No. 23-1719

In the United States Court of Appeals for the Fourth Circuit

MARYLAND SHALL ISSUE, *et al.*,
Plaintiffs-Appellants

v.

MONTGOMERY COUNTY, MARYLAND,
Defendant-Appellee

On Appeal from the United States District Court
for the District of Maryland

JOINT APPENDIX VOLUME I

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Volume II

U.S. District Court
District of Maryland (Greenbelt)
CIVIL DOCKET FOR CASE #: 8:21-cv-01736-TDC

Maryland Shall Issue, Inc. et al v. Montgomery County, Maryland
Assigned to: Judge Theodore D. Chuang
Case in other court: USCA, 23-01719
Circuit Court for Montgomery County, Maryland, 485899V
Cause: 28:1441 Notice of Removal

Date Filed: 07/12/2021
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

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Plaintiff

Engage Armament LLC represented by **Mark William Pennak**
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Plaintiff

Andrew Raymond represented by **Mark William Pennak**
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Plaintiff

Carlos Rabanales represented by **Mark William Pennak**
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Plaintiff

Brandon Ferrell represented by **Mark William Pennak**
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Deryck Weaver represented by **Mark William Pennak**
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Joshua Edgar represented by **Mark William Pennak**
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I.C.E. Firearms & Defensive Training, LLC represented by **Mark William Pennak**
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Plaintiff

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Plaintiff

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V.

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TERMINATED: 09/26/2022

Amicus

Everytown for Gun Safety represented by

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/12/2021	1	NOTICE OF REMOVAL from Circuit Court for Montgomery County, Maryland, case number 485899V. (Filing fee $ 402 receipt number 0416-9373391), filed by Montgomery County, Maryland. (Attachments: # 1 Civil Cover Sheet Civil Cover Sheet & Attachment, # 2 Attachment DE 1-State Court Complaint, # 3 Attachment DE 2-State Court Information Sheet, # 4 Attachment DE 3-State Court Scheduling Order, # 5 Attachment DE

		4-State Court Notice of New Case Number, # 6 Attachment DE 5-State Court Summons, # 7 Attachment DE 6-State Court Notice of Pending Events, # 8 Attachment DE 7-State Court Plts' Emergency Motion for Ptl. Summary Judgment, # 9 Attachment DE 8-State Court Aff of Svc on Brian Frosh, # 10 Attachment DE 9-State Court Aff of Svc on Montgomery County, # 11 Attachment DE 10-State Court Notice of Hrg Date)(O Hara, Sean) (Entered: 07/12/2021)
07/12/2021	2	NOTICE of Appearance by Patricia Lisehora Kane on behalf of Montgomery County, Maryland (Kane, Patricia) (Entered: 07/12/2021)
07/12/2021	3	NOTICE of Appearance by Edward Barry Lattner on behalf of Montgomery County, Maryland (Lattner, Edward) (Entered: 07/12/2021)
07/12/2021	4	NOTICE of Appearance by Sean Charles O Hara on behalf of Montgomery County, Maryland (O Hara, Sean) (Entered: 07/12/2021)
07/12/2021	5	Local Rule 103.3 Disclosure Statement by Montgomery County, Maryland (O Hara, Sean) (Entered: 07/12/2021)
07/12/2021	6	Local Rule 103.5 Compliance (Attachments: # 1 Attachment Certified Copy of State Court Record)(O Hara, Sean) (Entered: 07/12/2021)
07/12/2021	7	STATE COURT COMPLAINT against Montgomery County, Maryland, filed by Deryck Weaver, Engage Armament LLC, Carlos Rabanales, Brandon Ferrell, Ronald David, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Nancy David, Joshua Edgar, Andrew Raymond.(heps, Deputy Clerk) (Entered: 07/13/2021)
07/12/2021	8	STATE COURT Plaintiff's Motion for Partial Summary Judgment by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Deryck Weaver(heps, Deputy Clerk) (Entered: 07/13/2021)
07/12/2021		THE ABOVE DOCUMENTS (7-8) ARE COPIES OF ORIGINAL PAPERS FILED IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY. (heps, Deputy Clerk) (Entered: 07/13/2021)
07/13/2021	9	Standing Order Concerning Removal re 1 Notice of Removal,,, filed by Montgomery County, Maryland. Signed by Judge Theodore D. Chuang on 7/13/2021. (heps, Deputy Clerk) (Entered: 07/13/2021)
07/13/2021	10	RESPONSE re 9 Standing Order Concerning Removal filed by Montgomery County, Maryland.(O Hara, Sean) (Entered: 07/13/2021)
07/19/2021	11	CASE MANAGEMENT ORDER. Signed by Judge Theodore D. Chuang on 7/19/2021. (heps, Deputy Clerk) (Entered: 07/19/2021)
07/19/2021	12	PAPERLESS ORDER denying without prejudice 8 State Court Emergency Motion for Partial Summary Judgment. The Case Management Order states that "[n]o motions may be filed without first seeking a pre-motion conference with the Court." Case Management Order § II.A.1, ECF No. 11. Plaintiffs have not sought a pre-motion conference with the Court. Plaintiffs are directed to file a Notice of Intent to File a Motion pursuant to section II.A.2 of the Case Management Order by July 28, 2021. Parties are reminded that responses to the Notice of Intent are not permitted. A pre-motion conference is scheduled for August 2, 2021 at 2:00 p.m. To join the call at the scheduled time (1) Dial 1-888-557-8511. (2) Enter access code 3008173, followed by the # key. You will then be placed on hold until Chambers dials into the call, at which point you will be prompted to enter a security code. (3) When prompted, enter security code 08020200 followed by the # key. The call will be recorded, so please do not use speakerphones as they compromise sound quality. Also, we ask that parties not remain on the conference line after the Judge has left

		the call, to ensure that the line is free for other calls that may be on the Judges calendar. In addition to the proposed motion, the parties should be prepared to address whether they consent, pursuant to 28 U.S.C. § 636(c), to have all further proceedings before a Magistrate Judge and whether they wish to participate in a mediation session with a Magistrate Judge, whether before, during, or after discovery. Parties are expected to consult with their clients and confer with each other on these issues in advance of the Pre-Motion Conference and, if possible, present joint views to the Court. Signed by Judge Theodore D. Chuang on 7/19/2021. (egms, Chambers) (Entered: 07/19/2021)
07/19/2021	13	Correspondence re: Notice of Intent to File Cross Motion for Summary Judgment and Motion to Dismiss (Lattner, Edward) (Entered: 07/19/2021)
07/21/2021	14	Request for Conference (Pennak, Mark) (Entered: 07/21/2021)
07/23/2021	15	Second Request for Conference (Pennak, Mark) (Entered: 07/23/2021)
08/02/2021	16	Case Management Conference held on 8/2/2021 before Judge Theodore D. Chuang.(Court Reporter: FTR Recording\2B) (ds2s, Deputy Clerk) (Entered: 08/02/2021)
08/02/2021	17	ORDER granting Plaintiffs leave to file proposed Motion to Sever and Remand. Signed by Judge Theodore D. Chuang on 8/2/2021. (jf3s, Deputy Clerk) (Entered: 08/03/2021)
08/04/2021	18	MOTION to Remand to State Court by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc.(Pennak, Mark) (Entered: 08/04/2021)
08/18/2021	19	RESPONSE in Opposition re 18 MOTION to Remand to State Court *Opposition to Motion to Sever and Remand* filed by Montgomery County, Maryland. (Attachments: # 1 Text of Proposed Order Proposed Order Denying Motion to Sever and Remand)(O Hara, Sean) (Entered: 08/18/2021)
08/22/2021	20	REPLY to Response to Motion re 18 MOTION to Remand to State Court filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Deryck Weaver.(Pennak, Mark) (Entered: 08/22/2021)
08/22/2021	21	REPLY to Response to Motion re 18 MOTION to Remand to State Court *CORRECTED* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Deryck Weaver.(Pennak, Mark) (Entered: 08/22/2021)
02/07/2022	22	MEMORANDUM OPINION. Signed by Judge Theodore D. Chuang on 2/7/2022. (mg3s, Deputy Clerk) (Entered: 02/08/2022)
02/07/2022	23	ORDER granting in part and denying in part 18 Motion to Remand to State Court; directing parties to file a Joint Status Report every 90 days to report on the progress of the state court proceeding; within 14 days of the resolution of Counts 1, 2, and 3 in the state court proceeding, the parties shall file a Joint Status Report. Signed by Judge Theodore D. Chuang on 2/7/2022. (mg3s, Deputy Clerk) Modified on 2/15/2022 (c/m 2/15/2022 - mg3s, Deputy Clerk) (Entered: 02/08/2022)
05/09/2022	24	STATUS REPORT by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Deryck Weaver, STIPULATION re 23 Order on Motion to Remand to State Court, by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Deryck Weaver(Pennak, Mark) (Entered: 05/09/2022)

08/08/2022	25	MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III* by Montgomery County, Maryland (Attachments: # 1 Text of Proposed Order Proposed Order)(O Hara, Sean) (Entered: 08/08/2022)
08/08/2022	26	Supplement to *Motion to Consolidate and Remand* (O Hara, Sean) (Entered: 08/08/2022)
08/08/2022	27	STATUS REPORT *Joint Status Report 2* by Montgomery County, Maryland(Lattner, Edward) (Entered: 08/08/2022)
08/09/2022	28	RESPONSE in Opposition re (8 in 8:22-cv-01967-DLB) MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III*, (25 in 8:21-cv-01736-TDC) MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training LLC, Maryland Shall Issue, Inc.. (Attachments: # 1 Exhibit Exhibit A Order of Feb. 7, 2022, # 2 Exhibit Exhibit B Supp. Mem. in State court, # 3 Text of Proposed Order Proposed Order)Associated Cases: 8:21-cv-01736-TDC, 8:22-cv-01967-DLB(Pennak, Mark) (Entered: 08/09/2022)
08/11/2022	29	RESPONSE in Opposition re (8 in 8:22-cv-01967-DLB) MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III*, (25 in 8:21-cv-01736-TDC) MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III Corrected Opposition* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training LLC, Maryland Shall Issue, Inc.. (Attachments: # 1 Exhibit Feb. 7, 2022 Opinion of the Court, # 2 Exhibit Supp. Memo. filed in State Court, # 3 Text of Proposed Order Proposed Order)Associated Cases: 8:21-cv-01736-TDC, 8:22-cv-01967-DLB(Pennak, Mark) (Entered: 08/11/2022)
08/11/2022	30	ORDER denying without prejudice 25 Partial Consent Motion to Consolidate and to Remand; directing that if Defendant seeks to file a Motion, they must file a Notice of Intent to File a Motion. Signed by Judge Theodore D. Chuang on 8/11/2022. (dg3s, Deputy Clerk) (Entered: 08/11/2022)
08/12/2022	31	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training LLC, Maryland Shall Issue, Inc. *Of Intent to File A Motion For Partial Summary Judgment* Associated Cases: 8:21-cv-01736-TDC, 8:22-cv-01967-DLB(Pennak, Mark) (Entered: 08/12/2022)
08/15/2022	32	Correspondence re: Notice of Intent to File Motion to Consolidate and Remand (O Hara, Sean) (Entered: 08/15/2022)
08/16/2022	33	RESPONSE in Opposition re (17 in 8:22-cv-01967-DLB) MOTION for Extension of Time to File Answer re (11) Amended Complaint, , (25 in 8:21-cv-01736-TDC) MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III*, (8 in 8:22-cv-01967-DLB) MOTION to Consolidate Cases *Defendants Partial Consent Motion to Consolidate and Remand Counts I, II, and III* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training LLC, Maryland Shall Issue, Inc..Associated Cases: 8:21-cv-01736-TDC, 8:22-cv-01967-DLB(Pennak, Mark) (Entered: 08/16/2022)
08/24/2022	34	PAPERLESS NOTICE. A CASE MANAGEMENT CONFERENCE is scheduled for August 26, 2022 at 10:00 a.m. to discuss 31 NOTICE OF INTENT TO FILE A MOTION FOR PARTIAL SUMMARY JUDGMENT AND 32 NOTICE OF INTENT TO FILE A MOTION TO CONSOLIDATE AND REMAND. To join the call at the scheduled time: (1) Dial 1-888-557-8511. (2) Enter access code 3008173, followed by the # key. You will then be placed on hold until Chambers dials into the call, at which point you will be prompted

		to enter a security code. (3) When prompted, enter security code 08261000 followed by the # key. The call will be recorded, so please do not use speakerphones as they compromise sound quality. Also, we ask that parties not remain on the conference line after the Judge has left the call, to ensure that the line is free for other calls that may be on the Judge's calendar. The parties should also be prepared to address whether they consent to have all further proceedings before a Magistrate Judge and whether they wish to participate in a mediation session with a Magistrate Judge, whether before, during, or after discovery. Parties are expected to consult with their clients and confer with each other on these issues in advance of the Case Management Conference and, if possible, present joint views to the Court. (ds2s, Deputy Clerk) (Entered: 08/24/2022)
08/26/2022	35	Case Management Conference held on 8/26/2022 before Judge Theodore D. Chuang. (Court Reporter: FTR Recording\2B) (ds2s, Deputy Clerk) (Entered: 08/26/2022)
08/26/2022	36	Consent MOTION to Consolidate Cases *8:21-cv-01736-TDC & 8:22-cv-01967-DLB* by Montgomery County, Maryland (Attachments: # 1 Text of Proposed Order Proposed Order-Consent Motion to Consolidate)(O Hara, Sean) (Entered: 08/26/2022)
08/29/2022	37	ORDER directing the parties to file a Consent Motion to Consolidate by 8/29/2022; granting Defendant leave to file the Proposed Motion to Remand by 9/9/2022 and setting a briefing schedule for the Motion; extending the deadline to file an Answer in both consolidated cases. Signed by Judge Theodore D. Chuang on 8/29/2022. (dg3s, Deputy Clerk) (Entered: 08/29/2022)
09/01/2022	38	ORDER Granting 36 Motion to Consolidate Cases; ORDERED that civil actions 8:21-cv-01736-TDC and 8:22-cv-01967-DLB be and hereby are CONSOLIDATED and that all future pleadings shall be filed under lead case 8:21-cv-01736-TDC. Signed by Judge Theodore D. Chuang on 9/1/2022. (heps, Deputy Clerk) (Entered: 09/01/2022)
09/09/2022	39	MOTION to Remand to State Court *Counts I, II and III and Stay Counts IV and V* by Montgomery County, Maryland (Attachments: # 1 Text of Proposed Order Proposed Order)(Lattner, Edward) (Entered: 09/09/2022)
09/23/2022	40	RESPONSE to Motion re 39 MOTION to Remand to State Court *Counts I, II and III and Stay Counts IV and V* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc.. (Attachments: # 1 Exhibit Transcript Excerpt of July 19 State Court Hearing)(Pennak, Mark) (Entered: 09/23/2022)
09/23/2022	41	NOTICE to Substitute Attorney *Withdrawal of Appearance* (O Hara, Sean) (Entered: 09/23/2022)
09/30/2022	42	NOTICE to Substitute Attorney (Ashbarry, Erin) (Entered: 09/30/2022)
09/30/2022	43	NOTICE of Appearance by Matthew Hoyt Johnson on behalf of Montgomery County, Maryland (Johnson, Matthew) (Entered: 09/30/2022)
09/30/2022	44	REPLY to Response to Motion re 39 MOTION to Remand to State Court *Counts I, II and III and Stay Counts IV and V* filed by Montgomery County, Maryland.(Lattner, Edward) (Entered: 09/30/2022)
11/29/2022	45	(FILED IN ERROR - INCORRECT EVENT) UNREDACTED DOCUMENT (Attachments: # 1 Exhibit Bill 4-21, # 2 Exhibit Bill 21-22E, # 3 Exhibit MSI test. on Bill 4-21, # 4 Exhibit Staff Rep. on Bill 21-22E, # 5 Exhibit Decl. of Daniel Carlin-Weber, # 6 Exhibit Decl. of Andrew Raymond, # 7 Exhibit Decl. of Carlos Rabanales, # 8 Exhibit Decl. of Brandon Ferrell, # 9 Exhibit Decl. of Deryck Weaver, # 10 Exhibit Decl. of Joshua Edgar, # 11 Exhibit Decl. of Ronald David, # 12 Exhibit Decl. of Nancy David, #

