranges. Shot pellets are designed to spread, just as with today's shotguns.

Black powder is made of potassium nitrate (saltpeter), sulfur, and charcoal. When ignited, it causes a dense cloud of white smoke. It comes in four sizes or granulations.

- **Fg:** Coarse grain typically used in cannons, rifles larger than .75 caliber, and 10-gauge shotguns or larger
- **FFg:** Medium grain typically used in larger rifles between .50 and .75 caliber, 20-gauge to 12-gauge shotguns, and pistols larger than .50 caliber
- **FFFg:** Fine grain typically used in smaller rifles and pistols under .50 caliber and smaller shotguns
- **FFFFg:** Extra-fine grain typically used as a priming powder in flintlocks

Pyrodex and Clear Shot are black powder substitutes that can be used in amounts equal to black powder, but loading may vary. Be sure to get instructions from a qualified gunsmith for loading procedures. Substitutes are not recommended for use in flintlocks because they may not ignite from sparks as easily.

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Basic Muzzleloader Safety

Muzzleloaders take significantly more knowledge to operate than modern firearms. They also present greater risks. Several rules must be followed to ensure safe operation.

- Keep the muzzle pointed in a safe direction. Do not lean over, stand in front of, or blow down the muzzle.
- Use only black powder or a safe substitute in a muzzleloading firearm.
- Wait until you're ready to fire before you prime or cap a muzzleloader.
- Always wear shooting glasses and ear protection when shooting a muzzleloader; a long-sleeved shirt is also advisable.
- Never smoke while shooting or loading or when near a powder horn or flask.
- Load a muzzleloader directly from a calibrated powder measure—do not load from a horn, flask, or other container. A loose spark or glowing ember in the barrel can cause the powder to explode.
- Load only one charge at a time.
- Unload a muzzleloader before bringing it into your home, camp, or vehicle.
- Stay with your charged muzzleloader at all times.

Loading a Muzzleloader

- Loading or charging a muzzleloading firearm presents some special concerns because it requires the muzzle to be pointed upward.
- For rifles, position the butt on the ground between your feet. You should be facing the underside of the barrel. The muzzle should be pointed upward and away from your body. Never work directly over the muzzle.
- Determine whether the gun is already loaded by checking the barrel with a marked ramrod, which has an "unloaded" or empty marking. If you aren't sure, consult an experienced muzzleloader user or gunsmith.
- Measure out the proper amount and type of powder using the calibrated powder measure. Replace the powder flask's cap, and swing the flask to the other side of your body. Pour the powder into the barrel from the measure. Tap the barrel to make sure all powder falls to the breech end.
- Center a lubricated, precut patch over the muzzle. You can lubricate the patch with a manufactured lubricant or with saliva by placing it in your mouth. Lay the ball on the patch with the sprue or flat side up, if the ball comes with this feature. Then seat the ball, and start it down the barrel using the short starter.
- Use the longer ramrod to push the ball the rest of the way, making sure it's seated well on the powder charge. Push the ramrod in short strokes, gripping it just a few inches above the muzzle. If you use longer strokes, you might accidentally snap the rod and injure your hands or arm. Your ramrod should be marked to show when the ball is properly seated over a specific load, such as 70 grains of FFFg powder.

Steps for Loading a Muzzleloader

1. Measure powder charge.
2. Pour measured powder down barrel.
3. Place patch and ball on muzzle.
4. Tap ball into barrel with starter.
5. Take out ramrod.
6. Ram ball down barrel.
7. Be sure ball is completely seated.
8. Clear vent hole with pick if necessary.
9. On flintlock muzzleloader, pour powder into pan and close frizzen.
10. On percussion lock muzzleloader, place cap on nipple.



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Unloading a Muzzleloader

- There are three ways to unload a muzzleloader.
  - Unload a muzzleloader by discharging it into a suitable backstop. Do not fire into the air or into the ground at your feet in case the projectile ricochets.
  - Use a CO_2 discharger to clear the barrel.
    - **Percussion Lock Muzzleloader:** Slip the discharger over the nipple.
    - **Flintlock Muzzleloader:** Place the discharger against the touchhole.
  - On a modern in-line muzzleloader, remove the breech plug and simply push the projectile and powder out the rear of the barrel.
- When a muzzleloader is unloaded, place your ramrod or loading rod in the barrel before leaning the firearm against a good rest—this will prevent debris from falling down the barrel and blocking the touchhole.

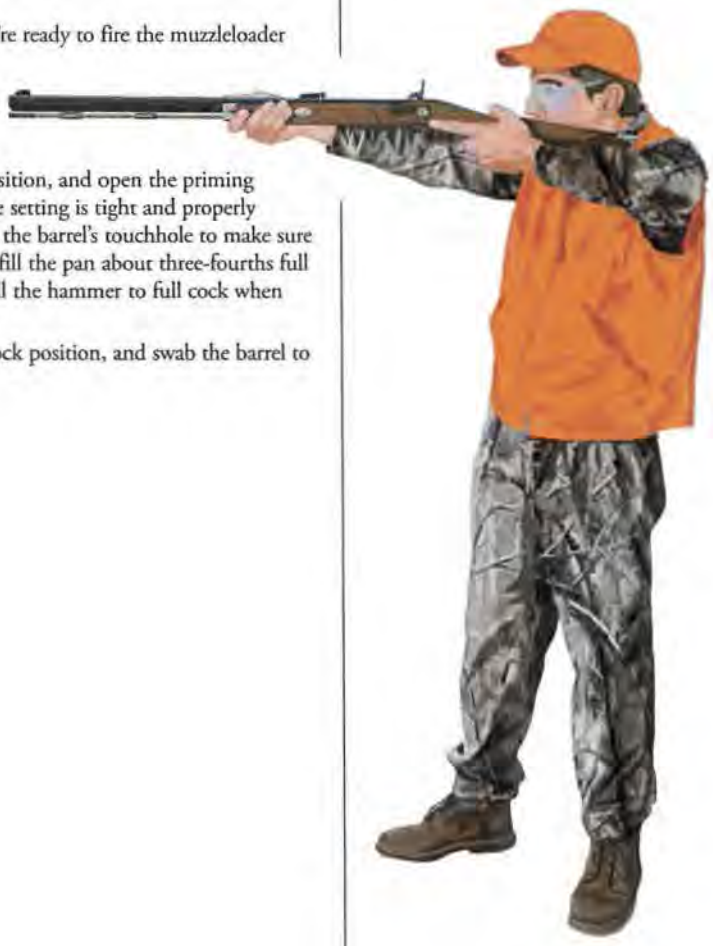
Firing a Muzzleloader

- **Percussion Lock Muzzleloader:** When you're ready to fire the muzzleloader safely, place the percussion cap on the nipple. Be sure that your surroundings and your backstop are safe. Then aim and fire.
- **Flintlock Muzzleloader:** When priming a flintlock, pull the hammer to a half-cock position, and open the priming pan cover. Check your flint, making sure the setting is tight and properly adjusted. Insert a vent pick or fine wire into the barrel's touchhole to make sure the opening is clear. With your pan primer, fill the pan about three-fourths full of FFFFg powder. Close the frizzen, and pull the hammer to full cock when you're ready to fire the shot safely.
- After firing, place the hammer in the half-cock position, and swab the barrel to remove sparks that might be inside.

Hang Fire Situations

Sometimes a muzzleloader will not fire immediately when the trigger is pulled. This is known as "hang fire" and requires great caution because the gun might fire some time after the cap or flint created the initial sparks.

- Keep the gun pointed in a safe direction, preferably downrange.
- Don't take it anywhere that it could injure someone or damage property if it fires.
- If a muzzleloader doesn't fire properly, get help from an experienced shooter to unload it using a ball discharger.



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History of the Bow and Arrow

The use of the bow and arrow is recorded as early as 3000 BC.

- The Egyptians used bows shorter than a man's height, with arrows two feet long or more.
- Early bows were C-shaped. When shooting these bows, the archer would pull the string with a ring held around the thumb. The early longbow was 5–6 feet in length and was usually made of yew. The legend of Robin Hood romanticized the longbow.
- Native American Indians were America's first bowhunters. European settlers brought their skills to America and contributed to the development of bows and arrows in the U.S.
- In 1879, the National Archery Association was founded. It initiated the first U.S.–sponsored tournament in 1879.
- Bowhunting did not really take off until the 1950s and 1960s as hunters learned more about this sport and about newer bows that were being developed.
- Like other methods of hunting, the bowhunter first must acquire the knowledge and skills necessary to be a safe and responsible hunter.

Accessories



- To protect the three fingers that draw the bowstring, archers wear three-fingered gloves or finger tabs, or use mechanical releases.
- A mechanical release snaps onto the string and is pulled back with the shooting hand. The archer pulls a trigger to release the string.
- An armguard protects the inner part of the bow arm during release as the string snaps back. The armguard prevents the bowstring from hitting loose clothing and also helps protect the arm if an arrow breaks during release.

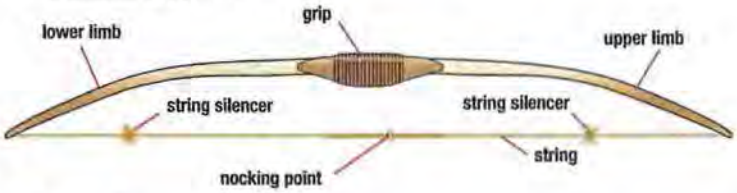
Know Your Bow and Arrow

While modern bows can shoot arrows up to 400 yards at speeds exceeding 200 miles per hour, the bow is a short-range hunting tool. Any bow can be dangerous at any range and should be handled responsibly. Shots are usually limited to 40 yards or less; and at this range, the arrow penetrates and can even pass through an animal. To ensure accuracy, most shots are taken at 15 yards.

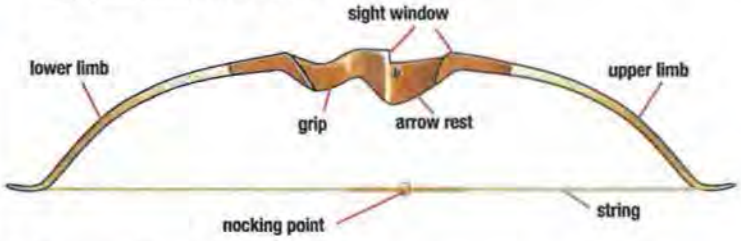
Common Bow Types

Proper bow selection and fit are essential to your accuracy and performance when bowhunting.

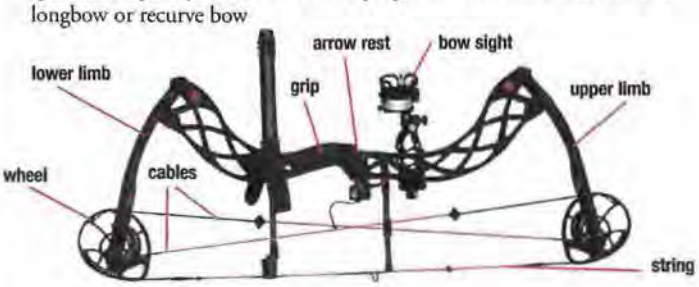
- **Longbow (Stick Bow)**
  - The "traditional" bow, which has straight limbs that form an arc when strung
  - Used by those interested in traditional shooting with little additional equipment



- **Recurve Bow**
  - Much like the longbow, but the limbs curve back away from the belly of the bow, which can provide more power in a shorter bow than the longbow
  - A popular choice because it's smooth and quiet



- **Compound Bow**
  - The most popular bow for both hunting and target shooting
  - A bow with many styles, but they work basically the same way: wheels and cables attached to the limbs make it easier to hold at full draw (pulled completely back) and able to propel an arrow faster than either a longbow or recurve bow



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Stringing a Bow

The safe and easy way to string a recurve bow or longbow is to use a bowstringer. The push-pull or step-through method can be hazardous to yourself or your bow.

- A bowstringer is simply a strong cord with a loop or pocket at each end that fits over the limb tip of recurve bows and some longbows. By standing on the loose middle of the cord after it's attached to the tips, the limbs can be flexed as the handle is pulled. This allows the bowstring to be slipped safely into place.
- To replace compound bowstrings, you must use a bow press. A bow press is used to place and hold tension on the limbs, allowing the strings to be changed. Inexperienced bowhunters should have a qualified dealer or individual replace the string on a compound bow.



Parts of an Arrow

Arrows have four parts.

- **Shaft:** The long spine of the arrow. Modern arrow shafts are made of wood, fiberglass, aluminum, or carbon. The arrow, regardless of shaft material, must have the correct stiffness to match the bow. As an arrow is released, the shaft bends before straightening in flight. Incorrect stiffness will cause the arrow to fly erratically and inaccurately.
- **Fletching:** The plastic vanes or feathers on an arrow. Fletching creates wind drag and also can cause the arrow to spin similar to a rifle bullet, providing stability and accuracy in flight. Fletching is made up of three or more vanes or feathers. One of the feathers will be a different color and is called the "cock" feather. The remaining feathers are referred to as the "hen" feathers.
- **Arrowhead:** The point of the arrow. Many different kinds of arrow points are available, each with a different purpose and advantage.
- **Nock:** A slotted plastic tip located on the rear end of the arrow that snaps onto the string and holds the arrow in position. There is a certain point on the bowstring, called the "nocking point," where arrows are nocked. Fine-tuning of this location, by moving it up or down the bowstring, is usually required.

Arrow Parts



Nocking Point



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Types of Arrowheads



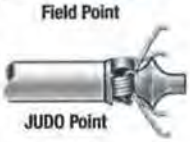
Bullet Point



Blunt Point



Field Point



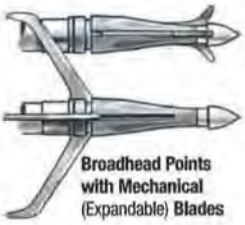
JUDO Point



Fish Point



Broadhead Points



Broadhead Points with Mechanical (Expandable) Blades

Remember...

Broadheads kill by cutting blood vessels, unlike the high-energy shock of bullets. Hemorrhage is typically the result. A responsible bowhunter will use razor-sharp broadheads and only take shots that allow a clear, close shot to the vital area of the game animal.

Common Types of Arrowheads

- **Bullet Point:** Steel point used for target shooting and small game hunting.
- **Blunt Point:** Used for small game hunting and some types of target shooting; made of steel, hard rubber, or plastic.
- **Field Point:** Steel point used for target shooting and small game hunting.
- **JUDO Point:** Designed with spring arms attached to catch in grass and leaves, preventing arrow loss; used for "stump" shooting and small game hunting.
- **Fish Point:** Long barbed or spring-loaded arrowhead that spears fish and secures them until landed with an attached line.
- **Broadhead:** Used primarily for big game hunting. The number of steel blades it contains may vary. The only arrowhead that may be used for big game hunting is the broadhead. It must be solidly built and always razor-sharp. Many states have laws governing the minimum diameter and number of cutting edges of the broadhead used to hunt big game.
  - **Mechanical (Expandable) Blade Broadhead:** Blades are retracted close to the ferrule before the shot. Upon impact, the blades expand to expose the cutting edges. These are recommended for use only with bows rated 50 pounds or more because most require additional energy to open upon penetration.

Know Your Crossbow

A crossbow is a bow with a rifle-like stock that shoots bolts or short arrows. Safe use of a crossbow requires following the safety rules for both firearms and bows.

- Many states have laws that limit the use of crossbows.
- Never travel with a loaded, cocked crossbow.
- Like conventional bows, the crossbow is limited to short-range shooting.



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Bowhunting Safety and Skills

Many states require a bowhunter education course to hunt legally with archery equipment. Even if not required, taking a course will give you an excellent start to becoming a safe and skillful bowhunter.

Bow-Shooting Safety

An arrow is as deadly as a bullet, so the basic safety rules that govern firearm shooting also apply to archery. Although shooting accidents are rare among bowhunters, they do happen. Archers must obey a few common safety rules, whether on the range or in the field.

- Release an arrow only when the path to the target and beyond is clear.
- Make sure there's something to stop the arrow if you miss—never shoot over the horizon.
- Avoid shooting an arrow in the general direction of another person. Arrows are easily deflected. A small twig, unseen by you, can cause an arrow to veer dangerously off course.
- Don't shoot straight up. A falling arrow carries enough force to penetrate the human skull.
- Carry arrows in the nocked position only when slowly approaching game—never nock an arrow or draw a bow if someone is in front of you.
- Use a haul line to raise a bow and quiver into a tree stand to avoid serious injury (see "Hauling Hunting Equipment Into a Stand" in Chapter Six for more on this subject).

Bow-Shooting Position

Stand at a right angle to the target with your feet approximately shoulder-width apart. The stance should feel comfortable and balanced. If you prefer, you may slide your front foot back a little, creating a slightly open stance.



Archery Equipment Safety

Before practicing or hunting, an archer must examine each arrow to make certain there are no cracks or breaks in the shaft and that the nock is in good condition. A cracked or broken nock can be replaced, but a shaft that has cracks or breaks should be discarded.

Never use a cracked arrow. The shaft may shatter on release and be driven into the shooter's wrist or arm. Some common types of damage to look for are:

- Cracks and splinters in wood arrows
- Creases, dents, or cracks in aluminum arrows
- Crushed sidewalls on fiberglass or graphite arrows



Always keep broadheads in a covered quiver.

Broadhead Safety

Many archers' injuries come from broadheads. Broadheads must be kept razor-sharp for hunting, which creates a safety problem if they are handled carelessly. To prevent injury:

- Use a special wrench to screw on broadheads. This device covers the blades while a broadhead is being tightened on an arrow. If a wrench isn't used, the slightest slip can cause a serious cut. When sharpening broadheads, always stroke the blade away from your hands and body.
- Keep broadheads covered with a quiver while traveling to and from the field. Many arrow injuries occur while loading or unloading equipment in vehicles.
- While dressing bow-killed game, remember that the broadhead may remain in the animal. Use great caution until all parts of the broadhead have been found.

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When the arrow is nocked and the bow is raised, the cock feather points to the left if you are right-handed.



If you are right-handed, raise the bow as you pull back the string with the three drawing fingers of your right hand. Simultaneously extend your left arm.

Safety Tip

A bow should never be "dry fired." Releasing a string without an arrow nocked transfers energy back to the limbs instead of the arrow. The bow can fly apart, injuring anyone nearby.

Nocking an Arrow

- A nocked arrow should be positioned about a quarter inch above the arrow rest on the bow handle. On most bows, a small brass band called a "nocking point" is crimped onto the bowstring to mark the correct position.
- To nock the arrow:
  - Grasp the arrow between the thumb and index finger of the right hand (if you're a right-handed shooter).
  - With your left hand, hold the bow parallel to the ground about waist-high, and string toward the body.
  - Lay the arrow shaft on the bow's arrow rest.
  - Align the slot in the nock with the string, and make sure that the cock feather points up (while the bow is parallel to the ground).
  - Pull the arrow back until the string snaps into the slot.

Drawing and Anchoring the Bow

- To draw the bow:
  - Grip the bow handle firmly in the left hand, but don't squeeze.
  - With your bow arm straight, raise the bow to a point that your arm is parallel to the ground while simultaneously drawing the string back to your "anchor point" with your shooting hand. The anchor point may be the corner of your mouth, your cheekbone, or your chin.
- Practice will help you determine your best anchor point—one that's both comfortable and provides the most accurate shooting. Your fingers should touch the same anchor point each time you draw the bow.



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Aiming the Bow

There are two main methods for aiming bows—bow sights and instinctive aiming.

- **Bow sights** work best when the distance to the target is known. For instance, when hunting from a tree stand or blind, you can measure the distance to the area where you expect the game to appear. Then it's a matter of lining up the appropriate sight pin on the target. In hunting situations where it's hard to know the exact distance to the target, bow sights may not work well. The key to using bow sights is to practice judging distances.
- **Instinctive aiming** is more versatile than the bow sight method. You simply look at the intended target with both eyes open and release. You adjust the aim for different distances by instinct developed with practice. Instinctive aiming takes longer to perfect than the bow sight method, but it eliminates much of the guesswork from shooting under some hunting conditions.

Holding and Releasing the Bow

- Allow your fingers to slip quickly away from the string. This gives the arrow a straight, stable flight.
- Keep your bow arm pointed directly at the target after the release. If the bow is jerked on release, the arrow will fly off target.
- Follow through by leaving your drawing hand at the anchor point well after the string is released.





With bow sights, you line up the appropriate sight pin on the target.





With instinctive aiming, you simply look at the intended target with both eyes open and release.

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Be a Safe Hunter

You should be able to...

- State three practices for handling and storing firearms safely in the home.
- Demonstrate the four primary rules of firearm safety.
- Name the four main causes of hunting incidents.
- Demonstrate six field carries for a rifle or shotgun.
- Demonstrate proper field carries while walking two or three abreast and while walking two or three in single file.
- Demonstrate the safe method for crossing an obstacle if hunting alone and if hunting with a partner.
- Explain how to check safely to see that the barrel of a firearm is free of obstructions.
- List the steps to load and unload a firearm safely.
- Explain how to transport firearms safely in vehicles and in boats.
- Demonstrate proper spacing between hunters and the safe zone-of-fire when hunting in a group.
- Explain why self-control, target identification, and accuracy are critical for hunting safety.
- State five functions needed for hunting that are impaired if the hunter consumes alcohol or drugs.
- List advantages and disadvantages of hunting from an elevated stand.
- Name the accessory you should wear at all times when climbing a tree and when on a tree stand.
- Demonstrate how to haul a firearm into an elevated stand safely.
- Demonstrate a safe position and the zone-of-fire when hunting with a partner in a boat.
- Name the accessory you should wear at all times when hunting from a boat.
- Demonstrate what to do to help retain body heat if you are stranded in chilly water.
- List seven rules for safe and ethical operation when hunting with an all-terrain vehicle.

The Four Primary Rules of Firearm Safety

- Point the muzzle in a safe direction.
- Treat every firearm with the respect due a loaded gun.
- Be sure of the target and what is in front of it and beyond it.
- Keep your finger outside the trigger guard until ready to shoot.

Remember...

- The most common hunting incidents result from hunter judgment mistakes.
- Eighty percent of all firearm incidents occur within 10 yards of the muzzle.

Why Firearm Safety Is Important

Whenever firearms are being handled, an incident can occur if the firearm is not handled responsibly. Preventing hunting incidents depends on knowing and understanding firearms and handling them skillfully and safely. Responsible hunters practice safe habits until they become second nature.

Firearm Safety in the Home

Statistics show that more than half of the fatal firearm incidents reported each year occur in the home. Because almost all incidents are caused by carelessness and lack of knowledge, it's the hunter's duty to help prevent firearm mishaps in the home.

- Most importantly, lock guns away where children cannot reach them, and store ammunition in a separate location. Check to see that a firearm is unloaded before allowing it in any building or living area.
- Practice these safety rules if handling a firearm in the home.
  - Immediately point the muzzle in a safe direction when you pick up a firearm.
  - Keep your finger off the trigger.
  - Always check to see that the chamber and the magazine are empty.
- If a gun is taken from storage to show friends, be sure they understand safe gun handling rules.

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Hunting Incidents

- From a law enforcement perspective, a hunting incident occurs when a hunter directly or indirectly causes personal injury or death while using a firearm or bow.
- More broadly defined, a hunting incident is any unplanned, uncontrolled action that occurs while using a sporting arm. It can include near misses.
- Being responsible in order to prevent hunting incidents is your first priority.

Four Main Causes of Hunting Incidents

- **Hunter Judgment Mistakes,** such as mistaking another person for game or not checking the foreground or background before firing
- **Safety Rule Violations,** including pointing the muzzle in an unsafe direction and ignoring proper procedures for crossing a fence, obstacle, or difficult terrain
- **Lack of Control and Practice,** which can lead to accidental discharges and stray shots
- **Mechanical Failure,** such as an obstructed barrel or improper ammunition



Be sure of the target and what is in front of it and beyond it. If you cannot see what lies beyond the target, do not take the shot.



When approached by a law enforcement officer or any other law enforcement official, point your muzzle in a safe direction and follow the officer's instructions.

Using Firearms at the Shooting Range

A successful hunt begins with target practice at the shooting range.

Many of the rules that govern safe firearm handling in the field apply to the shooting range. But a shooting range has some additional requirements.

- Read all range rules that apply to the type of shooting you will do that day.
- If there is a range master, be sure to follow his or her instructions while shooting.
- When not shooting, unload your firearm, and leave it on the range line or bench until you're given further instructions.
- Don't handle your firearm while other shooters are downrange. Step away from the firing line or bench until the range is clear and the range master instructs you to approach the line or bench.
- If no range master is present, all shooters must decide on safety commands beforehand so that it's clear when someone intends to go downrange.
- Before any person goes beyond the firing line or downrange, unload your firearm and step away from the line until the other person returns.
- Under no circumstances should you shoot a firearm when someone is downrange or past the firing line.
- Always wear hearing and eye protection, even if you're watching others shoot.
- Respond immediately to anyone calling for a "cease fire."

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Safely Carrying Firearms in the Field

There are several ways to carry a gun safely and still have it ready for quick action. Three rules apply to all carrying methods:

- Muzzle pointed in a safe direction and under control
- Safety "on" until immediately before you're ready to shoot
- Finger outside the trigger guard



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Proper Field Carries

- **Sling Carry**
  Easy carry for long treks through open country. Keep a hand on the sling when walking so that it doesn't slide off your shoulder if you trip. Not recommended for thick brush because the gun could be knocked from your shoulder.
- **Trail Carry**
  Leaves a hand free for balance, but don't use it when you're behind someone. Not recommended when walking in snow or brush—debris can get in the barrel.
- **Cradle Carry**
  Comfortable and secure; reduces arm fatigue.
- **Elbow or Side Carry**
  Comfortable, but it has the least muzzle control. It also can snag in brushy terrain. Use it when no one is in front of you.
- **Shoulder Carry**
  Good choice when walking beside or behind others. Don't use it if someone is behind you.
- **Two-Handed or "Ready" Carry**
  Provides the best control, particularly in thick brush or weeds, or when you need to fire quickly.





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Checking for Obstructions

Occasionally you may trip or stumble in the field, accidentally dipping the barrel into the ground or snow. Immediately check for an obstruction.

- Point the muzzle in a safe direction.
- Open the action, and make sure the firearm is unloaded.
- Check for debris in the barrel. If the firearm is a break-action, look through the barrel from the breech end, or use a barrel light to inspect the barrel for obstructions.
- Remove any obstructions with a cleaning rod.
- Check the barrel again to make sure no debris remains.

Selecting the Right Carry When Hunting With Others

Carry selection is based primarily on muzzle control and terrain.



- If three hunters are walking side by side, the ones at the sides may carry their guns pointing either to the side away from their party or to the front. The one in the center should keep the gun pointing to the front or up.

- If three hunters are walking single file, the one in the lead should have the gun pointed ahead but never over the shoulder. The one in the middle must have the gun pointed to the side. The hunter in the rear may point the gun to either side or the rear.





- When facing another hunter, any carry is safe except the trail carry or forward-facing elbow or side carry.
- Remember that the same rules for safe carry apply when your hunting companion is a dog.

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Crossing Obstacles

- Always unload guns before crossing fences or other obstacles or before negotiating rough terrain.
- Cross wire fences close to a fence post to prevent damage to the fence.
- After unloading it, place the gun on the other side of the fence or obstacle to be crossed, with the muzzle pointed away from you and your crossing point. Then cross the fence and retrieve your gun.



Remember...

In addition to gun handling, several other factors affect your safety during the hunt:

- Weather, especially the sun's glare
- Pests, such as fire ants, snakes, and bees
- Your emotional state
- Your stamina, especially when hunts are physically demanding



- Pull a gun toward you by the butt—never by the muzzle.
- If two people are crossing, one person gives the other person both guns, crosses first, and then receives the unloaded guns from the other hunter.

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Remember...
Removal of ammunition from the magazine or removal of the magazine from the firearm does not mean the firearm is unloaded!

Safely Loading and Unloading Firearms

Even something as simple as loading or unloading a firearm can result in tragedy if it isn't done properly. Here's how to do it safely.

■ **Loading**

- Point the muzzle in a safe direction.
- Open the action; make sure the barrel is unobstructed.
- Put the safety on if the firearm can be loaded with the safety on.
- Load the ammunition.
- Close the action.
- Put the safety on if you were not able to do so before loading.



■ **Unloading**

- Point the muzzle in a safe direction.
- Put the safety on if it is not already on.
- Keep your finger outside the trigger guard.
- Open the action.
- Remove the ammunition by first detaching the magazine. Eject cartridges or shells if it's the only way to remove them. (See "Firearm Actions" in Chapter Two for details on specific actions.)
- Make sure the gun is empty by checking both the chamber and the magazine.

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Safely Transporting Firearms

Transporting firearms involves both legal and safe practices. In addition to federal laws, there are regulations that vary from state to state.

General Rules

- Always unload and case firearms before transporting them. In many states, this may be the law. The action should be open or the gun broken down, whichever makes the firearm safest if it's mishandled.
- Firearms should not be displayed in window gun racks because the display may provoke anti-hunter sentiment. It's also an invitation to thieves.
- Lean a firearm against a secure rest only. A vehicle does not provide a secure resting place. A gun that falls over might accidentally discharge or be damaged.



Typical Gun Cases

Padded, soft-sided case

Material: Canvas, nylon, neoprene, polyester, or leather

Advantages:

- Light, easy to handle and store
- Many designs accommodate scoped rifles
- Offered in camouflage
- Waterproof and floating cases available for duck hunters
- Less costly than hard cases

Disadvantage:

- Less protection than hard-sided cases



Lockable, hard-sided case

Material: Aluminum or composite

Advantages:

- Lightweight but sturdy
- Meets airline standards
- Can include deep foam padding that holds firearm in place and cushions impact
- Composite models can be molded to fit firearm
- Available in waterproof models

Disadvantage:

- Bulkier and costlier than soft-sided cases



Gun sock

Material: Durable stretch fabric (polyester/acrylic) or soft pile materials

Advantages:

- Lightweight protection from dust, dirt, and moisture
- Offered in camouflage
- Often used as a second case to carry a firearm from a vehicle into a hunting area

Disadvantage:

- Minimal protection from elements or impact



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Safety Tip
A hunter's zone-of-fire changes with every step. It's important to remain alert and aware of your companions' locations at all times.

Safe Zone-of-Fire

The area in which a hunter can shoot safely is referred to as a zone-of-fire. Before setting off in a group, hunters should agree on the zone-of-fire each person will cover. A zone-of-fire depends on many factors, including the hunter's shooting ability, the game being hunted, the hunting environment, and the hunting strategy being used. A hunter's zone-of-fire changes with every step. This is particularly true of groups hunting birds, rabbits, or other small game.

- For safety purposes, it's best to have no more than three hunters in a group. For new hunters, two is a safer number until they become familiar with maintaining a proper zone-of-fire.
- Hunters should be spaced 25 to 40 yards apart and always in sight of one another. Each hunter has a zone-of-fire, which spans about 45 degrees directly in front of each hunter. (Some states require an adult to be immediately beside a youth hunter. In this case, the adult should be a supervisor only—not a hunter.)
- A way to visualize 45 degrees is to focus on a distant, fixed object that is straight out in front of you. Stretch your arms straight out from your sides. Make a fist with your thumbs held up. Gradually draw your arms in toward the front until both thumbs are in focus without moving your eyes. This will give you your outer boundaries.



Only one hunter should aim at the target. Also, hunters should only shoot if there is an adequate backstop. Don't shoot at a "skylined" animal.



- If three hunters are walking side by side hunting pheasants, the hunter in the center will shoot at birds flushed in the middle that fly straight away. The other hunters will shoot at birds flying toward their end of the line.
- If a bird turns and flies back across the line of hunters, it's best if all three hold their swings and do not fire. The same is true of a rabbit scurrying back between the hunters.
- No hunter, especially when swinging on game, should allow his or her gun to point at a person. Better to pass up a shot than risk injuring someone or damaging property.
- Everyone hunting in these situations should wear daylight fluorescent orange whether it's required by law or not.

Safety Tip
When hunting in a group, hunters should shoot only at game in front of them.

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Other Safety Considerations

Self-Control and Target Identification

- Some hunters may become overly anxious or excited on a hunt, which can lead to careless behavior. They may fire at sounds, colors, movements, or unidentified shapes, or simply shoot too quickly. In the excitement after hitting their target, they may swing a loaded firearm toward their companions or run with the safety off toward a downed animal.
- Slow, careful shooting is not only safer, but it also produces a higher degree of success.

Accuracy

- Shooting accurately is not only the key to successful hunting, but it's also a safety factor. Some incidents, often deadly ones, have occurred when stray bullets have hit people out of the shooter's sight. Be sure you have a proper backstop before you shoot.
- Accuracy is also essential for achieving a clean kill. No real sportsman wants to wound game and cause needless suffering. You must learn how to hit the vital organs of the game you hunt. Knowing your game, equipment, and skill level will tell you when you're in position to make a clean kill.

Alcohol and Drugs

- Consuming alcohol before or during the hunt increases the risk of incidents because it impairs coordination, hearing, vision, communication, and judgment.
- Drugs can have a similar effect. If you have to take prescription medicine, check with your physician to see if it's safe to take while hunting.

Hunting From Elevated Stands

Elevated stands place the hunter above ground level. They can be tree stands placed in or against trees, or freestanding structures. They have become increasingly popular in recent years with both firearm and bow hunters. While they offer certain advantages, they also have some drawbacks, including a degree of risk.

- **Advantages**
  - Provide a wider field of vision—game is spotted sooner than at ground level
  - Allow time to plan for the best shot through earlier detection of game
  - Position a hunter above the animal's normal field of vision
  - Make a hunter's scent harder to detect and movement less noticeable
  - Make a hunter more visible to other sportsmen so that he or she is less likely to be hit by a stray bullet
  - Provide a good backstop for arrows or bullets due to shooting at a downward angle
- **Disadvantages**
  - Increase risk of injury resulting from falling
  - Can be difficult to carry, especially large portable stands
  - Provide no protection from cold or wind
  - Give little room for movement
  - Cannot move toward game while hunting

Remember...
A rifle scope should never be used as a pair of binoculars.

Safety Tip
Self-control is an essential aspect of hunter safety. Only shoot when you know the target is legal game and that no people, domestic animals, buildings, or equipment are in the zone-of-fire—remember that bullets can pass through game and continue on for some distance with deadly force.



A DEADLY MIX

The best thing you can do for your safety and the safety of others is simple...

Don't drink and hunt!

Because you can drink faster than your system can burn the alcohol off, there is an increasing level of alcohol in your blood. This level is referred to as Blood Alcohol Concentration (BAC).

Elevated Stand Location

- Place a stand adjacent to game trails or where game sign is abundant.
- Place a stand no higher than necessary.
- Never place a stand in a dead tree, in trees with large overhanging dead limbs, or on or near utility poles.
- Select only trees that are straight.
- Locate the stand downwind from the animals' expected route.
- Never place stands on fence lines or near another landowner's property.

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Types of Elevated Stands



Hang-On Stand



Climbing Stand



Ladder Stand



Tripod Stand

Suspension Trauma

Hanging motionless and suspended in your FAS after a fall can cause the leg straps to constrict blood flow. The pressure can make blood pool in the legs, limiting circulation and depriving organs of oxygen. This is called suspension trauma and can lead quickly to unconsciousness followed by death.

To avoid suspension trauma while you wait to be rescued:

- Step into your suspension relief strap, and stand up to relieve the pressure caused by the leg straps.
- If you do not have a suspension relief strap, move your legs continuously by pushing off from the tree, or raise your knees and pump your legs frequently to keep your blood flowing until help arrives.

Types of Elevated Stands

- **Portable Tree Stands**
  Portable tree stands can be safe and environmentally friendly. **Homemade stands should not be used.** Commercial stands that are manufactured, certified, and tested to industry standards are best. You should follow the manufacturer's instructions and also practice installing a tree stand before you go hunting. Portable tree stands come in three basic types.
  - **Hang-On Stands:** These simple stands provide about four square feet of space. They must be hauled into place and secured to the tree with belts or chains. These stands require separate climbing aids, such as segmented ladders or climbing sticks. When installing a climbing aid, determine your climbing route first. Attach the aid to the tree so that it extends above the stand's platform, and you can step down onto the center of the platform.
  - **Climbing Stands:** These self-climbing stands are designed for trees with straight trunks and consist of two sections. A hunter "walks" the stand up a tree by moving the top section with the hands and the bottom section with the feet. While still on the ground, adjust the stand to allow for the tapering of the tree that occurs as you go up. When climbing, go slowly, take small steps, and keep the two sections of the stand connected with a tether. This stand is not suited for trees with shaggy bark or with branches between the ground and the desired elevation. Never use these stands on trees covered with ice or snow.
  - **Ladder Stands:** Ladder stands provide a platform 10 to 20 feet above the ground. The built-in ladder lets you use these stands with a wider range of trees. Due to their size and weight, hunters normally assemble and set up ladder stands before the first day of hunting. Three to five people are needed to erect or take down a ladder stand safely. When setting up the stand, clear the base area of all rocks and debris, making sure the ground is level. Then lean the stand against the tree, and chain or strap it into place. Using all parts, assemble the stand as instructed by the manufacturer.
- **Tripods, Quadpods, or Tower Stands (Freestanding)**
  These stands are similar to a ladder tree stand but are freestanding and do not require a tree. They can be placed anywhere that has a firm base. Some resemble one or two chairs atop stilts. Others are enclosed, box-like platforms.

Fall-Arrest Systems (FASs)

You should use a fall-arrest system (FAS) that is manufactured to industry standards. **Never use single-strap belts and chest harnesses**—they can be deadly. Before hunting, carefully read the manufacturer's instructions for proper use of your FAS, and follow all safety guidelines.

- Most tree stand falls occur when a hunter is climbing up or down a tree. Always use a properly fitting FAS that includes a full-body harness at all times when your feet are off the ground. Make sure your FAS includes these components:
  - **Full-body harness**—the vest harness is a very effective style of full-body harness
  - **Lineman's-style belt and/or climbing belt**—used when climbing up and down the tree
  - **Tree strap**—goes around the tree
  - **Tether**—attaches the harness to the tree strap
  - **Suspension relief strap**—provides a loop to stand in if you fall
- With an adult present, practice adjusting and using your FAS, including the suspension relief strap, at ground level before hunting from an elevated stand.

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- To protect yourself if you fall, always wear your FAS full-body harness, attaching it to the tree at ground level and keeping it attached throughout your hunt.
  - Attach one end of the FAS lineman's-style belt to one side of the FAS full-body harness, wrap the belt around the tree, and attach the other end of the belt to the other side of the harness.
  - Use the FAS lineman's-style belt with your FAS full-body harness when you are *installing* or *uninstalling* the stand or the climbing aids for a hang-on tree stand.
  - Also use the belt with your full-body harness when you are climbing into or out of a hang-on stand.
- When you are in any tree stand, including a ladder stand, use the FAS tree strap and tether to attach your FAS full-body harness to the tree. Attach the tree strap to the tree so that the strap is at, or above, head level when you are standing. After attaching the tether, adjust both the tree strap and tether so that you have **no** slack in the tether while seated in your stand. If you fall, you do not want to drop below a level that would keep you from returning to the platform.



- If you should fall while in your stand:
  - Do not panic. Your FAS will hold you.
  - Signal for help.
  - Climb back onto the platform as quickly as possible.
  - Take actions to avoid suspension trauma if you must wait for rescue. If you do not have a suspension relief strap, keep moving your legs.
- Discard any FAS that shows signs of wear and tear or has been worn during a fall. Also adhere to the expiration date sewn into the FAS by the manufacturer.
- Due to the risks of injuries or death, hunters who choose not to wear and use their FAS properly should stay on the ground to hunt.

Hauling Hunting Equipment Into a Stand

- Never carry your hunting equipment up or down the tree with you as you climb. Always use a haul line.
- Before attaching the haul line to your hunting equipment:
  - If using a firearm, unload it, and open the action.
  - If using a bow, put the arrows in a covered quiver secured to the bow.
- Use a haul line of heavy cord attached to your stand to bring up your hunting equipment or to lower it prior to climbing down from your stand.
  - If using a firearm, attach the haul line to the firearm's sling so that the firearm hangs with the muzzle pointed down.
  - If using a bow, attach the haul line so that the arrow fletching points down when raising your equipment and points up when lowering it.
- Slip the end of the haul line through your belt—leave it untied so that it can pull free if you fall. Put on your FAS full-body harness, secure yourself to the tree, and climb to your stand.
- After you are in the stand and secure, haul up your hunting equipment, and untie the haul line.

Elevated Stand Safety

Merely climbing into or out of a tree stand or other elevated platform to hunt puts you at risk. Long hours spent waiting in a stand, as well as poor safety techniques, can lead to accidental falls. To protect yourself, use good judgment and follow these recommendations, always putting safety first.

- Purchase a commercial stand that is manufactured, certified, and tested to industry standards.
- Read the manufacturer's instructions, and watch the video that accompanies the stand. Review this information each season before using the stand.
- **Attach your FAS to the tree while at ground level, and keep it attached throughout your hunt—from the time you leave the ground until you get back down.**
- Use a tree stand only during daylight hours.
- Practice first with your tree stand and FAS at ground level, using all safety devices that were included with the stand. Then continue to practice, gradually going higher.
- When climbing into or out of a tree stand, always use three points of contact with your hands and feet.
- Keep a firm hold on the climbing system as you enter or leave a platform, and don't let go until you're certain you are secure.



- Get enough sleep to ensure that you are well-rested before using a tree stand.
- Carry a signaling device, such as a whistle, radio, or cell phone, to let others know if you have a problem.
- Take your time, and plan every move you make while installing and using an elevated stand.
- Check your stand carefully prior to each use. Do not leave a stand attached to a tree for more than two weeks.
- Never exceed the weight limit of your stand or FAS. Remember that the weight includes you plus your equipment.
- Do not climb with anything in your hands or on your back. Use a haul line.
- Raise and lower all hunting equipment on the opposite side of the tree from your climbing route.

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Remember...

Don't press your luck in bad weather. At the first sign of a storm, head for shore.

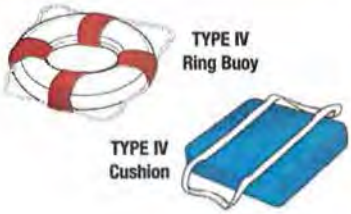
Types of PFDs

Read and follow the label restrictions on all PFDs.

Wearable PFDs



Throwable PFDs



Hunting With Boats

Hunters often use boats in difficult conditions, such as wind, cold, and snow. Special care must be exercised to ensure a safe trip.

Trip Preparation

- Leave a hunting plan with family or friends with details on the boating portion of your trip. It should include your planned route and when you plan to return.
- Be sure the boat is large enough to carry you and your gear safely.
- Load gear low in the boat, and distribute the weight evenly.
- Have each person on board wear a personal flotation device (PFD), sometimes called a life jacket.
- Have throwable PFDs on board in case someone falls overboard.
- Stow required visual distress signals.
- Check an up-to-date weather forecast before heading out.
- Cancel your trip if wind and water conditions aren't safe.

Transporting Firearms in a Boat

- The same rules apply as when transporting firearms in a vehicle—unload and case firearms before transporting them. The action should be open or the gun broken down, whichever makes the firearm safest.
- Before boarding the boat, place the unloaded firearm into the bow (front) of the boat with its muzzle pointing forward.
- When hunting with others, the first person settles in the bow position facing forward after the first gun is placed. Next, place the second unloaded firearm in the stern (rear) of the boat with its muzzle pointing rearward. Then, the second person settles in the stern position facing rearward. Repeat the procedure when unloading.

Zone-of-Fire in a Boat

When duck hunting, the back-to-back position is the safest, with the zone-of-fire confined to a 180-degree area in front of each hunter.



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Surviving Water Emergencies

- Always wear a U.S. Coast Guard–approved PFD while you're in the boat. PFDs will not only keep you afloat, but they'll also help you keep warm.
- If you get caught in a storm and your boat swamps or capsizes, stay with the boat. Most small boats will float even when upside down or filled with water. Signal passing boats by waving a bright cloth or raising an oar if one is available.
- Placing an oar under your back and shoulders and another under your legs can help you float. If decoys are in reach, stuff them inside your jacket.
- Chest waders and hip boots also will help you stay afloat.
  - If in chest waders, trap air in the waders by bending your knees and raising your feet. Lie on your back.
- If in hip boots, trap air in the boots by bending your knees. Lie on your stomach.
- Equip your boat with a means for re-entry (ladder, sling, etc.) to use if you should fall into the water.

Cold Water Immersion and Hypothermia

- Sudden immersion into cold water can cause immediate, involuntary gasping; hyperventilation; panic; and vertigo—all of which can result in water inhalation and drowning. Immersion in cold water can also cause sudden changes in blood pressure, heart rate, and heart rhythm, which can result in death.
- Prepare for boating in cold water conditions by always wearing a secured life jacket. Also wear layered clothing for insulation.
- The best prevention is to take all measures necessary to avoid capsizing your boat or falling into cold water in the first place. If you do fall into cold water:
  - Don't panic. Try to get control of your breathing. Hold onto something, or stay as still as possible until your breathing is controlled.
  - When your breathing is under control, *perform the most important functions first* before you lose dexterity (10–15 minutes after immersion).
  - Put on a PFD immediately if you don't already have one on. Don't take your clothes off unless absolutely necessary—they help insulate you.
  - Focus on getting out of the water quickly before you lose full use of your hands, arms, and legs. Try to reboard your boat, even if it is swamped or capsized. Get as much of your body out of the water as possible—the rate of heat loss will be slower than if immersed in water.
  - If you cannot get out of the water quickly, act to protect against rapid heat loss. In as few as 10 minutes, you may be unable to self-rescue.
    - Stay as motionless as possible, protecting the high heat loss areas of your body, and *keep your head and neck out of the water.*
    - Safety typically looks closer than it actually is, so staying with the boat is usually a better choice than swimming.
    - Adopt a position to reduce heat loss. If alone, use the Heat Escape Lessening Posture (HELP); if there are others in the water with you, huddle together.
  - Be prepared at all times to signal rescuers.
- Read more about the symptoms and treatment of hypothermia in Chapter Eight.

Safety Tip

If you fall into the cold water, remain clothed; clothing helps retain body heat.

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Recognizing Advanced Stages of Hypothermia

When a victim has these symptoms, dry clothing, heat, and medical attention are required immediately:

- Bluish-white appearance
- Weak heartbeat
- Shallow breathing
- Rigid body muscles
- May be unconscious



Heat Escape Lessening Posture **(HELP)**



Huddle
Retains body heat and increases survival time

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Remember...
Shooting from vehicles is unsafe, unethical, and, in many instances, illegal.

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Hunting With All-Terrain Vehicles

All-terrain vehicles (ATVs) are special-purpose vehicles that require careful, responsible handling and good judgment.

- They're useful for traveling into back country, but they can damage the environment if used recklessly. It also requires training and practice to handle them safely on rough terrain.
- Studies show that the majority of ATV accidents occur when the rider unexpectedly encounters an obstacle, such as a rock or a ditch. Maintaining a safe speed is critical.
- If you use ATVs to hunt, prepare yourself and your family by attending an approved ATV course.



Before hunting with ATVs on private land, be sure to get the landowner's permission.

- Always follow the rules for safe and ethical operation.
  - Wear a helmet approved by the Department of Transportation.
  - Wear protective clothing, including goggles, gloves, and boots.
  - Carry firearms unloaded, cased, and on a proper gun rack.
  - When using the plastic scabbard mounted on an ATV, clear the inside of the scabbard of debris, and check your firearm's muzzle for obstructions.
  - Stay on the main roads and trails.
  - Pick your route carefully to minimize terrain damage.
  - Don't drive over crops or planted fields.
  - Don't shoot from an ATV.
  - Use ATVs only to get to the hunting area or to haul an animal from the woods.

Considerations When Hunting With All-Terrain Vehicles (ATVs)

- In many states, it is illegal to hunt from any motorized vehicle, including ATVs; this includes molesting, stirring up, or driving any game animals or game birds with a motorized vehicle.
- It is illegal in some states to operate an ATV off the trail, or there may be trails specifically closed to ATV use.
- In many states, it is prohibited to operate an ATV off-roads or trails in a manner that damages or disturbs the land, wildlife, or vegetation.
- Some states require that ATVs be equipped with approved and operating spark-arresting mufflers and that they comply with sound regulations.

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Be a Responsible and Ethical Hunter

You should be able to...

- Give five reasons why we have hunting laws.
- State how the "father of wildlife management" defined ethical behavior.
- Describe how responsible and ethical hunters show respect for natural resources.
- Describe how responsible and ethical hunters show respect for other hunters.
- Describe how responsible and ethical hunters show respect for landowners.
- Describe how responsible and ethical hunters show respect for non-hunters.
- Identify public and private land where you can go hunting.
- List and describe the five stages of hunter development.
- Give three examples of what you can do to be involved in making hunting a respected sport.

Why Do We Have Hunting Laws?

During the 19th century, many game animals were hunted nearly into extinction. The thundering herds of bison that once roamed the plains were reduced to about 800 head. The beaver was almost wiped out. Elk, deer, and pronghorn were reduced to a fraction of their once-plentiful numbers.

Game Conservation

To conserve wildlife for future generations to enjoy, wildlife management laws were passed. These laws allow game to flourish by:

- Establishing hunting seasons that limit harvesting and avoid nesting and mating seasons.
- Limiting hunting methods and equipment.
- Setting "bag" limits on the number of animals that can be taken.
- Establishing check stations and game tag requirements to enforce the laws.

Safety, Opportunity, and Funding

In addition to ensuring the availability of game for future generations, hunting laws:

- Establish safety guidelines for hunting that protect both hunters and non-hunters.
- Offer equal opportunity for all hunters, whether they use modern firearms, muzzleloaders, or bows.
- Ensure adequate funding for wildlife programs by collecting license fees.

Fair Chase

- Hunting laws also define the rules of fair chase. The concept began in the Middle Ages when hunters increased the challenge of sport hunting by setting rules that limited how they took game.
- More recently, fair chase rules were developed to stem public criticism of hunters. One of the earliest models was the "Fair Chase Principle" established in the late 1800s by the Boone and Crockett Club, which was founded by Theodore Roosevelt. Those who violated club rules were expelled.
- The rules were later expanded, banning the use of vehicles, airplanes, and radios; electronic calling; or shooting in a fenced enclosure. Many states have made those rules into law.



Know the Law

Ignorance of hunting laws is not a valid excuse for violating them. It is the hunter's responsibility to review state game laws before the hunting season.

Remember...

A substantial amount of funding for wildlife management comes from the purchase of licenses, which annually raises millions of dollars.

How Hunting Laws Are Passed

In most states, a wildlife management agency sets hunting regulations. These agencies will have regular meetings where the public can voice their concerns and make suggestions. Hunters wishing to propose changes to the regulations should participate in these meetings, or join a hunting organization that interacts with the agency.

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How Hunters Make a Positive Impact

- Put in countless hours to improve wildlife habitat.
- Help biologists transplant game species and save other species from extinction.
- Encourage others to practice ethical behavior.

ethics
Moral principles or values that distinguish between right and wrong; they are unwritten rules that society expects to be followed

How to Ask Landowners for Permission

- Make contact well ahead of the hunting season.
- Wear street clothes—no hunting gear or firearms.
- Don't bring companions—a "crowd" could be intimidating.
- Be polite, even if permission is denied. Your courtesy may affect the outcome of future requests.



Contact the landowner while wearing street clothes and well in advance of when you wish to hunt.

The Hunter's Image Matters

- Responsible hunters welcome laws that enforce sportsmanlike hunting practices because the behavior of irresponsible hunters has caused some people to oppose hunting.
- Nationally, about 5% of the population hunts, and roughly the same percentage actively opposes hunting. The rest of the population is predominantly neutral. However, bad behavior by hunters could sway some of the neutral crowd into the anti-hunting camp.

Hunter Ethics

- While hunting laws preserve wildlife, **ethics** preserve the hunter's opportunity to hunt. Because ethics generally govern behavior that affects public opinion of hunters, ethical behavior ensures that hunters are welcome, and hunting areas stay open.
- Ethics generally cover behavior that has to do with issues of fairness, respect, and responsibility not covered by laws. For instance, it's not illegal to be rude to a landowner when hunting on his or her property or to be careless and fail to close a pasture gate after opening it, but most hunters agree that discourteous and irresponsible behavior is unethical.
- Then there are ethical issues that are just between the hunter and nature. For example, an animal appears beyond a hunter's effective range for a clean kill. Should the hunter take the shot anyway and hope to get lucky? Ethical hunters would say no.

The Hunter's Ethical Code

As Aldo Leopold, the "father of wildlife management," once said, "Ethical behavior is doing the right thing when no one else is watching—even when doing the wrong thing is legal."

The ethical code hunters use today has been developed by sportsmen over time. Most hunting organizations agree that responsible hunters do the following.

- **Respect Natural Resources**
  - Leave the land better than you found it.
  - Adhere to fair chase rules.
  - Know your capabilities and limitations as a marksman, and stay within your effective range.
  - Strive for a quick, clean kill.
  - Ensure that meat and usable parts are not wasted.
  - Treat both game and non-game animals ethically.
  - Abide by game laws and regulations.
  - Cooperate with conservation officers.
  - Report game violations.
- **Respect Other Hunters**

Follow safe firearm handling practices, and insist your companions do the same.

  - Refrain from interfering with another's hunt.
  - Avoid consuming alcohol, which can impair you to the point of endangering others.
  - Share your knowledge and skills with others.

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- **Respect Landowners**
  - Ask landowners for permission to hunt.
  - Follow their restrictions on when and where you may hunt.
  - Treat livestock and crops as your own.
  - Offer to share a part of your harvest with the owner.
  - Leave *all* gates the way you found them.
  - If you notice something wrong or out of place, notify the landowner immediately.
  - Never enter private land that is cultivated or posted unless you have obtained permission first.



- **Respect Non-Hunters**
  - Transport animals discreetly—don't display them.
  - Keep firearms out of sight.
  - Refrain from taking graphic photographs of the kill and from vividly describing the kill while within earshot of non-hunters.
  - Maintain a presentable appearance while on the street—no bloody or dirty clothing.

Personal Choice

- As in every human endeavor, there are gray areas of ethical behavior that come down to a matter of personal choice.
- Examples of gray areas of ethical behavior, which may even be illegal in some locales, are:
  - Baiting deer with corn or protein pellets
  - Shooting birds on the ground, on the water, or in trees
  - Shooting from a vehicle or boat within private boundaries or on private waters

Landowner Complaints About Hunters

- Don't get permission to hunt.
- Don't tell the landowners when they arrive at or leave the property.
- Make too much noise.
- Leave litter behind.
- Carry loaded firearms in vehicles.
- Drive off the ranch roads.
- Don't leave gates as they were found (open or shut) when the hunter arrived.
- Shoot too close to neighbors or livestock.
- Leave fires unattended.
- Violate game laws.
- Drink alcohol to excess.

Remember...
Hunting is a privilege and can be taken away if hunters fail to act responsibly.

How to Behave if Confronted by Anti-Hunter Protesters

- Remain calm and polite, and do not engage in arguments—never lose your temper.
- Never touch an anti-hunter or use any physical force, and especially **never threaten an anti-hunter with your firearm.**
- Report hunter harassment to law enforcement authorities. If possible, record the vehicle license number of harassers.

Hunting Opportunities on Public Lands

All states have federal- or state-owned public lands that are available for hunting. Public lands may have regulations that control hunting on these properties and may require special permits. Check with your state's wildlife agency, and get maps before you go.

Public lands that may be open for hunting:

- Bureau of Land Management properties
- Bureau of Reclamation properties
- National forests
- National parks
- National Wildlife Refuge properties
- State parks and forests
- State-owned wildlife management areas

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The Five Stages of Hunter Development

It should be the goal of every responsible hunter to become a true sportsman. As a hunter gains experience and skill, studies have shown that he or she will typically pass through five distinct stages of development. Keep in mind, however, that not everyone passes through all of these stages, nor do they necessarily do it in the same order.

1. Shooting Stage

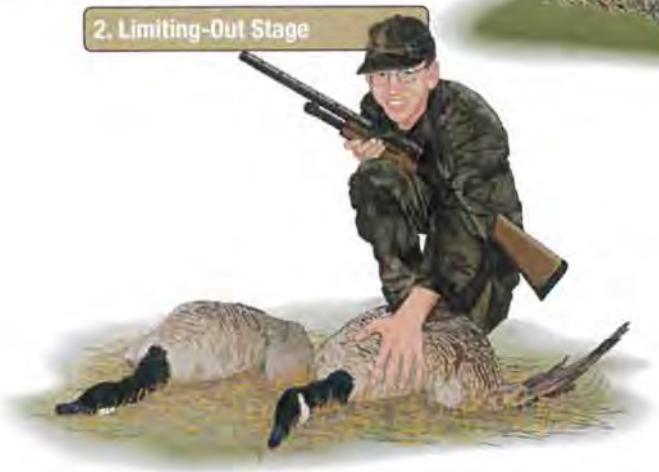


- **Shooting Stage**
  The priority is getting off a shot, rather than patiently waiting for a good shot. This eagerness to shoot can lead to bad decisions that endanger others. A combination of target practice and mentoring helps most hunters move quickly out of this stage.
- **Limiting-Out Stage**
  Success is determined by bagging the limit. In extreme cases, this need to limit out also can cause hunters to take unsafe shots. Spending time with more mature hunters helps people grow out of this phase.
- **Trophy Stage**
  The hunter is selective and judges success by quality rather than quantity. Typically, the focus is on big game. Anything that doesn't measure up to the desired trophy is ignored.

3. Trophy Stage



2. Limiting-Out Stage



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- **Method Stage**
  In this stage, the process of hunting becomes the focus. A hunter may still want to limit out but places a higher priority on how it's accomplished.
- **Sportsman Stage**
  Success is measured by the total experience—the appreciation of the out-of-doors and the animal being hunted, the process of the hunt, and the companionship of other hunters.



4. Method Stage



5. Sportsman Stage



Involvement

- Part of the process of becoming a true, responsible sportsman is becoming involved in efforts to make hunting a respected sport. That includes teaching proper knowledge and skills to others, working with landowners, and cooperating with wildlife officials.
- It also includes joining conservation organizations dedicated to improving habitat and management efforts. Young hunters can be involved by joining organizations, such as 4-H, Boy Scouts, and Girl Scouts, as well as by participating in wildlife projects in their local communities.
- Responsible, ethical behavior and personal involvement are both essential to the survival of hunting. How you behave and how other people see you will determine whether hunting will continue as a sport.

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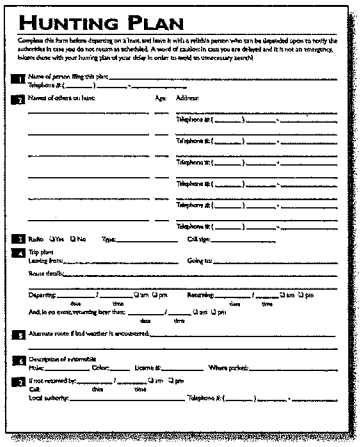
Preparation and Survival Skills

You should be able to...

- List and describe four ways to prepare properly for hunting.
- Prepare a sample hunting plan.
- List three conditions that affect a hunter's physical ability to perform safely and responsibly.
- Describe how to dress for hunting in cold weather.
- State why hunters should wear daylight fluorescent orange clothing.
- Demonstrate how to read a topographic map and use a compass.
- List the five primary requirements for survival.
- List the eight basic survival rules.
- Describe three ways to signal for help when lost in the outdoors.
- Give the causes and symptoms of hypothermia, and explain how to prevent and treat hypothermia.
- Give the causes and symptoms of heat exhaustion, and explain how to prevent and treat heat exhaustion.
- Give three examples of why it's important for every hunter to attend first-aid and CPR training courses.
- Demonstrate how to stop bleeding.
- Explain what to do if someone breaks a bone.
- Describe how to recognize first-, second-, and third-degree burns and how to treat them.
- Explain what to do immediately if a person suffers a chest wound.

Hunting Plan

Before you depart, leave a hunting plan with a family member or friend. A hunting plan tells where and with whom you intend to hunt and when you expect to return. It also should contain specific directions on your route to your destination and any alternate destination you may have if bad weather changes your plans.



HUNTING PLAN

Complete this form before departing on a hunt, and leave it with a reliable person who can be depended upon to notify the authorities in case you do not return as scheduled. A word of caution in case you are delayed and it is not an emergency. Inform those with your hunting plan of your delay in order to avoid an unnecessary search!

1 Name of person filing this plan: _____
Telephone #: (____) ____-____

2 Names of others on hunt: Age: Address:
Telephone #: (____) ____-____
Telephone #: (____) ____-____
Telephone #: (____) ____-____
Telephone #: (____) ____-____
Telephone #: (____) ____-____
Telephone #: (____) ____-____

3 Radio ☐ Yes ☐ No Type: _____ Call sign: _____

4 Trip plan
Leaving from: _____ Going to: _____
Route details: _____
Departing: ____ / ____ ☐ am ☐ pm (date / time) Returning: ____ / ____ ☐ am ☐ pm (date / time)
And, in no event, returning later than: ____ / ____ ☐ am ☐ pm (date / time)

5 Alternate route if bad weather is encountered: _____

6 Description of automobile
Make: _____ Color: _____ License #: _____ Where parked: _____

7 If not returned by: ____ / ____ ☐ am ☐ pm (date / time)
Call:
Local authority: _____ Telephone #: (____) ____-____

Importance of Planning and Preparation

Hunting is a safe sport, but it does involve a certain amount of risk. Aside from firearm safety issues, a variety of incidents can occur on a ttip outdoors. The rougher the terrain—particularly when it's unfamiliar terrain—the greater the chance of accidents. Climate extremes also increase the risk. In remote areas, there's always the possibility of becoming lost.

To plan properly, address these four areas when preparing for your hunt.

- **Be Ready:** To help you avoid or minimize problems, it's essential that you plan carefully for the hunt. Responsible hunters anticipate potential problems and make plans to deal with them. Considerations include terrain, location, weather, dangerous game, and the potential for forest fires.
- **Know Your Location:** Learn as much as you can about your chosen hunting area before you arrive. Purchase a topographic map, and familiarize yourself with the terrain. If the location is within a convenient drive, it's a good idea to visit the area in the off-season.
- **Prepare for Safety:** You also need to assess your physical condition and equipment. Refresh your memory of hunting and firearm safety rules, and review the rules with your hunting partners.
- **Tell Others:** Prepare a hunting plan that tells where and with whom you are hunting and when you expect to return. Give specific directions on your route to your destination and any alternate destinations. Leave the plan with a family member or friend. Do not deviate from your hunting plan without notification. When hunting with a group, each person should discuss their route plan.

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Physical Conditioning

- Hunting often demands more physical exertion than you're accustomed to doing. Conditions that may hamper your physical ability to perform safely and responsibly while hunting include:
  - Allergies
  - Asthma
  - Excess weight
  - Heart condition
  - Poor physical conditioning
- Your mental condition impacts your performance as well.
- Prepare for your hunt by getting in shape well in advance. The amount of time that it will take to get in shape will depend on your physical condition and the difficulty of the planned hunt.

Clothing

- Clothing also can affect your ability to perform safely and responsibly. Select clothing based on the weather you expect while being prepared for the worst.
- In warm weather, wear a hat and light clothing that covers as much of your skin as possible to prevent heat exhaustion or sunburn.



- Cold weather conditions call for clothing that is worn in layers. Layers offer superior insulation. Also, as weather warms up, you can shed a layer at a time to stay comfortable. Layers should include:
  - A vapor transmission layer (material such as polypropylene)—worn next to the body; it should release moisture from the skin while retaining warmth.
  - An insulating layer—weightier or bulkier; it should hold warm air around you.
  - A protective outer layer—available in various weights and materials according to conditions; it should protect the inner layers from water and wind.
- The most important clothing choices are a daylight fluorescent orange hat *and* daylight fluorescent orange outerwear—a shirt, vest, or jacket. Daylight fluorescent orange clothing makes it easier for one hunter to spot and recognize another hunter because nothing in nature matches this color. The orange color of the clothing should be plainly visible from all directions. This is required by law in many states.



Other Clothing Essentials

- A hat or cap with earflaps and gloves to retain body heat—most body heat is lost through the head and hands; gloves also protect your hands from abrasions and rope burns
- Footwear that is sturdy, suitable for the conditions you'll encounter, and has been broken in before the hunt
- Two layers of socks—polypropylene against the skin and a wool outer layer

Remember...

Wool is the best all-around choice for insulation because it still provides warmth when wet. The best clothing combination in bad weather is polyester or polypropylene underwear and shirt, wool pants, heavy jacket, and water-repellent rain pants and parka. Soaking wet clothing can lose heat several hundred times faster than dry clothing. Cotton clothing (underwear, T-shirts, jeans, flannel shirts) is a poor choice for cold, wet weather. When wet, cotton loses its already limited insulating ability and can cause rapid transfer of heat away from the body, increasing the risk of hypothermia.

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Day Pack/Survival Kit and Equipment

In addition to your hunting gear, which includes your firearm—or bow—and field-dressing equipment, you also should prepare a day pack that includes emergency supplies. Although the contents will vary based on conditions and personal preference, an emergency day pack could include:

- Base plate compass with signal mirror
- Candle
- Emergency high-energy food
- Extra boot laces
- Extra pair of glasses
- Extra two-day supply of prescription medicine
- Fire starters—waterproof matches, butane lighter, etc.
- First-aid kit
- Fishing line and hooks
- Flashlight with spare batteries and bulbs
- Folding saw
- Knives
- Map
- Metal carrying case that can double as a cooking pot
- Nylon rope
- Plastic sheet or large garbage bag
- Poncho
- Signal flares
- Single-edged razor blade
- Small can of lighter fluid
- Snare wire or twine
- Tablets for water purification
- Thermal foil blanket
- Tissues
- Water
- Water purification tablets
- Whistle (plastic)

Additional Equipment

- A pair of binoculars or spotting scope
- Biodegradable trail markers
- Duct tape
- Hatchet or ax
- Pencil and paper pad
- Shovel
- Sleeping bag appropriate for climate

Remember...
Metal objects, such as knives, gun barrels, belt buckles, etc., will affect a magnetic needle.

Topographic Maps and Compasses

Reading a Topographic Map

- Whenever you're in a remote or unfamiliar area, a topographic map and compass are a must.
- Topographic maps are created from aerial photographs and reveal the contours of the land, including hills, ridges, and valleys, as well as lakes, rivers, creeks, trails, and roads.
  - Contour lines show the elevation of the ground.
  - Contour intervals reveal how much vertical distance there is between each contour line—closely spaced contour lines indicate very steep slopes.
  - Contour lines that are sharply tapered indicate an uphill direction.
  - Rounded contour lines typically indicate a downhill direction.



Selecting a Compass

- The orienteering compass is a critical piece of equipment for outdoor travel.
- A good orienteering compass has these features:
  - Clear base plate that allows you to see the map underneath
  - Straight sides for aligning two points or for drawing lines
  - Liquid-filled needle housing that keeps the magnetic needle relatively steady when taking readings
  - Two arrows: a direction arrow painted on the base plate (or you may use the edge of the compass) is used to point the compass from your starting point to your destination; an orienting arrow, located in the needle housing, is used to orient your compass to your map



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Understanding Declination

- Topographic maps are drawn to true north (North Pole), which is indicated by the grid lines on the map. However, a compass will always point to magnetic north, which is in the Hudson Bay area. The difference between true north and magnetic north is called "declination."
- When true north and magnetic north are aligned, you're at zero degrees declination. Your compass needle will point to true north. However, if you're east or west of zero degrees declination, your compass will not be in line with true north.
- **To compensate for declination:**
  - Center the north arrow (the N) of the compass dial along a north/south line of the map.
  - Check the diagram at the bottom of the map that shows whether magnetic north is to the left or right of true north.
  - Turn the compass dial the correct number of degrees left or right as indicated on the map. The N is now pointing at magnetic north.
  - Hold the compass level in front of you, and rotate your body until the tip of the compass needle aligns with the N on the compass dial. The direction arrow on the base plate now points in the direction you want to go.

Plotting Your Progress

- As you hike into unfamiliar terrain, you can keep your bearings by taking frequent compass readings and plotting your progress on a map.
  - Note key points, such as stream crossings, to help you find your way back.
  - Pay particular attention when you reach a high point at the top of a ridge; use the elevation to locate landmarks visible from there.
- Learning to set a course and take bearings takes study and practice. The best way to become proficient with a compass is under the guidance of an experienced individual.



Map Resources

Topographic maps are available at many outdoor stores or may be obtained from the U.S. Geological Survey at **www.usgs.gov**. Or contact the USGS by calling toll-free 1-888-ASK-USGS (1-888-275-8747).

National Forest Service Motor Vehicle Use Maps (MVUMs) show forest road networks and restrictions. They are available from the U.S. Forest Service at **www.fs.fed.us**.

Remember...

If you're an experienced map reader, you can:

- Read terrain.
- Determine direction.
- Follow rivers, valleys, and ridges.
- Find your location in relationship to your camp.
- Identify areas preferred by game animals.

Global Positioning System (GPS)



- The Global Positioning System (GPS) is a navigation system based on a network of satellites. Users with a GPS unit can determine their exact location (latitude and longitude) in any weather condition, all over the world, 24 hours a day.
- GPS satellites circle the earth twice a day and transmit information to the earth. GPS receivers use this information to calculate the user's location by comparing the time a signal was transmitted by a satellite with the time it was received. The time difference tells the GPS receiver the distance from the satellite. By calculating the distances from several satellites, the receiver can determine and display the user's location on the GPS unit.
- Once the user's position is determined, a GPS unit can calculate other information—bearing, trip distance, distance to destination, sunrise and sunset times, and more.
- GPS receivers are accurate to within 15 meters (49 feet) on average. Certain atmospheric factors and other sources of error can affect the accuracy. Accuracy can be improved with a Differential GPS (DGPS) or Wide Area Augmentation System (WAAS).

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Remember...

When you find yourself in a survival situation, the most important tool is your brain.



Stop when you realize you've got a problem. The first thing to do is admit to yourself that you are in trouble.

Think about what you need to do to survive.

Observe the area, and look for shelter, fuel, etc.

Plan how you are going to use your survival kit and your other available resources. Don't wait until dark to plan!

Remain calm. Think clearly. Use the tools you have available to you.

Rules of Survival

- Give a responsible person your hunting plan as discussed previously.
- Don't travel or hunt alone.
- Take enough food and water to last for several days in an emergency.
- Bring a map and compass, and always orient yourself before leaving camp.
- Wear layered clothing, and take extra clothing, preferably wool and polyester, with you.
- Plan your outings so that you can return to camp before dark.
- Never leave camp without taking fire-starting equipment and a foil blanket.
- Don't panic if you become lost.



A tepee of larger sticks enclosing the kindling is a good way to start a fire.

Survival Skills

Planning and preparation should keep you from having an outdoor misadventure. If something does go wrong, switch into survival mode.

Most everyone who treks into the wilderness gets turned around occasionally. How you respond in the early stages often determines whether your disorientation becomes a temporary inconvenience or a traumatic ordeal. If you keep a cool head, you'll usually get your bearings fairly quickly.

Think through recent events to see if you can retrace your path. If you decide you cannot return to your camp or car, commit yourself to spending the night where you are. If you remain in one spot, it's very likely that you will be found in a few days.

You now have three priorities: shelter, fire, and signal.

Preparing a Shelter

- Start preparing your camp well before dark. Look for a natural shelter, such as a rock overhang or a thick stand of evergreens. The site should be dry and well-drained and protect you from the wind. Ideally, it also should be near water and plenty of firewood.
- If no natural shelter is available, pick an area with materials nearby to build a lean-to or debris hut.
- A lean-to is constructed by leaning branches against a horizontal support to form a frame for a roof. Be sure to orient the opening away from the wind. Cover the frame with evergreen branches to block wind or precipitation. Leaves and twigs are another option. If you need additional protection, you can add side walls.
- Build your fire where its heat will radiate into the shelter. Your sleeping area should be located between the shelter wall and the fire.



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Starting a Fire

- If there is snow on the ground, build the fire on a platform of green logs or rocks. If the terrain is dry, clear a patch of bare dirt to avoid starting a grass or forest fire.
- Gather everything you need before starting the fire. Pile fuel ranging from small twigs to fuel logs next to the fire site. Collect more fuel than you think you can use; you may need more than you estimate.
- Pile fine twigs, grass, or bark shavings loosely as a base. If you cannot find dry kindling, remove bark from trees. Use your knife to shave dry wood from the inside of the bark.
- Place slightly larger sticks on the starter material until you have a pile about 10 inches high.
- If there's no breeze, light the kindling in the middle of the base. If there is a breeze, light one end of the kindling so that the flame will be blown toward the rest of the fuel. As the kindling lights and the flames spread to the larger twigs, slowly add more wood to the blaze. Add larger pieces as the fire grows. A large fire will throw more heat and be easier to maintain.

Signaling for Help

- When you decide to stay put and wait for rescue, prepare help signals as soon as possible.
- The international emergency sign for distress is three of any signal: three shots, three blasts on a whistle, three flashes with a mirror, or three fires evenly spaced. If you're near an open space, walk an X in the snow, grass, or sand. Make it as large as possible so that it can be seen easily from the air. Placing branches, logs, or rocks along the X will make it more visible. Do not light signal fires until you hear an aircraft. Adding green boughs, preferably pine if available, to the fire will help create smoke.
- Once you have a shelter, fire, and your signal prepared, you can focus on water and food.

Drinking Enough Water

- Even in cool weather, you need two to four quarts of water a day. Under most conditions, humans can only last about three days without water.
- Pure drinking water is rare, even in the most remote regions. Clear mountain streams often are contaminated by *Giardia lamblia*, a parasite that causes serious intestinal sickness in humans.
- The best way to purify water is by boiling. Chemical purifiers such as iodide/iodine or chlorine and filter systems can be used, but some may not be satisfactory. Never make survival problems worse by drinking unsafe water.

Finding Food

- Humans can go for two weeks or more without food. Although the need for food is not that urgent, you'll be more comfortable and clearheaded if you eat. Anywhere there is game, there is food, but probably not what you're accustomed to eating.
- Before you head into a remote area, it's a good idea to learn what's edible in that particular region. Hopefully, you'll be able to use your hunting equipment to harvest the bulk of your food.

One Less Spark—One Less Wildfire

preventwildfireca.org/OneLessSpark

To prevent wildfires, follow these recommendations provided by the U.S. Forest Service.

- Contact the landowner or agency managing the land to make sure fires are allowed. Get a campfire permit from the agency if it is required.
- Go to **https://smokeybear.com/en/prevention-how-tos/campfire-safety** to review how to build, maintain, and put out a campfire. Even the most experienced campers can use a campfire safety refresher.
- Before you light a fire, be ready to put it out.
  - Drown it! Stir it! Feel it!
  - Drown it and stir it again! If it is too hot to touch, it is too hot to leave.
- Maintain your equipment, and avoid creating sparks.
  - Use spark arrestors.
  - Don't drag chains.
  - Don't park over dry grass.
- Do not leave a fire unattended.
- Before you build a campfire, know your legal and financial responsibilities if you cause a wildfire.
- Never forget that fire is a helpful tool, but it is also a dangerous tool. Learn more about wildland fire at **www.nps.gov/fire/wildland-fire/learning-center/fire-in-depth.cfm**.