		13 Exhibit Decl. of Eliyahu Shemony, # 14 Attachment certificate of service)(Pennak, Mark) Modified on 11/30/2022 (hmls, Deputy Clerk). (Entered: 11/29/2022)
11/29/2022	46	STIPULATION re 49 Amended Complaint by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc. (Attachments: # 1 Attachment cert. of service)(Pennak, Mark) Modified on 11/30/2022 (hmls, Deputy Clerk). (Entered: 11/29/2022)
11/29/2022	47	Emergency Request for Conference (Pennak, Mark) (Entered: 11/29/2022)
11/29/2022	48	(FILED IN ERROR) UNREDACTED DOCUMENT (Pennak, Mark) Modified on 11/30/2022 (hmls, Deputy Clerk). (Entered: 11/29/2022)
11/30/2022	49	AMENDED COMPLAINT against Deryck Weaver, Engage Armament LLC, Carlos Rabanales, Brandon Ferrell, Ronald David, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Nancy David, Joshua Edgar, Andrew Raymond, filed by Deryck Weaver, Engage Armament LLC, Carlos Rabanales, Brandon Ferrell, Ronald David, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Nancy David, Joshua Edgar, Andrew Raymond. (Attachments: # 1 Exhibit Bill 4-21, # 2 Exhibit Bill 21-22E, # 3 Exhibit MSI Test. on Bill 4-21, # 4 Exhibit Bill 21-22E Staff Report, # 5 Exhibit Decl. of Daniel Carlin-Weber, # 6 Exhibit Decl. of Andrew Raymond, # 7 Exhibit Decl. of Carlos Rabanales, # 8 Exhibit Decl. of Brandon Ferrell, # 9 Exhibit Decl. of Deryck Weaver, # 10 Exhibit Decl. of Joshua Edgar, # 11 Exhibit Decl. of Ronald David, # 12 Exhibit Decl. of Nancy David, # 13 Exhibit Decl. of Eliyahu Shemony, # 14 Attachment Cert. of Service, # 15 Attachment Red Line Compare Doc.)(Pennak, Mark) (Entered: 11/30/2022)
12/01/2022	50	PAPERLESS NOTICE. A CASE MANAGEMENT CONFERENCE is scheduled for December 6, 2022 at 2:30 p.m. to discuss 47 NOTICE OF INTENT TO FILE A MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION. To join the call at the scheduled time: (1) Dial 1-888-557-8511. (2) Enter access code 3008173, followed by the # key. You will then be placed on hold until Chambers dials into the call, at which point you will be prompted to enter a security code. (3) When prompted, enter security code 12060230 followed by the # key. The call will be recorded, so please do not use speakerphones as they compromise sound quality. Also, we ask that parties not remain on the conference line after the Judge has left the call, to ensure that the line is free for other calls that may be on the Judge's calendar. The parties should also be prepared to address whether they consent to have all further proceedings before a Magistrate Judge and whether they wish to participate in a mediation session with a Magistrate Judge, whether before, during, or after discovery. Parties are expected to consult with their clients and confer with each other on these issues in advance of the Case Management Conference and, if possible, present joint views to the Court. (ds2s, Deputy Clerk) (Entered: 12/01/2022)
12/06/2022	51	Case Management Conference held on 12/6/2022 before Judge Theodore D. Chuang. (Court Reporter: FTR Recording\2B) (ds2s, Deputy Clerk) (Entered: 12/06/2022)
12/06/2022	52	Emergency MOTION for Preliminary Injunction *and Temporary Restraining Order* by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver (Attachments: # 1 Exhibit Decl. of David Sussman Exh. N, # 2 Exhibit Decl. of Allan Barall Exh. O, # 3 Exhibit Decl. of John Doe 1 Exh. P, # 4 Exhibit Decl. of John Doe 2 Exh. Q, # 5 Exhibit Decl. of Thomas Paine 1 Exh. R, # 6 Exhibit Decl. of John Smith 1 Exh. S, # 7 Text of Proposed Order Proposed Order, # 8 Text of Proposed Order Alternative Proposed Order, # 9 Attachment Cert. of Service)(Pennak, Mark) (Entered: 12/06/2022)

12/06/2022	53	MOTION for Preliminary Injunction *memorandum in support* by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver(Pennak, Mark) (Entered: 12/06/2022)
12/06/2022	54	Corrected MOTION for Preliminary Injunction and Temporary Restraining Order *Corrected Supporting Memorandum* by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver (Attachments: # 1 Memorandum in Support Corrected, # 2 Affidavit Decl. of David Sussman Exh. N, # 3 Affidavit Decl. of Allan Barall Exh. O, # 4 Affidavit Decl. of John Doe No. 1 Exh. P, # 5 Affidavit Decl. of John Doe No. 2 Exh. Q, # 6 Affidavit Decl. of Thomas Paine No. 1 Exh. R, # 7 Affidavit Decl. of John Smith No. 1 Exh. S, # 8 Text of Proposed Order Proposed Order, # 9 Text of Proposed Order Alternative Proposed Order, # 10 Attachment Certificate of Service)(Pennak, Mark) Modified on 12/7/2022 (hmls, Deputy Clerk). (Entered: 12/06/2022)
12/06/2022	55	ORDER DENYING AS MOOT 39 Motion to Remand; GRANTING plaintiffs leave to file motion for temporary restraining order and a preliminary injunction. Signed by Judge Theodore D. Chuang on 12/6/2022. (hmls, Deputy Clerk) (Entered: 12/07/2022)
12/07/2022	56	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver *Notice of Supplemental Authorities* (Attachments: # 1 Attachment Second Circuit Order, # 2 Attachment District Court Decision, # 3 Attachment Cert. of Service)(Pennak, Mark) (Entered: 12/07/2022)
12/09/2022	57	MOTION to Remand to State Court *Renewed Motion to Remand Counts I, II, and III and Stay Counts IV Through VIII* by Montgomery County, Maryland (Attachments: # 1 Text of Proposed Order)(Lattner, Edward) (Entered: 12/09/2022)
12/23/2022	58	RESPONSE in Opposition re 57 MOTION to Remand to State Court *Renewed Motion to Remand Counts I, II, and III and Stay Counts IV Through VIII* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver. (Attachments: # 1 Exhibit Transcript Excerpts from 7.19.22 Hearing, # 2 Text of Proposed Order Proposed Order, # 3 Attachment certificate of service)(Pennak, Mark) (Entered: 12/23/2022)
12/30/2022	59	RESPONSE in Opposition re 54 Corrected MOTION for Preliminary Injunction *Corrected Supporting Memorandum* filed by Montgomery County, Maryland. (Attachments: # 1 Attachment Table of Contents for Memorandum, # 2 Memorandum in Support, # 3 Text of Proposed Order, # 4 Attachment Defendant's Exhibit List, # 5 Exhibit 1 2761_1_22629_Bill_21-22E_Signed_20221128, # 6 Exhibit 2 2761_1_22588_Bill_21-22E_Action_20221115, # 7 Exhibit 3 Childcare stats, # 8 Exhibit 4 Council passes legislation prohibiting firearm use, carrying within 100 yards of some public places _ Bethesda Magazine & Bethesda Beat, # 9 Exhibit 5 Montgomery County gun violence has risen sharply, chief says - The Washington Post, # 10 Exhibit 6 NY Times Article, # 11 Exhibit 7 1831 or 1816 J. Bayon, General Digest of the Ordinances and Resolutions of the Corporation of New Orleans 371 (1831), # 12 Exhibit 8 1837 Me Public Laws, # 13 Exhibit 9 1837 Md. Laws 108, ch. 100, # 14 Exhibit 10 1837 Massachusetts, # 15 Exhibit 11 1843 Rhode Island, # 16 Exhibit 12 1852 N.M. Laws 67, § 3, # 17 Exhibit 13 1857 First Annual Report of the Board of Commissioners of the Central Park 106, # 18 Exhibit 14 1859 Conn. Acts 62, An Act in Addition to and in Alteration of An Act For Forming And Conducting The Military Force, chap. 82, § 5, # 19 Exhibit 15 1861 New York Central Park Commissioners Fourth Annual Report, # 20 Exhibit 16 1867 Pennsylvania General

		Assembly, Omitted Laws, PL 1083 No. 1020, A Supp to An Act approp-ing ground in the city of Philadelphia, # 21 Exhibit 17 1869 Tenn. Pub. Acts 23-24, # 22 Exhibit 18 1870 Ga. Laws 421, # 23 Exhibit 19 1870 La. Acts 159-160, no. 100, # 24 Exhibit 20 1870 Acts of Assembly Relating to Fairmount Park Sect. 21 (1870), # 25 Exhibit 21 1870 Tex. Gen. Laws 63, ch. 46, # 26 Exhibit 22 1874 Md. Laws 366, ch. 250, # 27 Exhibit 23 1875 Mo. Laws 50-51, § 1, # 28 Exhibit 24 1877 Va. Acts 305, # 29 Exhibit 25 1879 J. Hockaday, Revised Statutes of the State of Missouri 1879, # 30 Exhibit 26 1879 Tex. Crim. Stat. tit. IX, Ch. 4, # 31 Exhibit 27 1881 The Revised Ordinance of the City of St. Louis, 635 (1881), # 32 Exhibit 28 1882 R. Clark, The Code of the State of Georgia 818 (1873), # 33 Exhibit 29 1883 Mo. Laws 76, # 34 Exhibit 30 1886 Md. Laws 315, ch. 189, # 35 Exhibit 31 1887 N.M. Laws 56, An Act to Prohibit the Unlawful Carrying and Use of Deadly Weapons, ch. 30, § 4, # 36 Exhibit 32 1888 Annual Reports of the City Officers and City Boards of the City of Saint Paul, # 37 Exhibit 33 1888 J. Prentiss, 1888 Md. Code Pub. Local Law, Vol. I, # 38 Exhibit 34 1889 Ariz. Sess. Laws 16-17, # 39 Exhibit 35 1890 GENERAL ORDINANCES OF THE TOWN OF COLUMBIA, IN BOONE COUNTY, MISSOURI 34, 35 (Lewis M. Switzler ed., 1890), # 40 Exhibit 36 1890 Okla. Laws 495, art. 47, § 7, # 41 Exhibit 37 1891 Laws and Ordinances for the Government of the Municipal Corporation of the City of Williamsport, Pennsylvania 141 (1891), # 42 Exhibit 38 1892 The Annotated Code of the General Statute Laws of the State of Mississippi 327, § 1030, # 43 Exhibit 39 1893 The Charter of the City of Wilmington (1893) (Part VII, § 7), # 44 Exhibit 40 1893 W. McCartney, Statutes of Oklahoma (1893), # 45 Exhibit 41 1893 A Digest of the Acts of Assembly Relating to and the General Ordinances of the City of Pittsburgh (1893), # 46 Exhibit 42 1894 The Revised Ordinances of the City of Huntsville, Missouri, of 1894, # 47 Exhibit 43 1895 Mich. Local Acts 596, § 44, # 48 Exhibit 44 1897 A Digest of the Laws and Ordinances for the Government of the Municipal Corporation of the City of Reading, Penn, # 49 Exhibit 45 1899 parks-boulder-co-1899, # 50 Exhibit 46 1901 Revised Statutes of Arizona Territory 1252 (1901), # 51 Exhibit 47 1903 Mont. Laws 49, § 3, # 52 Exhibit 48 1903 City of Trenton, New Jersey, Charter and Ordinances 390 (1903), # 53 Exhibit 49 1905 Amendments to the Revised Municipal Code of Chicago of 1905 and New General Ordinances 40 (1905), # 54 Exhibit 50 1905 Minn. Laws 620, ch. 344, § 53, # 55 Exhibit 51 1906 Ordinances, Rules and Regulations of the Department of Parks of the City of New York 7 (1916), # 56 Exhibit 52 1906 A Digest of the Ordinances of Town Council of the Borough of Phoenixville 135 (1906), # 57 Exhibit 53 1909 General Municipal Ordinances of the City of Oakland, Cal., Addendum at 15 (1909), # 58 Exhibit 54 1910 The Code of the City of Staunton, Virginia 115 (1910), # 59 Exhibit 55 1917 The Code of City of Birmingham, Alabama 662 (1917), # 60 Exhibit 56 1917 Wis. Sess. Laws 1243-44, ch. 668, 29.57(4), # 61 Exhibit 57 1921 N.C. Sess. Laws 54, Pub. Laws Extra Sess., ch. 6, § 3, # 62 Exhibit 58 Ch. 57 incl. 21-22)(Ashbarry, Erin) (Entered: 12/30/2022)
01/06/2023	60	MOTION for Leave to File *Amicus Brief In Support Of Defendant's Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction* by Everytown for Gun Safety (Attachments: # 1 Exhibit A - Amicus Brief)(Pollack, Barry) (Entered: 01/06/2023)
01/06/2023	61	Local Rule 103.3 Disclosure Statement by Everytown for Gun Safety identifying Other Affiliate Everytown for Gun Safety Victory Fund, Other Affiliate Everytown for Gun Safety Victory Fund State Committee LLC for Everytown for Gun Safety.(Pollack, Barry) (Entered: 01/06/2023)
01/09/2023	62	REPLY to Response to Motion re 53 MOTION for Preliminary Injunction *memorandum in support*, 54 Corrected MOTION for Preliminary Injunction *Corrected Supporting Memorandum* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Everytown for Gun Safety, Brandon Ferrell, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver. (Attachments: # 1 Exhibit Exh. A Supp. Decl. of Plaintiff Shemony, # 2 Exhibit Exh. B Supp. Decl. of Barall,

		# 3 Exhibit Exh. C Supp. Decl. of John Smith 01, # 4 Attachment Koons v. Reynolds slip op., # 5 Attachment certificate of service)(Pennak, Mark) (Entered: 01/09/2023)
01/09/2023	63	RESPONSE in Opposition re 60 MOTION for Leave to File *Amicus Brief In Support Of Defendant's Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction* filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver. (Attachments: # 1 Attachment certificate of service)(Pennak, Mark) (Entered: 01/09/2023)
01/10/2023	64	REPLY to Response to Motion re 60 MOTION for Leave to File *Amicus Brief In Support Of Defendant's Opposition to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction* filed by Everytown for Gun Safety. (Attachments: # 1 Exhibit A - Correspondence)(Pollack, Barry) (Entered: 01/10/2023)
01/30/2023	65	ORDER GRANTING 60 Motion for Leave to File Amicus Brief. Signed by Judge Theodore D. Chuang on 1/29/2023. (hmls, Deputy Clerk) (Entered: 01/30/2023)
01/30/2023	66	Amicus Brief in support of 59 Response in Opposition to Motion re 54 Corrected MOTION for Preliminary Injunction and Temporary Restraining Order filed by Everytown for Gun Safety. (hmls, Deputy Clerk) (Entered: 01/30/2023)
01/30/2023	67	PAPERLESS NOTICE that a HEARING on 54 Plaintiffs Emergency Motion for a Temporary Restraining Order and Emergency Motion for a Preliminary Injunction and 57 Defendants Renewed Motion to Remand Counts I, II and III and Stay Counts IV through VIII is scheduled for February 6, 2023 at 3:00 p.m. before Judge Theodore D. Chuang at the United States Courthouse located at 6500 Cherrywood Lane in Greenbelt, Maryland. The specific courtroom for the motions hearing will be available the week of the proceeding on the Court's website. (ds2s, Deputy Clerk) (Entered: 01/30/2023)
01/30/2023	68	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver re 54 Corrected MOTION for Preliminary Injunction *Corrected Supporting Memorandum* (Attachments: # 1 Attachment certificate of service)(Pennak, Mark) (Entered: 01/30/2023)
01/30/2023	69	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver re 54 Corrected MOTION for Preliminary Injunction *Corrected Supporting Memorandum Corrected for omission* (Attachments: # 1 Attachment slip opinion, # 2 Attachment certificate of service) (Pennak, Mark) (Entered: 01/30/2023)
02/02/2023	70	RESPONSE re 66 Response filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Everytown for Gun Safety, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver. (Attachments: # 1 Attachment cert. of service)(Pennak, Mark) (Entered: 02/02/2023)
02/06/2023	71	Motion Hearing held on 2/6/2023 before Judge Theodore D. Chuang re 57 MOTION to Remand to State Court *Renewed Motion to Remand Counts I, II, and III and Stay Counts IV Through VIII* filed by Montgomery County, Maryland, and 54 Corrected MOTION for Preliminary Injunction *Corrected Supporting Memorandum* filed by Andrew Raymond, I.C.E. Firearms & Defensive Training, LLC, Joshua Edgar, Carlos Rabanales, Deryck Weaver, Nancy David, Brandon Ferrell, Maryland Shall Issue, Inc., Engage Armament LLC, Eliyahu Shemony, Ronald David.(Court Reporter: Patricia Klepp\2B) (ds2s, Deputy Clerk) (Entered: 02/06/2023)

02/24/2023	72	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings, Motions Hearing held on 2/6/23, before Judge Theodore D. Chuang. Court Reporter/Transcriber Patricia Klepp, Telephone number 3013443228. Total number of pages filed: 88. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 3/17/2023. Redacted Transcript Deadline set for 3/27/2023. Release of Transcript Restriction set for 5/25/2023. (pk4, Court Reporter) (Entered: 02/24/2023)
03/28/2023	73	NOTICE by Montgomery County, Maryland *of Supplemental Authorities* Associated Cases: 8:21-cv-01736-TDC, 8:22-cv-01967-TDC(Ashbarry, Erin) (Entered: 03/28/2023)
03/28/2023	74	RESPONSE re 73 Notice (Other) filed by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver. (Attachments: # 1 Exhibit Order in Bondi, # 2 Attachment Certificate of Service)(Pennak, Mark) (Entered: 03/28/2023)
03/31/2023	75	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver (Attachments: # 1 Attachment Slip op. of Worth v. Harrington, # 2 Attachment Transcript excerpts, # 3 Attachment Certificate of Service)(Pennak, Mark) (Entered: 03/31/2023)
05/05/2023	76	MEMORANDUM OPINION. Signed by Judge Theodore D. Chuang on 5/5/2023. (hmls, Deputy Clerk) (Entered: 05/05/2023)
05/05/2023	77	ORDER GRANTING IN PART and DENYING IN PART 57 Motion to Remand Counts I, II, and III and Stay Counts IV Through VIII. REMANDING Counts I, II, and III to the Circuit Court for Montgomery County. Signed by Judge Theodore D. Chuang on 5/5/2023. (hmls, Deputy Clerk) (Entered: 05/05/2023)
05/05/2023	78	Correspondence from Clerk to Circuit Court for Montgomery County re: Remand. (hmls, Deputy Clerk) (Additional attachment(s) added on 5/12/2023: # 1 Receipt Certified Mail) (hmls, Deputy Clerk). (Additional attachment(s) added on 5/15/2023: # 2 Return Correspondence) (hmls, Deputy Clerk). (Entered: 05/05/2023)
05/18/2023	79	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver *Notice of Supplemental Authorities* (Pennak, Mark) (Entered: 05/18/2023)
06/19/2023	80	NOTICE by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver *Supplemental Authority Re SB1* (Attachments: # 1 Attachment SB 1 As Enacted, # 2 Attachment Certificate of Service)(Pennak, Mark) (Entered: 06/19/2023)
07/03/2023	81	Request for Conference (Lattner, Edward) (Entered: 07/03/2023)
07/06/2023	82	MEMORANDUM OPINION. Signed by Judge Theodore D. Chuang on 7/6/2023. (hmls, Deputy Clerk) (Entered: 07/06/2023)
07/06/2023	83	ORDER DENYING 54 Motion for a Temporary Restraining Order and a Preliminary Injunction. Signed by Judge Theodore D. Chuang on 7/6/2023. (hmls, Deputy Clerk) (Entered: 07/06/2023)

07/07/2023	84	INTERLOCUTORY NOTICE OF APPEAL by Nancy David, Ronald David, Joshua Edgar, Engage Armament LLC, Brandon Ferrell, I.C.E. Firearms & Defensive Training, LLC, Maryland Shall Issue, Inc., Carlos Rabanales, Andrew Raymond, Eliyahu Shemony, Deryck Weaver. Filing fee $ 505, receipt number AMDDC-10694075. (Attachments: # 1 Certificate of Service)(Pennak, Mark) Modified on 7/7/2023 (slss, Deputy Clerk). (Entered: 07/07/2023)
07/07/2023	85	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 84 Notice of Appeal. IMPORTANT NOTICE: To access forms which you are required to file with the United States Court of Appeals for the Fourth Circuit please go to http://www.ca4.uscourts.gov and click on Forms & Notices.(slss, Deputy Clerk) (Entered: 07/07/2023)
07/07/2023	86	QC NOTICE: 84 Notice of Appeal, filed by Andrew Raymond, I.C.E. Firearms & Defensive Training, LLC, Joshua Edgar, Carlos Rabanales, Deryck Weaver, Nancy David, Brandon Ferrell, Maryland Shall Issue, Inc., Engage Armament LLC, Eliyahu Shemony, Ronald David was filed incorrectly. Wrong entry used when filing Notice of Appeal. If you are filing a Notice of Appeal in an open case use Interlocutory Appeal Entry. Correction has been made. (slss, Deputy Clerk) (Entered: 07/07/2023)
07/08/2023	87	Request for Conference (Pennak, Mark) (Entered: 07/08/2023)
07/10/2023	88	USCA Case Number 23-1719 for 84 Notice of Appeal, filed by Andrew Raymond, I.C.E. Firearms & Defensive Training, LLC, Joshua Edgar, Carlos Rabanales, Deryck Weaver, Nancy David, Brandon Ferrell, Maryland Shall Issue, Inc., Engage Armament LLC, Eliyahu Shemony, Ronald David. Case Manager - Jeffrey Neal (av4s, Deputy Clerk) (Entered: 07/10/2023)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC.
9613 Harford Rd., Ste C #1015
Baltimore, Maryland 21234-2150

ENGAGE ARMAMENT LLC
701 E. Gude Dr., Ste 101,
Rockville, Maryland 20850

ANDREW RAYMOND
14819 Poplar Hill Rd
Darnestown, MD 20874

Case No. 8:21-cv-01736-TDC (L)

CARLOS RABANALES
7727 Green Valley Rd,
Frederick, Maryland 21701

Case No. 8:22-cv-01967-DLB

BRANDON FERRELL
40 Mountain Laurel Court
Gaithersburg, Maryland 20879

DERYCK WEAVER
8712 Lowell Street
Bethesda, Maryland 20817

JOSHUA EDGAR
8416 Flower Hill Terr.
Gaithersburg, Maryland 20879

I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC,
24129 Pecan Grove Lane
Gaithersburg, Maryland 20882

RONALD DAVID
24129 Pecan Grove Lane
Gaithersburg, Maryland 20882

NANCY DAVID
24129 Pecan Grove Lane
Gaithersburg, Maryland 20882

ELIYAHU SHEMONY
1 Magic Mountain Court
Rockville, MD 20852

Plaintiffs,

v.

MONTGOMERY COUNTY, MARYLAND
101 Monroe Street
Rockville, Maryland 20850

Defendant.

VERIFIED SECOND AMENDED COMPLAINT FOR DECLARATORY AND EQUITABLE RELIEF AND FOR COMPENSATORY DAMAGES, NOMINAL DAMAGES AND ATTORNEY'S FEES AND COSTS

COME NOW, the Plaintiffs, through counsel, and sue the Defendant, and for cause state as follows:

INTRODUCTION

1. On April 16, 2021, the Defendant, Montgomery County, Maryland ("the County") signed into law Bill 4-21, a copy of which is attached to this complaint as Exhibit A. Bill 4-21 became effective on July 16, 2021. Plaintiffs filed a complaint in the Circuit Court for Montgomery County, Maryland in May of 2021. That complaint was removed by the County to federal district court, where it was assigned Case No. 8:21-cv-01736-TDC. On February 7, 2022, this Court remanded most of the State law claims back to the Circuit Court of Montgomery County, but

retained jurisdiction over the "void for vagueness" claims alleged under the Due Process Clause of the Fourteenth Amendment and under the Article 24 of the Maryland Declaration of Rights.

2. On July 22, 2022, in light of the historic decision of the Supreme Court in *New York State Rifle Pistol Association v. Bruen*, 142 S.Ct. 2111 (2022), plaintiffs filed an amended complaint in the Circuit Court for Montgomery County to allege that Bill 4-21 also violated the Second Amendment to the United States Constitution in multiple ways. On August 8, 2022, the County removed the amended complaint to this Court under 28 U.S.C. § 1441, where it was assigned Case No. 8:22-cv-01967-DLB. By an order entered September 1, 2022, this Court consolidated Case No. 8:21-cv-01736-TDC with Case No. 8:22-cv-01967-DLB, and further ordered that "all future pleadings shall be filed under lead case 8:21-cv-01736-TDC."

3. On November 15, 2022, the Montgomery County Council enacted Bill 21-22E, and that bill was signed on November 28, 2022 by the County Executive. (Exhibit B). By its terms, Bill 21-22E became effective immediately upon signature by the County Executive. Bill 21-22E amended Montgomery County Code Chapter 57 ("Chapter 57"), including amending portions of Chapter 57 that had been previously amended by Bill 4-21. Pursuant to its terms, Bill 21-22E became immediately effective upon that signature by the County Executive. This Second Amended Complaint challenges Chapter 57, as amended by Bill 4-21 and Bill 21-22E. Pursuant to 42 U.S.C. § 1983, Plaintiffs seek declaratory and injunctive relief, compensatory damages, and an award of nominal damages, for the County's violations of their Federal constitutional rights by Bill 21-22E, as alleged below. Plaintiffs further seek an award of attorneys' fees under 42 U.S.C. § 1988, in an amount to be determined, for the violations of their Federal constitutional rights, as alleged below. Plaintiffs seek declaratory and injunctive relief on their State constitutional and statutory law claims.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343 as this Amended Complaint seeks relief afforded by 42 U.S.C. § 1983 for violations of plaintiffs' rights arising under the United States Constitution. This Court has supplemental jurisdiction over claims arising under State law, including claims arising under the Maryland Constitution, under 28 U.S.C. § 1367.

5. The sole defendant, Montgomery County, Maryland, is a Maryland municipality and carries on its regular business and maintains its principal offices in Montgomery County, Maryland. The events, actions and omissions challenged in this Second Amended Complaint arise in Montgomery County, Maryland. Venue is properly in this Court in this matter pursuant to 28 U.S.C. § 1391.

MONTGOMERY COUNTY BILL 4-21

6. In relevant part, Bill 4-21 amended Section 57-1, to broaden the definition of a "gun or firearm" to include "**a ghost gun**" and, in addition, to provide the following new definitions (additions enacted by Bill 4-21 are **bolded**, portions of existing law that are deleted by Bill 4-21 are in *brackets and italics*):

a. A "**3D printing process**" is defined as "**a process of making a three-dimensional, solid object using a computer code or program, including any process in which material is joined or solidified under computer control to create a three-dimensional object**;"

b. A "**ghost gun**" is defined as "**a firearm, including an unfinished frame or receiver, that lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer under federal law or markings in accordance with 27 C.F.R. § 479.102. It does not include a firearm that has been rendered permanently**

inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968;"

c. The term "**Undetectable gun**" is defined as:

(A) a firearm that, after the removal of all its parts other than a major component, is not detectable by walk-through metal detectors commonly used at airports or other public buildings;

(B) a major component that, if subjected to inspection by the types of detection devices commonly used at airports or other public buildings for security screening, would not generate an image that accurately depicts the shape of the component; or

C) a firearm manufactured wholly of plastic, fiberglass, or through a 3D printing process.

d. A "**Major component**" is defined as "**with respect to a firearm: (1) the slide or cylinder or the frame or receiver; and (2) in the case of a rifle or shotgun, the barrel**;"

e. A "Place of public assembly" is defined as **a place where the public may assemble, whether the place is publicly or privately owned, including** a *[government owned]* park *[identified by the Maryland-National Capital Park and Planning Commission]*; place of worship; [elementary or secondary] school; *[public]* library; *[government-owned or -operated]* recreational facility; **hospital**; **community health center; long-term facility**; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building.

7. Bill 4-21 amended Section 57-7 of Chapter 57 to provide (new additions in bold):

(c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:

(1) a ghost gun or major component of a ghost gun;

(2) an undetectable gun or major component of an undetectable gun;

or

(3) a computer code or program to make a gun through a 3D printing process.

(d) A person must not purchase, sell, transfer, possess, or transfer a ghost gun, including a gun through a 3D printing process, in the presence of a minor.

(e) A person must not store or leave a ghost gun, an undetectable gun, or a major component of a ghost gun or an undetectable gun, in a location that the person knows or should know is accessible to a minor.

8. Bill 4-21 also amended Section 57-11 of Chapter 57 to provide (new provisions added by Bill 4-21 are in **bold**, portions deleted by Bill 4-21 are in *brackets* and *italics*):

(a) [A] **In or within 100 yards of a place of public assembly, a** person must not:

(1) sell, transfer, possess, or transport **a ghost gun, undetectable gun,** handgun, rifle, or shotgun, or ammunition **or major component** for these firearms [*, in or within 100 yards of a place of public assembly*]*;* **or**

(2) **sell, transfer, possess, transport a firearm created through a 3D printing process.**

(b) This section does not:

* * * *;

(3) apply to the possession of a firearm or ammunition, **other than a ghost gun or an undetectable gun**, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner **who has a permit to carry the firearm**, or one authorized employee of the business

who has a permit to carry the firearm;

(5) apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, **unless the firearm is a ghost gun or an undetectable gun**; or

* * * *

9. Bill 4-21 left unaltered the penalties for a violation of Chapter 57. Under Section 57-15 of Chapter 57, with an exception for violations of Section 57-8 not applicable here: "Any violation of this Chapter or a condition of an approval certificate issued under this Chapter is a Class A violation to which the maximum penalties for a Class A violation apply." Under Section 1-19 of the County Code, the maximum penalties applicable for a violation of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, are a $1,000 fine and 6 months in jail. Under Section 1-20(c) of the County Code, "[e]ach day any violation of County law continues is a separate offense."

MONTGOMERY COUNTY Bill 21-22E

10. Bill 21-22E (Exhibit B) amends the scope of Chapter 57, including parts of Chapter 57 that were previously amended by Bill 4-21, to provide new definitions and to modify the areas in which the possession, transport, sale and transfer of firearms and components of firearms and "ghost guns" are prohibited. As set forth below, **boldface** designates language for a heading or defined term, underlining designates language added to existing law by Bill 21-22E, as originally introduced, **[single boldface brackets]** designates language deleted from existing law by Bill 21-22E as originally introduced, double underlining designates material added by amendment to Bill 21-22E, as originally introduced and **[[double boldface brackets]]** designates language deleted

from existing law or by amendment to Bill 21-22E, as originally introduced. As thus designated and passed by the Montgomery County Council on November 15, 2022, Bill 21-22E provides:

11. As amended by Bill 21-22E, the Definitions section of Chapter 57 was amended to provide:

Sec. **1. [[Section]] Sections 57-1, 57-7, and 57-**1 **11 [[is]] are amended as follows:**
57-1. Definitions.

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:
(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[[**under**]]** in accordance with federal law; and
(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[[**27 C.F.R. § 479.102**]]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[[It**]]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

(8) "Undetectable gun" means:

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Place of public assembly: A "place of public assembly" is:
(1) a **[[**place where the public may assemble, whether the place is]] publicly or privately owned: **[[**, including a**]]**
(A) park;
(B) place of worship;
(C) school;
(D) library;
(E) recreational facility;
(F) hospital;
(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[[**or**]]**
(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or
(J) childcare facility;
(2) government building, including any place owned by or under the control of the County;
(3) polling place;
(4) courthouse;
(5) legislative assembly; or
(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

12. As amended by Bill 21-22E, section 57-7 of Chapter 57, was amended to provide:

57-7. Access to guns by minors.

(d) A person must not purchase, sell, transfer, possess, or **[[**transfer**]]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

13. As amended by Bill 21-22E, section 57-11(b) of Chapter 57 was amended to delete the exception from the Chapter 57-11(a) prohibitions for a person holding a wear and carry permit issued by the Maryland State Police pursuant to MD Code, Public Safety, §5-306, and thus provides:

57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:
(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or
(2) sell, transfer, possess, or transport a firearm created through a 3D printing process.
(b) This section does not:
1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);
(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;
(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or
(5) **[**apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or**]**
[(6)**]** apply to separate ammunition or an unloaded firearm:
(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or
(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

14. Bill 21-22E, as enacted, went into effect immediately on the date it became law, providing:

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

15. Bill 21-22E, as enacted, provides a new severability clause, stating:

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

16. Bill 21-22E, as enacted, provides an interpretation provision, stating:

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

STATE AND FEDERAL FIREARMS LAW

Federal Firearms Law:

17. Under Federal law, a person may legally manufacture a firearm for his own personal use. See 18 U.S.C. § 922(a). See *Defense Distributed v. Department of State*, 838 F.3d 451 (5th Cir. 2016). Firearms manufactured for personal use are not required to be serialized or engraved with a serial number under federal law. Only federally licensed manufacturers and importers are required to assign serial numbers to the firearms they manufacture or import. See 18 U.S.C. § 923(i).

18. Under Federal law, 18 U.S.C. § 921(a)(3), "[t]he term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm."

19. Effective August 24, 2022, the Federal Bureau of Alcohol, Tobacco and Firearms ("ATF") newly defined the term "frame or receiver" See 27 C.F.R. § 478.12. Federal law does not require the manufacturer or importer to place any serial number on the slide or cylinder of a handgun or on a barrel of a rifle or shotgun, but rather requires that "an individual serial number" be placed on the "frame or receiver." 27 C.F.R. § 478.92(a)(1)(i). See also 27 C.F.R. § 479.102. While these newly promulgated ATF regulations define a "frame or a receiver" in different ways, depending on the type of firearm, in no case is a frame or a receiver defined to mean the slide or cylinder of a handgun or the barrel of a rifle or shotgun. See Definition of "Frame or Receiver," and Identification of Firearms, 87 Fed. Reg. 24652, 24735-2438 (April 26, 2022), amending 27 C.F.R. § 478.12. Maryland law does not regulate the placement of serial numbers. Section 4 of Bill 21-22E requires that Chapter 57 and Bill 21-22E "must be construed in a manner that is consistent" with these ATF regulations. A frame or receiver that has been serialized by a federally regulated firearms manufacturer is treated as a "firearm" under Federal law and is thus subject to the full panoply of federal regulation, including the performance of a background check otherwise required by federal law.