Personal Locator Beacon



Personal locator beacons (PLBs) provide a distress and alerting system for use in a life-and-death situation. A PLB is a small transmitter that sends out a personalized emergency distress signal to a monitored satellite system. When you buy a PLB, you must register it with the National Oceanic and Atmospheric Administration (NOAA). PLBs are a highly effective and internationally recognized way to summon help.

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Hypothermia is often induced by cold, wet conditions, such as rain, snow, sleet, or immersion in water.

Coping With Extreme Weather

Some of the most common and dangerous risks to hunters result from exposure to extreme weather.

Hypothermia

Hypothermia occurs when your body loses heat faster than it can produce it, causing your core body temperature to fall. Hypothermia is often induced by cold, wet conditions, such as rain, snow, sleet, or immersion in water. However, hypothermia can occur at temperatures as high as 50° Fahrenheit.

Moisture from perspiration, humidity, and dew or rain on bushes and trees also can soak your clothing over time, putting you at risk in cold weather. Wet or damp clothes will draw heat out of your body more rapidly than cold air. Wind lowers your body temperature as it evaporates moisture from your body. Resting against cold surfaces will also draw heat from your body.

- **Prevention of Hypothermia**
  - Hypothermia can be prevented by dressing properly, by avoiding potentially dangerous weather conditions, and by drying out as quickly as possible when you get wet.
  - High-calorie foods, such as chocolate, peanuts, or raisins, provide quick energy that helps your body produce heat.
- **Symptoms of Hypothermia**
  - Uncontrolled shivering—usually the first obvious symptom, but ceases as hypothermia progresses
  - Slow, slurred speech
  - Memory loss
  - Irrational behavior, such as removing clothing
  - Lack of body movement
  - Sleepiness
  - Unconsciousness, which could lead to death



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Treatment of Hypothermia

- Find shelter for the victim.
- Remove wet clothing, and replace with dry clothing and other protective covering. If there is no dry clothing, use a fire to dry one layer at a time.
- Give warm liquids to rehydrate and rewarm, but never give the victim alcohol to drink. Quick-energy foods also produce inner body heat.
- For mild cases, use fire, blankets, or another person's body heat to warm the victim.
- In more advanced stages, rewarm the victim slowly by placing one or more people in body contact with the victim. Place canteens of hot water insulated with socks or towels on the groin, armpits, and sides of the neck of the victim.
- A victim at or near unconsciousness must be handled gently and not immersed in a warm bath or exposed to a large fire, which can lead to traumatic shock or death. Immediately contact emergency medical personnel to evacuate the victim to a hospital for treatment.

Frostbite

Frostbite occurs when tissue freezes. The best prevention is to avoid severe weather. If you're caught in extremely cold weather, pay attention to your head and extremities, such as fingers, toes, ears, and nose. Wear a face cover if the temperature is below 0° Fahrenheit. If you experience any symptom of frostbite, treat immediately.

Symptoms of Frostbite

- Skin turns off-white.
- Prickly or tingling feeling occurs as ice crystals form.
- Pain may be present initially, then disappears as frostbite progresses.
- In severe cases, victim experiences a loss of feeling in the affected area.

Treatment of Frostbite

- Warm the affected area with body heat, but avoid rubbing the area—it can damage tissue.
- Don't use hot water or other external heat sources, which could cause burns.
- Wrap with warm, dry clothing.
- Move to a warm shelter.
- Drink hot liquids.
- Get medical attention.

Basics of Cold Survival Without Fire

- Wear the proper type of clothing (no cotton).
- Stay dry. Use water-repellent outer garments.
- Build a shelter. The best is a nylon tarp shelter as it will protect you from wind, rain, and snow. Insulate the floor of the shelter with pine boughs, if available.
- Avoid contact with cold surfaces (the ground, rocks, or snow).
- Wrap your body in a thermal foil blanket. This will maintain a temperature of 60° F inside the wrap even when the outside temperature is -10° F.
- Limit your physical activity to conserve energy.

Wind Speed (mph)

Air Temperature (°F)	5	10	15	20	25	30	35	40	45	50	55	60
40	36	34	32	30	29	28	28	27	26	26	25	25
35	31	27	25	24	23	22	21	20	19	19	18	17
30	25	21	19	17	16	15	14	13	12	12	11	10
25	19	15	13	11	9	8	7	6	5	4	4	3
20	13	9	6	4	3	1	0	-1	-2	-3	-3	-4
15	7	3	0	-2	-4	-5	-7	-8	-9	-10	-11	-11
10	1	-4	-7	-9	-11	-12	-14	-15	-16	-17	-18	-19
5	-5	-10	-13	-15	-17	-19	-21	-22	-23	-24	-25	-26
0	-11	-16	-19	-22	-24	-26	-27	-29	-30	-31	-32	-33
-5	-16	-22	-26	-29	-31	-33	-34	-36	-37	-38	-39	-40
-10	-22	-28	-32	-35	-37	-39	-41	-43	-44	-45	-46	-48
-15	-28	-35	-39	-42	-44	-46	-48	-50	-51	-52	-54	-55
-20	-34	-41	-45	-48	-51	-53	-55	-57	-58	-60	-61	-62
-25	-40	-47	-51	-55	-58	-60	-62	-64	-65	-67	-68	-69
-30	-46	-53	-58	-61	-64	-67	-69	-71	-72	-74	-75	-76
-35	-52	-59	-64	-68	-71	-73	-76	-78	-79	-81	-82	-84
-40	-57	-66	-71	-74	-78	-80	-82	-84	-86	-88	-89	-91
-45	-63	-72	-77	-81	-84	-87	-89	-91	-93	-95	-97	-98

Frostbite occurs in 15 minutes or less

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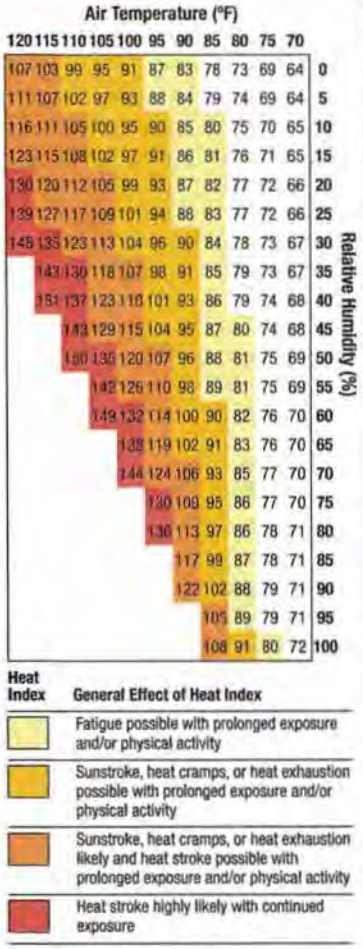

Heat Exhaustion

Heat exhaustion is the opposite of hypothermia—the core body temperature increases, usually as a result of hot and humid conditions, plus a lack of water.

- **Prevention of Heat Exhaustion**
  - Drink plenty of water.
  - Take frequent breaks if you're hiking to or from your hunting spot, especially when carrying a large load.
  - Dress in layers, and shed layers as physical activity increases.
- **Symptoms of Heat Exhaustion**
  - Pale and clammy skin
  - Weakness
  - Nausea
  - Headache
  - Muscle cramps
- **Treatment of Heat Exhaustion**
  - Move to a cooler place, and drink water.
  - Fan to lower body temperature, but don't over-chill.

Heat Stroke

Heat stroke should be treated as a medical emergency—it can be fatal.

- **Symptoms of Heat Stroke**
  - Dry, hot, and flushed skin—dark or purple in color
  - Dilated pupils
  - Rapid, weak pulse
  - Shallow breathing
  - High temperature—may be in excess of 106° Fahrenheit
- **Treatment of Heat Stroke**
  - Wrap in a sheet and soak with cool—not cold—water.
  - Fan, but don't over-chill.
  - Get to a hospital immediately.

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Basic First Aid

Every hunter should take a first-aid course to learn what to do in case of injuries. Below are some common injuries that could occur while hunting.

Bleeding

- Severe bleeding is a life-threatening medical emergency. The rapid loss of just two pints of blood can result in shock and loss of consciousness. A victim can bleed to death in a short time.
- **To stop bleeding:**
  - Apply direct pressure on the wound.
  - Cover with a sterile gauze pad—or the cleanest cloth readily available. Concerns about infection are secondary when it comes to preventing massive blood loss.
  - Press the pad firmly over the wound using the palm of your hand. Don't lift the pad to check the wound—it will only renew bleeding.
  - When a pad becomes soaked, put a fresh one directly over the old pad.
  - If the wound is on a limb and there's no fracture, raise the limb above the level of the heart. Gravity will reduce the blood pressure in the limb.
- Direct pressure and elevation are usually sufficient to stop bleeding. If profuse bleeding continues, try shutting off circulation in the artery that supplies blood to the injured limb.

Broken Bones

- You can assume someone has a broken bone if pain lasts more than a few minutes, moving the injured area is difficult, or there is swelling in the injured area.
- If you have to transport the victim a long distance, it's best to immobilize the joint above and below the break to prevent further injury and relieve pain. Don't try to straighten the limb—splint it the way you found it.
- For a broken foot, do not remove the shoe. Tie a pillow or thick padding around the foot over the shoe.
- **To splint a broken leg:**
  - Place a blanket or some other type of thick padding between the legs.
  - Bind the injured leg to the uninjured one with strips of cloth.
  - Bind the legs together snugly at several places above and below the painful area.

Burns

- First- and second-degree burns with closed blisters are best treated with cold water.
  - Immerse the burned area, or cover it with cloths that have been soaked in cold water—don't use ice water.
  - Avoid using butter or any type of greasy ointment because they can interfere with healing and cause an allergic reaction.
- Second- and third-degree burns with open blisters should be wrapped with a loose, dry dressing.

Remember...

Every hunter should take a first-aid course and a course in cardiopulmonary resuscitation (CPR) to be prepared to handle outdoor emergencies. A prepared hunter also will carry a complete first-aid kit.

Moving an Injured Person

Moving a victim with a back or neck injury should be left to paramedics or other professionals because permanent damage could result from improper handling.

If a victim must be pulled to safety, move him or her lengthwise and head first, supporting the head and neck. Keep the spine in alignment.

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First-Aid Kit

- 2-inch-square sterile gauze pads
- 2-inch-wide gauze bandage roll
- 4-inch-square sterile gauze pads
- 42-inch-square cloth for triangular bandage or sling
- Antacid
- Antibiotic salve
- Aspirin
- Assorted adhesive dressings
- Assorted butterfly dressings
- Cell phone
- Cotton swabs
- Decongestant
- Eye dropper
- Hand sanitizer
- Instant chemical cold packs
- Instant chemical hot packs
- Latex gloves
- Moleskin
- Needles
- One-half percent hydrocortisone cream
- Petroleum jelly
- Roll of 1-inch adhesive tape
- Roll of 2-inch adhesive tape
- Safety pins
- Scissors
- Single-edged razor blades
- Sterile eyewash
- Thermometer
- Tweezers

Carbon Monoxide Poisoning

- Improperly working camp stoves and lanterns, as well as wood and charcoal fires, can produce lethal carbon monoxide.
- Symptoms of carbon monoxide poisoning include headache, dizziness, weakness, and difficulty in breathing. The victim's skin can turn red, and he or she can lose consciousness.
- Get victims into fresh air immediately, and keep them lying quietly. Prompt medical care is essential.

Chest Wounds

- A bullet striking the chest can cause a sucking chest wound—a deep, open wound of the chest wall that allows air into the chest cavity.
- All chest injuries are very serious and need immediate medical attention.
- **To respond immediately to a chest wound:**
  - Use the palm of your hand to cover the wound until a bandage is located.
  - Cover the wound with sterile gauze, a clean cloth, plastic, or foil.
  - Make sure the wound cover forms an airtight seal.
  - Hold the gauze in place with a bandage or tape.
  - If the victim has trouble breathing, remove the bandage, and replace it quickly.
  - Transport the victim to the hospital with the injured side down.

Shock

- Shock can result from any serious injury. Symptoms include pale, cold, clammy skin; rapid pulse; shallow breathing; and fear in the victim.
- **To treat shock:**
  - Keep the victim lying on his or her back. In some cases, shock victims improve by raising their feet 8–10 inches.
  - If the victim is having trouble breathing, raise the victim's head and shoulders about 10 inches rather than raising the feet.
  - Maintain normal body temperature, and loosen any restrictive clothing.
  - Try to keep the victim calm and comfortable, and get medical help as quickly as possible.

Snakebite

- Most doctors agree that the best response is to rush the victim to a hospital emergency room. Do not try to remove poison from snakebites. Cutting and suctioning the bite can do more harm than good.
- Fear and panic aggravate snakebite reactions. Calm the victim as much as possible. Keep the victim in a reclining position to slow the spread of venom. If the bite is on a limb, keep the wound at or below the level of the heart.

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF DAVID BOGAN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

(Part 2 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

EXHIBIT "2"

(Part 2 of 2)

Wildlife Conservation

You should be able to...

- Define "wildlife conservation" and explain how it differs from preservation.
- List the five essential elements for wildlife habitat.
- Define "carrying capacity."
- List the factors that limit wildlife populations.
- Explain the role of hunting in wildlife conservation.
- Give five examples of wildlife management practices, and explain how each helps conserve wildlife populations.
- Explain why the correct identification of wildlife is crucial for hunting.
- List the five groups commonly used to divide wildlife.
- Give one example of a large mammal and some of its distinguishing features.
- Tell where to find more information on identifying characteristics, habitat, and range of common wildlife species.

Wildlife Conservation

- The concept of wildlife **conservation** has been around since ancient times. Restrictions on taking game are mentioned in the Bible, and the first official hunting season may have been established in the 13th century by Kublai Khan.



- Today, wildlife conservation has evolved into a science, but its goal remains essentially the same: to ensure the wise use and management of renewable resources. Given the right circumstances, the living organisms that we call renewable resources can replenish themselves indefinitely.
- **Preservation** is another means of protecting or saving a resource, such as by outlawing hunting of endangered species. Both preservation and conservation are necessary to sustain resources for future generations.

conservation
Wise use of natural resources, without wasting them

preservation
Saving natural resources, but with no consumptive use of them

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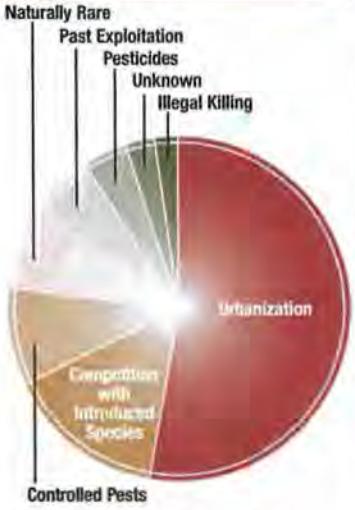
wildlife management
Science and practice of maintaining wildlife populations and their habitats

habitat
Complete environmental requirements of an animal for survival: food, water, cover, space, and arrangement

Causes of Threatened and Endangered Species



Of the possible causes for a species becoming endangered or threatened, legal hunting equals 0%.

Remember...
No North American animal has become extinct because of sport hunting.

Lessons in Wildlife Management

- Initially, **wildlife management** in the United States was skewed toward protection. In the early 1900s, for example, wildlife managers attempted to preserve a mule deer herd in the remote Kaibab Plateau of Arizona. Hunting was banned, and predators were destroyed. The result was severe overpopulation, **habitat** destruction, and mass starvation.
- The Kaibab Plateau was opened to hunting in 1929, which brought the population into balance with the habitat. Today, a large, healthy herd of mule deer inhabits the area.
- Around the same period, a similar event took place in Pennsylvania. Deer had been brought into the state after the native population was thought to be extinct. With most of the predators eliminated and little hunting allowed, the herd grew out of control. As the food supply dwindled, thousands of white-tailed deer starved to death.
- From these hard lessons, wildlife managers learned that there is more to conservation than just protecting wildlife. They discovered that nature overproduces its game resources and that good wildlife management yields a surplus that can be harvested by hunters.

The North American Model of Wildlife Conservation

In the first two decades of the 20th century, sportsmen from the United States and Canada developed a set of guiding principles for managing wildlife resources. Called the North American Model of Wildlife Conservation, these seven principles provide the foundation for the success of fish and wildlife conservation in North America.

- Wildlife is public property. The government holds wildlife in trust for the benefit of all people.
- Wildlife cannot be slaughtered for commercial use. This policy eliminates trafficking in dead game animals.
- Wildlife is allocated by law. Every citizen in good standing—regardless of wealth, social standing, or land ownership—is allowed to participate in the harvest of fish and wildlife within guidelines set by lawmakers.
- Wildlife shall be taken by legal and ethical means, in the spirit of "fair chase," and with good cause. Animals can be killed only for legitimate purposes—for food and fur, in self-defense, or for protection of property.
- Wildlife is an international resource. As such, hunting and fishing shall be managed cooperatively across state and province boundaries.
- Wildlife management, use, and conservation shall be based on sound scientific knowledge and principles.
- Hunting, fishing, and trapping shall be democratic. This gives all people—rich and poor alike—the opportunity to participate.

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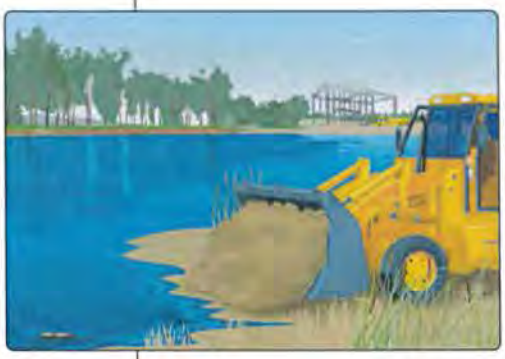
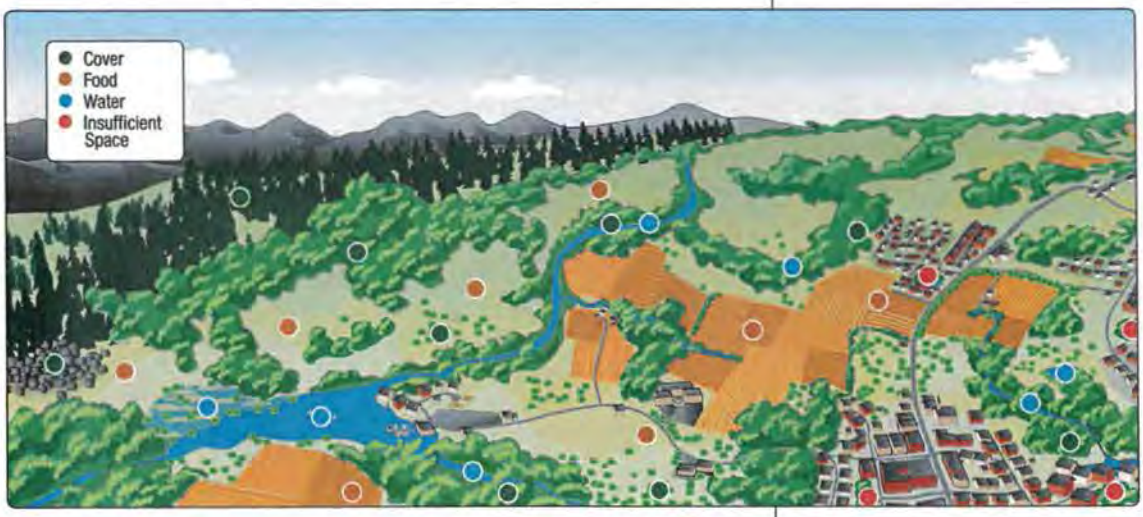
Habitat Management

- The habitat is where a species fulfills its basic life needs: nourishment, procreation, and rest. If not managed properly, urban development can result in habitat loss, which presents the greatest threat to wildlife. Habitat management, the most essential aspect of wildlife management, safeguards the essential elements to meet these needs.
  - **Food and water** are necessary to all wildlife. Competition for these elements among species makes cover, space, and arrangement top priorities.
  - **Cover** protects animals from predators and the weather while they feed, breed, roost, nest, and travel. Cover ranges from thick weeds and brush to a few rocks piled together.
  - **Space** is necessary for adequate food among wildlife, territorial space for mating and nesting, and freedom from stress-related diseases.
  - The ideal **arrangement** places food, water, cover, and space in a small area so that animals minimize their energy use while fulfilling their basic needs for nourishment, procreation, and rest.
- **Edge effect** refers to the consequence of placing two contrasting ecosystems adjacent to one another. Most animals are located where food and cover meet, particularly near water. An example would be a river bottom, which offers many animals all their habitat needs along one corridor.

Balancing Act

Habitats must be in balance in order to support wildlife. Remove a certain population of plants or animals from a community, and the community may not survive. This typically happens when urban development pushes into wildlife areas.





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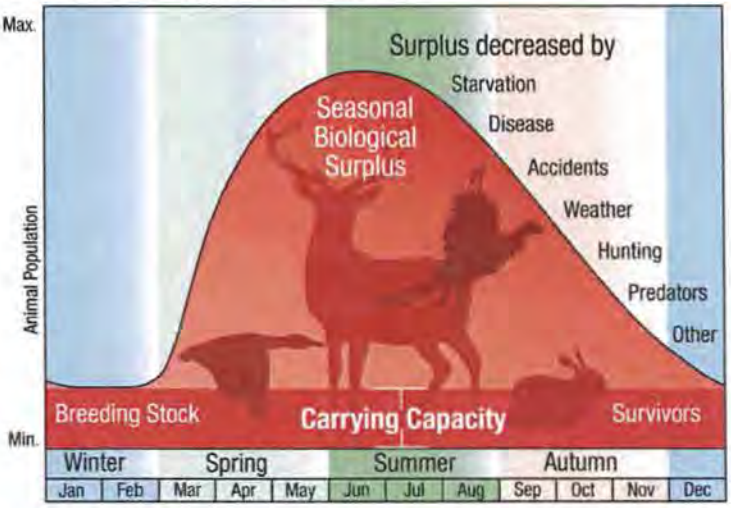
carrying capacity
The number of animals the habitat can support throughout the year without damage to the animals or to the habitat

Carrying Capacity

- The resources in any given habitat can support only a certain quantity of wildlife. As seasons change, food, water, or cover may be in short supply. **Carrying capacity** is the number of animals the habitat can support all year long. The carrying capacity of a certain tract of land can vary from year to year. It can be changed by nature or humans.
- **Factors that limit the potential production of wildlife include:**
  - Disease/parasites
  - Starvation
  - Predators
  - Pollution
  - Accidents
  - Old age
  - Hunting
- If the conditions are balanced, game animals will produce a surplus, which can be harvested on an annual, sustainable basis.



The Hunter's Role in Wildlife Conservation

- Because wildlife is a renewable resource with a surplus, hunters help control wildlife populations at a healthy balance for the habitat. Regulated hunting has never caused a wildlife population to become threatened or endangered.
- Hunting is an effective wildlife management tool. Hunters play an important role by providing information from the field that wildlife managers need.
- Funding from hunting licenses has helped many game and non-game species recover from dwindling populations.

Hunters and Wildlife Conservation

Hunters spend more time, money, and effort on wildlife conservation than any other group in society. In addition to participating in the harvest of surplus animals, hunters help sustain game populations by:

- Filling out questionnaires
- Participating in surveys
- Stopping at hunter check stations
- Providing samples from harvested animals
- Helping fund wildlife management through license fees

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Wildlife Management and Conservation Principles

- The wildlife manager's job is to maintain the number of animals in a habitat at or below the habitat's carrying capacity so that no damage is done to the animals or to their habitat.
- In a sense, a wildlife manager's task is similar to a rancher's. Just as a rancher limits the number of animals in a cattle herd to a level that the habitat can tolerate, wildlife managers try to keep the number of animals in balance with their habitat. In addition to looking at the total number of each species in a habitat, wildlife managers also monitor the breeding stock—the correct mix of adult and young animals needed to sustain a population.
- To manage a habitat, wildlife managers must consider historical trends, current habitat conditions, breeding population levels, long-term projections, and breeding success. With that knowledge, wildlife managers have a variety of practices at their disposal to keep habitats in balance.

Wildlife Management Practices

- **Monitoring Wildlife Populations:** Wildlife managers continuously monitor the **birth rate** and **death rate** of various species and the condition of their habitat. This provides the data needed to set hunting regulations and determine whether other wildlife management practices are needed to conserve wildlife species.
- **Habitat Improvement:** As **succession** occurs, the change in habitat affects the type and number of wildlife the habitat can support. Wildlife managers may cut down or burn forested areas to promote new growth and slow down the process of succession. This practice enables them to increase the production of certain wildlife species.
- **Hunting Regulations:** Hunting regulations protect habitat and preserve animal populations. Regulations include setting daily and seasonal time limits, bag limits, and legal methods for taking wildlife.
- **Hunting:** Hunting is an effective wildlife management tool. Hunting practices help managers keep animal populations in balance with their habitats.
- **Predator Control:** In rare instances, **predators** must be reduced to enable some wildlife populations to establish stable populations, particularly threatened or endangered species.
- **Artificial Stocking:** Restocking of game animals has been successful in many parts of the nation. An example of restocking is trapping animals in areas where they are abundant and releasing them in areas of suitable habitat where they are not abundant.
- **Controlling or Preventing Disease and Its Spread:** Disease can have a devastating effect on wildlife. Avian cholera, for example, poses a serious threat, especially to ducks and geese on crowded wintering grounds. Once avian cholera occurs, managers must work to prevent its spread by gathering and burning waterfowl carcasses daily.
- **Management Funds/Programs:** In addition to Pittman–Robertson funds, many states have initiated programs that help finance conservation efforts.

Beneficial Habitat Management Practices

- Brush pile creation
- Controlled burning
- Diking
- Ditching
- Food plots and planting
- Mechanical brush or grass control
- Nuisance plant or animal control
- Timber cutting
- Water holdings



Suppose each adult pair of waterfowl produces six young each year, and none of the factors that limit wildlife production are active. At the end of the fifth year, the initial pair will have grown to more than 2,000 waterfowl.

birth rate
The ratio of number of young born to females of a species to total population of that species over one year

death rate
The ratio of number of deaths in a species to total population of that species spanning one year

succession
Natural progression of vegetation and wildlife populations in an area; for example, as trees grow and form a canopy, shrubs and grasses will disappear along with the wildlife that use them as cover

predator
Animal that kills other animals for food

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Characteristics of Mammals

- Mammals are warm-blooded animals with hair. Young are nourished with milk from the mother.
- Mammals can be carnivorous (meat-eating), herbivorous (plant-eating), or omnivorous (meat- and plant-eating).
- Mammals seek to regulate their temperature. Mammals in cold climates must keep warm, and mammals in hot climates must keep cool.
- Small mammals live shorter lives than large mammals, in general.
- Mammals vary in social behavior—some species live in groups, and other species are solitary except when mating or raising offspring.

Wildlife Identification

- Developing wildlife identification skills is a basic requirement for hunters. Knowing the key characteristics of animals will help you distinguish between similar species and between the male and female of the same species. Mistakes in identification can lead to illegal harvest of game or non-game animals. To identify game properly, you must learn to recognize key characteristics of the animal you're hunting.
- Identifying animals accurately is a skill that improves with experience. It can be difficult, especially when you must observe quickly or when the differences between animals are subtle. Sometimes the difference between animals in the same species is only the size of their ears or distinctive coloring. Scat and tracks provide additional clues for identifying species.
- Many resources are available for learning about wildlife. Good sources are books, television shows featuring hunting and nature topics, and websites, such as that of the U.S. Fish & Wildlife Service **(www.fws.gov)**.
- It is common to categorize wild animals into groups that are similar in some way. For example:
  - **Large mammals**
  - **Small mammals**
  - **Upland birds**
  - **Waterfowl and wetland birds**
  - **Birds of prey**
- Within each of the groups, species may be "threatened" or "endangered." Some species are protected from hunting because their numbers are small, and they produce no surplus to harvest. "Threatened" and "endangered" species are protected by law.

Large Mammals

Bighorn Sheep





Courtesy of Texas Parks & Wildlife

Dark brown to gray coloring; white rump patch with short darker tail. Two heavy, tapering, curled brown horns on male; smaller and less curled on female.



Habitat and Habits: Lives in rocky, mountainous terrain, preferring bluffs or steep slopes. Herbivorous. Lives for 15 years. Male is polygamous; rut runs Nov.–Dec.; males engage in battles, butting heads. One small brown lamb typical.

Black Bear





Courtesy of Hollingsworth

Color varies from black or cinnamon to blond in west and black in east; muzzle usually brown; may have a small white patch on chest. Male much larger than female.



Habitat and Habits: Lives primarily in forest and swamps in east, in forest and wooded mountains in west. Omnivorous. Lives up to 30 years. Nocturnal, usually solitary, except mother with cubs. Mates Jun.–Jul. Typically two to three cubs, born in winter.

Black-Tailed Deer





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Smaller than mule deer with a less extensive range. Can be distinguished from mule deer by its blackish or brown coloring on top of tail.



Habitat and Habits: Lives in mixed open to wooded terrain along the Pacific Coast. Herbivorous. Lives up to 16 years. Male is polygamous; rut runs Oct.–Dec. One to two spotted fawns typical.

☐ summer range ■ winter range ■ all-year range ☐ not present

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Large Mammals

Elk (Wapiti)



Courtesy of Texas Parks & Wildlife



Dark brown to tan coloring; yellowish rump patch and tail. Large, spreading antlers on male.



Habitat and Habits: Lives in mountainous terrain in summer and may move to lower elevations, wooded slopes in winter. Herbivorous. Lives up to 15 years. Male is polygamous; rut runs Sept.–Nov. Usually one calf; spotted until 3 months of age.

Gray Wolf (Timber Wolf)



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Largest wild dog. Color varies from white (Arctic) to black, but usually a grizzled gray. Tails often black-tipped. Unlike coyote, holds tail straight out when running.



Habitat and Habits: Lives in north wilderness forests and tundra, and all habitats in other ranges except desert and high mountains. Carnivorous. Mainly nocturnal, but can be active anytime. One to eleven pups born Apr.–Jun.

Moose



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Dark brown coloring; legs are grayish. Large overhanging snout; dewlap on throat. Antlers on male are massive, palmate, and flat.



Habitat and Habits: Lives in forests with lakes and swamps. Herbivorous. Lives up to 20 years. Male is polygamous; rut runs Sept.–Oct. Usually one calf; light reddish-brown with dark stripe down back.

Large Mammals

Mountain Goat



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Long white fur that turns yellowish in winter, black hooves and horns that curve slightly backward, and a distinctive beard.



Habitat and Habits: Usually found above timberline on rocky precipices or steep slopes; moves closer to the timberline during winter months. Herbivorous. Lives up to 12 years. Movement limited to three to six miles. Male is polygamous; rut runs Nov.–Dec. Typically one to two kids; brown hairs along back.

Mountain Lion (Cougar)



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Large tan cat with long dark-tipped tail.



Habitat and Habits: Lives mainly in rugged mountains and sometimes in forests and swamplands with dens in caves, rock crevices, and other concealed locations. Carnivorous; makes a food "cache" out of uneaten prey. Mainly nocturnal. Typically two to four spotted cubs born throughout the year.

Mule Deer



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Reddish coloring in summer and blue-gray in winter. Rump patch is cream-colored with black tip; tail is cream-colored. Ears are larger than the white-tailed deer. Antlers branch equally.



Habitat and Habits: Lives in forests, desert shrubs, thickets of shrubs or trees, grasslands, plains, foothills, and river bottoms. Herbivorous. Lives up to 16 years. Male is polygamous; rut runs Oct.–Dec. One to two spotted fawns typical.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Large Mammals

Pronghorn



Courtesy of U.S. Fish & Wildlife Service



Reddish to tan coloring. Large white rump patch with short white tail; rump hair stands up when alerted or fleeing. Two broad white bands across neck. Male has large black jaw patch and larger, slightly curved horns with single prong growing forward.



Habitat and Habits: Lives in open prairies, plains, and brushlands. Herbivorous. Lives for 14 years. Male is polygamous; rut runs Aug.–Nov. Two fawns typical.

White-Tailed Deer



Courtesy of Texas Parks & Wildlife



Reddish-brown to blue-gray or tan coloring; underside of tail is white, producing a "flag" when raised off the rump. Antlers on males consist mainly of a main beam with tines growing from it.



Habitat and Habits: Lives in forests, swamps, open brushy areas, foothills, plains, and river bottoms. Herbivorous. Movement limited from one to two miles. Lives up to 16 years. Male is polygamous; rut runs Oct.–Dec. One to two spotted fawns typical.

Wild Pig (Feral Hog)



Courtesy of Florida Fish & Wildlife Conservation Commission



Larger than the collared peccary and resembling the Eurasian wild boar or domestic pig. Can be mistaken for the black bear. Coarse, bristled hair. Usually black but can be gray, dark brown, blond, white, or red; some are spotted or striped. Long snouts with four sharp tusks; upper tusks point up. Tail longer and straighter than domestic pig.



Habitat and Habits: Lives primarily in swamps, river bottoms, brushlands, woodlands, and forests. Damages property. Omnivorous; eats crops and the food of livestock and wildlife. Lives up to 25 years. Mainly nocturnal but can be active any time. Four to twelve piglets in a litter; one or two litters per year.

Small Mammals

American Badger



Courtesy of Texas Parks & Wildlife



Medium-sized with short black legs and yellowish-gray hair. Medium white stripe over head to nose, white cheeks, and black patch in front of each ear. Long front claws for digging.



Habitat and Habits: Lives in open grasslands, deserts, and thickets of shrubs and trees. Carnivorous; feeds mainly on small rodents. Lives 12 years. Breeds during Jul.–Aug.; two to five young; one litter per year.

American Beaver



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Large-sized, brown rodent; naked tail, scaly and paddle-shaped. Large chestnut-colored front teeth and webbed short feet for swimming.



Habitat and Habits: Lives in streams, rivers, ponds, or lakes. Constructs houses of sticks, logs, and mud or burrows in banks; builds dams serving as habitat. Herbivorous. Lives up to 11 years. Two to four kits born Apr.–Jul.

Black-Tailed Jackrabbit



Courtesy of Texas Parks & Wildlife



Medium-sized with grayish-brown fur with large black-tipped ears and black streak on top of short tail.



Habitat and Habits: Lives in prairies, shrublands, and semi-arid deserts. Herbivorous. Two to four young per litter.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Small Mammals

Bobcat



Courtesy of R. V. Shiver



Medium-sized with reddish-spotted fur (grayer in winter) and black on top and at tip of very short tail. Light-spotted underside including face.



Habitat and Habitats: Lives in thickets of shrubs or trees, swamplands, woodlands, rimrock, and rocky prairies. Carnivorous. Mainly nocturnal and solitary. Two to four kittens in one litter can be born throughout the year.

Common Gray Fox



Courtesy of Texas Parks & Wildlife



Medium-sized with salt-and-pepper fur; face is white under gray and rust; rust color on neck, flanks, and legs; bushy tail topped with black stripe and tip.



Habitat and Habitats: Lives in thickets of shrubs or trees, open woodlands, and rocky areas. Omnivorous. Mostly nocturnal. Three to seven young born Apr.–May.

Common Muskrat



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Small-sized with brown to grayish-brown fur and grayish underside; black, scaly tail; partially-webbed hind feet.



Habitat and Habitats: Lives in marshes, ponds, and streams. Omnivorous; feeds primarily on aquatic vegetation, but also on frogs, and small fish on occasion. Two to six young per litter; two to three litters per year.

Small Mammals

Common Raccoon



Courtesy of Texas Parks & Wildlife



Medium-sized with dark and light mixed fur; distinctive black mask across white face; small- to medium-sized ears and ringed tail.



Habitat and Habitats: Lives in woods, often near water; also found in urban areas. Omnivorous. Nocturnal. Two to seven young born Apr.–May.

Coyote



Courtesy of Texas Parks & Wildlife



Medium-sized with gray to reddish-gray fur, more red on legs, feet, and ears; dark-tipped tail; whitish belly and throat.



Habitat and Habitats: Lives in prairies, open woodlands, shrublands, and a variety of habitats. Carnivorous. Mainly nocturnal, but can be active anytime. Five to ten pups born Apr.–May.

Fisher



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Long-bodied, dark brown to nearly black with grayish head.



Habitat and Habitats: Lives in mixed coniferous and hardwood forests. Good climbers and swimmers, at home on the ground or in trees. Omnivorous, primarily carnivorous. One to six young born Mar.–Apr.

☐ summer range ■ winter range ■ all-year range ☐ not present

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Small Mammals

Kit Fox (Swift Fox)



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Small- to medium-sized with pale gray to buff yellow body; whitish underside; large ears; black-tipped tail.



Habitat and Habits: Lives in open deserts or plains with low vegetation. Carnivorous; feeds primarily on small rodents and insects. Nocturnal. Four to seven pups born Feb.–Apr.

Long-Tailed Weasel



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Long-bodied and short-legged; brown back and white or yellow underside; long tail with black tip.



Habitat and Habits: Lives on all types of land, preferably near water. Carnivorous. Mostly nocturnal. Four to eight young born Apr.–May.

Mink



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Medium-sized with dark brown fur and white chin patch; tail slightly bushy.



Habitat and Habits: Lives along rivers, streams, marshes, ponds, and lakes. Carnivorous. Polygamous. Four to ten young born Jan.–Mar.

Small Mammals

Mountain Cottontail Rabbit (Nuttall's)



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Small-sized with brownish-gray fur; white cottontail and underside; rounded ears are shorter than those of the Eastern Cottontail and Desert Cottontail and are furry on the insides with black tips.



Habitat and Habits: Lives in wooded areas and in brushy areas with sagebrush. Herbivorous. Three to eight young per litter; 2–5 litters per year.

Pine Marten



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Dark brown to blond, with an orange or tan throat patch, dark legs, light-colored head, and long bushy tail.



Habitat and Habits: Prefers coniferous forests or cedar swamps. Active late afternoon, early mornings, and at night. Omnivorous, primarily carnivorous. Two to five young.

Porcupine



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Large rodent, size of small dog; chunky body with short legs. Color varies from black to brownish-yellow. Sharp spines on rump and tail.



Habitat and Habits: Lives in forests or in brushy areas. Herbivorous; likes salt. Lives 7–8 years. Primarily nocturnal. Mates in fall; one young born May–Jun.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Small Mammals

Red Fox



Courtesy of Hollingsworth



Medium-sized, usually reddish-yellow but sometimes gray; can range from darker to lighter; bushy tail with white tip; usually dark legs and paws.



Habitat and Habitats: Lives in mixed woodlands, farming areas, and open country. Carnivorous. Three to seven young born Apr.–May.

Ring-Tailed Cat



Courtesy of Texas Parks & Wildlife



Small- to medium-sized with yellowish gray to darker fur; long whitish and blackish-brown ringed tail; small head and medium-sized ears.



Habitat and Habitats: Lives in rocky ridges, cliffs, thickets of shrubs or trees, semi-deserts, and near water. Omnivorous. Lives up to eight years. Nocturnal. Three to four young born May–Jun.

River Otter



Courtesy of Texas Parks & Wildlife



Large-sized and weasel-like with brown fur and silvery face, chin, and underside; feet webbed; tail thick at base.



Habitat and Habitats: Lives in aquatic habitats around marshes, ponds, and streams. Carnivorous; feeds on fish, frogs, crayfish, and crustacea. Lives more than 14 years. One to five young.

Small Mammals

Spotted Skunk



Courtesy of Texas Parks & Wildlife



Small-sized with black fur and white patches on forehead and under ears; four broken white stripes along neck, back, and sides; white-tipped tail.



Habitat and Habitats: Lives in shrublands, farming areas, open wooded lots, prairies, and along streams. Carnivorous. Nocturnal. Like striped skunk, emits a strong scent in defense. Four to seven young born May–Jun.

Squirrel



Courtesy of Texas Parks & Wildlife



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Small-sized with yellowish or reddish back and lighter underside; bushy tail. Includes Eastern Fox, Gray, and Red Squirrel.



Habitat and Habitats: Lives in open woodlands, forests, river bottoms, pine forests interspersed with hardwoods, and clearings. Herbivorous. Lives up to 15 years. Two to seven young per litter.

Striped Skunk



Courtesy of Texas Parks & Wildlife



Medium-sized with black fur and white stripes from top of head to nose.



Habitat and Habitats: Lives in semi-open prairies, thickets of shrubs or trees, farming areas, and mixed woods near water. Omnivorous. Mostly nocturnal. Emits a strong scent in defense. Five to six young born in May.

☐ summer range ■ winter range ■ all-year range ☐ not present

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Small Mammals

Virginia Opossum



Courtesy of Ed McCrea

Small- to medium-sized with gray to dark gray fur; whitish face; small ears; rat-like tail.



Habitat and Habits: Lives in woodland and farming areas; also found in urban areas. Omnivorous. Nocturnal. Up to 14 young per litter several times a year. Young remain in mother's pouch for several months.

Wolverine



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Dark brown and bear-like with yellowish stripes starting at the shoulder and joining at the rump.



Habitat and Habits: Lives close to the timberline or on the tundra. Omnivorous, primarily carnivorous. Travels miles in search of food. Primarily nocturnal. Young born Feb.–Apr.

Upland Birds

Upland Birds' Feet

Grouse



Wild Turkey



Upland Birds

American Crow



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Stocky, all-black bird with fan-shaped tail.



Habitat and Habits: Lives almost anywhere except deserts and pine forests. Makes a "caw-caw" call. Nests in trees; 4–6 green-colored eggs with brown spots.

Band-Tailed Pigeon



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Dark gray with purple below; broad light band on end of square tail; white crescent on back of head; black tip on end of yellow bill.



Habitat and Habits: Lives in coniferous forests and oak or pine-oak woodlands. Makes an owl-like "whoo-hoo" call. Nests in trees; 1 white egg.

California (Valley) Quail



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Male is gray with a grayish-blue chest and scaled appearance below; black face outlined in white; brown crown; black topknot with 6 feathers. Female is brown with scaled appearance below; smaller black topknot.



Habitat and Habits: Lives in brush, in foothills, and in live oak canyons. Makes a loud "ka-kah-ko" call. Nests in depressions; 12–16 cream-colored eggs with golden brown spots.

☐ summer range ■ winter range ■ all-year range ☐ not present

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Upland Birds

Chukar



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Light brown back with gray head and chest; white below; white face and neck outlined in black; black and white rust-colored stripes on sides; bright red on edge of tail.



Habitat and Habitats: Lives in rocky hills and canyons. Makes a "chuck-chuck-chuck" call. Nests in rocks or brush; 8–15 white eggs with brown spots.

Dusky (Blue) Grouse



Courtesy of Khanh Tran © Tom J. Ulrich, used with permission

Male is gray with orange-yellow or red comb over eye; yellow skin on neck; gray band at end of dark tail. Female is brown with dark tail.



Habitat and Habitats: Lives in coastal rain forest and just below mountain timberline. Makes a "whoop, whoop, whoop, whoop" call. Nests in shelter of stumps or rocks; 5–10 cream-colored eggs with brown spots.

Gambel's Quail



Courtesy of Hollingsworth

Pale gray; black face outlined in white; back of head is rust-colored; teardrop-shaped topknot. Female is brown with dark tail.



Habitat and Habitats: Lives in desert-like shrublands. Makes "coo-cut" and "chi-ca-co-coo" call.

Upland Birds

Gray (Hungarian) Partridge



© Alan G. Nelson, used with permission

Chicken-like with gray body; rust-colored face and throat; brown stripes on wings; rust-colored tail visible in flight. Male has large brown patch below.



Habitat and Habitats: Lives in open farmlands and in trees separating farms. Makes a hoarse "kee-uck" call; cackles rapidly when flushed. Nests in depressions hidden in vegetation; 10–20 olive-colored eggs.

Mountain Quail



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Brown back with gray head, neck, and chest; rust-colored throat; rust-colored sides with white stripes; long, straight, black head feathers.



Habitat and Habitats: Lives in mountains and in brushy areas and thickets. Makes a loud "kyork" or "woook" call. Nests in hidden depressions; 8–12 light red eggs.

Mourning Dove



Courtesy of Texas Parks & Wildlife

Light grayish-brown; lighter below; wings are darker; tail has tipped outer feathers.



Habitat and Habitats: Lives in dry uplands, grain fields, thickets of shrubs or trees, shrublands, and deserts. Unmated male makes a "ooahoo-oo-oo-oo" sound. Breeding male and female make a short "ooahoo" call. Nests in trees; two white eggs.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Upland Birds

Ring-Necked Pheasant



Courtesy of Texas Parks & Wildlife

Large, chicken-like bird. Male is gold-colored with white neck band; green and purple iridescent head; red wattle around eyes. Hen is dull brown with dark flecks on wings and back. Both have long tail feathers.



Habitat and Habits: Lives in farmlands near woods. Male makes "skwagock" cackle; female makes "kia-kia" sound. Flies for short distances. Nests in grasses and shrubs; 10–12 brownish-green eggs.

Rock Dove (Pigeon)



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Most often dark gray head, iridescent neck, and dark bars on wings.



Habitat and Habits: Lives in cities, parks, bridges, and steep cliffs. Male and female make a "coo-coo" sound when breeding. Nests on building ledges, rafters, and barn beams; 1–2 white eggs.

Ruffed Grouse



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Brown to grayish-brown, with black ruffs (sides of neck). Chicken-like in form with slight crest.



Habitat and Habits: Lives in forests with dense undergrowth and brushy areas. Alarm call is a sharp "quit-quit"; female makes soft clucking sound. Nests under brush; 9–12 buff-colored eggs.

Upland Birds

Sage Grouse



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Grayish-brown; black below. Male has long pointed tail and white breast; inflates yellowish-green air sacs during courtship.



Habitat and Habits: Lives in open country and sagebrush plains. Makes a cackling sound; male makes bubbling sounds during courtship. Nests in depressions, usually under sagebrush; 6–9 olive-colored eggs with light brown spots.

Spruce Grouse



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Male has grayish-brown body; black throat and breast; red comb over eye. Female has brown body with black bars below.



Habitat and Habits: Lives in coniferous forests. Male makes a low-pitched "krrrrk, krrrk, krrk" sound; female makes low clucking sound. Nests on ground; 8–11 buff-colored eggs, possibly with brown spots.

White-Winged Dove



Courtesy of Texas Parks & Wildlife

Light grayish-brown; white line along edge of closed wing.



Habitat and Habits: Lives in dry grasslands with shrubs and small trees. Makes a soft "who-cooks-for-you" call. Nests in tree branches; 1–4 creamy white eggs.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Upland Birds

Wild Turkey



Courtesy of Texas Parks & Wildlife

Large, long-legged bird with dark, iridescent body; featherless, reddish head. Male is larger and more iridescent than female.



Habitat and Habits: Lives in open woodlands, brush country, thickets of shrubs or trees, river bottoms, and hardwoods. Lives up to 12 years. Polygamous males. Mating call is a gobble; normal calls are clucks, putts, and purrs. Nests in depressions; 6–20 whitish eggs.

Wetland Birds

American White Pelican



Courtesy of John Foster

Large with white body; large orange bill and throat pouch. Immature has gray bill and pouch.



Habitat and Habits: In summer found on marshes and lakes; in winter on coastal areas. Usually quiet. Nests in depressions near water; 1–3 white eggs.

Brown Pelican



Courtesy of Texas Parks & Wildlife

Large with grayish-brown body and dark bill and throat pouch.



Habitat and Habits: Found exclusively on coastal areas year-round. Usually makes no sound. Nests in colonies on high ground in dirt; 2–4 white eggs.

Wetland Birds

Great Blue Heron



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Large grayish-blue heron with black areas on wings and top of head; white face; light yellow bill. Neck folded in flight.



Habitat and Habits: Found on lakes, rivers, ponds, marshes, and swamps. Makes a squawking sound. Nests in colonies usually found in trees or shrubs, but sometimes on the ground; 3–7 aqua-colored eggs.

Great Egret



© Joe Kosak, used with permission

Large white heron with black legs and yellow bill.



Habitat and Habits: Found in marshy areas and on seashores. Makes a croaking or squawking sound. Nests in trees, bushes, or cattails; 1–6 aqua-colored eggs.

Sandhill Crane



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Tall, grayish with some reddish coloring on back and red patch above bill. Immature is also gray, but more reddish and without red patch above bill.



Habitat and Habits: In summer found on tundra, wetlands, prairies, and fields; in winter found in shallow ponds, marshes, and fields. Makes a low-pitched call. Nests in grasses in or near water; 1–3 pale green eggs.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Wetland Birds

Wilson's (Common) Snipe



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Long-billed, dark brown and black shorebird with white stripes on head and back. Outer tail feathers are white with black bars. Flies in zigzag pattern.



Habitat and Habits: Found in wet meadows and freshwater marshes; in winter also found in saltwater marshes. Makes a "scaip" call when flushed. Nests in depressions in marshy areas; 4 yellowish-olive–colored eggs with brown spots and brown circle at large end.

Birds of Prey

American Kestrel (Sparrow Hawk)



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Small falcon. Male has rust-colored back and tail; blue-gray wings; white with dark spots below; black tip on tail. Female has rust-colored back, tail, and wings; white with dark spots below; narrow brown stripes on tail. Both have 2 black stripes on side of white face.



Habitat and Habits: Found in cities, on farms, and in open country. Makes a "killy-killy-killy" call. Nests in cavities; 3–7 white or pink eggs with dark blotches.

Bald Eagle



Courtesy of Gary Kramer

Large, dark bird with white head and tail; yellow bill. Immature: Brownish, speckled with more white under wings and belly.



Habitat and Habits: Found on lakes, rivers, and coastal areas. Makes a loud screech. Nests on cliffs or in trees; 1–3 pale blue eggs.

Birds of Prey

Barred Owl



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Large, grayish-brown with cross-barring on neck and chest, striping on belly; dark eyes; no ear tufts.



Habitat and Habits: Found in densely forested areas and wooded swamps. Makes "hoo-hoo-hoohoo" call, and also screams. Nests in tree cavities; 2–4 white eggs.

Burrowing Owl



Courtesy of Texas Parks & Wildlife

Dark brown with white spots; lighter chest with dark spots; yellow eyes.



Habitat and Habits: Found in fields, grasslands, and deserts. Makes a "coo-coo" call. Nests in burrows deserted by small mammals; 6–11 white eggs.

California Condor



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Largest bird of prey in North America. Black with reddish head; white on underside of wings. Immature: Black head.



Habitat and Habits: Found in mountains and surrounding open country. Usually silent. Nests in inaccessible caves or cliff cavities; 1 white egg.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Birds of Prey

Common Barn Owl



Courtesy of Texas Parks & Wildlife



Light brown with white heart-shaped face, dark eyes, and white breast.

Habitat and Habits: Found in fields, grasslands, deserts, and suburban areas. Makes a screeching call. Nests in abandoned buildings, tree hollows, and holes in ground; 4–7 white eggs.

Ferruginous Hawk



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Very large hawk that is reddish above and white below with reddish leg feathers and black tips on underside of wings.

Habitat and Habits: Found on open land, grasslands, sagebrush plains, and badlands. Makes a loud "kree-e-ah" call. Nests in trees, on cliff edges, or on the ground; 2–6 white eggs with brown spots or blotches.

Golden Eagle



Courtesy of Texas Parks & Wildlife



Large, dark bird. Immature: Dark with white patches under wings and on tail.

Habitat and Habits: Found in mountains, foothills, sagebrush plains, grasslands, and open woodlands. Mostly quiet. Nests on cliffs, on ground, or in trees; 1–4 speckled eggs.

Birds of Prey

Great Horned Owl



Courtesy of Texas Parks & Wildlife



Large, grayish with brown specks; yellow eyes and ear tufts.

Habitat and Habits: Found almost everywhere. Makes a rhythmic hooting call. Lives in nests abandoned by other birds and small mammals; 1–4 white eggs.

Northern Harrier (Marsh Hawk)



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Male is grayish- brown with lighter underside. Female is larger and brown with streaked underside. Both have white patch on rump.

Habitat and Habits: Found in fields, grasslands, and marshes. Generally quiet unless alarmed. Nests on ground; 3–9 pale blue eggs.

Peregrine Falcon



Courtesy of Luther Goldman



Large, speckled brown falcon with bluish-gray back, darker head, and lighter neck and chest. Immature: Streaked belly and breast.

Habitat and Habits: Found near cliffs, urban, and coastal areas. Makes a high-pitched "ki-ki-ki-ki" call. Nests in cliffs; 3–4 white eggs.

☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Birds of Prey

Prairie Falcon



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Large speckled brown falcon with dark moustache-type lines down face; dark patches on underside of wings.

Habitat and Habits: Found on plains, grasslands, and barren mountains. Makes a "kree-kree-kree" call, usually near nest. Nests on cliff ledges; 2–7 white or pink-colored eggs with brown marks.

Red-Tailed Hawk



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Most common hawk. Light phase: Brown with white chest and short, rust-colored tail. Dark phase: Dark brown with darker rust-colored tail. Immature: Lacks rust-colored tail.

Habitat and Habits: Found in deciduous forests and open country such as grasslands, plains, and farming areas. Makes a "keeeeer," "klooeeek," or "chwirk" call. Nests in tall trees or on rocky ledges; 1–5 white eggs with dark spots.

Rough-Legged Hawk



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Large long-winged hawk with dark band at end of tail. Light phase: White with dark areas on underside of wings; male's chest is darker than belly; female's belly is darker than chest. Dark phase: Dark with dark base feathers and tips on underside of gray wings; male's tail has narrow white bands; female's tail is gray with dark band at tip. Immature: Gray band at end of tail.

Habitat and Habits: In summer found on the arctic tundra; in winter on open plains, farmland, and marshes. Makes a loud or soft whistling sound. Nests on cliffs or open tundra; 2–7 white eggs with brown and black spots.

Birds of Prey

Spotted Owl



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Dark brown with white spots; chest white with brown stripes; dark eyes; no ear tufts.

Habitat and Habits: Found in coniferous forests and wooded canyons. Makes a hooting call followed by "hooo-ah." Nests in trees or rock crevices; 2–3 white eggs.

Swainson's Hawk



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Brown with white throat, light brown chest, and white below; pale area on underside of long wings; dark brown tail with indistinct stripes. Rare dark phase: All dark with reddish area on underside of wings.

Habitat and Habits: Found in plains, grasslands, and prairies. Makes a whistling "kreee" sound. Nests in trees; 2–4 white eggs with dark spots.

White-Tailed Kite (Black-Shouldered)



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Gray with white chest, head, and tail; black patch on top of wings ("shoulders"); white and black on underside of wings. Immature: Black wings; brown back; reddish chest; buff-colored stripe near tip of tail.

Habitat and Habits: Found in open country with scattered trees, fields, and grasslands. Makes a "keep-keep-keep" call. Nests in tall trees; 3–6 white eggs with brown spots.

☐ summer range ■ winter range ■ all-year range ☐ not present

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Waterfowl

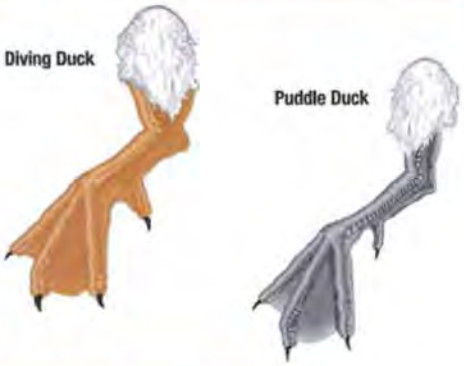
Waterfowl are warm-blooded animals that live on or near water, and include diving ducks and puddle ducks.

Puddle ducks are found primarily on the shallows of lakes, rivers, and freshwater marshes. Puddle ducks prefer to feed on or near the water's surface. They launch themselves directly upward when taking off.

Diving ducks inhabit large deep lakes and rivers, coastal bays, and inlets. Diving ducks obtain most of their food by diving. They must run across the water to build up speed to take off.

Eclipse plumage: Most ducks shed their body feathers twice each year. Nearly all drakes lose their bright plumage after mating, and for a few weeks resemble females. This hen-like appearance is called the eclipse plumage. The return to breeding coloration varies in species and individuals of each species. Blue-winged teal and shovelers may retain the eclipse plumage until well into the winter. Wing feathers are shed only once a year; wing colors are always the same.

Waterfowl Feet



Puddle Duck

surface-feeds on fresh, shallow marshes and ponds

Diving Duck

dives for food in deeper lakes and ponds, coastal bays, and inlets

Goose or Swan

large, long-necked waterfowl

Courtesy of Bob Hines
Illustrations reprinted from *Ducks at a Distance: A Waterfowl Identification Guide*
Pages 99–105

American Wigeon





Male is brown with white crown, green eye patch; green and white on wings visible in flight. Female is mottled brown with gray head. Both have pale blue bill.

Habitat and Habits: Found on lakes, marshes, and ponds. Makes quacking and whistling sounds. Nests in grasses near water; 9–11 cream eggs.









Blue-Winged Teal





Male is brown- and buff-speckled; gray head with white crescent in front of eye; pale blue patch on wings. Female is brown-speckled; smaller pale blue patch on wings.

Habitat and Habits: In summer found on small lakes in open grasslands; in winter on marshes and coastal areas. Male peeps; female quacks. Nests in grasses near water; 6–15 white eggs.









☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Cinnamon Teal









Male has reddish body, neck, and head with black coloring on top of head, wings, and back. Female is speckled brown with white around bill.

Habitat and Habits: Found on lakes and marshes. Male whistles; female quacks. Nests in grasses; 7–12 pinkish eggs.





Eurasian Wigeon







Male is gray with rust-colored head, pinkish chest, and buff-colored crown. Female is mottled brown. Both have large white patches on wings ("shoulders") and dull blue bill with black tip.

Habitat and Habits: Found on lakes, marshes, and ponds. Makes a one- or two-note whistling call; usually silent in the United States. Nests in grasses hidden in vegetation; 7–10 white eggs.





Gadwall









Male is gray with light brown head; white patch on back of wing; black rump. Female is mottled brown with white patch on back of wing.

Habitat and Habits: Found on open lakes and marshes. Male makes a whistle and "kack-kack." Nests on islands in colonies; 7–13 white eggs.





Greater Scaup









Male has a light gray body and white sides with dark head, breast, and tail. Female is dark brown with white spots on either side of bill. Heads on both are shaped like a rounded rectangle. Light band on edge of wings extends almost to the tip.

Habitat and Habits: In summer found on lakes, bays, and ponds; in winter often found on salt water and coastal ponds. Male makes a "scaup, scaup" call; female is mostly silent. Nests in grasses on land or on islands away from shore; 8–12 pale green eggs.





☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Green-Winged Teal









Male is gray with white vertical bar on shoulder; rust head with green band. Female is speckled dark brown and white with dark band across eye.

Habitat and Habits: In summer found on ponds and lakes; in winter on rivers and coastal marshes. Male whistles; female quacks. Nests in grasses, not always near water; 7–15 pale green eggs.





Mallard









Most common duck. Male often called "greenhead."

Habitat and Habits: Found in deep lakes, slow rivers, ponds, and sometimes bays. Main wintering area is the lower Mississippi basin and along the Gulf Coast; many as far north as open waters permit. Female quacks loudly; male makes quiet "yeeb" or low "kwek." Nests near water; 8–10 greenish-white eggs.





Northern Pintail









Long-necked, slender duck with pointed tail. Male has dark brown head; white breast and neck; gray flanks and wings. Female has light brown-speckled body; light brown head and neck; gray bill.

Habitat and Habits: Summers on marshes and ponds; winters on coastal bays, lakes, and grain fields. Female quacks coarsely; male whistles. Nests near water; 6–12 light green eggs.





Northern Shoveler









Male has dark green head; white breast; rust-colored wings. Female is brown-flecked with pale blue on shoulders.

Habitat and Habits: Found on shallow lakes and ponds, and sometimes on brackish marshes. Male croaks; female quacks. Nests in grasses, not always near water; 6–14 pale green eggs.





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Wood Duck









Male has colorful crested head and red eyes; iridescent greens, purples, and blues over entire body with white markings. Female is light brown-speckled and has white-ringed eyes.

Habitat and Habits: Found on swamps, ponds, and rivers near wooded areas. Male makes a "hoo-w-ett" call; female makes an "oo-eek." Nests in tree cavities; 10–15 dull whitish eggs.





Barrow's Goldeneye









Male is white with black back and head; head actually purple in bright light; black and white wings; white spot in front of eye; black bill. Female is gray with brown head and white collar; usually a yellow-orange bill.

Habitat and Habits: In summer found on wooded lakes and rivers; in winter on coastal areas. Male grunts and croaks during courtship; female is mostly silent. Nests in hollow trees or rock crevices; 5–15 pale olive-colored eggs.





Bufflehead









Male is mostly white with black back and white patch at back of head. Female is grayish with white patch below eye.

Habitat and Habits: In summer found on lakes and rivers near woods; in winter on lakes and coastal areas. Male is usually silent; female quacks. Nests in tree cavities; 8–10 buff eggs.





Canvasback









Male has white body; reddish head; black breast, bill, and tail. Female has gray body and brown head.

Habitat and Habits: In summer found on lakes and marshes; in winter on lakes and coastal waters. Male coos during breeding; female quacks. Nests in reeds and grasses; 7–12 greenish eggs.





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Common Goldeneye









Male has white flanks; black head and back with round white spot below eye. Female is gray with dark head and white collar.

Habitat and Habits: In summer found on lakes and marshes; in winter on lakes and coastal areas. Male makes a shrill whistle; female a low quack during breeding. Otherwise, usually quiet. Nests in tree cavities; 5–15 light green eggs.





Common Merganser









Male has dark green head; dark back; white neck and underside. Female is grayish-brown with reddish-brown head and white breast.

Habitat and Habits: In summer found on lakes and rivers near woods; in winter on freshwater lakes and ponds. Nests in tree cavities and rock crevices; 8–11 cream eggs.





Hooded Merganser









Male has dark crested head with white patches, brownish sides, and white breast. Female is gray with reddish-brown crest and lighter gray breast.

Habitat and Habits: In summer found on rivers and lakes in wooded areas; in winter on coastal areas. Male makes a croak-like sound; female a "gak." Nests in tree cavities; 6–18 white eggs.





Lesser Scaup



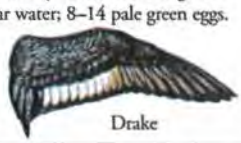






Male has white flanks with dark head, breast, and tail; speckled gray back. Female is dark brown with white spots on either side of bill base.

Habitat and Habits: In summer found on lakes and marshes; in winter on lakes and coastal areas. Male makes a purring call; females are mostly silent. Nests in grasses near water; 8–14 pale green eggs.





☐ summer range ☐ winter range ☐ all-year range ☐ not present

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Red-Breasted Merganser



Male has dark green head, white neck, rusty red breast, and gray sides. Female is gray-speckled with light red head and grayish neck.

Habitat and Habits: In summer found on rivers and lakes; in winter on coastal areas. Nests under shrubs and logs; 5–11 greenish eggs.











Redhead



Male is gray with reddish head and black breast. Female is brown with darker brown back and crown.

Habitat and Habits: Found on lakes and bays. Male makes "meow" sound or quacks; female makes a soft low call. Nests in rushes and grasses; 9–13 pale eggs.











Ring-Necked Duck



Male is black with pale gray sides. Female is brown with darker back and has white-ringed eyes.

Habitat and Habits: In summer found on lakes and marshes; in winter on large lakes and coastal areas. Nests in grasses near water; 6–14 pale green eggs.











Ruddy Duck



Male is reddish-brown with black head and white cheek; in winter male looks similar to female. Female is brown; darker on head and back.

Habitat and Habits: In summer found on lakes; in winter on coastal areas. Both sexes are mostly silent. Nests in grasses near water; 6–10 white eggs.











summer range | winter range | all-year range | not present

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Canada Goose



Both male and female are brownish-gray; black head and tail; white patch on cheek, breast, and underside.



Habitat and Habits: Found on lakes, marshes, fields, and parks. Male and female make honking call. Nests on water edges; 4–7 white eggs.

Greater White-Fronted Goose



Male and female are brown with white ring around base of bill; black bars on belly; orange bill and feet.



Habitat and Habits: In summer found on tundra; in winter on fields and marshes. Male and female make a high-pitched "kow-kow-kow-kow." Nests in depressions; 4–7 whitish eggs.

Ross's Goose



Small and white with a short pink bill; round head; black tips on wings.

Habitat and Habits: In summer found on the arctic tundra; in winter on saltwater and freshwater marshes. Makes cackling and grunting sounds. Nests on islands in lakes or rivers; 3–5 light cream-colored eggs.



Snow Goose



Male and female are white with dark gray on underside of wings; short neck; large head.



Habitat and Habits: In summer found on tundra; in winter on fields and wetlands. Male and female both honk. Nests in grasses near water in colonies; 3–5 white eggs.

Trumpeter Swan



One of the largest, rarest North American waterfowl. All white with a black bill. (Swans, unlike snow geese, do not have black wingtips. Also, swans are much larger and have longer necks than snow geese.)



Habitat and Habits: Almost driven into extinction, their numbers have been increasing due to conservation efforts. Prefer bodies of water with dense vegetation. Found in marshes, lakes, and rivers mostly in the Northwest. Nests in bulrushes and beaver lodges; 4–6 whitish eggs.

Tundra Swan



Most common swan in western part of North America. All white; black bill with yellow spot in front of eye.



Habitat and Habits: In summer found on the arctic tundra; in winter on marshes, lakes, and ponds. Makes a "hoo-ho-hoo" or "kow-wow" call. Nests on mounds of grass on island or shore of tundra lake; 2–7 cream-colored eggs.



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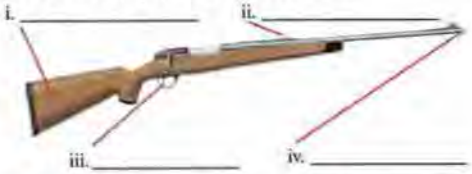
Chapter Review Exercises

Chapter 1

1. A primary objective of hunter education programs is to ____.
   a. give every hunter the same degree of skill and knowledge.
   b. ensure that everyone enjoys hunting and has an opportunity to hunt.
   c. produce knowledgeable, responsible, and involved hunters.
   d. none of the above.
2. Name three hunting-related projects for which the Federal Aid in Wildlife Restoration Act (Pittman–Robertson Act) provides funding.
   i. _____
   ii. _____
   iii. _____
3. Which of these is *not* a source of hunter education funding?
   a. State highway departments
   b. State wildlife agencies
   c. International Hunter Education Association
   d. U.S. Fish & Wildlife Service
4. Name three behaviors of a responsible hunter.
   i. _____
   ii. _____
   iii. _____

Chapter 2

1. The three basic parts of a modern firearm are_____.
   a. cartridge, stock, and barrel.
   b. action, stock, and barrel.
   c. stock, trigger, and action.
   d. barrel, chamber, and muzzle.
2. Label the indicated parts of a bolt-action rifle:



3. The component in ammunition that ignites the gunpowder when struck by the firing pin is the _____.
4. The action of a firearm is made up of parts that _____.
   a. block the trigger or hammer to prevent accidental firing.
   b. hold ammunition before it's loaded into the chamber.
   c. load, unload, fire, and eject the cartridge or shotshell.
   d. serve as the handle of the firearm.
5. You should use only ammunition that exactly matches the caliber or gauge specifications marked on the _____ of your firearm.
6. Label the indicated parts of rifle and shotgun ammunition:



7. List six types of firearm actions.
   i. _____ iv. _____
   ii. _____ v. _____
   iii. _____ vi. _____
8. A safety is located around the receiver of the firearm and _____.
   a. ensures that the firearm can never be accidentally fired.
   b. is a device that blocks the action to prevent accidental firing.
   c. is always located either inside or on the trigger guard.
   d. all of the above.
9. The most accurate sight for a firearm is the _____.
10. The design feature that causes a bullet to spiral, which increases accuracy and distance, is called _____.
11. _____ is a measure related to the diameter of the bore and the size of the shotshell designed for that bore.
12. When referring to firearms, "caliber" is _____.
    a. the length of the barrel of a rifle or handgun.
    b. always expressed in hundredths of an inch.
    c. used to describe the size of a rifle bore and the size of cartridges designed for different bores.
    d. all of the above.
13. List the most common shotgun chokes.
    i. _____
    ii. _____
    iii. _____
    iv. _____
14. Steel shot is _____.
    a. lighter than lead shot, reducing velocity and distance.
    b. harder than lead, keeping the pattern tighter.
    c. non-toxic, unlike lead shot, which can be toxic to waterfowl.
    d. all of the above.
15. Knowing your firearm's range is critical—it allows you to ____.
    a. determine whether or not you're able to make a clean kill.
    b. make accurate shots at any distance as long as they are within your firearm's range.
    c. know at what distances your firearm could cause injury.
    d. both a. and c.
16. Why is it important to keep shotshells separated by size?
    a. Once mixed, it is impossible to separate them accurately.
    b. A smaller gauge shotshell can slip past the chamber of a larger gauge gun and result in serious personal injury.
    c. A 12-gauge shotshell can be chambered into a 20-gauge shotgun and result in serious personal injury.
    d. None of the above.
17. Firearms should be stored _____, in a _____ location, and separate from _____.

Chapter 3

1. Good marksmanship is _____.
   a. being able to hit your target at least 50% of the time.
   b. correctly marking your target.
   c. being a good sport if you miss your target.
   d. hitting your target accurately and consistently.
2. Sight alignment is _____
   _____.

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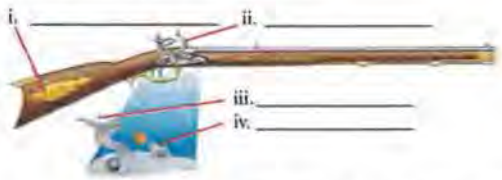
3. To help you steady the rifle when you're ready to shoot, draw a deep breath and _____.
4. The proper technique for pulling the trigger when firing a rifle is to _____.
   a. pull the trigger quickly, moving only your finger.
   b. squeeze the trigger slowly.
   c. jerk the trigger.
   d. snap the trigger.
5. Of the four standard rifle firing positions, the steadiest is the _____ position.
6. All handguns should be fired at _____ length.
7. If you are hunting small, fast, close birds, the best choke selection would be _____ or _____ choke.
8. When patterning a shotgun, the goal is to produce a pattern of pellets with even _____ and a sufficient percentage of the _____ within a 30-inch circle.
9. Which shotgun-shooting technique is best for a beginning hunter and is performed by pointing at a moving target, and then moving past it and firing?
   a. snap-shooting
   b. swing-through
   c. sustained lead
   d. patterning
10. A common error when hunting birds with a shotgun is _____.
    a. tapping the trigger and not squeezing it slowly.
    b. bringing the stock all the way up to the cheek without lowering the head.
    c. lowering the head and cheek to the stock of the shotgun.
    d. failing to align the sights on the target properly and then take a deep breath.

Chapter 4

1. It is critical that you know about the game you are hunting because _____.
   a. only one sex of the game you're hunting may be legal.
   b. there may be protected species in the same area that you need to avoid shooting.
   c. it will increase your chance of success.
   d. all of the above.
2. List the four basic characteristics used for animal identification.
   i. _____
   ii. _____
   iii. _____
   iv. _____
3. Unlike still hunting, stalking involves _____.
   a. following signs left by the animal.
   b. spending at least 10 times longer being still and observing than walking.
   c. using a game call.
   d. using dogs to locate the game.
4. _____ is a hunting technique that involves a group of hunters who are spread out and move to push the game toward other hunters waiting at the end of the cover.
5. A true sportsman not only strives to bring home the game he or she is seeking but also strives to ____ the quarry.
   a. fire as soon as possible on
   b. cripple
   c. inflict the minimal amount of suffering on
   d. none of the above
6. The most effective place to shoot an animal is the vital organs, which are the _____ and _____.
7. A ____ shot is the preferred shot for larger game animals, such as deer, elk, and bear.
   a. broadside
   b. rear-end
   c. head-on
   d. quartering-toward
8. When approaching a downed deer or other large animal, you should _____.
   a. approach from the front and make noise to startle the animal.
   b. pause above and behind the animal's head and watch the chest cavity for any movement.
   c. approach from the front if the animal's eyes are closed.
   d. any of the above are safe methods for approaching downed animals.
9. Once you are sure your quarry is dead, you should immediately _____ it and then begin field dressing.
10. ____ would *not* contribute to meat spoiling.
    a. Cold
    b. Dirt
    c. Moisture
    d. Heat

Chapter 5

1. Label the indicated parts of a muzzleloader:



2. _____ is the only type of powder that should be used in muzzleloaders.
3. An unsafe practice when using a muzzleloader is _____.
   a. loading directly from a horn, flask, or other container.
   b. wearing shooting glasses and ear protection when shooting.
   c. waiting until you're ready to fire before you prime or cap a muzzleloader.
   d. not smoking while shooting or loading.
4. How many charges should you load in a muzzleloader at a time?
   a. one charge
   b. two charges
   c. three charges
   d. four charges
5. Name the three common bow types.
   i. _____
   ii. _____
   iii. _____
6. Label the indicated parts of an arrow:



7. _____ arrowheads are used primarily for big game hunting.

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8. _____ is the process of placing the arrow shaft on the bow's arrow rest and pulling the arrow back until the string snaps into the slot.

9. A good safety rule to follow when shooting a bow is _____.
   a. always carry arrows in the nocked position when hunting.
   b. use cracked arrows only for target practice.
   c. release an arrow only when the path to the target and beyond is clear.
   d. dry fire a bow as a strengthening exercise.

Chapter 6

1. To minimize the risk of a firearm incident in the home, you should *never* _____.
   a. point the muzzle in a safe direction.
   b. keep your finger off the trigger when handling the firearm.
   c. store the firearm and ammunition together.
   d. check that the chamber and the magazine are empty.

2. Name the four main causes of hunting incidents.
   i. _____
   ii. _____
   iii. _____
   iv. _____

3. List the four primary rules of firearm safety.
   i. _____
   ii. _____
   iii. _____
   iv. _____

4. If three hunters are walking side by side, the hunter in the center should keep the gun pointed _____ or _____.

5. If three hunters are walking in single file, it is acceptable for the hunter in the middle to use the _____.
   a. cradle carry.
   b. elbow or side carry.
   c. shoulder carry.
   d. trail carry.

6. If crossing a fence while hunting alone, you should _____.
   a. cross the fence with the gun held under your arm.
   b. place the gun on the other side of the fence with the muzzle pointed away from you, and then cross.
   c. set the gun down, cross, and then pull the muzzle to you.
   d. any of the above.

7. To load or unload a firearm safely, you should always _____.
   a. put the safety on.
   b. dry fire the firearm before loading and after unloading.
   c. point the muzzle in a safe direction.
   d. both a. and c.

8. _____ is *not* a safe way to transport a firearm.
   a. Unloaded
   b. With the action open
   c. In a gun case
   d. Loaded and in a gun rack in the rear window

9. Hunters should be spaced _____ yards apart, and each should have a zone-of-fire of _____ degrees in front.

10. Consuming alcohol before or during a hunt does *not* _____.
    a. impair your coordination.
    b. increase your chance of a hunting incident.
    c. affect your judgment.
    d. enhance your chance of a successful hunt.