20. Persons otherwise prohibited from owning firearms are still legally barred from the manufacture, sale, transfer, or possession of modern firearms or modern ammunition, regardless of the method of manufacture. Such possession, actual or constructive, is a violation of 18 U.S.C. §

922(g), which is punishable by up to 10 years imprisonment under federal law. See 18 U.S.C. § 924(a)(2). Possession of a firearm by a prohibited person is likewise a serious crime under Maryland law. See MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1).

21. Under current federal law, it is unlawful to "manufacture, import, sell, ship, deliver, possess, transfer, or receive" any firearm that is not "detectable" by a "Security Exemplar" or any "major component" of which does not show up accurately on airport x-ray machines. 18 U.S.C. § 922(p). A knowing violation of that prohibition is a federal felony, punishable by five years of imprisonment and a fine. See 18 U.S.C. § 924(f). For these purposes, federal law provides that "the term "Security Exemplar" means an object, to be fabricated at the direction of the Attorney General, that is-- (i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and (ii) suitable for testing and calibrating metal detectors." 18 U.S.C. § 922(p)(2)(C).

22. Law-abiding Americans, including hobbyists, have lawfully manufactured firearms for personal use since before the Revolutionary War and that practice continues up to the present day. While there is no definitive count of such personal-use firearms, the total number of such firearms manufactured for personal use is undoubtedly in the hundreds of thousands and are in common use throughout the United States and Maryland. Such firearms manufactured for personal use include rifles and pistols and all such firearms manufactured for personal use may be used for legitimate lawful purposes, including self-defense in and outside the home.

The Second Amendment

23. The Second Amendment is applicable to the States as incorporated through the Due Process Clause of Fourteenth Amendment because the right to "keep and bear Arms" is a fundamental constitutional right essential to ordered liberty. *McDonald v. City of Chicago*, 561 U.S.

742 (2010). "[T]he Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding." *District of Columbia v. Heller*, 554 U.S. 570, 582 (2008). The Second Amendment protects arms that are "typically possessed by law-abiding citizens for lawful purposes." (Id. at 625). Privately made firearms ("PMFs") are bearable arms in common use and are typically possessed by law-abiding citizens for lawful purposes. Federal regulations provide that federal firearms licensees are authorized to engrave serial numbers onto the frame or receiver of any PMF that may come into their possession overnight. See 87 Fed. Reg. at 24667, 24707; 27 C.F.R. § 478.92(vi)(B). PMFs are therefore protected arms under the Second Amendment. *Heller*, 554 U.S. at 627 ("the sorts of weapons protected were those 'in common use at the time.'"). See also *Bruen*, 142 S.Ct. at 2118. The Second Amendment guarantees a right to use and possess firearms "for the core lawful purpose of self-defense." *Heller*, 554 U.S. at 630.

24. In *Bruen*, the Supreme Court held that the Second Amendment right to bear arms means "a State may not prevent law-abiding citizens from publicly carrying handguns because they have not demonstrated a special need for self-defense." 142 S.Ct. at 2135 n.8. The Second Amendment thus "presumptively guarantees" an individual's "right to 'bear' arms in public for self-defense." 142 S.Ct. 2135. The Court ruled that "the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." 142 S.Ct. at 2129. Under this test, "the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." 142 S.Ct. at 2127. Thus, "when the Second Amendment's plain text covers an

individual's conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." 142 S.Ct. at 2129-30.

Maryland State Firearms Law:

25. MD Code, Criminal Law, 4-203(a)(1), provides "[e]xcept as provided in subsection (b) of this section, a person may not: (i) wear, carry, or transport a handgun, whether concealed or open, on or about the person; (ii) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State." A violation of 4-203(a) is a strict liability offense, and a person may be convicted of the offense without regard to intent, knowledge or state of mind. *Lawrence v. State*, 476 Md. 384, 257 A.3d 588 (2021). A person convicted of a violation of 4-203(a) "is subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine of not less than $250 and not exceeding $2,500 or both." MD Code, Criminal Law, 4-203(c)(2)(i).

26. Subsection (b)(2) of Section 4-203 provides that Section 4-203(a) does not prohibit "the wearing, carrying, or transporting of a handgun, in compliance with any limitations imposed under § 5-307 of the Public Safety Article, by a person to whom a permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3 of the Public Safety Article."

27. Subsection (b)(3) of Section 4-203 further provides that Section 4-203 does not prohibit "the carrying of a handgun on the person or in a vehicle while the person is transporting the handgun to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is

unloaded and carried in an enclosed case or an enclosed holster." Such transport and carriage of long guns, such as rifles and shotguns, are permitted under Maryland law without restriction.

28. Subsection (b)(4) of Section 4-203 further provides that Section 4-203 does not prohibit "the wearing, carrying, or transporting by a person of a handgun used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources-sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster;"

29. Subsection (b)(5) of Section 4-203 further provides that Section 4-203 does not prohibit " the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster."

30. Subsection (b)(6) of Section 4-203 further provides that Section 4-203 does not prohibit "the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases." Such persons are not required to possess or obtain a Maryland carry permit under MD Code, Public Safety, § 5-306, for such uses and possession. There is no limitation on the number of handguns or types of ammunition that may be possessed, worn, carried or transported under this provision of Section 4-203(b)(6). Such transport, wear and carriage of rifles and shotguns in a person's residence, real estate or business are permitted under Maryland law without restriction.

31. Subsection (b)(7) of Section 4-203 further provides that Section 4-203 does not prohibit "the wearing, carrying, or transporting of a handgun by a supervisory employee: (i) in the course of employment; (ii) within the confines of the business establishment in which the supervisory employee is employed; and (iii) when so authorized by the owner or manager of the business establishment." Such persons are not required to possess or obtain a Maryland carry permit under MD Code, Public Safety, § 5-306. There is no limitation on the number of handguns or ammunition that may be possessed, worn, carried or transported under this provision of Section 4-203(b)(7). There is no limitation on the number of supervisory employees whom the employer may authorize to carry a firearm under this section. Such transport, wear and carriage of rifles and shotguns by business employees on business premises are permitted under Maryland law without restriction.

32. With the exception of possession in a vehicle of a **loaded** long gun by persons **without** a wear and carry permit, which is prohibited by MD Code, Natural Resources, § 10-410(c), transport and carriage of loaded long guns, such as rifles and shotguns, in public is permitted under Maryland law, unless taking place at specific places in which all firearms are banned, such as "public school property," MD Code, Criminal Law, § 4-102(b).

33. Under MD Code, Public Safety, § 5-133(d)(2)(i), a person under the age of 21 may temporarily transfer and possess a regulated firearm, including a handgun, if the person is "1. under the supervision of another who is at least 21 years old and who is not prohibited by State or Federal law from possessing a firearm; and 2. acting with the permission of the parent or legal guardian of the transferee or person in possession." Under MD Code, Public Safety, § 5-133(d)(2)(iv), a person under the age of 21 may temporarily transfer or possess a regulated firearm, including a handgun, if the person is "1. participating in marksmanship training of a recognized organization; and 2. under

the supervision of a qualified instructor." Such transfer or possession of a long gun by or to a person under 21 is permissible without restriction.

34. MD Code, Criminal Law, § 4-104, expressly permits a minor child under the age of 16 to have access to any firearm if that access "is supervised by an individual at least 18 years old" or if the minor child under the age of 16 has a certificate of firearm and hunter safety issued under § 10-301.1 of the Natural Resources Article of the Maryland Code. By necessary implication, access to a firearm by a minor child between the ages of 16 and 18 is permitted by Section 4-104 without restriction.

35. The regulation of unserialized firearms is a matter of significant State-wide and national interest. In the 2021 General Assembly, such unserialized firearms were addressed in three bills. Two bills, House Bill 638 and Senate Bill 624, would have imposed extensive regulation on the possession and transfer of ghost guns, but would have also afforded a path for existing owners to retain possession of their existing, unserialized firearms that they had lawfully manufactured for personal use. One bill, House Bill 1291, would have banned unserialized firearms manufactured for personal use completely. Similar legislation was proposed in the 2020 General Assembly session, with House Bill 910 and Senate Bill 958, and in the 2019 General Assembly session, with House Bill 740 and Senate Bill 882. House Bill 740 passed the House of Delegates in 2019, and it instructed the Maryland State Police to "develop a plan for a system in the State for the registration of firearms not imprinted with a serial number issued by a federally licensed firearms manufacturer or importer and submit a report describing the system . . . ." In the 2021 Session, provisions of House Bill 638 were incorporated into other legislation that had passed the Senate (Senate Bill 190), and that bill, as amended, passed the House Judiciary Committee and was reported to the floor of the House of Delegates, where it was further amended. That bill ultimately did not pass the House.

36. In the 2022 Session, the Maryland General Assembly enacted Senate Bill 387 and House Bill 425, into law on April 9, 2022, after Governor Hogan advised the General Assembly that he would allow these two bills to become law without his signature. SB 387 was thus enacted under Article II, Section 17(b) of the Maryland Constitution as Chapter 19. HB 425 was enacted under Article II, Section 17(b) of the Maryland Constitution, as Chapter 18. SB 387/HB 425 creates specific deadlines for compliance by existing owners of PMFs, including those regulated by Chapter 57, as amended by Bill 4-21 and Bill 21-22E. Section 57-1, as amended by Bill 4-21 and as further amended by Bill 21-22E, defines a PMF to be a "ghost gun," and Chapter 57 regulates such a PMF in a manner that is in conflict and inconsistent with this newly enacted, State-wide legislation. Senate Bill 387 and House Bill 425 are codified at MD Code, Public Safety, §§ 5-701-5-706.

37. Under Maryland law, MD Code, Public Safety, § 5-101(h)(1), a "firearm" is defined as "(i) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or (ii) the frame or receiver of such a weapon." Maryland law does not define "frame or receiver." Maryland law does not define or regulate the possession, sale or transfer of "major components" for firearms. Fully finished frames or receivers are commonly sold with serial numbers already engraved in compliance with Federal law and such fully finished frames or receivers may be lawfully assembled by law-abiding persons for personal use by obtaining other components that lawfully available and sold throughout the United States. Such serialized firearms are not "ghost guns" under the County's definition of that term.

38. Maryland State law does not prohibit the possession of a loaded or unloaded long gun, e.g., a shotgun or rifle, in public. Maryland State law broadly prohibits a person from the wear, carry or transport of a loaded or unloaded handgun, MD Code, Criminal Law, 4-203(a), but expressly makes exceptions to that prohibition in MD Code, Criminal Law, 4-203(b). One such

exception is the wearing, carrying and transport of a loaded handgun on "real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases." MD Code, Criminal Law, 4-203(b)(6). Maryland State law likewise expressly permits the wearing, carrying, or transporting of a loaded or unloaded handgun, "by a person to whom a permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3 of the Public Safety Article." MD Code, Criminal Law, 4-203(b)(2).

39. Effective in July 2022, in compliance with the Supreme Court's June 23, 2022 decision in *Bruen*, and on the advice of the Maryland Attorney General and at the direction of the Governor, the Maryland State Police began to issue wear and carry permits on a "shall issue" basis without regard to whether the applicant showed that he or she possessed a "good and substantial reason" otherwise required by Maryland State law, MD Code, Public Safety, § 5-306(a)(6)(ii). The wear and carry permits issued by the Maryland State Police specifically state on the back of every permit that the permit is "not valid where firearms are prohibited by law."

40. Like federal law, Maryland State law defines "frames or receivers" as firearms and regulates them as firearms. MD Code, Public Safety, 5-101(h). While Maryland State law does not define the terms "frames or receiver," Maryland State law does define an "unfinished frame or receiver" to mean "a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm." MD Code, Public Safety, § 5-701(h). Under Section 3 of House Bill 425 and Senate Bill 387, as enacted, the scope and meaning of "unfinished frame or receiver" is determined by reference to the 2022 federal regulations promulgated by the ATF.

41. Maryland State law provides that a person "may not purchase, receive, sell, offer to sell, or transfer an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms." MD Code, Public Safety, § 5-703(a)(1). *Possession* of an "unfinished frame or receiver" is prohibited as of March 1, 2023, unless the firearm is "imprinted by a federally licensed firearms manufacturer, federally licensed firearms importer, or other federal licensee authorized to provide marking services, with a serial number in compliance with all federal laws and regulations applicable to the manufacture and import of firearms," MD Code, Public Safety, § 5-703(b)(2)(i), **OR** unless the firearm has been imprinted with a serial number by such a federal licensee in a specified manner and has been registered with the Secretary of the Maryland State Police. MD Code, Public Safety, § 5-703(b)(2)(ii). Either type of serialization is permissible under Maryland State law.

42. Under Maryland State law, the prohibition on the possession of an unfinished frame or receiver does not apply to a possession of a firearm "unless a person knew or reasonably should have known that the firearm was not imprinted with a serial number as described under this subsection." MD Code, Public Safety, § 5-703(b)(1)(i). The prohibition of possession likewise does not apply to possession of an unfinished frame or receiver that was received through inheritance, if the frame or receiver is serialized within 30 days after such receipt. MD Code, Public Safety, § 5-703(b)(1)(ii). The prohibition on possession of an unfinished frame or receiver likewise does not apply to "a person that made or manufactured the unfinished frame or receiver, without the use of any prefabricated parts, and who is not otherwise prohibited from possessing the unfinished frame or receiver, for a period not exceeding 30 days after the person made or manufactured the unfinished

frame or receiver." MD Code, Public Safety, § 5-703(b)(1)(iii). The Maryland State Police is authorized by Maryland State law to issue regulations to carry out these provisions. MD Code, Public Safety, § 5-705.

43. Subtitle 7 of Title 5 of the Public Safety Article "does not apply to a sale, an offer to sell, a transfer, or a delivery of a firearm or an unfinished frame or receiver to, or possession of a firearm or unfinished frame or receiver by: (i) a federally licensed firearms dealer; (ii) a federally licensed firearms manufacturer; or (iii) a federally licensed firearms importer; or (3) a transfer or surrender of a firearm or an unfinished frame or receiver to a law enforcement agency." MD Code, Public Safety, § 5-702(2).

MARYLAND CONSTITUTIONAL AND STATUTORY PREEMPTION PROVISIONS

44. Maryland law contains several preemption statutes that broadly preempt local jurisdictions from regulating firearms:

a. MD Code, Public Safety, § 5-104, provides that "[t]his subtitle supersedes any restriction that a local jurisdiction in the State imposes on a sale of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the sale of a regulated firearm."

b. MD Code, Public Safety, § 5-133(a), provides that "[t]his section supersedes any restriction that a local jurisdiction in the State imposes on the possession by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the possession of a regulated firearm."

c. MD Code, Public Safety, § 5-134(a), provides that "[t]his section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a

regulated firearm, and the State preempts the right of any local jurisdiction to regulate the transfer of a regulated firearm."

d. MD Code, Public Safety, § 5-207(a), enacted into law in 2021 as part of House Bill 4, provides that "[t]his section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a rifle or shotgun, and the State preempts the right of any local jurisdiction to regulate the transfer of a rifle or shotgun."

e. MD Code, Criminal Law, § 4-209, provides:

> (a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of:
>
> (1) a handgun, rifle, or shotgun; and
> (2) ammunition for and components of a handgun, rifle, or shotgun.
>
> Exceptions
>
> (b)(1) A county, municipal corporation, or special taxing district may regulate the purchase, sale, transfer, ownership, possession, and transportation of the items listed in subsection (a) of this section:
>
> (i) with respect to minors;
> (ii) with respect to law enforcement officials of the subdivision; and
> (iii) except as provided in paragraph (2) of this subsection, within 100 yards of or in a park, church, school, public building, and other place of public assembly.
>
> (2) A county, municipal corporation, or special taxing district may not prohibit the teaching of or training in firearms safety, or other educational or sporting use of the items listed in subsection (a) of this section.

For purposes of these preemption provisions, a "regulated firearm" includes any handgun. MD Code, Public Safety, § 5-101(r)(1). For purposes of these preemption provisions, the terms "handgun," "rifle," and "shotgun" are defined in MD Code, Criminal Law, § 4-201.

45. Section 6 of Chapter 13, of the 1972 Sessions Laws of Maryland provides: "That all restrictions imposed by the law, ordinances, or regulations of the political subdivisions on the

wearing, carrying, or transporting of handguns are superseded by this Act, and the State of Maryland hereby preempts the right of the political subdivisions to regulate said matters." This provision has been held to preclude Montgomery County from regulating the sale of ammunition in the County. See *Montgomery County v. Atlantic Guns, Inc.,* 302 Md. 540, 489 A.2d 1114 (1985).