11. _____ should be worn at all times while climbing a tree and when on a tree stand.
    a. Climbing boots
    b. Thick outerwear
    c. A safety harness
    d. Camouflage outerwear

12. To get your firearm into an elevated stand safely, _____.
    a. climb into the stand using the cradle carry.
    b. climb into the stand and have your companion carefully toss your firearm up to you.
    c. climb into the stand using the sling carry.
    d. haul up the unloaded firearm after you have secured yourself in the stand.

13. When hunting from a boat, it is best to always wear a _____.
    a. personal flotation device.
    b. camouflage jacket.
    c. red jacket.
    d. safety harness.

14. If you fall into cold water while hunting from a boat, you should try to _____ the boat.

Chapter 7

1. Which of these was *not* a reason for establishing hunting laws?
   a. to limit hunting methods and equipment
   b. to limit the profits of sporting goods manufacturers
   c. to set rules on how hunters take game
   d. to limit harvesting and avoid hunting during nesting and mating seasons

2. According to Aldo Leopold, the "father of wildlife management," ethical behavior is _____.
   a. killing game only for food.
   b. harvesting as much game as the law allows.
   c. doing the right thing when no one else is watching—even when doing the wrong thing is legal.
   d. not killing any wildlife but preserving it for future generations.

3. A responsible and ethical hunter would *not* _____.
   a. waste meat and usable parts of the game harvested.
   b. strive for a quick, clean kill.
   c. leave the land better than he or she found it.
   d. abide by game laws and regulations.

4. Responsible hunters _____.
   a. use land without asking permission from the landowner.
   b. keep firearms out of sight when not hunting.
   c. draw attention to themselves by wearing bloody or dirty hunting clothes when it's not necessary.
   d. unnecessarily harass or frighten livestock.

5. There are five distinct stages of development that most hunters will experience. The most responsible and ethical is the _____ stage.

6. In the _____, success is determined by bagging the limit, which can cause hunters to take unsafe shots.
   a. shooting stage
   b. limiting-out stage
   c. trophy stage
   d. sportsman stage

7. To bring respect to the sport of hunting, hunters can _____.
   a. transport bagged animals on the hood or roof of their automobiles.
   b. share graphic accounts and photographs of their hunting experiences with non-hunters.
   c. support organizations dedicated to improving habitat and management efforts.
   d. consume alcohol and loudly proclaim their hunting prowess.

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Chapter 8

1. There are four areas to address when preparing for a hunting trip: be ready, know your location, prepare for safety, and _____.
2. ____ would *not* be an essential part of a hunting plan that you would leave with a family member or friend.
   a. The number of game you plan to harvest
   b. Where and with whom you intend to hunt
   c. Specific directions on the route to your destination
   d. When you expect to return
3. What color is the safest choice for clothing?
   a. bright red
   b. hunter green
   c. fluorescent orange
   d. camouflage
4. If dressing for cold weather conditions, you should _____.
   a. wear several layers of clothing instead of one heavy article of clothing.
   b. wear cotton because it can provide warmth even when wet.
   c. wear wool.
   d. both a. and c.
5. When laid on a map, a compass needle points to _____.
   a. the direction you're heading.
   b. true north.
   c. magnetic north.
   d. contour lines.
6. List the five primary requirements for survival.
   i. _____
   ii. _____
   iii. _____
   iv. _____
   v. _____
7. The international emergency signal for distress is _____.
   a. three fires evenly spaced.
   b. three shots.
   c. three blasts of a whistle.
   d. any of the above.
8. List four of the eight rules of survival that every hunter should follow.
   i. _____
   ii. _____
   iii. _____
   iv. _____
9. Hypothermia can be prevented by _____.
   a. staying dry.
   b. dressing properly.
   c. exposing yourself to the wind to dry out if wet.
   d. both a. and b.
10. Heat exhaustion can be prevented by _____ _____ water.
11. Bleeding should be controlled by applying ____ to the wound.
   a. butter
   b. fresh air
   c. direct pressure
   d. cold water
12. What should you do if a hunting companion breaks a leg and no medical help is readily available?
   a. Try to straighten the limb and put a splint on it.
   b. Splint the limb the way you found it without trying to straighten it.
   c. Leave the leg exposed to the air to reduce the swelling.
   d. Place a thick pad around it without splinting it.

Chapter 9

1. Wildlife conservation ensures that _____.
   a. hunting seasons established by Kublai Khan will continue.
   b. no animals are ever harvested.
   c. natural resources can be drawn on despite unwise use.
   d. renewable resources can replenish themselves indefinitely.
2. Wildlife preservation _____.
   a. allows for the consumptive use of natural resources.
   b. is a Biblical rule for saving natural resources.
   c. saves natural resources but with no consumptive use of them.
   d. allows hunting of endangered species.
3. A habitat for wildlife must include _____.
   a. space, arrangement, food, cover, and water.
   b. brush and rocks, predators, water, and space.
   c. space, vegetation, food, and resting and breeding places.
   d. cover, predators, large area, arrangement, and food.
4. The "carrying capacity" of a wildlife area is the _____ _____.
5. List four factors that can limit wildlife populations.
   i. _____
   ii. _____
   iii. _____
   iv. _____
6. Hunting is an effective wildlife conservation tool because ____.
   a. funding from hunting licenses helps many game and non-game species recover from dwindling populations.
   b. hunters play an important role by supplying wildlife managers with needed information from the field.
   c. hunting contributes to threatened or endangered wildlife.
   d. both a. and b.
7. By continuously monitoring the birth rate and death rate of various species and the condition of their habitat, wildlife managers _____.
   a. know how to set hunting regulations and can determine if other management practices are needed to conserve wildlife species.
   b. know when to ignore hunting regulations they set earlier.
   c. can obtain data to eliminate wildlife species.
   d. both b. and c.
8. Trapping and relocating animals is an example of the ____ wildlife management practice.
   a. hunting
   b. artificial stocking
   c. setting bag limits and legal methods for taking wildlife
   d. habitat improvement
9. Some species are protected by law from being hunted because _____.
   a. they are predators for a pest species.
   b. they are migrating.
   c. their habitat is gone.
   d. their numbers are small.
10. It is critical that hunters are able to identify wildlife correctly so that they don't mistakenly _____.
   a. harvest illegal game animals or non-game animals.
   b. confuse horns with antlers.
   c. confuse cloven hooves with cud chewers.
   d. confuse meat-eating animals with those that eat meat as well as plants.

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Regulations and Information Summary

Note: The following are abbreviated laws or regulations. For complete text go to: https://www.wildlife.ca.gov/Regulations.

Shooting Hours

310. Shooting Hours on Resident Small Game Mammals.
The shooting hours for all resident small game mammals shall be one-half hour before sunrise to one-half hour after sunset.

310.5 Shooting Hours for Upland Game Birds.
The shooting hours for all upland game birds, except for pheasants and the spring wild turkey season, shall be from one-half hour before sunrise to sunset. The shooting hours for pheasants shall be from 8:00 a.m. to sunset. The shooting hours for the spring wild turkey season shall be from one-half hour before sunrise to 5:00 p.m.

352. Shooting Hours on Big Game.
Hunting and shooting hours for big game, including but not limited to deer, antelope, elk, bear, and wild pig, shall be from one-half hour before sunrise to one-half hour after sunset.

506. Shooting Hours (Migratory Game Birds).
The shooting hours for migratory game birds, including mourning doves, white-winged doves, band-tailed pigeons, American coots, common moorhens, common snipe (jacksnipe), and waterfowl for all of California shall be from one-half hour before sunrise to sunset.

Exception: In areas open to hunting on, over, or adjacent to the waters of Morro Bay, San Luis Obispo County, the shooting time shall be from 7:00 a.m. to sunset.

General Information

18. "Bag limit" means the maximum limit, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may lawfully be taken by any one person during a specified period of time.

19. "Possession limit" means the maximum, in number or amount, of birds, mammals, fish, repriles, or amphibians that may be lawfully possessed by one person.

2016. It is unlawful to enter land for the purpose of discharging a firearm or taking or destroying a mammal or bird, including waterfowl, on that land without having first obtained written permission from the owner, the owner's agent, or the person in lawful possession of that land, if either of the following is true:

(a) The land belongs to or is occupied by another person and is either under cultivation or enclosed by a fence.

(b) There are signs of any size and wording forbidding trespass or hunting or both displayed along all exterior boundaries of the land, at intervals not less than three to the mile, and at all roads and trails entering the land, including land temporarily inundated by water flowing outside the established banks of a river, stream, slough, or other waterway, which fairly advise a person about to enter the land that the use of the land is so restricted.

351. Forked-Horn Buck, Antlerless, and Either-Sex Deer Defined.

(a) Forked-Horn Buck Defined. For the purpose of these regulations a forked-horn buck is defined as a male deer having a branched antler on either side with the branch in the upper two-thirds of the antler. Eyeguards or other bony projections on the lower one-third of the antler shall not be considered as points or branches.

(b) Antlerless Deer Defined. For the purpose of these regulations, antlerless deer are defined as female deer, fawns of either sex other than spotted fawns, and male deer with an unbranched antler on one or both sides that is not more than three inches in length.

(c) Either-Sex Deer Defined. For the purpose of these regulations, either-sex deer are defined as antlerless deer as described in Section 351(b), or legal bucks that have two or more points in the upper two-thirds of either antler. Spike bucks may not be taken.

353. Methods Authorized for Taking Big Game.

(a) It shall be unlawful to take or attempt to take big game in violation of this section or Section 250.1. The take or attempted take of any big game (as defined by Section 350 of these regulations) with a firearm shall be in accordance with the use of nonlead projectiles and ammunition pursuant to Section 250.1 of these regulations.

(b) Definition. For purposes of this section, a projectile is any bullet, ball, sabot, slug, buckshot, or other device which is expelled from a firearm through a barrel by force. The following definitions shall apply:

(1) A softnose or expanding projectile is a bullet designed to increase from its original diameter, commonly referred to as "mushrooming," and retain a significant part of its original weight upon impact with, or when passing through, the tissues of an animal.

(2) Projectiles commonly referred to as "frangible" bullets, designed to disintegrate upon impact with, or when passing through, the tissues of an animal are not softnose or expanding projectiles.

(c) Except for the provisions of the following subsections (d) through (j), big game may only be taken by rifles using centerfire cartridges with softnose or expanding projectiles; bow and arrow (see Section 354 of these regulations for archery equipment regulations); or wheellock, matchlock, flintlock, or percussion type, including "in-line" muzzleloading rifles using black powder or equivalent black powder substitute, including pellets, with a single projectile loaded from the muzzle and ar least .40 caliber in designation.

(d) Shotguns capable of holding not more than three shells firing single slugs may be used for the taking of deer, bear, and wild pigs. In areas where the discharge of rifles or shotguns with slugs is prohibited by county ordinance, shotguns capable of holding not more than three shells firing size 0 or 00 buckshot may be used for the taking of deer only.

(e) Pistols and revolvers using centerfire cartridges with softnose or expanding projectiles may be used to take deer, bear, and wild pigs.

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(f) Pistols and revolvers with minimum barrel lengths of 4 inches, using centerfire cartridges with softnose or expanding projectiles, may be used to take elk and bighorn sheep.

(g) Except as provided in subsection 354(j) of these regulations, crossbows may be used to take deer and wild pigs only during the regular seasons.

(h) Under the provisions of a muzzleloading rifle-only tag, hunters may only possess muzzleloading rifles as described in subsection (c) equipped with open or "peep" type sights only except as described in subsection (l).

(i) Under the provisions of a muzzleloading rifle/archery tag, hunters may only possess muzzleloading rifles with sights as described in subsection (h); archery equipment as described in Section 354 of these regulations; or both. For purposes of this subsection, archery equipment does not include crossbows, except as provided in subsection 354(j) of these regulations.

(j) Except as otherwise provided, while taking or attempting to take big game under the provisions of this section or Section 354 of these regulations, it is unlawful to use any device or devices which: 1) throw, cast, or project an artificial light or electronically alter or intensify a light source for the purpose of visibly enhancing an animal; or 2) throw, cast, or project an artificial light or electronically alter or intensify a light source for the purpose of providing a visible point of aim directly on an animal. Devices commonly referred to as "sniperscopes," night vision scopes or binoculars, or those utilizing infrared, heat-sensing, or other non-visible spectrum light technology used for the purpose of visibly enhancing an animal or providing a visible point of aim directly on an animal, are prohibited and may not be possessed while taking or attempting to take big game. Devices commonly referred to as laser rangefinders, "red-dot" scopes with self-illuminating reticles, and fiberoptic sights with self-illuminating sight or pins which do not throw, cast, or project a visible light onto an animal are permitted.

354. Archery Equipment and Crossbow Regulations.

(a) Bow, as used in these regulations, means any device consisting of a flexible material having a string connecting its two ends and used to propel an arrow held in a firing position by hand only. Bow includes long bow, recurve, or compound bow.

(b) Crossbow, as used in these regulations, means any device consisting of a bow or cured latex band or other flexible material (commonly referred to as a linear bow) affixed to a stock, or any bow that utilizes any device attached directly or indirectly to the bow for the purpose of keeping a crossbow bolt, an arrow, or the string in a firing position. Except as provided in subsection 354(j), a crossbow is not archery equipment and cannot be used during the archery deer season.

(c) For the taking of big game, hunting arrows and crossbow bolts with a broad head type blade which will not pass through a hole seven-eighths of an inch in diameter shall be used. Mechanical/retractable broad heads shall be measured in the open position. For the taking of migratory game birds, resident small game, furbearers, and nongame mammals and birds, any arrow or crossbow bolt may be used except as prohibited by subsection (d) below. Notwithstanding the general prohibition of the use of lights in Fish and Game Code section 2005, arrows or crossbow bolts with lighted nocks that do not emit a directional beam of light may be used.

(d) No arrows or crossbow bolt with an explosive head or with any substance which would tranquilize or poison any animal may be used. No arrows or crossbow bolt without flu-flu fletching may be used for the take of pheasants and migratory game birds, except for provisions of section 507(a)(2).

(e) No arrow or crossbow bolt may be released from a bow or crossbow upon or across any highway, road, or other way open to vehicular traffic.

(f) No bow or crossbow may be used which will not cast a legal hunting arrow, except flu-flu arrows, a horizontal distance of 130 yards.

(g) Except as described in subsection 354(j), crossbows may not be used to take game birds and game mammals during archery seasons.

(h) Except as provided in subsection 353(g) of these regulations and in Section 4370 of the Fish and Game Code, archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery-only tag.

(i) No person may nock or fit the notch in the end of an arrow to a bowstring or crossbow string in a ready-to-fire position while in or on any vehicle.

Deer Tag Laws and Regulations

4336. (a) The person to whom a deer tag has been issued shall carry the tag while hunting deer. Upon the killing of any deer, that person shall immediately fill out the tag completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and date of the kill. The deer tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached during the open season and for 15 days thereafter. The holder of the deer tag shall immediately, upon harvesting a deer, notify the department in a manner specified by the commission.

(b) Except as otherwise provided by this code or regulation adopted pursuant to this code, it is unlawful to possess any untagged deer.

4340. (a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to deer, shall forfeit his or her deer tags, and no new deer tags shall be issued to that person during the then-current license year for hunting licenses.

(b) No person described in subdivision (a) may apply for deer tags for the following license year.

4341. Any person legally killing a deer in this state shall have the tag countersigned by a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer, or an officer authorized to administer oaths, before transporting such deer, except for the purpose of taking it to the nearest person authorized to countersign the tag, on the route being followed from the point where the deer is taken.

708.5. Deer Tagging and Reporting Requirements.

(a) Upon the killing of any deer the tag holder shall immediately fill out all portions of the tag including the report card completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and date of the kill. The deer license tag shall be attached to the antlers of an antlered deer or to the ear of any other deer and kept

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attached during the open season and for 15 days thereafter. Except as otherwise provided, possession of any untagged deer shall be a violation. (Refer to Fish and Game Code, Section 4336).

It is unlawful to:

- Fail to exhibit on the demand of a Wildlife Officer, all licenses, tags, fish, or wildlife taken or otherwise dealt with under the Fish and Game Code, and any device or apparatus designed to be, and capable of being, used to take fish or wildlife. FGC 2012.
- Take game birds, game mammals, or furbearing mammals except as permitted by regulations. CCR T14-250.
- Hunt big game without a valid hunting license and tag. FGC 1054.2.
- Hunt with a crossbow during archery season (except with a Disabled Archer Permit). CCR T14-354(g).
- Possess a firearm while hunting during archery season or while hunting during the general season with an archery only tag. CCR T14-354(h).
- Take spike buck. CCR T14-351(c).
- Pursue, drive, herd, or take any bird or mammal from any type of motor-driven air or land vehicles, motorboat, airboat, sailboat, or snowmobile, except when the motor is off and/or the sails furled and it is drifting, beached, moored, resting at anchor, or is being propelled by paddle, oar, or pole. CCR T14-251.
- Knowingly feed big game mammals. CCR T14-251.3.
- Take game birds and mammals within 400 yards of any baited area. This does not apply to the taking of game birds and mammals on or over standing crops, croplands, or grains found scattered solely as the result of normal agricultural operations or procedures. CCR T14-257.5.
- Take bears within 400 yards of any garbage dump or bait. CCR T14-365(e).
- Take more than two deer per license year. CCR T14-708.1.(a)(1).
- Intentionally discharge a firearm or release an arrow or crossbow bolt from a bow or crossbow upon or across any highway, road, or other way open to vehicular traffic. CCR T14-354(e), FGC 3004(b).
- Nock or fit the notch in the end of an arrow to a bowstring or crossbow string in a ready-to-fire position while in or on any vehicle. CCR T14-354(i).
- Hunt with a bow or crossbow that will not cast a legal hunting arrow, except flu-flu arrows, a horizontal distance of 130 yards. CCR T14-354(f).
- Hunt big game from one-half hour after sunset to one-half hour before sunrise. CCR T14-352.
- Use dogs for pursuit/take, or for dog training, during the archery seasons for deer or bear. CCR T14-265(a)(1).
- Use dogs to take bear, bobcat, elk, bighorn sheep, and antelope. CCR T14 265 (a)(2).
- Use an artificial light to assist in taking any game bird or game mammal. FGC 2005(a).
- To deposit, permit to pass into, or place where it can pass into the waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any cans, bottles, garbage, rubbish, or the viscera or carcass of any dead mammal, or the carcass of any dead bird. FGC 5652.
- Fail to send a complete written report to the Department within 48 hours after killing or wounding while hunting, any human being or domestic animal belonging to another, or after witnessing such killing or wounding. FGC 12151.5.
- Use of a shotgun larger than 10 gauge for the taking of any game bird or game mammal, or a shotgun capable of holding more than three shells in the magazine and chamber combined. FGC 2010; CCR T14-311 and 353(b).
- Possess a short-barreled shotgun (barrel less than 18 inches), or a short-barreled rifle (barrel less than 16 inches). PC 33215.
- Possess in any State Game Refuge any bird or mammal or part thereof, or any weapon capable of taking any bird or mammal. FGC 10500. However, possession of firearms or bows and arrows by persons traveling through game refuges on a public highway or other public thoroughfare or right of way is permitted when the firearms are taken apart or encased and unloaded, and the bows are unstrung. FGC 10506. (National Parks and Monuments have special regulations regarding the possession of weapons, game, and the running of hunting dogs. Check with federal officials before entering these areas.)
- Hunt any game bird or mammal without having the required licenses, tags, and/or stamps in possession. FGC 1054.2.
- Transfer, use, possess, or alter any license, tag, stamp, permit, application, or reservation. FGC 1052.
- Damage another's property or injure livestock while hunting. FGC 2004.
- Sell or barter game taken under the authority of a hunting license. FGC 3039.
- Possess a loaded rifle or shotgun in any vehicle or conveyance or its attachments which is standing on or along or is being driven on or along any public highway or other way open to the public.
- A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine. FGC 2006
- The provisions of this section shall not apply to peace officers or members of the armed forces of this state or the United States, while on duty or going to or returning from duty. FGC 2006.

LEAD EXPOSURE WARNING

Discharging firearms in poorly ventilated areas, cleaning firearms, or handling ammunition may result in exposure to lead, a substance known by the State of California to cause birth defects, reproductive harm, and other serious physical injury. It is important that steps be taken to avoid inhaling or ingesting lead particles.

Whether you are shooting, cleaning firearms, or handling ammunition, make certain there is adequate ventilation at all times to reduce the risk of inhalation. Care must also be taken to avoid ingestion. Never handle food or drink without first washing your hands, and keep food and drink away from the shooting environment. Do not smoke when exposed to lead. Most importantly, wash your hands thoroughly after exposure.

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A

Action. The moving parts of a firearm which loads, fires, and ejects a shell or cartridge. Types include bolt, lever, pump, break, and semi-automatic.

Airgun. A rifle or pistol operated by means of compressed air.

Ammunition. Any powder, shot, or bullets used in rifles, pistols, and shotguns.

Antlers. Bony structures that grow out of bone pads or lumps on the heads of animals in the deer family. Antlers are shed annually.

Arrow. Slender shaft, pointed at one end and feathered at the other, for shooting from a bow.

Automatic. Firearm which loads, fires, and ejects ammunition continuously with one trigger squeeze. Often confused with semi-automatic. Machine guns are true automatics.

B

Bag limit. The maximum number of birds or mammals which may be lawfully taken by any one person during a specified period of time.

Ballistics. Modern science dealing with the speed, weight, gravitational influences, and impact of projectiles.

Barrel. A metal tube of a firearm through which a projectile passes.

Birth rate. The ratio of number of young born to females of a species to total population of that species over one year.

Black powder. Granulated powder made of charcoal, sulfur, and salt peter.

Blaze Orange. Fluorescent orange color which can easily be seen in the field.

Blind. A concealed hunting station in which hunters stand or sit, while waiting for game to come within range.

Bolt. Movable metal block that seals a cartridge into the chamber on some actions.

Bolt handle. Handle used to open a bolt action.

Bore. Inside of the firearm barrel through which the projectile travels when fired.

Bow. Device for shooting arrows. Types include longbow, recurve, and compound.

Breech. The rear end of a firearm barrel.

Broadhead. Razor sharp arrowhead used for hunting.

Buck. Male of the lesser deer species, such as blacktail, and of antelope.

Buckshot. A large lead pellet used for taking big game.

Bull. Male of the larger deer species, such as elk.

Bullet. A single projectile fired from a handgun or rifle. It is one part of a cartridge.

C

Caliber. The diameter of the bore usually measured from land to opposite land.

Camouflage. Disguise, usually one which makes a hunter blend in with the background.

Carnivore. A meat-eating animal.

Carrying capacity. The number of animals the habitat can support throughout the year without damage to the animals or to the habitat.

Carrying positions. Safe ways in which to carry a firearm. Positions include double hand, cradle carry, elbow carry, shoulder carry, and sling carry.

Cartridge. Ammunition used in modern rifles and handguns; a case containing primer, gunpowder, and a bullet. A cartridge can be either rimfire or centerfire.

Case. The container which holds all the ammunition components together.

Centerfire. Ammunition in which the primer is located in the center of the casing base.

Chamber. Base of the barrel used to hold the cartridge or shotshell ready for shooting.

Choke. The degree of narrowing at the muzzle end of the shotgun barrel. Types include cylinder, improved cylinder, modified, and full.

Cloven-hooved. A hoof in two parts. Deer and elk are examples of cloven-hooved animals.

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Cock. The hammer on a muzzleloader. Also used to refer to the act of pulling the hammer back and placing a firearm in the ready-to-fire position.

Cock feather. The feather or fletch that is used to correctly align an arrow on a bow.

Compass. Instrument for showing direction, especially one consisting of a magnetic needle swinging freely on a pivot and pointing to the magnetic north.

Conservation. The wise use of natural resources, without wasting them.

Core temperature. The temperature of the human body's trunk/vital area.

Cow. Female of the elk species of deer.

CPR. Cardiopulmonary resuscitation. The art of restarting a person's heart and/or breathing once stopped.

Crosshairs. Crossed lines mounted in the optical system of a telescopic gun sight.

Cylinder. Part of a revolver in which cartridges are held.

D

Death rate. The ratio of number of deaths in a species to total population of that species over one year.

Declination. The difference between true north and magnetic north.

Dehydration. Condition where the body has lost water content, and can result in death.

Diameter. A line passing through the center of a circle from one side to the other.

Discharge. The act of a firearm being fired or going off.

Diving ducks. Ducks that live on lakes and deep ponds and dive for food. These ducks run on the surface of the water to take off.

Doe. Female of the blacktail, mule deer, and antelope species.

Dominant eye. The eye that sends better information to the brain. Also called master eye.

Draw. To pull back the bowstring of a bow.

Draw length. The length of an archer's arms determines draw length and hence the length of his or her arrows.

Draw weight. The weight that is required to pull back a given bow.

E

Edge effect. Habitat conditions of an area created when two types of habitat are brought together.

Elevation. The angular distance of the muzzle of a firearm above the horizontal.

Endangered species. Species that face extinction in all or a large part of its range, and are protected by law for this reason.

Entrails. Intestines and inner organs.

Ethics. Moral principles or values that distinguish between right and wrong.

Evisceration. The removal of the entrails of an animal.

Extinct. No longer in existence; having no living descendant.

F

FFFFg. Extra fine grain priming powder, used in the flash pan on muzzleloaders.

Fg. Coarse powder used in muzzleloaders

Field dressing. Removing the entrails and skin from game to prevent its meat from spoiling.

Firearm. Mechanical device that uses pressure from a burning powder to force a projectile through and out of a metal tube.

Firing pin. A pin that strikes the primer of the cartridge, causing ignition.

Flash pan. A small pan attached to the side of a muzzleloader adjacent to the flash hole, which leads to the main charge within the muzzleloader.

Flask. A container used to carry black powder.

Fletching. The plastic vanes or feathers on an arrow. The fletches perform the same task as does rifling in a firearm, in that they spin the arrow to achieve greater accuracy.

Fluorescent orange. See Blaze Orange.

Flushing. Using noise, movement, or dogs to cause game to become nervous and leave cover.

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Forearm, fore end, or forestock. Front portion of the stock extending under the barrel in front of the receiver.

Fouling. The buildup of residue in the barrel of a firearm.

Frizzen. Piece of metal which creates spark when struck by the flint on a flintlock muzzleloader.

Frostbite. Tissue damage caused by freezing.

Fur bearers. Small mammals which are hunted or trapped primarily for their fur (pelts).

G

Game. Wildlife that may be hunted or trapped for sport according to legal seasons and limits.

Gauge. Term used to designate bore diameter of a shotgun; gauge is the number of lead balls with diameters equal to the diameter of the bore that, when combined, weigh one pound.

GPS. Global Positioning System, a system of satellites in Earth orbit emitting signals by which receivers can determine their position.

Grip. The handle of a handgun.

Grooves. The spiral cuts in a rifled bore.

Gunpowder. A chemical mixture that burns very rapidly and converts to an expanding gas when ignited. One of the five components of ammunition.

H

Habitat. Complete environmental requirements of an animal for survival: food, water, cover, and space.

Half-cock. Certain point between having the firearm hammer in a firing position and in a down position.

Hammer. The part of the action on a handgun which strikes the firing pin, causing the ignition of the ammunition. Also referred to as a cock on muzzleloaders.

Handgun. Short-barreled firearms. Also known as revolvers or pistols.

Hangfire. Delay in ignition.

Heat exhaustion. Condition that occurs when the core body temperature increases. The acute form of which is hyperthermia, the opposite of hypothermia.

HELP. Heat Escape Lessening Posture. Position used by a lone person in the water to increase survival time.

Hen. Female bird.

Hen feather. The remaining feathers on an arrow other than the cock feather.

Horns. Hard, compressed fibrous protein (hair) permanent projection that grows on the head of various hoofed animals. With the exception of the pronghorn, horns are not shed.

Huddle. Position used by two or more people in the water to increase survival time by retaining body heat.

Hyperthermia. A condition in which the body core temperature cannot emit enough heat and as such increases to dangerous levels, leading to death.

Hypothermia. Condition that occurs when the body loses heat faster than it can produce it. This condition if unchecked will result in death.

I

Ignition. Setting fire to the projectile or powder charge.

Illegal. Against the law.

Instinctive aiming. The method of simply looking at the target with both eyes open and releasing the arrow when bow hunting.

Intoxication. Impairment caused by excessive consumption of alcohol and/or drugs.

J

Jag. Device used on the end of a cleaning rod to hold cloth for the purpose of cleaning the bore on a firearm.

Jake. A young male turkey.

L

Lands. The ridges of metal between the grooves in a rifled bore.

Lead. A heavy metal used in bullets or shot.

Lead. (pronounced *leed.*) The distance by which a shotgun shooter must aim in front of a moving target.

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Legacy. Anything handed down from an ancestor.

Legal. Based upon or authorized by law.

Limit. The number of game a hunter is legally allowed to take during a season or day, as defined in the regulations.

Load. The amount of gunpowder in the cartridge or shotshell together with the weight of the bullet or shot charge.

Lock. Early types of ignition systems used in firearms, such as matchlock, wheel lock, flintlock, percussion cap lock.

M

Magazine. Container on a repeating firearm which holds ammunition until it is ready to be fed into the chamber; usually tubes or boxes attached to the receiver.

Mammals. Animals with vertebrae (spines). Mammals produce live young. Female mammals feed their young with milk from mammary glands.

Master eye. See Dominant eye.

Migrate. To move from one region to another with the change in seasons.

Misfire. Failure to fire.

Muzzle. The end of the barrel through which the projectile exits.

Muzzleloader. Firearm that is loaded through the muzzle instead of the breech.

N

Nipple. Part of the muzzleloader which holds the percussion cap.

Nock. A slotted plastic tip located on the rear end of an arrow, which attaches the arrow to the bow string.

Nock point. A device used to ensure that an arrow is attached to the bow string at the same point each time and hence ensures accuracy.

O

Omnivore. An animal that eats both plants and meat.

Orient. To adjust the map and compass to accommodate for the difference between the grid north of the map and the magnetic north of the compass.

P

Parallax. Optical bending of telescopic crosshairs in relation to the target.

Parasite. Unhealthy form of life feeding on and in wildlife, such as ticks, worms, or flukes.

Pattern. Density and scattering of shot pellets when fired. Patterns are affected by choke.

Percussion cap. Cap placed on the nipple under the hammer of a muzzleloader.

PFD. Personal Flotation Device. Used whenever one is in a boat. Also known as a life preserver.

Poaching. The illegal taking of game.

Powder horn. Container used to hold black powder.

Predation. Act of predators feeding on prey.

Predator. Animal that kills other animals for food.

Preservation. Saving natural resources, but with no consumptive use of them.

Prey. Animal hunted or killed for food by other animals.

Primer. Explosive cap used to ignite the powder when struck with a sharp blow from the firing pin.

Privileges. Exceptional benefits which are allowed to individuals or groups and can be controlled or withheld.

Projectile. An object propelled from a firearm, airgun, or bow.

Protected species. Species protected by law for any reason.

Puddle ducks. Ducks which favor shallow ponds and marshes, and which spring directly into the air to fly. They feed by dabbling or tipping.

Q

Quiver. Container for arrows.

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R

Ramrod. Rod used to push the ball and patch down the barrel of a muzzleloader.

Rare species. Species which are small in number and are protected by law for this reason.

Receiver. Metal housing for the working parts of the action.

Recoil. Real and perceived energy in a backward direction emitted by a firearm when fired. Also referred to as "kick."

Regulations. Laws or rules by which conduct is regulated.

Renewable. To make new or as if new again; bring back into good condition.

Responsible. Answering for or accounting for your actions.

Reticle. The aiming device inside a rifle or pistol scope (telescopic sight).

Revolver. Firearm (generally a handgun) having a rotating cylinder.

Rifling. Spiral grooves in the bore of the rifle barrel which cause the projectile to spin upon firing.

Rights. Powers to which a person has a just claim. Unlike a privilege, a right cannot be taken away from you.

Rimfire. Cartridge in which the primer is in the rim of the ammunition casing. Rimfire cartridges cannot be reloaded.

S

Safety. Mechanism that blocks the action to prevent the firearm from accidental firing.

Season. Part of the year during which game may be legally taken.

Shaft. The long spine of the arrow.

Shell. Container which holds shot and other parts of ammunition for shotguns.

Shot. Balls of metal used to fill a shotgun shell.

Shotshell. Ammunition used in modern shotguns; a case containing primer, gunpowder, wad, and a slug or shot.

Shot pattern. The spread of shot pellets.

Sight. Device used for aiming, usually by aligning a front and rear sight.

Sighting-in. A process of adjusting a firearm's sights to hit a target at a specific range.

Smoothbore. Firearm without rifling in the bore, usually a shotgun.

Species. A naturally existing population of similar organisms that are given a unique name to distinguish them from all other creatures.

Spine. Term used when referring to the stiffness of an arrow.

Stamina. Resistance to fatigue, illness, hardship; endurance.

Stance. The way a person or animal stands, specifically referring to placement of the feet.

Starvation. Lack of food, leading to death.

Stock. Handle of firearm.

S.T.O.P. Acronym used for Stop, Think, Observe, Plan, to remind one of the necessary thought process once one has determined that one is lost.

Succession. Natural progression of vegetation and wildlife populations in an area.

Surplus game. Numbers of wildlife above those needed for reproduction of the species.

T

Target identification. Making absolutely sure of the target before firing.

Tarsal gland. Gland on the rear legs of a buck that exudes odor such that other deer are aware of the presence of the buck.

Telescopic sight. Small telescope mounted on a firearm.

Terrain. Ground or a portion of ground.

Tom. Male of some species, for example, a turkey.

Topographic map. Type of map with grids, showing details such as roads, elevation, water sources, and types of vegetation.

Trap. Device used for trapping an animal.

Trapping. Catching animals, usually fur bearers or varmints, in traps.

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Tree stand. Elevated platform mounted in a tree on which a hunter waits for game to come within range.

Trigger. Small lever that is pulled or squeezed to start the firing process.

Trigger guard. Piece that surrounds the trigger to protect it from being accidentally squeezed or bumped.

U

Unlawful. Against the law.

Upland birds. Chicken-like birds with short rounded wings and heavy bodies, such as grouse, pheasant, quail, and turkeys.

V

Varmints. Huntable animals regarded as troublesome.

Velocity. The speed of a projectile.

W

Wad. Paper or plastic unit used between powder and shot in a shotshell.

Warm-blooded. Having warm blood and a natural constant internal body temperature. Mammals are warm-blooded.

Waterfowl. Water bird or birds, especially those that swim. Ducks and geese are examples.

Wattles. Fleshy growths beneath the head of a male (tom) turkey, on either side of the neck.

Wildlife. Non-domesticated animals, including mammals, birds, and fish, which may be hunted as controlled by law.

Wildlife management. Wise use and manipulation of renewable wildlife resources. A field of study based on scientific fact.

Z

Zone-of-fire. The area in which a hunter may safely shoot, to be agreed upon before beginning a hunt.

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NOTES



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California Department of Fish and Wildlife

www.wildlife.ca.gov

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Date/time
Number of violators
Species of poaching
Vehicle make, color, and license number (including state of issue)

Please state the activity you witnessed, direction of travel, description of suspect(s), name(s) if known, and firearm description. You may remain anonymous.

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24 HOURS - 7 DAYS A WEEK
California Department of Fish and Wildlife

INCIDENT DETAILS

LOCATION OF VIOLATION

DATE | TIME

SPECIES | # OF OCCUPANTS

VEHICLE MAKE | VEHICLE COLOR

VEHICLE LICENSE # | STATE

DIRECTION OF TRAVEL

DESCRIPTION OF SUSPECT

RACE | SEX
HEIGHT | WEIGHT
AGE | HAIR
CLOTHING

FIREARM DESCRIPTION

YOU CAN MAKE A DIFFERENCE BY REPORTING ANY POACHING OR POLLUTING ACTIVITY

Call as soon as you can after witnessing an offense!

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Hunter's Resource Directory

Ducks Unlimited
One Waterfowl Way
Memphis, TN 38120
1-800-45DUCKS
www.ducks.org

International Hunter Education Association-USA (IHEA-USA)
800 East 73rd Avenue, Unit 2
Denver, CO 80229
303-430-7233
Fax: 303-430-7236
www.ihea-usa.org

National Bowhunter Education Foundation (NBEF)
P.O. Box 2934
Rapid City, SD 57709
605-716-0596
Fax: 309-401-6096
E-mail: info@nbef.org
www.nbef.org

National Rifle Association (NRA)
11250 Waples Mill Rd.
Fairfax, VA 22030
1-800-672-3888
www.nra.org

National Shooting Sports Foundation
Flintlock Ridge Office Center
11 Mile Hill Rd.
Newtown, CT 06470-2359
203-426-1320
www.nssf.org

National Wild Turkey Federation (NWTF)
P.O. Box 530
Edgefield, SC 29824
1-800-THE-NWTF
www.nwtf.org

Quail Forever/Pheasants Forever
1783 Buerkle Circle
St. Paul, MN 55110
1-877-773-2070
www.quailforever.org
www.pheasantsforever.org

Rocky Mountain Elk Foundation
5705 Grant Creek
Missoula, MT 59808
1-800-CALLELK
www.rmef.org

The Izaak Walton League of America
707 Conservation Lane
Gaithersburg, MD 20878-2983
301-548-0150
E-mail: info@iwla.org
www.iwla.org

The Ruffed Grouse Society
451 McCormick Rd.
Coraopolis, PA 15108
412-262-4044
www.ruffedgrousesociety.org

Waterfowl USA
The Waterfowl Building Box 50
Edgefield, SC 29824
803-637-5767
www.waterfowlusa.org

Whitetails Unlimited
P.O. Box 720
2100 Michigan St.
Sturgeon Bay, WI 54235
920-743-6777
www.whitetailsunlimited.com

Wild Sheep Foundation
720 Allen Ave.
Cody, WY 82414
307-527-6261
www.wildsheepfoundation.org



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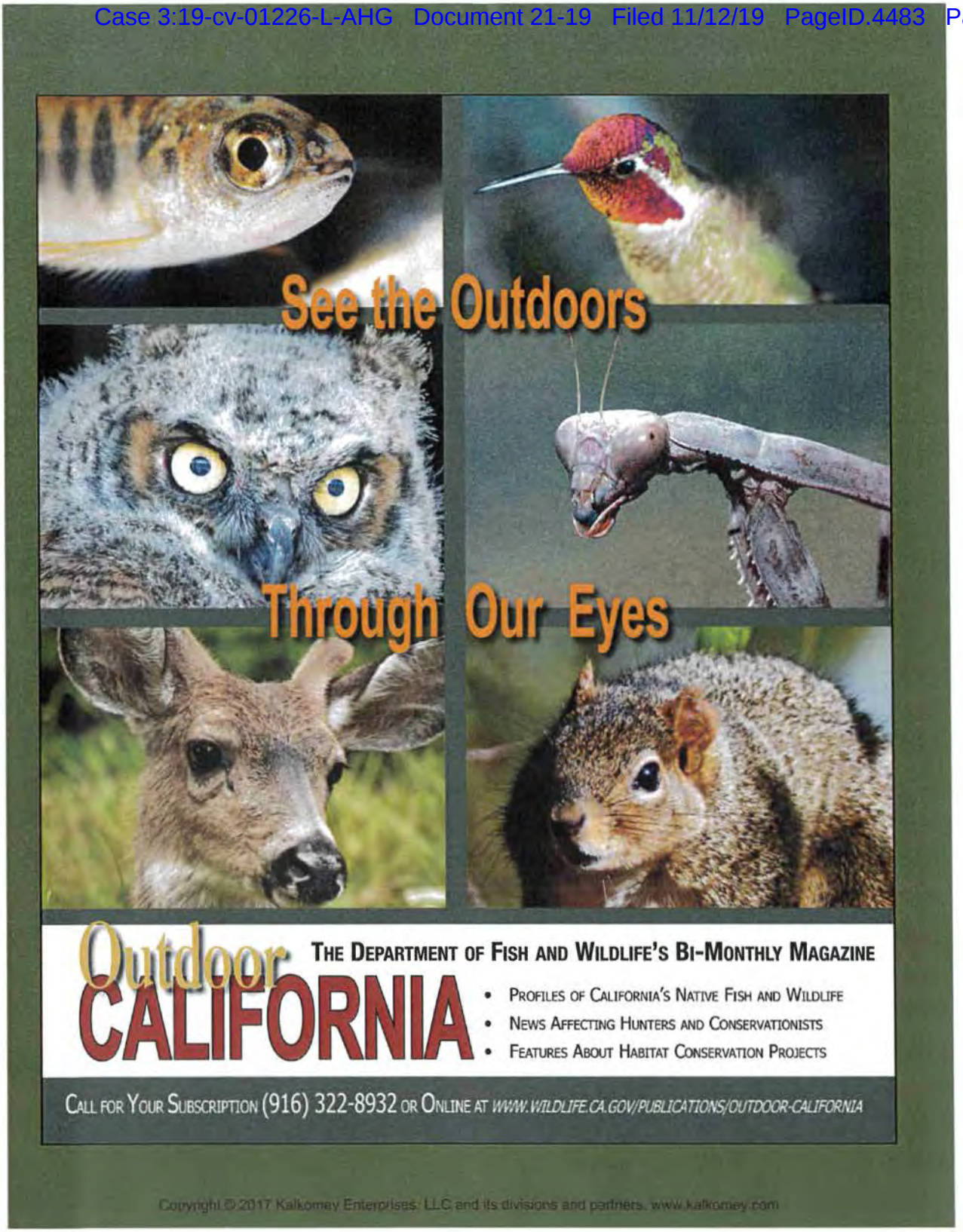

Exhibit 2
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EXHIBIT "3"

Cal Pen Code § 26840

Deering's California Codes are current through Chapters 1-70, 72-136, 138-173, 175-185, 188-193, 195, 196, 198-200, 202-213, 215, and 217-222 of the 2019 Regular Session, including all legislation effective September 4, 2019 or earlier.

Deering's California Codes Annotated > PENAL CODE (§§ 1 — 34370) > Part 6 Control of Deadly Weapons (Titles 1 — 4) > Title 4 Firearms (Divs. 1 — 12) > Division 6 Sale, Lease, or Transfer of Firearms (Chs. 1 — 6) > Chapter 2 Issuance, Forfeiture, and Conditions of License to Sell, Lease, or Transfer Firearms at Retail (Arts. 1 — 6) > Article 2 Grounds for Forfeiture of License (§§ 26800 — 26915)

§ 26840. Presentation of safety certificate

(a)A dealer shall not deliver a firearm unless the person receiving the firearm presents to the dealer a valid firearm safety certificate, or, in the case of a handgun, an unexpired handgun safety certificate. The firearms dealer shall retain a photocopy of the firearm safety certificate as proof of compliance with this requirement.

(b) This section shall become operative on January 1, 2015.

History

Added Stats 2013 ch 761 § 4 (SB 683), effective January 1, 2014, operative January 1, 2015.

Annotations

Notes

Former Sections:

Historical Derivation:

Former Sections:

Former Pen C § 26840, similar to the present section, was added Stats 2010 ch 711 § 6, effective January 1, 2011, operative January 1, 2012, amended Stats 2011 ch 745 § 9, Stats 2013 ch 761 § 3, and repealed January 1, 2015, by its own terms.

Historical Derivation:

(a) Former Pen C § 12071(b)(8)(A)-(B), as amended Stats 1992 ch 6 § 1, ch 1326 § 5, Stats 1993 ch 606 § 9, ch 1139 § 5, Stats 1994 ch 716 § 5.3, Stats 1995 ch 178 § 3, Stats 1996 ch 128 § 3, Stats 1997 ch 460 § 3, Stats 1998 ch 908 § 2.5, Stats 1999 ch 128 § 1, Stats 2001 ch 944 § 5.1, Stats 2002 ch 911 §§ 1, 1.5, Stats 2003 ch 502 § 2, Stats 2004 ch 247 § 10, Stats 2005 ch 715 § 9, Stats 2006 ch 784 § 1, Stats 2008 ch 698 § 16, Stats 2009 ch 335 § 10.

(b) Former Pen C § 26840, as added *Stats 2010 ch 711 § 6*, amended *Stats 2011 ch 745 § 9*, *Stats 2013 ch 761 § 3.*

Research References & Practice Aids

Treatises:

Cal. Legal Forms, (Matthew Bender) §§ *102B.50[1]*, 102B.112.

Deering's California Codes Annotated
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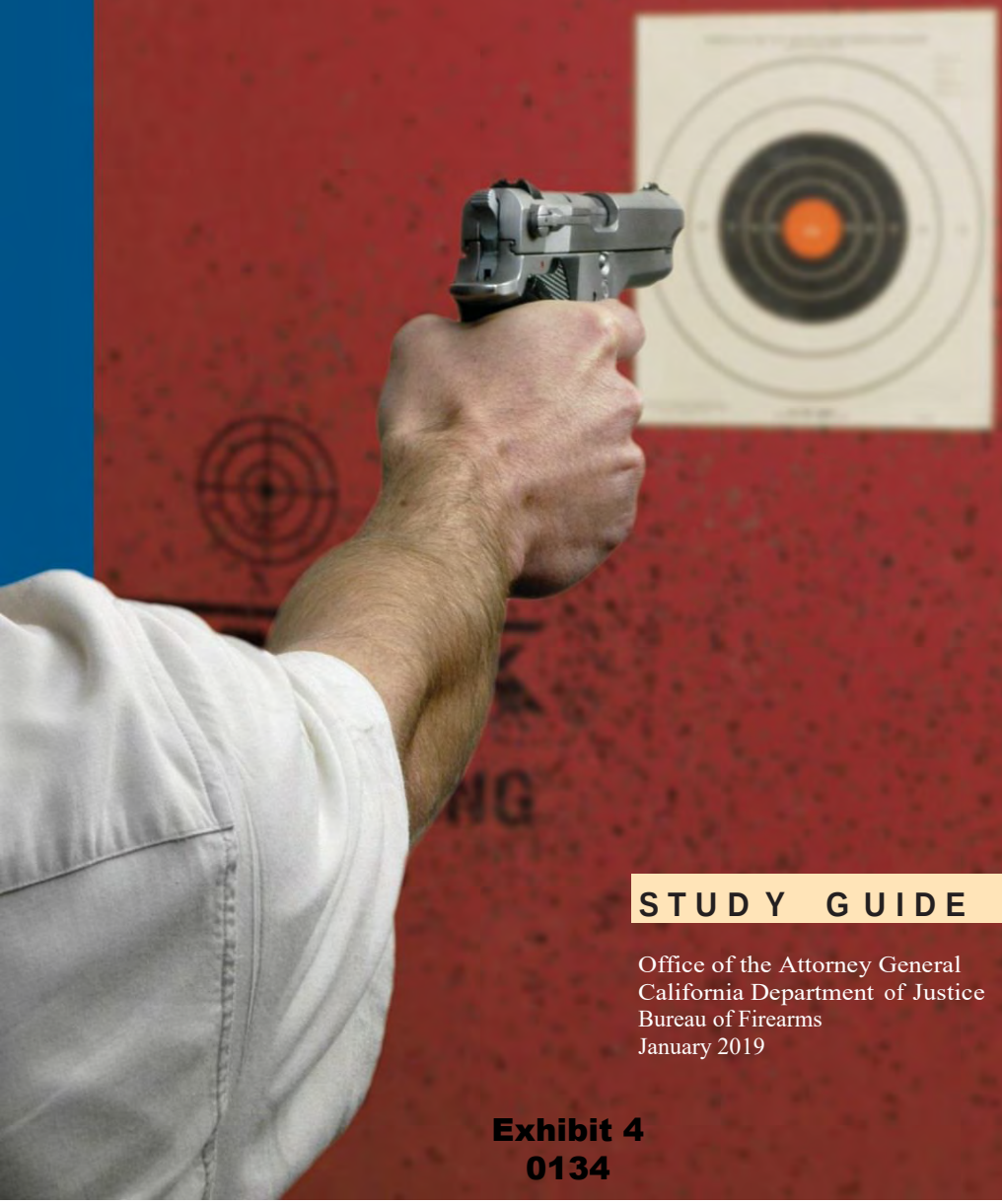
EXHIBIT "4"

FSC

Firearm Safety Certificate



STUDY GUIDE

Office of the Attorney General
California Department of Justice
Bureau of Firearms
January 2019

P r e f a c e

Firearm safety is the law in California. Every firearm owner should understand and follow firearm safety practices, have a basic familiarity with the operation and handling of their firearm, and be fully aware of the responsibility of firearm ownership. Pursuant to Penal Code section 26840, any person who acquires a firearm must have a Firearm Safety Certificate (FSC), unless they are statutorily exempt from the FSC requirement. To obtain an FSC, a person must pass a Department of Justice (DOJ) written test on firearm safety. The test is administered by DOJ Certified Instructors, who are often located at firearms dealerships.

This study guide provides the basic firearm safety information necessary to pass the test. Following the firearm safety information in this guide will help reduce the potential for accidental deaths and injuries, particularly those involving children, caused by the unsafe handling and storing of firearms.

In addition to safety information, this study guide provides a general summary of the state laws that govern the sale and use of firearms. Finally, there is a glossary that defines the more technical terms used in the study guide.

Simply reading this study guide will not make you a safe firearm owner. To be a safe firearm owner you must practice the firearm safety procedures described in the following pages.

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Introduction

WHY FIREARM SAFETY?

Firearm safety is important to all Californians. No one wants firearm accidents to happen yet they do every day. Firearm accidents involving children are especially disturbing. Studies show that easy access to loaded firearms in homes is often a contributing factor in accidental shootings of children.

While there may be no way to guarantee safety, firearm owners can take steps to help prevent many accidental shootings. This study guide will give you valuable information to help you become a safe and responsible firearm owner.

FIREARM SAFETY IS THE LAW

The intent of the California Legislature in enacting the FSC law is to ensure that persons who obtain firearms have a basic familiarity with those firearms, including but not limited to, the safe handling and storage of those firearms. It is not the intent of the Legislature to require an FSC for the mere possession of a firearm. (Pen. Code, § 31610.)

Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you can be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at https://oag.ca.gov/firearms for information on firearms laws applicable to you and how you can comply.

FIREARM SAFETY CERTIFICATE INFORMATION

To obtain an FSC, you must take the DOJ written test and receive a passing score of at least 75% (the information needed to pass the test is contained in this study guide).

An FSC is valid for five years from the date of issuance. If your FSC is lost, stolen or destroyed, a replacement may be obtained from the DOJ Certified Instructor who issued your original FSC.

Pursuant to Penal Code section 31700, there are exemptions from the FSC requirement including, but not limited to:

- Federal Firearms License Collectors with a Certificate of Eligibility (for Curio and Relic transactions only);
- Active, active reserve, or honorably retired military;

- Carry Concealed Weapon (CCW) permit holders; and
- Persons who have completed Peace Officers Standards and Training (POST)(Pen. Code, § 832) firearms training.

For a complete list of exemptions visit the DOJ website at http://oag.ca.gov/firearms or contact the DOJ Bureau of Firearms, General Information Line at (916) 227-7527. You are required to provide documentation of your exemption to the firearms dealer each time you acquire a firearm.

CAUSES OF FIREARM ACCIDENTS

Ignorance and carelessness are major causes of firearm accidents. To help reduce the number of firearm accidents, it is critical that gun safety rules are understood and practiced at all times by every family member.

Following are some examples of firearm accidents that could have been avoided if the basic gun safety rules had been practiced:

> *Two young children playing in their home found a loaded handgun with the magazine removed on a bedside table. One child was injured when the handgun was fired.*
>
> *A handgun owner assumed a firearm was unloaded. While cleaning it, he accidentally fired the handgun, causing injury to himself.*
>
> *A hunter was walking with his finger loosely on the trigger of his rifle. Distracted by a sudden noise behind him, he turned and accidentally fired, injuring his buddy walking nearby.*

Knowing the safety rules and applying them most of the time is not enough. Firearm accidents can happen even to a person who knows the safety rules, but is careless in following them. For example, you may think you can leave your loaded firearm out on the kitchen table just for a moment while you go outside to turn off the garden hose. Although you know you should never leave a firearm where a child may find it, you carelessly think it will be alright "just this once."

REMEMBER: Ignorance and carelessness can result in firearm accidents. Basic gun safety rules must be applied ALL OF THE TIME.

PREVENTING MISUSE TRAGEDIES

It's a fact that many depressed, intoxicated, substance abusive, or enraged individuals commit suicide every year with firearms, usually handguns. The developmental issues associated with adolescence make teenagers particularly susceptible to this unfortunate outcome. Safe and responsible firearm storage, particularly when a member of the household is experiencing one of the aforementioned conditions, can help prevent tragedies.

BECOMING A SAFE AND RESPONSIBLE FIREARM OWNER

Becoming a safe firearm owner is similar to becoming a safe driver—you combine a good working knowledge of the equipment, the basic skills of operation, and a mind set dedicated to safe and responsible usage and storage.

This means you must have:

- Respect for the danger of firearms;
- An awareness and concern about the possible safety hazards related to firearms; and
- A desire to learn and practice safe conduct with firearms.

Developing a mind set for safe and responsible firearm usage and storage is the first step in actually becoming a responsible firearm owner. The next step is building your knowledge of firearms and gun safety, which you can do by reading and understanding the information in this study guide. The final steps are becoming skillful in handling firearms and using the safety knowledge that you have acquired.

CHAPTER 1
Gun Safety Rules



This chapter will introduce you to specific gun safety rules to give you a better understanding of firearm safety.

THE SIX BASIC GUN SAFETY RULES

There are six basic gun safety rules for gun owners to understand and practice at all times:

1. Treat all guns as if they are loaded.
2. Keep the gun pointed in the safest possible direction.
3. Keep your finger off the trigger until you are ready to shoot.
4. Know your target, its surroundings, and beyond.
5. Know how to properly operate your gun.
6. Store your gun safely and securely to prevent unauthorized use. Guns and ammunition should be stored separately.

1. Treat all guns as if they are loaded.

- Always assume that a gun is loaded even if you think it is unloaded.
- Every time a gun is handled for any reason, check to see that it is unloaded. For specific instructions on how to unload a firearm, see Chapter 3.
- If you are unable to check a gun to see if it is unloaded, leave it alone and seek help from someone more knowledgeable about guns.

2. Keep the gun pointed in the safest possible direction.

- Always be aware of where the gun is pointing. A "safe direction" is one
- where an accidental discharge of the gun will not cause injury or damage.
- Only point a gun at an object that you intend to shoot.
- Never point a gun toward yourself or another person.

3. Keep your finger off the trigger until you are ready to shoot.

- Always keep your finger off the trigger and outside the trigger guard until you are ready to shoot.

- Even though it may be comfortable to rest your finger on the trigger, it is unsafe.
- If you are moving around with your finger on the trigger and stumble or fall, you could inadvertently pull the trigger.
- Sudden loud noises or movements can result in an accidental discharge because there is a natural tendency to tighten the muscles when startled.
- The trigger is for firing, the handle is for handling.

4. Know your target, its surroundings, and beyond.

- Check that the areas in front of and behind your target are safe before shooting.
- Be aware that if the bullet misses or completely passes through the target, it could strike a person or object.
- Identify the target and make sure it is what you intend to shoot. If you are in doubt, DON'T SHOOT!
- Never fire at a target that is only a movement, color, sound or unidentifiable shape.
- Be aware of all the people around you before you shoot.

5. Know how to properly operate your gun.

- It is important to become thoroughly familiar with your gun. You should know its mechanical characteristics including how to properly load, unload and clear a malfunction from your gun.
- Obviously, not all guns are mechanically the same. Never assume that what applies to one make or model is exactly applicable to another.
- You should direct questions regarding the operation of your gun to your firearms dealer, or contact the manufacturer directly.

6. Store your gun safely and securely to prevent unauthorized use. Guns and ammunition should be stored separately.

- Even when the gun is not in your hands, you must still think of safety.
- Use a California-approved firearms safety device on the gun, such as a trigger lock or cable lock, so it cannot be fired.
- Store your gun unloaded in a locked container, such as a California-approved lock box or a gun safe.
- Store your gun in a different location than the ammunition.
- For maximum safety you should use both a locking device and a storage container.

ADDITIONAL SAFETY POINTS

The six basic safety rules are the foundational rules for gun safety. However, there are additional safety points which must not be overlooked:

- Never handle a gun when you are in an emotional state such as anger or depression. Your judgment may be impaired.
- Never shoot a gun in celebration (such as on the Fourth of July or New Year's Eve, for example). Not only is this unsafe, but it is generally illegal. A bullet fired into the air can return to the ground with enough speed to cause injury or death.
- Do not shoot at water, flat or hard surfaces. The bullet can ricochet and hit someone or something other than the target.
- Hand your gun to someone only after you verify that it is unloaded and the cylinder or action is open. Take a gun from someone only after you verify that it is unloaded and the cylinder or action is open.
- Guns, alcohol and drugs don't mix. Alcohol and drugs can negatively affect judgment as well as physical coordination. Alcohol and any other substances are likely to impair normal mental or physical functions and should not be used before or while handling guns. Avoid handling and using your gun when you are taking medications that cause drowsiness or include a warning to not operate machinery while taking the drug.
- The loud noise from a fired gun can cause hearing damage, and the debris and hot gas that is often emitted can result in eye injury. Always wear ear and eye protection when shooting a gun.

CHAPTER 1: Self Test

1. A safe practice when handling a gun is to rest your finger on the outside of the trigger guard or along the side of the gun until you are ready to shoot. (page 4)

   True False

2. To "know your target, its surroundings and beyond," you must consider that if the bullet misses or completely passes through the target, it could strike a person or object. (page 5)

   True False

3. Drinking alcohol while handling firearms is safe if your blood alcohol level remains below the legal limit. (page 6)

   True False

4. Which of the following safety points should you remember when handling a gun? (page 6)

   A. Never shoot a gun in celebration.
   B. Do not fire at water, flat or hard surfaces.
   C. Wear ear and eye protection when shooting a gun.
   D. All of the above.

5. As a safety measure, your firearm should always be pointed: (page 4)

   A. To the north.
   B. In the safest possible direction.
   C. Up.
   D. Down.

6. One of the safety rules is to know how to properly: (page 5)

   A. Clear a malfunction.
   B. Operate your gun.
   C. Load your gun.
   D. Clean your gun.

Answers: 1: True, 2: True, 3: False, 4: D, 5: B, 6: B

CHAPTER 2
Firearms and Children

FIREARM OWNER RESPONSIBILITY

It is a firearm owner's responsibility to take all possible steps to make sure a child cannot gain access to firearms. In fact, this responsibility is mandated by California law. The overall abiding rule is to store your gun in a safe and responsible manner at all times. As a firearm owner, you should be aware of the laws regarding children and firearms.

Summary of Safe Storage Laws Regarding Children

You may be guilty of a misdemeanor or a felony if you keep a loaded firearm within any premises that are under your custody or control and a child under 18 years of age obtains and uses it, resulting in injury or death, or carries it to a public place, unless you stored the firearm in a locked container or locked the firearm with a locking device to temporarily keep it from functioning. Please refer to Page 42 for more specific information regarding safe storage laws related to children.

You Cannot Be Too Careful with Children and Guns

There is no such thing as being too careful with children and guns. Never assume that simply because a toddler may lack finger strength, they can't pull the trigger. A child's thumb has twice the strength of the other fingers. When a toddler's thumb "pushes" against a trigger, invariably the barrel of the gun is pointing directly at the child's face. NEVER leave a firearm lying around the house. Please refer to Pages 31 and 32 for more information regarding safe storage and methods of childproofing your firearm.

Child safety precautions still apply even if you have no children or if your children have grown to adulthood and left home. A nephew, niece, neighbor's child or a grandchild may come to visit. Practice gun safety at all times.

To prevent injury or death caused by improper storage of guns in a home where children are likely to be present, you should store all guns unloaded, lock them with a firearms safety device and store them in a locked container. Ammunition should be stored in a location separate from the gun.

Talking to Children about Guns

Children are naturally curious about things they don't know about or think are "forbidden." When a child asks questions or begins to act out "gun play," you may want to address his or her curiosity by answering the questions as honestly and openly as possible. This will remove the mystery and reduce the natural curiosity. Also, it is important to remember to talk to children in a manner they can relate to and understand. This is very important, especially when teaching children about the difference between "real" and "make-believe." Let children know that, even though they may look the same, real guns are very different than toy guns. A real gun will hurt or kill someone who is shot.

Instill a Mind Set of Safety and Responsibility

The American Academy of Pediatrics reports that adolescence is a highly vulnerable stage in life for teenagers struggling to develop traits of identity, independence and autonomy. Children, of course, are both naturally curious and innocently unaware of many dangers around them. Thus, adolescents as well as children may not be sufficiently safeguarded by cautionary words, however frequent contrary actions can completely undermine good advice. A "do as I say and not as I do" approach to gun safety is both irresponsible and dangerous.

Remember that actions speak louder than words. Children learn most by observing the adults around them. By practicing safe conduct you will also be teaching safe conduct.

RULES FOR KIDS

Adults should be aware that a child could discover a gun when a parent or any other adult is not present. This could happen in the child's own home; the home of a neighbor, friend or relative; or in a public place such as a school or park. If this should happen, a child should know the following rules and be taught to practice them.

1. Stop

The first rule for a child to follow if he/she finds or sees a gun is to stop what he/she is doing.

2. Don't Touch!

The second rule is for a child not to touch a gun he/she finds or sees. A child may think the best thing to do if he/she finds a gun is to pick it up and take it to an adult. A child needs to know he/she should NEVER touch a gun he/she may find or see.

3. Leave the Area

The third rule is to immediately leave the area. This would include never taking a gun away from another child or trying to stop someone from using gun.

4. Tell an Adult

The last rule is for a child to tell an adult about the gun he/she has seen. This includes times when other kids are playing with or shooting a gun.

Please note that, while there is no better advice at this time for children or adolescents who encounter a gun by happenstance, the California Chapter of the American College of Emergency Physicians reports that such warnings alone may be insufficient accident prevention measures with children and adolescents.



CHAPTER 2: Self Test

1. Toddlers lack the strength to pull the trigger of a firearm. (page 8)
   True False

2. You may face misdemeanor or felony charges if you keep a loaded firearm where a child obtains and improperly uses it. (page 8)
   True False

3. There is no such thing as being too careful with children and guns. (page 8)
   True False

4. An important lesson children should learn is that guns are not toys. (page 9)
   True False

5. The four safety "Rules for Kids" if they see a gun are: (page 9)
   A. _____
   B. _____
   C. _____
   D. _____

6. Child safety precautions only apply if you have children. (page 8)
   True False

Answers: 1: False, 2: True, 3: True, 4: True, 5: A. Stop, B. Don't Touch, C. Leave the Area, D. Tell an Adult, 6: False

CHAPTER 3
Firearm Operation and Safe Handling

SAFE HANDLING DEMONSTRATION

Pursuant to Penal Code sections 26850 and 26860, prior to taking delivery of a firearm from a licensed firearms dealer in California, an individual must correctly perform a safe handling demonstration with the firearm he or she is acquiring. The safe handling demonstration must be performed in the presence of a DOJ Certified Instructor on or after the date the Dealer Record of Sale (DROS) is submitted to the DOJ and before the firearm is delivered. This section lists each of the steps that constitute the statutorily mandated safe handling demonstrations for the most common handgun types (semiautomatic pistols, double-action revolvers and single-action revolvers). This section also includes safe handling demonstration steps for most long gun types. However, this information will not appear on the DOJ written test on firearm safety. Please note that a dummy round as stated in this guide refers to one bright orange, red or other readily identifiable dummy round. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

The safe handling demonstration shall commence with the firearm unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness (that is, the firearm is pointed in a safe direction, preferably down at the ground) and trigger discipline (that is, the trigger finger is outside of the trigger guard and alongside of the firearm frame) at all times, the firearm recipient shall correctly and safely perform the safe handling demonstration steps for each firearm type.

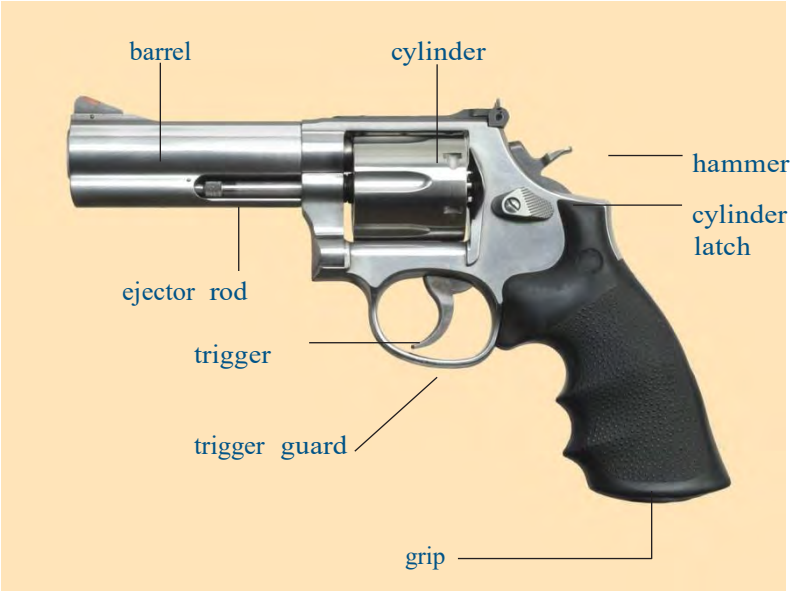
REVOLVER PARTS AND OPERATION

How a Revolver Works

A revolver has a rotating cylinder containing a number of chambers. There are usually five or six chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin. Releasing the cylinder latch allows the cylinder to swing out for loading, unloading and inspection.

Revolvers are either single or double-action. The primary difference between these two types of revolvers is the function of the trigger. On a single-action revolver the trigger has a single function to release the hammer. The trigger on a double- action revolver has two functions to cock the hammer and to release it.

DOUBLE-ACTION REVOLVER SAFE HANDLING



1. Open the cylinder.



2. Visually and physically inspect each chamber to ensure that the revolver is unloaded.



3. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.



4. While maintaining muzzle awareness and trigger discipline, load one dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position.





5. Close the cylinder.



6. Open the cylinder and eject the round.



7. Visually and physically inspect each chamber to ensure that the revolver is unloaded.



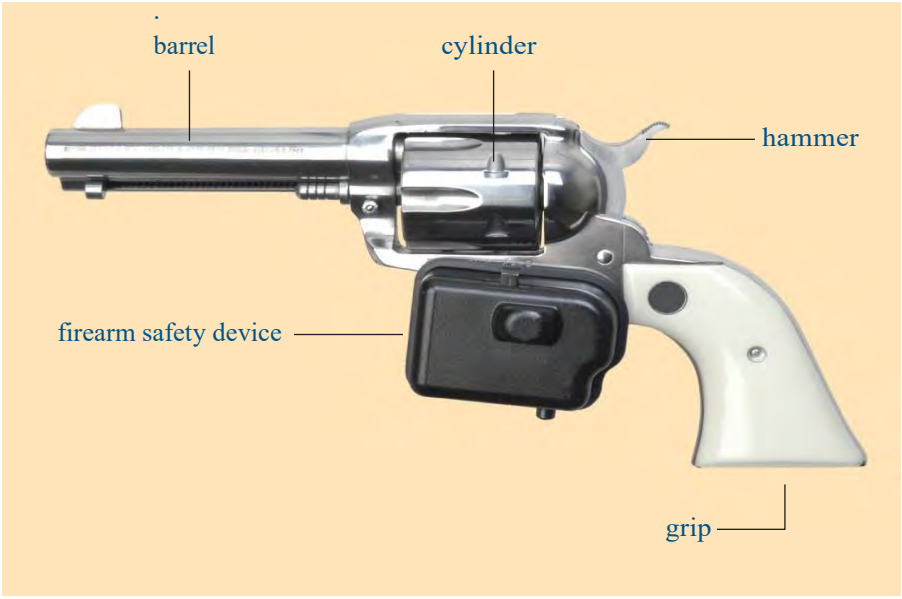
8. Apply the firearm safety device, if applicable.



NOTE: Simply spinning a revolver to an empty chamber does not unload it or make it safe. The cylinder rotates to the next chamber before the hammer falls.

Exhibit 4

SINGLE-ACTION REVOLVER SAFE HANDLING



1. Open the loading gate.



2. Visually and physically inspect each chamber to ensure that the revolver is unloaded.



3. Remove the firearm safety device required to be sold with the firearm. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.



4. Load one dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position (the revolver may need to be placed on half-cock or the loading gate reopened).



5. Open the loading gate and unload the revolver.



6. Visually and physically inspect each chamber to ensure that the revolver is unloaded.



7. Apply the firearm safety device, if applicable.



* 1873 Rule: Recipients of original versions of single-action army revolvers should be advised to carry five rounds in the cylinder and leave the chamber under the hammer empty.

SEMIAUTOMATIC PISTOL PARTS AND OPERATION

How a Semiautomatic Pistol Works

A semiautomatic pistol has a single chamber. Each time the trigger is pulled, a cartridge is fired, the empty case is automatically extracted and ejected, the hammer is cocked, and a new cartridge is loaded into the chamber.

The primary difference between revolvers and semiautomatic pistols is how the ammunition is held. Revolvers use a cylinder to hold ammunition. Semiautomatic pistols use a magazine to hold ammunition. A magazine is a separate metal boxlike container into which cartridges are loaded. It is usually located within the grip. A button or catch releases the magazine.

Another difference is most semiautomatic pistols have a "safety" that is designed to prevent firing when engaged. However, it is not foolproof so do not rely on the safety to prevent an accidental discharge. A safety should be considered an additional safety measure.

Never pull the trigger on any firearm with the safety in the "safe" position because thereafter the firearm could fire at any time without the trigger ever being touched. If a firearm is dropped, it may land hard enough to activate the firing mechanism without the trigger being touched.

SEMIAUTOMATIC PISTOL SAFE HANDLING



1. Remove the magazine.



2. Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically inspect the chamber to ensure that it is clear.



3. Visually and physically inspect the chamber, to ensure that the firearm is unloaded.



4. Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.



5. Load one dummy round into the magazine.



6. Insert the magazine into the magazine well of the firearm.



7. Manipulate the slide release or pull back and release the slide.



8. Remove the magazine.



9. Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.



10. Lock the slide back to eject the dummy round. If the firearm is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear.



11. Apply the safety, if applicable.



12. Apply the firearm safety device, if applicable.



Note: If you release the slide before inserting the magazine, there will NOT be a cartridge in the chamber.

CAUTION

You should NOT assume a semiautomatic pistol is unloaded just because the magazine is removed from the handgun.

Do not allow the slide to go forward UNLESS you have:

1. Checked again to be sure the chamber is empty, and
2. Checked again to be sure the magazine has been REMOVED.

If you pull the slide back ejecting the cartridge, check the chamber, let the slide go forward, and THEN remove the magazine, you have a loaded, dangerous firearm (a cartridge is in the chamber) even though you have removed the magazine. It is common and sometimes fatal to make this error.

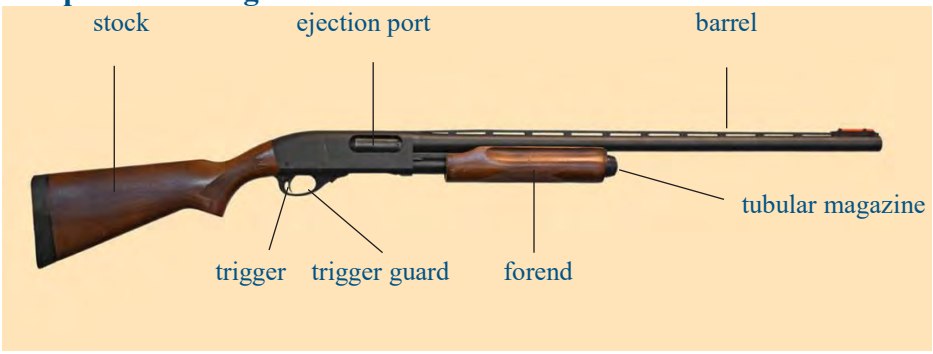
ALWAYS REMOVE THE MAGAZINE FIRST!

LONG GUN SAFE HANDLING

The demonstration shall commence with the firearm unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness (that is, the firearm is pointed in a safe direction, preferably down at the ground) and trigger discipline (that is, the trigger finger is outside of the trigger guard and alongside of the receiver) at all times, the firearms recipient shall correctly and safely perform the steps identified for each firearm type.

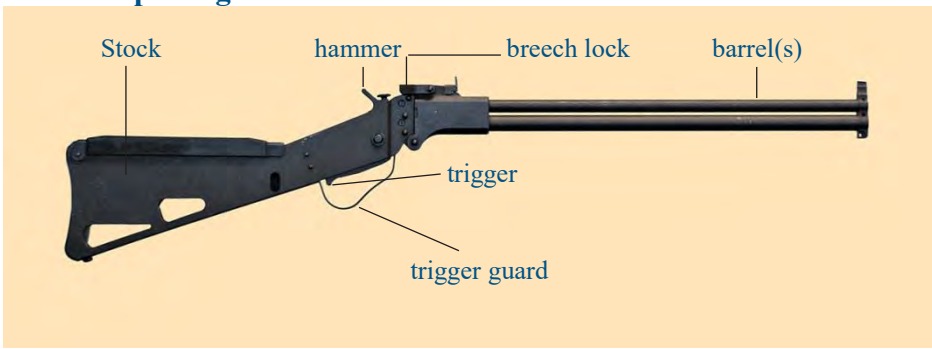
The following safe handling demonstration steps for long guns are generally applicable to the various firearm models of each firearm "type" (e.g. pump action long gun, break-top revolver, etc.). However, the specified safe handling demonstration steps may not be appropriate for a particular model of firearm. If uncertain, refer to the owner's manual or consult with a DOJ Certified Instructor.

Pump Action Long Gun



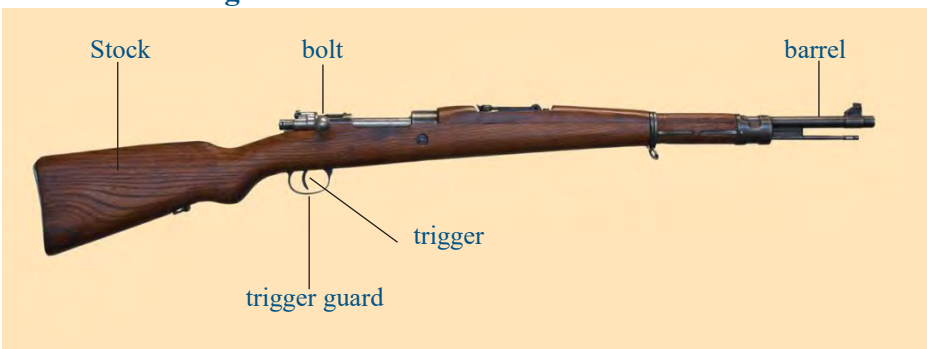
1. Open the ejection port.
2. Visually and physically inspect the chamber to ensure the firearm is unloaded. Visually and physically inspect the magazine follower to ensure the magazine is unloaded (if the magazine follower is not visible, there may be shotshells or cartridges lodged in the tubular magazine).
3. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
4. While maintaining muzzle awareness and trigger discipline, load one dummy round into the magazine loading port.
5. Pull the forend (or forearm) rearward toward the receiver causing the dummy round to enter the breech. Push the forend forward to chamber the round. The dummy round should have moved from the tubular magazine into the chamber.
6. Push the action (carrier) release button and again pull the forend toward the receiver causing the action to open. The dummy round should extract from the chamber and be ejected through the ejection port.
7. Engage the safety.
8. Apply the firearm safety device, if applicable.