46. Montgomery County has chartered home rule under Section 3 of Article XI-A of the Maryland Constitution and, under that provision, the County is empowered to enact "local laws." Such local laws are "subject to the Constitution and Public General Laws of this State." (Id.). Article XI–A, § 6, of the Maryland Constitution provides further that "this Article shall not be construed to authorize the exercise of any powers in excess of those conferred by the Legislature upon said Counties or City as this Article sets forth." Under these provisions, Montgomery County is not empowered to enact "general laws." Under Maryland law, a general law "deals with the general public welfare, a subject which is of significant interest not just to any one county, but rather to more than one geographical subdivision, or even to the entire state." *Steimel v. Board*, 278 Md. 1, 5, 357 A.2d 386, 388 (1976). Thus, "some statutes, local in form, have been held to be general laws, since they affect the interest of the whole state." *Cole v. Secretary of State*, 249 Md. 425, 434, 240 A.2d 272, 278 (1968). Similarly, "[a] law may be local in the sense that it operates only within a limited area, but general in so far as it affects the rights of persons without the area to carry on a business or to do the work incident to a trade, profession, or other calling within the area." *Dasch v. Jackson*, 170 Md. 251, 261, 183 A. 534, 538 (1936).

47. Under the Maryland Express Powers Act, MD Code, Local Government, § 10-202(a), a "[a] county may enact local laws and may repeal or amend any local law enacted by the General Assembly on any matter covered by the express powers in this title." However, MD Code, Local Government, §10-206(a), provides that a county may pass an ordinance, resolution, or bylaw

only if such laws are "not inconsistent with State law." Similarly, MD Code, Local Government, §10-206(b), provides that "[a] county may exercise the powers provided under this title only to the extent that the powers are not preempted by or in conflict with public general law." Under binding precedent, a local law is inconsistent with State law when the local law prohibits an activity which is permitted by State law, or permits an activity prohibited by state law. See *City of Baltimore v. Sitnick*, 254 Md. 303, 317, 255 A.2d 376, 382 (1969) ("a political subdivision may not prohibit what the State by general public law has permitted").

PARTIES

Plaintiffs:

48. Plaintiff MARYLAND SHALL ISSUE, INC. ("MSI") is a Maryland corporation, located at 9613 Harford Rd., Ste C #1015, Baltimore, MD 21234-2150. MSI is an Internal Revenue Service certified Section 501(c)(4), non-profit, non-partisan, all-volunteer membership organization with approximately 2500 members statewide. MSI is dedicated to the preservation and advancement of gun owners' rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. The purposes of MSI include promoting the exercise of the right to keep and bear arms and education, research, and legal action associated with the constitutional right to privately own, possess and carry firearms.

49. MSI has one or more members who live in Montgomery County, and who possessed "ghost guns" banned by Chapter 57 in their homes and/or in their businesses and engaged in other conduct with "ghost guns" regulated by Chapter 57. These MSI members were forced to dispossess themselves of such "ghost guns" by the enactment of Bill 4-21. MSI has one or members in Montgomery County who legally sold so-called "ghost guns" and which are now banned by Chapter

57. Possession of these privately made firearms was perfectly legal under Maryland State law until the enactment of Bill 4-21, which made possession illegal in Montgomery County. But for the enactment of Bill 4-21 and Bill 21-22E and the threat of prosecution by the County, these members of MSI would continue to possess, transport, sell or transfer these privately made firearms and intend to do so in the future. Such MSI members fear prosecution under Chapter 57 if they should do so.

50. MSI has one or more members who live outside of Montgomery County, but who travel to and/or work within Montgomery County. MSI has one or more members who live in and/or travel through Montgomery County and who also possess a Maryland wear and carry permit issued by the Maryland State Police and the permit possessed by each such member states that the permit is "not valid where firearms are prohibited by law." These members with carry permits have in the past possessed and transport loaded firearms at or within 100 yards of the locations banned by Chapter 57, as amended Bill 21-22E, and possessed and transported such firearms throughout the County, except at those locations in which possession or transport was otherwise prohibited by State or federal law. These members of MSI with carry permits intend to continue to possess and carry loaded firearms at or within 100 yards of such locations banned by Chapter 57. These MSI members reasonably fear prosecution under Chapter 57 if they do so. Among the membership of MSI are "qualified instructors" who engage in firearms training, including firearms instruction of minors.

51. MSI has one or more members who live in Montgomery County, but who do not have a Maryland carry permit and who have, in the past, lawfully possessed or transported loaded firearms within 100 yards of at least one of the locations in which the possession and transport of loaded firearms are banned by Chapter 57. These MSI members intend to possess and carry a loaded firearm outside the home, as otherwise permitted by State and federal law, but reasonably fear prosecution under Chapter 57 if they do so.

52. One or more MSI members with a wear and carry permit issued by the Maryland State Police intend to possess and transport firearms in the future at or within 100 yards the locations newly banned by Chapter 57, as amended by Bill 4-21 and Bill 21-22E, except for those locations in which the possession or transport of loaded firearms by permit holders would otherwise be prohibited by State or federal law. One or more MSI members without a wear and carry permit issued by the Maryland State Police intend to possess and transport firearms in the future at or within 100 yards the locations newly banned by Chapter 57, as amended by Bill 4-21 and Bill 21-22E, as otherwise permitted by State or federal law.

53. MSI filed extensive comments with Montgomery County, objecting to Bill 4-21 prior to its enactment. A true and correct copy of those comments are attached to this Second Amended Complaint as Exhibit C. MSI likewise filed extensive comments with Montgomery County, objecting to Bill 21-22E prior to its enactment. A true and correct copy of those comments, along with other testimony presented to the County Council, are attached to this Second Amended Complaint as Exhibit D. The Chairman of MSI also presented oral testimony to the Montgomery County Council in opposition to Bill 21-22E on behalf of MSI. As a participant in this legislative process, MSI has represented the interests of its members in the subject matter addressed by Chapter 57.

54. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, burdens the ability of MSI members to keep and bear arms within Montgomery County, including firearms and "major components" that are otherwise lawful in Maryland, but nonetheless are banned by Chapter 57. These MSI members have standing to challenge Chapter 57, as amended by Bill 4-21 and Bill 21-22E. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-62 (1992) ("Where "the plaintiff is himself an object of the action ... there is ordinarily little question that the action or inaction has

caused him injury, and that a judgment preventing or requiring the action will redress it."). MSI has representational standing to sue on behalf its members who live in Montgomery County or who travel through Montgomery County or who otherwise are injured by the County's unlawful actions. *Hunt v. Washington State Apple Advert. Com'n.,* 432 U.S. 333, 342 (1977). Each of MSI's members who possesses, transports, sells or transfers firearms or "ghost guns" in Montgomery County is injured by Chapter 57, as amended by Bill 4-21 and Bill 21-22E. MSI has at least one such member. The interests that MSI seeks to protect are germane to MSI's purpose and neither the claims asserted herein nor the relief requested require the participation of MSI's individual members. See *Retail Industry Leaders Ass' v. Fielder,* 475 F.3d 180, 186 (4th Cir. 2007).

55. Plaintiff ENGAGE ARMAMENT LLC ("Engage" or "Engage Armament"), is a Maryland corporation, and is located at 701 E. Gude Dr., Ste 101, Rockville, MD 20850, within Montgomery County. Engage is a federally licensed Type I dealer (retail dealer) a Type VII dealer (firearms manufacturer) and Type X dealer (manufacturer of destructive devices and ammunition for such devices). See 27 C.F.R. § 478.41 *et seq*. Pursuant to MD Code, Public Safety, § 5-106, Engage is a Maryland State licensed firearms dealer and is thus authorized by State law to engage "in the business of selling, renting or transferring regulated firearms." As a federal licensee, Engage is expressly exempt from subtitle 7, of Title 5, of the Public Safety Article of the Maryland Code and thus may sell, offer to sell, deliver and possess an "unfinished frame or receiver." MD Code, Public Safety, § 5-702(2). As such a licensee, Engage is also authorized by State law to perform serialization services for "unfinished frames or receivers" for the public. MD Code, Public Safety, § 5-703(b). Since the enactment of Bill 4-21, Engage has been prohibited from possessing the "ghost guns" banned by Chapter 57, and has thus likewise been prohibited from performing the serialization services otherwise expressly contemplated and permitted by MD Code, Public Safety, § 5-703(b).

As a consequence, Engage has lost substantial sales and fees associated with those activities and services.

56. As part of its business as a Type VII federally licensed manufacturer, Engage manufactures firearms and uses and possesses components, including slides, cylinders, barrels and frames and receivers, and then assembles such components into finished firearms, which it then sells, all in full compliance with Federal and State law. From time to time, prior to the enactment of Bill 4-21, Engage stocked and sold unserialized unfinished framers or receivers, which were not frames or receivers under federal law, but which could be lawfully machined and built into firearms by the purchaser for personal use. These otherwise lawful items are banned as "ghost guns" by Chapter 57, as amended by Bill 4-21 and Bill 21-22E. But for the enactment of Bill 4-21 and Bill 21-22E, Engage would continue to conduct such business in compliance with State and federal law, but has not done so it fears prosecution under Chapter 57. Engage intends to continue to conduct such business in compliance with State and federal law. Engage reasonably fears prosecution under Chapter 57 if it does so. As part of its business, Engage has transferred firearms in the presence of a minor who is otherwise accompanied by a parent. Engage possesses on its business premises an extensive collection of books and articles related to firearms and other subjects and, from time to time, loans such materials to others and, in that sense, may arguably be said to possess and operate a privately owned library. Each of the owners and the employees have access to this "library." The business location of Engage is arguably at or within 100 yards of a "place of public assembly" as defined by Chapter 57, as amended by Bill 21-22E.

57. Plaintiff ANDREW RAYMOND is an individual co-owner of Engage, and resides in Montgomery County, Maryland. Plaintiff Raymond regularly conducts the business activities of Engage. He is the father of two minor children who reside with him at his residence in Montgomery

County. From time to time, prior to the enactment of Bill 4-21, he possessed, assembled and disassembled a firearm in the presence of a minor child for purposes of instruction and intends to again possess, disassemble and assemble such "ghost guns" in the presence of his minor child. He reasonably fears prosecution under Chapter 57 if he does so. He may possess and transport unserialized firearm parts and components to and from Engage as part of the business of Engage. Prior to the enactment of Bill 4-21, he assembled firearms in the presence of his children in his residence. He intends to do so in the future but reasonably fears prosecution under Chapter 57 if he does so.

58. Prior to the enactment of Bill 4-21, plaintiff Andrew Raymond owned and possessed "ghost guns" as defined by Chapter 57 in Montgomery County and intends to possess such "ghost guns" in the future. He reasonably fears prosecution under Chapter 57 if he does so. Pursuant to MD Code, Criminal Law, 4-203(b)(7), and as co-owner of Engage, he has authorized more than one supervisory employee at Engage to wear and carry loaded firearms within the business confines of Engage for their self-protection and for the protection of the business and intends to continue to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. At Engage, he possesses more than one firearm for the protection of himself and his business, as permitted by Maryland State law, and intends to continue to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. He possesses a wear and carry permit issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." As permitted by State law, he regularly carries a loaded firearm at work at Engage, while commuting to and from Engage, and at other places within the County, as otherwise allowed by Maryland State law. He intends to continue to carry a loaded firearm in the County in accordance with State and

federal law. He reasonably fears prosecution under Chapter 57 if he does so. He is a member of MSI.

59. Plaintiff Andrew Raymond commutes daily to Engage from his home in Montgomery County, Maryland. During that commute, he passes within 100 yards of multiple places of worship, public parks, assisted living facilities, child care centers, schools, a police station, County owned or controlled property, and long-term facilities for assisted living. There is no practical way for him to commute to work without coming within 100 yards of such locations. He intends to continue to commute to his employment at Engage while carrying a loaded firearm in the County as otherwise permitted by State law, and reasonably fears prosecution under Chapter 57 if he does so. Prior to the enactment of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, he possessed within his home one or more "ghost guns" as defined by Chapter 57, including a rifle and a pistol "ghost gun" and intends to again possess such "ghost guns" in the future. He reasonably fears prosecution under Chapter 57 if he does so.

60. Plaintiff CARLOS RABANALES is an individual co-owner of Engage. He resides in Frederick County, Maryland, and regularly conducts the business activities of Engage in the County. As co-owner of Engage, he has authorized more than one supervisory employee at Engage to wear and carry loaded firearms within the business confines of Engage for their self-protection and for the protection of the business and intends to continue to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. At Engage, he possesses more than one firearm for the protection of himself and his business, as permitted by Maryland State law and intends to continue to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so.

61. Prior to the enactment of Bill 4-21, plaintiff Carlos Rabanales possessed in the County one or more "ghost guns" as defined by Chapter 57, and intends to again possess such "ghost

guns" in the future. He reasonably fears prosecution under Chapter 57 if he does so. At Engage, he possesses more than one firearm for the protection of himself and his business. He may possess and transport unserialized firearm parts and components to and from Engage as part of the business of Engage. As permitted by State law, he regularly carries a loaded firearm at work at Engage and while commuting to and from Engage, as well as at other places within the County, as otherwise allowed by Maryland State law. He intends to carry a loaded firearm in the future in the County, in accordance with State and federal law. He reasonably fears prosecution under Chapter 57 if he should do so. He possesses a wear and carry permit issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." He is a member of MSI.

62. Plaintiff Carlos Rabanales commutes daily to Engage in Montgomery County from his home in Frederick County, Maryland. During that commute, he routinely passes within 100 yards of child care facilities, parks, churches, a correctional facility, health care facilities, fairgrounds, recreational facilities (playgrounds), private and public schools, a hospital, a community center and government buildings. There is no practical way for him to commute to work without coming within 100 yards of most if not all such locations. He intends to continue to carry a loaded firearm during his commute to his place of employment at Engage and elsewhere in Montgomery County as otherwise permitted by State law. He reasonably fears prosecution under Chapter 57 if he does so.

63. Plaintiff BRANDON FERRELL is an individual supervisory employee of Engage, and resides in Montgomery County, Maryland. His residence in Gaithersburg is arguably within 100 yards of a park and thus he would violate Chapter 57 if he were to step outside of his home onto his own real estate with a loaded firearm as he has done many times in the past and intends to continue

to do so in the future, as permitted by Maryland State law. He reasonably fears prosecution under Chapter 57 if he does so. Pursuant to MD Code, Criminal Law, 4-203(b)(7), he is a supervisory employee at Engage and wears and carries a fully loaded handgun in the course of his employment at Engage, "within the confines of a business establishment" as "authorized" by the owners of Engage. Prior to the enactment of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, he possessed within his home one or more "ghost guns" as defined by Chapter 57, and intends to again possess such "ghost guns" in the future. He reasonably fears prosecution under Chapter if he does so. He is a member of MSI.

64. Plaintiff Brandon Ferrell's home is located within 100 yards of a County park and thus he cannot step outside of his home onto his own real estate with a loaded firearm, as authorized by MD Code, Criminal Law, 4-203(b)(6), as he has done in the past and intends to continue to do so in the future, without violating Chapter 57, as amended by Bill 4-21 and Bill 21-22E. He reasonably fears prosecution under Chapter 57 if he does so. He is a member of MSI.

65. While plaintiff Brandon Ferrell does not currently possess a wear and carry permit, he has applied for such a permit and expects to be issued such a permit within the 90 day window in which permit applications are adjudicated by the Maryland State Police, as specified in MD Code, Public Safety, 5-312(a)(2). During his daily commute to Engage, he passes within 100 yards of multiple places of worship, parks, long-term facilities for senior citizens, child care facilities, schools, places of worship, County owned or controlled property, a recreational facility and long-term facilities for assisted living. Once he is issued a wear and carry permit, he intends to carry a loaded firearm while commuting and while otherwise traveling within the County. There is no practical way for him to commute to work without coming within 100 yards of the locations in

which possession and transport of a loaded firearm is banned by Chapter 57, as amended by Bill 21-22E. He reasonably fears prosecution under Chapter 57 if he should he do so.

66. Plaintiff DERYCK WEAVER is a supervisory employee of Engage, and resides in Bethesda, Maryland. His home is arguably within 100 yards of a "place of public assembly" as that term is defined in Bill 21-22E, and thus he cannot step outside of his home onto his property with a loaded firearm, as he has done many times in the past and intends to continue to do so in the future, without violating Chapter 57, as amended by Bill 4-21 and Bill 21-22E. He reasonably fears prosecution under Chapter 57 if he does so. He is the father of one minor child who lives with him at his residence. He is a qualified handgun instructor within the meaning of MD Code, Public Safety, §5-101(q), as well as a National Rifle Association-certified handgun instructor and National Rifle Association-certified Chief Range Safety Officer. He possesses a wear and carry permit as issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." He is a member of MSI.

67. From time to time, prior to the enactment of Bill 4-21, plaintiff Deryck Weaver possessed, assembled and disassembled a "ghost gun" and other firearms in the presence of a minor child for purposes of instruction and intends to again disassemble and assemble such "ghost guns" and other firearms in the presence of his minor child. He has possessed and transported "ghost guns" in the presence of his child and intends to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. Pursuant to MD Code, Criminal Law, 4-203(b)(7), he has worn and carried a fully loaded handgun in the course of his employment at Engage, "within the confines of a business establishment" as "authorized" by the owners of Engage and intends to continue to do so in the future. He reasonably fears prosecution under Chapter 57, as amended by Bill 4-21 and Bill 21-22E if he does so. He is a member of MSI.

68. Plaintiff Deryck Weaver commutes daily to Engage from his home in Montgomery County, Maryland. During his commute to Engage, he regularly passes within 100 yards of multiple places of worship, multiple parks, health care facilities, child care facilities, schools, a library, a County owned or controlled property, a recreational facility and long-term facilities for assisted living. There is no practical way for him to commute to work without coming within 100 yards of such locations. He intends to continue to carry a loaded firearm during his commute to his employment at Engage and elsewhere in Montgomery County, as otherwise permitted by State law, and reasonably fears prosecution under Chapter 57 if he does so.

69. Plaintiff JOSHUA EDGAR works as a contractor at Engage, and resides in Gaithersburg, Maryland. His residence is within 100 yards of a park and thus he would immediately be in violation of Chapter 57, as amended by Bill 21-22E and Bill 4-21, should he step outside his home onto his real estate with a loaded firearm as he has done many times in the past and intends to continue to do so in the future, as permitted by MD Code, Criminal Law, 4-203(b)(6). He reasonably fears prosecution under Chapter 57 if he does so. Prior to the enactment of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, he possessed within his home one or more "ghost guns" as defined by Chapter 57, and intends to again possess such "ghost guns" in the future. He reasonably fears prosecution under Chapter if he does so. From time to time, prior to the enactment of Bill 4-21, he assembled and disassembled a "ghost gun" in the presence of a minor child for purposes of instruction and intends to again disassemble and assemble such "ghost guns" in the presence of his minor child. He fears prosecution under Chapter 57 if he should do so. He possesses a wear and carry permit issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." He is a member of MSI.

70. Plaintiff I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC, ("ICE Firearms") is a Maryland corporation located at 24129 Pecan Grove Lane, Gaithersburg, Maryland. ICE Firearms provides firearm training to individuals with handguns, rifles and shotguns. ICE Firearms is arguably located within 100 yards of a "place of public assembly" as that term is used in Chapter 57, as amended by Bill 21-22E. ICE Firearms provides instruction in the safe use of firearms to adults, and to minors with the consent of their parents. Prior to the enactment of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, ICE Firearms possessed within its location one or more "ghost guns" as defined by Chapter 57, and intends to again possess such "ghost guns" in the future. It reasonably fears prosecution under Chapter if it does so

71. Plaintiff RONALD DAVID is the owner and operator of ICE Firearms. He resides in Gaithersburg, Maryland and his home is arguably within 100 yards of a school as that term is used by Bill 21-22E. Thus, should he step outside his home onto his real estate with a loaded firearm, as he has done many times in the past and intends to continue to do so in the future, as permitted by Maryland State law, he would violate Chapter 57. He reasonably fears prosecution under Chapter 57 if he does so. He is a "qualified handgun instructor" within the meaning of MD Code, Public Safety, § 5-101(q), and a National Rifle Association-certified Training Counselor in every shooting discipline. He possesses a wear and carry permit issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." He is a member of MSI.

72. As permitted by State law, plaintiff Ronald David regularly carries a loaded firearm with him while (1) attending services at his place of worship located in the County, (2) at health care facilities during appointments with health care professionals in the County, (3) at fairgrounds in the County, (4) at recreational facilities within the County, and (5) at a park within the County, and intends to continue to do so at all these locations in the future. He reasonably fears prosecution under

Chapter 57 if he does so. He also regularly carries a loaded firearm with him while otherwise traveling within the County and does so within 100 yards of public and private schools, a polling place, a government building, parks, a library and a senior center, and intends to continue to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. Prior to the enactment of Bill 4-21, he likewise possessed one or more unfinished frames or receivers as defined and banned by Chapter 57 as a "ghost gun," and intends to possess such "ghost guns" in the future. He reasonably fears prosecution under Chapter 57 if he does so.

73. Plaintiff NANCY DAVID resides in Gaithersburg, Maryland, and her home is arguably within 100 yards of a school as that term is used by Chapter 57, as amended by Bill 4-21 and Bill 21-22E. Thus, should she step outside her home onto her real estate with a loaded firearm, as she has done many times in the past and intends to continue to do so in the future, as permitted by Maryland State law, she would violate Chapter 57, as amended by Bill 4-21 and Bill 21-22E. She reasonably fears prosecution under Chapter 57 if she does so. She is a "qualified handgun instructor" within the meaning of MD Code, Public Safety, § 5-101(q). As permitted by State law she regularly carries a loaded firearm while otherwise traveling within the County and does so within 100 yards of schools, a polling place, a government building, parks, a library and intends to continue to do so in the future. She reasonably fears prosecution under Chapter 57 if she does so. She has a wear and carry permit issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." She is a member of MSI.

74. Plaintiff ELIYAHU SHEMONY is an Orthodox Jew who is a former head of security for his synagogue located in the County. He was a member of the Special Forces of the Israeli Defense Force before immigrating to the United States and becoming an American citizen and is highly trained and proficient in the use of firearms. As permitted by State law, and because

Jewish synagogues and communities are under constant threat of attack in the United States[1] and in Montgomery County,[2] he regularly carries a loaded firearm while attending services at his synagogue for his own self-defense and for the defense of others and intends to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. As permitted by State law, he also regularly carries a loaded firearm with him (1) while going to and inside a public library in the County, and (2) while picking up minor children at their private school on private school property and intends to do so in the future. He reasonably fears prosecution under Chapter 57, as amended by Bill 4-21 and Bill 21-22E, if he does so. As permitted by State law, he also regularly carries a loaded firearm within 100 yards of a school, a childcare facility, a polling place, a government building, and the County building in which the County holds legislative assemblies, as well as other locations throughout Montgomery County and intends to do so in the future. He reasonably fears prosecution under Chapter 57 if he does so. He possesses a wear and carry permit issued by the Maryland State Police and that permit states that the permit is "not valid where firearms are prohibited by law." He is a member of MSI.

75. Accompanying this Second Amended Complaint are the sworn declarations of each of the plaintiffs verifying the factual allegations set forth herein. (Exhibits E, F, G, H, I, J, K, L, M). Each of the foregoing individual plaintiffs, each of the two corporate plaintiffs and MSI members

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[1] https://www.nytimes.com/2022/11/04/nyregion/new-jersey-synagogue-security-threat-suspect.html.

[2] https://www.washingtonpost.com/dc-md-va/2022/11/14/bethesda-trail-antisemetic-graffiti/; https://www.washingtonjewishweek.com/sharp-rise-in-anti-semitism-in-maryland-virginia-and-d-c-adl-reports/

are directly regulated by Chapter 57, as amended by Bill 4-21 and Bill 21-22E. Each of these plaintiffs and MSI members is injured by Chapter 57, as amended by Bill 4-21 and Bill 21-22E, in ways that are directly traceable to the enactment of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, and these injuries are redressable through the relief sought in this case. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-62 (1992) ("Where "the plaintiff is himself an object of the action ... there is ordinarily little question that the action or inaction has caused him injury, and that a judgment preventing or requiring the action will redress it.").

76. Chapter 57 is a penal statute as a violation of Chapter 57 is a Class A violation that can result in a $1,000 criminal fine and up to six months imprisonment for each day in which the violation continues. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, contains no *mens rea* requirement of any type and thus these punishments may be imposed without regard to the defendant's intent or knowledge or state of mind.

77. Each of the plaintiffs is entitled to bring a pre-enforcement challenge to Chapter 57, as amended by Bill 4-21 and Bill 21-22E. In order to show injury in a pre-enforcement challenge, plaintiffs need only show "'an intention to engage in a course of conduct arguably affected with a constitutional interest."" *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 162 (2014), quoting *Babbitt v. Farm Workers*, 442 U.S. 289, 298 (1979). See also *FEC v. Cruz*, 142 S.Ct. 1638, 1649 (2022); *PDR Network, LLC v. Carlton & Harris Chiropractic, Inc.,* 139 S.Ct. 2051 (2109) (noting that plaintiffs may bring "both facial, pre-enforcement challenges and as-applied challenges to agency action"). The allegations of each of the plaintiffs satisfy these requirements.

78. Each of the plaintiffs in this case has engaged in constitutionally protected conduct in the past that would have violated Chapter 57, as amended by Bill 4-21 and Bill 21-22E, and each of the plaintiffs affirmatively have alleged that they fully intend to engage in such conduct in the

future. Each of these plaintiffs reasonably fears prosecution under Chapter 57 if they do so. Nothing "requires a plaintiff who wishes to challenge the constitutionality of a law to confess that he will in fact violate that law." *Susan B. Anthony*, 573 U.S. at 163. See also *Cruz,* 142 S.Ct. at 1649; *MedImmune, Inc. v. Genentech, Inc.,* 549 U.S. 118, 129 (2007); *Free Enter. Fund. v. Pub.Co. Acct. Oversight Bd.*, 561 U.S. 477, 490 (2010). Plaintiffs are not required "to risk criminal prosecution to determine the proper scope of regulation." *Dombrowski v. Pfister*, 380 U.S. 479, 487 (1965). Maryland law provides that a plaintiff need only have "an interest such that he or she is personally and specifically affected in a way different from the public generally" to bring a pre-enforcement action. *Pizza di Joey, LLC v. Mayor of Baltimore*, 470 Md. 308, 343-44, 235 A.3d 873 (2020) (collecting cases).

79. "[I]n numerous pre-enforcement cases" the Supreme Court "did not place the burden on the plaintiff to show an intent by the government to enforce the law against it," but rather the Court "presumed such intent in the absence of a disavowal by the government or another reason to conclude that no such intent existed." *Hedges v. Obama*, 724 F.3d 170, 197 (2d Cir. 2013). See *Holder v. Humanitarian Law Project*, 561 U.S. 1, 16 (2010*); Virginia v. American Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988); *Babbitt*, 442 U.S. at 301. The County in this case has not disavowed full enforcement of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, and there is no reason to believe that the County will not fully and vigorously fully enforce Chapter 57 at its time and place of choosing. Under the forgoing principles, the individual and corporate plaintiffs, and MSI, on behalf of its members, all have standing to seek pre-enforcement review of Chapter 57, as amended by Bill 4-21 and Bill 21-22E. See *Maryland Shall Issue, Inc. v. Hogan*, 971 F.3d 199, 217 (4th Cir. 2021).

Defendant:

80. The Defendant is Montgomery County, Maryland, with its principal place and seat located in Rockville, Maryland. Montgomery County is a "person" for purposes of the relief sought by this suit within the meaning of MD Code, Courts and Judicial Proceedings, § 3-401, and 42 U.S.C. § 1983. Chapter 57, as amended by Bill 4-21 and Bill 21-22E. For purposes of Section 1983, the actions challenged herein are official actions and policies of the County. The County may be named and sued *eo nomine* under 42 U.S.C. § 1983. *Monell v. Department of Social Services*, 436 U.S. 658 (1978); *Starbuck v. Williamsburg James City County School Board,* 28 F.4th 529, 533-34 (4th Cir. 2022); *Lytle v. Doyle*, 326 F.3d 463, 471 (4th Cir. 2003).

COUNT I – VIOLATIONS OF THE MARYLAND CONSTITUTION

81. The Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint.

82. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, regulates "matters of significant interest to the entire state." *Cole v. Secretary of State*, 249 Md. 425, 434, 240 A.2d 272, 278 (1968). Chapter 57, as so amended, "affects the rights of persons without the area to carry on a business or to do the work incident to a trade, profession, or other calling within the area." *Steimel v. Board,* 278 Md. 1, 5, 357 A.2d 386, 388 (1976).

83. The General Assembly has repeatedly debated and introduced legislation, in both the House of Delegates and in the Senate, addressing the subject matters regulated by Chapter 57. One such bill, House Bill 740, passed the House of Delegates in 2019. More recently, the General Assembly has enacted into law Senate Bill 387 and House Bill 425. Senate Bill 387 was enacted under Article II, Section 17(b) of the Maryland Constitution as Chapter 19. House Bill 425 was enacted under Article II, Section 17(b) of the Maryland Constitution as Chapter 18. This legislative

activity is strong evidence that the matter is of general, state-wide interest, thereby demonstrating that Bill 4-21 is not a "local law" within the meaning of Article XI–A, § 3 of the Maryland Constitution and is thus *ultra vires*. See *Allied Vending, Inc. v. City of Bowie*, 332 Md. 279, 631 A.2d 77 (1993).

84. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, has defined the "place of public assembly" to mean:

"(1) a publicly or privately owned:

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home;

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble."

Chapter 57, as amended by Bill 4-21 and Bill 21-22E, has further defined the "place of public assembly" to mean:

"A 'place of public assembly' includes all property associated with the place, such as a parking lot or grounds of a building."

85. Bill 4-21 amended Section 57-11 of Chapter 57 to provide: "(a) In or within 100 yards of a place of public assembly, a person must not: (1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or (2) sell, transfer, possess, or transport a firearm created through a 3D printing process." Bill 21-22E left these provisions unaltered. Bill 4-21 left unaltered the pre-existing exemption for "a person who has received a permit to carry the handgun under State law" found in Section 57-11(b) of Chapter 57. Bill 21-22E amended Section 57-11(b) of Chapter 57 to eliminate the prior exemption for permit holders under Section 57-11. As thus amended, the bans imposed by Section 57-11(a) now apply equally to persons whom have been issued wear and carry permits by the Maryland State Police.

86. Chapter 57's definition of a "place of public assembly," the bans imposed by Section 57-11(a) of Chapter 57, and the repeal of the pre-existing exception for permit holders by Bill 21-22E, makes it impracticable, if not virtually impossible, for any person with a carry permit issued by the Maryland State Police to legally carry a loaded firearm within most of Montgomery County because it would be virtually impossible, as a practical matter, for a person with a wear and carry permit to travel through the urban portions of Montgomery County without passing within 100 yards of the places at which possession and transport of a firearm is now banned Chapter 57, as amended by Bill 21-22E. Since Chapter 57 imposes no *mens rea* requirement, any possession or transport within such areas would create strict criminal liability for permit holders without regard to the permit holder's knowledge, intent or state of mind.

87. Allowing county governments to expand their regulatory powers in the manner accomplished by Chapter 57, will create a nightmarish hodgepodge of local laws that vary from county to county, from city to city and from town to town, all of which could impose criminal penalties of the sort imposed by Montgomery County under Chapter 57. This reality directly and adversely affects the rights of non-residents of Montgomery County "to carry on a business or to do the work incident to a trade, profession, or other calling within the area." *Dasch v. Jackson*, 170 Md. 251, 261, 183 A. 534, 538 (1936). By criminalizing conduct that takes place within 100 yards of such locations, Montgomery County has exceeded its authority beyond that allowed by MD Code, Criminal Law, § 4-209. Through the enactment of Bill 4-21 and Bill 21-22E, the County has effectively nullified the preemption provisions of Section 4-209 as well as other provisions of Maryland firearms law, including express preemption provisions.

88. Bill 4-21 is not a "local law" within the meaning of Article XI–A, § 3 of the Maryland Constitution because it regulates "matters of significant interest to the entire state" and "deals with" a matter "which is of significant interest not just to any one county, but rather to more than one geographical subdivision, or even to the entire state." *Cole v. Secretary of State*, 249 Md. 425, 434, 240 A.2d 272 (1968). Bill 4-21 also "affects the rights of persons without the area to carry on a business or to do the work incident to a trade, profession, or other calling within the area," including the rights of the plaintiffs. *Steimel v. Board*, 278 Md. 1, 5, 357 A.2d 386, 388 (1976). Bill 4-21 is thus unconstitutional under Article XI–A, § 3 of the Maryland Constitution.

89. Under Section 3 of Article XI-A of the Maryland Constitution, all laws passed by the County are "subject to the Constitution and Public General Laws of this State." As more fully set forth in Count II, below, Bill 4-21 conflicts and is inconsistent with "General Laws" passed by

the General Assembly and is thus in violation of Article XI–A, § 3 of the Maryland Constitution for this additional reason.