Break-Top Long Gun



1. Open the breech.
2. Visually and physically inspect the chamber/barrel to ensure the firearm is unloaded.
3. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
4. While maintaining muzzle awareness and trigger discipline, load one dummy round into a barrel.
5. Close and lock the action.
6. Unlock and open the action.
7. Remove the dummy round.
8. Apply the firearm safety device, if applicable.

Bolt Action Long Gun



1. Visually and physically inspect the chamber/barrel to ensure the long gun is unloaded. Also visually and physically inspect the internal magazine to ensure it is unloaded.
2. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
3. While maintaining muzzle awareness and trigger discipline, load one dummy round into the chamber/barrel.
4. Close and lock the action.
5. Unlock and open the action.
6. Remove the dummy round.
7. Apply the firearm safety device, if applicable.

Lever Action Long Gun

When handling a lever action firearm with an exposed hammer, please use caution and consult with a DOJ Certified Instructor for proper handling steps. Use only flat point, hollow point, round nose flat point, or similar rounds. Never use pointed or conical point rounds in a center fire rifle with a tubular magazine. Failure to follow these instructions may result in injury to yourself or others, or cause damage to your firearm.



1. Open the breech.
2. Visually and physically inspect the chamber/barrel to ensure the firearm is unloaded. Visually and physically inspect the magazine follower to ensure the magazine is unloaded (if the magazine follower is not visible, there may be cartridges lodged in the tubular magazine).
3. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
4. While maintaining muzzle awareness and trigger discipline, load one dummy round into the chamber/barrel.
5. Close and lock the action.
6. Unlock and open the action.
7. Remove the dummy round.
8. Apply the firearm safety device, if applicable.

Semiautomatic Long Gun With a Detachable Magazine



1. Remove the magazine.
2. Pull the bolt back and lock it open if possible.
3. Visually and physically inspect the barrel/chamber to ensure the firearm is unloaded.
4. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
5. While maintaining muzzle awareness and trigger discipline, load one dummy round into the magazine.
6. Insert the magazine into the magazine well.
7. Close and lock the action.
8. Unlock and open the action.
9. Remove the dummy round.
10. Apply the firearm safety device, if applicable.

Semiautomatic Long Gun With a Fixed Magazine



1. Pull the bolt back and lock it open if possible.
2. Visually and physically inspect the barrel/chamber to ensure the firearm is unloaded. Also visually and physically inspect the internal magazine to ensure it is unloaded.
3. Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.
4. While maintaining muzzle awareness and trigger discipline, load one dummy round into the magazine.
5. Close and lock the action.
6. Unlock and open the action.
7. Remove the dummy round (the dummy round should have extracted from the chamber and ejected from the breech).

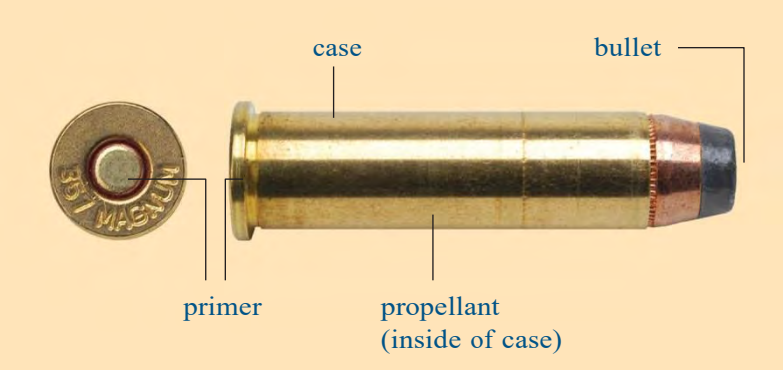
AMMUNITION

An often overlooked aspect of safe firearm operation is knowing about the ammunition you use. It is important for you to know which ammunition can be used safely in your firearm.

Ammunition Components

A firearm cartridge, commonly referred to as a "round," is a single unit of ammunition made up of four parts: the case, the primer, the propellant and the bullet.

Components of a Cartridge



The case is the metal cylinder that is closed at one end and contains the other three components.

The primer is the impact-sensitive chemical compound used for ignition. The propellant is a fast-burning chemical compound.

The bullet is the projectile fired from a firearm. It is usually made of lead, sometimes covered with a layer of copper or other metal and is located at the tip of the cartridge. People often mistakenly refer to the entire cartridge as a "bullet." Actually the bullet is just one part of a cartridge.

PHYSICS OF GUNFIRE

To understand the power of a firearm, it is helpful to know some of the physics of gunfire. The fall of the hammer causes the primer to ignite the powder, which burns to produce gases. These rapidly-expanding gases push the bullet through the barrel and toward the target. The push of gases against the firearm results in what is called recoil. Some shooters are startled by recoil. Firearms vary in how much recoil they generate. Anticipation of recoil may cause an inexperienced shooter to grasp the firearm too tightly or flinch. Shooting a firearm properly minimizes the negative effects of recoil on the shooter.

FIREARM AND AMMUNITION CALIBERS

Firearms and ammunition are made in various calibers. Firearm caliber refers to barrel diameter. Revolvers generally have the caliber information on the barrel. Semiautomatic pistols generally have the caliber information on the slide. Ammunition caliber refers to bullet diameter. Ammunition has the caliber information on the box. Some of the more common calibers are the .22, .45, and 9 mm. You must only use the caliber of ammunition recommended by the manufacturer of your firearm.





.357 Magnum



9 mm Luger



Just because a cartridge fits your firearm does not necessarily mean the cartridge is safe to shoot. A firearm may not be able to handle the pressure created by using incorrect ammunition. This could result in damage to the firearm and possible injury to yourself or bystanders.

Never shoot ammunition that is old, dirty, corroded or wet, or ammunition that cannot be fully identified. This could cause a malfunction such as a jam or a misfire, or explosion of the firearm. Never throw ammunition in the trash. Call your local refuse department and ask for proper disposal instructions.

Some ammunition is illegal. Your firearms dealer can help you identify the correct and legal ammunition for your firearm. Purchase your ammunition from an authorized ammunition dealer only.

DANGEROUS RANGE

In order to shoot a firearm safely, you need to know not only your target but also the dangerous range of your ammunition. The dangerous range is the distance that a bullet can travel. Most ammunition can travel at least a mile, with some having the capability of traveling MORE than two miles. Therefore, even though you may fire at a target only a few feet or yards away, your bullet could travel far beyond your target. As it travels, the potential for damage widens. The importance of the dangerous range is that you must consider how much farther the bullet can travel beyond the target because a bullet that misses or passes through a target could strike a person or object. If you think only of your target and not the dangerous range, you might mistakenly think someone or something is "too far away" to be in danger.

Another important point to remember is that most ammunition can easily penetrate the interior walls of a house and still travel some distance before losing its energy. High velocity or magnum ammunition has even greater penetration and distance capabilities.

Remember: Once you fire, you are responsible for any damage or injury your bullet causes.

MALFUNCTIONS

Any machine can malfunction. A firearm is no different. If your firearm malfunctions, always keep the basic safety rules in mind and do the following:

CAUTION

STOP FIRING!

KEEP THE GUN POINTED IN A SAFE DIRECTION.

WAIT TEN SECONDS.

SEEK COMPETENT HELP.

If you are at a range, the usual procedure to follow when a malfunction occurs is to keep your firearm pointed down range, keep your finger off the trigger and raise your non-shooting hand until a range official arrives. You have a potentially dangerous situation!

CHAPTER 3: Self Test

1. The importance of the "dangerous range" is that a bullet can travel far beyond the intended target. (page 27)

   True False

2. The safety on a semiautomatic pistol is not foolproof. (page 17)

   True False

3. Just because a cartridge fits into your firearm does not necessarily mean it is safe to shoot. (page 26)

   True False

4. In the case of a malfunction, you should: (page 27)

   A. Keep your finger on the trigger.
   B. Immediately drop the firearm.
   C. Try and determine where the malfunction is.
   D. Keep the gun pointed in a safe direction.

5. After ensuring a double-action revolver is pointed in a safe direction and with your finger off the trigger, you begin unloading the firearm by: (page 13)

   A. Opening the cylinder.
   B. Locking the slide back.
   C. Opening the loading gate.
   D. Pushing the magazine release.

6. Firearm or ammunition caliber refers to: (page 26)

   A. Barrel length.
   B. Magazine capacity.
   C. Barrel or bullet diameter.
   D. Bullet velocity.

7. A magazine is part of a: (page 17)

   A. Single-action revolver.
   B. Double-action revolver.
   C. Semiautomatic pistol.
   D. Single-action and a double-action revolver.

Answers: 1: True, 2: True, 3: True, 4: D, 5: A, 6: C, 7: C

CHAPTER 4
Firearm Ownership



UNDERSTAND THE SAFETY ASPECTS OF YOUR FIREARM

Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you can be fined or imprisoned if you fail to comply with them. Visit the Web site of the California Attorney General at https://oag.ca.gov/firearms for information on firearms laws applicable to you and how you can comply.

Get advice from a professional sales person on the safety aspects of the firearm you are considering buying. Select the firearm that best suits your personal needs. Ask a lot of questions! Ask about the correct ammunition for the firearm you have selected.

Become thoroughly familiar with the mechanics of the firearm you have selected. By knowing exactly how your firearm works, you are more likely to recognize any possible safety problems.

CAREFULLY READ ALL INSTRUCTIONAL MATERIAL

An owner's manual from the manufacturer of your firearm should be provided when you buy a new firearm. Manuals for used firearms usually can be obtained by writing or calling the manufacturer.

Carefully read the manual and use it to familiarize yourself with the firearm and its operation.

ENROLL IN A FIREARM TRAINING COURSE

To help you learn to drive a car you probably had some "behind the wheel" training and practice before you got your driver's license. This also applies to firearm ownership. The best way to become skilled in using and understanding how your firearm operates is to enroll in a "hands-on" training course. There are many firearm training courses that can provide additional safety information.

For information on training courses in your area, contact a local firearms dealer or firearms safety organization.

CLEANING AND REPAIR

Maintenance is part of being a responsible firearms owner. Firearms should be cleaned regularly and especially after prolonged storage. The barrel should be cleaned after every use. Accumulated moisture, dirt or grease can interfere with the efficient and safe operation of a firearm.

Firearm cleaning kits and materials can be purchased from most firearms dealers. Be aware that some firearm cleaning substances are toxic. Carefully read and follow the instructions on the cleaning products.

You should clean your firearm in a location where you will have no distractions. Before you begin, always make sure your firearm is unloaded and remove any ammunition from the cleaning area. Accidents can happen if cleaning procedures are not followed correctly and safely. Therefore, you should follow the cleaning instructions in your owner's manual and on your cleaning products. Firearms dealers or gunsmiths also are good sources for cleaning information.

Care should be taken to ensure adequate ventilation at all times to reduce the risk of inhaling lead particles. To avoid accidental ingestion of lead particles, never handle food or drink without first washing your hands. Do not smoke when exposed to lead. Wash your hands thoroughly after exposure.

Periodically inspect all firearms you own to be sure that they are in good working condition. If you notice any problems, have your firearm checked by a competent gunsmith. Any repairs should be made only by a gunsmith or the manufacturer of the firearm. You should not attempt to make any major modifications to your firearm. Some modifications are illegal and dangerous. They also could void the manufacturer's warranty.

By keeping your firearm properly maintained, you will ensure that it is safe to operate and will function reliably for many years.



SAFETY AND STORAGE DEVICES

If you decide to keep a firearm in your home you must consider the issue of how to store the firearm in a safe and secure manner. California recognizes the importance of safe storage by requiring that all firearms sold in California be accompanied by a DOJ-approved firearms safety device or proof that the purchaser owns a gun safe that meets regulatory standards established by the DOJ. The current list of DOJ-approved firearms safety devices and the gun safe standards can be viewed at the following DOJ website: http://oag.ca.gov/firearms/fsdcertlist.

There are a variety of safety and storage devices currently available to the public in a wide range of prices. Some devices are locking mechanisms designed to keep the firearm from being loaded or fired, but don't prevent the firearm from being handled or stolen. There are also locking storage containers that hold the firearm out of sight. For maximum safety you should use both a firearm safety device and a locking storage container to store your unloaded firearm.

Two of the most common locking mechanisms are trigger locks and cable locks. Trigger locks are typically two-piece devices that fit around the trigger and trigger guard to prevent access to the trigger. One side has a post that fits into a hole in the other side. They are locked by a key or combination locking mechanism. Cable locks typically work by looping a strong steel cable through the action of the firearm to block the firearm's operation and prevent accidental firing. However, neither trigger locks nor cable locks are designed to prevent access to the firearm.

Smaller lock boxes and larger gun safes are two of the most common types of locking storage containers. One advantage of lock boxes and gun safes is that they are designed to completely prevent unintended handling and removal of a firearm. Lock boxes are generally constructed of sturdy, high-grade metal opened by either a key or combination lock. Gun safes are quite heavy, usually weighing at least 50 pounds. While gun safes are typically the most expensive firearm storage devices, they are generally more reliable and secure.

Remember: Safety and storage devices are only as secure as the precautions you take to protect the key or combination to the lock.





METHODS OF CHILDPROOFING

As a responsible firearm owner, you need to be aware of the methods of childproofing your firearm, whether or not you have children.

Whenever children could be around, whether your own, or a friend's, relative's or neighbor's, additional safety steps should be taken when storing firearms and ammunition in your home.

- Always store your firearm unloaded.
- Use a firearms safety device AND store the firearm in a locked container.
- Store the ammunition separately in a locked container.

Always storing your firearm securely is the best method of childproofing your firearm; however, your choice of a storage place can add another element of safety. Carefully choose the storage place in your home especially if children may be around.

- Do not store your firearm where it is visible.
- Do not store your firearm in a bedside table, under your mattress or pillow, or on a closet shelf.
- Do not store your firearm among your valuables (such as jewelry or cameras) unless it is locked in a secure container.
- Make sure the location you store your firearm and ammunition is not easily accessible to children.
- Consider storing firearms not possessed for self-defense in a safe and secure manner away from the home.

CHAPTER 4: Self Test

1. It is important to carefully read all instructional material you receive with your firearm. (page 29)

   True False

2. Certain modifications, when made to a firearm, may void its warranty. (page 30)

   True False

3. It is safe to store a loaded firearm in your bedside table. (page 32)

   True False

4. Two common firearms safety devices are trigger locks and cable locks. (page 31)

   True False

5. Which of the following steps should be taken to "childproof" your firearm? (page 32)

   A. Use a firearms safety device AND store the firearm in a locked container.

   B. Always store your firearm unloaded.

   C. Store ammunition separately in a locked container.

   D. All of the above.

Answers: 1: True, 2: True, 3: False, 4: True, 5: D

Prohibited Firearms Transfers and Straw Purchases

What is a straw purchase?

A straw purchase is buying a gun for someone who is prohibited by law from possessing one, or buying a gun for someone who does not want his or her name associated with the transaction.

It is a violation of California law for a person who is not licensed as a California firearms dealer to transfer a firearm to another unlicensed person, without conducting such a transfer through a licensed firearms dealer. (Pen. Code, § 27545.) Such a transfer may be punishable as a felony. (Pen. Code, § 27590.)

Furthermore, it is a violation of federal law to either (1) make a false or fictitious statement on an application to purchase a firearm about a material fact, such as the identity of the person who ultimately will acquire the firearm (commonly known as "lying and buying") (18 U.S.C. 922(a)(6)), or (2) knowingly transfer a firearm to a person who is prohibited by federal law from possessing and purchasing it. (18 U.S.C. 922(d).) Such transfers are punishable under federal law by a $250,000 fine and 10 years in federal prison. (18 U.S.C. 924(a)(2).)

Things to remember about prohibited firearms transfers and straw purchases:

An illegal firearm purchase (straw purchase) is a federal crime.

An illegal firearm purchase can bring a felony conviction sentence of 10 years in jail and a fine of up to $250,000.

Buying a gun and giving it to someone who is prohibited from owning one is a state and federal crime.

Never buy a gun for someone who is prohibited by law or unable to do so.

CHAPTER 5
Firearms Laws

INTRODUCTION TO THE LAWS

As the owner of a firearm, it is your responsibility to understand and comply with all federal, state and local laws regarding firearms ownership. Many of the laws described below pertain to the possession, use and storage of firearms in the home and merit careful review. This section contains a general summary of the state laws that govern the use of firearms, particularly handguns, by persons other than law enforcement officers or members of the armed forces. It is not designed to provide individual guidance for specific situations, nor does it address federal or local laws. Persons having specific questions are encouraged to seek legal advice from an attorney, or consult their local law enforcement agency, local prosecutor or law library.

SALES AND TRANSFERS OF FIREARMS

In California, only licensed California firearms dealers are authorized to engage in retail sales of firearms. These retail sales require the purchaser to provide personal identifier information for the Dealers' Record of Sale (DROS) document that the firearms dealer must submit to the DOJ. There is a mandatory 10-day waiting period before the firearms dealer can deliver the firearm to the purchaser. During this 10-day waiting period, the DOJ conducts a firearms eligibility background check to ensure the purchaser is not prohibited from lawfully possessing firearms. Although there are exceptions, generally all firearms purchasers must be at least 21 years of age to purchase either a handgun (pistol or revolver) or a long gun (rifle or shotgun). Additionally, purchasers must be California residents with a valid driver's license or identification card issued by the California Department of Motor Vehicles.

Generally, it is illegal for any person who is not a California licensed firearms dealer (private party) to sell or transfer a firearm to another non-licensed person (private party) unless the sale is completed through a licensed California firearms dealer. "Private party transfers" can be conducted at any licensed California firearms dealership that sells firearms. The buyer and seller must complete the required DROS document in person at the licensed firearms dealership and deliver the firearm to the dealer who will retain possession of the firearm during the mandatory 10-day waiting period. In addition to the applicable state fees, the firearms dealer may charge a fee not to exceed $10 per firearm for conducting the private party transfer.

The infrequent transfer of firearms between immediate family members is exempt from the law requiring private party transfers to be conducted through a licensed firearms dealer. For purposes of this exemption, "immediate family" means parent and child, and grandparent and grandchild, but does not include other types of transfers, such as between brother and sister. Please note that the transferee must comply with the FSC requirement described below, prior to taking possession of the firearm. Within 30 days of the transfer, the transferee must also submit a report of the transaction to the DOJ. The required report form (Firearm Ownership Record BOF 4542A) can be downloaded from the DOJ's website at http://oag.ca.gov/firearms/forms.

The reclaiming of a pawned firearm is subject to the DROS and 10-day waiting period requirements.

Proof-of-Residency Requirement

To purchase a handgun in California you must present documentation indicating that you are a California resident. Acceptable documentation includes a utility bill from within the last three months, a signed residential lease, a property deed or military permanent duty station orders indicating assignment within California. The address provided on the DROS must match either the address on the proof-of-residency document or the address on the purchaser's California Driver license or Identification Card. (Pen. Code, § 26845.)

Firearm Safety Certificate Requirement

To purchase or acquire a firearm, you must have a valid FSC. To obtain an FSC, you must score at least 75% on an objective written test pertaining to firearms laws and safety requirements. The test is administered by DOJ Certified Instructors, who are generally located at firearms dealerships. An FSC is valid for five years. The fee for taking the FSC test and being issued an FSC is twenty-five dollars ($25). Firearms being returned to their owners, such as pawn returns, are exempt from this requirement. In the event of a lost, stolen or destroyed FSC, the issuing DOJ Certified Instructor will issue a replacement FSC for a fee of $5. You must present proof of identity to receive a replacement FSC. (Pen. Code, §§ 31610-31670.)

Safe Handling Demonstration Requirement

Prior to taking delivery of a firearm, you must successfully perform a safe handling demonstration with the firearm being purchased or acquired. Safe handling demonstrations must be performed in the presence of a DOJ Certified Instructor sometime between the date the DROS is submitted to the DOJ and the delivery of the firearm, and are generally performed at the firearms dealership. The purchaser, firearms dealer and DOJ Certified Instructor must sign an affidavit stating the safe handling demonstration was completed. The steps required to complete the safe handling demonstration for most firearm types is described in Chapter 3. Pawn returns and intra-familial transfers are not subject to the safe handling demonstration requirement. (Pen. Code, § 26850.)

Firearms Safety Device Requirement

All firearms (long guns and handguns) purchased in California must be accompanied with a firearms safety device (FSD) that has passed required safety and functionality tests and is listed on the DOJ's official roster of DOJ-approved firearms safety devices. The current roster of certified FSDs is available on the Bureau of Firearms website at http://oag.ca.gov/firearms/fsdcertlist. The FSD requirement also can be satisfied if the purchaser signs an affidavit declaring ownership of either a DOJ-approved lock box or a gun safe capable of accommodating the firearm being purchased. Pawn returns and intra-familial transfers are not subject to the FSD requirement. (Pen. Code, §§ 23635-23690.)

Roster of Handguns Certified for Sale in California

No handgun may be sold by a firearms dealer to the public unless it is of a make and model that has passed required safety and functionality tests and is listed on the DOJ's official roster of handguns certified for sale in California. The current roster of handguns certified for sale in California is available on the Bureau of Firearms website at http://certguns.doj.ca.gov. Private party transfers, intra-familial transfers, and pawn/consignment returns are exempt from this requirement. (Pen. Code, § 32000.)

One-Handgun-per-Thirty-Days Requirement

No person shall make an application to purchase more than one handgun within any 30-day period. Exemptions to the one-handgun-per-thirty-days requirement include pawn returns, intra-familial transfers and private party transfers. (Pen. Code, § 27540.)

Firearm Sales and Transfer Requirements

	Retail Sales	Private Party Transfers	Intra-familial Transfers	Pawn Returns
Proof-of-Residency Requirement (handguns)	Yes	Yes	No	Yes
Proof-of-Residency Requirement (long guns)*	No	No	No	No
Firearm Safety Certificate Requirement	Yes	Yes	Yes	No
Safe Handling Demonstration Requirement	Yes	Yes	No	No
Firearms Safety Device Requirement	Yes	Yes	No	No
Roster of Handguns Certified for sale in California	Yes	No	No	No
One Handgun Per 30 Days Requirement	Yes	No	No	No

*Federal requirements may apply.

NEW CALIFORNIA RESIDENT REQUIREMENT

Persons who move to California with the intention of establishing residency in this state must either report ownership of firearms to the DOJ within 60 days, or sell or transfer the firearm(s) pursuant to California law. (Pen. Code, § 28050.) Persons who want to keep their firearms must submit a New Resident Firearm Ownership Report, along with a $19 fee, to the DOJ. Forms are available at licensed firearms dealers, the Department of Motor Vehicles or on-line at the Bureau of Firearms web site at http://oag.ca.gov/firearms/forms. (Pen. Code, § 27560.)

CARRYING A CONCEALED WEAPON

Carrying a Concealed Handgun Without a License on One's Person or in a Vehicle

It is illegal for any person to carry a handgun concealed upon his or her person or concealed in a vehicle without a license issued pursuant to Penal Code section 26150. (Pen. Code, § 25400.) A firearm locked in a motor vehicle's trunk or in a locked container carried in the vehicle other than in the utility or glove compartment is not considered concealed within the meaning of the Penal Code section 25400; neither is a firearm carried within a locked container directly to or from a motor vehicle for any lawful purpose. (Pen. Code, § 25610.)

The prohibition from carrying a concealed handgun does not apply to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from the hunting expedition. (Pen. Code, § 25640.) Notwithstanding this exception for hunters or fishermen, these individuals may not carry or transport loaded firearms when going to or from the expedition. The unloaded firearms should be transported in the trunk of the vehicle or in a locked container other than the utility or glove compartment. (Pen. Code, § 25610.)

There are also occupational exceptions to the prohibition from carrying a concealed weapon, including authorized employees while engaged in specified activities. (Pen. Code, §§ 25630 & 25640.)

Licenses to Carry Concealed Weapons

A license to carry a concealed handgun or other firearm may be granted by the sheriff of the county in which the applicant resides, or the chief of the city police department of the city in which the applicant resides. Such licenses are issued only after finding that the applicant is of good moral character, that good cause exists for such a license and the applicant is not prohibited from possessing firearms. (Pen. Code, § 26150.)

Where the population of the county is less than 200,000 persons, the licensing authority may issue a license to carry a pistol, revolver or other firearm capable of being concealed upon the person, loaded and exposed. (Pen. Code, § 26150.)

Unless otherwise restricted, a license is valid throughout the state.

FIREARMS ABOARD COMMON CARRIERS

Federal and state laws generally prohibit a person from carrying any firearm or ammunition aboard any commercial passenger airplane. Similar restrictions may apply to other common carriers such as trains, ships and buses. Persons who need to carry firearms or ammunition on a common carrier should always consult the carrier in advance to determine conditions under which firearms may be transported.

FIREARMS IN THE HOME, BUSINESS OR AT THE CAMPSITE

Unless otherwise unlawful, any person over the age of 18 who is not prohibited from possessing firearms may have a loaded or unloaded firearm at his or her place of residence, temporary residence, campsite or on private property owned or lawfully possessed by the person. Any person engaged in lawful business (including nonprofit organizations) or any officer, employee or agent authorized for lawful purposes connected with the business may have a loaded firearm within the place of business if that person is over 18 years of age and not otherwise prohibited from possessing firearms. (Pen. Code, §§ 25605 & 26035.)

NOTE: If a person's place of business, residence, temporary residence, campsite or private property is located within an area where possession of a firearm is prohibited by local or federal laws, such laws would prevail.

THE USE OF LETHAL FORCE IN SELF-DEFENSE

The question of whether use of lethal force is justified in self-defense cannot be reduced to a simple list of factors. This section is based on the instructions generally given to the jury in a criminal case where self-defense is claimed and illustrates the general rules regarding the use of lethal force in self-defense.

Permissible Use of Lethal Force in Defense of Life and Body

The killing of one person by another may be justifiable when necessary to resist the attempt to commit a forcible and life-threatening crime, provided that a reasonable person in the same or similar situation would believe that (a) the person killed intended to commit a forcible and life-threatening crime; (b) there was imminent danger of such crime being accomplished; and (c) the person acted under the belief that such force was necessary to save himself or herself or another from death or a forcible and life-threatening crime. Murder, mayhem, rape and robbery are examples of forcible and life-threatening crimes. (Pen. Code, § 197.)

Limitations on the Use of Force in Self-Defense

The right of self-defense ceases when there is no further danger from an assailant. Thus, where a person attacked under circumstances initially justifying self-defense renders the attacker incapable of inflicting further injuries, the law of self-defense ceases and no further force may be used. Furthermore, a person may only use the amount of force, up to deadly force, as a reasonable person in the same or similar circumstances would believe necessary to prevent imminent injury. It is important to note the use of excessive force to counter an assault may result in civil or criminal penalties.

The right of self-defense is not initially available to a person who assaults another. However, if such a person attempts to stop further combat and clearly informs the adversary of his or her desire for peace but the opponent nevertheless continues the fight, the right of self-defense returns and is the same as the right of any other person being assaulted.

LOADED FIREARMS IN PUBLIC

It is illegal to carry a loaded firearm on one's person or in a vehicle while in any public place, on any public street, or in any place where it is unlawful to discharge a firearm. (Pen. Code, § 25850, subd. (a).)

It is illegal for the driver of any motor vehicle, or the owner of any motor vehicle irrespective of whether the owner is occupying the vehicle to knowingly permit any person to carry a loaded firearm into the vehicle in violation of Penal Code section 25850, or Fish and Game Code section 2006. (Pen. Code, § 26100.) Also, see "Miscellaneous Prohibited Acts" on next page.

In order to determine whether a firearm is loaded, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place, on any public street or in any prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to these provisions is, in itself, grounds for arrest. (Pen. Code, § 25850, subd. (b).)

The prohibition from carrying a loaded firearm in public does not apply to any person while hunting in an area where possession and hunting is otherwise lawful or while practice shooting at target ranges. (Pen. Code, §§ 26005 & 26040.)

There are also occupational exceptions to the prohibition from carrying a loaded firearm in public, including authorized employees while engaged in specified activities. (Pen. Code, §§ 26015 & 26030.)

LARGE-CAPACITY MAGAZINES

It is generally illegal to manufacture, offer for sale, give, lend, buy, or receive any large-capacity magazine or any large-capacity conversion kit that is capable of converting an ammunition feeding device into a large-capacity magazine. (Pen. Code, §§ 32310 & 32311.)

FIREARM STORAGE DURING PROHIBITION

A person who is prohibited from owning or possessing a firearm can transfer his or her firearm(s) to a licensed firearms dealer for storage for the duration of the prohibition, provided the prohibition will end on a date specified in a court order. (Pen. Code, § 29830.)

MISCELLANEOUS PROHIBITED ACTS

Obliteration or Alteration of Firearm Identification

It is illegal for any person to obliterate or alter the identification marks placed on any firearm including the make, model, serial number or any distinguishing mark lawfully assigned by the owner or by the DOJ. (Pen. Code, § 23900.)

It is illegal for any person to buy, sell or possess a firearm knowing its identification has been obliterated or altered. (Pen. Code, § 23920.)

Openly Carrying an Unloaded Handgun

It is generally illegal for any person to carry upon his or her person or in a vehicle, an exposed and unloaded handgun while in or on:

- A public place or public street in an incorporated city or city and county; or
- A public street in a prohibited area of an unincorporated city or city and county. (Pen. Code, § 26350.)

Unauthorized Possession of a Firearm on School Grounds

It is illegal for any unauthorized person to possess or bring a firearm upon the grounds of, or into, any public school, including the campuses of the University of California, California State University campuses, California community colleges, any private school (kindergarten through 12th grade) or private university or college. (Pen. Code, § 626.9.)

Unauthorized Possession of a Firearm in a Courtroom, the State Capitol, etc.

It is illegal for any unauthorized person to bring or possess any firearm within a courtroom, courthouse, court building or at any meeting required to be open to the public. (Pen. Code, § 171b.)

It is illegal for any unauthorized person to bring or possess a loaded firearm within (including upon the grounds of) the State Capitol, any legislative office, any office of the Governor or other constitutional officer, any Senate or Assembly hearing room, the Governor's Mansion or any other residence of the Governor or the residence of any constitutional officer or any Member of the Legislature. For these purposes, a firearm shall be deemed loaded whenever both the firearm and its unexpended ammunition are in the immediate possession of the same person. (Pen. Code, §§ 171c, 171d, & 171e.)

Drawing or Exhibiting a Firearm

If another person is present, it is illegal for any person, except in self defense, to draw or exhibit a loaded or unloaded firearm in a rude, angry or threatening manner or in any manner use a firearm in a fight or quarrel. (Pen. Code, § 417.)

Threatening Acts with a Firearm on a Public Street or Highway

It is illegal for any person to draw or exhibit a loaded or unloaded firearm in a threatening manner against an occupant of a motor vehicle which is on a public street or highway in such a way that would cause a reasonable person apprehension or fear of bodily harm. (Pen. Code, § 417.3.)

Discharge of a Firearm in a Grossly Negligent Manner

It is illegal for any person to willfully discharge a firearm in a grossly negligent manner which could result in injury or death to a person. (Pen. Code, § 246.3.)

Discharge of a Firearm at an Inhabited/Occupied Dwelling, Building, Vehicle, Aircraft

It is illegal for any person to maliciously and willfully discharge a firearm at an inhabited dwelling, house, occupied building, occupied motor vehicle, occupied aircraft, inhabited house car or inhabited camper. (Pen. Code, § 246.)

Discharge of a Firearm at an Unoccupied Aircraft, Motor Vehicle, or Uninhabited Building or Dwelling

It is illegal for any person to willfully and maliciously discharge a firearm at an unoccupied aircraft. It is illegal for any person to discharge a firearm at an unoccupied motor vehicle, building or dwelling. This does not apply to an abandoned vehicle, an unoccupied motor vehicle or uninhabited building or dwelling with permission of the owner and if otherwise lawful. (Pen. Code, § 247.)

Discharge of a Firearm from a Motor Vehicle

It is illegal for any person to willfully and maliciously discharge a firearm from a motor vehicle. A driver or owner of a vehicle who allows any person to discharge a firearm from the vehicle may be punished by up to three years imprisonment in state prison. (Pen. Code, § 26100.)

Criminal Storage

"Criminal storage of firearm of the first degree" – Keeping any loaded firearm within any premises that are under your custody or control and you know or reasonably should know that a child (any person under 18) or a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child or prohibited person obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person. (Pen. Code, § 25100, subd. (a).)

"Criminal storage of firearm of the second degree" – Keeping any loaded firearm within any premises that are under your custody or control and you know or reasonably should know that a child (any person under 18) or a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child or prohibited person obtains access to the firearm and thereby causes injury, other than great bodily

injury, to himself, herself, or any other person, or carries the firearm either to a public place or in violation of Penal Code section 417. (Pen. Code, § 25100, subd. (b).)

"Criminal Storage of firearm of the third degree" – Keeping any loaded firearm within any premises that are under your custody or control and negligently storing or leaving a loaded firearm in a location where you know or reasonably should know that a child (any person under 18) is likely to gain access to the firearm without the permission of the child's parent or legal guardian, unless you have taken reasonable action to secure the firearm against access by the child. (Pen. Code, § 25100, subd. (c).)

None of the criminal storage offenses (first degree, second degree, third degree) shall apply whenever the firearm is kept in a locked container or locked with a locking device that has rendered the firearm inoperable. (Pen. Code, § 25105.)

Sales, Transfers and Loans of Firearms to Minors

Generally, it is illegal to sell, supply, deliver, or give possession of any firearm, either a handgun or a long gun, to a person under 21 years of age. (Pen. Code, § 27510.)

Possession of a Handgun or Live Ammunition by Minors

It is unlawful for a minor to possess a handgun or live ammunition unless one of the following circumstances exists:

- The minor is accompanied by his or her parent or legal guardian and the minor is actively engaged in a lawful recreational sporting, ranching or hunting activity, or a motion picture, television or other entertainment event;
- The minor is accompanied by a responsible adult and has prior written consent of his or her parent or legal guardian and is involved in one of the activities cited above; or
- The minor is at least 16 years of age, has prior written consent of his or her parent or legal guardian, and the minor is involved in one of the activities cited above. (Pen. Code, §§ 29610-29655.)

PERSONS INELIGIBLE TO POSSESS FIREARMS

The following persons are prohibited from possessing firearms (Pen. Code, §§ 29800-29825, 29900; Welf. & Inst. Code, §§ 8100, 8103.):

Lifetime Prohibitions

- Any person convicted of any felony or any offense enumerated in Penal Code section 29905.
- Any person convicted of an offense enumerated in Penal Code section 23515.
- Any person with two or more convictions for violating Penal Code section

417, subdivision (a)(2).

- Any person adjudicated to be a mentally disordered sex offender. (Welf. & Inst. Code, § 8103, subd. (a)(1).)
- Any person found by a court to be mentally incompetent to stand trial or not guilty by reason of insanity of any crime, unless the court has made a finding of restoration of competence or sanity. (Welf. & Inst. Code, § 8103, subd. (b)(1), (c)(1), & (d)(1).)

10-Year Prohibitions

- Any person convicted of a misdemeanor violation of the following: Penal Code sections 71, 76, 136.5, 140, 148 (d), 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 830.95(a), 17500, 17510(a), 25300, 25800, 27510, 27590(c), 30315, or 32625, and Welfare and Institutions Code sections 871.5, 1001.5, 8100, 8101, or 8103.

5-Year Prohibitions

- Any person taken into custody as a danger to self or others, assessed, and admitted to a mental health facility under Welfare and Institutions Code sections 5150, 5151, 5152; or certified under Welfare and Institutions Code sections 5250, 5260, 5270.15.

Juvenile Prohibitions

- Juveniles adjudged wards of the juvenile court are prohibited until they reach age 30 if they committed an offense listed in Welfare and Institutions Code section 707, subdivision (b).

Miscellaneous Prohibitions

- Any person denied firearm possession as a condition of probation pursuant to Penal Code section 29900, subdivision (c).
- Any person charged with a felony offense, pending resolution of the matter. (18 U.S.C. § 922(g).)
- Any person while he or she is either a voluntary patient in a mental health facility or under a gravely disabled conservatorship (due to a mental disorder or impairment by chronic alcoholism) and if he or she is found to be a danger to self or others. (Welf. & Inst. Code, § 8103, subd. (e).)
- Any person addicted to the use of narcotics. (Pen. Code, § 29800, subd. (a).)
- Any person who communicates a threat (against any reasonably identifiable victim) to a licensed psychotherapist which is subsequently reported to law enforcement, is prohibited for five years. (Welf. & Inst. Code, § 8104, subd. (c).)
- Any person who is subject to a protective order as defined in Family Code section 6218, Penal Code section 136.2, or a temporary restraining order issued pursuant to Code of Civil Procedure sections 527.6 or 527.8.



CHAPTER 5: Self Test

1. It is illegal for a person convicted of any felony offense to possess a firearm. (page 43)

   True False

2. To legally give a firearm to your best friend as a birthday gift, you must complete the transfer of the firearm through a licensed firearms dealer. (page 35)

   True False

3. It is illegal to lend a firearm to a minor without the permission of the minor's parent or legal guardian. (page 43)

   True False

4. Generally, a person may legally have a loaded firearm, if otherwise lawful, at his or her campsite. (page 39)

   True False

5. It is illegal to buy, sell or possess a firearm knowing its identification marks have been erased or altered. (page 41)

   True False

Answers: 1: True, 2: True, 3: True, 4: True, 5: True

Safe Handling Demonstration Glossary

Action: A series of moving parts that allow a firearm to be loaded, fired and unloaded.

Barrel: The metal tube through which a bullet passes on its way to a target.

Breech: The part of a firearm at the rear of the barrel.

Bullet: The projectile located at the tip of the cartridge case.

Caliber: The bullet or barrel diameter.

Cartridge: A single unit of ammunition made up of the case, primer, propellant and bullet.

Cartridge Case: A container for all other components which comprise a cartridge.

Chamber: The rear part of a gun barrel where the cartridge is located when the gun is loaded.

Cylinder: The part of a revolver that holds ammunition in individual chambers.

Cylinder Latch: A latch on double-action revolvers that allows the cylinder to swing out.

Double-Action: A type of firearm action in which a single pull of the trigger both cocks the hammer and releases it.

Dummy Round: A bright orange, red or other readily identifiable dummy round or an inert cartridge without powder and primer.

Ejector Rod: The part used to remove cartridges from the cylinder.

Grip: The handle of the firearm.

Hammer: The part of the firing mechanism which strikes the firing pin or primer.

Jam: A malfunction that prevents a firearm from firing properly.

Magazine: A separate box-like metal container for semi-automatic pistols into which cartridges are loaded.

Magazine Release: A device that releases the magazine so that it can be removed from the firearm.

Magazine Well: The opening in a firearm into which a magazine is inserted.

Muzzle: The front end of the barrel from which a bullet exits.

Revolver: A firearm that has a rotating cylinder containing a number of chambers.

Round: See cartridge.

Safety: A device on a firearm intended to help provide protection against accidental discharge under normal usage when properly engaged.

Semiautomatic pistol: A firearm that fires a single cartridge each time the trigger is pulled, and which automatically extracts and ejects the empty cartridge case and reloads the chamber.

Single-action: A type of firearm action in which pulling the trigger causes the hammer to release.

Trigger Guard: Located on the underside of the gun, the trigger guard is a rigid loop which particularly surrounds the trigger to prevent damage or accidental discharge.

If you have any comments or suggestions regarding this publication, please send them to:

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Bureau of Firearms / FSC Unit
P.O. Box 160367
Sacramento, CA 95816-0367

or via our website at
http://oag.ca.gov/firearms

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION (formerly, THE CALGUNS FOUNDATION); and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF MATTHEW BEEBE IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, Matthew Beebe, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I am 39 years old, resident of Fallbrook, California. I am the owner and operator of the federally-licensed firearms dealer, Beebe Family Arms and Munitions (Beebe Arms), located at 1032 South Main Avenue, in Fallbrook, California 92028. As owner and operator of Beebe Arms, I am authorized to speak on behalf of the company.

3. Due to Defendants' enforcement of the prohibition against selling, supplying, delivering, or giving possession or control of a firearm to any person under 21 years of age, and my fear of criminal prosecution, Beebe Arms has been directly and adversely harmed by not being able to lawfully sell any firearm to young adults ages 18 to 20. For example, Beebe Arms has been forced to prevent Plaintiff Thomas Furrh from purchasing a firearm for self-defense and other lawful purposes. Further, Beebe Arms has been forced to prohibit, and has prohibited, other young adults ages 18 to 20 from purchasing firearms and attending various firearms classes hosted by Beebe Arms, or risk substantial criminal penalties. As a direct result, Beebe Arms has sustained financial harm, injury, and losses from the sale of otherwise lawful goods and services. Beebe Arms brings this action on behalf of itself, and other similarly situated licensed firearms retailers in California.

5. California's age-based gun ban also prevents Beebe Arms from offering hunter education classes to adults ages 18 to 20 who wish to comply with Penal Code section 27510's exemption. The exemption allows individuals over 18 to acquire long guns (*e.g.*, shotguns, rifles) if they possess a valid, unexpired hunting license issued by the Department of Fish and Wildlife; however, to obtain a hunter's license, other California laws require the prospective license holder to take a hunter education class. Consistent with California law, the hunter's education class requires that students handle and demonstrate the safe handling of a firearm. Because California's age-based gun ban prevents Beebe Arms from selling, supplying, delivering, or giving *possession or control* of a firearm to anyone under 21 years of age, Beebe Arms cannot lawfully provide the necessary instruction because of the law's prohibition on possessing and controlling firearms – elements essential to the hunter education class.

6. Beebe Arms has had to deny numerous potential customers due solely to their age from purchasing firearms and from taking any of our firearms education courses. As long as this law is in effect, Beebe Arms is unlawfully forced to deny individuals their Second Amendment rights.

7. Beebe Arms brings this case on behalf of itself, and as a representative of a class of similar individuals consisting of licensed California retailers too numerous to individually name or include as parties to this action. They are licensed firearms retailers in California that are injured because they are now prohibited from selling, supplying, delivering, or giving possession or control of a firearm to any person under

21 years of age, who would otherwise be permitted to lawfully purchase, rent, possess, control, and acquire firearms.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on September 9, 2019.

Matthew Beebe

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF JOHN W. DILLON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 1 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

I, John W. Dillon, declare as follows:

1. I have personal knowledge of the facts stated herein and, if called as a witness, could and would competently testify to such facts.

2. I have personally verified the documents described below and used the factual information within each document in the drafting of the Points and Authorities in Support of Plaintiffs' Preliminary Injunction motion.

3. Attached hereto as **Exhibit 1** is a true and correct copy of the U.S. Department of Justice, Office of Justice Programs, "Bureau of Justice Statistics Special Report: Age Patterns of Victims of Serious Violent Crime" ("BJS Report").

4. Attached hereto as **Exhibit 2** is a true and correct copy of the United States Secret Service National Threat Assessment Center: *Mass Attacks in Public Space – 2018*, Department of Homeland Security, Published July 2019.

5. Attached hereto as **Exhibit 3** is a true and correct copy of *School Climate and Safety*, 2015-16 Civil Rights Data Collection, Data Highlights on School Climate and Safety in Our Nation's Public Schools, U.S. Department of Education Office for Civil Rights.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the digital article, *More than 228,000 students have experienced gun violence at school since Columbine*, The Washington Post's database of school shootings, The Washington Post. Updated May 8, 2019. Available at: https://www.washingtonpost.com/graphics/2018/local/school-shootings-database/.

7. Attached hereto as **Exhibit 5** is a true and correct copy of the digital article, *Three Decades of School Shootings: An Analysis* – A comprehensive review of nearly three dozen mass shootings, including Columbine, reveals some notable similarities, Tawnell D. Hobbs, The Wall Street Journal, published April 19, 2019. Available at: https://www.wsj.com/graphics/school-shooters-similarities/.

8. Attached hereto as **Exhibit 6** is a true and correct copy of the digital article, *Everything We Know About The San Bernardino Terror Attack Investigation So Far*, Los Angeles Times, published December 14, 2015. Available at: https://www.latimes.com/local/california/la-me-san-bernardino-shooting-terror-investigation-htmlstory.html.

9. Attached hereto as **Exhibit 7** is a true and correct highlighted copy of the U.S. Department of Homeland Security, United States Secret Service, National Threat Assessment Center: Protecting America's Schools – A U.S. Secret Service Analysis of Targeted School Violence, Published 2019.

10. Attached hereto as **Exhibit 8** is a true and correct highlighted copy of the Federal Bureau of Investigation, Criminal Justice Information Services Division, 2018 Crime in the United States data tables; including (i) Expanded Homicide Data Table 3 – Murder: Offenders by age, sex, race, and ethnicity, 2018; (ii) Expanded Homicide Data Table 5 – Murder: Age of Victim by Age of Offender, 2018; (iii) Expanded Homicide Data Table 6 – Murder: Race, Sex, and Ethnicity of Victim by Race, Sex, and Ethnicity of Offender, 2018; (iv) Expanded Homicide Data Table 8 – Murder

Victims by Weapon, 2014-2018; (v) Expanded Homicide Data Table 9 – Murder Victims by Age: by weapon, 2018; and (vi) Table 20 – Murder: By State, Types of Weapons Used.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on November 12, 2019.



John W. Dillon

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3	*School Climate and Safety*, 2015-16 Civil Rights Data Collection, Data Highlights on School Climate and Safety in Our Nation's Public Schools, U.S. Department of Education Office for Civil Rights	0052 – 0070
4	*More than 228,000 students have experienced gun violence at school since Columbine*, The Washington Post's database of school shootings, The Washington Post	0071 – 0078
5	*Three Decades of School Shootings: An Analysis* – Tawnell D. Hobbs, The Wall Street Journal, published April 19, 2019	0079 - 0089
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EXHIBIT "1"

U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Statistics
Special Report

July 1997, NCJ-162031

Age Patterns of Victims of Serious Violent Crime

By Craig A. Perkins
BJS Statistician

Vulnerability to violent crime victimization varies across the age spectrum. The victimization rate increases through the teenage years, crests at around age 20, and steadily decreases through the remaining years. This pattern, with some exceptions, exists across all race, sex, and ethnic groups.

For 1992-94, the rate of serious violent crime ranged from 37 per 1,000 persons age 12 to 14, to 50 per 1,000 persons age 18 to 21, to 3 violent crimes per 1,000 persons age 65 or older. Crime rates for individuals age 18 to 21 were 17 times higher than for persons age 65 or older.

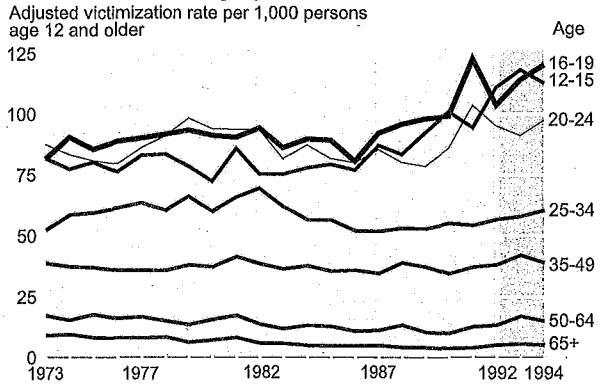
This report examines serious violent crime across different age groups, focusing on persons younger than 25 from 1992 through 1994. It highlights key facts about serious violent crime, grouped by age, race, and sex.

Serious violent crimes include rape and sexual assault, robbery, and aggravated assault, as measured by the National Crime Victimization Survey (NCVS), and murders from data reported by law enforcement agencies to the FBI.

Highlights

- Persons age 12 to 24 comprised:
  - 22% of the population,
  - 35% of murder victims, and
  - 49% of serious violent crime victims.
- Persons age 25 to 49 constituted:
  - 47% of the population,
  - 53% of murder victims, and
  - 44% of serious violent crime victims.
- Persons age 50 or older made up:
  - 30% of the population,
  - 12% of murder victims, and
  - 7% of serious violent crime victims.
- Persons age 18 to 21 were the most likely to experience a serious violent crime, and blacks in that age group were the most vulnerable:
  - 72 victimizations per 1,000 blacks,
  - 50 victimizations per 1,000 Hispanics, and
  - 46 victimizations per 1,000 whites.
- More than 52% of all rape/sexual assault victims were females younger than 25.
- Almost 1 in 10 murder victims age 18 to 21 were black.

Violent crime rates by age



Note: Violent crimes included are homicide, rape, robbery, and both simple and aggravated assault. The light gray area indicates that because of changes made to the victimization survey, data prior to 1992 are adjusted to make them comparable to data collected under the redesigned methodology. The adjustment methods are described in *Criminal Victimization 1973-95*.

The Bureau of the Census, under the supervision of the Bureau of Justice Statistics (BJS), conducts the NCVS which interviews approximately 50,000 households. Annually the NCVS measures crimes not reported as well as those reported to police.

Each year between 1992 and 1994, U.S. residents age 12 or older experienced about 4.3 million serious violent victimizations on average. Persons age 12 to 24 suffered about 49% (2 million) of the total, although they made up less than a quarter of the U.S. population age 12 or older. Individuals age 40 or older were 47% of the general population but sustained 19% of the serious violent victimizations.

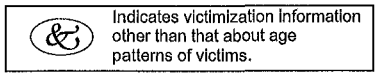
Persons younger than 25 were the most vulnerable to serious violent crime, regardless of how age patterns were analyzed. Rates controlling for population show the young with the highest number of victimizations per 1,000 individuals. Considering only adolescents and adults, the average age of violent crime victims is almost 11 years below the average age of the whole population, because of the overrepresentation of the young among crime victims.

The *Highlights* graph of trends presents age categories usually used in BJS reports; however, the remaining findings have age groupings identified with stages of life in the United States. This modified grouping is meant to help account for different life styles:

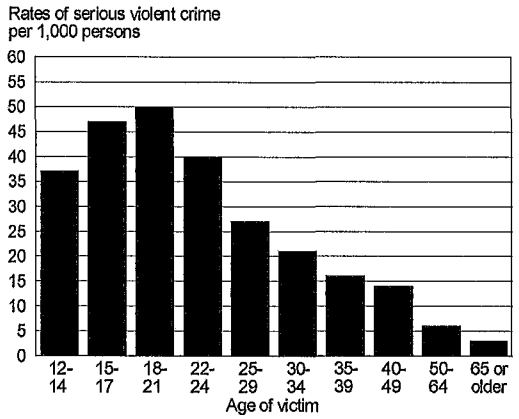
- Persons age 12 to 14 are generally in junior high school.
- Youth age 15 to 17 are in high school.
- Ages 18 to 21 include persons who have left high school and are enrolled in college or technical school or are seeking or starting jobs.
- Young adults age 22 to 24 are those individuals who have left college and are just beginning a career.
- Persons age 65 or older represent residents who have probably retired.

Also, there are too few sampled cases to analyze the age distribution of minority victims of rape or sexual assault (an estimated 1.1 million rapes of white non-Hispanic females, 236,000 rapes of black non-Hispanic females, and 121,000 rapes of Hispanic females for the 3-year period).

Although Hispanics are not a race, they are presented as a separate category within the racial categories.



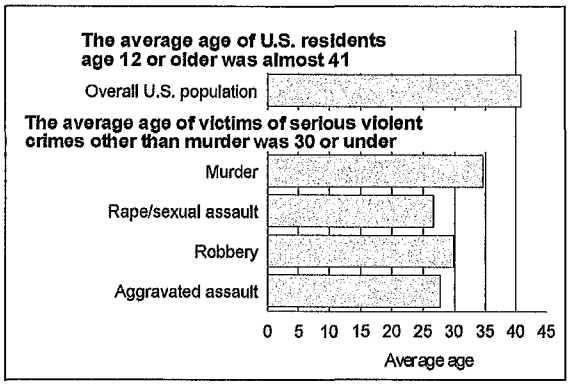
All serious violent crimes: Murder, rape, sexual assault, robbery, and aggravated assault



Rates of serious violent crime for 18-21 year olds — 17 times higher than for persons age 65 or older.

Persons between ages 12 and 24 — less than a fourth of the U.S. population age 12 or older, almost half of all serious victimizations.

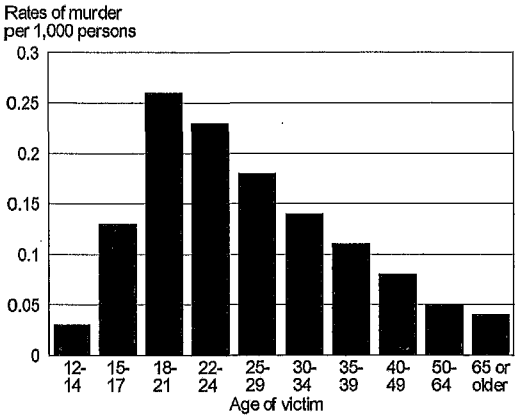
Persons age 40 or older — almost half of the population age 12 or older, less than a fifth of the serious violent victimizations.



On average each year, from 1992 to 1994, about 1 in 50 persons fell victim to a serious violent crime; among persons age 12 to 24, 1 in 23.

	Number of persons in the population for each victim				
Age of victim	All serious violent crime	Murder	Rape/ sexual assault	Robbery	Aggravated assault
Total	**50**	**9,241**	**416**	**164**	**86**
12 to 24	23	5,945	168	83	39
25 to 34	42	6,170	378	132	73
35 to 49	67	10,891	591	219	116
50 or older	424	23,376	4,272	494	424

Murder

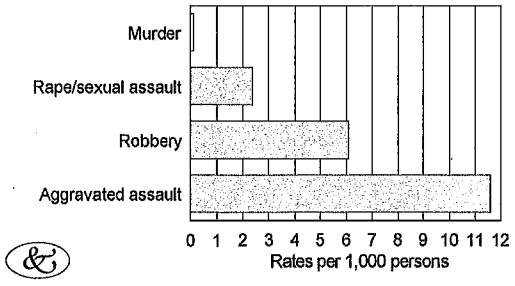


Persons under age 25 — 22% of the general population — account for 35% of murder victims.

The youngest and oldest of the population had the lowest rates of murder — less than 0.05 per 1,000 persons.

The pattern of murder victims resembles that of victims of other serious violent crimes — rates increasing from the very young, cresting at ages 18 to 21, then decreasing.

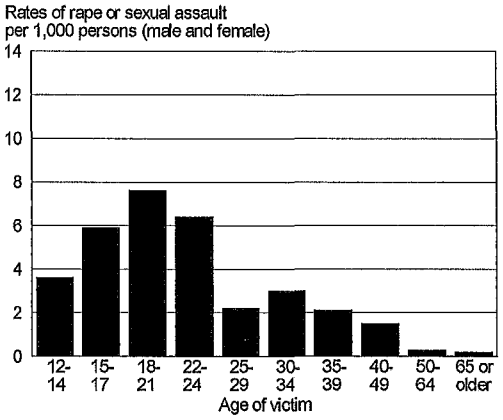
Murder, the least frequent violent crime, victimized fewer than 1 in 1,000 persons, age 12 or older



Victims of murder, on average, were the oldest of serious violent crime victims. Over half of all murder victims were age 30 or younger (compared with age 25 for victims of other serious violent crimes).

Serious violent offense	Median age of victim
Murder	**29**
Rape/sexual assault	23
Robbery	26
Aggravated assault	25

Rape or sexual assault



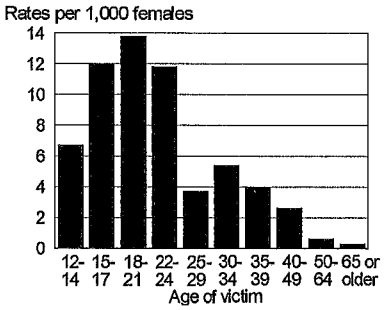
Slightly more than a fifth of all rape/sexual assault victims were age 18 to 21. The average age for victims was 27.

Rates of rape/sexual assault for individuals 18 to 21 were almost 2½ times higher than those for age 25 to 29.

Persons age 50 or older — almost a third of the general population age 12 or older — comprised 3% of rape/sexual assault victims.

Rape or sexual assault (female)

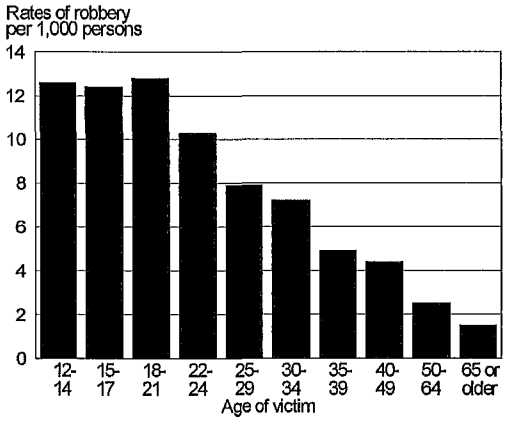
1 in 89 females 12-24 were rape/sexual assault victims



Persons under 25 made up almost 50% of everyone suffering a serious violent crime and almost 56% of rape/sexual assault victims.

Age of victim	Percent of population	Percent of victims: All violent crime	Percent of victims: Rape/sexual assault	Percent of victims: Robbery
Total	100%	100%	100%	100%
12 to 14	5%	10%	8%	11%
15 to 17	5	12	12	10
18 to 21	7	17	21	14
22 to 24	5	11	14	9
25 to 29	9	13	9	12
30 to 34	11	11	13	12
35 to 39	10	8	9	8
40 to 49	17	12	10	12
50 to 64	16	5	2	6
65 or older	15	2	1	4

Robbery

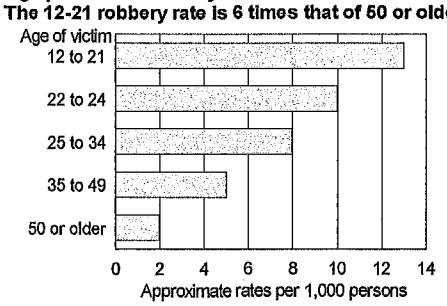


Robbery is completed or attempted theft, directly from a person, by force or threat of force, with or without a weapon, and with or without injury.

Half of all robbery victims were age 26 or younger; the most vulnerable to robbery were the young.

Persons age 21 or younger — slightly less than a fifth of the general population — suffered close to half of all robberies.

Age patterns of robbery victims fall into 6 distinct ranges: The 12-21 robbery rate is 6 times that of 50 or older.

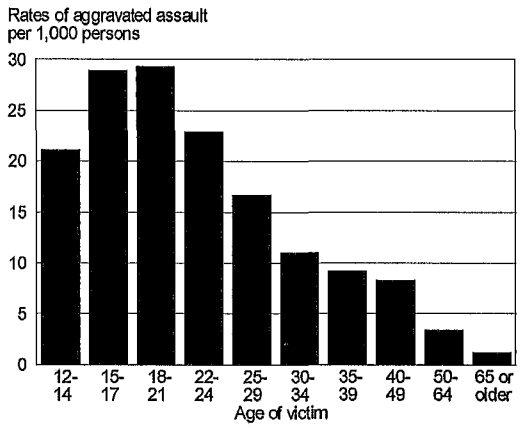


1 in every 79 persons age 12 to 21 were robbery victims, compared to 1 in every 211, age 22 or older.

Between 1992 and 1994, U.S. residents age 12 or older experienced an annual average of about 1.3 million robberies.

The average number of robberies each year was —
457,000 among persons age 12-21
118,000 for age 22-24
319,000 for age 25-34
263,000 for age 35-49, and
130,000 for age 50 or older.

Aggravated assault



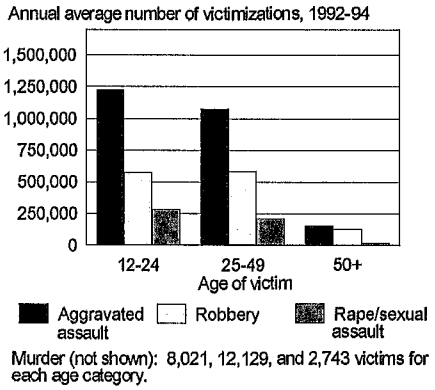
Aggravated assault includes attacks with a weapon, with or without injury and attacks without a weapon that result in serious injury such as broken bones, loss of teeth, internal injuries, or loss of consciousness — or an undetermined injury requiring 2 or more days of hospitalization.

Aggravated assault, the most frequent serious violent crime, made up over half of all such crimes.

On average between 1992 and 1994, about 1 in every 2 persons who reported an aggravated assault was younger than 25.

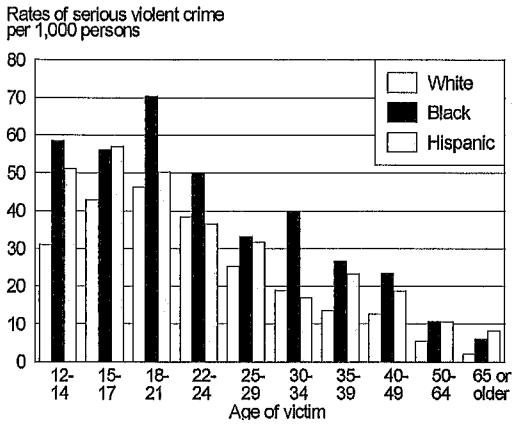
Persons age 50 or older — almost a third of the population over age 11 — were 6% of aggravated assault victims.

Each year 1992-94, on average, persons age 12 to 24 sustained about 1,200,000 aggravated assaults, compared to 1,100,000 for persons age 25 to 49, and 151,000 for those 50 or older.



Murder (not shown): 8,021, 12,129, and 2,743 victims for each age category.

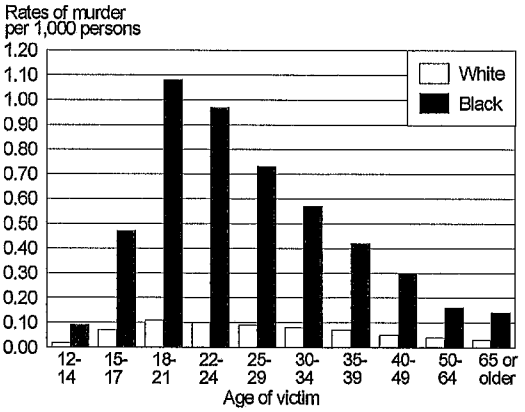
Serious violent crime, by race and Hispanic origin



Blacks and Hispanics across all age groups were more at risk from violence than whites of comparable age — 1 in 30 blacks, 1 in 35 Hispanics, and 1 in 58 whites, from 1992 to 1994.

For 18-to-21 year olds, 1 in 14 blacks, 1 in 20 Hispanics, and 1 in 22 whites experienced a serious violent victimization.

Murder, by race



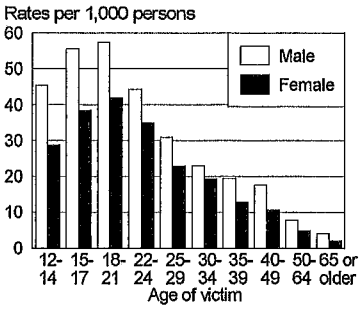
For whites and blacks, persons 18 to 21 were most at risk of becoming a murder victim.

Murder rates for blacks were 8 times higher than for whites — 1 in every 894 and 1 in every 7,334 persons, respectively.

Blacks, about 12% of general population, comprised 51% of murder victims. Almost 1 in 10 of black murder victims were age 18 to 21.

Serious violent crime, by sex of victim

1 in 41 males and 1 in 62 females were violent crime victims



Blacks and to a lesser degree Hispanics were over-represented among victims, relative to their proportion of the general population age 12 or older.

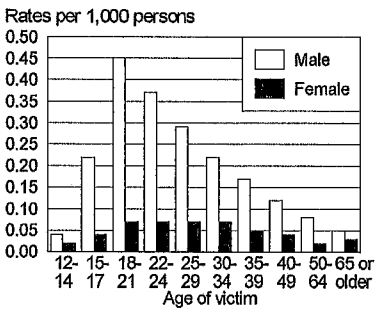
Racial/ethnic groups	Percent: Population age 12 or older	Percent: Victims of serious violence	Rates per 1,000
Total	**100%**	**100%**	**20**
White	77%	65%	17
Black	12	20	34
Other	3	4	24
Hispanic	8	12	29

Note: Whites, blacks, and others exclude Hispanics.



Murder, by sex of victim

1 in 10 murder victims were males, 18 to 21



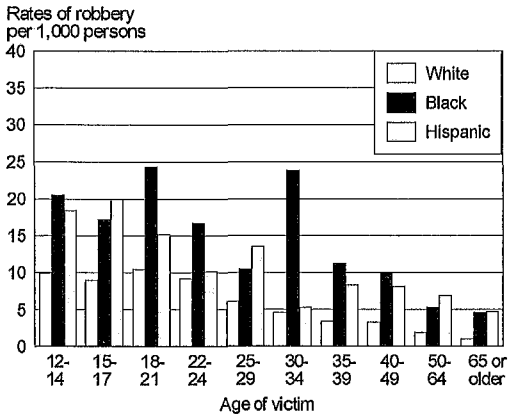
Murder rates for males 18 to 21 were 6 times higher than for their female counterparts. Rates for men 65 or older were 1½ times higher than for their female counterparts.

The average age for male murder victims was 32, compared to the female murder victim's average age of 37.

White murder victims had an average age of 35, while black murder victims had an average age of 30.

Over half of black murder victims were 29 or younger, compared to over half of white victims, 32 or older.

Robbery, by race and Hispanic origin



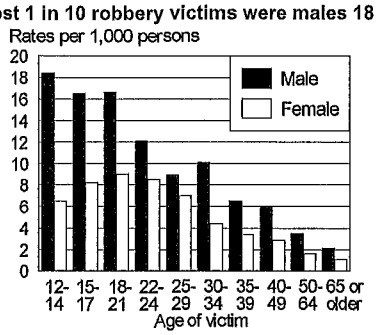
Blacks and Hispanics under age 22 had robbery rates approximately twice those for whites — 1 in 48, 1 in 57, and 1 in 101 respectively, from 1992 to 1994.

Robbery rates for blacks peaked twice, for ages 18 to 21 and 30 to 34, at 24 robberies per 1,000 blacks — at 5 times the rate for age 50 or older, 5 per 1,000.

The average age for robbery victims was about 30 for whites and blacks, and 28 for Hispanics.

Robbery, by sex of victim

Almost 1 in 10 robbery victims were males 18 to 21



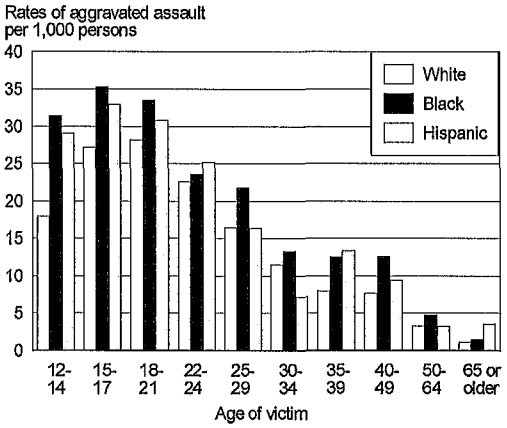
Boys 12 to 14 and young women 18 to 21 reported the highest rates for robbery.

About 1 in every 54 boys age 12 to 14 was a robbery victim, compared to 1 in every 473 men age 65 or older.

The average ages for male and female robbery victims were at least 10 years younger than the average age of males and females in the general population.

	Average age	
	Male	Female
General population 12 or older	40 yrs	42 yrs
Robbery victims	30	31

Aggravated assault, by race and Hispanic origin



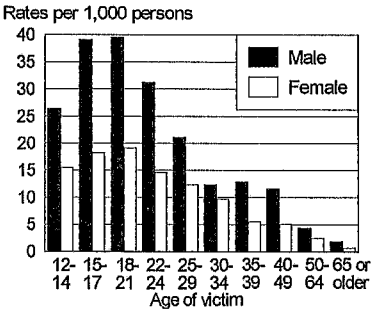
Slightly more than 1 in every 60 blacks, 1 in every 63 Hispanics, and 1 in every 96 whites were aggravated assault victims.

Blacks and Hispanics — 20% of the general population — were about 28% of aggravated assault victims .

The average age of aggravated assault victims was 25 for Hispanics, 26 for blacks, and 29 for whites.

Aggravated assault, by sex of victim

For 18 to 21, men twice as likely as women to be victimized



Minority victims of aggravated assault were relatively younger than white victims.

Aggravated assault victims' race and age	Percent of population		Rates per 1,000
	General	Victim	
White	**100%**	**100%**	**10**
12 to 24	20	47	24
25 to 34	19	25	14
35 to 49	27	21	8
50 or older	33	7	2
Black	**100%**	**100%**	**17**
12 to 24	28	53	31
25 to 34	22	23	17
35 to 49	27	20	13
50 or older	23	5	3
Hispanic	**100%**	**100%**	**16**
12 to 24	33	61	29
25 to 34	26	19	12
35 to 49	24	17	11
50 or older	17	4	3

Methodology

Except for homicide data provided by the Uniform Crime Reports, the tables in this report include data from the redesigned National Crime Victimization Survey (NCVS) for 1992, 1993, and 1994. The NCVS obtains information about crimes, including incidents not reported to police, from a continuous, nationally representative sample of households in the United States. Approximately 50,000 individuals age 12 or older are interviewed for the survey annually.

Calculations of NCVS rates

The rates in this report were annual average rates for 1992-94. The numerator of a given rate was the sum of the estimated victimizations that occurred for all three years for each respective demographic group; the denominator was the sum of the annual population totals for these same years and demographic groups.

Calculations of NCVS ratios

The ratios in this report were annual average ratios. The numerator of the given ratio was the sum of the annual population totals for all 3 years for each respective demographic group; the denominator was the sum of the estimated victimizations that occurred for all 3 years for each demographic group.

Application of standard errors

The results presented in this report were tested to determine whether the observed difference between groups was statistically significant. Comparisons mentioned in the report passed a hypothesis test at the .05 level of statistical significance (or the 95-percent confidence level), meaning that the estimated difference between comparisons was greater than twice the standard error of the difference.

Although the data in this report were collected over 3 years, some estimates were based on a relatively small number of sample cases, particularly for certain demographic groups.

Caution should be used when comparing estimates not discussed in the text because since seemingly large differences may not be statistically significant.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Special Reports address a specific topic in depth from one or more datasets that cover many topics.

Craig A. Perkins wrote this report. Patsy Klaus provided analytical and programming assistance; Cathy Maston provided statistical review; and Diane Craven reviewed the computer programs. Rhonda Keith produced and edited the report, supervised by Tom Hester. Marilyn Marbrook, assisted by Jayne Robinson and Yvonne Boston, administered final production.

July 1997, NCJ-162031

Links to the data for the graphics of this report can be immediately accessed and viewed on the Internet. This report and many of its data, as well as other reports and statistics, are found at the Bureau of Justice Statistics Internet World Wide Web site:
http://www.ojp.usdoj.gov/bjs/

Violent crime rates by age

Adjusted victimization rate per 1,000 persons, age 12 and older

Year	Age of victim						
	12-15	16-19	20-24	25-34	35-49	50-64	65+
1973	81.8	81.7	87.6	52.4	38.8	17.2	9.1
1974	77.5	90.6	83.5	58.6	37.5	15.5	9.5
1975	80.3	85.7	80.9	59.5	36.9	17.8	8.3
1976	76.4	88.8	79.7	61.5	35.9	16.1	8.1
1977	83.0	90.2	86.2	63.5	35.8	16.8	8.0
1978	83.7	91.7	91.1	60.5	35.8	15.0	8.4
1979	78.5	93.4	98.4	66.3	38.2	13.6	6.2
1980	72.5	91.3	94.1	60.0	37.4	15.6	7.2
1981	86.0	90.7	93.7	65.8	41.6	17.3	8.3
1982	75.6	94.4	93.8	69.6	38.6	13.8	6.1
1983	75.4	86.3	82.0	62.2	36.5	11.9	5.9
1984	78.2	90.0	87.5	56.6	37.9	13.2	5.2
1985	79.6	89.4	82.0	56.5	35.6	13.0	4.8
1986	77.1	80.8	80.1	52.0	36.0	10.8	4.8
1987	87.2	92.4	85.5	51.9	34.7	11.4	5.2
1988	83.7	95.9	80.2	53.2	39.1	13.4	4.4
1989	92.5	98.2	78.8	52.8	37.3	10.5	4.2
1990	101.1	99.1	86.1	55.2	34.4	9.9	3.7
1991	94.5	122.6	103.6	54.3	37.2	12.5	4.0
1992	111.0	103.7	95.2	56.8	38.1	13.2	5.2
1993	118.4	114.2	91.2	57.9	42.1	17.0	5.6
1994	113.0	120.5	97.7	60.4	39.1	15.1	5.1

Note: Violent crimes included are homicide, rape, robbery, and both simple and aggravated assault. The light gray area indicates that because of changes made to the victimization survey, data prior to 1992 are adjusted to make them comparable to data collected under the redesigned methodology. The adjustment methods are described in Criminal Victimization 1973-95.

All serious violent crimes: Murder, rape, sexual assault, robbery, and aggravated assault

Rates of serious violent crime per 1,000 persons

Victims' age	Rate
12 to 14	37
15 to 17	47
18 to 21	50
22 to 24	40
25 to 29	27
30 to 34	21
35 to 39	16
40 to 49	14
50 to 64	6
65 or older	3

- **The average age of U.S. residents age 12 or older was almost 41.**
- **The average age of victims of serious violent crimes other than murder was 30 or under.**

	Mean	Median
Overall U.S. population	40.9	39
Murder	34.6	30
Rape/sexual assault	26.6	23
Robbery	29.9	26
Aggravated assault	27.8	25

Murder

Rates of murder per 1,000 persons

Victims' age	Rate
12 to 14	0.03
15 to 17	0.13
18 to 21	0.26
22 to 24	0.23
25 to 29	0.18
30 to 34	0.14
35 to 39	0.11
40 to 49	0.08
50 to 64	0.05
65 or older	0.04

Murder, the least frequent violent crime, victimized fewer than 1 in 1,000 persons, age 12 or older.

Violent crime	Total
Murder	0.11
Rape/sexual assault	2.4
Robbery	6.1
Aggravated assault	11.6

Rape or sexual assault

Rates of rape or sexual assault per 1,000 persons

Victims' age	Rate
12 to 14	3.6
15 to 17	5.9
18 to 21	7.6
22 to 24	6.4
25 to 29	2.2
30 to 34	3.0
35 to 39	2.1
40 to 49	1.5
50 to 64	0.3
65 or older	0.1

Rape or sexual assault

1 in 89 females 12-24 were rape/sexual assault victims

Rates per 1,000 females

Victims' age	Rates
12 to 14	6.7
15 to 17	12
18 to 21	13.8
22 to 24	11.8
25 to 29	3.7
30 to 34	5.4
35 to 39	4.0
40 to 49	2.6
50 to 64	0.6
65 or older	0.3

Robbery

Rates of robbery per 1,000 persons

Victims' age	Rate
12 to 14	12.6
15 to 17	12.4
18 to 21	12.8
22 to 24	10.3
25 to 29	7.9
30 to 34	7.2
35 to 39	4.9
40 to 49	4.4
50 to 64	2.5
65 or older	1.5

Age patterns of robbery victims fall into 5 distinct ranges: The 12-21 robbery rate is 6 times that of 50 or older.