90. Under Section 6 of Article XI-A of the Maryland Constitution, the home rule powers conferred on the County by Article XI-A "shall not be construed to authorize the exercise of any powers in excess of those conferred by the Legislature upon said Counties or City as this Article sets forth." Under Section 6 of Article XI-A, the County's home rule powers thus do not include the power to pass any law that is in conflict or inconsistent with "General Laws" passed by the General Assembly as otherwise specified in Section 3 of Article XI-A of the Maryland Constitution. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, conflicts and is inconsistent with "General Laws" in violation of Section 3 of Article XI-A and thus is unconstitutional and *ultra vires* under Section 6 of Article XI-Al.

COUNT II – VIOLATION OF THE EXPRESS POWERS ACT

91. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint.

92. Under the Express Powers Act, MD Code, Local Government, § 10-206, Montgomery County laws must be "not inconsistent with State law" and the County is barred from enacting laws that are "preempted by or in conflict with public general law." Under Section 3 of Article XI-A of the Maryland Constitution, all laws passed by the County are "subject to the Constitution and Public General Laws of this State."

93. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, violates the foregoing provisions of the Express Powers Act and Section 3 of Article XI-A in multiple ways:

a. MD Code, Criminal Law, § 4-209(a) preempts the County regulation of the "purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation"

of all firearms, but allows the County to regulate such matters "within 100 yards of or in a park, church, school, public building, and other place of public assembly." By redefining a "place of public assembly," the County has illegally expanded the scope of its authority provided by Section 4-209 beyond the bounds permitted by the language of Section 4-209. To the extent Bill 4-21 and Bill 21-22E purport to apply to these expanded areas, it is expressly preempted by the preemption provisions of Section 4-209(a).

b. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans the "transfer" of all firearms within 100 yards of the County's illegally redefined "place of public assembly." In so far as this ban on such transfers includes regulated firearms that ban is separately preempted by MD Code, Public Safety, § 5-134(a), which provides that "[t]his section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the transfer of a regulated firearm."

c. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans the "sale" of all firearms within 100 yards of the County's illegally redefined "place of public assembly." In so far as Chapter 57's ban on such sales includes rifles and shotguns, that ban is preempted by MD Code, Public Safety, § 5-207(a), which provides that "[t]his section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a rifle or shotgun, and the State preempts the right of any local jurisdiction to regulate the transfer of a rifle or shotgun."

d. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans the "possession" of all firearms within 100 yards of the County's illegally redefined "place of public assembly." In so far as this ban on such sales includes regulated firearms, including handguns, that ban is preempted by MD Code, Public Safety, § 5-133(a) which provides that "[t]his section supersedes any restriction that a local jurisdiction in the State imposes on the possession by a private party of a regulated

firearm, and the State preempts the right of any local jurisdiction to regulate the possession of a regulated firearm.

e. Chapter 57, as amended by Bill 4-21, expressly precludes any person, including a parent, from giving, lending or otherwise transferring to a minor a "ghost gun or a major component of a ghost gun." In so far as this provision regulates the temporary transfer of a regulated firearm, it illegally bans an activity that is expressly permitted by MD Code, Public Safety, § 5-133(d), which allows a minor to transfer and possess a regulated firearm under the active supervision of an adult with a parent's permission. Such transfers often include instruction in the use of firearms. To the extent that Bill 4-21 burdens such instruction, Bill 4-21 is preempted by MD Code, Criminal Law, § 4-209(b)(2), which provides that "[a] county, municipal corporation, or special taxing district may not prohibit the teaching of or training in firearms safety, or other educational or sporting use of the items listed in subsection (a) of this section." These provisions fully apply to instruction in the use of unserialized regulated firearms lawfully manufactured for personal use.

f. Chapter 57, as amended by Bill 4-21, expressly precludes any person, including a parent, from giving, lending or otherwise transferring to a minor a "ghost gun or a major component of a ghost gun," including the slide or a cylinder of a handgun or a barrel of a rifle. MD Code, Criminal Law, § 4-104, expressly permits a minor child under the age of 16 to have access to any firearm if that access "is supervised by an individual at least 18 years old" or if the minor child under the age of 16 has a certificate of firearm and hunter safety issued under § 10-301.1 of the Natural Resources Article. By necessary implication, access to a firearm by a minor child between the ages of 16 and 18 is likewise permitted by Section 4-104 without any restriction. These provisions fully apply to the transfer of unserialized firearms lawfully manufactured by an individual for personal

use. Bill 4-21's ban on lending, giving, or transferring a ghost gun to a minor is inconsistent with these provisions.

g. Chapter 57, as amended by Bill 4-21 provides that a "person must not store or leave a ghost gun, an undetectable gun, or a major component of a ghost gun or an undetectable gun, in a location that the person knows or should know is accessible to a minor." MD Code, Criminal Law, § 4-104, expressly permits a minor child under the age of 16 to have access to any firearm if that access "is supervised by an individual at least 18 years old" or if the minor child under the age of 16 has a certificate of firearm and hunter safety issued under § 10-301.1 of the Natural Resources Article. By necessary implication, access to a firearm by a minor child between the ages of 16 and 18 is permitted by Section 4-104 without restriction. In so far as these provisions limit a minor's access to a ghost guns or components in a manner that Section 4-104 permits, Bill 4-21 is inconsistent with Section 4-104.

h. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, expressly bans the transport, in a vehicle and otherwise, of a "ghost gun," within 100 yards of the County's illegally expanded "place of public assembly." This ban on transport is inconsistent with MD Code, Criminal Law, § 4-203(b)(3), which provides that a person is permitted to transport a handgun "on the person or in a vehicle while the person is transporting the handgun to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster." Transport of unloaded rifles and shotguns, including unserialized rifles and shotguns, is permitted under Maryland law without restriction.

i. Chapter 57, as amended Bill 4-21 and Bill 21-22E, expressly bans the "transport," in a vehicle and/or otherwise, of a "ghost gun" within 100 yards of the County's illegally expanded "place of public assembly." This ban is inconsistent with MD Code, Criminal Law, § 4-203(b)(5), which expressly permits "the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster." Such transport and carriage of unloaded rifles and shotguns, including unserialized rifles and shotguns, are permitted under Maryland law without restriction.

j. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, expressly bans the sale, transfer, possession or transport of a firearm, including a "ghost gun" or a "major component" of any firearm, within 100 yards of the County's illegally expanded "place of public assembly." These bans are inconsistent with and preempted by § 6 of Ch. 13, of Session Laws of 1972 of Maryland, which expressly preempts all local law restrictions on the wearing, carrying, or transporting of handguns in the following language:

"SEC. 6. Be it further enacted, That all restrictions imposed by the law, ordinances, or regulations of the political subdivisions on the wearing, carrying, or transporting of handguns are superseded by this Act, and the State of Maryland hereby preempts the right of the political subdivisions to regulate said matters." See *Montgomery County v. Atlantic Guns, Inc.*, 302 Md. 540, 543-44, 489 A.2d 1114, 1115-16 (1985).

k. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, expressly bans the mere possession in the home of a "ghost gun" if the home is within 100 yards of the County's illegally expanded "place of public assembly." In so far as this ban on home possession applies to handguns, the ban is inconsistent with MD Code, Criminal Law, § 4-203(b)(6), which expressly permits "the

wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides….” Home possession of unserialized handguns, rifles and shotguns lawfully manufactured for personal use is currently permitted under Maryland law without restriction.

l. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans possession of a firearm or ammunition by a business, if the business is within 100 yards of the County’s illegally expanded “place of public assembly.” Section 57-11(b) of Chapter 57 provides that the bans otherwise imposed by Section 57-11(a) do not “apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm.” The requirement that the owner must have “a permit to carry the firearm” is inconsistent with MD Code, Criminal Law, § 4-203(b)(6), which permits “the wearing, carrying, or transporting of a handgun by a person . . . within the confines of a business establishment that the person owns or leases.” Such persons are not required to possess or obtain a Maryland carry permit. The limitation to possession of “one” firearm by the owner, imposed by Chapter 57, as amended by Bill 4-21, is likewise inconsistent with Section 4-203(b)(6), as that section imposes no limitation on the number of handguns that may be possessed, worn, carried or transported under this provision of Section 4-203(b)(6). Transport, wear, carriage and possession of rifles and shotguns, including unserialized rifles and shotguns, in a person’s business are currently permitted under Maryland law without restriction.

m. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans possession of a firearm or ammunition, if the business is within 100 yards of the County’s illegally expanded “place of public assembly.” Chapter 57 provides that the bans otherwise imposed by Section 57-11(a) do not apply “to the possession of one firearm, and ammunition for the firearm, at a business by … one

authorized employee of the business who has a permit to carry the firearm." The requirement that the "authorized employee" must have "a permit to carry the firearm" is inconsistent with MD Code, Criminal Law, § 4-203(b)(7), which expressly permits "the wearing, carrying, or transporting of a handgun by a supervisory employee: (i) in the course of employment; (ii) within the confines of the business establishment in which the supervisory employee is employed; and (iii) when so authorized by the owner or manager of the business establishment." Such authorized persons covered by Section 4-203(b)(7) are not required to possess or obtain a Maryland carry permit to carry within the business confines of the employer's business. Chapter 57's limitation to possession of "one" firearm by "one" authorized employee is likewise inconsistent with Section 4-203(b)(7), as that section imposes no limitation on the number of handguns or ammunition that may be possessed, worn, carried or transported under this provision of Section 4-203(b)(7), and imposes no limitation on the number of employees who may be "authorized" by the employer under Section 4-203(b)(7). Transport, wear, carriage and possession of rifles and shotguns, by business employees are permitted under Maryland law without restriction.

n. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, provides that the bans otherwise imposed by Section 57-11(a) do not apply to "separate ammunition or an unloaded firearm: (A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun." These requirements are inconsistent with MD Code, Criminal Law, § 4-203(b)(3), which permits transports of an unloaded handgun "in an enclosed case or an enclosed holster," imposes no requirements whatsoever on the manner in which ammunition is transported, and imposes no ban whatsoever on the transport of a "ghost gun."

o. The Staff Report for the amendments to Bill 21-22E (attached hereto as Exhibit D) indicates that the amendments to the "ghost gun" provisions of Chapter 57 were intended to make

Bill 21-22E consistent with State law regulating PMFs. However, Chapter 57, as amended by Bill 21-22E, regulates "ghost guns" in Montgomery County in multiple ways that are in direct conflict or inconsistent with the State-wide regulation of PMFs imposed by Senate Bill 387, 2022 Session Laws, Chapter 19, and House Bill 425, 2022 Session Laws, Chapter 18, by:

(i) imposing bans on possession, sale, transfer and transport of a "ghost gun" and on "major components" without regard to and in direct conflict with those provisions of MD Code, Public Safety, § 5-703(b)(1), that (1) expressly permit possession by persons who lack the requisite *mens rea* (subsection (b)(1)(i)), (2) allow possession through inheritance (subsection (b)(1)(ii)); and (3) allow possession associated with manufacture of an unfinished frame or receiver (subsection (b)(1)(iii));

(ii) imposing bans on the possession, sale, transfer, or delivery of a "ghost gun" and on "major components" by a federally licensed dealer, firearms manufacturer and firearms importer, in direct conflict with those provisions of MD Code, Public Safety, § 5-702(2), which expressly allow such federally licensed dealers, manufacturers and importers to possess, sell, transfer and deliver "ghost guns";

(iii) imposing bans on possession, sale, transfer, or delivery of a "ghost gun" by a federally licensed dealer, manufacturer or importer, and thus precluding such dealers, manufacturers or importers from performing serialization services expressly authorized and contemplated by MD Code, Public Safety, §§ 5-703(b)(1) and (b)(2);

(iv) imposing bans on the otherwise lawful possession of a "ghost gun" and of "major components" possessed by a person prior to March 1, 2023, as permitted by MD Code, Public Safety, § 5-703(b)(2);

(v) imposing bans on the possession of "ghost guns" and of "major components" by lawful owners and thus precluding such owners from serializing such "ghost guns" through federally licensed dealers, manufacturers and importers located in Montgomery County, as expressly authorized by MD Code, Public Safety, § 5-703(b)(2);

(vi) imposing bans on possession of "ghost guns" that have been serialized by "other federal licensee[s] authorized to provide marking services," as expressly permitted by MD Code, Public Safety, §§ 5-703(b)(2)(i), in addition to firearms serialized "by a licensed manufacturer, maker, or importer" as specified by Section 57-1(2)(A) of Chapter 57, as amended by Bill 21-22E;

(vii) continuing to impose bans on "major components" even though House Bill 425 and Senate Bill 387 do not regulate such components other than frames or receivers.

COUNT III – VIOLATION OF THE MARYLAND TAKINGS CLAUSE AND DUE PROCESS CLAUSE

94. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint. This Count arises under the Maryland Takings Clause, Article III, § 40 of the Maryland Constitution, and the Due Process Clause, Article 24 of the Maryland Declaration of Rights.

95. Personal property interests of Maryland residents are protected by both the Maryland Takings Clause, Article III, § 40 of the Maryland Constitution, and the Due Process Clause, Article 24 of the Maryland Declaration of Rights. These provisions are interpreted *in pari materia* with the Fifth Amendment of the United States Constitution, fully encompass personal property and may afford more protection than the Fifth Amendment. *Dua v. Comcast Cable*, 370 Md. 604, 805 A.2d 1061, 1070-72 (2002).

96. Maryland's Taking Clause and Due Process Clause are violated "[w]henever a property owner is deprived of the beneficial use of his property or restraints are imposed that materially affect the property's value, without legal process or compensation." S*erio v. Baltimore County*, 384 Md. 373, 863 A.2d 952, 967 (2004).

97. Maryland's Taking Clause and Due Process Clause govern retrospective laws. "Retrospective statutes are those 'acts which operate on transactions which have occurred or rights and obligations which existed before passage of the act." *Muskin v. State Dept. of Assessments and Taxation*, 422 Md. 544, 30 A.3d 962, 969 (2011).

98. Under the Maryland's Taking Clause and Due Process Clause, "[n]o matter how 'rational' under particular circumstances, the State is constitutionally precluded from abolishing a vested property right or taking one person's property and giving it to someone else." *Dua v. Comcast Cable of Maryland, Inc*., 370 Md. 604, 623, 805 A.2d 1061 (2002).

99. The property adversely affected and banned by the provisions of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, constitute protected personal property within the meaning of the Maryland Takings Clause and Due Process Clause as the term property for these purposes "embraces 'everything which has exchangeable value or goes to make up a man's wealth." *Dodds v. Shamer*, 339 Md. 540, 663 A.2d 1318, 1322 (1995). The personal property regulated by Chapter

57 has exchangeable value. Plaintiffs have vested property rights in the continued possession and use of the property regulated by Chapter 57.

100. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, is a retrospective ordinance as it will deprive the plaintiffs of the beneficial use and possession of their lawful vested property rights and property that was lawfully acquired and possessed prior to the County's enactment of Bill 4-21 and Bill 21-22E. The restraints and bans imposed by Chapter 57, as amended by Bill 4-21 and Bill 21-22E, materially affect the value of this previously lawfully acquired and possessed property, all without legal process or compensation.

101. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, violates Maryland Takings Clause, Article III, § 40, and the Due Process Clause, Article 24 of the Maryland Declaration of Rights. Under Maryland law, a court may enjoin a statute that violates Article 40 "unless and until condemnation proceedings in accordance with law be had, and just compensation awarded and paid for tendered." *Department of Natural Resources v. Welsh*, 308 Md. 54, 65, 521 A.2d 313, 318 (1986). Plaintiffs are entitled to declaratory and equitable relief for the unconstitutional taking of their vested property rights by Chapter 57.

COUNT IV – THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT AND ARTICLE 24 OF THE MARYLAND DECLARATION OF RIGHTS

Chapter 57 is Unconstitutionally Vague

102. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint. This Count addresses violations of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and is brought pursuant to and arises under 42 U.S.C. § 1983. For purposes of this Count, defendant Montgomery County has acted under

"color of state law" within the meaning of Section 1983 in enacting Chapter 57, as amended by Bill 4-21 and Bill 21-22E. This Count also arises under Article 24 of the Maryland Declaration of Rights.

103. The Due Process Clause of the Fourteenth Amendment to the United States Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law." Article 24 of the Maryland Declaration of Rights provides that "[t]hat no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land."

104. The Due Process Clause of the Fourteenth Amendment prohibits the enactment or enforcement of vague legislation. *Sessions v. Dimaya*, 138 S.Ct. 1204, 1212 (2018) ("the prohibition of vagueness in criminal statutes…is an 'essential' of due process, required by both 'ordinary notions of fair play and the settled rules of law"). A penal statute must "define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Kolender v. Lawson*, 461 U.S. 352, 357 (1983). "[A] vague law is no law at all." *United States v. Davis*, 139 S. Ct. 2319, 2323 (2019).