Approximate robbery rates per 1,000 persons

Victim's age	Rate
12 to 21	13
22 to 24	10
25 to 34	8
35 to 49	5
50 or older	2

Aggravated asault

Rates of aggravated assault per 1,000 persons

Victims' age	Rate
12 to 14	21.1
15 to 17	28.9
18 to 21	29.3
22 to 24	22.9
25 to 29	16.7
30 to 34	11.0
35 to 39	9.2
40 to 49	8.3
50 to 64	3.4
65 or older	1.2

Annual average number of victimizations, 1992-94

Age	Aggravated assault	Robbery	Rape/sexual assault	Murder
12 to 24	1,225,517	575,131	284,402	8,021
25 to 49	1,075,742	582,215	209,027	12,129
50+	151,236	129,798	15,006	2,743

Serious violent crime, by race and Hispanic origin

	Rates of serious violent crime per 1,000 persons		
Victims' age	White	Black	Hispanic
12 to 14	31.0	58.6	51.2
15 to 17	42.9	56.7	57.0
18 to 21	46.4	71.5	50.3
22 to 24	38.6	50.0	36.5
25 to 29	25.3	33.8	31.7
30 to 34	19.0	40.0	17.0
35 to 39	13.6	27.2	23.3
40 to 49	12.7	23.7	18.8
50 to 64	5.5	10.9	10.5
65 or older	2.3	6.2	8.2

Serious violent crime, by sex of victim

1 in 41 males and 1 in 62 females were violent crime victims

	Rates per 1,000 persons	
Victims' age	Male	Female
12 to 14	45.4	28.7
15 to 17	55.8	38.4
18 to 21	58.0	41.9
22 to 24	44.7	35.0
25 to 29	31.1	23.0
30 to 34	23.2	19.5
35 to 39	19.6	13.0
40 to 49	17.9	10.7
50 to 64	7.9	4.8
65 or older	4.1	2.1

Murder, by race

	Rates of murder per 1,000 persons	
Victims' age	White	Black
12 to 14	0.02	0.09
15 to 17	0.07	0.47
18 to 21	0.11	1.08
22 to 24	0.10	0.97
25 to 29	0.09	0.73
30 to 34	0.08	0.57
35 to 39	0.07	0.42
40 to 49	0.05	0.30
50 to 64	0.04	0.16
65 or older	0.03	0.14

Murder, by sex of victim

1 in 10 murder victims were males, 18 to 21

	Rates per 1,000 persons	
Victims' age	Male	Female
12 to 14	0.04	0.02
15 to 17	0.22	0.04
18 to 21	0.45	0.07
22 to 24	0.37	0.07
25 to 29	0.29	0.07
30 to 34	0.22	0.07
35 to 39	0.17	0.05
40 to 49	0.12	0.04
50 to 64	0.08	0.02
65 or older	0.05	0.03

Robbery, by race and Hispanic origin

	Rates of robbery per 1,000 persons		
Victims' age	White	Black	Hispanic
12 to 14	9.9	20.5	18.4
15 to 17	9.0	17.2	20.0
18 to 21	10.4	24.3	15.2
22 to 24	9.2	16.7	10.1
25 to 29	6.1	10.4	13.5
30 to 34	4.6	23.8	5.3
35 to 39	3.4	11.2	8.3
40 to 49	3.3	9.9	8.1
50 to 64	1.9	5.3	6.9
65 or older	1.0	4.6	4.7

Robbery, by sex of victim

Almost 1 in 10 robbery victims were males 18 to 21

	Rates per 1,000 persons	
Victims' age	Male	Female
12 to 14	18.4	6.5
15 to 17	16.5	8.2
18 to 21	16.6	9.0
22 to 24	12.1	8.5
25 to 29	8.9	7.0
30 to 34	10.1	4.4
35 to 39	6.5	3.4
40 to 49	5.9	2.9
50 to 64	3.5	1.6
65 or older	2.1	1.1

Aggravated assault, by race and Hispanic origin

	Rates of aggravated assault per 1,000 persons		
Victims' age	White	Black	Hispanic
12 to 14	18.0	31.4	29.1
15 to 17	27.2	35.3	32.9
18 to 21	28.2	33.5	30.8
22 to 24	22.6	23.6	25.2
25 to 29	16.5	21.8	16.4
30 to 34	11.5	13.3	7.2
35 to 39	8.0	12.5	13.4
40 to 49	7.7	12.6	9.4
50 to 64	3.3	4.7	3.2
65 or older	1.1	1.5	3.5

Aggravated assault, by sex of victim

For 18 to 21, men twice as likely as women to be victimized

	Rates per 1,000 persons	
Victims' age	Male	Female
12 to 14	26.4	15.5
15 to 17	39.1	18.2
18 to 21	39.5	19.1
22 to 24	31.2	14.6
25 to 29	21.1	12.3
30 to 34	12.3	9.7
35 to 39	12.8	5.5
40 to 49	11.6	5.1
50 to 64	4.4	2.5
65 or older	1.9	0.7

ıll serious violent crimes: Murder, rape, sexual assault,
·obbery, and aggravated assault

:ates of serious violent crime per 1,000 persons

'ictims' age Rate

.2 to 14	37
.5 to 17	47
.8 to 21	50
:2 to 24	40
:5 to 29	27
:0 to 34	21
:5 to 39	16
:0 to 49	14
·0 to 64	6
;5 or older	3

Bureau of Justice Statistics
Age Patterns of Victims of Serious Violent Crime
July 1997, NCJ-162031

Violent crime rates by age

Adjusted victimization rate per 1,000 persons, age 12 and older

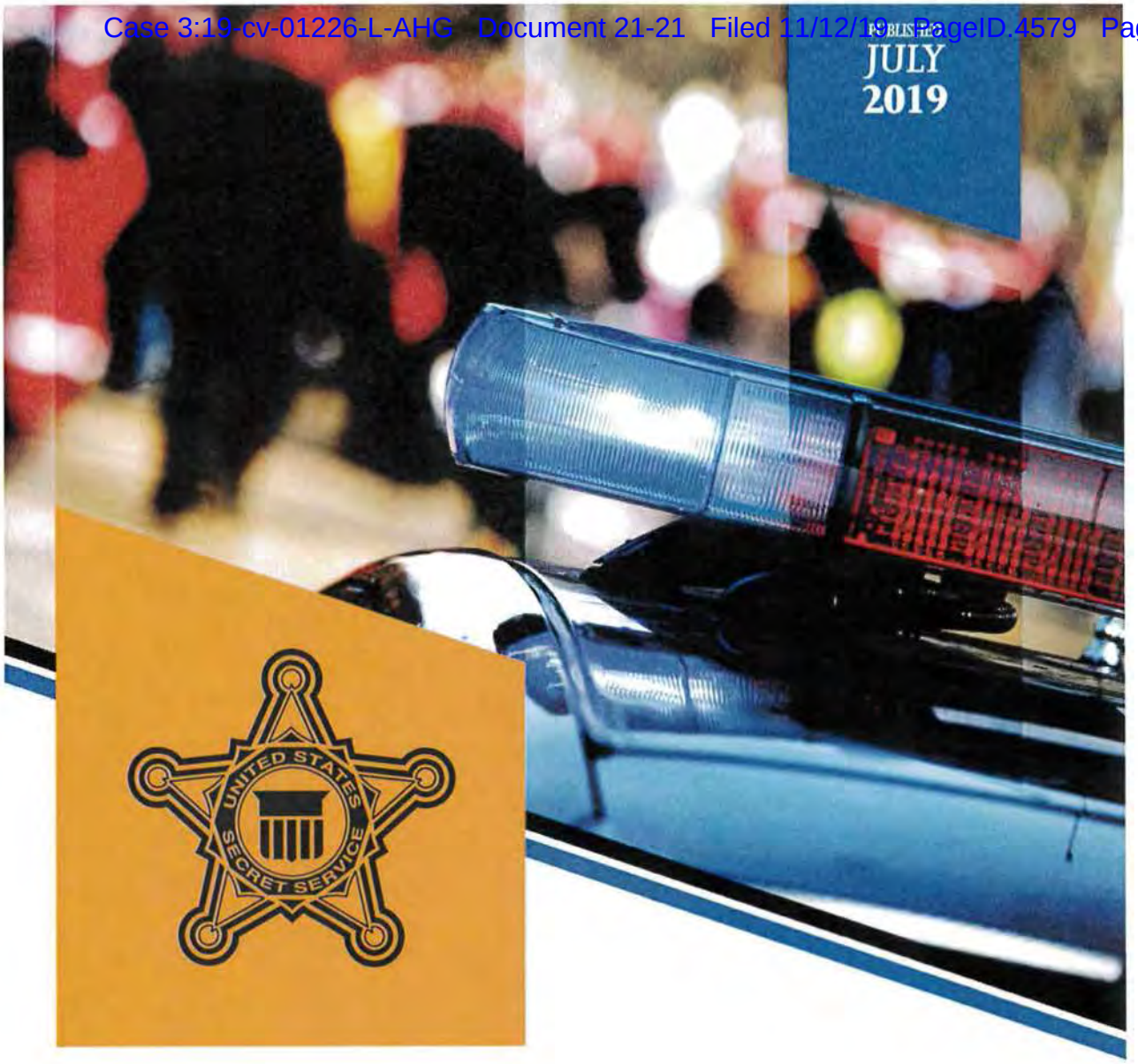
Year	Age of victim						
	12-15	16-19	20-24	25-34	35-49	50-64	65+
1973	81.8	81.7	87.6	52.4	38.8	17.2	9.1
1974	77.5	90.6	83.5	58.6	37.5	15.5	9.5
1975	80.3	85.7	80.9	59.5	36.9	17.8	8.3
1976	76.4	88.8	79.7	61.5	35.9	16.1	8.1
1977	83.0	90.2	86.2	63.5	35.8	16.8	8.0
1978	83.7	91.7	91.1	60.5	35.8	15.0	8.4
1979	78.5	93.4	98.4	66.3	38.2	13.6	6.2
1980	72.5	91.3	94.1	60.0	37.4	15.6	7.2
1981	86.0	90.7	93.7	65.8	41.6	17.3	8.3
1982	75.6	94.4	93.8	69.6	38.6	13.8	6.1
1983	75.4	86.3	82.0	62.2	36.5	11.9	5.9
1984	78.2	90.0	87.5	56.6	37.9	13.2	5.2
1985	79.6	89.4	82.0	56.5	35.6	13.0	4.8
1986	77.1	80.8	80.1	52.0	36.0	10.8	4.8
1987	87.2	92.4	85.5	51.9	34.7	11.4	5.2
1988	83.7	95.9	80.2	53.2	39.1	13.4	4.4
1989	92.5	98.2	78.8	52.8	37.3	10.5	4.2
1990	101.1	99.1	86.1	55.2	34.4	9.9	3.7
1991	94.5	122.6	103.6	54.3	37.2	12.5	4.0
1992	111.0	103.7	95.2	56.8	38.1	13.2	5.2
1993	118.4	114.2	91.2	57.9	42.1	17.0	5.6
1994	113.0	120.5	97.7	60.4	39.1	15.1	5.1

EXHIBIT 1
00029

lote: Violent crimes included are homicide, rape, robbery, and
oth simple and aggravated assault. The light gray area
.ndicates that because of changes made to the victimization
urvey, data prior to 1992 are adjusted to make them comparable
.o data collected under the redesigned methodology. The
.djustment methods are described in Criminal Victimization
.973-95.

EXHIBIT 1
00030

EXHIBIT "2"



United States Secret Service
NATIONAL THREAT ASSESSMENT CENTER

MASS ATTACKS IN PUBLIC SPACES - 2018

U.S. Department of Homeland Security

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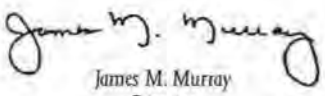
MESSAGE FROM THE DIRECTOR

In response to the acts of targeted violence occurring in this Nation, the U.S. Secret Service National Threat Assessment Center (NTAC) has published this research report titled, ***Mass Attacks in Public Spaces – 2018***. The study was conducted for the specific purpose of identifying key information that will enhance efforts to prevent these types of attacks. The report is NTAC's second analysis of mass attacks carried out in public spaces, building upon the findings identified in its 2017 report.

These acts have impacted the safety and security of the places where we work, learn, dine, and conduct our daily activities. Each new tragedy, including the attack on a bank in Sebring, FL; a synagogue in Poway, CA; a university in Charlotte, NC; and the municipal center in Virginia Beach, VA; serves as a reminder that we must continue to research and provide robust training and awareness to help prevent these tragic outcomes.

NTAC's research and publications directly support our agency's protective mission, as well as the missions of those responsible for keeping our communities safe. Through this report, NTAC aims to assist law enforcement, schools, public agencies, private organizations, and others in understanding the motives, behavioral indicators, and situational factors of those who carry out mass attacks.

Empowering public safety professionals to combat this ever-evolving threat is a priority for our agency. I commend our community partners for their continued efforts, commitment, and determination to prevent targeted violence within the Homeland.



James M. Murray
Director

The U.S. Secret Service's National Threat Assessment Center (NTAC) was created in 1998 to provide guidance on threat assessment both within the U.S. Secret Service and to others with criminal justice and public safety responsibilities. Through the Presidential Threat Protection Act of 2000, Congress formally authorized NTAC to conduct research on threat assessment and various types of targeted violence; provide training on threat assessment and targeted violence; facilitate information-sharing among agencies with protective and/or public safety responsibilities; provide case consultation on individual threat assessment investigations and for agencies building threat assessment units; and, develop programs to promote the standardization of federal, state, and local threat assessment processes and investigations.

EXHIBIT 2
0034

United States Secret Service
NATIONAL THREAT ASSESSMENT CENTER

INTRODUCTION

On May 31, 2019, 12 innocent people were killed at the Virginia Beach Municipal Center in Virginia Beach, VA by an attacker who had reportedly resigned from his position at the municipal center earlier that day. While little else is yet known publicly about the attacker or his motive, this act of mass violence is the most recent example of targeted violence affecting a public space in the United States. Mitigating the risk of mass casualties from such an event requires the efforts of everyone with a role in public safety, a responsibility that is not limited to law enforcement. Other community stakeholders may also be in a position to intervene, including workplace managers, school administrators, local officials, and the mental health community, each of whom has a unique role to play in keeping communities safe.

To support these prevention efforts, the Secret Service National Threat Assessment Center (NTAC) is tasked with delivering research, training, consultation, and information sharing on threat assessment and the prevention of targeted violence, including targeted attacks directed at workplaces, houses of worship, schools, and other public spaces. The research and information produced by NTAC guides not only the Secret Service's approach to preventing assassinations, called ***threat assessment***, but also informs the communitywide approach needed to prevent incidents of targeted violence.[1]

This report is NTAC's second analysis of mass attacks that were carried out in public spaces, and it builds upon ***Mass Attacks in Public Spaces – 2017*** (MAPS-2017). In MAPS-2017, NTAC found that attackers from that year were most frequently motivated by grievances related to their workplace or a domestic issue. All of the attackers had recently experienced at least one significant stressor, and most had experienced financial instability. Over three-quarters of the attackers had made threatening or concerning communications, and a similar number had elicited concern from others. Further, most had histories of criminal charges, mental health symptoms, and/or illicit substance use or abuse.

With this latest report, ***Mass Attacks in Public Spaces – 2018*** (MAPS-2018), the Secret Service offers further analysis and operational considerations to our partners in public safety.[2] Between January and December 2018, 27 incidents of mass attacks – in which three or more persons were harmed – were carried out in public spaces within the United States.[3] In total, 91 people were killed and 107 more were injured in locations where people should feel safe, including workplaces, schools, and other public areas.[4] The loss of life and traumatic nature of these attacks had a devastating impact on the victims and their families, local communities, and the entire nation.

What is Threat Assessment?

In the 1990s, the U.S. Secret Service pioneered the field of threat assessment by conducting research on the targeting of public officials and public figures. The agency's Threat Assessment Model offered law enforcement and others with public safety responsibilities a systematic investigative approach to identify individuals who exhibit threatening or concerning behavior, gather information to assess whether they pose a risk of harm, and identify the appropriate interventions, resources, and supports to manage that risk.

Regardless of whether these attacks were acts of workplace violence, domestic violence, school-based violence, or inspired by an ideology, similar themes were observed in the behaviors and circumstances of the perpetrators,[3] including:

- Most of the attackers utilized ***firearms***, and half ***departed the site on their own*** or ***committed suicide***.
- Half were motivated by a ***grievance*** related to a domestic situation, workplace, or other personal issue.
- Two-thirds had histories of ***mental health symptoms,*** including ***depressive, suicidal, and psychotic symptoms.***
- Nearly all had at least one ***significant stressor*** within the last five years, and over half had indications of ***financial instability*** in that timeframe.
- Nearly all made ***threatening or concerning communications*** and more than three-quarters ***elicited concern*** from others prior to carrying out their attacks.

The violence described in this report is not the result of a single cause or motive. The findings emphasize, however, that we can identify warning signs prior to an act of violence. While not every act of violence will be prevented, this report indicates that targeted violence may be ***preventable***, if appropriate systems are in place to identify concerning behaviors, gather information to assess the risk of violence, and utilize community resources to mitigate the risk.

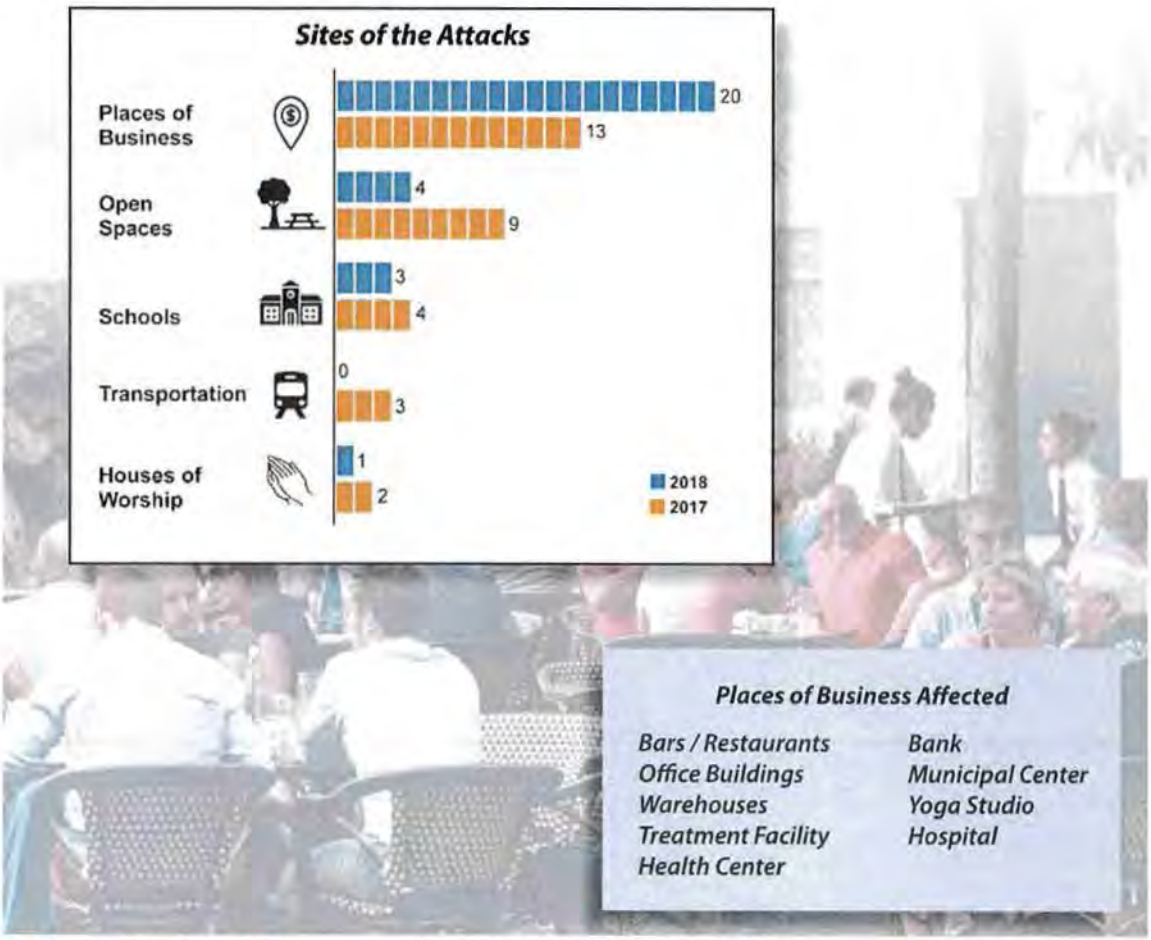


THE INCIDENTS

THE WEAPONS: Though most of the attacks were carried out using a firearm (n = 24, 89%), three attackers used vehicles to cause harm (11%).[6] Of the 24 who used firearms, at least 10 possessed their weapon illegally at the time of the incident. Two of those ten were minors. The remaining eight had felony convictions, were the subjects of protective orders, or had some other factor present that would have prohibited them from purchasing or possessing a firearm based on federal or state laws.[7]

THE PUBLIC SITES: The 27 incidents were carried out in 18 states, at 28 different sites, with most (n = 20, 70%) occurring at places of business (see Figure 1). Those that took place in open spaces (n = 4) represented 14% and included such locations as a public sidewalk, street, and parking lot. Three attacks (11%) were carried out at high schools. One attack (4%) took place in a house of worship.

Figure 1.



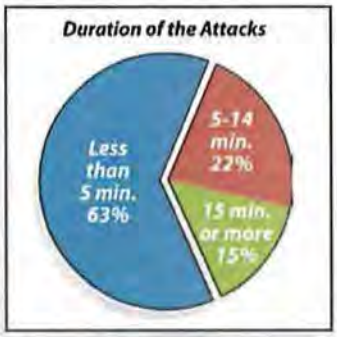
THE TIMING: The attacks took place in every month except December and occurred on every day of the week (see Figure 2). Over half (n = 16, 59%) took place between the hours of 7:00 a.m. and 3:00 p.m. More than half (n = 17, 63%) of the attacks ended within 5 minutes from when the incident was initiated (see Figure 3).

END OF THE ATTACKS: The most common ways the attacks ended were either by the attacker committing suicide at the scene (n = 7, 26%) or departing on their own (n = 7, 26%). Three of those who departed the scene on their own committed suicide soon after. Law enforcement intervention at the site brought six attacks to an end (22%). In four of these incidents, the attacker was killed. Other attacks ended when the weapon used became inoperable (n = 4, 15%) or due to bystander intervention (n = 2, 7%).

Figure 2.



Figure 3.



Attacks Perpetrated By Current Employees

On September 12, 2018, an employee shot and killed his ex-wife and two co-workers near his workplace. Though divorced that April, the ex-wife had recently filed for additional support. The attacker fled the scene and later committed suicide when confronted by police.

On September 19, 2018, an employee opened fire inside his employer's offices, injuring four before being fatally shot by police. The attacker's targets appeared to be random, and his motive is unknown.

On September 20, 2018, a temporary employee opened fire at a distribution center, killing three people and injuring three others before committing suicide. The attacker's motive may have been related to a grievance with co-workers.

On November 12, 2018, an employee shot and injured three individuals at a food distribution warehouse. After fleeing the scene, the attacker called police and reported that his actions were motivated by mental illness. He later committed suicide.

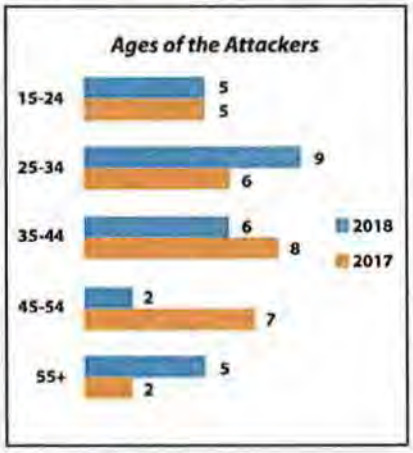
THE ATTACKERS

GENDER AND AGE: While most of the attackers were male (n = 25, 93%), there was one female and one individual in the process of gender reassignment. Their ages ranged from 15 to 64, and the average age was 37 (see Figure 4).

YOUNGEST: On January 23, 2018, a 15-year-old sophomore began shooting students randomly in a common area at his high school, killing two and injuring ten. When the attacker ran out of bullets, he abandoned his gun and joined other students who had been hiding. After the students were moved to another room, police identified the attacker and arrested him. The student had planned the attack for about a week, and he did not target any particular students, describing his attack as "an experiment."

OLDEST: On March 7, 2018, a 64-year-old male walked into a local cafe and asked to see the owner, with whom he had a disagreement weeks prior. When the owner appeared, the attacker shot him several times with a rifle, killing him. He then proceeded to shoot cafe patrons, injuring two and killing one. After the attacker ran out of bullets, he fled to his nearby home and barricaded himself inside. He eventually surrendered to police.

Figure 4.



SUBSTANCE USE: Nearly one quarter of the attackers (n = 6, 22%) were found to have a history of illicit drug use and/or substance abuse.

CRIMINAL CHARGES AND DOMESTIC VIOLENCE: Approximately half of the attackers (n = 13, 48%) had histories of criminal charges beyond minor traffic violations. Those charges included both non-violent (n = 10, 37%) and violent (n = 6, 22%) offenses.

Looking specifically at the issue of domestic violence, eight attackers (30%) were found to have had such histories, with only some of those instances resulting in criminal charges or arrests.*

On September 19, 2018, a man shot and injured his wife, two bystanders, and a police officer in a municipal building. At the time of the attack, he was subject to a protective order resulting from incidents in which he assaulted and threatened to kill his wife because she wanted a divorce. About a month prior to his attack, he was arrested after he threatened to kill his wife and choked her with a belt. A judge agreed to issue a protective order; however, he denied the wife's request that her husband be ordered to relinquish his firearms.

MENTAL HEALTH: Two-thirds of the attackers (n = 18, 67%) experienced mental health symptoms prior to their attacks. The most common symptoms observed were related to depression and psychotic symptoms, such as paranoia, hallucinations, or delusions. Suicidal thoughts were also observed (see Table 1). Nearly half of the attackers (n = 12, 44%) had been diagnosed with, or treated for, a mental illness prior to their attacks.

On May 24, 2018, a man opened fire on the patrons of a restaurant, injuring one adult and two children. His motive for the attack is not known, but he was demonstrating symptoms of a mental illness, including suicidal thoughts and paranoid delusions about being taunted by demons and watched by a drone. In videos posted online shortly before the attack, the man said that everyone was against him and he felt tortured and alone. He said, "My life is in danger...Satan is after me."

Table 1.

Mental Health Symptoms	2017	2018
	n	*n*
Depression	***4***	***10***
Psychotic Symptoms	***9***	***10***
Paranoia	*6*	*9*
Delusions	*2*	*5*
Hallucinations	*6*	*1*
Suicidal Thoughts	***6***	***8***



MOTIVES, BELIEFS, & TARGETING

MOTIVES: The violence in this study resulted from a range of motives, with some attackers having multiple motives. In half of the incidents (n = 14, 52%), grievances appeared to be the main motivating factor. In these cases, the attackers were retaliating for perceived wrongs related to their domestic situations (n = 6, 22%), workplaces (n = 3, 11%), or other personal issues (n = 6, 22%), for example, losing a video game competition or having an argument with an owner of a retail establishment (see Table 2).[9]

Beyond grievances, some motives were related to the attackers' mental health symptoms (n = 5, 19%), while others were connected to ideological beliefs (n = 2, 7%). Of the two perpetrators motivated by an ideology, one was motivated by anti-abortion beliefs while the other was motivated by anti-Semitic beliefs. Additionally, one attacker appeared to have been motivated by the desire for fame or notoriety. For the remaining incidents (n = 6, 22%), a motive was not identifiable given information that was publicly available.

Table 2.

Components to Motive	2017	2018
Grievances	46%	52%
Domestic	18%	22%
Personal	7%	22%
Workplace	21%	11%
Mental Health/Psychosis	14%	19%
Ideological	21%	7%
Fame	4%	4%
Political	4%	0%
Unknown	14%	22%

**Percentages exceed 100 as some attackers had more than one motive.*

BELIEFS: While only two of the attacks were primarily motivated by an ideology, nearly one-third of the attackers (n = 8, 30%) appeared to have subscribed to a belief system that has previously been associated with violence. Often the attackers' beliefs were multifaceted and touched on a range of issues, including white supremacy, anti-Semitism, conspiracy theories, sovereign citizens, animal rights, and the "incel" movement. Incels, or involuntarily celibates, are members of an Internet-based subculture of heterosexual males who view themselves as undesirable to females and therefore unable to establish romantic or sexual relationships to which they feel entitled.





FIXATIONS: Two-fifths of the attackers ($n = 11$, 41%) exhibited a fixation, defined as an intense or obsessive preoccupation with a person, activity, or belief to the point that it negatively impacted aspects of their lives. The focuses of these fixations included an ex-girlfriend, wife, or other females in the subjects' lives; perceived injustices; delusions; sociopolitical ideologies; and video games. The behaviors that demonstrated these fixations included, but were not limited to, posting written material or videos online, stalking or harassing others, and filing lawsuits or complaints to police.

> ***On June 28, 2018, a man shot and killed five employees in a newspaper office. Six years prior, he had sued the newspaper and some of its employees for alleged defamation. He became fixated on the case, stating in 2013 that it had "become [his] life." He created social media profiles to impersonate people involved in the court proceedings. After the lawsuit was dismissed, he continued to file related court documents.***

TARGETING: In 11 cases (41%), the attacker appeared to have pre-selected targets in mind. Seven of those attacks resulted in harm to both the targeted person and random bystanders, and in three cases the harm was restricted to just those specifically targeted. In the remaining case, when the attacker could not find his intended targets at their workplaces, he randomly fired at other people associated with the office. In nearly two-thirds of the attacks ($n = 16$, 59%) harm was directed at persons indiscriminately.

> ***On October 27, 2018, a man opened fire indiscriminately inside a synagogue. Eleven people were killed and six more were wounded before he was shot and apprehended by police. The attacker had previously accused a Jewish-founded refugee advocacy group of helping to transport refugees, whom he referred to as "invaders," from Central America into the United States. When he later attacked the synagogue, he reportedly targeted a specific Jewish congregation in the building that had previously partnered with that refugee aid group.***

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KEY INVESTIGATIVE THEMES

SIGNIFICANT STRESSORS WITHIN FIVE YEARS: Most (n = 23, 85%) attackers had at least one significant stressor occur in their lives in the five years preceding the attack. For three-quarters of the attackers (n = 20, 74%), the stressors they experienced occurred within one year of the attack. Beyond the criminal charges described earlier, the stressors most often faced by the attackers were related to:

- ***Family/romantic relationships***, such as the death of a loved one, divorce, a broken engagement, or physical or emotional abuse.
- ***Work or school***, such as being denied a promotion, losing a job, or being forced to withdraw from school.
- ***Contact with law enforcement that did not result in arrests or charges***, including law enforcement responding to reports of inappropriately touching women, domestic violence, or engaging in other violent acts towards others.
- ***Personal issues***, such as homelessness or losing a competition.



Over half of the attackers (n = 15, 56%) experienced stressors related to ***financial instability*** in the five-year period prior to their attacks. These financial stressors were evidenced through the inability to sustain employment, losing civil judgements in court, filing for bankruptcy, loss of income, or having to rely on others for income.

> ***On April 3, 2018, a female opened fire at the headquarters of a video sharing website, injuring three people. The attacker had supported herself financially using the ad revenue generated by videos that she posted to the company's website, some of which had received hundreds of thousands of views. Prior to the attack, the woman had expressed her anger at the company over recent policy changes that resulted in a loss of income. Following the attack, her father reported that she had been angry for weeks and complaining that the company had ruined her life.***

THREATS AND OTHER CONCERNING COMMUNICATIONS: Nearly all of the attackers (n = 25, 93%) engaged in prior threatening or concerning communications. One-third had threatened someone (n = 10, 37%), including threats against the target in six cases (22%). Most of those who made threats against the target had a direct relationship with them, as a co-worker, domestic partner, classmate, member of the same treatment facility, or peer in a competition. Though the presence of prior threats to the target is unusual for some forms of targeted violence (e.g., assassination), threats are often seen in cases motivated by domestic or workplace issues, which together represent one-third of these mass attacks (n = 9, 33%).

All but four attackers (n = 23, 85%) made some type of communication that did not constitute a direct threat, but should have elicited concern. Some of these concerning communications included expressing interest in previous attackers, racist and misogynistic comments, referencing a desire to purchase a gun, and comments that suggest an aspiration to commit future violence.

> ***On February 14, 2018, a former student opened fire at his prior high school, killing 14 students and 3 staff, and wounding an additional 17. The attacker had a long history of behavioral problems and concerning communications. While enrolled at the targeted high school, he was known by classmates to make racist and anti-Semitic comments and to speak openly about***

his guns. A year prior to the attack, someone who knew the attacker contacted local law enforcement to report that the attacker had posted on Instagram a photo of himself holding a gun and a statement similar to, "I am going to get this gun when I turn 18 and shoot up the school." Another concerned individual notified law enforcement of the attacker's concerning social media posts about a month before the shooting.

HISTORY OF ELICITING CONCERN: Most of the attackers (n = 21, 78%) in this report exhibited behaviors that caused concern in others. Those who were concerned had various degrees of association with the attackers, from those who were close to them, to strangers in the community who may have never met the attacker before.

The Behaviors that Elicited Concern

- Social media posts with alarming content
- Escalating anger or aggressive behavior
- Changes in behavior and appearance
- Expressions of suicidal ideations
- Writing about violence or weapons
- Cutting off communications
- Inappropriate behavior toward females
- Stalking and harassing behaviors
- Increased depression
- Increased drug use
- Erratic behavior
- Purchasing weapons
- Threats of domestic violence
- Acting paranoid

Who Was Concerned

Mothers & Fathers
Romantic Partners
Siblings & Children
•
Friends & Neighbors
•
School Staff & Classmates
•
Supervisors & Coworkers
•
Mental Health Professionals
•
Law Enforcement
Judges & Attorneys
Community Services
•
Community Members
Religious Leaders
•
Online Community

The responses from others to these behaviors varied from more passive activities like avoiding the attacker, to more active efforts like transporting the person for a mental health evaluation. The ways in which people responded to their concerns included:

- Mothers and fathers seeking therapy for the attacker, calling police, confiscating weapons, or searching for the person when they could not be reached.
- Family and friends making efforts to spend more time with the attacker.
- Online community members calling police.
- Fellow students telling school staff about their concerns.
- Law enforcement getting the attacker to undergo a mental health evaluation, revoking firearms licenses, or asking family to consensually restrict access to weapons.
- Employers firing them or calling their family members to express concern.
- Co-workers checking on them or suggesting counseling.
- Members of the community asking them to leave business establishments or treatment programs, sometimes resorting to calling law enforcement.

For the majority of the attackers (n = 19, 70%), the concern others felt was so severe that they feared specifically for the safety of the individual, themselves, or others. Some of those concerned for their own safety acted on that fear by filing for divorce, ceasing communications, filing for restraining or protection orders, asking loved ones to stay with them out of fear, changing their daily routines, moving, or warning their own family and friends about their concerns. In one case, a person shared photos of the attacker so that others could remain alert and call the police if needed.

On November 2, 2018, a man opened fire inside a yoga studio, killing two and injuring five. From adolescence, others had expressed concerns about his behavior around women and girls. According to police investigative records and other sources, his conduct had resulted in the man being discharged from the Army, fired from two teaching jobs, reported to law enforcement, arrested and investigated by police on multiple occasions, banned from a university campus, asked to leave a child's party, and avoided by acquaintances and former friends.



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MASS ATTACKS IN PUBLIC SPACES 2017 & 2018

Many of the key findings in both the 2017 and 2018 reports reflect similarities among the incidents and the attackers. For example, attacks occurred across the country and attackers predominantly used firearms. The majority of attackers elicited concern in others and two-thirds had histories of mental health symptoms or treatment. A majority of the attackers had recently experienced significant stressors, with just over half of the attackers experiencing financial instability in that same timeframe.

Table 3.

General Backgrounds	2017	2018
Gender - Male	*100%*	*93%*
Age: Range	*15-66*	*15-64*
Average	*37*	*37*
Illicit drug use or substance abuse	*54%*	*22%*
History of criminal charge(s)	*71%*	*48%*
Non-violent	*57%*	*37%*
Violent	*54%*	*22%*
History of domestic violence	*32%*	*30%*
Overall history of violence	*64%*	*44%*
Mental health symptoms	*64%*	*67%*
Known treatment or diagnosis	*25%*	*44%*
Investigative Themes	**2017**	**2018**
Beliefs	*25%*	*30%*
Fixation	*39%*	*41%*
Stressors	*100%*	*85%*
Financial instability	*57%*	*56%*
Threatening or concerning communications	*86%*	*93%*
History of making threats	*50%*	*37%*
Threats specific to the target	*36%*	*22%*
Concerning communications	*82%*	*85%*
Elicited concern	*79%*	*78%*
Concern about safety	*46%*	*70%*

CONSIDERATIONS

Like the year before, 2018 saw incidents of mass violence impact the places where we work, learn, worship, or otherwise conduct our daily activities. Consistent with previous research from the Secret Service, these attacks were found to be motivated by a variety of goals, grievances, and ideologies. The attackers varied widely on demographic factors, and while there is no single profile that can be used to predict who will engage in targeted violence, focusing on a range of concerning behaviors while assessing threats can help promote early intervention with those rare individuals that pose such a risk.

- **Mental health and mental wellness** – Mental illness, alone, is not a risk factor for violence, and most violence is committed by individuals who are not mentally ill. Two-thirds of the attackers in this study, however, had previously displayed symptoms indicative of mental health issues, including depression, paranoia, and delusions. Other attackers displayed behaviors that do not indicate the presence of a mental illness, but do show that the person was experiencing some sort of distress or an emotional struggle. These behaviors included displays of persistent anger, an inability to cope with stressful events, or increased isolation. A multidisciplinary approach that promotes emotional and mental wellness is an important component of any community violence prevention model. For example, a robust employee assistance program (EAP) can help to promote mental wellness in the workplace, whether that involves facilitating mental health treatment or assisting with other personal problems, like substance abuse, financial struggles, or problems in a personal relationship.

- **The importance of reporting** – Since three-quarters of the attackers had concerned the people around them, with most of them specifically eliciting concerns for safety, the public is encouraged to share concerns they may have regarding coworkers, classmates, family members, or neighbors. Such reports could be made to workplace managers, school administrators, or law enforcement, as appropriate. While over-reporting is not the goal, a reasonable awareness of the warning signs that can precede an act of violence may prompt community members to share their concerns with someone who can help. Systems can be developed to promote and facilitate such reporting, and people should be encouraged to trust their instincts, especially if they have concerns for someone's safety. For example, several states have recently developed statewide reporting infrastructures that allow students and others to utilize a smartphone app to submit anonymous tips to a call center staffed by law enforcement. This type of program can facilitate not only a law enforcement response to reported threats, but also a community-level response to reports of bullying, suicidal ideation, self-harm, or depression.

- **"…Do Something"** – Since 2010, the Department of Homeland Security has effectively promoted the "If You See Something, Say Something®" national campaign, originally developed by New York City's Metropolitan Transportation Authority, which encourages the reporting of suspicious activity. In many of these cases from 2018, members of the general public successfully performed their role in the "See Something, Say Something" process, by reporting their concerns to someone with a role in public safety. At that point, the responsibility is on the public safety professionals to "Do Something," namely assessing the situation and managing as needed. By adopting a multidisciplinary threat assessment approach, that standardizes the process for identifying, assessing, and managing individuals who may pose a risk of violence, law enforcement and others are taking steps to ensure that those individuals who have elicited concern do not "fall through the cracks."

- **Law enforcement partnerships** – While law enforcement has a key role to play in the prevention of community violence, intervening with individuals who may pose a risk is not the responsibility of law enforcement alone. Particularly in those instances where a concerning individual has not broken a law, the relationships between law enforcement and other community resources become paramount. Law enforcement personnel are encouraged to continue developing close partnerships with the mental health community, local schools and school districts, houses of worship, social services, and other private and public community organizations. The mission of law enforcement in the United States is public service oriented, and that mission will be most effectively executed through multidisciplinary and collaborative community efforts.

Targeted violence has a profound and devastating impact on those directly involved and a far reaching emotional impact to those beyond. Because these acts are usually planned over a period of time, and the attackers often elicit concern from the people around them, there exists an opportunity to stop these incidents before they occur. ***Threat assessment*** is one of the most effective practices for prevention. Many of the resources to support this process are already in place at the community level, but require leadership, collaboration, and information sharing to facilitate their effectiveness at preventing violence.

The Importance of Threat Assessment

"Threat assessment" refers to a proactive approach to violence prevention. It is an investigative model originally developed by the U.S. Secret Service to prevent assassinations, but has since been adapted to prevent all forms of targeted violence, regardless of motivation. This includes K-12 school shootings and acts of workplace violence. When implemented effectively, a threat assessment generally involves three key components:

Identify → Assess → Manage

Research indicates that the majority of perpetrators of targeted violence elicit concern in others prior to the attack. We rely on those people who observe such concerns to ***identify*** the individual to law enforcement or to someone else with a public safety responsibility. In educational settings or workplaces, concerns may be reported to a multidisciplinary threat assessment team that works in conjunction with law enforcement when needed. The responsible public safety entity is then tasked to ***assess*** the situation to determine how they can ***manage*** any risk of violence posed by the individual. With a focus on early intervention, this systematic approach is an important component of any safety plan. It allows communities to respond appropriately to a broad range of situations, from those individuals who are displaying a low-level concerning behavior to those who may pose an immediate and imminent risk of violence.

THE INCIDENTS

1) On January 23, a student fatally shot two and injured ten at a high school in Benton, KY.
2) On January 28, a gunman fatally shot four in a parking lot in Melcroft, PA.
3) On February 14, a former student fatally shot 17 and injured another 17 at a high school in Parkland, FL.
4) On February 14, a man drove a truck into a clinic, injuring three in East Orange, NJ.
5) On March 7, a gunman fatally shot two and injured two inside a restaurant in Hurtsboro, AL.
6) On March 9, a gunman fatally shot three at a treatment facility in Yountville, CA.
7) On April 3, a woman shot and injured three at the headquarters of a video sharing website in San Bruno, CA.
8) On April 22, a gunman fatally shot four and injured four others in a restaurant in Antioch, TN.
9) On May 18, a student fatally shot 10 and injured 13 at a high school in Santa Fe, TX.
10) On May 20, a man drove a vehicle into a restaurant, killing two and injuring three in Bessemer City, NC.
11) On May 24, a gunman injured three in a restaurant in Oklahoma City, OK.
12) On May 25, a man drove a vehicle onto a sidewalk, injuring three in Portland, OR.
13) On June 1, a gunman killed two at a law firm, followed by one at a psychologist's office, in Scottsdale, AZ.
14) On June 28, a gunman killed five in a newsroom in Annapolis, MD.
15) On July 5, a gunman injured six in the street near the oceanfront in Virginia Beach, VA.
16) On August 26, a gunman fatally shot two and injured nine at a video game competition in Jacksonville, FL.
17) On September 6, a gunman fatally shot three and injured two at a bank in Cincinnati, OH.
18) On September 12, a gunman fatally shot three in front of a trucking company in Bakersfield, CA.
19) On September 19, a gunman injured four at a municipal center in Masontown, PA.
20) On September 19, a gunman injured four in an office building in Middleton, WI.
21) On September 20, a gunman fatally shot three and injured three at a warehouse in Aberdeen, MD.
22) On October 27, a gunman fatally shot 11 in a synagogue in Pittsburgh, PA.
23) On November 2, a gunman fatally shot two and injured five in a yoga studio in Tallahassee, FL.
24) On November 5, a gunman fatally shot one and injured two at a drug treatment center in San Rafael, CA.
25) On November 7, a gunman fatally shot 11 and injured at least two at a bar in Thousand Oaks, CA.
26) On November 12, a gunman injured three at a food distribution warehouse in Albuquerque, NM.
27) On November 19, a gunman fatally shot three at a hospital in Chicago, IL.

[1] Additional threat assessment resources and publications from the National Threat Assessment Center are available on the U.S. Secret Service website, located at https://www.secretservice.gov/protection/ntac/.

[2] The limitations of open source information should be considered when reviewing the findings contained in this report. Since information for a few of the offenders was limited, it is likely that a larger number than reported here may have displayed the behaviors, symptoms, and other background elements described here.

[3] The incidents included in this report were identified and researched through open source reporting (e.g., media sources and released law enforcement records); therefore, it is possible that more incidents took place than were discovered at the time of this writing. Though there is much debate as to what defines a *mass attack*, for the purpose of this report we included acts of intentional violence in public spaces (e.g., parks, community events, retail establishments) or semi-public places (e.g., workplaces, schools, religious establishments) during which significant harm was caused to three or more persons. We excluded violence related to criminal acts (e.g., gang or drug activity), failed attempts at a mass attack, and spontaneous violence.

[4] In two incidents, the attackers harmed additional persons that were not included in the total number killed and injured, based on the criteria for this report. In one case, the attacker killed two individuals at a private residence following his attack in a public space. In another case, the attacker had killed one person the day prior to the mass attack. Further, the total of those harmed only included individuals that were harmed as a direct result of the subject's actions. Injuries sustained while fleeing the scene, for example, were not included.

[5] This report was prepared for educational and research purposes. The background and behaviors reported herein are of those individuals who: 1) were arrested for the act; 2) died at the scene; or 3) died immediately following the attack. Actions attributed to individuals who have been arrested, indicted, or charged in these incidents are merely allegations, and all are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

[6] In one attack, the attacker used a combination of a firearm and smoke/flash-bang grenades. In another attack, the subject brought explosives to the school, but they were not used in the attack and were determined to be inoperable.

[7] Though illegal drug use within the previous year is one of the disqualifying factors for possessing a firearm under federal law, it was not considered in this review as information was not available to confirm active use within one year of the incident.

[8] For the purpose of this report, *domestic violence* was defined as physical force or the threat of imminent bodily harm inflicted on a romantic partner, parent/guardian, or child (of the assailant or romantic partner). If an attacker was classified as having a history of domestic violence against a parent or child, the perpetrator and the victim must have resided at the same location.

[9] One subject had both domestic and personal grievances as part of his motive for the attack.

United States Secret Service
NATIONAL THREAT ASSESSMENT CENTER
Mass Attacks in Public Spaces - 2018

EXHIBIT "3"



DATA HIGHLIGHTS ON SCHOOL CLIMATE AND SAFETY IN OUR NATION'S PUBLIC SCHOOLS

What's the 2015-16 Civil Rights Data Collection?

The 2015-16 Civil Rights Data Collection (CRDC) is a survey of public schools and school districts in the United States. The CRDC measures student access to courses, programs, staff, and resources that impact education equity and opportunity for students. The CRDC has long provided critical information used by the Department of Education's Office for Civil Rights in its enforcement and monitoring activities.

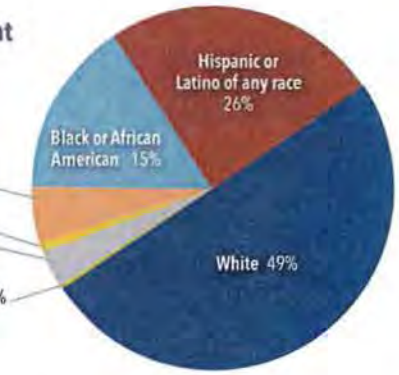
In addition, the CRDC is a valuable resource for other federal agencies, policymakers, researchers, educators, school officials, parents, students, and other members of the public who seek data on student equity and opportunity. To further explore the CRDC data through the use of data tools, please visit the CRDC Reporting Website at ocrdata.ed.gov. To download the CRDC data, visit crdc.ed.gov.

Who's in the 2015-16 CRDC?

Number of school districts: 17,337
Number of schools: 96,360
Total number of students: 50.6 Million

Nationwide Student Demographics:

Race/Ethnicity:[1]



Boys: 51% **Girls:** 49%

English Learners: 10%

Students with Disabilities: 14%

- Students with disabilities served under the Individuals with Disabilities Education Act (IDEA): 12%
- Students with disabilities served only under Section 504 of the Rehabilitation Act, as amended: 2%

SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

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SCHOOL CLIMATE AND SAFETY†

School climate generally refers to interrelated aspects of the quality and character of school life. This issue brief focuses on one element of school climate: safety. To evaluate how safe students are at school, the CRDC collects data on serious offenses, law enforcement referrals and school-related arrests, harassment or bullying, restraint and seclusion, and school discipline.

Serious Offenses

Figure 1 shows the number of incidents of serious offenses.[2] During the 2015–16 school year, nearly 1.1 million incidents of serious offenses were reported in public schools across the nation.[3]

The categories of (a) physical attack or fight *without* a weapon, and (b) threats of physical attack *without* a weapon, accounted for 94 percent of all reported incidents of serious offenses. About 787,200 (75 percent) incidents of physical attack or fight *without* a weapon, and about 197,900 (19 percent) incidents involving a threat of physical attack *without* a weapon were reported.

School districts also reported approximately 22,600 (2 percent) incidents of robbery *without* a weapon, and 11,700 (1 percent) incidents of a physical attack or fight *with* a weapon. Each of the other offenses accounted for less than 1 percent of the total.

FIGURE 1: Number of incidents of serious offenses

Type of incident	Number
Physical attack or fight *without* a weapon	787,200
Threats of physical attack *without* a weapon	197,900
Robbery *without* a weapon	22,600
Physical attack or fight *with* a weapon	11,700
Threats of physical attack *with* a weapon	10,400
Sexual assault (other than rape)	9,300
Possession of a firearm or explosive device	5,900
Threats of physical attack *with* a firearm or explosive device	3,400
Physical attack or fight *with* a firearm or explosive device	2,800
Rape or attempted rape	400
Robbery *with* a weapon	620
Robbery *with* a firearm or explosive device	250

SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

In addition to the foregoing incidents of serious offenses, for the first time, the CRDC required schools to report on school-related shootings and school-related homicides. Nearly 230 schools (0.2 percent of all schools) reported at least 1 incident involving a school-related shooting, and over 100 schools (0.1 percent of all schools) reported a school-related homicide involving a student, faculty member, or staff member. About 1 out of every 100,000 students was enrolled in a school that reported a school-related shooting or school-related homicide during the 2015–16 school year.

Note: The total number of school-related shootings or the total number of school-related homicides are not reported. The data reflect the number of schools that had at least one incident of a school-related shooting or school-related homicide.

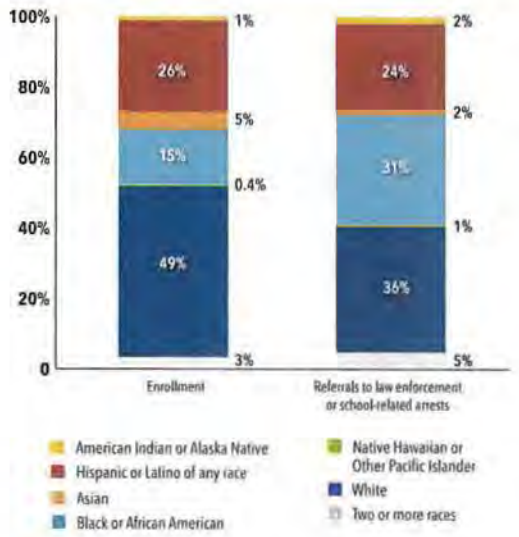
Law Enforcement Referrals and School-Related Arrests

Referral to law enforcement is an action by which a student is reported to any law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during school-related events, or while taking school transportation. School-related arrest refers to an arrest of a student for any activity conducted on school grounds, during off-campus school activities (including while taking school transportation), or due to a referral by any school official.[4] All arrests are considered referrals to law enforcement. During the 2015–16 school year, over 290,600 students were referred to law enforcement agencies or arrested.

REFERRALS TO LAW ENFORCEMENT AND ARRESTS BY RACE AND SEX

Figure 2 presents the percentage distribution of students referred to law enforcement or subjected to school-related arrests, by race. During the 2015–16 school year, black students represented 15 percent of the total student enrollment, and 31 percent of students who were referred to law enforcement or arrested – a 16 percentage point disparity.[5] During the 2013–14 school year, black students had an 11 percentage point disparity (black students were 16 percent of the student enrollment and 27 percent of students referred to law enforcement or arrested). During the 2015–16 school year, white students represented 49 percent of the total student enrollment, and accounted for 36 percent of those referred to law enforcement or arrested. During the 2013–14 school year, white students were 50 percent of the student enrollment and 38 percent of students who were referred to law enforcement or arrested.

FIGURE 2: Percentage distribution of students referred to law enforcement or subjected to school-related arrests, by race



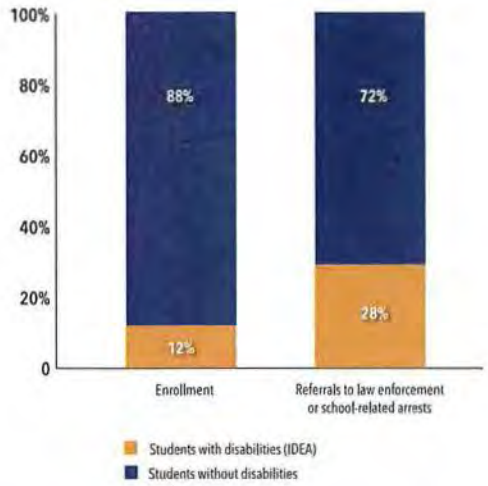
NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

During the 2015–16 school year, American Indian or Alaska Native students, Native Hawaiian or Other Pacific Islander students, and students of two or more races were referred to law enforcement or arrested at rates approaching their overall student enrollment. Together, these students represented almost 5 percent of the total student enrollment, and accounted for 8 percent of students who received a referral to law enforcement or were arrested. During the 2013–14 school year, American Indian or Alaska Native students, Native Hawaiian or Other Pacific Islander students, and students of two or more races had a collective enrollment of 5 percent and were 10 percent of students referred to law enforcement or arrested.

Latino, Asian, and white students were not referred to law enforcement or arrested at a percentage higher than their overall student enrollment during the 2015–16 school year.[6] This is consistent with the 2013–14 school year, where these students were not referred to law enforcement or arrested at a percentage higher than their overall enrollment.

Male students were referred to law enforcement or arrested more than female students. Males represented 51 percent of all enrolled students, and 69 percent of those who received a referral to law enforcement or were arrested during the 2015–16 school year. Males were 51 percent of the student enrollment and 71 percent of students referred to law enforcement or arrested during the 2013–14 school year.

FIGURE 3: Percentage distribution of students referred to law enforcement or subjected to school-related arrests, by disability (IDEA)



SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

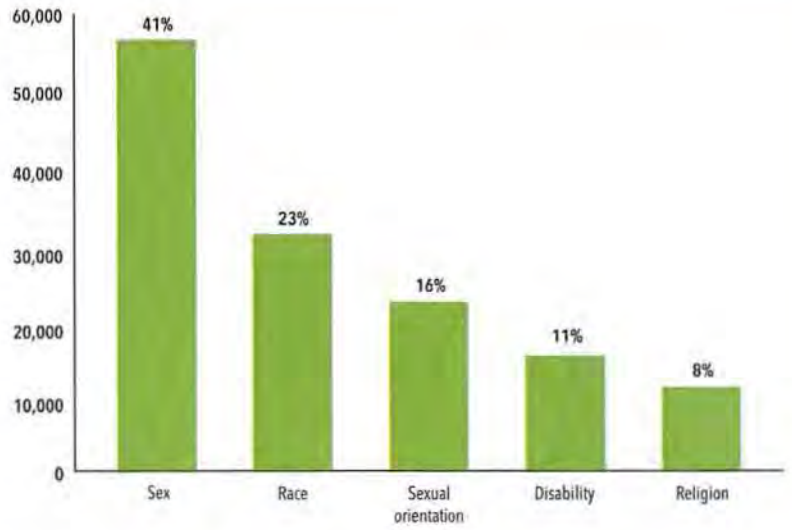
REFERRALS TO LAW ENFORCEMENT AND ARRESTS BY DISABILITY (IDEA)

Approximately 82,500 of the 290,600 total students referred to law enforcement or arrested were students with disabilities (IDEA).[7] **Figure 3** shows the percentage distribution of students referred to law enforcement or subjected to school-related arrests, by disability (IDEA). Students with disabilities (IDEA) represented 12 percent of the overall student enrollment and 28 percent of students referred to law enforcement or arrested.

Harassment or Bullying

Harassment or bullying is intimidation or abusive behavior toward a student from another student, school employee, or non-school employee third party. It can take many forms, including verbal name-calling, insults, or intimidation, as well as non-verbal acts or behavior such as graphic or written statements, or conduct that is physically threatening, harmful, or humiliating. The CRDC collects data on allegations of harassment or bullying on the basis of sex; race, color, or national origin;[8] disability; sexual orientation; and religion. In addition, the CRDC includes data on students reported as harassed or bullied and students disciplined for harassment or bullying on the basis of sex, race, and disability.

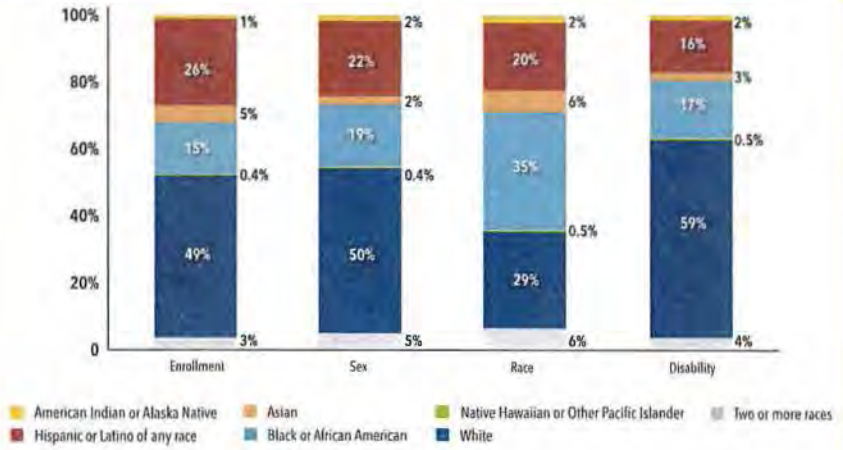
FIGURE 4: Percentage distribution of allegations of harassment or bullying, by basis



NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16

Overall, approximately 135,200 individual allegations of harassment or bullying on the basis of sex, race, sexual orientation, disability, or religion were reported during the 2015–16 school year. **Figure 4** presents the percentage distribution of allegations of harassment or bullying, by basis. Forty-one percent of these allegations involved harassment or bullying on the basis of sex – which includes sexual and other sex-based harassment or bullying. Twenty-three percent of these allegations involved harassment or bullying on the basis of race; 16 percent involved allegations on the basis of sexual orientation; 11 percent involved allegations on the basis of disability; and 8 percent involved allegations on the basis of religion.

FIGURE 5: Percentage distribution of students reported as harassed or bullied, by race



NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

HARASSMENT OR BULLYING REPORTS BY RACE

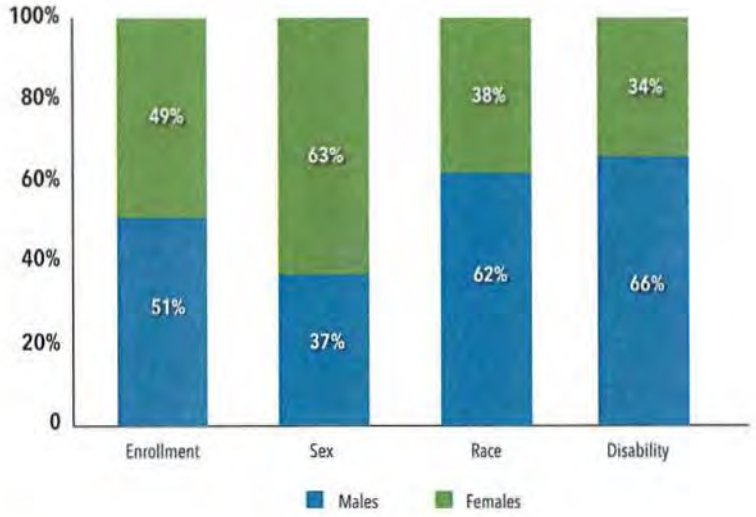
In addition to allegations of harassment or bullying, the CRDC collects data on which students were reported as harassed or bullied. During the 2015–16 school year, about 102,300 students (approximately 0.2 percent of all enrolled students) were reported to have been harassed or bullied on the basis of sex, race, or disability.

Figure 5 presents the percentage distribution of students reported as harassed or bullied, by race. Black students were 15 percent of overall student enrollment and 19 percent of students harassed or bullied on the basis of sex, 35 percent on the basis of race, and 17 percent on the basis of disability. American Indian or Alaska Native students were 1 percent of student enrollment and 2 percent of students harassed or bullied on each basis. Students of two or more races were 3 percent of the overall student enrollment, 5 percent of students harassed or bullied on the basis of sex, 6 percent on the basis of race, and 4 percent on the basis of disability.

White students were 49 percent of the student enrollment, 50 percent of students harassed or bullied on the basis of sex, 29 percent of students harassed or bullied on the basis of race, and 59 percent of students reported as harassed or bullied on the basis of disability. Asian students were 5 percent of the student enrollment, 2 percent of students harassed or bullied on the basis of sex, 6 percent of the students who were reported as harassed or bullied on the basis of race, and 3 percent of students harassed or bullied on the basis of disability.

Native Hawaiian or Other Pacific Islander students were reported as harassed or bullied on the basis of sex, race, and disability at rates comparable to their student enrollment rate.

FIGURE 6: Percentage distribution of students reported as harassed or bullied, by sex



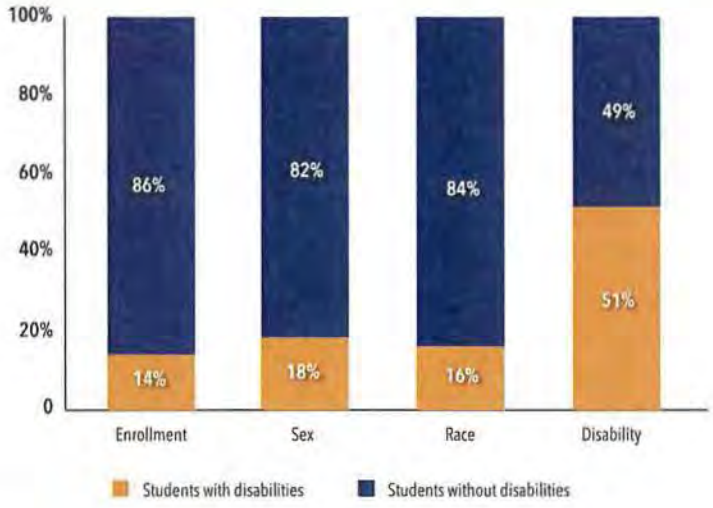
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

THE TYPE OF BULLYING OR HARASSMENT REPORTED BY MALE AND FEMALE STUDENTS DIFFERS

CRDC data indicate differences in the most common bases for which female students and male students were reported as harassed or bullied. **Figure 6** shows the percentage distribution of students reported as harassed or bullied, by sex. Female students (49 percent of total enrollment) accounted for 63 percent of students reported as harassed or bullied on the basis of sex, 38 percent of students harassed or bullied on the basis of race, and 34 percent of students reported as harassed or bullied on the basis of disability.

Male students (51 percent of total enrollment) accounted for 37 percent of students reported as harassed or bullied on the basis of sex, 62 percent of students reported as harassed or bullied on the basis of race, and 66 percent of students reported as harassed or bullied on the basis of disability.

FIGURE 7: Percentage distribution of students reported as harassed or bullied, by disability



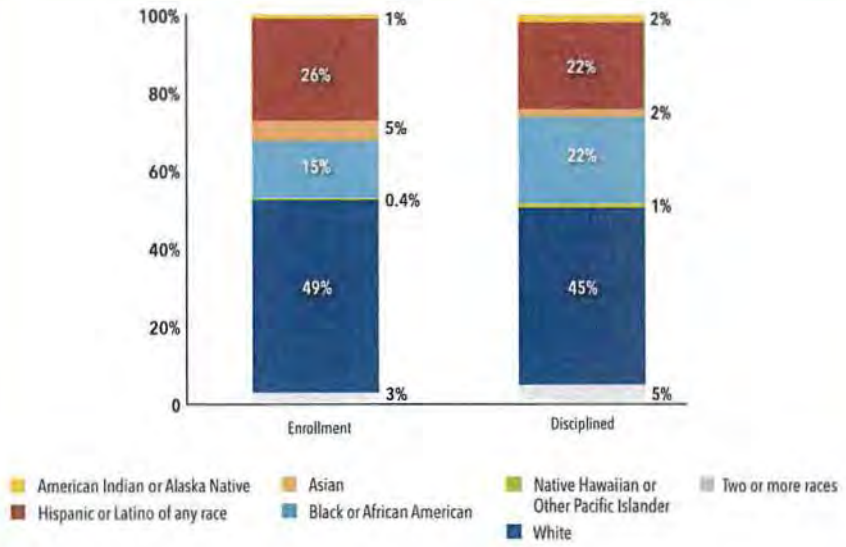
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

HARASSMENT OR BULLYING REPORTS BY DISABILITY

As used in this report, the term "students with disabilities," in regards to harassment or bullying, includes both students with disabilities (IDEA) and Section 504-only students.[9] **Figure 7** illustrates the percentage distribution of students reported as harassed or bullied, by disability. Students with disabilities were harassed or bullied based on sex, race, and disability at rates higher than their representation in the total school enrollment. Students with disabilities comprised 14 percent of the total student enrollment, but were 18 percent of students harassed or bullied on the basis of sex, 16 percent of the students harassed or bullied on the basis of race, and 51 percent of the students harassed or bullied on the basis of disability.

In comparison, students without disabilities represented 86 percent of the total student enrollment, but were 82 percent of students harassed or bullied on the basis of sex, 84 percent on the basis of race, and 49 percent of the students harassed or bullied on the basis of disability.[10] The basis of disability includes disabilities under IDEA, disabilities under section 504, perceived disabilities, and any other disabilities.

FIGURE 8: Percentage distribution of students disciplined for harassment or bullying, by race



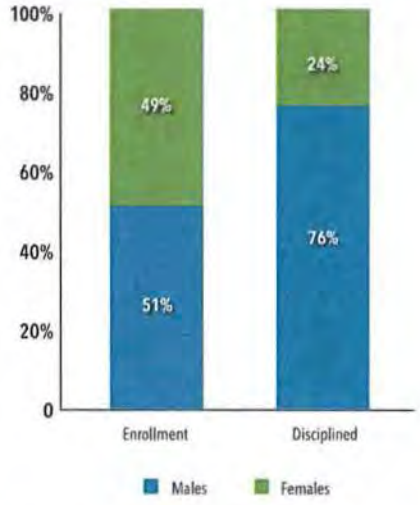
NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

STUDENTS DISCIPLINED FOR HARASSMENT OR BULLYING BY RACE, SEX, AND DISABILITY

Nearly 114,600 students (approximately 0.2 percent of the total number of enrolled students) were disciplined for incidents of harassment or bullying on the basis of sex, race, or disability during the 2015-16 school year.

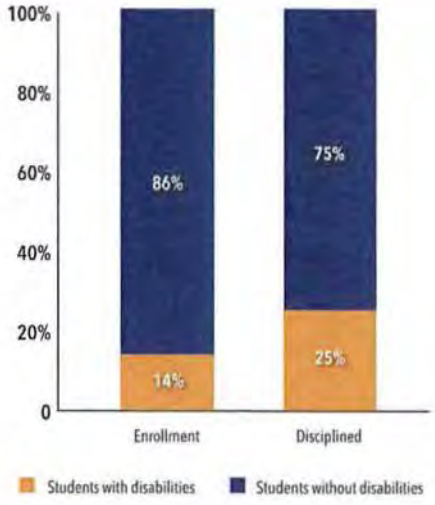
Figure 8 illustrates the percentage distribution of students disciplined for harassment or bullying, by race. Black students represented 15 percent of all students enrolled, and accounted for 22 percent of those disciplined for harassment or bullying; white students represented 49 percent of students enrolled and 45 percent of those disciplined; Latino students represented 26 percent of students enrolled and 22 percent of those disciplined; Asian students represented 5 percent of students enrolled and 2 percent of those disciplined; Native Hawaiian or Other Pacific Islander students represented 0.4 percent of students enrolled and 1 percent of those disciplined; and students of two or more races represented 3 percent of students enrolled and 5 percent of those disciplined.

FIGURE 9: Percentage distribution of students disciplined for harassment or bullying, by sex



SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

FIGURE 10: Percentage distribution of students disciplined for harassment or bullying, by disability



SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

Figure 9 presents the percentage distribution of students disciplined for harassment or bullying, by sex. Male students were 51 percent of students enrolled and 76 percent of students disciplined for harassment or bullying. Female students were 49 percent of students enrolled and 24 percent of students disciplined.

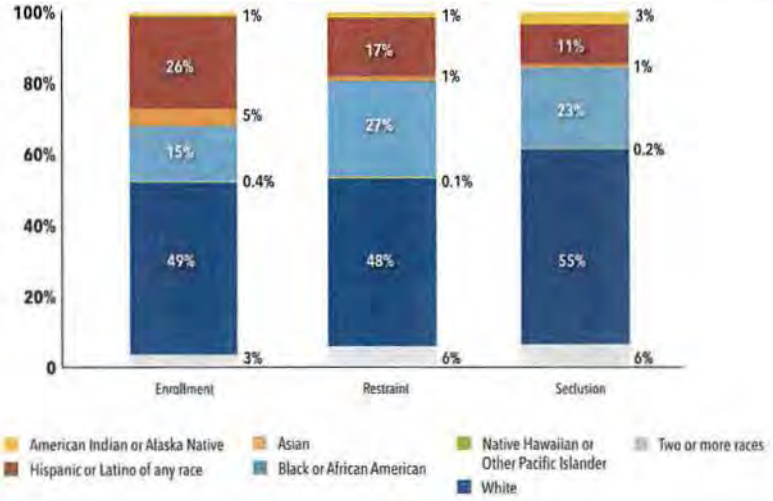
Figure 10 shows the percentage distribution of students disciplined for harassment or bullying, by disability. Students with disabilities comprised 14 percent of student enrollment and 25 percent of the students disciplined for harassment or bullying.

Restraint and Seclusion

The CRDC collects data on the physical and mechanical restraint of students and seclusion of students. Generally, physical restraint refers to restricting the student's ability to freely move his or her torso, arms, legs, or head. Mechanical restraint refers to the use of any device or equipment to restrict a student's freedom of movement. Seclusion refers to involuntarily confining a student alone in a room or area from which he or she cannot physically leave.

During the 2015–16 school year, 124,500 students (approximately 0.2 percent of all students enrolled) across the nation were physically restrained, mechanically restrained, or secluded. Nearly 87,000 of those students were subjected to physical or mechanical restraint, and over 37,500 were subjected to seclusion.

FIGURE 11: Percentage distribution of students subjected to restraint or seclusion, by race

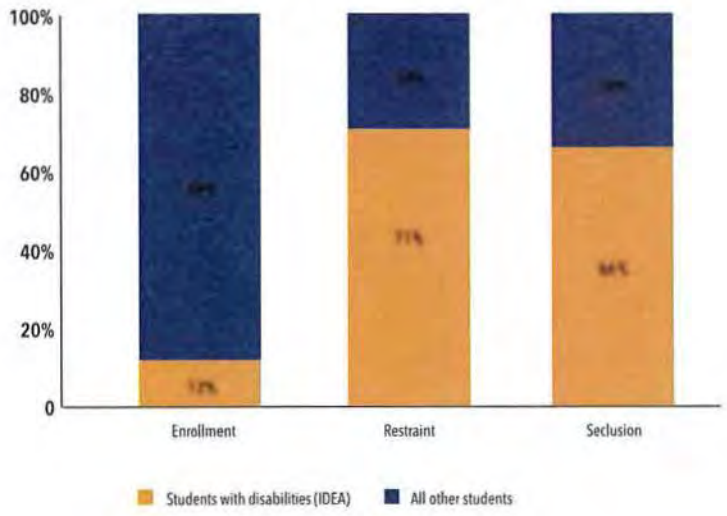


NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Figure 11 displays the percentage distribution of students subjected to restraint or seclusion, by race. Black students were 15 percent of all students enrolled, 27 percent of students restrained, and 23 percent of students secluded. White students were 49 percent of all students enrolled, 48 percent of students restrained, and 55 percent of students secluded. American Indian or Alaska Native students were 1 percent of students enrolled, 1 percent of students restrained, and 3 percent of students secluded.

Asian students (5 percent of enrolled students) comprised 1 percent of students restrained and secluded. Latino students (26 percent of enrolled students) comprised 17 percent of students restrained and 11 percent of students secluded. Native Hawaiian or Other Pacific Islander students (0.4 percent of enrolled students) comprised 0.1 percent of students restrained and 0.2 percent of students secluded.

FIGURE 12: Percentage distribution of students subjected to restraint or seclusion, by disability (IDEA)



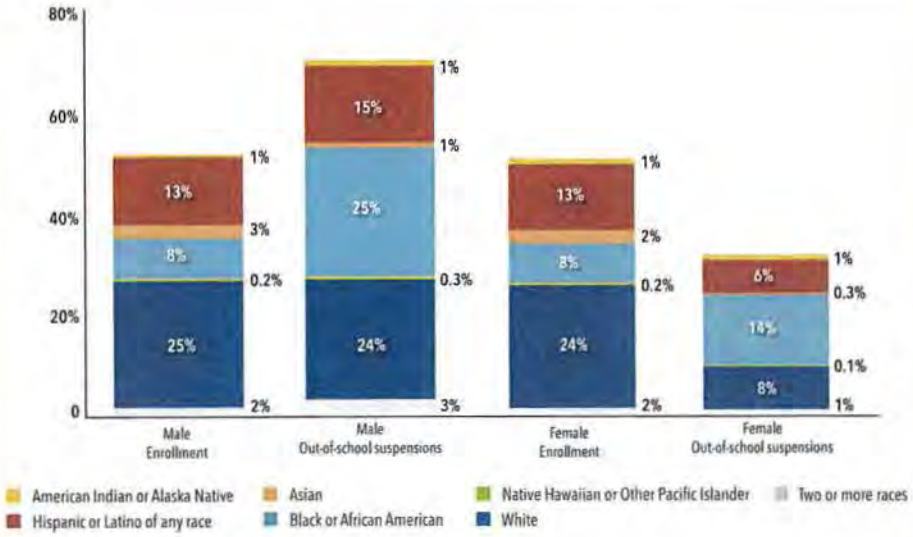
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

Most students restrained and secluded were students with disabilities (IDEA), who comprised 12 percent of all students enrolled. **Figure 12** illustrates the percentage distribution of students subjected to restraint or seclusion, by disability (IDEA). Students with disabilities (IDEA) represented 71 percent of all students restrained and 66 percent of all students secluded.

School Discipline

The CRDC collects information about exclusionary discipline practices including out-of-school suspensions and expulsions. Out-of-school suspension is an instance in which a child is temporarily removed from his or her regular school for at least half a school day for disciplinary purposes. Expulsion refers to removing a child from his or her regular school for disciplinary purposes. An expulsion can occur with or without educational services provided to the student.

FIGURE 13: Percentage distribution of students receiving one or more out-of-school suspensions, by race and sex



NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

SUSPENSIONS BY RACE AND SEX

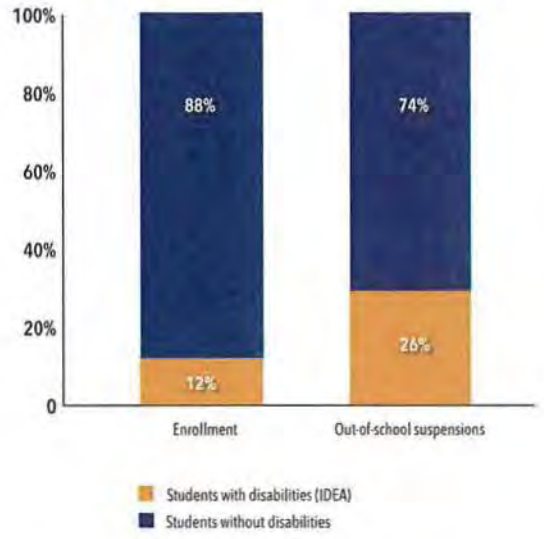
About 2.7 million (between 5 and 6 percent) of all K-12 students received one or more out-of-school suspensions during the 2015–16 school year. **Figure 13** shows the percentage distribution of students receiving one or more out-of-school suspensions, by race and sex.

Black male students represented 8 percent of enrolled students and accounted for 25 percent of students who received an out-of-school suspension. Black female students represented 8 percent of the student enrollment and accounted for 14 percent of students who received an out-of-school suspension. Latino male students represented 13 percent of student enrollment and 15 percent of students who received an out-of-school suspension. Latina female students represented 13 percent of student enrollment and 6 percent of students who received an out-of-school suspension.

American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, and male students of two or more races collectively represented 3 percent of students enrolled, and 4 percent of students who received an out-of-school suspension. In comparison, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, and female students of two or more races accounted for 3 percent of students enrolled and 2 percent of students who received an out-of-school suspension.

Asian male students accounted for 3 percent of students enrolled and 1 percent of students who received an out-of-school suspension. Asian female students constituted 2 percent of student enrollment and less than 1 percent of students who received an out-of-school suspension. White male students represented 25 percent of students enrolled and 24 percent of students who received an out-of-school suspension. White female students represented 24 percent of students enrolled and 8 percent of students who received an out-of-school suspension.

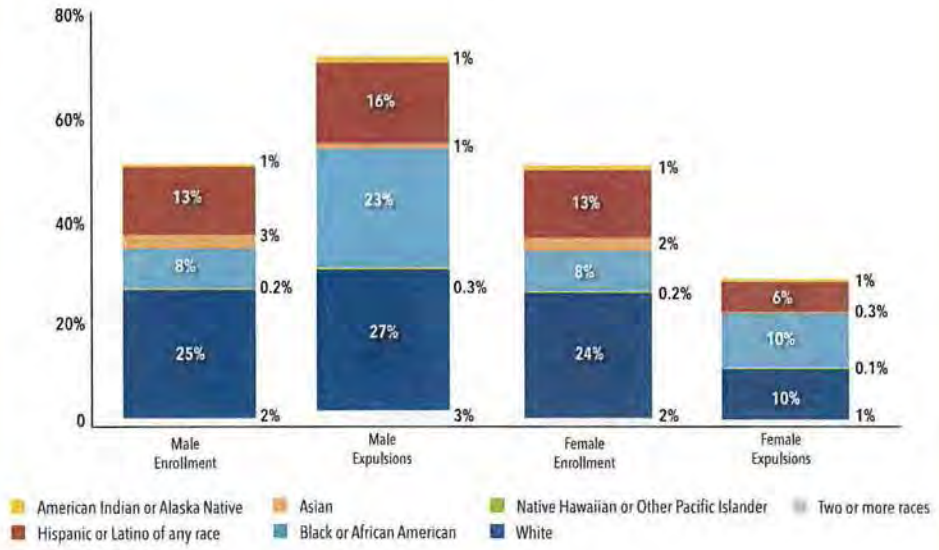
FIGURE 14: Percentage distribution of students receiving one or more out-of-school suspensions, by disability (IDEA)



SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

Figure 14 illustrates the percentage distribution of students receiving one or more out-of-school suspensions, by disability (IDEA). Students with disabilities (IDEA) represented 12 percent of students enrolled and 26 percent of students who received an out-of-school suspension.

FIGURE 15: Percentage distribution of students receiving expulsions, by race and sex



NOTE: Data may not add up to 100 percent due to rounding.
SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015–16.

EXPULSIONS BY RACE AND SEX

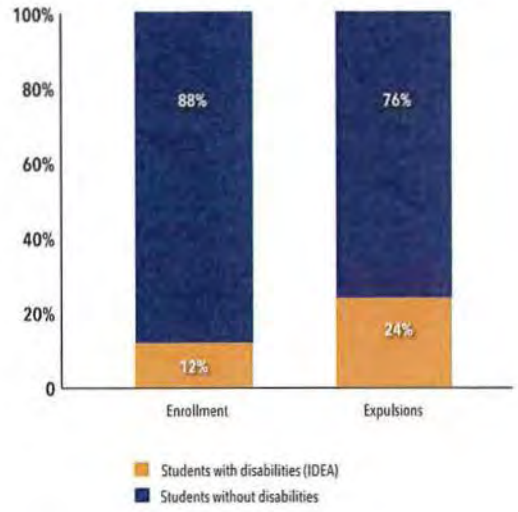
During the 2015–16 school year, approximately 120,800 students (about 0.2 percent of the total number of students enrolled) received an expulsion with or without educational services. **Figure 15** shows the percentage distribution of students receiving expulsions, by race and sex.

White male students represented 25 percent of students enrolled and 27 percent of students who were expelled. White female students represented 24 percent of students enrolled and 10 percent of students who were expelled. Asian male students accounted for 3 percent of students enrolled and 1 percent of the students who were expelled. Asian female students constituted 2 percent of the student enrollment and less than 1 percent of the students who were expelled.

Black male students represented 8 percent of enrolled students and accounted for 23 percent of students expelled. Black female students represented 8 percent of the student enrollment and accounted for 10 percent of students who were expelled. Latino male students accounted for 13 percent of students enrolled and 16 percent of students who were expelled. Latina female students accounted for 13 percent of student enrollment and 6 percent of students who were expelled.

American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, and male students of two or more races collectively represented 3 percent of students enrolled, and 4 percent of students who were expelled. In comparison, American Indian or Alaska Native, Native Hawaiian or Other Pacific Islander, and female students of two or more races accounted for 3 percent of students enrolled and 2 percent of students who were expelled.

FIGURE 16: Percentage distribution of students receiving an expulsion, by disability (IDEA)



SOURCE: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-16.

Figure 16 displays the percentage distribution of students receiving expulsions, by disability (IDEA). Students with disabilities (IDEA) represented 12 percent of the total students enrolled, and 24 percent of those students who were expelled.

Data Highlights

† Note: Except where the percentage is below 1 percent, the percentages listed in these data highlights are rounded to the nearest whole number. Counts of 1,000,000 or greater are rounded to the nearest hundred thousand. Counts of 1,000 or greater are rounded to the nearest hundred. Counts of less than 1,000 are rounded to the nearest ten. For the survey form and full definitions of all terms mentioned in the report, visit ocrdata.ed.gov/SurveyDocuments.

CRDC Endnotes

[1] CRDC data report students using the seven racial/ethnic categories found in the U.S. Department of Education's Final Guidance on Collecting, Maintaining and Reporting Data on Race and Ethnicity. The Final Guidance can be found at http://nces.ed.gov/pubs2008/raceguide/pdf/appendixA.pdf. For brevity in this report, the racial/ethnic categories are referred to as "race." Furthermore, for brevity in this report, race, color, or national origin – as referenced in Title VI of the Civil Rights Act of 1964 – is referred to as "race."

[2] Data on offenses reported by the National Center for Educational Statistics (NCES) may differ from the data on offenses reported by the CRDC due to differences in the populations or samples used in the two different data collections.

[3] For consistency with how questions were asked of school districts completing the survey, "offenses" are referred to as incidents and "harassment or bullying" are referred to as allegations.

[4] For brevity in this report, school-related arrests are referred to as arrests.

[5] The term "black" refers to persons who are black or African American.

[6] The terms "Latino/a" refer to persons who are Hispanic or Latino/a of any race.

[7] As used in this report, the term "students with disabilities (IDEA)" is used to refer to students who receive special education and related services under the Individuals with Disabilities Education Act according to an Individualized Education Program, Individualized Family Service Plan, or service plan. These students may or may not receive related aids and services under Section 504 of the Rehabilitation Act of 1973, amended. 20 U.S.C. §§ 1400-1419; 34 C.F.R. pt. 300. Part B of the IDEA addresses the obligations of States and school districts to provide special education and related services to eligible children with disabilities. The Office of Special Education Programs (OSEP) in the Department's Office of Special Education and Rehabilitative Services (OSERS) administers the IDEA. The national percentages reported by OSEP may differ from those reported by OCR due to differences in the population of students included in the collection. For information about the IDEA, please see osep.grads360.org and www.ed.gov/osers/osep/index.html.

[8] See note 1 above.

[9] The term "Section 504-only" refers to a student who receives related aids and services under Section 504 of the Rehabilitation Act of 1973, as amended, and does not receive special education and related services under IDEA according to an Individualized Education Program, Individualized Family Service Plan, or service plan.

[10] Harassment or bullying on the basis of disability includes perceived disability. A student may have a disability and not receive services under IDEA or Section 504. Furthermore, a student may have a disability and not be counted under "students with disabilities" for CRDC purposes.

More About the CRDC

What is the purpose of the CRDC?

Since 1968, the U.S. Department of Education (ED) Office for Civil Rights (OCR), or its predecessor agency, has conducted the Civil Rights Data Collection (CRDC) to collect data on key education and civil rights issues in our nation's public schools.

The CRDC collects a variety of information, including student enrollment and educational programs and services, most of which is disaggregated by race, sex, English learners, and disability.

The CRDC is a longstanding and critical aspect of the overall enforcement and monitoring strategy used by OCR to ensure that recipients of the Department's Federal financial assistance do not discriminate on the basis of race, color, national origin, sex, and disability.

OCR relies on CRDC data from public school districts as it investigates complaints alleging discrimination, initiates proactive compliance reviews to focus on particularly acute or nationwide civil rights compliance problems, and provides policy guidance and technical assistance to educational institutions, parents, students, and others.

In addition, the CRDC is a valuable resource for other Department offices and federal agencies, policymakers and researchers, educators and school officials, parents and students, and other members of the public who seek data on student equity and opportunity.

Under what authority does OCR conduct the CRDC?

Section 203(c)(1) of the 1979 Department of Education Organization Act conveys to the Assistant Secretary for Civil Rights the authority to "collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights." The civil rights laws enforced by OCR include:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin;
- Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex; and
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability.

OCR's implementing regulations for each of these statutes require recipients of the Department's federal financial assistance to submit to OCR "complete and accurate compliance reports at such times, and in such form and containing such information" as OCR "may determine to be necessary to enable [OCR] to ascertain whether the recipient has complied or is complying" with these laws and implementing regulations (34 CFR § 100.6(b), 34 CFR § 106.71, and 34 CFR § 104.61). Any data collection that OCR determines is necessary to ascertain or ensure compliance with these laws is mandatory.

For further general information about the CRDC, visit the CRDC FAQ page.

Availability of Alternate Format

Requests for documents in alternate formats such as Braille or large print should be submitted to the Alternate Format Center by calling 202.260.0852 or emailing the Section 508 Coordinator at om_eeos@ed.gov.

Notice to Persons with Limited English Proficiency

If you have difficulty understanding English, you can request free interpretation or translation assistance for Department information that is available to the public. To find out more about these services, please call 1-800-USA-LEARN (1.800.872.5327) (TTY: 1.800.877.8339) or email us at ED.Language.Assistance@ed.gov.

You also can write to U.S. Department of Education, Information Resource Center, LBJ Education Building, 400 Maryland Avenue SW, Washington, DC, 20202.

Document History

This document was originally issued in April 2018. In April 2019, the document was updated to incorporate data corrections submitted by districts. The corrected data resulted in changes to some of the national totals reported for offenses (page 2), referrals to law enforcement and school-related arrests (pages 3 - 4), allegations of harassment or bullying (page 5), students disciplined for harassment or bullying (page 9), restraint and seclusion (page 11) and expulsion (page 15). To learn more about the data corrections, please see the 2015-16 Data Notes https://ocrdata.ed.gov/Downloads/Data-Notes-2015-16-CRDC.pdf.

How to Contact the Department of Education and Office for Civil Rights

United States Department of Education
Betsy DeVos, Secretary
Kenneth Marcus, Assistant Secretary for Civil Rights
Lyndon Baines Johnson Building
Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
FAX: 202-453-6012
TDD: 877-521-2172
Email: OCR@ed.gov | www.ed.gov/ocr

U.S. Department of Education
Office for Civil Rights

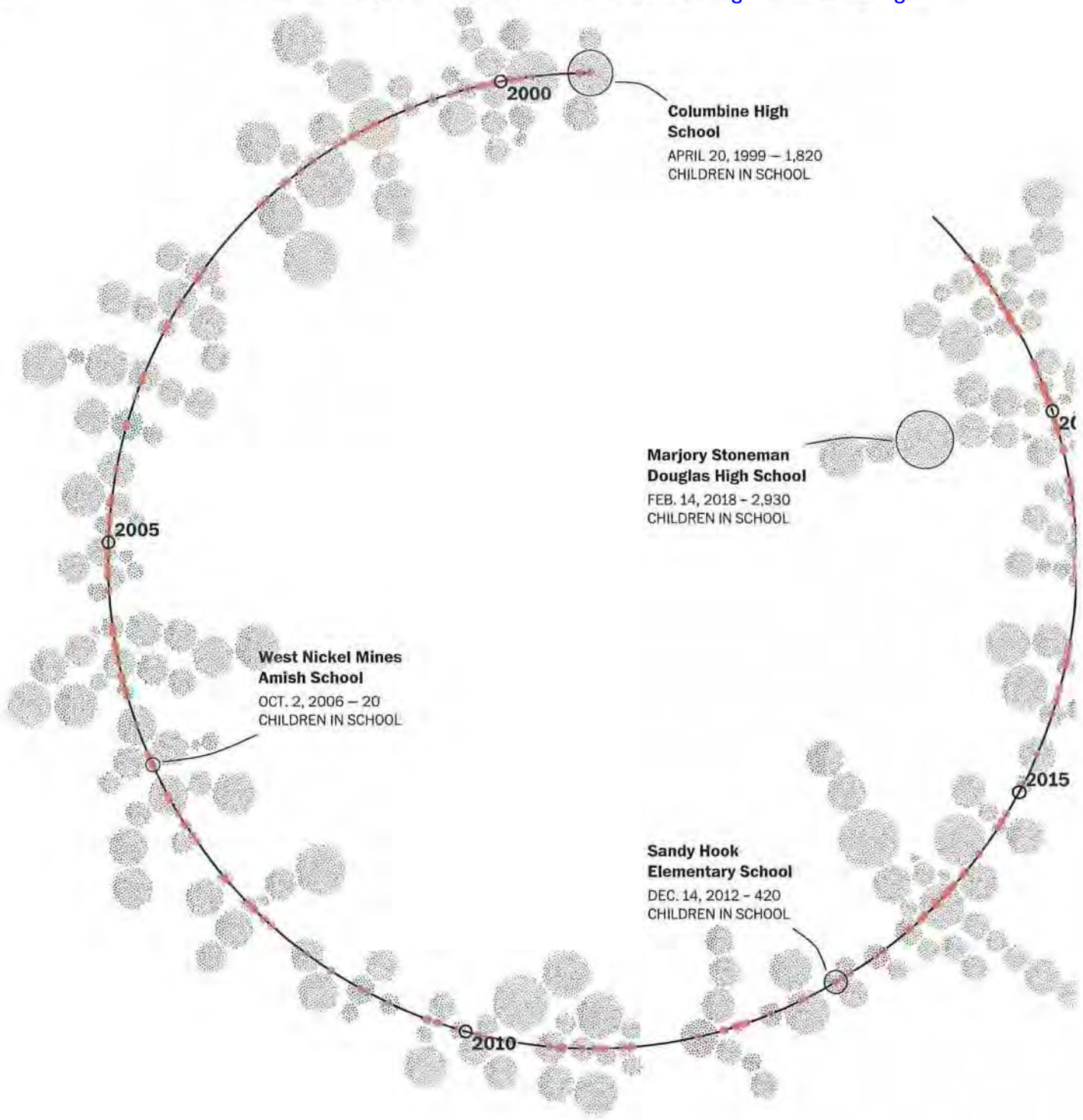
EXHIBIT "4"

The Washington Post

More than 228,000 students have experienced gun violence at school since Columbine

One dot • represents 10 children exposed to gun violence

Case 3:19-cv-01226-L-AHG Document 21-21 Filed 11/12/19 PageID.4020 Page 78 of 109



Explore The Washington Post's database of school shootings

By John Woodrow Cox, Steven Rich, Allyson Chiu, John Muyskens and Monica Ulmanu

Updated May 8 at 10:02 a.m.

EXHIBIT 4
0073

The Washington Post has spent the past year determining how many children have been exposed to gun violence during school hours since the Columbine High massacre in 1999.

Beyond the dead and wounded, children who witness the violence or cower behind locked doors to hide from it can be profoundly traumatized.

The federal government does not track school shootings, so The Post pieced together its numbers from news articles, open-source databases, law enforcement reports and calls to schools and police departments.

The children impacted grew with each round of reporting: from 135,000 students in at least 164 primary and secondary schools to more than 187,000 on 193 campuses.

Since March, The Post has taken a closer look at states with fewer local news sources and searched more deeply for less visible public suicides and accidents that led to injury.

The count now stands at more than 228,000 children at 234 schools.

The Post has found that at least 144 children, educators and other people have been killed in assaults, and another 302 have been injured.

In 2018 alone, there have already been 25 shootings — the highest number during any year since at least 1999. Still, school shootings remain rare, and only a tiny percentage of the tens of millions of students in America ever experience them.

The most recent school shooting was 150 days ago.

Show shootings in **all schools** from **all years**

in **the U.S.**

1 of 239

May 7, 2019

STEM School Highlands Ranch in Highlands Ranch, Colorado

1 dead • **8** injured • **1,720** children present in school

Two armed students killed one person and wounded at least eight other peo, will be updated.)

Source: The Washington Post

Injuries and death tolls do not include the shooters

Download the data Read the methodology Send information

The Post's search for more shootings will continue, and it's possible reporters will locate additional incidents from previous years.

Hundreds of outlets cover the deadliest attacks, such as the Feb. 14 rampage at Marjory Stoneman Douglas High in Parkland, Fla., where a 19-year-old man with an AR-15 rifle killed 17 people.

Others are covered by a single newspaper, such as a 2001 shooting at Pearl C. Anderson Middle School in Dallas, where a 14-year-old boy held a revolver to a girl's chest and asked her whether she was "ready to die" before a bullet fired, grazing her hand.

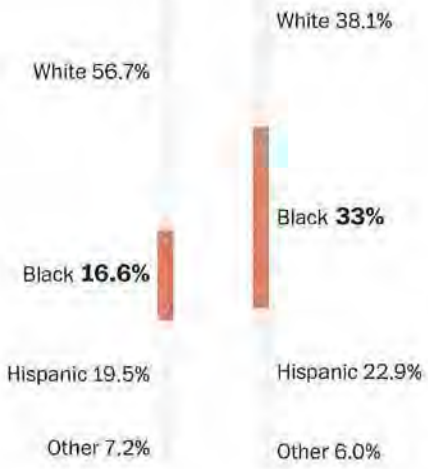
Even as the list of incidents has expanded, however, the trend lines have remained consistent.

Among The Post's most important findings: the disproportionate impact of school shootings on children of color.

Black students make up 16.6% of the school population...

...but they experience school shootings at twice that rate.

Case 3:19-cv-01226-L-AHG Document 21-21 Filed 11/12/19 PageID.4623 Page 81 of 109

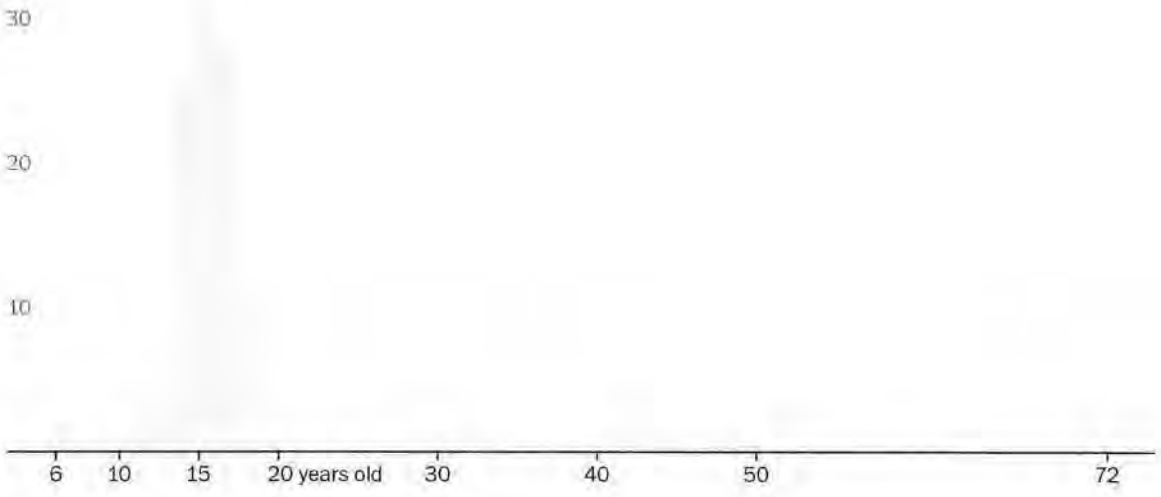


In cases where the source of the gun could be determined, more than 85 percent of shooters brought them from their own homes or obtained them from friends or relatives, according to The Post's analysis.

The ranks of school shooters include a 6-year-old boy, who killed a classmate after saying he didn't like her, and a 15-year-old girl, who did the same to a friend for rejecting her romantic overtures.

Seven in 10 of them, however, were under the age of 18, which means that — often because of an adult's negligence — dozens of children had access to deadly weapons.

The median age of school shooters is 16.



45 shooters with unknown age not included

Read our stories about children and gun violence

EXHIBIT 4
0076

Scarred by school shootings

How Parkland student journalists covered the shooting they survived and friends they lost

Twelve seconds of gunfire: First-graders are haunted by what they survived — and lost — on a school playground

The wounds they carry: For six teens at a Las Vegas high school, homecoming week started with a country music concert

'Did your father die?' A second-grader grows up surrounded by gunfire

Alex Horton contributed to this report.

About the methodology

The Washington Post spent a year determining how many children have been affected by school shootings, beyond just those killed or injured. To do that, reporters attempted to identify every act of gunfire at a primary or secondary school during school hours since the Columbine High massacre on April 20, 1999. Using Nexis, news articles, open-source databases, law enforcement reports, information from school websites and calls to schools and police departments, The Post reviewed more than 1,000 alleged incidents but counted only those that happened on campuses immediately before, during or just after classes.

Shootings at after-hours events, accidental discharges that caused no injuries to anyone other than the person handling the gun, and suicides that occurred privately or posed no threat to other children were excluded. Gunfire at colleges and universities, which affects young adults rather than kids, also was not counted.

After finding more than 200 incidents of gun violence that met The Post's criteria, reporters organized them in a database for analysis. Because the federal government does not track school shootings, it's possible that the database does not contain every incident that would qualify.

To calculate how many children were exposed to gunfire in each school shooting, The Post relied on enrollment figures and demographic information from the U.S. Education Department, including the Common Core of Data and the Private School Universe Survey. The analysis used attendance figures from the year of the shooting for the vast majority of the schools. Then The Post deducted 7 percent from the enrollment total because that is, on average, how many students miss school each day, according to the National Center for Education Statistics. Reporters subtracted 50 percent from a school's enrollment if the act of gun violence occurred just before or after the school day. To provide information about school shootings since Columbine that fit The Post's definition, send us an email at schoolshootings@washpost.com.

Originally published April 20, 2018.

Comments

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0077

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Fatal Force: 2018 police shootings database

The Washington Post database contains records of every fatal shooting in the United States by a police officer in the line of duty since Jan. 1, 2015.

Mass shootings: How U.S. gun culture compares with the rest of the world

After mass shootings, much debate centers on Americans' relatively easy access to guns. As of 2015, there are more guns than people in the United States, a rate that's far higher than in other developed nations.

The terrible numbers that grow with each mass shooting

The death tolls change, the places change. But the weapons are the common denominator.

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EXHIBIT "5"

Three Decades of School Shootings: an Analysis

A comprehensive review of nearly three dozen mass shootings, including Columbine, reveals some notable similarities

By Tawnell D. Hobbs
Published April 19, 2019, at 10:30 a.m. ET

School shooters typically plan their attacks weeks or months in advance, usually telling someone or hinting at coming violence. Most feel bullied or left out and are seeking revenge. Many have easy access to guns and are fascinated by mass shooters. Many are suicidal or ready to die during their attacks.

Those are the findings of a Wall Street Journal analysis of information about nearly three dozen mass shootings that have taken place at schools since 1990. The deadly shooting at Columbine High School in Colorado, which occurred 20 years ago Saturday, was one of them.

School Shooters Exhibit Similar Behavior

● Displayed trait
○ Did not display trait

	PLANNED IN ADVANCE	BULLIED, SOUGHT REVENGE	EASY ACCESS TO GUNS	TOLD SOMEONE	SUICIDAL
SHARED 5 TRAITS					
Eric Harris	●	●	●	●	●
Dylan Klebold	●	●	●	●	●
Caleb Sharpe	●	●	●	●	●
James Rouse	●	●	●	●	●
Jesse Osborne	●	●	●	●	●
Thomas Solomon Jr.	●	●	●	●	●
Eric Houston	●	●	●	●	●
Evan Ramsey	●	●	●	●	●
Charles Williams	●	●	●	●	●
Jaylen Fryberg	●	●	●	●	●
SHARED 4 TRAITS					
Mitchell Johnson	●	●	●	●	○
Andrew Golden	●	●	●	●	○

EXHIBIT 5
0080

Barry Loukaitis	○
Luke Woodham	○
Jose Reyes	
Asa Coon	
Charles Roberts	
Kipland Kinkel	○
Jeffrey Weise	

SHARED 3 TRAITS

Gabriel Parker	○
Jason Hoffman	
Adam Lanza	
Nikolas Cruz	
Dimitrios Pagourtzis	
Kenneth Bartley Jr.	○
Kevin Janson Neal	
Keith A. Ledeger	

SHARED 2 TRAITS

Thomas Lane III	○ ○
Michael Carneal	○
Steven Williams	○
James Tate	○
Cedric Anderson	
Kevin Newman	

SHARED 1 TRAIT

Kenneth Wolford
unnamed 15-year-old
unnamed 16-year-old

NO DATA AVAILABLE

unnamed 12-year-old
Dedrick Dashaun Nelson
Rakish Jenkins

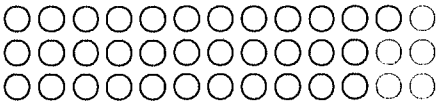
Note: Empty cells are left blank because of lack of data.

The Journal reviewed information made public by courts or law-enforcement agencies about school shootings that left three or more victims killed or injured. The material included 22 hours of video, 108 minutes of audio and about 10,000 pages of documents—text messages, journals, court records and transcripts of police interviews.

The shooters, 39 in all, left 116 dead and 229 injured. Last year, 77 people in the U.S. died or were injured in mass school shootings that left three or more victims, more than in any other year in the Center for Homeland Defense and Security's statistics, which go back to 1970.

The Journal's analysis of information about the 39 shooters revealed many common elements.

At least 34 of 39
planned the attack in advance



In the days before 15-year-old Jaylen Fryberg killed four students at Marysville Pilchuck High School in Marysville, Wash., on Oct. 24, 2014, he engaged in ominous text-message exchanges with an ex-girlfriend.

Text messages between Jaylen Fryberg and his ex-girlfriend

Just please talk me out of this...

The guns in my hand..

Please....

Jaylen

Jay

Jaylen's ex-girlfriend

What.

Jaylen

Source: Snohomish County Multiple Agency Response Team

Two days before the rampage, he texted her: "I set the date."

Moments before the first shot, he sent a message to members of his family with details for his funeral and an apology to some parents of students he planned to kill. "I want to be fully dressed in Camo in my casket," it said in part.

Within two minutes, the first 911 calls come from the school. Fryberg had invited three friends and two of his cousins to sit with him at a table in the lunchroom. He shot each of them in the head. Four of them died. Then he killed himself.

EXHIBIT 5
0082

There is considerable evidence that Nikolas Cruz, too, did a lot of planning before the school shooting on Feb. 14, 2018, that left 17 dead in Parkland, Fla.

"Hello. My name is Nick and I'm gonna be the next school shooter of 2018," he said in a cellphone video three days before the attack. "My goal is at least 20 people with an AR-15 and a couple tracer rounds."

"It's gonna be a *big* event. You're all going to die."

—Nikolas Cruz

Source: 17th Judicial Circuit Court, Broward County, Fla.

Cruz's cellphone content and search history indicate he researched shooting people months before the attack at Marjory Stoneman Douglas High. The month before the shooting, he made a cellphone note to himself about a "basketball court full of targets." One day later, he said in another note, "Everything and everyone is happy except for me I want to kill people but I don't know how I can do it." The day of the shooting, his internet activity included a search on "school shooter."

More than a month before the shooting, an unidentified woman had called an FBI tip line to warn about Cruz's professed desire to kill people and his disturbing social-media posts, saying she worried he would shoot up a school. The FBI didn't follow up on the tip.

"I just want to, you know, get it off my chest in case something does happen and I do believe something's going to happen, but...

—unidentified woman tipping off the FBI about Nikolas Cruz

Source: Federal Bureau of Investigation

A state safety commission later found that at least 30 people knew of Cruz's troubling behavior before the shooting, and they either didn't report it or their reports weren't acted upon.

Writings by school shooters recovered by law-enforcement officials.
Source: Courts, law enforcement agencies

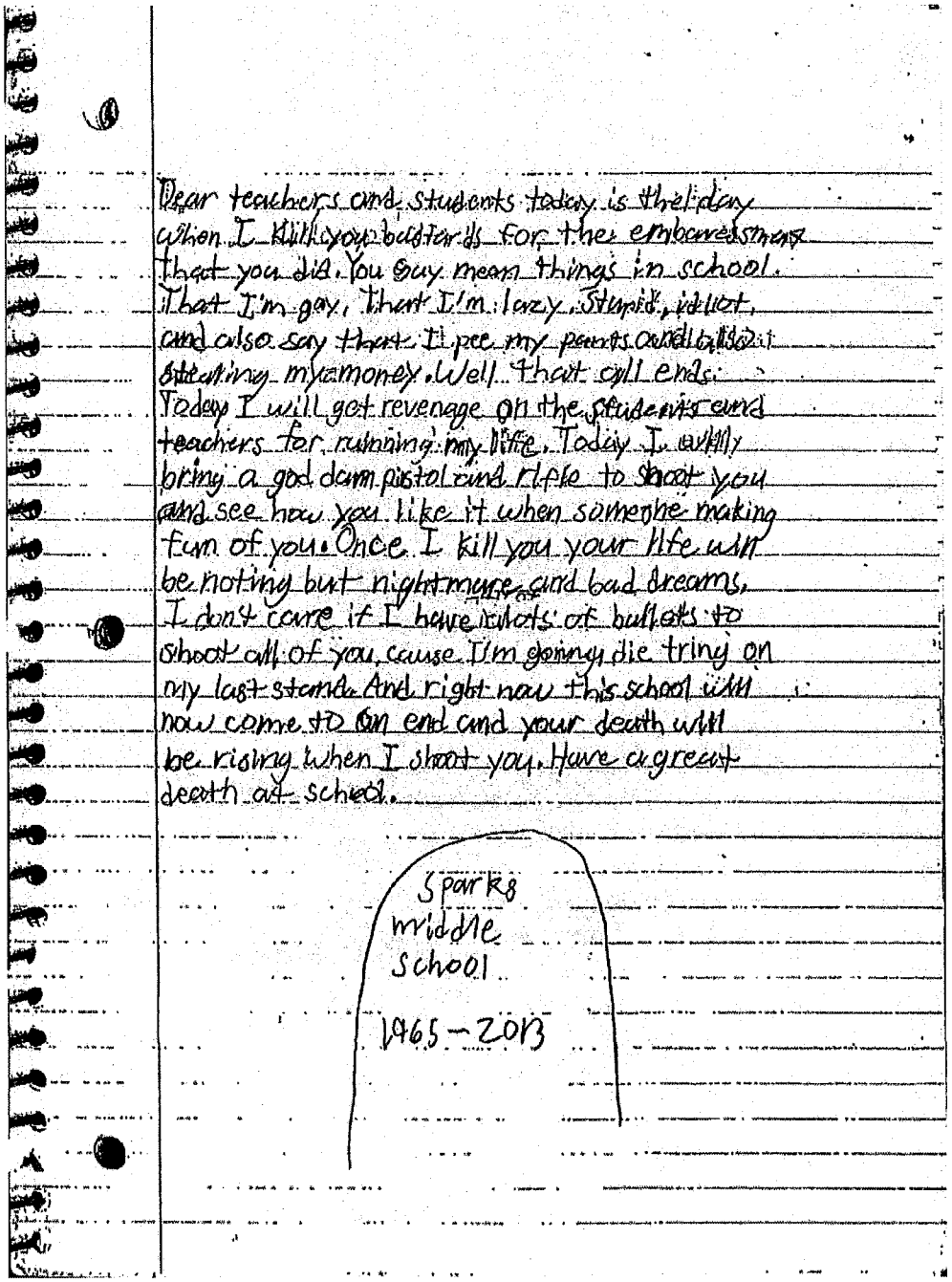
At least 21 of 39

EXHIBIT 5
0083

felt bullied, sought revenge

Twelve-year-old Jose Reyes left behind two letters in his backpack after a 2013 attack at Sparks Middle School in Sparks, Nev., that left two students injured and a teacher dead. He also killed himself.

In a letter to teachers and students, he said he was seeking revenge for the mean things they had said, and that "today is the day when I kill you."


Dear teachers and students today is the day
when I kill you bastards for the embarrassment
that you did. You say mean things in school.
That I'm gay, that I'm lazy, Stupid, idiot,
and also say that I pee my pants and also I
steaming my money. Well that all ends.
Today I will get revenge on the students and
teachers for ruining my life. Today I will
bring a god dam pistol and rifle to shoot you
and see how you like it when someone making
fun of you. Once I kill you your life will
be noting but nightmare and bad dreams.
I don't care if I have lots of bullets to
shoot all of you, cause I'm gonna die trying on
my last stand. And right now this school will
now come to an end and your death will
be rising when I shoot you. Have a great
death at sched.

Sparks
middle
school
1965 – 2013

Source: Sparks Police Department, Sparks, Nev.

TRANSCRIPTION
EXHIBIT 5
0084

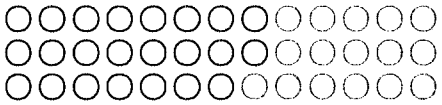
Dear teachers and students today is the day
when I kill you bastards for the embarressment
that you did. You say mean things in school.
That I'm gay, that I'm lazy. Stupid, idiot,
and also say that I pee my pants and also
stealing my money. Well that all ends.
Today I will get revenage on the students and
teachers for ruinning my life. Today I will
bring a god damn pistol and rifle to shoot you
and see how you like it when someone making
fun of you. Once I kill you your life will
be noting but nightmare and bad dreams.
I don't care if I have alots of bullets to
shoot all of you cause I'm going to die tring on
my last stand. And right now this school will
now come to an end and your death will
be rising when I shoot you. Have a great
death at school.

In 1997, 16-year-old Evan Ramsey entered Bethel Regional High School in Bethel, Alaska, with a shotgun hidden under his jacket. He walked into a common area and opened fire, killing one student and injuring two others. He continued on to the main office, where he shot the principal, Ronald Edwards, who died in his office.

A note found in his bedroom after the attack indicated he was seeking revenge against the principal and others. It said he believed he would die after the attack. He lived.

A note found in school shooter Evan Ramsey's bedroom.
Source: Court of Appeals, State of Alaska

At least 22 of 39
told someone or hinted at plans



Many of the shooters told someone or hinted at their plans, either in conversations with friends or in online communications, in some cases in an effort to keep friends safe. In 1998, 13-year-old Mitchell Johnson and 11-year-old Andrew Golden killed five and injured 10 at Westside Middle School in Jonesboro, Ark. In a later deposition, Johnson said he had warned a couple of people the day before the shooting "please don't come to school" the next day.

In 2016, 14-year-old home-schooler Jesse Osborne took a gun from his father's nightstand and shot him dead. Then, after kissing his pets, he drove his father's truck to Townville Elementary School in Townville, S.C., where he killed one person and injured three.

He told the police that a group of people from various countries had encouraged his plan in Instagram exchanges.

Instagram exchange between school shooter Jesse Osborne and an unnamed person.

Should i shoot up my elementary school or my middle school

The middle school has tons of cops

The elementry doesnt

And the elementry school is 4 mins away from my house

The middle schools 1 hr away

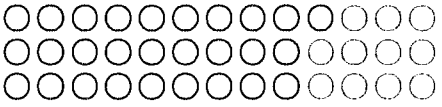
Elementary those **** are just disgusting little kids who grow up to be little **** when they're older

Yep thats what i was thinking

And yeah it's easier to go to the closest

Source: WYFF-TV, Greenville, S.C.

At least 26 of 39
had easy access to guns



The Journal analysis found school shooters mostly used guns owned by family members.

Police found a large number of firearms in the home that Adam Lanza shared with his mother, whom he killed before killing 26 at Sandy Hook Elementary School in Newtown, Conn., in 2012. The socially isolated 20-year-old, who had

been diagnosed with mental illness, had spent time online researching school shootings, including downloading the investigation of the Columbine attack. He kept a detailed spreadsheet on killers, sorted in order of the number killed.

School shooter Adam Lanza kept a spreadsheet of mass killers.
Source: Connecticut State Department of Emergency Services and Public Protection

In the home where Kipland Kinkel lived with his parents, police found a large collection of guns and knives, and ingredients for making explosive devices. The 15-year-old, who was diagnosed with mental-health problems, first killed his parents, then killed two people and injured 26 in a rampage at Thurston High School in Springfield, Ore., in May 1998.

In an interview with a police detective after the shooting, he said that he got his weapons from home.

Kipland Kinkel's Confession to Police

Okay....So your dad has guns, right?

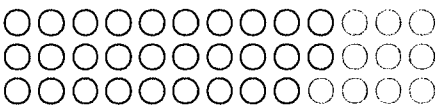
Yes.

And where does he keep his guns?

He usually keeps them in his tennis locker at the swim and tennis club. But we could always shoot it once in awhile and so they were home

Source: Springfield Police Department, Springfield, Ore.

At least 22 of 39
felt suicidal



Eric Houston knew it was possible he would die in a 1992 attack on his former school, Lindhurst High School in Olivehurst, Calif. A note was found in the 20-year-old's bedroom after he stormed the school, killing four and wounding

several others. "If I die today please bury me somewhere beautiful," he wrote. He lived, as did 72% of shooters in the incidents reviewed by the Journal.

In February 2012, Thomas Lane, then 17, went on a shooting rampage in the cafeteria of Chardon High School in Chardon, Ohio, killing three students and injuring three others. Afterward, he sat in a ditch about a mile away and loaded a gun to kill himself. He didn't do it.

Nick Walczak had limped from the cafeteria with three gunshot wounds, only to be chased down by Lane and shot in the back. The last shot left him paralyzed.

"None of us were ever mean to him," Mr. Walczak says of the shooter. "If you had asked me a day before, I would have told you that he's a good kid."

Methodology: **Planned in advance** indicates the shooter planned the attack well in advance, including plotting to get weapons, researching other shooters, setting a date for the attack or writing a letter explaining the motive for the attack. **Bullied, sought revenge** indicates the shooter felt bullied or sought revenge for a perceived wrong. **Easy access to guns** indicates the shooter knew where unsecured guns were in the house, had access to home gun safes or purchased the guns themselves. **Told someone** indicates the shooter told at least one person about the coming attack, or alluded to it, verbally or in writings, text messages, video recordings or on social media. **Suicidal** indicates the shooter planned to commit suicide after the attack or be killed by police.

Credits: Design and development by Tyler Paige and Elbert Wang.

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EXHIBIT "6"

CALIFORNIA

Everything we know about the San Bernardino terror attack investigation so far



Syed Rizwan Farook, left, and a photo of Tashfeen Malik. (FBI)

DEC. 14, 2015
4:03 PM

Here's the latest updates on the investigation into Syed Rizwan Farook and Tashfeen Malik, the shooters who attacked Farook's office holiday party, killing 14 and wounding 22, in what officials believe was an act of terrorism. They were killed in a shootout with police shortly after. Since the Dec. 2 attack, investigators have been piecing together evidence in an effort to pinpoint exactly what motivated the couple, and how their plan went undetected.

Latest in the investigation Farook's friend, Enrique Marquez Jr. was arrested Thursday and charged with conspiring to give material support to terrorists, according to federal documents that allege the two men had talked of attacking Riverside City College and a busy freeway during rush hour. READ MORE

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Enrique Marquez, the neighbor



Home in Riverside where Marquez lived next door to Farook. (Los Angeles Times)

Enrique Marquez Jr., a 24-year-old Riverside man who worked as a Wal-Mart security guard, is a central figure in the investigation.

He checked into a mental health facility on the day of the shooting and police searched his Riverside home -- next door to Farook's old residence -- shortly after the shootings. He was said to be good friends with Farook and cemented his connection to his next-door neighbor by marrying the sister of Farook's sister-in-law in 2014. In 2011 or 2012, Marquez bought two of the rifles Farook and Malik used in the attack. A law enforcement source said he converted to Islam at some point, but when is unclear.

Marquez has waived his right to an attorney and been cooperative throughout marathon interviews with federal investigators, a law enforcement source said.

According to a law enforcement source, Marquez told investigators Farook wanted him to buy the guns because he feared he "wouldn't pass a background check" if he attempted to acquire the weapons on his own.

Marquez also told FBI agents Farook had made an earlier attack plan he didn't follow through on, according to a source.

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An even bigger attack was planned

Two federal sources told The Times that before the shooting and their subsequent deaths, the couple was in the final planning stages for an assault on a separate building or location "with a lot more people inside," possibly at a nearby school or college. They based that assessment on data from digital equipment recovered from the couple's Redlands home, all of which was smashed in an attempt to hide their activities.

The weapons



Farook and Malik used five firearms during the attack, and left behind three pipe bombs wired to a remote control. They did not detonate.

The shooters fire over 150 rounds during the initial attack and during a gun battle with police afterwards. They had more than 1,400 .223 caliber rounds and more than 200 9-millimeter rounds with them.

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Three of the guns were purchased legally by Farook between 2007 and 2012. He bought the handguns at Annie's Get Your Gun in Corona. Two of the rifles were purchased by Farook's friend and former neighbor, Enrique Marquez Jr., in 2011 or 2012.

What we know about the previous attack plan

Farook and possibly others may have planned a terrorist act as early as 2011 or 2012 but dropped it after four men were arrested — three of them in Chino — and ultimately convicted in a plot to kill Americans in Afghanistan , according to a government official.

The official said Farook may have told at least one associate in 2011 or 2012 that he was considering a terrorist plot. It's not clear who the associate was, but Farook friend Enrique Marquez Jr. told investigators about what Farook said, according to the official.

FBI agents believe Farook abandoned his plans to launch the earlier attack after a law enforcement task force arrested the three men in November 2012. The men were later convicted of charges related to providing material support to terrorists and plotting to kill Americans in Afghanistan. Investigators are looking into whether the men had ties to Farook.

They were talking generally about something, but I don't think it made it to anything specific. I don't think it got to a time or a place.
Law enforcement official, on the previous plot

The shooters' online communications

The investigation is in part focused on Malik and Farook's digital lives, including how they communicated early in their relationship, and with terror groups.

The couple jointly pledged allegiance to Islamic State on social media shortly before they were killed in a shootout with police, the FBI has said.

Malik sent at least two private messages on Facebook to a small group of Pakistani friends in 2013 and 2014 pledging her support for Islamic jihad and savi

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Farook used several dating and matrimonial websites, including BestMuslim.com, where he wrote he wanted "Someone who takes her religion very seriously and is always trying to improve her religion and encouraging others to do the same using hikmah (wisdom) and not harshness."

FBI officials said that after the couple began dating online as early as 2013, they spoke to each other about jihad and martyrdom.

Farook had some kind of digital contact with people from at least two terrorist organizations overseas, including the Al Qaeda-affiliated Nusra Front in Syria, a federal law enforcement official said.

The K-1 'fiancee' visa



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Two government sources told The Times Malik used the name of a neighborhood or street near her home in Pakistan, rather than her family's home address, on her application. Investigators have speculated that she did so to deflect any investigation of her family's reputed ties to Islamic militants in Punjab.

K-1 applicants, like other visa applicants, undergo extensive counter-terrorism screening that includes checks based on fingerprints and facial recognition software. Questions for the partner seeking to come to the U.S. include: "Do you seek to engage in terrorist activities while in the United States or have you ever engaged in terrorist activities?" and "Have you ever or do you intend to provide financial assistance or other support to terrorists or terrorist organizations?"

Read more

The marriage



COUNTY OF RIVERSIDE

RIVERSIDE, CALIFORNIA

LICENSE AND CERTIFICATE OF MARRIAGE
FOR DENOMINATIONS NOT HAVING CLERGY

MUST BE LEGIBLE – MAKE NO ERASURES, WHITEOUTS OR OTHER ALTERATIONS
USE DARK INK ONLY

4052014116038 — STATE FILE NUMBER

8201433007812 — LOCAL REGISTRATION NUMBER

1A. FIRST NAME: SYED	1B. MIDDLE: RIZWAN
1C. CURRENT LAST: FAROOK	1D. LAST NAME AT BIRTH (IF DIFFERENT THAN 1C): --
2. DATE OF BIRTH (MM/DD/CCYY): 06/14/1987	3. STATE/COUNTRY OF BIRTH: IL
4. #PREV. MARRIAGES/DISP: 00	5A. LAST MARRIAGE/DISP ENDED BY: --
5B. DATE ENDED (MM/DD/CCYY): --/--/----	6. ADDRESS: 3830 TOMLINSON AVE
7. CITY: RIVERSIDE	8. STATE/COUNTRY: CA
9. ZIP CODE: 92503	10A. FULL BIRTH NAME OF FATHER/PARENT: SYED -- FAROOK
10B. STATE OF BIRTH (IF OUTSIDE U.S. ENTER COUNTRY): PAKIST	11A. FULL BIRTH NAME OF MOTHER/PARENT: RAFIA -- SULTANA
11B. STATE OF BIRTH (IF OUTSIDE U.S. ENTER COUNTRY): PAKIST	12A. FIRST NAME: TASHFEEN
12B. MIDDLE: --	12C. CURRENT LAST: MALIK
12D. LAST NAME AT BIRTH (IF DIFFERENT THAN 12C): --	13. DATE OF BIRTH (MM/DD/CCYY): 07/13/1988
14. STATE/COUNTRY OF BIRTH: PAKIST	15. #PREV. MARRIAGES/DISP: 00
16A. LAST MARRIAGE/DISP ENDED BY: --	16B. DATE ENDED (MM/DD/CCYY): --/--/----
17. ADDRESS: 3830 TOMLINSON AVE	18. CITY: RIVERSIDE
19. STATE/COUNTRY: CA	20. ZIP CODE: 92503
21A. FULL BIRTH NAME OF FATHER/PARENT: GULZAR AHMED MALIK	21B. STATE OF BIRTH (IF OUTSIDE U.S. ENTER COUNTRY): PAKIST
22A. FULL BIRTH NAME OF MOTHER/PARENT: NASIM -- AKHTER	22B. STATE OF BIRTH (IF OUTSIDE U.S. ENTER COUNTRY): PAKIST

Malik and Farook's marriage license

The couple met online, and Farook traveled to Saudi Arabia in 2013 to meet Malik in person. The two married last year in Islam's holy city of Mecca in Saudi .

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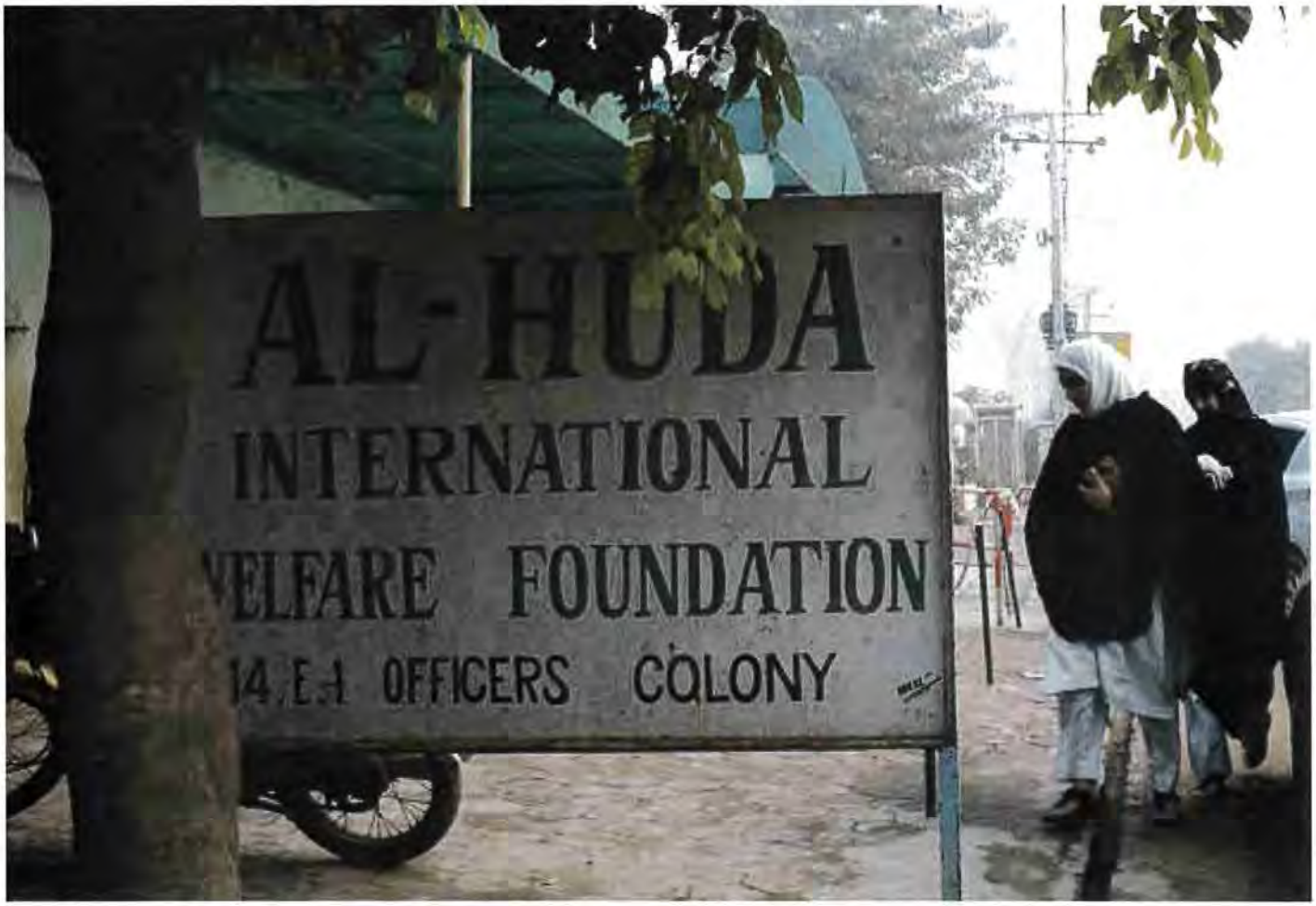
Asked whether the marriage might have been purposely arranged by a foreign terrorist organization to sneak them into the United States to conduct an attack, the FBI's director said he didn't know yet.

Where the investigation is happening



Al-Huda, the Islamic seminary Malik attended (Getty Images)

Pakistan Where Tashfeen Malik was born, went to college and attended a women's Islamic seminary. Members of Malik's extended family live in Pakistan.

Saudi Arabia Where Tashfeen Malik spent much of her childhood, and where Malik met Farook in person for the first time in 2013. The two met again in 2014, where they were married in Islam's holy city of Mecca in Saudi Arabia, before Farook brought Malik to the United States. Members of Malik's immediate family live in Saudi Arabia.

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Marquez were neighbors until a few months ago. Farook practiced shooting with an AR-15 at the Riverside Magnum Range and attended a mosque there.



Farook's father in Corona (Marcus Yam / Los Angeles Times)

Corona Where Farook's brother, Syed Raheel Farook, has lived with his wife, Tatiana A. Farook, since February. Farook's father also lives there.

Redlands Where Farook and Malik moved in May, the month their daughter was born.

San Bernardino Where Farook and Malik began their shooting rampage and where the final shootout occurred between them and police. Also the location of Seccombe Lake, where FBI divers searched for electronics that may have been dumped by the shooters and removed several items. Farook also attended a mosque in the city shortly before the massacre.

How they funded their attack

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(Screenshot via Prosper.com)

Farook worked for the county as a health inspector, and many of the details of the couple's finances are not yet known. But in the weeks before the San Bernardino massacre, the husband-and-wife assailants got a $28,500 loan, which authorities believe may have helped them acquire last-minute firearms, ammunition and components to build explosives.

The couple received the loan from San Francisco online lender Prosper Marketplace, according to Fortune and Bloomberg News.

Prosper is a leading player in the burgeoning world of online, peer-to-peer lending, acting as a middleman matching borrowers and investors who fund their loans.

Why their plot wasn't detected

Farook and Malik were unknown to law enforc

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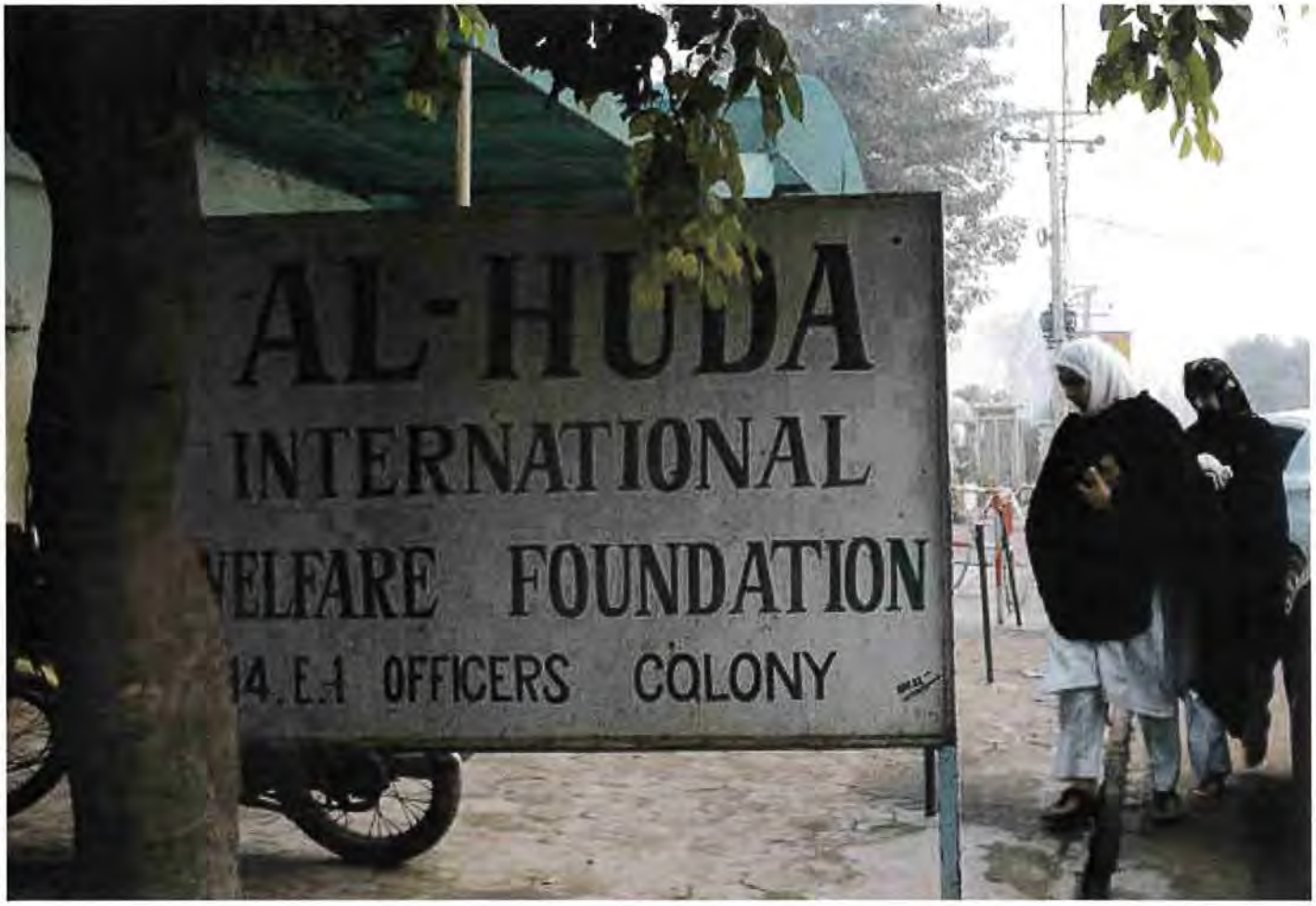
How they were radicalized



Al-Huda, the Islamic seminary Malik attended (Getty Images)

Investigators believe the couple self-radicalized separately before meeting each other. Possible sources of radicalization investigators are looking into include:

Malik

- Her family. Pakistani officials say they have questioned members of Malik's extended family in the Pakistani province of Punjab, an area that is considered a stronghold of Islamic militant organizations. Residents said the Aulakh family is known to have connections to militant Islam.
- The Islamic seminary Malik attended in 2013. Pakistani security officials have questioned teachers and students there.

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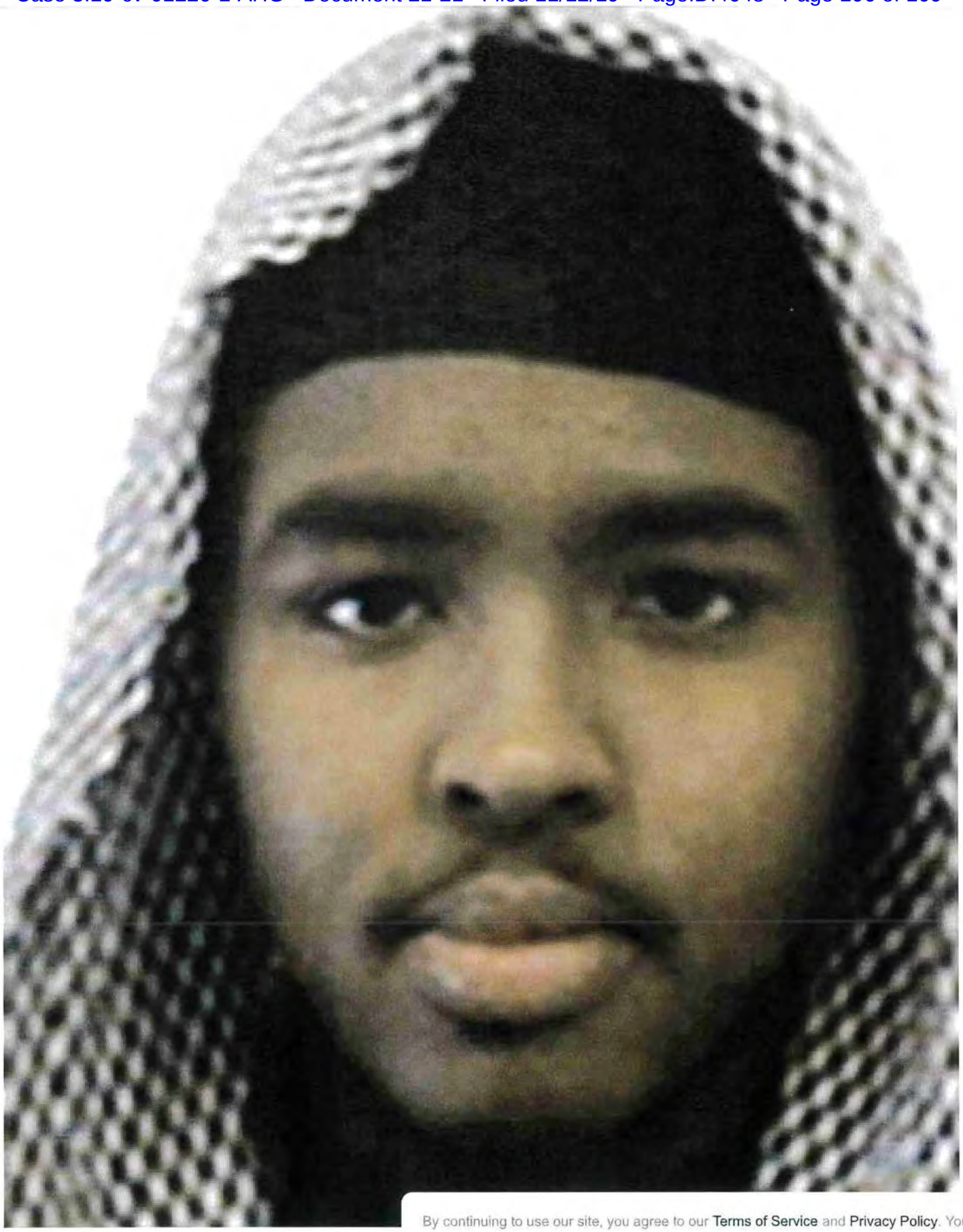

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Mohamed Abdullahi Hassan (FBI via AP)

Farook

- Overseas terrorist organizations. Officials are looking into contact Farook had contact with people from at least two terrorist organizations overseas, including the Al Qaeda-affiliated Nusra Front in Syria and Shabab in Somalia.
- Mohamed Abdullahi Hassan, a former Minneapolis resident known as "Mujahid Miski" who became a recruiter for Islamic State and is alleged to have encouraged the attempted attack on a cartoon contest in Garland, Texas, earlier this year. Federal investigators are trying to determine if Farook was influenced by him.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH; KYLE YAMAMOTO; PWGG, L.P. (d.b.a. POWAY WEAPONS AND GEAR and PWG RANGE); NORTH COUNTY SHOOTING CENTER, INC.; BEEBE FAMILY ARMS AND MUNITIONS LLC (d.b.a. BFAM and BEEBE FAMILY ARMS AND MUNITIONS); FIREARMS POLICY COALITION, INC.; FIREARMS POLICY FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; and SECOND AMENDMENT FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California, et al.,

Defendants.

Case No.: 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and Magistrate Judge Allison H. Goddard

DECLARATION OF JOHN W. DILLON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (Part 2 of 2)

Complaint Filed: July 1, 2019
Second Amended Complaint Filed: November 8, 2019

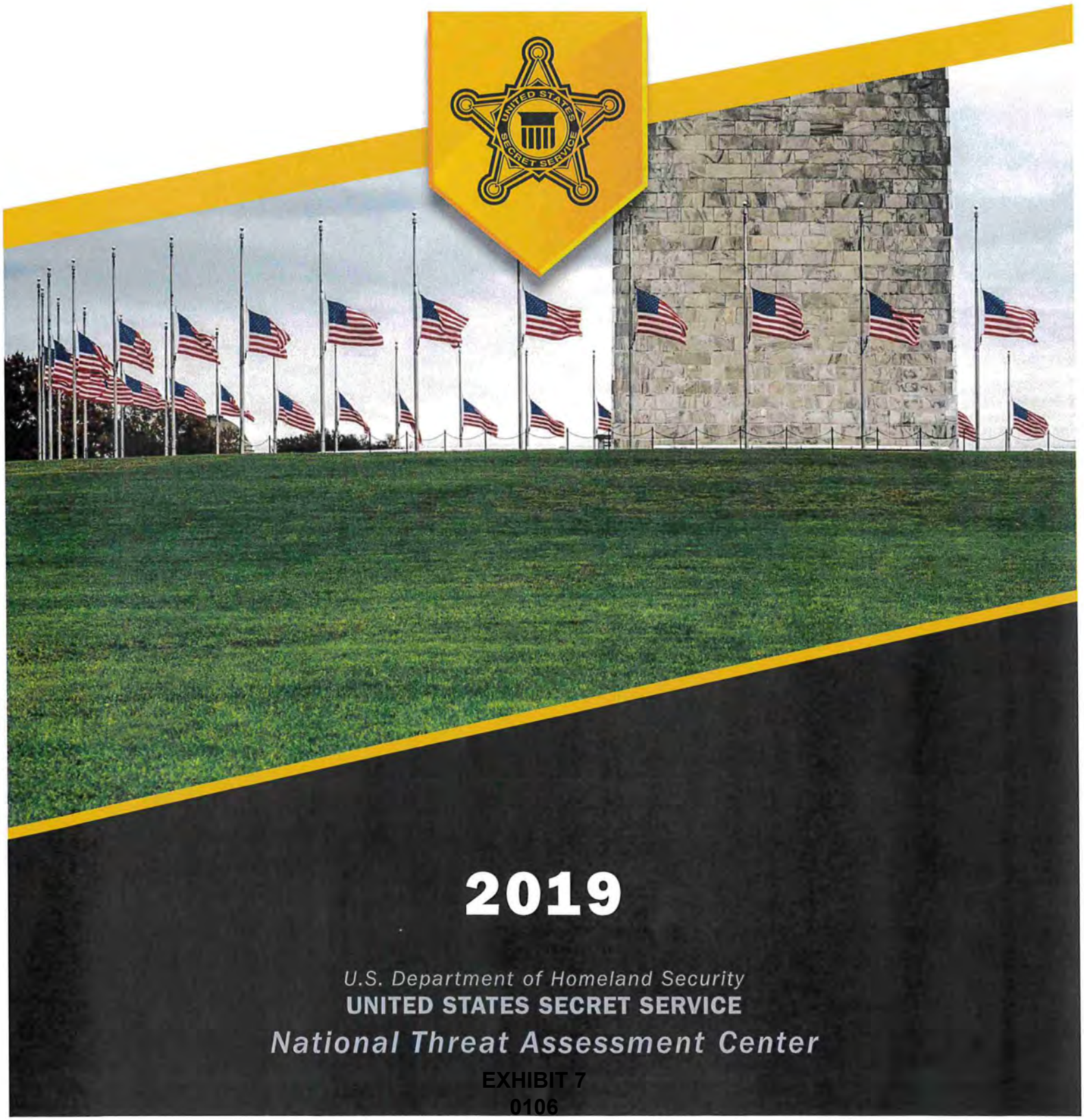
Date: Monday, December 16, 2019
Time: 10:30 a.m.
Courtroom: Dept. 5B (5th Floor)

No oral argument should be heard unless ordered by the Court

EXHIBIT "7"

PROTECTING AMERICA'S SCHOOLS

A U.S. SECRET SERVICE ANALYSIS OF TARGETED SCHOOL VIOLENCE



2019

U.S. Department of Homeland Security

UNITED STATES SECRET SERVICE

National Threat Assessment Center

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Front Cover:
FEBRUARY 15-19, 2018
Flags flown at half-staff in honor of the victims of the shooting at Marjory Stoneman Douglas High School in Parkland, Florida

National Threat Assessment Center
U.S. Secret Service
U.S. Department of Homeland Security

November 2019

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MESSAGE FROM THE DIRECTOR

The U.S. Secret Service has a longstanding tradition of conducting threat assessments as part of its mandate to ensure the safety of this Nation's highest elected officials. Our National Threat Assessment Center (NTAC) is dedicated to expanding the field of violence prevention by closely examining the targeted violence that affects communities across the United States. As part of this mission, NTAC has maintained a particular focus on the prevention of targeted school violence. For 20 years, the Center has studied these tragedies, and the following report titled, ***Protecting America's Schools: A U.S. Secret Service Analysis of Targeted School Violence***, supports past Secret Service research findings that indicate targeted school violence is preventable.

While communities can advance many school safety measures on their own, our experience tells us that keeping schools safe requires a team effort and the combined resources of the federal, state, and local governments; school boards; law enforcement; and the public. With this study, the Secret Service provides an unprecedented base of facts about school violence, as well as an updated methodology and practical guidelines for prevention. We encourage all of our public safety partners and education partners to review the information within, and to use it to guide the best practices for maintaining a safe learning environment for all children.

For 150 years, the men and women of the Secret Service have carried out our no-fail mission to protect the Nation's leaders and financial infrastructure. Our relationships across the federal, state, and local level have been instrumental to our success. The agency is committed to carrying on this collaborative approach to better protect our children and our schools. We are proud to release this report.



James M. Murray
Director

The U.S. Secret Service's National Threat Assessment Center (NTAC) was created in 1998 to provide guidance on threat assessment both within the U.S. Secret Service and to others with criminal justice and public safety responsibilities. Through the Presidential Threat Protection Act of 2000, Congress formally authorized NTAC to conduct research on threat assessment and various types of targeted violence; provide training on threat assessment and targeted violence; facilitate information-sharing among agencies with protective and/or public safety responsibilities; provide case consultation on individual threat assessment investigations and for agencies building threat assessment units; and develop programs to promote the standardization of federal, state, and local threat assessment processes and investigations.

EXECUTIVE SUMMARY

Ensuring the safety of children at school is a responsibility that belongs to everyone, including law enforcement, school staff, mental health practitioners, government officials, and members of the general public. To aid in these efforts, the U.S. Secret Service National Threat Assessment Center (NTAC) studied 41 incidents of targeted school violence that occurred at K-12 schools in the United States from 2008 to 2017. This report builds on 20 years of NTAC research and guidance in the field of threat assessment by offering an in-depth analysis of the motives, behaviors, and situational factors of the attackers, as well as the tactics, resolutions, and other operationally-relevant details of the attacks.

The analysis suggests that many of these tragedies could have been prevented, and supports the importance of schools establishing comprehensive targeted violence prevention programs as recommended by the Secret Service in ***Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence.***[1] This approach is intended to identify students of concern, assess their risk for engaging in violence or other harmful activities, and implement intervention strategies to manage that risk. The threshold for intervention should be low, so that schools can identify students in distress before their behavior escalates to the level of eliciting concerns about safety.

Because most of these attacks ended very quickly, law enforcement rarely had the opportunity to intervene before serious harm was caused to students or staff. Additionally, many of the schools that experienced these tragedies had implemented physical security measures (e.g., cameras, school resource officers, lockdown procedures). *Prevention* is key.

Some of the key findings from this study, and their implications for informing school violence prevention efforts, include:

- ***There is no profile of a student attacker, nor is there a profile for the type of school that has been targeted:*** Attackers varied in age, gender, race, grade level, academic performance, and social characteristics. Similarly, there was no identified profile of the type of school impacted by targeted violence, as schools varied in size, location, and student-teacher ratios. Rather than focusing on a set of traits or characteristics, a threat assessment process should focus on gathering relevant information about a student's behaviors, situational factors, and circumstances to assess the risk of violence or other harmful outcomes.

- ***Attackers usually had multiple motives, the most common involving a grievance with classmates:*** In addition to grievances with classmates, attackers were also motivated by grievances involving school staff, romantic relationships, or other personal issues. Other motives included a desire to kill, suicide, and seeking fame or notoriety. Discovering a student's motive for engaging in concerning behavior is critical to assessing the student's risk of engaging in violence and identifying appropriate interventions to change behavior and manage risk.

- ***Most attackers used firearms, and firearms were most often acquired from the home:*** Many of the attackers were able to access firearms from the home of their parents or another close relative. While many of the firearms were unsecured, in several cases the attackers were able to gain access to firearms that were secured in a locked gun safe or case. It should be further noted, however, that some attackers used knives instead of firearms to perpetrate their attacks. Therefore, a threat assessment should explore if a student has access to *any* weapons, with a particular focus on weapons access at home. Schools, parents, and law enforcement must work together rapidly to restrict access to weapons in those cases when students pose a risk of harm to themselves or others.

- ***Most attackers had experienced psychological, behavioral, or developmental symptoms:*** The observable mental health symptoms displayed by attackers prior to their attacks were divided into three main categories: psychological (e.g., depressive symptoms or suicidal ideation), behavioral (e.g., defiance/misconduct or symptoms of ADHD/ADD), and neurological/developmental (e.g., developmental delays or cognitive deficits). The fact that half of the attackers had received one or more mental health services prior to their attack indicates that mental health evaluations and treatments should be considered a *component* of a multidisciplinary threat assessment, but not a replacement. Mental health professionals should be included in a collaborative threat assessment process that also involves teachers, administrators, and law enforcement.

- ***Half of the attackers had interests in violent topics:*** Violent interests, without an appropriate explanation, are concerning, which means schools should not hesitate to initiate further information gathering, assessment, and management of the student's behavior. For example, a student who is preoccupied or fixated on topics like the Columbine shooting or Hitler, as was noted in the backgrounds of several of the attackers in this study, may be the focus of a school threat assessment to determine how such an interest originated and if the interest is negatively impacting the student's thinking and behavior.

- ***All attackers experienced social stressors involving their relationships with peers and/or romantic partners:*** Attackers experienced stressors in various areas of their lives, with nearly all experiencing at least one in the six months prior to their attack, and half within two days of the attack. In addition to social stressors, other stressors experienced by many of the attackers were related to families and conflicts in the home, academic or disciplinary actions, or other personal issues. All school personnel should be trained to recognize signs of a student in crisis. Additional training should focus on crisis intervention, teaching students skills to manage emotions and resolve conflicts, and suicide prevention.

- ***Nearly every attacker experienced negative home life factors:*** The negative home life factors experienced by the attackers included parental divorce or separation, drug use or criminal charges among family members, or domestic abuse. While none of the factors included here should be viewed as predictors that a student will be violent, past research has identified an association between many of these types of factors and a range of negative outcomes for children.

- ***Most attackers were victims of bullying, which was often observed by others:*** Most of the attackers were bullied by their classmates, and for over half of the attackers the bullying appeared to be of a persistent pattern which lasted for weeks, months, or years. It is critical that schools implement comprehensive programs designed to promote safe and positive school climates, where students feel empowered to report bullying when they witness it or are victims of it, and where school officials and other authorities act to intervene.

- ***Most attackers had a history of school disciplinary actions, and many had prior contact with law enforcement:*** Most attackers had a history of receiving school disciplinary actions resulting from a broad range of inappropriate behavior. The most serious of those actions included the attacker being suspended, expelled, or having law enforcement interactions as a result of their behavior at school. An important point for school staff to consider is that punitive measures are not preventative. If a student elicits concern or poses a risk of harm to self or others, removing the student from the school may not always be the safest option. To help in making the determination regarding appropriate discipline, schools should employ disciplinary practices that ensure fairness, transparency with the student and family, and appropriate follow-up.

- ***All attackers exhibited concerning behaviors. Most elicited concern from others, and most communicated their intent to attack:*** The behaviors that elicited concern ranged from a *constellation* of lower-level concerns to *objectively concerning* or *prohibited* behaviors. Most of the attackers communicated a prior threat to their target or communicated their intentions to carry out an attack. In many cases, someone observed a threatening communication or behavior *but did not act*, either out of fear, not believing the attacker, misjudging the immediacy or location, or believing they had dissuaded the attacker. Students, school personnel, and family members should be encouraged to report troubling or concerning behaviors to ensure that those in positions of authority can intervene.

A multidisciplinary threat assessment team, in conjunction with the appropriate policies, tools, and training, is the best practice for preventing future tragedies. A thorough review of the findings contained in this report should make clear that tangible steps can be taken to reduce the likelihood that any student would cause harm, or be harmed, at school.

PROTECTING AMERICA'S SCHOOLS/**ANALYSIS OF TARGETED SCHOOL VIOLENCE/2019**

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PROTECTING AMERICA'S SCHOOLS

A U.S. SECRET SERVICE ANALYSIS OF TARGETED SCHOOL VIOLENCE

INTRODUCTION

For the past 20 years, the U.S. Secret Service National Threat Assessment Center (NTAC) has been conducting a unique blend of operationally relevant and behavior-based research on the prevention of targeted violence in various contexts, including attacks targeting public officials and public figures, government facilities, workplaces, public spaces, K-12 schools, and institutions of higher education. *Targeted violence* is a term coined by the Secret Service to refer to any incident of violence where an attacker selects a particular target prior to an attack. Through the Presidential Threat Protection Act of 2000, NTAC was congressionally authorized to conduct research, training, consultation, and information sharing on the prevention of targeted violence, and to provide guidance to law enforcement, government agencies, schools, and other public safety and security professionals.

Threat assessment is the best practice for preventing incidents of targeted violence. It is an investigative approach pioneered by the Secret Service, originally developed as a means to prevent assassinations. A threat assessment, when conducted by the Secret Service, involves identifying individuals who have a concerning or threatening interest in the President of the United States or another protected person, conducting an investigation to assess whether or not that individual poses a risk of violence or other unwanted outcome, and then taking steps to manage that risk. These cases receive the highest priority of all Secret Service investigations, and the agency considers these investigations to be as important as the physical security measures it employs.

The Secret Service's threat assessment model has since been adapted to prevent other acts of targeted violence impacting communities across the United States. These attacks have a profound and devastating impact on those directly affected and the Nation as a whole, none more so than attacks at K-12 schools.[2] Following the tragedy at Columbine High School in 1999, the Secret Service partnered with the U.S. Department of Education on a study that examined 37 incidents of targeted school violence that occurred from 1974 to 2000. The *Safe School Initiative* focused on gathering and analyzing information about the thinking and behavior displayed by the students who committed these violent acts.[3] The publication of the final report and accompanying guide provided schools and law enforcement with a framework for how to identify, assess, and manage students who display such threatening or concerning behavior.

Key Findings from the Safe School Initiative (2002)

- *Incidents of targeted violence at school rarely were sudden or impulsive acts.*
- *Prior to most incidents, other people knew about the attacker's idea and/or plan to attack.*
- *Most attackers did not threaten their targets directly prior to advancing the attack.*
- *There is no accurate or useful "profile" of students who engaged in targeted school violence.*
- *Most attackers engaged in some behavior prior to the incident that caused others concern or indicated a need for help.*
- *Most attackers had difficulty coping with significant losses or personal failures. Moreover, many had considered or attempted suicide.*
- *Many attackers felt bullied, persecuted, or injured by others prior to the attack.*
- *Most attackers had access to and had used weapons prior to the attack.*
- *Most attackers demonstrated some interest in violence, through movies, video games, books, or other media.*
- *Most attackers had no history of prior violent or criminal behavior.*
- *In many cases, other students were involved in some capacity.*
- *Despite prompt law enforcement responses, most attacks were stopped by means other than law enforcement intervention.*

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Since the release of the study in 2002, the findings of the *Safe School Initiative* have informed the targeted violence prevention efforts of schools and law enforcement across the country. To date, NTAC has delivered over 500 trainings on K-12 school threat assessment to over 100,000 school personnel, law enforcement, mental health professionals, and others with school safety responsibilities. NTAC has further consulted with individual schools and school districts, as well as county and state governments, as they developed threat assessment protocols geared toward proactively preventing these tragedies.

There is more work to be done.

In 2018, two incidents of targeted school violence alone resulted in the tragic loss of 27 students and staff, and serious injuries to 30 more. The February 14, 2018 attack at Marjory Stoneman Douglas High School in Parkland, FL and the May 18, 2018 attack at Santa Fe High School in Santa Fe, TX prompted school personnel, law enforcement, government agencies, and others to identify strategies for preventing future attacks. To support these efforts, NTAC initiated programs to provide updated research and guidance on threat assessment and the prevention of targeted school violence.

The first phase involved the creation and distribution of an operational guide titled ***Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence.*** Released in July 2018, the guide outlines actionable steps schools can take to create multidisciplinary threat assessment teams, establish central reporting mechanisms, identify student behaviors of concern, define the threshold for law enforcement intervention, promote safe school climates, and identify intervention and management strategies for decreasing the risk of a targeted attack. The guide is available on the Secret Service public website and was distributed to 40,000 public school districts and private schools across the country.



The second phase was to conduct a new research study expanding on the Secret Service's previous work in studying targeted school violence. The report that follows is the culmination of these efforts and represents the most in-depth analysis of targeted school violence to be conducted in decades. ***Protecting America's Schools: A U.S. Secret Service Analysis of Targeted School Violence*** examines 41 attacks against K-12 schools in the United States from 2008 to 2017. The report examines the background and behaviors of the attackers, in order to inform the best practices of multidisciplinary school threat assessment programs nationwide.

EXHIBIT 7
0110

Methodology

Incident Identification

NTAC researchers initiated a systematic review of relevant databases, publications, and public reports. The review sought to identify incidents of targeted school violence that occurred in the United States from 2008 to 2017. For this study, an incident of *targeted school violence* was defined as any incident in which (i) a current or recently former[4] K-12 school student (ii) purposefully used a weapon (iii) to cause physical injury to, or the death of, at least one other student and/or school employee (iv) in or on the immediate property of the school (v) while targeting in advance one or more specific and/or random student(s) and/or employee(s).

Certain exclusions were used in order to focus this project on incidents of *targeted* school violence. This study does not include attacks where a perpetrator could not be identified, or incidents related to gang violence, drug violence, or other incidents with a strong suggestion of a separate criminal nexus. Similarly, it does not include violence from the surrounding community that spilled onto school property by happenstance. It also excludes spontaneous acts, such as those that were the immediate result of an unplanned fight or other sudden confrontation.

Because this project was initiated in early 2018, incident identification and collection was limited to cases that occurred through 2017, thereby allowing researchers to gather the most comprehensive case information for each incident. For this reason, the tragedies that have occurred in 2018 and 2019 were not able to be included in the analysis.

Based on the stated criteria, researchers identified 41 incidents of targeted school violence, perpetrated by 41 current or recently former students, from January 2008 through December 2017.

Case Information

Information for the 41 identified incidents was drawn largely from primary source materials obtained by researchers related to the incident. Secret Service Field Offices across the United States worked with their local law enforcement partners to acquire investigative case files for 36 of the 41 incidents. These files included police investigative records, publicly available court records, and other publicly available information. These source materials may have also contained school records and mental health records. Obtained records included interviews with the attackers, interviews with witnesses and people who knew the attackers, school transcripts and disciplinary histories, social media screen captures, data from the searches of phones and computers used by the attackers, the results of searches of the attackers' residences, personal journals and other writings, and court records containing the results of mental health evaluations both before and after the attacks. All case examples used in the drafting of this report were vetted through the agencies who provide the investigative files. Case analysis was further supplemented through a rigorous, structured review of open source information, including news articles and reports from government and private agencies. NTAC staff considered all available qualitative information to develop data relevant to threat assessment and prevention factors for each case. Some data were analyzed and are reported here for all 41 cases, including information on how the attacks were executed, school information, and demographic information about the

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attackers. Information on the behavioral histories of the attackers, however, were only analyzed for 35 of the 41 cases due to the limited information available on the backgrounds of 6 of the attackers.

Multiple layers of review were applied to every stage of the project to ensure accuracy and reliability of reported findings.



EXHIBIT 7
0111

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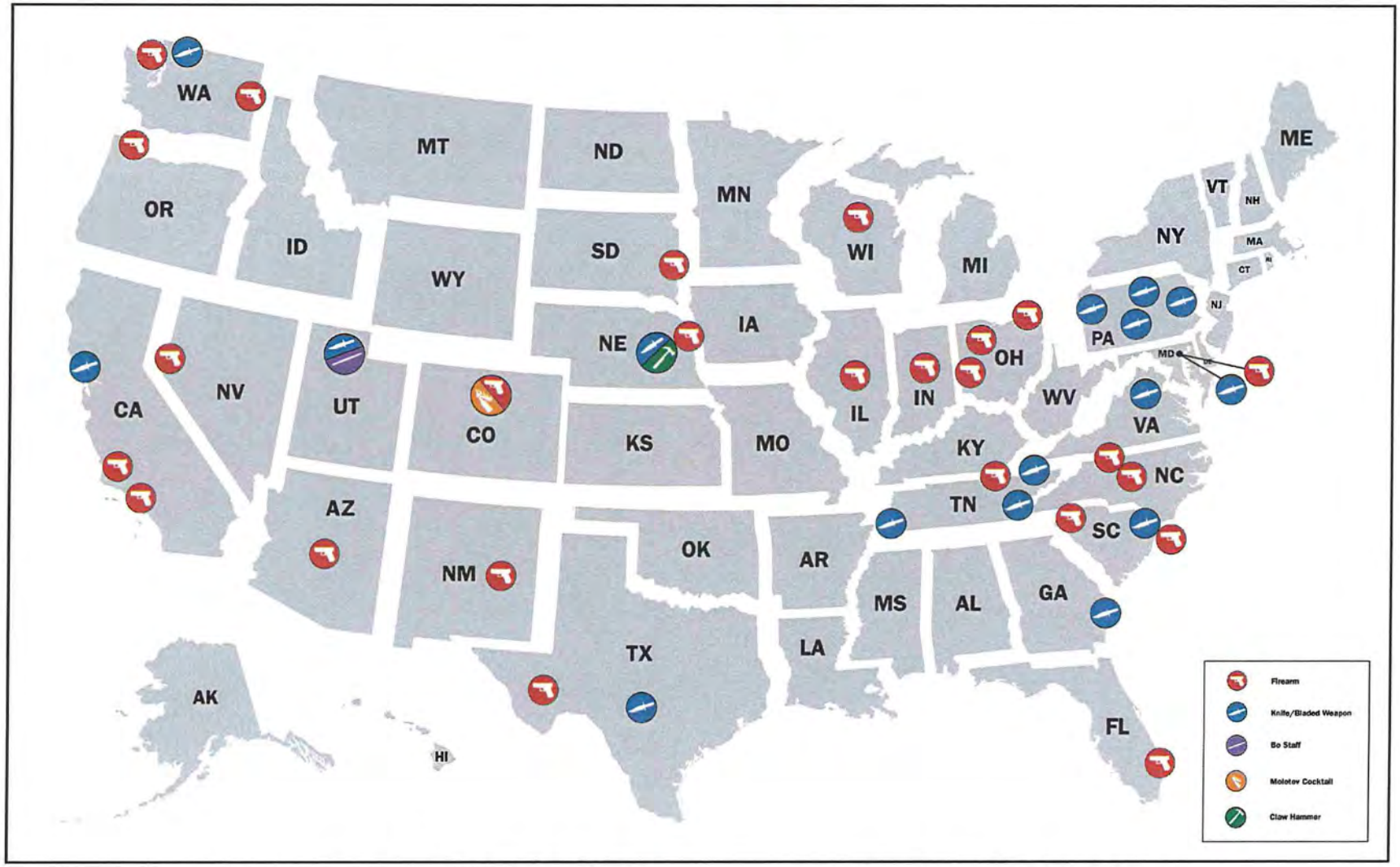

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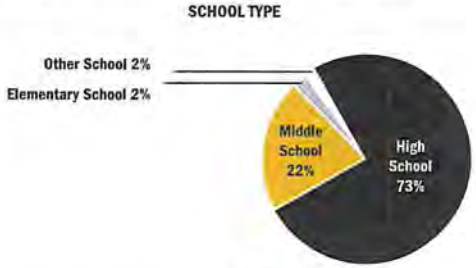
EXHIBIT 7
0112

PART I: OVERVIEW OF THE ATTACKS

School & Community Information

SCHOOL TYPES: All but two of the attacks occurred in public schools (*n* = 39, 95%). Nearly three-quarters of the attacks were carried out at high schools (*n* = 30, 73%), which are defined in this report as any school that reaches 12th grade. Nine attacks took place at middle schools (22%), and one attack occurred at an elementary school (2%). One additional attack occurred at a K-11 school (2%).

COMMUNITIES: Approximately one-third (*n* = 14, 34%) of the attacks occurred in schools located in suburban communities, while 11 attacks occurred in cities (27%). Ten incidents were carried out in rural schools (24%), and the fewest attacks took place in small towns (*n* = 6, 15%).[5]



Percentages may not total 100 due to rounding.

Student Enrollment		
< 500	9	22%
500 - 999	15	37%
1000 - 1499	8	20%
1500+	9	22%

Percentages may not total 100 due to rounding.

SCHOOL SIZE: Over half (*n* = 24, 59%) of the attacks took place at schools with fewer than 1,000 students, and 17 (41%) occurred at schools with 1,000 students or more. Over one-third of the attacks took place at schools with between 500 and 999 students (*n* = 15, 37%).

CLASS SIZE: Teacher to pupil ratios also varied among the impacted schools, with eight of the schools (20%) at the national average of 1:15 to 1:16. One-third (*n* = 13, 32%) had lower ratios than the average, and 20 schools (49%) had higher ratios. The highest ratio was 1 teacher for every 26 students.[7]

Teacher to Pupil Ratios		
1:9 to 1:14	13	32%
1:15 to 1:16*[6]	8	20%
1:17 to 1:19	9	22%
1:20 to 1:26	11	27%

* National average
Percentages may not total 100 due to rounding.



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School Security & Prevention Measures

Most of the schools (*n* = 33, 80%) in this study implemented some type of *physical security measure*, and two-thirds (*n* = 27, 66%) had full- or part-time *school resource officers (SROs)* on campus.

PHYSICAL SECURITY MEASURES: The most frequently used physical security measure was school lockdown procedures, present in at least 28 (68%) of the schools where an attack took place. Fourteen (34%) schools had security cameras, which were located either inside or outside of the schools. Seven (17%) had alert systems, which were used to notify members of the school community of emergencies via automated text messages or phone calls. Three (7%) schools had magnetometers, but they were not regularly used. Six (15%) schools employed private security guards, who were usually unarmed.

SCHOOL RESOURCE OFFICERS: At the time of the attacks, nearly half of the schools (*n* = 19, 46%) had one or more full-time SROs. An additional eight schools (20%) had an SRO who operated at the school part-time, because they were assigned to multiple schools within the district.

REPORTING TOOLS: Only seven (17%) schools had any type of system in place to notify school staff or administrators of threatening or concerning student behaviors before an attack. These systems usually involved a phone number, email address, or a paper referral through which the school could be contacted. At the time of the incidents, few states had implemented comprehensive statewide reporting programs, like Safe2Tell™ Colorado.

ASSESSMENT AND INTERVENTION PROTOCOLS: Nine (22%) schools had some type of program involving employees who were assigned to assess unwanted or potentially harmful student behavior. For some of these schools, they had developed basic protocols for assessing and responding to reports of a student threat. In others, school staff created more formal threat assessment teams, but the participation, training, and protocols of these teams varied. The Secret Service recommends that schools implement multidisciplinary school threat

Physical Security and Threat Assessment

When the Safe School Initiative was published in 2002, it stated that "the Secret Service considers threat assessment to be as important to preventing targeted violence as the physical measures it employs." The Secret Service protects our Nation's highest elected officials using physical security measures in conjunction with, and complimented by, a threat assessment approach designed to proactively intervene with those individuals who intend to cause harm. This complimentary approach to protection recognizes that either of the approaches, alone, would not constitute the most effective means of preventing an attack.

Safe2Tell™ Colorado

Safe2Tell is a statewide, anonymous reporting tool, which accepts tips 24/7 regarding any concern of safety to self or others. Every tip is evaluated by Safe2Tell analysts at the Colorado Information Analysis Center (CIAC), then disseminated to schools and local law enforcement as appropriate. Built-in accountability ensures that every tip is responded to before a case can be closed.

During the 2018-2019 school year, 19,861 tips were received by Safe2Tell. The most common tips received were related to student suicide, drug use, and bullying.

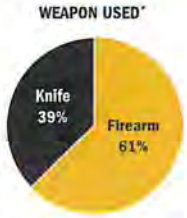
For states that would like to implement this type of reporting program, Safe2Tell provides information and resources at:

www.safe2tell.org

assessment teams in accordance with ***Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence***. This framework is intended to help schools develop the capacity to identify, assess, and manage students who are displaying concerning or threatening behaviors. This process should complement the physical security measures that a school determines is appropriate for its community.

Weapons Used

Most of the attackers (*n* = 25, 61%) used firearms, which included handguns, rifles, and shotguns. In total, attackers used 18 handguns and 9 long guns during the attacks, with two attackers using multiple firearms. The remainder (*n* = 16, 39%) used bladed weapons, which most frequently included pocket or folding knives, followed by butcher or kitchen knives, and hunting knives. In one instance, the attacker used a World War II bayonet. Three of the attackers used a combination of weapons to cause harm or damage, including one who used a knife and a claw hammer, another who used a knife and bo staff, and another who used a firearm and a Molotov cocktail.

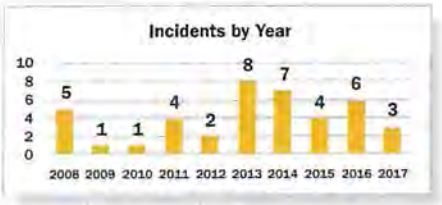


*Three attackers also used another weapon including a hammer, a bo staff, and a Molotov cocktail.

Several of the attackers brought other weapons to the attack that they did not ultimately use. Some brought knives in addition to the firearm or knife that was used, while others brought items ranging from a wrench wrapped in a bandana to home-made explosives. For example, one attacker who used a knife in his attack also brought five other knives, a blowtorch, three containers of flammable liquid, and firecrackers.

Timing & Location

TIMING OF THE ATTACK: The 41 attacks occurred with varying frequency from year to year and do not appear to be steadily increasing or decreasing. While these incidents comprise only some of the acts of violence that occur in K-12 schools each year, data from the CDC regarding all school associated violent deaths similarly does not show a steady increase or decrease.[8]



Incidents in the current study took place in every month except July and occurred on every day of the week except Sunday. The one incident that occurred on a Saturday took place outside of a school prom. Three-quarters of the attacks were carried out before the school day began (*n* = 10, 24%) or during morning classroom hours (*n* = 21, 51%).

Timing of the Attacks	
Before School	*10 (24%)*
Morning Classroom Hours	*20 (51%)*
During Lunch	*3 (7%)*
Afternoon Classroom Hours	*6 (15%)*
Outside School Hours	*1 (2%)*

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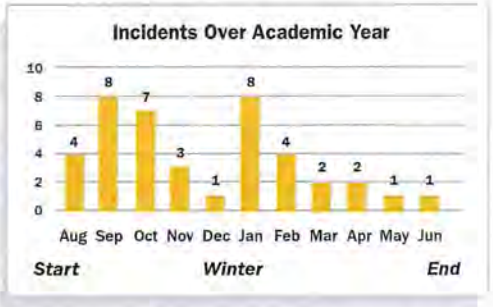
BREAKS IN ATTENDANCE: Incidents occurred most frequently at the start of the school year (Sep) or after students returned from winter break (Jan). **Seventeen attacks (41%) took place within the *first week* back to school following a break in attendance**, including suspensions, school holidays, or an absence due to illness or truancy. Nearly one quarter of the attacks (*n* = 10, 24%) took place on the first day that the attacker returned to school after an absence. In two of these incidents, the attacker was actively suspended from the school at the time of the attack. These findings suggest that schools should make concerted efforts to facilitate positive student engagement following discipline, including suspensions and expulsions, and especially within the first week that the student returns to school.

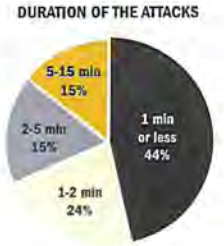


A 14-year-old student fatally stabbed a classmate at the middle school they both attended. At the time of the incident, the attacker was suspended for truancy. Despite the suspension, witnesses reported seeing him walking the school's hallways in search of the target shortly before the stabbing took place.

Four attacks (10%) occurred on the first day back from a regularly scheduled *school holiday*. Of those, three took place on the first day following an *extended* break, including the summer, fall, and winter holidays.

A 15-year-old student shot and wounded a random classmate in the high school cafeteria on the first day of the school year. The attacker had planned the attack over the last week of his summer break. On the morning of the incident, he shared a message on social media stating, "First day of school, last day of my life." The shooting took place four hours later.

DURATION OF THE ATTACKS: Most of the attacks (*n* = 34, 83%) lasted five minutes or less. Two-thirds of the incidents (*n* = 28, 68%) lasted for two minutes or less, and ***nearly half of the attacks (n = 18, 44%) ended within one minute***. Only six of the attacks (15%) lasted longer than five minutes, and none of the attacks lasted longer than 15 minutes.[9]



Percentages may not total 100 due to rounding.

LOCATION OF THE ATTACKS: The attacks usually started and ended in the same location (*n* = 36, 88%). The most common locations of attacks were in classrooms and immediately outside of the school. Other locations included cafeterias, hallways, and administrative offices. Attacks in restrooms, locker rooms, a gymnasium, and a vestibule were less common.

Locations of the Attacks		
Classroom	*Outside*	*Office*
Cafeteria	*Hallway*	*Restroom*
Locker Room	*Gym*	*Vestibule*

EXHIBIT 7
0114

Response Times

SCHOOL OFFICERS: In 27 cases (66%), a security officer or SRO was assigned to the school on either a full- or part-time basis. During 20 of the attacks (49%), the officer was *on duty at the school*. In over one-quarter of the cases (n = 12, 29%), the officer or SRO was able to make it to the scene of the attack within one minute. In three of the attacks (7%), it took between one and five minutes for the officer to respond, and for two attacks (5%), it took between five and ten minutes. Of note, in two cases the officers themselves were the targets of the attacks, and in the remaining, it was not possible to determine the response time based on information that was available.

OUTSIDE LAW ENFORCEMENT: In just over one-third of the attacks (n = 16, 39%), outside law enforcement were *notified* within one minute or less from the start of the attack, and in just under one-third (n = 12, 29%), outside police were notified between one and five minutes after the start of the attack. In nine cases, it took longer than five minutes for someone to notify outside law enforcement, and in four cases the timing could not be determined from information available.

In nearly one-third of the cases (n = 13, 32%), it took external first responders between one and five minutes to *arrive on scene* after the attack was initiated, and in about a quarter of the cases (n = 11, 27%) first responders arrived between five and ten minutes after the attack began. In only one case, outside law enforcement were able to respond in one minute or less, because officers were already at the school conducting K-9 drug sweeps at the time of the attack.

	*School Officer Response Time**	*Outside LE Notification*	*Outside LE Response Time*
1 min or less	12 (29%)	16 (39%)	1 (2%)
>1 to 5 min	3 (7%)	12 (29%)	13 (32%)
>5 to 10 min	2 (5%)	4 (10%)	11 (27%)
>10 to 15 min	—	5 (12%)	4 (10%)
>15 min	—	—	3 (7%)
Not Applicable	21 (51%)**	—	—
Not Found	3 (7%)	4 (10%)	9 (22%)

*Percentages may not equal 100 due to rounding
** Includes those schools without officers assingned, assigned officers off duty at the time, or cases in which the SROs were targeted.

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Resolution & Harm

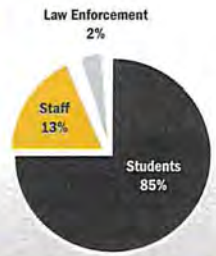
ATTACK RESOLUTION: Half of the attackers (n = 21, 51%) ended the attack without any external intervention. Seven attackers (17%) committed suicide, six (15%) left the scene, three (7%) surrendered to a school official(s), three (7%) dropped their weapons and waited to be arrested, one (2%) stopped and called family, and one attacker (2%) left the scene before calling family.

Non-law enforcement adult school staff brought nine attacks (22%) to an end. This included teachers, guidance counselors, an assistant principal, a sports coach, a campus supervisor, and a janitor. Six of the attacks (15%) were ended with law enforcement intervention, either by SROs (n = 5, 12%) or by local police who were already on campus (n = 1, 2%). Two of the attackers were killed by the law enforcement response. ***No attacks were ended by outside law enforcement agencies responding to the scene from off campus.*** Other attacks ended due to student bystander intervention (n = 4, 10%) or a weapon malfunction (n = 1, 2%).

HARM: Ninety-eight victims were harmed in the 41 attacks, including 79 injured and 19 killed. The victims included students, school staff, and law enforcement.[10] One stabbing incident accounted for 20 of the 98 victims, all of whom were injured but survived. In just over half of the attacks (n = 22, 54%), only one individual was harmed. In the remaining attacks, two persons were harmed (n = 9, 22%), or three or more were harmed (n = 10, 24%).

TWENTY VICTIMS: *A 16-year-old student randomly slashed and stabbed people at his high school using two kitchen knives he had brought from home. Nineteen students and one staff member were injured, but all survived. The attack ended after about five minutes when the assistant principal tackled the assailant.*

PERSONS INJURED OR KILLED



Mass Attacks

The definition of a "mass attack," as used by the U.S. Secret Service in its ***Mass Attacks in Public Spaces*** *report series, includes harm (e.g., injury or death) to three or more persons, not including the attacker. About one-quarter of attacks (n = 10, 24%) in this study would meet that definition of a mass attack.*



EXHIBIT 7
0115

Judicial Outcome

CRIMINAL CHARGES: Thirty-two attackers (78%) were criminally charged, twenty-two of whom (54%) were charged as adults. Nearly all of those charged as adults accepted plea agreements (17 pled guilty; 2 pled no contest). Only two cases went to trial, where both attackers were found guilty and sentenced as adults. A third attacker is still awaiting trial in adult court.

Twelve attackers were processed through the juvenile justice system. Of those charged as juveniles, the majority pled to their charges (9 pled guilty; 1 pled no contest).

CURRENT DISPOSITIONS: Twenty-two of the attackers (54%) are currently incarcerated, and one attacker is a patient at a mental health facility. Eight attackers (20%) have been released from juvenile and/or adult correctional institutions.[11]

Judicial Actions		
Adult	22	54%
Subject pled guilty	17	41%
Subject found guilty	2	5%
Subject pled no contest	2	5%
Charges filed, case pending	1	2%
Juvenile	12	29%
Subject pled guilty	9	22%
Unknown	2	5%
Subject pled no contest	1	2%
No Charges Filed	9	22%
Subject committed suicide	7	17%
Subject fatally shot	2	5%

Percentages exceed 100 as two attackers had both adult and juvenile charges.



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PART II: THE ATTACKERS

GENDER, RACE, & AGE: While the attackers were predominantly male (*n* = 34, 83%), **seven of the attackers were female (17%).** Based on police report designations, approximately two-thirds of the attackers (*n* = 26, 63%) were White, six were Black (15%), and two were Hispanic (5%). Their ages ranged from 12 to 18, with an average age of 15.

YOUNGEST: *A 12-year-old student opened fire at his middle school. He killed one teacher and injured two classmates before fatally shooting himself. The attacker had a history of being bullied and felt mistreated by students and teachers.*

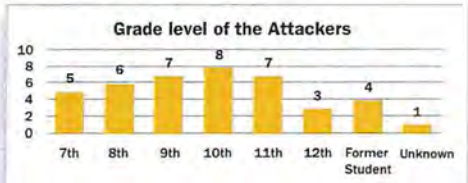
OLDEST: *An 18-year-old former student, who had graduated the year prior, opened fire outside of his old high school toward a group of students exiting the prom. Two of the students were shot and injured. Local police were already on scene conducting drug sweeps, and instructed the attacker to drop his weapon. When the attacker failed to comply with police instructions, he was fatally shot by one of the officers. The attacker believed that his ex-girlfriend and her new boyfriend were attending the prom together, but neither was actually in attendance.*



Race		
White	26	63%
Black/African American	6	15%
Hispanic	2	5%
American Indian or Alaska Native	1	2%
Two or More Races	4	10%
Undetermined	2	5%

Categories consistent with the U.S. Department of Education guidance on the collection & Reporting of racial & ethnic data. (72 Fed. Reg. 59267 Pub. Oct 2002.)

GRADE LEVEL: The grade levels of the attackers ranged from 7th grade to 12th grade.



FORMER STUDENTS: Four of the attackers (10%) targeted schools in which they were no longer enrolled as students. They included a student who attacked his former high school after transferring to an alternative school; a student whose mother withdrew him from school because he was about to be expelled; a student who had graduated the previous year, but was working at the school as a teacher's assistant and occasionally performed with the school marching band; and a middle school student who attacked his former elementary school.

EXHIBIT 7
0116

Motives

When determining motives, all available information about each attacker's thinking and behavior in the time leading up to the attack was considered, including explicit explanations of motive that the attackers provided through verbal statements made before the attack, in suicide notes or manifestos, and during post-incident interviews with law enforcement.

Consistent with other forms of targeted violence, the motives behind these 41 school attacks varied widely and were based on the personal perceptions and experiences of the attackers. **Most attackers had *multiple motivations* for carrying out their attacks.** This analysis indicates that a student's motive to carry out a violent act at school is usually multifaceted and is the byproduct of the student's individual circumstances, as well as their personal perception of those circumstances.

Components to Motive[13]	*Primary*	*Secondary*	*Total*
Grievances	25 (61%)	9 (22%)	34 (83%)
Peers	15 (37%)	11 (27%)	26 (63%)
– Related to bullying	–	–	19 (46%)
Staff	4 (10%)	6 (15%)	10 (24%)
Romantic	4 (10%)	5 (12%)	9 (22%)
Other personal	2 (5%)	4 (10%)	6 (15%)
Desire to kill	7(17%)	8 (20%)	15 (37%)
Suicidal	3 (7%)	14 (34%)	17 (41%)
Fame/Notoriety	2 (5%)	2 (5%)	4 (10%)
Psychotic symptoms	2 (5%)	3 (7%)	5 (12%)
Unknown	2 (5%)	n/a	2 (5%)
Total	**41 (100%)**		

All but two of the 41 attackers had an identifiable *primary motive*, defined as the motive that appeared to most strongly contribute to the attacker's decision to act violently. Most of the attackers (n = 35, 85%), however, had at least one additional *secondary motive* that contributed to their decision for carrying out the attack.

***SINGLE MOTIVE:** A recently suspended 14-year-old student fatally stabbed a classmate in the chest as he exited his middle school. The students had been friends, but due to frequent conflicts, their relationship had deteriorated. The victim of the stabbing had previously threatened, harassed, and bullied the attacker. The attacker grew to fear for his life and stopped attending school in order to avoid the victim, which led to the attacker's suspension for missing class. The attacker later reported that he had been motivated by fear, stating that if he had not returned to school to stab his classmate, he believed that he would have been killed himself.*

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***MULTIPLE MOTIVES:** An 18-year-old student shot and killed a classmate he encountered immediately upon entering his school. He then sought out the debate team coach, who escaped, before the attacker killed himself. The attacker appeared to have been primarily motivated by a grievance with the debate team coach, who had removed him from a captain position on the debate team. Additional motivations appeared to include grievances with other staff members and classmates, a sadistic desire to hurt other people, and suicidal ideations.*

GRIEVANCES: For most of the attackers (n = 34, 83%), retaliating for a grievance played a role in their motive. For nearly two-thirds of the attackers (n = 25, 61%), it appeared to be their *primary* motive.

- ***Peers:*** Most frequently, grievances involved classmates (n = 26, 63%), and these peer grievances were usually related to bullying in some way (n = 19, 46%). Other examples of peer grievances that did not involve bullying included ongoing conflicts and contentious relationships between students, or anger over a specific event or situation among classmates.

  A 14-year-old student fatally shot a classmate at his middle school. The victim had been the subject of harassment by the attacker and other students, who would call the victim derogatory homophobic names. The attacker later reported that the victim had made comments that made him uncomfortable, citing them as "the final straw" in his decision to attack.

- ***Staff:*** In a quarter of the attacks, the attacker had a grievance that involved school staff (n = 10, 24%). For four attackers (10%), this grievance with teachers or administrators was the *primary* motivation. In each of those four incidents, the school staff members were specifically targeted in the attack.

  A 16-year-old student fatally stabbed his high school principal. According to his confession after the incident, the attacker began planning his attack on the principal three months earlier, after he learned that he would be returning to the same high school for 11th grade. He stated that the school principal made him the most angry, and he "didn't like the school and didn't want to attend there anymore." He was also angry at having to follow school rules, for example, when the principal repeatedly made him tuck in his shirt.

- ***Romantic:*** Nine cases (22%) involved a grievance related to a romantic relationship as a *primary* or *secondary* motive. Two of these cases involved female attackers, while seven involved male attackers.

  A 15-year-old student fatally shot a former romantic partner outside of their high school before committing suicide. The students had dated for over two years, but the victim had recently informed the attacker that the relationship was ending. According to media reports, the attacker also had a history of suicidal ideations and depressive symptoms. In redacted versions of the notes released publicly, the attacker expressed anger at the victim for wasting the attacker's money, time, affection, and "so much more." The attacker also wrote, "we planned our future together," adding, "This week has been the worst in my life," and, "All of this has destabilized me."

EXHIBIT 7
0117

- ***Other Personal Issues:*** Six students (15%) were motivated by other personal issues, and for two (5%), it was their *primary* motive. These personal issues involved things like anger over a failed drug test at school and retaliating for abuse or neglect occurring at home.

> *A 14-year-old student opened fire toward random classmates in his high school cafeteria. Two students were shot and injured, and two other students received minor injuries, possibly when struck by shrapnel. The attacker later stated his motive was attributed to his troubled home life, including a distant relationship with his mother, conflicts with his father, and an addiction to Adderall.*

DESIRE TO KILL: The second most prevalent motive among student attackers (n = 15, 37%) was a desire to kill, evidenced by a sadistic interest in violence or violent topics, a desire for power over their victims, or the expectation of joy or pleasure in causing physical harm to others. For seven attackers (17%), this appeared to be their *primary* motive, and eight additional students (20%) experienced these types of thoughts as a *secondary* motive. Nearly all attackers were primarily motivated by a desire to kill targeted random victims (see Appendix A: Statistical Analyses). While it is possible that a desire to kill could be associated with psychological symptoms, it more often appeared to develop as a response to the student's personal circumstances and life experiences.

> *A 15-year-old student fatally shot a classmate at his high school. The attacker had been in previous conflicts with the victim, but he also displayed a fascination with causing physical harm to others. A few days before the attack, the attacker showed a handgun and ammunition to classmates, highlighting that "these bullets bounce around inside of your body." He was also overheard saying that he was interested in seeing what it felt like to kill someone. During his subsequent trial, a clinical psychologist said that the attacker had been "born to violent addicts, shoved into abusive foster homes, and largely ignored by courts and caseworkers."*

SUICIDAL: Seventeen attackers (41%) were motivated by suicide to carry out their attacks. For three attackers (7%), this appeared to be their *primary* motive, only one of whom appeared to be motivated by suicide alone. An additional 14 attackers (34%) had suicidality as a *secondary* motive. These findings reveal that suicidal ideations were rarely the sole or primary factor in an attacker's motivation for violence. Suicidal ideations were more typically found in combination with, and secondary to, other motives.

> *A 16-year-old student intended to commit suicide-by-cop when he stabbed his SRO seven times with a bayonet. The officer struggled with the attacker before fatally shooting him in self-defense. The attacker's final words to the officer were, "Thank you sir, thank you." In a suicide note, the attacker described human civilization as an "unnatural system," and included additional language like, "If you're reading this, I'm either dead or on my way to dying. If I fail at suicide, something else will end me. I have had enough of this tainted and corrupted world we live in," and, "I hope for a better existence after my passing."*

Youth Suicide

In 2017, the CDC reported suicide as the 2nd leading cause of death among those between the ages of 10-24 years old.

The National Suicide Prevention Lifeline provides free and confidential 24/7 support to people in crisis. If you or someone you know needs help, call 1-800-273-TALK (8255).

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FAME/NOTORIETY: Four students (10%) were motivated by a desire for fame or notoriety as a *primary* or *secondary* motive. Each of these four students expressed a desire to emulate previous mass attackers, including those who perpetrated the attacks at Columbine High School, Virginia Tech, and Sandy Hook Elementary School.

> *A 14-year-old student opened fire at his SRO in an effort to steal the officer's weapon. He intended to use the officer's firearm to perpetrate a mass shooting at his high school. The officer was burned by the discharging firearm, but was able to detain the student before further harm occurred. Three months prior, the attacker began keeping an extensive journal about his plans, in which he described his research into the attacks at Columbine High School and Virginia Tech. He wrote about his desire to be "worshipped" like previous attackers, adding, "I hope to out-do my idols and leave my mark on the world." He wrote about how he hoped that security camera footage of his attack would be on YouTube for his "followers" to study. After the attack, while in juvenile detention, the student continued to express interest in the media coverage of his attack, asking staff at the detention center if he could read the comments posted by readers of the online news articles.*

PSYCHOTIC SYMPTOMS: Five students (12%) appeared to be motivated by psychotic symptoms, either as a *primary* or *secondary* motive. These cases involved such symptoms as auditory hallucinations instructing the student to hurt people, compulsive homicidal thoughts and visions, and a delusional belief that the student was in a romantic relationship with a classmate.

> *A 15-year-old student randomly stabbed two classmates in a high school restroom. Both victims survived the attack. The attacker had a history of homicidal and suicidal thoughts, thoughts of violence towards her family and girls at school, and had previously threatened to stab a friend's boyfriend. According to court records, six months prior to the attack, she was admitted to an outpatient hospitalization program for her mental health. One counselor asked the attacker if she had suicidal or homicidal ideations, and she responded, "Sometimes I get really sick thoughts. Sick ways of killing them, stabbing them, slitting their throats, sexually abusing people at school."*

Targeting

In all forms of targeted violence, the targeted person or persons are usually selected by the attacker in relation to his or her motive. For example, if an attacker has a grievance with a specific person or group, they may target that person or group during the attack. In many of those cases, however, additional bystanders may be injured or killed, either as unintended collateral victims or as victims of opportunity. In other instances, the attacker may indiscriminately target a population of people, like the entire student body at a school, depending on the attacker's goals and motives.

SPECIFIC PERSON TARGETED: In nearly three-quarters of the attacks (n = 30, 73%), a specific person or persons were targeted by the attacker. In 22 attacks (54%), a specifically targeted person was injured or killed.

> *A 12-year-old student stabbed her middle school classmate in the neck and stomach, injuring him. Other students had previously observed the victim teasing the attacker and calling her names. A few days before the incident, the attacker told another student that she hated the target. Just minutes before the stabbing, the attacker told a group of classmates that she hated the target and that she wanted to kill him, because he was annoying and was a bad person. Nobody else was targeted or harmed in the attack.*

SPECIFIC GROUP TARGETED: In six attacks (15%), a specific group of students was targeted (e.g., bullies, "jocks," "emos," "preps," "sinners"). In only one of those attacks was a member of the targeted group actually harmed.

> ***A 17-year-old former student opened fire in his previous high school cafeteria toward a group of students who had bullied him. The attacker was in his previous high school because he would arrive there each morning before being bused to an alternative school. Three students were killed and three more were injured. Those killed had all reportedly bullied the attacker, and one of them was dating the attacker's ex-girlfriend. One of the injured students had also bullied the attacker, but the two other injured students were bystanders.***

RANDOM VICTIMS: Seventeen attacks (41%) involved random victims who were attacked indiscriminately or opportunistically by the attacker (e.g., the attacker fired into a crowd or fired upon the first student he saw).

> ***A 16-year-old student randomly attacked a female classmate with a serrated knife and a claw hammer when she walked into the high school restroom. The victim was stabbed and hit several times, but survived the attack. The attacker's motive was to kill as many people as she could before fleeing the school. She then planned to purchase a gun and commit suicide.***

COLLATERAL VICTIMS: Five attacks (12%) involved random victims who were injured as collateral bystanders (e.g., the attacker aimed at a specific target, but an unintended student was shot).



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Planning

Over half of the attackers (n = 21, 51%) engaged in observable planning behaviors prior to carrying out their attack that went beyond making statements of intent. Twelve attackers (29%) exhibited three or more different types of planning activities that were observable to others. Of note, the attackers in this study who perpetrated *mass attacks* averaged more than twice as many planning behaviors as attackers with fewer victims (see Appendix B: Statistical Analyses). For 10 of the attackers (24%), their first act of planning was within one month of the incident. Seven attackers (17%) began planning between one and six months before the attack, and rarely did planning begin more than six months prior (n = 3, 7%).[13] **While some attackers discussed their plans with others, no attackers appeared to receive direct assistance in planning their specific school attack.**

WEAPONS RESEARCH AND SELECTION: One-third of the attackers (n = 13, 32%) researched weapons prior to the attack. This included conducting online searches, reading books and pamphlets, or asking others about weapons experience and other related topics. The research focused on how to make explosives, weapon functionality and utility, how to inflict maximum damage, and types of protective equipment.

Planning for the Attack

- *Weapons Research and Selection*
- *Deceptive Practices*
- *Weapons-related*
- *Documentation of Plans*
- *Approaching, Surveilling, or Researching the Target*
- *Planning the Execution of the Attack*
- *Practicing with a Weapon*
- *Recruiting Others*
- *Packing an Attack Bag*
- *Researching Prior Attacks*

DECEPTIVE PRACTICES: Nine attackers (22%) engaged in deceptive practices in order to hide their activities and avoid detection. This included lying about weapons purchases and other materials (e.g., telling parents that purchased materials were for chemistry class), concealing weapons for transport, claiming needing a weapon for protection, or waiting until after dark to manufacture weapons. For example, on the night prior to one attack, the attacker waited until his mother went to sleep before building homemade explosives. He then pretended to be asleep so that his mother could wake him up to start the day, thus maintaining their normal routine and not arousing any suspicion.

WEAPONS-RELATED: Seven attackers (17%) engaged in weapons-related planning behaviors, in addition to weapons research (see Weapons Research and Selection) and the acquisition of the weapons used in the attack (see Firearm Acquisition section). These other activities included manufacturing explosives, modifying guns or knives, stockpiling additional weapons, or failed attempts to acquire other weapons. Some who failed to acquire certain weapons or materials adjusted their plans to use other weapons already acquired or more readily accessible.

> ***A 12-year-old student shot and wounded several classmates and a school security officer in his middle school gymnasium before surrendering to a teacher. Two days prior to the incident, the attacker had attempted to acquire his father's handgun, but was unsuccessful. Then the night before the attack, he took a shotgun from his home and sawed off the barrel so that it could fit into his duffel bag.***

EXHIBIT 7
0119

DOCUMENTATION OF PLANS: Seven attackers (17%) documented their plans and intentions for the attack in journal entries or other writings. These writings included hit lists, safe lists (e.g., lists of those individuals who would *not* be targeted), supply lists, lessons learned from past attackers, and diagrams of school hallways.

> *A 15-year old student fatally shot a classmate and injured three others at his high school, before surrendering to the school janitor. In his journal and other scattered writings, police found diagrams mapping his high school, along with written homicidal statements and lists of chemicals, weapons, and ammunition. The attacker had also written "X Kill" on the photo page in his yearbook and had crossed out the photographs of 26 classmates.*

APPROACHING, SURVEILLING, OR RESEARCHING THE TARGET: Five of the attackers (12%) researched their targets prior to the attack. This included surveilling the SRO in order to learn his routine, noting security camera locations, and trying to arrange meetings with a targeted teacher.

> *A 14-year-old student shot and killed his father before driving to his former elementary school, where he opened fire near the playground. One elementary student was fatally shot, and at least one other student and one teacher were injured. The attacker had researched the schedules of schools he had attended and inquired about security and the presence of SROs. He chose to target his former elementary school due to the more robust security at his middle school, his understanding of police response times to different schools, and the proximity of the elementary school to his home.*

PLANNING THE EXECUTION OF THE ATTACK: Five of the attackers (12%) spent time carefully considering how they would execute their attacks. They considered the "best" location to kill their intended target(s), the class period to initiate the attack, and the route they would take through the school. One of the attackers shared his plan via social media.

RESEARCHING PRIOR ATTACKS: Five of the attackers (12%) conducted research on prior incidents of targeted violence, including past school attacks. This research was usually conducted through online searches, or by watching videos or documentaries of prior attacks.

> *A 16-year-old student used two kitchen knives to slash and stab 19 classmates and a school security guard. The attacker selected the birthday of one of the Columbine attackers as the date of his attack. Prior to the incident, the attacker had watched a documentary about the Columbine shooting in an effort to "numb himself," in preparation for his planned attack.*

PRACTICING WITH A WEAPON: Four attackers (10%) practiced with a weapon prior to their attack. This included one attacker who tested his homemade pipe bombs, one who practiced loading and unloading a shotgun, and one who practiced wearing tactical gear.

RECRUITING OTHERS: Four attackers (10%) contemplated or attempted recruiting others to help execute the acts of violence. Two of these attackers attempted unsuccessfully to recruit a specific individual to assist with the attack. Two others considered recruiting help, but did not. One of those attackers realized that attempts for recruitment could make him vulnerable to detection and therefore refrained from asking.

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PACKING AN ATTACK BAG: Two attackers (5%) packed a supply bag prior to the incident. One of them packed clothes, cash, and other items needed to run away from home after the attack, and the other packed additional weapons, an energy drink, and a lollipop.

OTHER TYPES OF PLANNING: Nine attackers (22%) took steps to plan their attack in ways that were unique and could not be categorized among the other behaviors. This included stealing money to buy weapons, deleting an email account, and specifically wearing baggy pants the day of the attack in order to conceal a weapon.

Firearm Acquisition

The primary weapons used in the 41 attacks were firearms (*n* = 25, 61%) and knives (*n* = 16, 39%). In most of the incidents involving knives, the weapons were taken by the attacker from their kitchens or other areas of their homes. Because knives are commonly available with little restriction, this section focuses on how the attackers acquired the firearms used in the attacks. ***All percentages provided in this section are based on the 25 attackers who used firearms.***

FROM THE HOME: Nineteen attackers (76%) acquired a firearm from the home of a parent or another close relative. **In half of the firearms cases (*n* = 12, 48%), evidence indicates the firearm was either readily accessible, or it was not secured in a meaningful way.** For example, some firearms had been kept locked in accessible wooden or glass cabinets, locked in vehicles, or hidden in closets. **In four cases (16%), the firearms were kept in more secured locations, but the attacker was still able to gain access to them.** In these instances, the firearms were secured in a locked gun safe or case, but the attackers were able to gain access to them because they knew the combination or where the keys were kept, or they were able to guess the password or combination. In three cases, it is unknown if the firearm had been secured.

> *A 15-year-old student fatally shot one classmate and injured three others at his high school. The attacker knew the combination to his father's gun safe, from which he was able to obtain a loaded semi-automatic .223-caliber AR-15 rifle with a 30-round magazine, and a .32-caliber semi-automatic pistol. The attacker transported the weapons on the school bus by concealing the rifle and seven extra boxes of ammunition in a golf bag. He kept the handgun in his pocket*

TIMING OF THE ACQUISITION: Eight of the attackers (32%) acquired a firearm on the day of the attack. Five additional attackers (20%) acquired a firearm the day before the attack, and four attackers (16%) acquired a firearm between two and seven days prior. This finding reinforces the importance of a swift response to situations involving students who may pose a risk of harm to themselves or others, especially those who have access to weapons in the home.

Juvenile Access to Weapons

Under federal law, individuals under the age of 18 may not legally possess a handgun, except in limited circumstances. Federal law does not restrict the age of individuals who may possess long guns (e.g., shotguns and rifles). Some states have implemented additional restrictions on juvenile possession of firearms, for example, prohibiting minors from possessing any firearm, except for certain activities and with parental consent.[14]

If a child poses a risk of harm to him/herself or others, it is the responsibility of parents, law enforcement, and schools to collaboratively determine the most appropriate avenue for ensuring that the child does not have access to weapons.

EXHIBIT 7
0120

WEAPONS TRANSPORT: Half of the attackers (*n* = 12, 48%) who used a firearm in their attack transported the weapon into the school building while concealed in their backpacks. Three attackers (12%) transported their firearms into the school in another type of bag, including a guitar case, a golf bag, or a gym bag. One attacker transported a firearm into the school concealed in his waistband. Two attackers did not conceal their firearm, carrying it openly into the school building after the start of the school day.

Additionally, two attackers transported firearms from home to school, but perpetrated the attack on school property without entering the building. One of those attackers carried his weapon out in the open, while the other concealed the firearm in a guitar case as he rode his bike to the school grounds.

For 6 of the 41 incidents included in this study, there was little information available on the background of the attackers in both primary source files and open sources. As a result, those six attackers were removed from the analysis of behavioral histories. ***All percentages provided in the remainder of the report are based on the 35 attackers for whom substantive information was available.***

Law Enforcement Contact

Half of the attackers (*n* = 17, 49%) had contact with law enforcement prior to carrying out their attacks, which included prior arrests and other encounters, like welfare checks at home. For some (*n* = 6, 17%), these prior contacts or interactions were with an SRO.

PAST CRIMINAL CHARGES: **About one-third of attackers (*n* = 11, 31%) had previously been arrested or faced criminal charges**, and the crimes for which they were charged included both non-violent (*n* = 7, 20%) and violent (*n* = 6, 17%) offenses. In some of these cases, the charges against the attacker were ultimately dismissed. The non-violent charges included alcohol or drug related offenses, a curfew violation, criminal conspiracy, shoplifting or theft, trespassing, and reckless driving. The violent charges included affray, assault with a deadly weapon, and weapons possession at school with intent to cause harm. Physical fights, which occurred both at home and at school, resulted in charges of disorderly conduct and disrupting public school. In one case, the charge was related to a domestic violence incident when the attacker physically assaulted his mother, threatened to kill her, and ended up having to undergo a mental health evaluation. None of the charges were for sex offenses.

> ***An 18-year-old student shot and injured a classmate at his high school before surrendering to the SRO. According to investigative records, the attacker had been previously arrested for carrying a concealed gun, possession with the intent to distribute a controlled dangerous substance, trespassing, and resisting a public officer.***

OTHER CONTACT WITH LAW ENFORCEMENT: Some attackers (*n* = 10, 29%) had prior interactions with law enforcement that did not result in arrests or charges, or were related to issues with their families. These types of interactions included instances where the attacker had gotten into fights or displayed other inappropriate behavior at school and was spoken to by the SRO as a result. In one case, the prior contact was part of a threat assessment conducted by

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school officials during which the SRO searched the attacker's home for weapons. Prior contact with law enforcement also involved an attacker being detained by law enforcement after being reported as a runaway and police visits to attackers' homes for issues regarding the attackers' families.

Psychological, Behavioral, & Developmental Health

According to national prevalence rates, nearly 20% of children are *diagnosed* with at least one mental health and/or behavioral disorder.[15] **In this study, a documented mental health diagnosis was received by fourteen (40%) of the attackers prior to their attack.**

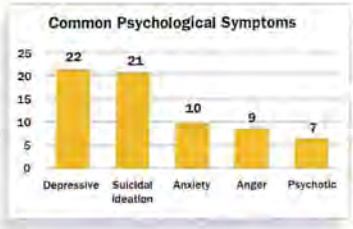
This section will focus on the observable mental health *symptoms* displayed by attackers prior to their attack. Such mental health factors were divided into three main categories: psychological, behavioral, and neurological/developmental. Most of the attackers (*n* = 32, 91%) in this study exhibited symptoms in at least one of these categories, and half of the attackers (*n* = 17, 49%) displayed symptoms of more than one type, with the most frequent combinations involving psychological and behavioral symptoms. When considering such signs and symptoms, it is possible that underlying situational factors may be the cause of the behavior (e.g., stressors the child is experiencing), as opposed to a diagnosable disorder.

Symptom Categories		
Psychological	24	69%
Behavioral	20	57%
Neuro/Developmental	7	20%

The vast majority of individuals in the United States displaying the symptoms or traits identified in this section do not commit acts of crime or violence. The symptoms described in this section constitute potential contributing factors, as part of a constellation of other factors, and should not be viewed as causal explanations for why the attacks occurred.

Psychological

This section describes attackers who exhibited several clusters of emotional and psychological symptoms. The most common of these types of symptoms was related to depression, with two-thirds of the attackers (*n* = 22, 63%) exhibiting some sign or symptom. A similar number of attackers (*n* = 21, 60%) also experienced suicidal thoughts and ideations.[16] Anxiety (*n* = 10, 29%), anger (*n* = 9, 26%), and symptoms of psychosis (*n* = 7, 20%) were also documented in the available sources of information.



A 16-year-old student shot his high school principal in the arm before his weapon malfunctioned. Prior to the incident, the attacker exhibited a wide range of symptoms typically associated with depression. For example, he began to isolate himself after his parents divorced and his siblings moved out of the home. While he had played multiple sports and enjoyed video games, the attacker withdrew from these activities as his depression worsened. He began going to school without shaving, showering, or washing his hair, and multiple people noted his body odor. The student reported feeling helpless, hopeless, and worthless, and he said he had low energy, trouble sleeping, reduced appetite, decreased interest in activities, impaired concentration, and his grades began to decline. He often sat alone in his room in the dark. He began having suicidal thoughts and came close to killing himself prior to the incident. According to media reports, a state psychiatrist concluded that mental illness played a role in the attacker's actions in carrying out the incident.

Behavioral

Twenty attackers (57%) displayed behavioral symptoms, including defiance towards authority, poor impulse control, and other violations of social norms. Also included here are those attackers who exhibited symptoms of, or were diagnosed with, ADHD or ADD. Anger was included here if it occurred in the absence of any identifiable psychological or emotional issues that would account for it.

Symptom/Behavior		
Defiance/misconduct	14	40%
ADHD/ADD	10	29%
Aggression	8	23%
Anger	5	14%
Animal cruelty	3	9%

A 15-year-old student shot and injured two classmates at his high school. The attacker had a history of misconduct beginning at a young age. His academic record included dozens of discipline referrals at school for disobedience, disrespect to teachers, threats, harassment, and assault. He had numerous in-school and out-of-school suspensions. In 6th grade alone, he had 24 discipline referrals from 5 different staff members. The reasons for the referrals included refusing to cooperate with authority and altercations with peers. He was viewed as a bully and repeatedly tried to pick a fight with the boy he later targeted in the shooting.

Neurological/Developmental

Neurological conditions or developmental issues were found for seven attackers (20%), which included developmental delays, cognitive deficits (e.g., poor problem-solving or decision-making skills), and learning disabilities (e.g., dyslexia), and symptoms or diagnoses within the autism spectrum.

Attackers in this category often experienced delays in language acquisition (e.g., lifelong speech challenges, not conversing until five years old), sensory sensitivity (e.g., covering ears when other kids were loud, disliking school assemblies, or attempting to avoid pep rallies due to noise), and poor communication skills (e.g., saying things that did not make sense). In addition, these students often misinterpreted social cues or isolated themselves. With an inability to integrate socially and

Neurological/Developmental Symptoms

Sensory Sensitivity — *Cognitive Deficits*
Poor Communication — *Learning Disabilities*
Developmental Delays — *Poor Social Skills*
Delayed Language Acquisition

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communicate effectively, most of the attackers who experienced these conditions had difficulty regulating their emotions, while also experiencing other psychological and/or behavioral symptoms.

A 12-year-old student fatally shot one teacher and wounded two classmates at his middle school, before killing himself. According to open source reporting, the attacker was late in his language development and required speech therapy. As he progressed through elementary school he continued to have problems with communication, cognitive deficits, and academics. In 6th grade, he was still performing 1st grade work in math and 2nd grade work in reading. The attacker exhibited poor social skills and did not make friends easily. His ability to pick up on social cues was limited, and he had difficulty with transitions from one activity to another. His emotions were unstable, with frequent episodes of anxiety, anger, and crying. He often seemed confused and was described as being in his own world.

Personality Traits

A fourth category, related to personality traits, was also considered, in order to highlight the personality dynamics that may have impacted the attackers' behavior. A personality disorder is a manner of thinking, feeling, or behaving that falls outside of social norms and causes distress or problems functioning. It is possible that persistent patterns of defiance and misconduct at a young age may be indicative of a personality disorder as a student reaches adulthood. Research shows that as many as two-thirds of adolescents with a diagnosis of conduct disorder can go on to develop a personality disorder as an adult.[17]

One notable feature of attackers in this study with possible personality traits was narcissism, which manifested in multiple ways. These attackers generally had an inflated sense of self, believing that they were superior to others. Because they viewed themselves as superior, they had little concern for rules or laws, believing that they were above such conventions. Similarly, they did not respect people in positions of authority over them. Some of them sought fame through violence as a way to validate their inflated self-concepts. Furthermore, these attackers tended to lack empathy and derived sadistic pleasure from the thought of hurting or killing others. Further evidence of callousness was seen in their lack of remorse or emotional reaction to the enormity of what they had done.

A student shot and injured a classmate and a teacher in his high school science classroom. The attacker had previously written stories and told friends about his desire to attack the school and his bullies. Prior to the incident, the attacker had expressed fantasies of killing and mutilating his brother, pushing a child out of a wheel chair, and punching a crying infant. Classmates also observed the attacker drawing portrayals of children being massacred on a playground. After the incident, investigators found journals with similar violent content. During trial, a psychologist retained by the prosecutor stated that attacker had antisocial, paranoid, and narcissistic features.

Personality Traits

Narcissistic — *Sadistic*
Deceitful — *Disregard for Rules*
Lacks Empathy — *Callous*
Manipulative

Mental Health Treatment

Of the 35 attackers in this study, 19 (54%) had received some type of mental health treatment. Eleven (31%) had received services within their schools, and half (*n* = 17, 49%) had received services in the community. Nine of the attackers (26%) received services both at school *and* in the community. For some attackers, mental health treatment was in place at the time of the attack, while for others, the treatment had ended by the time the incident occurred.

The fact that half of the attackers had received one or more mental health services prior to their attack indicates that mental health evaluations and treatments should be considered a *component* of a multidisciplinary threat assessment, but not a replacement. Keep in mind that standard mental health evaluations and treatments will not include things like a review of criminal records, corroborative interviews with people who know the student, an analysis of a student's social media accounts, or a search of the student's home or locker. Mental health professionals, both in and out of the school, should be included in a *collaborative* threat assessment process that also involves teachers, administrators, and law enforcement.

Substance Use & Abuse

Half of the attackers (*n* = 17, 49%) had a history of substance use and/or abuse. The most frequently used substances included marijuana (*n* = 14, 40%) and alcohol (*n* = 12, 34%). Some attackers used other controlled substances (*n* = 7, 20%), including opiates (e.g., Percocet, oxycodone), amphetamines (e.g., Adderall), Valium, Seroquel, K2, and anabolic steroids, none of which had been prescribed to them. A few attackers (*n* = 3, 9%) misused drugs that had been prescribed by a doctor, or over-the-counter (OTC) drugs, including Benadryl and cough syrup with codeine.

For seven of the attackers (20%), their substance use reached the level of *abuse*, causing negative consequences or problems in their lives such as alcohol or drug related criminal charges, school suspensions, or being sent to drug treatment.

> ***A 16-year-old student stabbed and injured a classmate at his high school. Other classmates subdued the attacker until school officials arrived at the scene. According to court records, around the age of 13 or 14, the attacker began using marijuana and alcohol with his friends, as well as using non-prescribed oral steroids and abusing cough syrup containing codeine. The attacker reported that he consumed a four-ounce bottle of the cough syrup every two days for about a year.***

Weapons Use & Violence

Weapons Use: Three-quarters of attackers (*n* = 27, 77%) had a history of using weapons prior to their attack. These histories included the attackers owning, using, training with, or practicing with weapons, including firearms, knives, or other types. For example, some attackers were experienced in hunting or target shooting, were members of the Junior Reserve Officer Training Corps (JROTC), had interests in airsoft guns, regularly carried a knife, or played with BB guns. While each of these activities, independently, do not indicate that a student poses a risk of violence, they do provide the student with familiarity, and in some cases explicit training, on how to handle and use weapons.

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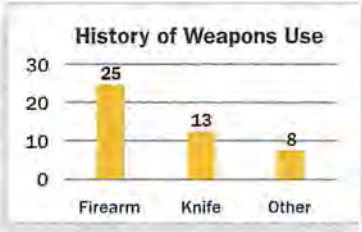
Twenty-five attackers (71%) had previous experience with firearms, including pistols, rifles, shotguns, and other weapons that closely mimicked firearms, such as BB guns, airsoft guns, and paintball guns. Thirteen attackers (37%) had previous experience with knives, outside of normal usage, and eleven (31%) had previous experience with *both* firearms and knives. Eight attackers (23%) had experience with other types of weapons, which included manufacturing explosives (e.g., pipe bombs) or incendiary devices (e.g., Molotov cocktails), or using a bow and arrow, nun chucks, throwing stars, or a machete.



> ***A 15-year-old student fatally shot one classmate and wounded one teacher, before killing himself. In his freshman year language arts notebook, the attacker had made several entries about weapons. He wrote, "Weapons-I know A LOT! About guns, knives, and body armor. I can tell the name of a gun… and tell you it's [sic] caliber. I can also disassemble two guns." The attacker's brother had taken him shooting in the year prior to the attack, where they practiced shooting pellet guns, an AR-15 style rifle, and a rifle the attacker had received as a gift from his brother for his birthday. During that same year, the attacker occasionally brought knives to school and showed them to at least one other student on the school bus.***

HISTORY OF VIOLENCE: Half of the attackers (*n* = 18, 51%) engaged in violent behaviors that did not result in an arrest or contact with law enforcement, including violence towards a family member (e.g., hitting a parent or stabbing a sibling), physical assaults (e.g., choking a friend or hitting another student), threatening or aggressive behavior (e.g., pointing a pair of scissors at and threatening to stab a classmate), or hurting animals. Additional cases of attackers with a history of violent arrests or criminal charges are described in the Law Enforcement Contact section of this report.

> ***A 14-year-old student killed his father at home, before opening fire on his former elementary school. One elementary student was fatally shot, and at least one other student and one teacher were injured. The attacker had a history of hurting small animals and watching videos of animals being hurt.***

INTEREST IN VIOLENCE AND WEAPONS: Half of the attackers (*n* = 17, 49%) had an unusual or concerning interest in violence or weapons. For example, some of the attackers researched past incidents of mass violence, drew figures of dead students, consumed violent or graphic media, completed writing assignments or kept journals referencing violent topics, hurt animals or watched videos of animals being abused, or described themselves as obsessed with weapons. For an interest in weapons to be concerning, it had to be viewed as a fixation or fascination that was beyond what would be considered a normal interest or knowledge of weapons.

> ***A 12-year-old student fatally shot a teacher and wounded two classmates at his middle school, before killing himself. In the months preceding his attack, the attacker conducted internet searches using the following terms: bullying, Top 10 evil children, Super Columbine Massacre Role Playing Game, shoot, guns, revenge, murder, school shooting, killer, hate, and what if Nazi's won WW2. The attacker also owned forty-seven first-person shooter video games and had saved photographs of the Columbine shooters on his phone.***

EXHIBIT 7
0123

Two specific interests emerged as common and particularly concerning among the attackers. These were a fascination with the *Columbine attack* or an interest in *Hitler and Nazism*.

- ***Columbine:*** About one-quarter (n = 8, 23%) of attackers displayed a concerning interest in the attack at Columbine High School. This was demonstrated by the attacker having saved photos of the Columbine attackers, watched documentaries or read about the attack, or paraphrased the diary of one of the Columbine attackers in their own diary. These attackers also consumed the movies or music that they knew the Columbine attackers had liked, spoke to friends about the attack, posted about it on social media, or wrote about Columbine in class assignments, journals, or manifestos.

  A 14-year-old student opened fire toward his SRO, burning the officer on the head with the discharging firearm. The attacker had previously written a report for class titled, "The Columbine High School Massacre." Throughout his personal journal, he referenced the Columbine attackers, referring to them by nicknames, and also referenced a movie they liked. He wrote, "[The Columbine] story is SO fascinating to me!" and, "They're so... INSPIRATIONAL!"

- ***Hitler/Nazism:*** Seven attackers (20%) displayed a concerning interest in Hitler or Nazism. This interest was revealed through a pattern of behavior, including attackers who turned in school assignments describing their admiration for Hitler, collected Nazi propaganda and Hitler speeches, used known Nazi references and symbols, viewed neo-Nazi websites, wrote about Hitler or Nazism in journals, or had conversations with classmates about these topics.

  A 14-year-old student fatally shot a classmate at his high school. The attacker was known to have shown an interest in Hitler, and he knew the names of all of Hitler's deputies. After the attack, a copy of Hitler's Mein Kampf was discovered in the attacker's backpack along with drawings of swastikas in his notebooks. A later search of the attacker's residence identified Nazi paraphernalia, Nazi and white supremacist materials, anti-Semitic drawings, Nazi videos, Hitler speeches, and Nazi propaganda posters from Internet websites.

Home Life Factors

This section is intended to describe the family dynamics and home experiences for each of the 35 attackers, using several home life factors that emerged as common and impactful. While none of the factors included here should be viewed as *predictors* that a student will be violent, the field of study examining adverse childhood experiences (ACEs) finds that experiencing certain adverse events in childhood can result in a range of negative outcomes later in life, particularly when a child experiences multiple ACEs.[18] ACEs include things like parent separation and divorce, substance abuse in the home, family violence, abuse, family incarceration, and family mental illness. The first analysis of nationally-representative data on ACEs found that the percentage of youth displaying indicators of poor well-being is greater among those who have experienced three or more such factors.[19] In other words, the more ACEs a child experiences, the greater the risk for negative outcomes for the child.

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All but two of the attackers (n = 33, 94%) experienced at least one of the home-life factors listed here. Those attackers experienced between one and six factors each, with an average of 3.4.

Home Life Factors		
Parent(s) separated/divorced	25	71%
Family financial difficulty	24	69%
Parent(s) or sibling(s) arrested/incarcerated	19	54%
Parent(s) or sibling(s) substance abuse	16	46%
Family discord (including domestic violence/abuse)	14	40%
Family mental health	8	23%
Abuse/neglect suffered by the attacker	8	23%
Non-parental custody/care	4	11%

DIVORCE/SEPARATION: The most common home life factor experienced was parent divorce or separation, which was experienced by 25 of the attackers (71%).

FINANCIAL DIFFICULTY: Twenty-four attackers (69%) experienced a home life with at least one indicator of financial difficulty.

Financial Difficulty
Bankruptcy
Eviction or Homelessness
Failure to Pay Child Support
Foreclosure
Fraudulent Check(s)
Lien
Low Income
Poverty

ARRESTS OR INCARCERATIONS: Nineteen attackers (54%) had a home life where a parent, guardian, or sibling was arrested or incarcerated at some point after the attacker's birth. Research has found that the arrest or incarceration of a family member can have a number of negative consequences for childhood development. Children who witness a parent's criminal activity, arrest, and incarceration have a greater likelihood of emotional maladjustment and a harder time regulating their emotions.[20]

A 15-year-old student fatally shot a classmate at her high school. She then fled the scene before turning herself in. At the time of the incident, the attacker's father was serving a 25-year sentence for second-degree murder. He was arrested two years prior to the attack. While the attacker had not visited her father in prison, she was able to speak with him on the phone and had lived with him intermittently prior to his incarceration.

SUBSTANCE ABUSE: Sixteen attackers (46%) had parents, guardians, or siblings using or abusing illicit drugs or alcohol. Research has found that children of parents with substance use disorders are more likely to experience abuse or neglect, develop behavioral problems, display violent behaviors, or engage in substance use themselves.[21]

EXHIBIT 7
0124

A 15-year-old student stabbed two classmates multiple times in the restroom. Both victims, selected at random, survived the attack. When she was a child, the attacker's father was incarcerated multiple times for drug possession and other drug-related offenses. On at least one occasion prior to the attack, according to open source reporting, the attacker snuck out of her mother's home in order to smoke marijuana with her father.

FAMILY DISCORD: Fourteen attackers (40%) had evidence of exposure to family discord. The types of discord captured here varied, from repeated verbal arguments to domestic and other physical violence. These hostile events often occurred multiple times throughout the attackers' lives, and most of these attackers experienced more than one type of family discord.

A 17-year-old student entered his former high school and fatally shot three classmates and wounded three others. The attacker came from a troubled home with both of his parents involved in multiple unions and divorces. According to public records, both parents also had a history of criminal charges and substance abuse. Domestic violence was common in the home, and the parents' criminal behavior resulted in the attacker ultimately being raised by his grandparents.

FAMILY MENTAL HEALTH: Eight attackers (23%) had evidence of living with a family member in the home who experienced symptoms of a mental illness. The most prevalent conditions appeared to involve mood disorders (e.g., depression and bipolar disorder), with a few instances of possible psychosis.

ABUSE/NEGLECT: Eight attackers (23%) suffered from neglect or were the victims of physical, verbal, or sexual abuse in the home. Physical abuse was the most common type of abuse, and five attackers experienced multiple types of abuse prior to their attacks.

NON-PARENTAL CUSTODY/CARE: Four attackers (11%) were raised by someone other than a biological parent at some point in their lives. Three had lived with, or were raised by, their grandparents. One attacker had been placed in the foster care system and spent time in multiple foster homes before he was adopted.

Stressors

It is widely recognized that high stress levels are associated with emotional and behavioral problems for children.[22] **All 35 attackers (100%) experienced stressors**, with nearly all (n = 33, 94%) experiencing at least one in the six months prior to their attack. Three-quarters of the attackers (n = 26, 74%) experienced a stressor within one month of the attack, and half of the attackers (n = 18, 51%) did so within two days. Research indicates that some types of stress, like the loss of a loved one, can be tolerated by children if they have emotional supports to help them process the experience.[23] Even with those supports, however, children will be challenged if the stressors they experience are intense or frequent enough. In such cases, children may exhibit a range of responses, from depression to hyperactivity.[24]

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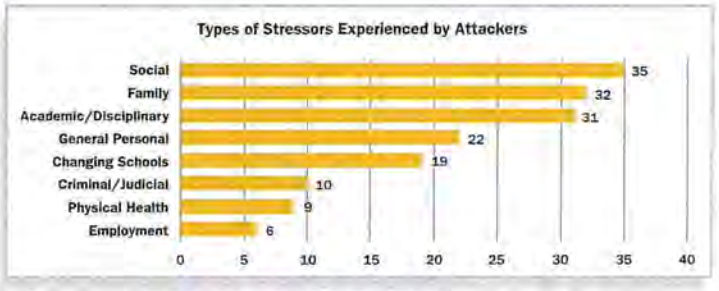

SOCIAL: All of the 35 attackers (100%) in this study experienced at least one social stressor. Social stressors identified in this analysis included stress related to the attackers' relationships with peers (e.g., bullying or other peer conflicts) or romantic partners. These types of stressors in particular, including peer rejection during childhood and adolescence, have previously been linked to depression, anxiety, substance use, and behavior problems.[25] For half of the attackers (n = 19, 54%), a social event, such as a breakup or an incident of bullying, was the most *recent* stressor experienced before carrying out their attack. Those stressors often occurred within a week prior (n = 11, 31%).

A 16-year-old student stabbed and injured his classmate in the high school cafeteria with a knife. The attacker later described himself as having experienced chronic verbal and physical bullying throughout his childhood and adolescence. In the weeks leading up to the attack, the victim of the stabbing began to date the attacker's ex-girlfriend, which angered the attacker.

FAMILY: Stressors related to the attackers' families included conflicts in the home, abuse or neglect by a parent, and family financial difficulties. Nearly all attackers experienced family-related stressors (n = 32, 91%). At least three attackers had a stressful interaction with a parent within one day of the attack.

A 14-year-old student fatally shot one elementary school student and injured at least one other student and one teacher outside of his former elementary school. According to the attacker, his father had been angry and aggressive over the previous 24 hours, complaining about his finances and engaging in a confrontation with the attacker over homework. The attacker fatally shot his father before the attack at the school.

ACADEMIC/DISCIPLINARY: Most attackers (n = 31, 89%) had experienced school stressors related to academic or disciplinary actions, including failing grades or school suspensions. More than half of the attackers (n = 21, 60%) had both academic *and* disciplinary issues. For seven of the attackers (20%), a disciplinary issue at school was the most recent stressor experienced prior to the attack.

GENERAL PERSONAL: Two-thirds of the attackers (n = 22, 63%) experienced stressors that were unique or personal in nature, and therefore not as easily categorized. These stressors included a failed drug test, homelessness, or feeling unhappy with one's physical appearance. At least three attackers (9%) had witnessed violence against a friend or loved one, including a death by stabbing.

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CHANGING SCHOOLS: Over half of the attackers (*n* = 19, 54%) had changed schools at least once, not including the normal transition from primary to secondary schools. Those 19 attackers changed schools more than two times on average. Seven attackers (20%) had switched schools during the six months leading up to the attack. The reasons for the school changes included expulsions, placements in an alternative school setting, moving to a new residence, enrolling in school after homeschooling, and transferring for personal reasons (e.g., to avoid bullies).

Some attackers experienced additional types of stressors that were less common, including stressors related to ***criminal or judicial activity*** (*n* = 10, 29%), ***physical health problems*** (*n* = 9, 26%), or ***problems at work*** (*n* = 6, 17%). Only eight attackers were known to have been employed, and most of them were employed in the food service industry.

The number of contexts in which the attackers in this study experienced stressors ranged from two to eight, with an average of five. Two of the attackers experienced stressors in all eight contexts.

> *A 17-year-old former student fatally shot three classmates and wounded three others at his old high school. The attacker had reportedly been bullied by the targets of the attack, and he was angered that one of the victims was dating his ex-girlfriend. Years prior, the attacker's parents had lost custody of him due to their drug and alcohol abuse. More recently, the attacker struggled academically and was eventually transferred to an alternative school, but according to investigative files, his attendance at the alternative school suffered due to frequent migraine headaches. The attacker had a part-time job in the food service industry, but he was not a good employee, and newer coworkers were promoted above him. Law enforcement were often called to the attacker's home due to family issues. A few months before the attack, the attacker was cited by police after crashing his mother's vehicle into a ditch.*

Bullying

Bullying is a problem faced by students and continues to be identified as a factor in NTAC's research on targeted violence in schools. **Most of the attackers in this study (*n* = 28, 80%) were bullied by their classmates.** For more than half of the attackers (*n* = 20, 57%), the bullying appeared to be of a persistent pattern which lasted for weeks, months, or years.

Bullying includes unwanted, aggressive behavior among school-aged children with an intent to do physical, social, or emotional harm; which involves a real or perceived power imbalance; and is, or could be, repeated.[26] Between one-quarter and one-third of students in the United States report that they have been bullied, while almost three-quarters of students and school officials have reported witnessing bullying.[27] The U.S. Department of Health and Human Services warns that bullying has lasting negative effects for those who are bullied, those who bully others, and those who witness bullying.

The evidence presented here supports past research findings that bullying causes significant stress and harmful outcomes for students. Schools should adopt and enforce a zero tolerance policy towards bullying and should encourage students to report bullying when they witness it or are victims of it. School officials and other authorities must act to intervene and stop bullying when it is reported to them, and bullying does not have to meet a legal threshold before schools can intervene.

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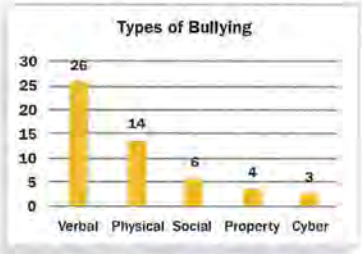
TYPES OF BULLYING: The Centers for Disease Control and Prevention (CDC) identifies four types of bullying: verbal, physical, social, and property.[28] This study additionally incorporated cyber bullying.

- ***Verbal:*** For nearly three-quarters of the attackers (*n* = 26, 74%), there was evidence that they experienced some form of verbal bullying. This included spoken or written forms of aggression. Examples of verbal bullying experienced by attackers prior to their attacks included threats, crude gestures, name calling, teasing, taunting, and suggestions that they kill themselves.



- ***Physical:*** Many attackers (*n* = 14, 40%) experienced bullying that involved physical aggression. Examples included hitting, kicking, tripping, pinching, pushing, threatening or menacing gestures, and nonconsensual sexual contact.
- ***Social:*** Six of the attackers (17%) experienced some kind of social bullying, which involved words or actions designed to harm the victim's reputation or social standing. Examples included having rumors spread about them, being ostracized by others (e.g., classmates got up and left when the attacker sat down at a table), and being maliciously ignored.
- ***Property:*** Four of the attackers (11%) experienced bullying involving acts of theft or destruction of property. Examples included having money stolen and having toilet paper thrown at their house.
- ***Cyber:*** A few attackers (*n* = 3, 9%) experienced cyber bullying, which involved the use of digital technologies, such as text messaging or social media platforms. Cyber bullying can be done in public or in private. Some cyber bullying occurs in a way that may only be known to the victim (e.g., direct text messages), while other cyber bullying may be broadcast for public view (e.g., publicly viewable social media posts). The attackers who were cyber bullied were harassed on social media and received threatening emails, social media messages, and text messages.

Though verbal and physical bullying were the most common types of bullying experienced by the attackers, several of the attackers experienced three or four different types of bullying.

> *VERBAL, PHYSICAL, AND PROPERTY BULLYING: A 12-year-old student fatally shot one teacher and wounded two classmates, before killing himself. The attacker had been teased and called names by his middle school classmates, including "gay," "lazy," "stupid," and an "idiot." Classmates had poured water down his pants, and then said the attacker had wet himself. In other instances, the attacker had his pants pulled down by classmates, was tripped in the hall, and had money stolen from him. The attacker referenced some of these incidents in one of the suicide notes he left, which was addressed to classmates and teachers.*

> *VERBAL, PHYSICAL, SOCIAL, AND CYBER BULLYING: A 13-year-old student stabbed and injured a classmate multiple times in her head and arm at their middle school. The victim and her friends had called the attacker "ugly," had pushed her in the hallway, had spread rumors about her, and had subjected her to threatening phone calls and internet messages.*

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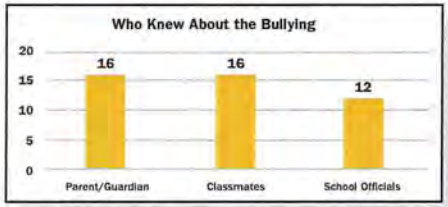
WHO KNEW ABOUT THE BULLYING: From case-to-case, there were differences among who was aware of the bullying experienced by the attacker. In almost half of the cases (n = 16, 46%), at least one of the attacker's parents was aware that their child experienced bullying. In 16 cases (46%) a classmate was aware, and in 12 cases (34%) a school official was aware. In five cases (14%), there was evidence that all three groups knew that bullying was taking place.

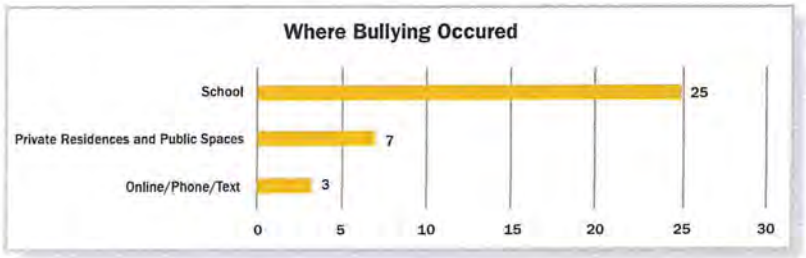
A 13-year-old student attacked classmates with a knife, injuring four. Classmates knew that the attacker had experienced bullying for years and that he had threatened revenge. The attacker's parents were aware of the bullying, and the attacker had sought help from the school nurse and school guidance counselor, but the situation did not improve.



In three cases (9%), the attacker perceived himself as a victim of bullying, but no one else shared that perception. For example, one attacker noted in his journal that he had been bullied, yet no evidence could be identified to indicate the attacker's parents, classmates, or school officials were aware of any bullying or the attacker's perceived victimization.

Of note, there were 10 instances (29%) where evidence indicates at least one classmate knew the attacker was being bullied, but no school officials were aware. This highlights the need for schools to establish climates that encourage both students and parents to share concerns with school staff. Providing students with a means to anonymously report bullying, while also ensuring that all students have at least one positive relationship with a school staff member, will help to encourage students to share actionable information when they observe incidents of bullying at school.

WHERE BULLYING OCCURRED: The attackers experienced bullying most frequently at school, including on the bus. Bullying, however, was also experienced in private residences, in public spaces, online, and via phone calls and text messages.



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BULLYING TOLERATED: In a few cases, there was evidence that school officials knew about the bullying an attacker was experiencing, but there was no indication that the school responded to address the bullying in any way. In other cases, when school officials did respond to address the bullying, the responses were minor and ineffective, or the responses made the bullying worse.

A 16-year-old student shot and injured his classmate and a teacher. Prior to the attack, the attacker had sought help from a teacher after being bullied. In response, the teacher told the attacker to "man up." The attacker's mother later called the school about the bullying, but there is no evidence that school officials took any action to intervene. The only intervention occurred after the attacker got into a fist fight with his bullies, after which the attacker was suspended. At his trial after the shooting, several classmates testified that the attacker had been relentlessly bullied and teased.

ATTACKERS AS BULLIES: Just over one-third of the attackers (n = 13, 37%) were bullies themselves. Prior to their attacks, these attackers bullied their classmates verbally, physically, and through cyber bullying. Nearly all of the attackers who had bullied others were *also* the victims of bullying

A 14-year-old student shot and injured one classmate in his high school cafeteria. The attacker had been teased and called names. He had also been struck with binders, punched, and pushed around. The attacker also had a history of bullying others. He would insult other students or scream at them, and had pushed, kicked, and slapped his classmates.



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School Interactions & Relationships

STUDENT-TEACHER RELATIONSHIPS: Over one-third of the attackers (*n* = 13, 37%) had at least one positive relationship with a staff member at their current school. Positive relationships were perceived from the student's and/or teacher's perspective, and were evidenced by the attacker being well-liked by teachers; a teacher writing a job recommendation for the attacker; teachers complimenting the attacker's academic work; and describing the attacker as a model student, a good kid, or a pleasure to have in class. In addition, there were a few cases where a school staff member attempted to make a positive impact on an attacker's life prior to the attack, for example, by looking out for a student or checking in with them on a weekly basis to make sure they were okay.

A similar number of attackers (*n* = 10, 29%) had a negative relationship with at least one staff member at their current school. Negative relationships were characterized by the attacker previously disliking or threatening a teacher, not feeling supported by staff, not receiving assistance from school staff when they needed help, thinking teachers were disrespectful, or the attacker being disrespectful toward teachers or refusing to follow directions. Only three attackers (9%) felt they had a neutral relationship with the staff at their current school, which was evidenced by the attacker describing their relationship with teachers as cordial.

SOCIAL LIFE: The majority of attackers (*n* = 29, 83%) had at least one friend, and at least four of the attackers (11%) were in a romantic relationship at the time of their attack. Only a few attackers (*n* = 5, 14%) appeared to have no friends or romantic relationships.[29] It is important to note that these relationships were seen on a continuum. For example, an attacker may have been described by others as having friends, but others also noted that the same attacker kept to himself.

Academic Performance & Extracurricular Activities

Recent Academic Performance: Attackers' recent academic achievement was categorized as a positive, neutral, or negative performance for the school year in which they were enrolled at the time of the attack. For example, if the attack took place in February 2012, the academic performance was captured for the 2011-2012 school year. If the attack took place close to the start of the school year, the attacker's academic performance was captured for the previous school year. The academic performance of seven attackers could not be identified.

- ***Positive Performance:*** About one-third of the attackers (*n* = 12, 34%) demonstrated a positive academic performance through one or more achievements, to include making the Honor Roll, earning grades of A's and B's, or being enrolled in an Advanced Placement (AP) class or a gifted/talented program.
- ***Neutral Performance:*** Five attackers (14%) demonstrated a neutral academic performance. Those who were rated as neutral included those who received a broader range of grades (e.g., A's, B's, and C's), or attackers who were able to raise their failing grades into more average levels.
- ***Negative Performance:*** About one-third of the attackers (*n* = 11, 31%) demonstrated a negative academic performance, evidenced by failing classes, repeating a grade, not completing homework, or performing below grade-level.

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ACADEMIC ASSISTANCE: Ten attackers (29%) received some form of academic assistance during their school career. This assistance took the form of special education services, tutoring received or recommended, working with an English as a Second Language (ESL) teacher, or a learning strategies teacher. Eight students had received an Individualized Education Program (IEP), or a 504 plan.

CHANGES IN PERFORMANCE: Several attackers (*n* = 7, 20%) displayed a negative academic change in the year leading up to their attack, which was most often displayed through declining grades. Due to the change, they also experienced negative effects in other areas of their academics, for example, failing a class, being removed from an honors or gifted program, or being removed from a school sports team. For example, one attacker had ended his junior year with a 3.0 GPA (B average). Within two months of the attack, the attacker's GPA declined to a 1.7, as he was earning D's and F's in all of his classes during his senior year.

EXTRACURRICULAR ACTIVITIES: Nearly three-quarters of the attackers (*n* = 25, 71%) had been involved in an extracurricular activity at school, in the community, or both. School extracurricular activities included sports, Junior Reserve Officer Training Corps (JROTC), band, theater, orchestra, choir, debate team, art club, and Spanish club. Extracurricular activities in the community included sports, Boy Scouts, lifeguarding, volunteering, chess club, and religious activities.

NOTEWORTHY ACHIEVEMENTS: Just under half of the attackers (*n* = 16, 46%) accomplished at least one noteworthy achievement in their school career or in the community. These accomplishments were often related to:

- ***Academics:*** Attackers received honors or awards for academic achievement, were enrolled in Advanced Placement (AP) courses or an honors/gifted/talented program, were selected to skip a class or grade level due to high proficiency, were on the honor roll, and graduated early.
- ***Extracurricular Activities:*** Attackers won first place on a school sports team, received a scholarship for music camp, won an essay contest, and won a school talent show.
- ***Social Achievements:*** An attacker was elected by classmates as Homecoming Prince.
- ***Other Personal Achievements:*** Attackers achieved a weight loss goal, became a deacon, earned a black belt in karate, appeared on television, gained a large number of subscribers to a YouTube channel, and successfully completed a marksmanship qualification program.

Disciplinary History

Almost three-quarters of the attackers (*n* = 25, 71%) received some form of school disciplinary action in the five years prior to the attack. The behaviors that elicited disciplinary actions occurred along a continuum in terms of severity, ranging from cheating or using profanity to threatening or engaging in physical assaults. As with many of the topics addressed in this report, the presence of these behaviors alone does not necessarily indicate that a student will carry out a targeted school attack. However, gathering information about a student's disciplinary history, along with

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other behaviors and circumstances, will assist school officials in identifying appropriate interventions to support the student and decrease the risk of harmful outcomes.

BEHAVIORS RECEIVING DISCIPLINE: Disciplinary actions resulted from a wide range of behaviors in the school setting. Attackers were disciplined for the following types of behavior:

- ***Fighting:*** Fourteen attackers (40%) were disciplined for fighting at school. These incidents included fights on the school bus and hitting other students.
- ***Classroom Conduct:*** Twelve attackers (34%) were disciplined for behavior that affected the classroom environment, including interrupting the teacher, causing a disturbance, using a cell phone, demonstrating a bad attitude, and not following directions.
- ***Threatening/Violent Behavior:*** Eleven attackers (31%) were disciplined for displaying threatening or violent behaviors at school. This included having weapons on campus; angry outbursts; using violent language; threatening a teacher, the school, or classmates; drawing pictures that depicted killings; and sharing a note with classmates that implied the attacker was going to do something bad.
- ***Academic Integrity:*** Seven attackers (20%) were disciplined for behaviors related to their academics, including cheating on a test, failing to complete homework, and stealing another student's paper and claiming it as their own.
- ***Inappropriate Language:*** Six attackers (17%) were disciplined for using inappropriate language in school. This was not limited to profanity, but also included the use of vulgar or abusive language, inappropriate comments, and name-calling towards teachers or classmates.
- ***Tardiness/Truancy:*** Five attackers (14%) were disciplined for being tardy to school or to class. Eight attackers (23%) were disciplined for truancy, which included skipping class, leaving class and not returning, leaving school without permission, and refusing to attend school.
- ***Banned Substances:*** Four attackers (11%) were disciplined for behaviors involving banned substances at school, including selling and distributing marijuana, possessing cigarettes or a cigarette lighter, possessing drug paraphernalia, and being under the influence of alcohol or drugs.
- ***Harassment/Bullying:*** Four attackers (11%) were disciplined for bullying and harassing behaviors, which included groping a female classmate and pulling down a classmate's pants.
- ***Other Discipline:*** Beyond the categories described in this section, attackers were also disciplined for gambling, vandalism, riding a scooter on school property, violating the school dress code, riding a different school bus without permission, and miscellaneous misconduct incidents.

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CONSEQUENCES RECEIVED: The types of school discipline received as a result of these behaviors varied, and some of the attackers received multiple actions for the same repeated behaviors. Twenty-five attackers (71%) received disciplinary action in the five years prior to their attack. The level or severity of the discipline ranged from classroom consequences (e.g., having the student's seat moved) to being expelled or arrested, and there were a few cases in which an attacker was disciplined, but the type of discipline received was not specified in the attacker's school records. Attackers received the following forms of discipline:

- ***Suspension:*** Eighteen attackers (51%) had received at least one suspension from school. Suspensions included formal in-school suspensions (ISS) and out-of-school suspensions (OSS), as well as instances where a student was sent home from school, even if the school did not classify the discipline as a suspension. Attackers were issued suspensions for a broad range of behaviors, from disruptive behavior to death threats. The length of suspensions also varied, from a half-day to multiple days.

  A 16-year-old student shot and injured a classmate and a teacher in his high school science classroom. The attacker had been previously suspended for five days after making threats about killing other students on the school bus.

- ***Parental Contact:*** Thirteen attackers (37%) received discipline in the form of parental notification. Parents were contacted through letters sent home, documents requiring a parent signature, phone calls home, and parent meetings with school staff. Some, but not all, of the meetings with parents involved the attacker as well.
- ***Conversations with Staff:*** Eleven attackers (31%) received discipline in the form of conversations with teachers, administrators, or SROs. These meetings were either one-on-one or occurred in a group setting. In one case, an attacker had a reentry meeting with school staff to discuss his behavior and plan for his return to school following a suspension.



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- ***Criminal Charges or Arrests:*** Eight attackers (23%) were arrested or criminally charged at school for various infractions, including possession of marijuana, simple assault, disrupting public school, affray, trespassing, and disturbing the peace.
- ***Referrals for an Evaluation/Assessment/Support Services:*** Eight attackers (23%) were referred to a team or mental health professional for an evaluation, assessment, or support services. These included referrals for a threat assessment, risk assessment, and mental health evaluation. Referrals were also made to school counselors and school psychologists, and some students were placed on behavioral contracts or behavioral intervention plans.
- ***Formal Documentation:*** Eight attackers (23%) received discipline in the form of formal documentation in their school record. Schools used formal documentation to create a record of behavior in the form of behavioral referrals, discipline referrals, school hearings, and progress reports.
- ***Detention:*** Eight attackers (23%) received school detention or lunch detention, or were required to attend Saturday school for their behavior.
- ***Classroom Consequences:*** Seven attackers (20%) received discipline in the form of classroom consequences. These consequences included placing the attacker in timeout, modifying assignment instructions, confiscating a cell phone, moving the attacker's seat, removing the attacker from the class temporarily, or transferring the attacker to a different class permanently.
- ***Expulsion:*** Six attackers (17%) had been expelled from school. An expulsion included being removed from the school system for a predetermined number of days or permanently removed from the school district. Expulsions resulted from an accumulation of multiple suspensions, fighting, threatening harm to other students or self, and bringing a weapon to school.
- ***Other Consequences:*** Seven attackers (20%) received other school disciplinary actions, including removal from the football team, having to write a statement about their behavior, and having a scooter confiscated.



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Threat Assessment

A multidisciplinary school threat assessment team provides schools with a structured approach to identify students exhibiting threatening or concerning behavior, gather information to assess if the student poses a risk of harm to him/herself or the school community, and manage the risk through appropriate interventions, resources, and supports.[30] A threat assessment should focus on a range of behaviors, from lower-level concerns (e.g., self-harm, depressed mood, bullying) to imminent or direct threats of violence. **It is critical that student threat assessments be multidisciplinary and focused on providing robust interventions to students assessed as posing *any* level of risk to themselves or others.**

Four attackers in this study (11%) were referred to their school's threat assessment team prior to their attack. In each of these four cases, a student or teacher at the school reported to someone in a position of authority that the attacker had made a direct threat toward classmates or school staff.

	Who was the threat directed toward?	Who reported the threat?	Was a threat assessment completed?	When was the assessment completed?	What was the outcome?
Case 1	Staff Member	Teacher	Yes	Within 1 year prior to attack	Assessed as a low level of risk; parents monitored student; student saw psychiatrist once a week
Case 2	Specific Student	The threatened student	Yes	Within 1 year prior to attack	Out-of-school suspension; intervention plan
Case 3	Specific Student/School	Teachers and 15 students	Yes	Within 1 year prior to attack	Assessed at risk level 4 out of 5, where 1 is the highest risk; behavior/academic contract
Case 4	Threat 1 - Students	The threatened student	No	Within 3 years prior to attack	Staff determined the student did not meet criteria to be assessed
	Threat 2 - Students	The threatened student	Yes	Within 2 years prior to attack	Assessed as posing a threat; expelled for 21 days; returned to school for the start of the new school year

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Information was identified regarding some of the gaps and limitations in how the threat assessments in these four cases were conducted. For example, an independent review of one case (Case 1) was requested by the school superintendent and the local board of education following the attack. The resulting public report identified several limitations in how the attacker's threat assessment had been conducted.[31] According to the report, these gaps included:

- "...data sources used for the threat assessments were not specified on the form and many forms lacked specific behavioral information. Forms varied in completion and therefore it was also sometimes difficult to see the reasoning behind assigned risk levels."
- "All steps of the [school district's] process as outlined by [the school district] do not appear to have been followed by the [school] staff in the threat assessment of [the attacker]."
- "There was only a two-person team in the threat assessment of [the attacker]. The SRO was not involved at the [threat assessment] meeting."
- "No interviews were conducted with [the attacker] or his family outside the meeting process."

Available court records related to Case 3 describe a threat assessment process that appeared comprehensive in regards to the volume of information gathered by the team about the concerning student. Of the 15 students who reported the attacker's threatening behavior on the school bus, seven filed written incident reports to the school. As a result, the attacker was suspended for five days, and a threat assessment was initiated. The attacker met with the assistant principal and the school psychologist, and the threat assessment team conducted interviews with the attacker and his family, classmates, and teachers. The SRO checked the student's residence for weapons, where the officer only located paintball guns. The assessment revealed that the attacker had spoken about his "dream of killing students," was a loner, and had concerned the assistant principal so much that "she made a point to check on him regularly and asked how he was doing almost daily." Despite this thorough and appropriate information-gathering process, the student was deemed to be low risk. The school rated him a "4" on a 5-point scale, where "1" would have indicated high risk.

Concerning Behaviors

Every attacker included in this analysis (*n* = 35, 100%) exhibited concerning behaviors prior to their attack. In all but two of these cases (*n* = 33, 94%), concerning behaviors were displayed at school. About three-quarters of the attackers (*n* = 27, 77%) displayed concerning behaviors at home or in the community, and three-quarters displayed them online (*n* = 26, 74%).

Concerning behaviors ranged from relatively minor activities, to actions that elicited fear in those who observed them. For example, some attackers made statements that were simply out of character for the attacker or displayed other minor changes in behavior, while in other cases, attackers made direct threats of violence or brought weapons to school. **In most of the cases (*n* = 28, 80%), the attacker's behavior elicited concern from bystanders regarding the *safety* of the attacker or those around them.**

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These findings support previous Secret Service research projects examining targeted violence in other contexts (e.g., mass attacks in public spaces[32]), which routinely find that the vast majority of attackers displayed behaviors that elicit concern in others prior to their attack. These behaviors provide opportunities for school staff, law enforcement, families, and friends, to recognize students who are in crisis and intervene as appropriate. In this report, concerning behaviors refer to actions an attacker took, communications an attacker made, or other observable acts displayed by an attacker prior to their attack.

Range in Severity

In most cases, attackers displayed a behavior that was so concerning that it should have been met with an immediate response, including a threat assessment. These behaviors are seen as being ***objectively concerning*** or ***prohibited***. Examples include threats to cause harm, violent acts, bringing weapons to school, and suicidal statements. Of note, references to suicide, though not necessarily an indication of potential violence, are concerning and require immediate intervention to protect the student involved. Thirty-one attackers (89%) had displayed ***objectively concerning*** or ***prohibited*** behaviors that were observed by others. These behaviors were reported to the attackers' parents (*n* = 15, 43%), school staff (*n* = 14, 40%), and other officials (*n* = 8, 23%), including law enforcement. **In two-thirds of the cases (*n* = 23, 66%), at least one prohibited behavior was observed by classmates or adults that was *not* reported.**

Most attackers *also* displayed a range of lower-level concerning behaviors that observers may not have recognized as concerning without knowing the full context of the situation. These behaviors are seen as being part of a ***constellation*** of lower-level behaviors, and may not warrant an immediate safety response. Nonetheless, they should elicit some level of concern. Examples of these behaviors include a depressed or angry mood, conflicts between classmates, and an interest in violent topics. When these types of behaviors are assessed in context with other factors, the level of concern could increase. Thirty attackers (86%) exhibited a ***constellation*** of such lower-level behaviors.



Common Themes

The analysis revealed 10 common themes among the concerning behaviors that were *displayed* by the attackers, meaning those behaviors that were observable to others. For example, while 28 attackers had experienced bullying, only 12 openly spoke about it. Each of the attackers in this study exhibited between two and eight of the below listed themes, with an average number of five.

- ***Threats to the Target, Others, and/or Intent to Attack:*** Most of the attackers (*n* = 29, 83%) shared verbal, written, visual, or video communications that referenced their intent to carry out an attack, threatened the target, and/or threatened others.

- ***Intense or Escalating Anger:*** Three-quarters of the attackers (*n* = 26, 74%) displayed behaviors or shared communications indicating significant or increasing anger. These behaviors included having angry outbursts at school or engaging in aggressive acts at home.

- ***Interest in Weapons:*** Nearly three-quarters of the attackers (*n* = 25, 71%) stockpiled weapons or communicated about weapons in a way that indicated an unusual or concerning level of interest. For some, their interest in weapons was expressed through drawings or artwork, while others had developed a reputation among classmates for having an intense interest in guns, knives, or explosives. A few attackers had built and detonated explosives.

- ***Sadness, Depression, or Isolation:*** Nearly two-thirds of the attackers (*n* = 22, 63%) either spoke about their sadness, depression, or loneliness, or appeared to be experiencing these feelings through their observable behaviors. Some attackers confided in others about their feelings, or wrote about them online or in school assignments. Bystanders also observed the attackers isolating themselves, withdrawing from others, appearing sad, or crying.

- ***Changes in Behavior or Appearance:*** More than half of the attackers (*n* = 20, 57%) exhibited observable changes in demeanor, appearance, or routine prior to their attack. Examples included increased apathy about life, decreased effort on school work, withdrawing from activities, decreased personal hygiene, spending time in new places or with new people, changes in eating and sleeping patterns, and changes in online behaviors (e.g., changing profile picture to something unusual for the person).

Common Themes of Concerning Behaviors

Threats to the target, others, and/or intent to attack

Intense or escalating anger

Interest in weapons

Sadness, depression, or isolation

Changes in behavior or appearance

Suicide and/or self-harm

Interests in violence

Talk of being bullied

Concerns over grades/attendance

Harassing others

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- ***Suicide and/or Self-harm:*** Half of the attackers (*n* = 19, 54%) had communicated about, or engaged in behaviors related to, suicide or self-harm. In some cases, multiple friends knew that the attacker was suicidal. In other cases, evidence of self-harm was noted by friends, parents, and/or school staff.

- ***Interest in Violence:*** About one-third of attackers (*n* = 13, 37%) spoke or wrote about their violent interests, including topics related to previous school attacks, Hitler/Nazism, and other violent themes. Sometimes these interests were shared openly, while in other instances the attacker was more subtle (e.g., viewing photos of previous school attacks while in the cafeteria).

- Other common themes among the concerning behaviors included attackers ***talking about being bullied*** (*n* = 12, 34%), ***poor grades or attendance*** that elicited concerns from parents or school staff (*n* = 10, 29%), and the attackers ***harassing others*** (*n* = 5, 14%). In three of the five cases involving harassment, the victim of the harassment was later targeted in the attack.

Timing of Concerning Behaviors

Three-quarters of the attackers (n = 26, 74%) displayed their most recent concerning behaviors within the two days prior to their attack. Nearly all of the attackers (n = 32, 91%) shared or exhibited such behaviors within one month of their attack. It should be noted, however, that these behaviors were not necessarily new, as nearly half of the attackers (n = 14, 40%) had been displaying concerning behaviors for more than a year prior to their attack.

Communications

Among the concerning behaviors displayed by an attacker, the communications they made to others provide particular insight into their thinking, motivations, and intention. **The majority of attackers shared concerning communications verbally through in-person statements (*n* = 31, 89%).** About half shared concerning electronic messages sent to a specific person or persons (*n* = 20, 57%) or posted online to groups or the general public (*n* = 17, 49%). One-third of the attackers (*n* = 12, 34%) conveyed concerning thoughts through school assignments (e.g., writing essays on violent topics).

Conveyance of Communication		
In-person	31	89%
Electronic message to specific person(s)	20	57%
Online posting	17	49%
School assignments	12	34%
Phone	1	3%

A 13-year-old student injured four classmates using a knife. Though disarmed by classmates, he was later found to have also brought a blowtorch, gasoline container, water bottle filled with a clear flammable liquid, firecrackers, a bottle of vodka, a mask used to prevent the inhalation of fumes, and several other knives. About one week prior, the attacker posted a video on YouTube titled, "Testing my Blowtorch," in which he lit the flame on a gas blowtorch, presumably the same one he brought during the attack.

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Most attackers (n = 27, 77%) threatened their targets or shared their intentions to carry out an attack. In two-thirds of the cases (n = 23, 66%), those communications gave some level of *imminence* to the attack. About 90% of attackers who selected specific targets had made a threat prior to the attack (see Appendix A: Statistical Analyses).

> *A 15-year-old student fatally shot a classmate in her high school. The night before, the attacker texted a friend stating, "I can't take it anymore. I want to kill myself so bad, the pain she causes hurts too bad. I just want to blow my brains out." The next morning, she texted a friend at another high school saying that she was going to shoot someone and go to jail. Within an hour before the shooting, the attacker told a friend in class that she was going to make the victim feel "pain," showed the classmate her handgun, and began crying.*

Timing of Threats

Two-thirds of the attackers (n = 23, 66%) communicated their intent to attack or threatened the target within two weeks of the attack, and half (n = 19, 54%) did so within two days. Over one-third of the attackers (n = 13, 37%) communicated their intent or threatened the target within an hour of the attack.

Final Communications: Half of the attackers (n = 19, 54%) prepared or delivered final communications prior to their attack. While some attackers kept these communications to themselves (e.g., left a suicide note in their bedroom), over one-third of the attackers (n = 13, 37%) sent these communications to others. Final communications included manifestos, journal entries, goodbye messages to friends and family (sent by text message, email or internet posts), and wills or funeral requests.

> *A 15-year-old student fatally shot four of his classmates and injured one other in his high school cafeteria, before killing himself. All of the victims were his close friends or cousins. The day prior, he tweeted, "It won't last…It'll never last" and texted his ex-girlfriend asking her to meet after school so he could say goodbye. He also sent her a Facebook message that said, "read my messages tomorrow from 7:15 to 12:30." The attacker posted on Instagram, "Tell my mom I love her," and included an emoji image of a gun. On the day of the attack, the attacker drafted a message on his phone titled, "My funeral shit," which outlined how his funeral should be handled. Minutes before the shooting, he sent the prepared text message about his funeral to 14 of his family members. He also texted his father, telling him, "Read the paper on my bed. Dad. I love you."*

Three of these attackers also took other actions that were akin to final acts, including one attacker who deleted his email account, one who hugged her father goodbye when being dropped off at school (which she had never done before), and another who said goodbye to his pets.

Response to Concerning Student Behaviors

The response elicited from those individuals who observed the attackers' concerning behavior varied. The more cautious responses included actively avoiding the attacker (n = 7, 20%) or expressing concern to other peers (n = 8, 23%). In two-thirds of the attacks (n = 23, 66%), someone approached the attacker at least once to ask if the attacker was okay, offer help, or attempt to dissuade the attacker from engaging in any harmful acts towards

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themselves or others. In fewer than half of the incidents (n = 14, 40%), adults received information about what a bystander had observed. These included classmates telling a parent or school staff member (n = 8, 23%), or adults talking to other adults to discuss their concerns about the attacker (n = 14, 40%). Ten cases (29%) involved other types of responses, including:

- ***Parents:*** Attackers' parents searched rooms for drugs, set a new curfew, confiscated an attacker's pellet gun or knife, gave their son a punching bag to help him deal with anger, filed reports of their concern to the school district, or asked the school to develop an IEP for their child.
- ***School Staff:*** School personnel removed the student from an activity, made the student throw away violent drawings, sent a school memo to other school staff informing them that the attacker and the victim were not to be left alone together, developed plans to escape the school if the student were to do something violent, or considered resignation from the school to protect himself and the community.
- ***Students:*** Classmates warned peers of the attacker's intentions if they were viewed as potential targets and filed reports of their concern to the school district.

In just under half of these cases (n = 16, 46%), the observed behavior elicited a *significant* response, including school staff calling the police in response to a criminal act or concern for safety, school staff suspending or expelling the attacker, or family members getting the attacker a mental health evaluation or therapy. In one case, the attacker himself asked for mental health treatment after police responded to a physical altercation between him and his mother at home.

In two-thirds of the attacks (n = 23, 66%), there was at least one communication by the attacker about his or her intent to attack, or another observed threatening behavior, to which there was *not* a response. Some of the reasons provided by bystanders for *not* reporting their concerns, included:

- Classmates believed that the attacker was joking, or they dismissed the threat, because the attacker had a history of making threatening statements and had never done anything before.
- Classmates believed that they had helped calm the attacker down enough that they would not act on the suicidal or homicidal statements, or classmates had checked in on the attacker and decided he or she was fine.
- Classmates feared what the attacker may do to them if they reported what they knew.
- Classmates intended to try to help the attacker with his or her problems, but the attack occurred sooner than they expected.
- Classmates believed the attacker would do something violent, but did not think it would happen at school.
- A teacher assumed that an administrator would take action, because the administrator had observed the same concerning behavior that the teacher had witnessed.

PART III: IMPLICATIONS

Like the February 14, 2018 shooting at Marjory Stoneman Douglas High School in Parkland, FL, this analysis suggests that many of the 41 attacks described in this report could have been prevented. Like the Parkland attacker, many of the attackers in this study had a history of violent, threatening, and other concerning behavior; prior contact with law enforcement; instability in the home; access to and inappropriate interest in weapons; or issues related to psychological, emotional, or behavioral factors. While every situation is unique and should be treated as such, one common factor across all of these tragedies is that there appears to have been an opportunity to identify and intervene with the attacker before violence occurred.

States Mandating Threat Assessment

In 2013, Virginia became the first state to legislatively mandate the use of threat assessment teams in K-12 schools under state law.

In more recent years, other states have passed similar laws that require threat assessment teams at the school or district level. Some additional states have proposed such legislation.

Threat Assessment is the best practice for preventing targeted violence. The goal of a threat assessment is to identify students of concern, assess their risk for engaging in violence or other harmful activities, and deliver intervention strategies to manage that risk. **Schools should implement a threat assessment process in conjunction with the most appropriate physical security measures as determined by the school and its community.**

Threat assessment procedures should recognize that concerning student behaviors occur along a continuum, from a constellation of lower-level concerning behaviors (e.g., depressed mood and behavior changes) to behaviors that are objectively concerning or prohibited (e.g., threats of harm and physical assaults). Many of these behaviors that elicit concern may not involve physical violence or criminal acts, but still require an assessment and appropriate intervention. **The threshold for intervention should be low, so that schools can identify students in distress before their behavior escalates to the level of eliciting concerns about safety.**

The threat assessment process begins with establishing a comprehensive targeted violence prevention plan, as described in ***Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence.*** The guide provides a framework for establishing an effective threat assessment process intended to proactively intervene with students who may pose a risk of violence or other unwanted behavior. The steps include establishing a multidisciplinary threat assessment team of highly trained school personnel; defining concerning and prohibited behaviors; establishing and providing training on a central reporting mechanism; determining the threshold for law enforcement intervention; establishing threat assessment procedures and investigation protocols; developing risk management options; creating and promoting a safe school climate; and providing training for school personnel, students, parents, and law enforcement.

The findings in this report underscore the importance of establishing a targeted violence prevention plan. A multidisciplinary threat assessment team, in conjunction with the appropriate policies, tools, and training, is the best practice for identifying, assessing, and managing students who elicit concern. Major findings, and their implications on the threat assessment process, are highlighted here.

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Key Findings and Implications

There is no profile of a student attacker, nor is there a profile for the type of school that has been targeted.

Attackers varied in age, gender, race, grade level, academic performance, and social characteristics. The use of a student profile or checklist does not yield accurate or useful results when determining the risk a student poses for conducting a school attack. Similarly, there was no identified profile of the type of school impacted by targeted violence, as schools varied in size, location, and teacher to pupil ratio. Rather than focusing on a set of traits or characteristics, a threat assessment process should focus on gathering relevant information about a student's behaviors, situational factors, and circumstances to assess the risk of violence or other harmful outcomes.

Attackers usually had multiple motives, the most common involving a grievance with classmates.

Discovering a student's motive for engaging in concerning behavior is critical to assessing the student's risk of violence, and it allows the threat assessment team to intervene and develop management strategies that can redirect the student away from violent choices. This finding also highlights the importance of providing training on conflict mediation and coping skills for students. When multiple motives are involved, the school may need to implement multiple strategies to reduce the risk of unwanted behavior.

Most attackers used firearms, and firearms were most often acquired from the home.

The findings of this report illustrate that students can be very resourceful in accessing firearms stored in the home. While many of the attackers used unsecured firearms, others were able to gain access to firearms that were secured in a safe. It should be further noted, however, that some students perpetrated attacks using knives instead of firearms. Therefore, a threat assessment should explore if a student has access to *any* weapons, with a particular focus on weapons access at home. Schools, parents, and law enforcement must work together rapidly to restrict a student's access to weapons in those cases when a student poses a risk of harm to self or others.

Most attackers had experienced psychological, behavioral, or developmental symptoms.

A recently published study that surveyed a sample (n = 16,000) of 10th-12th grade students found that providing or increasing mental health services for students was the most common factor selected by students as something that would increase feelings of safety at school, selected by more than one-third (38%) of students surveyed.[33] The findings of this survey, and those highlighted in this report, illustrate the importance of ensuring that students and parents have access to, and are informed about, mental health resources, social services, and substance use treatment. It should also be noted that many of the attackers in this study had received prior mental health treatment, illustrating that mental health treatment should be viewed as a *component* of managing risk.

Half of the attackers had interests in violent topics.

Half of the attackers in this study had displayed an unusual or concerning interest in violence or weapons. These types of interests, without an appropriate explanation, should initiate further information gathering, assessment, and

management by school personnel. For example, a student who is preoccupied or fixated on topics like the Columbine shooting or Hitler, as was noted in several of these cases, may be the focus of a school threat assessment to determine how such an interest originated and if the interest is negatively impacting the student's thinking and behavior.

All attackers experienced social stressors involving their relationships with peers and/or romantic partners.

Every attacker in this study experienced at least one social stressor, frequently related to bullying. Many attackers experienced stressors in other aspects of their lives, as well, including family, academics, or school discipline. In addition to adopting and enforcing zero-tolerance policies on school bullying, schools should also provide students with strategies related to stress management and the development of coping skills. All school personnel, including teachers, administrators, and other staff members, should be trained to recognize signs of a student in crisis. Additional training should focus on crisis intervention, de-escalation, and suicide prevention.

Nearly every attacker experienced negative home life factors.

The negative home life factors experienced by many of the attackers included parental divorce or separation, drug use or criminal charges among family members, or domestic abuse. While none of the factors included here should be viewed as predictors that a student will be violent, past research has identified an association between many of these types of factors and a range of negative outcomes for children. In some cases, school staff may not be aware of such home life factors that may be impacting how a student behaves at the school. Information-sharing among agencies is crucial in helping to address the impact of negative home experiences. For example, some cities and states have enacted laws that require law enforcement or other emergency care providers to inform school officials if a student is involved in, or present at, the scene of a traumatic event. Information sharing among schools, law enforcement, social services, and courts can help to ensure that the students most in need of additional resources do not go unrecognized.

Most attackers were victims of bullying, which was often observed by others.

In many cases, the school was aware that the attacker had experienced bullying, but the responses to the bullying varied. In some cases, the school did little to intervene or intervened in a way that caused the bullying to worsen. Students should be encouraged to report bullying that they experience or observe, both in and out of school. Students should also be provided an avenue to anonymously report such concerns, so that they can do so without fear of reprisal from classmates. Further, it is critical that schools implement comprehensive programs designed to promote safe and positive school climates, where students feel empowered to support the social and emotional wellbeing of classmates.

Most attackers had a history of school disciplinary actions, and many had prior contact with law enforcement.

Most attackers had a history of receiving school disciplinary actions resulting from a broad range of inappropriate behavior. The most serious of those actions included the attacker being suspended, expelled, or having law enforcement interactions as a result of their behavior at school. An important point for school staff to consider is that punitive measures are not preventative. For example, two of the attackers in this study were suspended from school

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at the time of their attack. If a student elicits concern or poses a risk of harm to him/herself or others, removing the student from the school may not always be the safest option. In other instances, disciplinary actions will be deemed necessary. To help in making the determination regarding appropriate discipline, schools should employ disciplinary practices that ensure fairness, transparency with the student and family, and appropriate follow-up. For example, the school should make efforts to maintain a positive rapport with the student and family, even during those instances of suspension or expulsion. This might include checking in on the student during his or her time out of school and taking steps to ensure a positive transition for the student when they return.

All attackers exhibited concerning behaviors. Most elicited concern from others, and most communicated their intent to attack.

The initial indicators of a student who was in distress or exhibiting concerning behavior were often observed by peers, school staff, family members, or others in their immediate community systems. The behaviors that elicited concern ranged from a *constellation* of lower-level concerns to *objectively concerning* or *prohibited behaviors*. Most of the attackers communicated a prior threat to their target or communicated their intentions to carry out an attack. In many of these cases, someone observed a threatening communication or behavior *but did not act*, either out of fear, not believing the attacker, misjudging the immediacy or location, or believing they had dissuaded the attacker. These findings continue to highlight the importance of encouraging students, school personnel, and family members to report troubling or concerning behaviors, in order to ensure that those in positions of authority can intervene. These same community members need to be trained on identifying risk factors for student violence and students in crisis.

Conclusion

NTAC's experience delivering training and consultations for public safety entities has provided a first-hand account of what works, and of the challenges facing schools, law enforcement, and others tasked with keeping communities safe.

NTAC knows that many of the recommendations offered in this report, and in NTAC's ***Enhancing School Safety Guide***, can be implemented by schools and their local partners right away. However, some key strategies for keeping schools safe can *best* be implemented only with the appropriate resources, policies, and authorities to support the effort. For example, several states have recently passed laws requiring schools or school districts to implement multidisciplinary school threat assessment teams. Similarly, some states have passed laws to create statewide, anonymous reporting tools, following the model of Safe2Tell™ Colorado.

In some cases, grant funding may be available to support these efforts. For example, the STOP School Violence Act of 2018 provides the U.S. Department of Justice's Community Oriented Policing Services (COPS) Office the authority to provide monetary awards directly to states, units of local government, or Indian tribes to improve security at schools through evidence-based school safety programs, specifically including school threat assessment programs and anonymous reporting systems.[34] Some individual states have provided similarly intended grants to their schools and school districts, as well.

The safety of children in school is a topic that everyone agrees on. Ensuring their safety requires leadership and vision, as well as common sense. A thorough review of the findings contained in this report should make clear that tangible steps can be taken to reduce the likelihood that any student would cause harm, or be harmed, at school.

EXHIBIT 7
0135

CREATING A TARGETED VIOLENCE PREVENTION PLAN

In July 2018, the Secret Service National Threat Assessment Center (NTAC) released ***Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence,*** which outlined eight actionable steps for implementing a comprehensive targeted violence prevention plan in schools. The guide, which is available on the Secret Service public website, provides a framework for schools to identify, assess, and manage students who pose a risk of violence or other harmful behavior.

Step 1: ***Establish a multidisciplinary threat assessment team*** of school personnel including faculty, staff, administrators, coaches, and available school resource officers who will direct, manage, and document the threat assessment process.

Step 2: ***Define concerning behaviors,*** including those that are *objectively concerning* or *prohibited*, which should trigger an immediate intervention (e.g., threats, violent acts, or weapons on campus), and other *lower-level concerning* behaviors (e.g., depressed mood, interest in violent topics, or conflicts between classmates).

Step 3: ***Establish and provide training on a central reporting system,*** like a smartphone application, an online form, or a dedicated school email address or phone number. Ensure that it provides anonymity to those reporting concerns, and is monitored by personnel who will follow-up on all reports.

Step 4: ***Determine the threshold for law enforcement intervention*** especially if there is a risk of harm to self or others.

Step 5: ***Establish threat assessment procedures*** that include practices for maintaining documentation, identifying sources of information, reviewing records, and conducting interviews. The assessment should be guided by an understanding of the thinking and behavior observed in past school attackers, as described in ***Protecting America's Schools: A U.S. Secret Service Analysis of Targeted School Violence.***

Step 6: ***Develop risk management options*** to enact, once an assessment is complete. Create individualized management plans to mitigate identified risks. Notify law enforcement immediately if the student is determined to pose an imminent risk of harm to self or others. Take steps to ensure the safety of potential targets, create a situation less prone to violence, redirect the student's motive, and reduce the effect of stressors.

Step 7: ***Create and promote a safe school climate*** built on a culture of safety, respect, trust, and emotional support for students. Encourage communication, intervene in conflicts and bullying, and empower students to share their concerns.

Step 8: ***Provide training for all stakeholders,*** including school personnel, students, parents, and law enforcement.

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FINDINGS TABLE

General Information (n = 41)	
Gender	83% Male, 17% Female
Age: average/range	15 / 12-18
Disposition: charged	20 as adults, 10 as juveniles, 2 as both
deceased	7 suicides, 2 by law enforcement
Backgrounds (n = 35)	
Substance use/abuse	49%
Contact with law enforcement	49%
Arrests or criminal charge(s): Other context:	31% 29%
Mental health symptoms	91%
Psychological: Behavioral: Neurological/developmental:	69% 57% 20%
Mental health treatment	54%
Bullied	80%
Bullied others:	37%
School disciplinary histories (top 3 of 12)	71%
Fighting: Class misconduct: Threatening/aggressive behaviors:	40% 34% 31%
Suspended, expelled, or law enforcement intervention	60%
Investigative Themes (n = 35)	
History of weapons use	77%
History of anger or aggression	74%
History of violent behavior:	51%
Violent interests	49%
Home life factors (top 3 of 8)	94%
Divorce/separation of parent(s): Finance: Arrest/incarceration of family member(s):	71% 69% 54%
Stressors (top 3 of 8)	100%
Social: Family: Academic or school disciplinary issues:	100% 91% 89%
Concerning behaviors (top 5 of 10)	100%
Intent to attack/threats: Anger: Weapons-related: Depression: Behavior changes:	83% 74% 71% 63% 57%
Final communications or gestures	54%
Elicited concern about safety	80%

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0136

APPENDIX A: STATISTICAL ANALYSES

Statistical tests revealed some significant differences among the attackers on topics involving their amount of planning, communication of threats, bullying experienced, target selection, motive, weapon used, and harm caused. Fisher's exact tests of independence and chi-square tests of independence evaluated whether there were relationships between two dichotomous variables, with the appropriate test selected based on the number of cases within the subcategories (i.e., cross-tabulations with fewer than five cases in a cell required Fisher's exact test). Computation of *t* tests for independent samples compared averages of some continuous variables (i.e., number of planning behaviors and number of deaths) across subsamples. All significance tests were two-tailed. The cutoff for statistical significance was an alpha level of .05; however, Appendix A presents some statistically non-significant, but substantively meaningful, results. The results should be interpreted with the understanding that students are only coded "yes" when there is evidence of the presence of the variable, and that absence of evidence is not equivalent to evidence of absence of the variable.

Note: Due to the limited behavioral information available for 6 of the attackers, only 35 cases were included in the statistical analysis for the following three tests.

- ***Although not statistically significant, attackers who engaged in more planning behaviors caused harm to a greater number of victims:*** Mass attackers averaged more than twice as many planning behaviors as attackers with fewer victims [t (33) = 1.98, p = .06].

Table 1: Number of Victims and Average Number of Planning Behaviors

Number of Victims	Average	SD
One or two victims (n = 25)	1.4	2.1
Three or more victims (n = 10)	3.1	2.8

- ***Most attackers who targeted specific people had made a prior threat:*** About 90% of attackers who selected *specific* targets had made a threat prior to the attack (p = .01). Less than 60% of attackers who targeted *random* individuals had made a threat in advance (p = .04).

Table 2: Threatening Communications and Target Selection

	Random Target Selection (p = .04)		Specific Target Selection (p = .01)	
	Yes n (col.%)	No n (col.%)	Yes n (col.%)	No n (col.%)
Threat (n = 27)	8 (57%)	19 (90%)	24 (89%)	3 (38%)
No Threat (n = 8)	6 (43%)	2 (10%)	3 (11%)	5 (63%)
Total	*14 (100%)*	*21 (100%)*	*27 (100%)*	*8 (100%)*

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- ***Although not statistically significant, a larger share of attackers who experienced a persistent pattern of bullying had bullying as a motive for carrying out the attack:*** Of the 20 attackers who experienced a persistent pattern of bullying, 12 (60%) had bullying as a motive, compared with one third who were not persistently bullied (χ^2 = 2.44, p = .12)

Table 3: Persistent Bullying and Bullying as a Motive

	Persistently Bullied	Not Persistently Bullied
Bullying as a Motive (n = 17)	12 (60%)	5 (33%)
Attack Not Motivated by Bullying (n = 18)	8 (40%)	10 (67%)
Total	*20 (100%)*	*15 (100%)*

Note: All 41 cases were included in the statistical analysis for the following test.

- ***Nearly all attackers primarily motivated by a desire to kill targeted random victims:*** Six of the seven attackers (86%) whose primary motive was a *desire to kill* targeted randomly (p < .01). Only two of the seven attackers (29%) primarily motivated by a *desire to kill* had specific targets, compared with most individuals with a different motive (n = 29, 85%; p < .01). Five of the ten attackers (50%) who only targeted random victims were primarily motivated by a desire to kill (p < .01).

Table 4: Target Selection and Desire to Kill

	Desire to kill was Primary Motive	Other Primary Motive
Random Target Selection (p < .01)		
Yes (n = 16)	6 (86%)	10 (29%)
No (n = 25)	1 (14%)	24 (71%)
Total	*7 (100%)*	*34 (100%)*
Specific Target Selection (p < .01)		
Yes (n = 31)	2 (29%)	29 (85%)
No (n = 10)	5 (71%)	5 (15%)
Total	*7 (100%)*	*34 (100%)*

- ***Incidents in which attackers used firearms were significantly more fatal than those involving knives:*** While the majority of both types of attacks were nonfatal, nearly half of the firearm attacks (n = 12, 48%) resulted in one or more deaths, while only 2 of 16 knife attacks (13%) were fatal (p = .04).

Table 5: Fatalities and Weapon Used

Fatalities	Firearm	Blade
Zero	13	14
One	10	2
Two	0	0
Three	1	0
Four	1	0
Total	25	16
Mean (SD)	*0.68 (0.99)*	*0.13 (0.34)*

APPENDIX B: COMPARISON TO THE SAFE SCHOOL INITIATIVE

In 2002, the U.S. Secret Service's National Threat Assessment Center (NTAC) released the *Safe School Initiative (SSI)*, which examined 37 incidents of targeted violence in schools committed by 41 attackers between 1974 and June 2000. Released 17 years later, *Protecting America's Schools*, examines 41 incidents committed by 41 attackers between 2008 and 2017. In examining the major findings from both studies, a number of similarities were identified. In both studies, there was no one profile of a school attacker and there were similar percentages of those with criminal histories, substance abuse, types of mental health symptoms, and histories of being bullied or bullying others. Additionally, the majority had experienced stressors, exhibited concerning behaviors, and made their intentions to attack known to others. In *Protecting America's Schools*, however, the analysis delved deeper and identified additional factors that were not considered as part of the original study, including, but not limited to, the types of stressors, ways in which the attackers were bullied, the breadth of issues related to home life, the behaviors that elicited disciplinary action and their consequences, and various aspects of school dynamics.

The following table offers some of the statistics from the two studies, however, comparisons between the two should be made only with caution as there were variations in research design and methodology, including variations of definitions, availability of case information, and access to internet-powered research tools. For instance, 17 years ago, studying targeted violence in K-12 schools was new and the method of identifying incidents would have been somewhat more challenging as there were no databases of incidents or lists of attacks to consult. Further, in more recent years, more attention has been focused on incidents of targeted violence, especially those affecting schools. Therefore, it is no surprise that similar numbers of incidents were found even though the timespan covered in the present study (10 years) is less than half that of the SSI (26 years). These factors may have also impacted why the current study identified more attacks than the SSI that were perpetrated using bladed weapons.

Given these caveats, the following table presents the statistics which are most comparable.

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	Safe School Initiative (2002)	*Protecting America's Schools (2019)*
THE INCIDENTS	*n = 37*	*n = 41*
Years	*1974 - 2000*	*2008 - 2017*
Multiple attackers	8%	0%
Weapons	**97% firearm; 3% bladed; 8% had additional weapons**	**61% firearms; 39% bladed; 7% had additional weapons**
Handguns	*67% of 36 firearms attacks*	*72% of 25 firearms attacks*
Long Guns	*50% of 36 firearms attacks*	*36% of 25 firearms attacks*
Firearm from a residence	*73% of 36 firearms attacks*	*76% of 25 firearms attacks*
Victims that were specifically targeted	46%	56%
Committed Suicide	13%*	17%
THE ATTACKERS	*n = 41*	*n = 35 (of 41)*
Gender, age, status	**100% male; ages 11-21 95% current students**	**83% male; ages 12-18 90% current students**
History of any arrest	27%	31%
violent crime	17%	17%
Subject was abused/neglected	27%	23%
Mental health diagnosis before	17%*	40%
Mental health symptoms		
Depression	*61%*	*63%*
Suicidal thoughts or gestures	*78%*	*63%*
Suicide attempts	*10%*	*11%*
Substance use and/or abuse	49%	49%
Perceived as loners	34%	26%
History of violence	31%*	51%
Stressors	98%	100%
SCHOOL PERFORMANCE		
Academic performance		
Positive	*41%*	*34%*
Neutral	*37%*	*14%*
Negative	*5%*	*31%*
Not found	*17%*	*20%*
Suspended (at least once)	27%	51%
Expelled (at least once)	10%	17%
Bullied by other students	71%	80%
Subject bullied other students	34%	37%
BEHAVIORS		
At least one person knew	83%	77%
a peer	*83%*	*77%*
an adult	*7%*	*14%*
Concerning behaviors	93%	100%

**Reflects calculations as reported in the Final Report and Findings of the Safe School Initiative (2002).*

[5] National Threat Assessment Center. (2018). *Enhancing school safety using a threat assessment model: An operational guide for preventing targeted school violence.* U.S. Secret Service, Department of Homeland Security.

[6] It should be noted that homicides rarely occur at schools in the United States. During the 2015–2016 school year, the most recent year for which data is available, about 1% of school-aged youth homicides in the United States occurred in a school setting; found in Musu, L., Zhang, A., Wang, K., Zhang, J., & Oudekerk, B.A. (2019). *Indicators of School Crime and Safety: 2018.* U.S. Department of Justice, Washington, DC. Retrieved October 19, 2019, from https://nces.ed.gov/pubs2019/2019047.pdf.

[7] Vossekuil, B., Fein, R., Reddy, M., Borum, R., & Modzeleski, W. (2002). *The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States.* U.S. Secret Service and U.S. Department of Education: Washington D.C.

[8] A former student was defined as a student who left the targeted school within the previous year and no longer attended a K-12 school, or a student who was currently enrolled in any K-12 school and targeted a school he or she had previously attended. For example, while the perpetrator of the 2012 attack at an elementary school in Newtown, CT was a former student, that attack was not included in the data for this report as the perpetrator had not attended a K-12 school in over three years prior to his attack.

[9] U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics. Retrieved October 18, 2019, from https://nces.ed.gov/ccd/.

[10] Public School Review. (n.d.). *Average public school student/teacher ratio.* Retrieved October 18, 2019, from https://www.publicschoolreview.com/average-student-teacher-ratio-stats/national-data.

[11] U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics. Retrieved October 18, 2019, from https://nces.ed.gov/ccd/.

[12] Centers for Disease Control and Prevention (CDC). (2018). *1992-2016 School-Associated Violent Death Surveillance System (SAVD-SS)* (partially funded by the U.S. Department of Education, Office of Safe and Healthy Students). Unpublished tabulation. Retrieved October 19, 2019, from: https://nces.ed.gov/programs/crimeindicators/ind_01.asp.

[13] One attack did not have clear information available on the incident duration and was categorized as "unknown."

[14] One school-aged victim was not enrolled as a student at the school where the attack occurred. She was enrolled in a different high school, and was attending prom at the targeted school at the time of the attack.

[15] The status of one of the attackers is unknown.

[16] National Center for Injury Prevention and Control. CDC. (2017). *10 Leading Causes of Death by Age Group, United States-2017.* Retrieved October 19, 2019, from www.cdc.gov: https://www.cdc.gov/injury/images/lc-charts/leading_causes_of_death_by_age_group_2017_1100w850h.jpg.

[17] For one incident that involved planning behaviors, the time span of the planning behavior(s) was not available.

[18] Giffords Law Center to Prevent Gun Violence. (2018). *Minimum Age to Purchase and Possess.* Retrieved October 19, 2019, from https://lawcenter.giffords.org/gun-laws/policy-areas/who-can-have-a-gun/minimum-age/#federal.

[19] Centers for Disease Control and Prevention. (n.d.). *Many children lack access to mental health care.* CDC.gov. Retrieved October 19, 2019, from https://www.cdc.gov/childrensmentalhealth/documents/access-infographic.html.

[20] One of the attackers with suicidal ideations was not coded in the psychological symptoms category due to a lack of additional symptoms indicative of a psychological or emotional health disorder. However, the attacker did experience a number of behavioral symptoms and he was appropriately coded in that category.

[21] Hjelsberg,E. (2006). *Exploring the Link between Conduct Disorder in Adolescence and Personality Disorders in Adulthood.* Psychiatric Times, 24 (8). Retrieved October 19, 2019, from https://www.psychiatrictimes.com/exploring-link-between-conduct-disorder-adolescence-and-personality-disorders-adulthood.

[22] Felitti, V.J, Anda, R.F., Nordenberg, D., Williamson, D.F., Spitz, A.M., Edwards, V., Koss, M.P. & Marks, J.S. (May 1998). *Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults.* The Adverse Childhood Experiences (ACE) Study. American Journal of Preventative Medicine, 14(4):245-58.

[23] Moore, K., Sacks, V., Bandy, T. & Murphey, D. (2014). *Fact Sheet: Adverse Childhood Experiences and the Well-Being of Adolescents.* ChildTrends.org. Retrieved October 18, 2019, from: https://www.childtrends.org/wp-content/uploads/2014/07/Fact-sheet-adverse-childhood-experiences_FINAL.pdf.

[24] Dallaire, D.H. & Wilson, L.C. (2010). *The Relation of Exposure to Parental Criminal Activity, Arrest, and Sentencing to Children's Maladjustment.* Journal of Child and Family Studies, 19:404-418.

[25] Smit, V.C., & Wilsen, C.R. (2016, August). *Families affected by parental substance use.* Committee on Substance Use and Prevention. Pediatrics. 138 (2) e20161575; DOI: 10.1542/peds.2016-1575.

[26] Grant, K.E., Compas, B.E., Stuhlmacher, A.F., Thurm, A.E., McMahon S.D., & Halpert, J.A. (2003, May). Stressors and child and adolescent psychopathology: moving from markers to mechanisms of risk. Psychological Bulletin, 129(3):447-66.

[27] Shonkoff, J.P. & Garner, A.S. (2012). The Committee on Psychosocial Aspects of Child and Family Health, Committee on Early Childhood, Adoption, and Dependent Care, and Section on Developmental and Behavioral Pediatrics. *The lifelong effects of early childhood adversity and toxic stress.* Pediatrics, 129:e232-e246.

[28] Miller, A.J. (n.d.). *Stress as Factor in Family Violence.* UNICEF. Retrieved October 18, 2019, from https://www.unicef-irc.org/article/984-stress-as-a-factor-in-family-violence.html.

[29] Sontag, L.M., Graber, J.A., Brooks-Gunn, J., & Warren, M.P (2008). *Coping with social stress: Implications for psychopathology in young adolescent girls.* Journal of abnormal child psychology, 36(8), 1159–1174.

[30] This definition was adapted from the definitions found in: *What is Bullying?* (2019). U.S. Department of Health and Human Services Retrieved October 19, 2019, from https://www.stopbullying.gov/what-is-bullying/index.html; and, Gladden, R.M., Vivolo-Kantor, A.M., Hamburger, M.E., & Lumpkin, C.D. (2014). Bullying surveillance among youths: Uniform definitions for public health and recommended data elements (Version 1.0). National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, and US Department of Education. Retrieved October 19, 2019, from https://www.cdc.gov.

[31] U.S. Department of Health and Human Services (2019). *Facts about bullying.* Retrieved October 19, 2019, from https://www.stopbullying.gov/media/facts/index.html.

[32] These terms were adapted from the definitions found in: Gladden, R.M., Vivolo-Kantor, A.M., Hamburger, M.E., & Lumpkin, C.D. (2014). *Bullying surveillance among youths: Uniform definitions for public health and recommended data elements (Version 1.0).* National Center for Injury Prevention and Control, Centers for Disease Control, and Prevention and US Department of Education.

[33] For one attacker, there was insufficient information to assess their social life.

[34] National Threat Assessment Center. (2018). *Enhancing school safety using a threat assessment model: An operational guide for preventing targeted school violence.* U.S. Secret Service, Department of Homeland Security.

[35] Kanan, L., Nicoletti, J., Garrido, S., & Ovoskina, M. (2016). *A Review of Psychological Safety and Threat Assessment Issues Related to the Shooting at [High School Name] on December 13, 2013.* Safe and Sound Schools. Retrieved October 19, 2019, from https://www.safeandsoundschools.org/additional-resources-threat-assessment/.

[36] National Threat Assessment Center (2019). *Mass Attacks in Public Spaces - 2018.* U.S. Secret Service, Department of Homeland Security.

[37] Croft M., Moore, R., & Guffy, G. (2019). *Creating Safe Schools: Examining Student Perceptions of Their Physical Safety at School.* ACT Research & ACT's Center for Equity in Learning. ACT.org. Retrieved October 19, 2019, from https://www.act.org/content/act/en/research/pdfs/R1767-school-safety-brief.html.

[38] *School Violence Prevention Program (SVPP).* (n.d.). COPS. Retrieved October 19, 2019, from https://cops.usdoj.gov/svpp.

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National Threat Assessment Center

Protecting America's Schools
is Protecting America's Future!

EXHIBIT "8"



Expanded Homicide Data Table 3

Murder Offenders
by Age, Sex, Race, and Ethnicity, 2018

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-3.xls/output.xls)

		Sex			Race				Ethnicity[1]		
Age	Total	Male	Female	Unknown	White	Black or African American	Other[2]	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
Total	**16,335**	**10,306**	**1,443**	**4,586**	**4,884**	**6,318**	**312**	**4,821**	**1,576**	**6,021**	**8,375**
Percent distribution[3]	100.0	63.1	8.8	28.1	29.9	38.7	1.9	29.5	9.9	37.7	52.4
Under 18[4]	920	827	92	1	336	552	20	12	164	440	297
Under 22[4]	3,238	2,895	320	23	1,210	1,896	63	69	471	1,593	1,094
18 and over[4]	10,316	8,921	1,331	64	4,478	5,360	290	188	1,377	5,333	3,389
Infant (under 1)	0	0	0	0	0	0	0	0	0	0	0
1 to 4	1	1	0	0	1	0	0	0	0	0	1
5 to 8	1	1	0	0	0	1	0	0	0	0	1
9 to 12	8	7	1	0	6	2	0	0	0	4	4
13 to 16	496	444	52	0	182	291	13	10	90	230	165
17 to 19	1,479	1,329	145	5	483	943	35	18	259	741	447
20 to 24	2,254	1,979	268	7	796	1,375	52	31	320	1,139	747
25 to 29	1,998	1,732	255	11	748	1,163	46	41	281	1,026	649
30 to 34	1,440	1,224	206	10	654	704	53	29	207	742	468
35 to 39	1,161	985	172	4	584	527	36	14	160	595	380

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0142

	Sex				Race				Ethnicity[1]		
Age	Total	Male	Female	Unknown	White	Black or African American	Other[2]	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
40 to 44	651	560	88	3	318	301	23	9	79	358	203
45 to 49	495	422	68	5	275	200	13	7	57	263	168
50 to 54	439	367	67	5	247	169	14	9	39	227	158
55 to 59	346	289	43	14	183	137	5	21	21	182	133
60 to 64	186	166	20	0	127	50	5	4	14	102	67
65 to 69	106	89	17	0	75	24	5	2	5	63	37
70 to 74	82	69	13	0	67	11	4	0	3	50	26
75 and over	93	84	8	1	68	14	6	5	6	51	32
Unknown	5,099	558	20	4,521	70	406	2	4,621	35	248	4,689

- [1] Not all agencies provide ethnicity data; therefore, the race and ethnicity totals will not equal.
- [2] Includes American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.
- [3] Because of rounding, the percentages may not add to 100.0.
- [4] Does not include unknown ages.

EXHIBIT 8
0143



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Home (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/home)

Offenses Known to Law Enforcement (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/offenses-known-to-law-enforcement)

Violent Crime (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/violent-crime)

Property Crime (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/property-crime)

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Police Employee Data (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/police-employee-data)

Expanded Homicide Data Table 5

Murder

Age of Victim by Age of Offender, 2018

[Single victim/single offender]

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-5.xls/output.xls)

		Age of offender		
Age of victim	Total	Under 18	18 and over	Unknown
Total	6,570	302	6,031	237
Under 18	515	94	412	9
18 and over	6,003	206	5,575	222
Unknown	52	2	44	6

- NOTE: This table is based on incidents where some information about the offender is known by law enforcement; therefore, when the offender age, sex, and race are all reported as unknown, these data are excluded from the table.

Data Declaration (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-5.xls/@@template-layout-view?override-view=data-declaration)

Provides the methodology used in constructing this table and other pertinent information about this table.

Overview

EXHIBIT 8
0144



Expanded Homicide Data Table 6

Murder

Race, Sex, and Ethnicity of Victim by Race, Sex, and Ethnicity of Offender, 2018
[Single victim/single offender]

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-6.xls/output.xls)

		Race of offender				Sex of offender			Ethnicity of offender		
Race of victim	Total	White	Black or African American	Other[1]	Unknown	Male	Female	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
White	3,315	2,677	514	61	63	2,914	383	18	803	1,476	1,036
Black or African American	2,925	234	2,600	17	74	2,603	291	31	83	1,878	964
Other race[1]	220	54	39	122	5	196	22	2	19	132	69
Unknown race	110	46	24	7	33	100	9	1	18	40	52

		Race of offender				Sex of offender			Ethnicity of offender		
Sex of victim	Total	White	Black or African American	Other[1]	Unknown	Male	Female	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
Male	4,639	1,942	2,430	133	134	4,073	521	45	675	2,487	1,477
Female	1,921	1,064	745	72	40	1,731	184	6	245	1,036	640
Unknown sex	10	5	2	2	1	9	0	1	3	3	4

		Race of offender				Sex of offender			Ethnicity of offender		
Ethnicity of victim	Total	White	Black or African American	Other[1]	Unknown	Male	Female	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
Hispanic or Latino	957	772	143	17	25	63	888	6	655	213	89

EXHIBIT 8
0145

		Race of offender				Sex of offender			Ethnicity of offender		
Race of victim	Total	White	Black or African American	Other[1]	Unknown	Male	Female	Unknown	Hispanic or Latino	Not Hispanic or Latino	Unknown
Not Hispanic or Latino	4,284	1,685	2,357	148	94	493	3,751	40	231	3,193	860
Unknown	1,329	554	677	42	56	149	1,174	6	37	120	1,172

- [1] Includes American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.
- NOTE: This table is based on incidents where some information about the offender is known by law enforcement; therefore, when the offender age, sex, race, and ethnicity are all reported as unknown, these data are excluded from the table.

EXHIBIT 8



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Police Employee Data (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/police-employee-data)

Expanded Homicide Data Table 8

Murder Victims
by Weapon, 2014–2018

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/expanded-homicide-data-table-8.xls/output.xls)

Weapons	2014	2015	2016	2017	2018
Total	**12,278**	**13,780**	**15,318**	**15,195**	**14,123**
Total firearms:	7,803	9,103	10,372	11,006	10,265
Handguns	5,342	6,176	6,762	7,051	6,603
Rifles	235	215	300	390	297
Shotguns	238	247	247	264	235
Other guns	88	151	172	180	167
Firearms, type not stated	1,900	2,314	2,891	3,121	2,963
Knives or cutting instruments	1,545	1,525	1,558	1,609	1,515
Blunt objects (clubs, hammers, etc.)	431	436	464	472	443
Personal weapons (hands, fists, feet, etc.)[1]	668	647	664	710	672
Poison	9	8	12	15	5
Explosives	6	1	1	0	4
Fire	55	63	78	96	72
Narcotics	70	69	118	110	78
Drowning	12	12	9	8	9
Strangulation	84	96	97	89	70
Asphyxiation	93	105	92	111	90

EXHIBIT 8
0147

Weapons	2014	2015	2016	2017	2018
Other weapons or weapons not stated	1,502	1,715	1,853	969	900

- [1] Pushed is included in personal weapons.
- NOTE: The Uniform Crime Reporting Technical Refresh enables updating of prior years' crime data; therefore, data presented in this table may not match previously published data.

EXHIBIT 8
0148



Expanded Homicide Data Table 9

Murder Victims by Age
by Weapon, 2018

		Weapons										
Age	Total murder victims	Firearms	Knives or cutting instruments	Blunt objects (clubs, hammers, etc.)	Personal weapons (hands, fists, feet, etc.)[1]	Poison	Explosives	Fire	Narcotics	Strangulation	Asphyxiation	Other weapon or weapon not stated[2]
Total	**14,123**	**10,265**	**1,515**	**443**	**672**	**5**	**4**	**72**	**78**	**70**	**90**	**909**
Percent distribution[3]	100.0	72.7	10.7	3.1	4.8	0.0	0.0	0.5	0.6	0.5	0.6	6.4
Under 18[4]	1,126	648	53	42	202	0	2	5	8	2	9	155
Under 22[4]	2,819	2,131	155	55	213	1	2	11	13	11	12	215
18 and over[4]	12,855	9,560	1,453	395	452	5	2	61	68	68	77	714
Infant (under 1)	137	8	2	9	74	0	0	0	1	1	2	40
1 to 4	255	42	8	25	99	0	1	2	5	1	1	71
5 to 8	76	37	5	3	17	0	0	0	0	0	2	12
9 to 12	60	42	3	0	5	0	0	1	1	0	2	6
13 to 16	319	269	24	2	7	0	0	2	0	0	0	15
17 to 19	1,107	972	66	9	6	0	1	2	6	3	3	39
20 to 24	2,199	1,908	140	14	19	1	0	7	11	9	10	80

EXHIBIT 8
0149

		Weapons										
Age	Total murder victims	Firearms	Knives or cutting instruments	Blunt objects (clubs, hammers, etc.)	Personal weapons (hands, fists, feet, etc.)[1]	Poison	Explosives	Fire	Narcotics	Strangulation	Asphyxiation	Other weapon or weapon not stated[2]
25 to 29	2,239	1,827	220	22	39	0	0	5	15	9	10	92
30 to 34	1,721	1,391	160	28	31	0	0	5	13	10	6	77
35 to 39	1,441	1,100	156	24	45	0	1	4	5	8	7	91
40 to 44	1,018	758	125	30	42	0	0	6	4	4	4	45
45 to 49	820	559	101	35	44	0	0	3	5	6	5	62
50 to 54	717	410	150	43	56	1	0	4	2	4	1	46
55 to 59	651	354	110	52	51	1	0	4	2	5	7	65
60 to 64	423	197	91	40	38	2	0	5	1	4	8	37
65 to 69	316	136	63	44	24	0	1	3	1	2	4	38
70 to 74	189	95	35	24	12	0	0	3	3	1	3	13
75 and over	293	103	47	33	45	0	0	10	1	3	11	40
Unknown	142	57	9	6	18	0	0	6	2	0	4	40

- [1] Pushed is included in personal weapons.
- [2] Includes drowning.
- [3] Because of rounding, the percentages may not add to 100.0.
- [4] Does not include unknown ages.

EXHIBIT 8

U.S. DEPARTMENT OF JUSTICE • FEDERAL BUREAU OF INVESTIGATION • CRIMINAL JUSTICE INFORMATION SERVICES DIVISION

2018 CRIME in the UNITED STATES

Table 20

Murder
by State, Types of Weapons, 2018

Data Declaration (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-20/table-20.xls/@@template-layout-view?override-view=data-declaration)

Download Excel (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-20/table-20.xls/output.xls)

State	Total murders[1]	Total firearms	Handguns	Rifles	Shotguns	Firearms (type unknown)	Knives or cutting instruments	Other weapons	Hands, fists, feet, etc.[2]
Alabama[3]	2	2	2	0	0	0	0	0	0
Alaska	47	31	7	3	0	21	8	3	5
Arizona	339	203	139	12	6	46	45	87	4
Arkansas	218	156	66	6	5	79	17	38	7
California	1,739	1,177	834	24	27	292	252	223	87
Colorado	207	147	99	2	8	38	27	13	20
Connecticut	83	54	10	2	0	42	18	9	2
Delaware	48	40	14	1	2	23	4	3	1
District of Columbia	151	120	120	0	0	0	20	7	4
Georgia	568	460	410	11	10	29	44	62	2
Hawaii	33	11	6	1	0	4	10	6	6
Idaho	32	19	14	2	2	1	4	8	1
Illinois[3]	864	708	592	14	4	98	77	53	26
Indiana	371	294	136	10	7	141	33	29	15

EXHIBIT 8
0151

State	Total murders[1]	Total firearms	Handguns	Rifles	Shotguns	Firearms (type unknown)	Knives or cutting instruments	Other weapons	Hands, fists, feet, etc.[2]
Iowa[4]	43	20	6	2	2	10	8	9	6
Kansas	110	78	47	0	2	29	7	19	6
Kentucky	237	179	112	12	6	49	17	32	9
Louisiana	521	436	233	12	5	186	30	44	11
Maine	23	11	6	0	1	4	2	6	4
Maryland	470	388	345	1	10	32	39	30	13
Massachusetts	136	93	37	0	1	55	25	13	5
Michigan	550	394	166	17	11	200	31	99	26
Minnesota	104	49	36	4	0	9	16	28	11
Mississippi	142	118	99	3	2	14	7	15	2
Missouri	555	473	235	16	9	213	40	32	10
Montana	34	17	9	3	0	5	2	12	3
Nebraska	43	26	22	0	1	3	5	9	3
Nevada	201	134	46	1	1	86	23	24	20
New Hampshire	21	12	6	0	0	6	3	4	2
New Jersey	286	202	152	0	2	48	37	28	19
New Mexico	137	87	39	3	0	45	23	22	5
New York	546	313	254	6	10	43	124	63	46
North Carolina	479	346	231	15	16	84	44	52	37
North Dakota	16	9	8	0	0	1	1	1	5
Ohio	546	383	184	3	7	189	49	87	27
Oklahoma	202	134	95	7	3	29	28	29	11
Oregon	81	48	30	3	1	14	12	18	3
Pennsylvania	787	580	464	17	7	92	83	99	25
Rhode Island	16	12	1	1	1	9	2	1	1
South Carolina	386	296	188	8	6	94	29	42	19
South Dakota	13	8	5	0	0	3	4	1	0
Tennessee	496	397	245	26	8	118	28	49	22
Texas	1,301	956	522	33	37	364	128	133	84
Utah	59	28	17	1	0	10	12	10	9
Vermont	10	3	3	0	0	0	0	5	2
Virginia	391	297	141	8	5	143	30	49	15
Washington	232	138	76	2	5	55	45	35	14

State	Total murders[1]	Total firearms	Handguns	Rifles	Shotguns	Firearms (type unknown)	Knives or cutting instruments	Other weapons	Hands, fists, feet, etc.[2]
West Virginia	57	34	21	1	1	11	5	14	4
Wisconsin	178	136	67	4	2	63	15	16	11
Wyoming	12	8	6	0	2	0	2	0	2

- [1] Total number of murders for which supplemental homicide data were received.
- [2] Pushed is included in hands, fists, feet, etc.
- [3] Limited supplemental homicide data were received.
- [4] Limited data for 2018 were available for Iowa.

Data Declaration (https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-20/table-20.xls/@@template-layout-view?override-view=data-declaration)

Provides the methodology used in constructing this table and other pertinent information about this table.

EXHIBIT 8
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