105. Such a statute need not be vague in all possible applications in order to be void for vagueness. *Johnson v. United States*, 576 U.S. 591, 602 (2015) ("our holdings squarely contradict the theory that a vague provision is constitutional merely because there is some conduct that clearly falls within the provision's grasp"). "*Johnson* made clear that our decisions 'squarely contradict the theory that a vague provision is constitutional merely because there is some conduct that clearly falls within the provision's grasp.'" *Dimaya*, 138 S.Ct. at 1214 n.3. A court "cannot construe a criminal statute on the assumption that the Government will use it responsibly," *United States v.*

Stevens, 559 U.S. 460, 480 (2010), and "cannot find clarity in a wholly ambiguous statute simply by relying on the benevolence or good faith of those enforcing it." *Wollschlaeger v. Governor, Fla*., 848F.3d 1293, 1322 (11th Cir. 2017) (en banc).

106. Article 24 of the Maryland Declaration of Rights prohibits the enactment or enforcement of vague legislation. *Galloway v. State*, 365 Md. 599, 614, 781 A.2d 851 (2001) ("The void-for-vagueness doctrine as applied to the analysis of penal statutes requires that the statute be "sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties."). Under Article 24, a statute must provide "legally fixed standards and adequate guidelines for police ... and others whose obligation it is to enforce, apply, and administer [it]" and "must eschew arbitrary enforcement in addition to being intelligible to the reasonable person." (Id. at 615).

107. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, criminally punishes conduct that takes place at or within 100 yards of "a place of public assembly," which is defined to include, whether "publicly or privately owned," a "park; place of worship; school; library; recreational facility; hospital; community health center, including any health care facility or community-based program licensed by the Maryland Department of Health; long-term facility, including any licensed nursing home, group home, or care home; or multipurpose exhibition facility, such as a fairgrounds or conference center or childcare facility." Chapter 57, as amended by Bill 4-21 and Bill 21-22E, includes within these places "all property associated with the place, such as a parking lot or grounds of a building."

108. Nothing in Chapter 57 requires that any of these specified locations actually be open to the public at large and some, such a private schools, nursing homes, care homes, group homes, and childcare facilities, are not typically open to the public at all. Chapter 57, as amended by Bill 4-

21 and Bill 21-22E, fails to provide constitutionally adequate notice to the public and likewise fails to provide "legally fixed standards and adequate guidelines for police ... and others whose obligation it is to enforce, apply, and administer [it]" and fails to "eschew arbitrary enforcement in addition to being intelligible to the reasonable person."

109. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans conduct taking place at or within 100 yards of a publicly or private owned "library," but includes no definition of "library." Bill 4-21 deleted Chapter 57's former definition of "library" as limited to a "public" library and Chapter 57, as amended by Bill 4-21 and Bill 21-22E, now expressly covers libraries regardless of whether the place is "publicly or privately owned." The term "library" could thus be arguably read to include any "library" of any type or size, regardless of whether the library is in the home or private building, and regardless of whether the library is, in fact, open to the public. There is no published inventory of the locations of such "privately owned" libraries and plaintiffs are left to guess as to the locations of such "libraries." Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

110. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, does not define "recreational facility," but Bill 4-21 deleted the ordinance's former limitation to "government-owned or operated" recreational facility. The terms "recreation" or "recreational" has no established legal meaning and are exceeding broad in common usage. Thus "recreational facility" could be arguably read to include a backyard swing set or private playground, swimming pool, gym, billiards room, or any other place where any sort of "recreation" may take place, regardless of whether the facility is privately owned or is open to the public. Plaintiffs are left to guess as to the locations encompassed within the vague use of this term. Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

111. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, covers "community health center, including any health care facility or community-based program licensed by the Maryland Department of Health," but does not define the term "community health center" or what the term includes, other than a program licensed by the Maryland Department of Health. As a practical matter, plaintiffs have no way of ascertaining whether a particular location has "a program licensed by the Maryland Department of Health." That term "community health center," has no well-established legal meaning. It could arguably include private doctor's offices or private clinics, which are located throughout the County. Plaintiffs are left to guess as to the locations encompassed within the vague use of this term. Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

112. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, covers any publicly or privately owned "school," but Bill 4-21 amended Chapter 57 to delete the ordinance's former limitation to "elementary or secondary" school, and therefore the Chapter 57's bans are intended to go beyond the ban on possession of a firearm "on public school property," otherwise imposed by MD Code, Criminal Law, § 4-102(b). The term "school" as used in Chapter 57 thus arguably includes a ban on possession or transport of a firearm at or within 100 yards of any "school" of any size and of any type, private or public, including public or private colleges or universities. The term "school" could likewise include a trade school, such as for electricians, hair salons, truck drivers, HVAC technicians, plumbers, travel agents, dental or medical assistants and medical billing and coding, or any other place where occupational or tutorial instruction may take place. Plaintiffs are left to guess as to the locations encompassed within the vague use of the term "school." Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

113. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, imposes its bans at or within 100 yards of a publicly or privately owned "park," but Bill 4-21 deleted the ordinance's former definition of "park" as including only a "government owned" park that was "identified by the Maryland-National Capital Park and Planning Commission." The term "park" may include a County or government-owned park, the term also could be arguably read to include a private commercial "park," any area with grass or trees, a sporting arena, or even an industrial park, regardless of whether the location is, in fact, open to the public. Plaintiffs are left to guess as to the locations encompassed within the vague use of "park." Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

114. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, covers any "long-term facility, including any licensed nursing home, group home, or care home" but does not define the term "long-term facility" or what the term includes other than any "licensed nursing home, group home, or care home." As a practical matter, plaintiffs have no way of ascertaining whether a particular location has been "licensed" as a "nursing home, group home, or care home." There is no established definition for the term "long-term facility," as that term is not even textually limited to facilities that offer care. Plaintiffs are left to guess as to the locations encompassed within the vague use of this term. Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

115. The use of vague and undefined terms in Chapter 57, as amended by Bill 4-21 and Bill 21-22E, deprives ordinary people, including plaintiffs and MSI members, of adequate notice concerning where possession, transport, sale, or transfer of firearms is prohibited and where such conduct is not. This use of vague terms, including Chapter 57's reach into the home and other private

property, provides little or no guidance for enforcement and thus permits and encourages arbitrary and discriminatory enforcement of its provisions. Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability for any violation without regard to the defendant's intent, knowledge or state of mind.

116. Each of the individual and corporate plaintiffs and at least one member of MSI has engaged and intends to engage in conduct arguably regulated by the unconstitutionally vague provisions of Chapter 57, as amended by Bill 4-21 and Bill 21-22E. These persons have been chilled in the actions they may take by the prospect of enforcement of Chapter 57's unconstitutionally vague provisions. Each of the individual and corporate plaintiffs and MSI's members are hindered or chilled in their right to live or work in Montgomery County or to otherwise travel through Montgomery County by the threat of arbitrary or discriminatory enforcement of the unconstitutionally vague provisions of Chapter 57. Each of the plaintiffs has been harmed and is imminently threatened with future harm by the prospect of enforcement of the unconstitutionally vague provisions of Chapter 57.

117. Pursuant to 42 U.S.C. § 1983, plaintiffs are entitled to declaratory and equitable relief and compensatory damages, including nominal damages, for the foregoing violations of their Due Process rights under the Fourteenth Amendment. *Uzuegbunam v. Preczewski*, 141 S.Ct. 792 (2021). Plaintiffs are likewise entitled to reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, for the foregoing violations of their Due Process rights under the Fourteenth Amendment. Plaintiffs are entitled to declaratory and equitable relief for their claims arising under Article 24 of the Maryland Declaration of Rights.

COUNT V – DUE PROCESS

Violation of Fundamental Rights Regarding "Major Components"

118. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint. This Count addresses violations of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and is brought pursuant to and arises under 42 U.S.C. § 1983. For purposes of this Count, defendant Montgomery County has acted under "color of state law" within the meaning of Section 1983 in enacting Chapter 57, as amended by Bill 4-21 and Bill 21-22E. This Count also arises under Article 24 of the Maryland Declaration of Rights.

119. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, imposes its bans for possession, sale, transport or transfer of a "major component" of a firearm and defines that term to include "the slide or cylinder" of a handgun, and, in the case of a rifle or shotgun, the "barrel." Chapter 57, as amended by Bill 4-21 and Bill 21-22E, also bans the sale, rental, lending or the giving of a "major component" of a "ghost gun" to a minor or affording access to a "major component" to a minor. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, also bans, at or within 100 yards of its illegally defined place of "public assembly," the sale, transfer, possession, or transport of a "major component." While Chapter 57 makes an exception for a "firearm or ammunition" possessed in the home, no such exception is made for the home possession of a "major component" otherwise banned by Chapter 57. Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability without regard to the defendant's intent, knowledge or state of mind.

120. A "major component" of a firearm, in so far as the term is defined by Chapter 57 to include "the slide or cylinder" of a handgun and, in the case of a rifle or shotgun, the "barrel," is not a firearm under federal or Maryland law and a "major component," as thus defined, may be lawfully obtained, purchased, transferred and transported by any person, including minors, without

restrictions under Federal and Maryland law. A "frame or receiver" is serialized under federal law. 18 U.S.C. § 923(i) ("Each licensed manufacturer or importer must "identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer."). See also see 27 C.F.R. §§ 478.92, 479.102. Other than such frames or receivers, a "major component" of a firearm, including a slide or cylinder of a handgun, and the barrel of a rifle or shotgun, is not serialized under federal or State law. See 27 C.F.R. § 478.12(a)(1),(2), amended by 87 Fed. Reg., at 24735.

121. A "major component," as thus defined by Chapter 57, can be lawfully used by a law-abiding person otherwise legally entitled to own and possess a firearm, to build a fully *serialized* firearm for personal use simply by using a frame or a receiver that has a serial number engraved in accordance with federal law, 18 U.S.C. § 923(i). Such serialized frames and receivers are treated as firearms under State and federal law and are commercially available for purchase or ordering from most if not all federally licensed firearms dealers, nationwide, subject to background checks and other regulatory provisions applicable to the sale or transfer of firearms. There is no practical way to distinguish a "major component" that can be used to build *a non-serialized* firearm from a "major component" that can be used to build *a serialized* firearm.

122. A serialized firearm may be easily disassembled into its "major component" parts, including a slide, a cylinder or a barrel, for cleaning, repair or replacement. Many firearms are designed to facilitate the replacement or exchange of such "major components, including many if not most semi-automatic handguns, as well as many shotguns and rifles. See, e.g., 87 Fed. Reg. 24739, amending 27 C.F.R. 478.12(i) (providing that for the AR-15 type of firearms, "[t]he receiver is the lower part of the weapon that provides the housing for the trigger mechanism and hammer,

i.e., lower receiver"). Under Chapter 57, the mere possession of such "major components" of a serialized firearm are indistinguishable from the major components of a non-serialized firearm. Because Chapter 57 makes no exception for the possession of major components in the home, Chapter 57's bans also fully apply to the home. The definition of "major components" to include a slide, cylinder and a barrel and the criminalization of the mere possession of such components invites arbitrary and discriminatory enforcement actions at the unfettered whim and discretion of law enforcement officials. Because Chapter 57 contains no *mens rea* requirement, Chapter 57 imposes strict criminal liability for mere possession of "major components" in the home and elsewhere without regard to the defendant's intent, knowledge or state of mind.

123. The bans imposed by Chapter 57 with respect to "major components" of all firearms are arbitrary, irrational and fail to serve any legitimate government objective. Bill 21-22E provides that its terms are to be interpreted by reference to ATF regulations which do, in fact, define the term "frame or receiver." See, e.g, 27 C.F.R. 478.12 (defining a frame or receiver). Yet, Chapter 57, as amended by Bill 4-21 and Bill 21-22E irrationally then imposes bans on "major components" of firearms and then defines such major components to be a slide or cylinder of a handgun or the barrel of a long gun, notwithstanding that these "major components" are not firearms and not regulated under these same federal regulations.

124. Chapter 57's bans on "major components" impose strict criminal liability on otherwise innocent conduct, including the mere possession or transport of "major components" that may arise from the disassembly of a serialized firearm lawfully owned and possessed. There is no legitimate or reasonable justification for such bans. See, e.g., *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998) (the Due Process Clause protects the individual against "the exercise of power without any reasonable justification in the service of a legitimate governmental objective"). "The

touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974). See also *Daniels v. Williams*, 474 U.S. 327, 331 (1986) (the substantive due process guarantee protects against government power arbitrarily and oppressively exercised).

125. The Second Amendment right "to keep and bear Arms" necessarily encompasses and protects the possession, sale, transport and transfer of "major components" as without such major components there can be no firearm at all to "keep and bear" under the Second Amendment. Similarly, the right to "keep and bear Arms" necessarily implies the right to clean, maintain and repair such firearms so as to keep them ready for use for lawful self-defense. See *Andrews v. State*, 50 Tenn. 165, 178 (1871) (recognizing that "this right of keeping arms … necessarily involves the right to purchase and use them in such a way as is usual"), cited with approval in *Heller*, 554 U.S. at 608, 612, 629.

126. Because these bans imposed by Chapter 57 with respect to "major components" interfere with the exercise of the fundamental Second Amendment right "to keep and bear Arms," they are subject to strict scrutiny under the Due Process Clause. *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440 (1985) (strict scrutiny is required "when state laws impinge on personal rights protected by the Constitution"); *Hawkins v. Freeman*, 195 F.3d 732, 739 (4th Cir. 1999) ("If the claimed violation is by legislative enactment (either facially or as applied), analysis proceeds by a different two-step process that does not involve any threshold "conscience-shocking" inquiry. The first step in this process is to determine whether the claimed violation involves one of "those fundamental rights and liberties which are, objectively, 'deeply rooted in this Nation's history and tradition,'" * * * If the asserted interest has been determined to be 'fundamental,' it is entitled in the second step to the protection of strict scrutiny judicial review of the challenged legislation.").

127. In so far as Chapter 57 imposes bans on a "major component of a ghost gun," as defined to include a slide or cylinder of a handgun or a barrel of a long gun, it bans conduct protected by the Second Amendment. By definition, a "ghost gun" is merely a frame or receiver that has not been serialized. A slide and cylinder of a handgun and a barrel of a long gun are not serialized under controlling federal law and thus are used in ordinary firearms which are otherwise fully serialized in accordance with State and federal law. The "major component of a ghost gun" is thus indistinguishable from a "major component" of a serialized firearm. The County does not have a legitimate interest, much less a compelling interest, in imposing bans on "major components" of serialized firearms. Nor has the County employed the least restrictive means of accomplishing any legitimate government interest. The County's regulation of "major components" is unconstitutional under the Due Process Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights.

128. At least one of the individual and corporate plaintiffs and at least one member of MSI has engaged and intends to engage in conduct arguably regulated by the bans on "major components" by Chapter 57, including the actual or constructive possession of "major components" in the presence of a minor child and/or at or within 100 yards of those locations in which such possession and transport of a "major component" are banned by Chapter 57. These persons have been chilled in the exercise of constitutionally protected conduct they may undertake by the prospect of enforcement of Chapter 57's irrational provisions. Each of these plaintiffs intends to engage in that conduct in the future and has been harmed and is imminently threatened with future harm by the prospect of enforcement of the irrational provisions of Chapter 57.

129. Pursuant to 42 U.S.C. § 1983, plaintiffs are entitled to declaratory and equitable relief and compensatory damages, including nominal damages, for the foregoing violations of their

Due Process rights under the Fourteenth Amendment. *Uzuegbunam v. Preczewski*, 141 S.Ct. 792 (2021). Plaintiffs are likewise entitled to reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, for the foregoing violations of their Due Process rights under the Fourteenth Amendment. Plaintiffs are entitled to declaratory and equitable relief for their claims arising under Article 24 of the Maryland Declaration of Rights.

COUNT VI – DUE PROCESS

Violation of Parental Rights

130. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint. This Count addresses violations of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and is brought pursuant to and arises under 42 U.S.C. § 1983. For purposes of this Count, defendant Montgomery County has acted under "color of state law" within the meaning of Section 1983 in enacting Chapter 57, as amended by Bill 4-21 and Bill 21-22E. This Count also arises under Article 24 of the Maryland Declaration of Rights.

131. Section 57-7 of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, provides, in part that:

> (c) A person must not give, sell, rent, lend, or otherwise transfer to a minor: (1) a ghost gun or major component of a ghost gun; (2) an undetectable gun or major component of an undetectable gun; or (3) a computer code or program to make a gun through a 3D printing process.
>
> (d) A person must not purchase, sell, transfer, possess, or transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.
>
> (e) A person must not store or leave a ghost gun, an undetectable gun, or a major component of a ghost gun or an undetectable gun, in a location that the person knows or should know is accessible to a minor.

These provisions impose absolute bans on all persons, making no exceptions for parents or a certified firearms instructor or for firearms training. And because these bans extend to a "major

component of a ghost gun" these bans imposed by these provisions extend to parts that are not legally considered to be firearms, such as a barrel of a long gun or the slide or a cylinder of handgun.

132. One or more of the plaintiffs is a parent of minor children who resides with that plaintiff. Parents of minor children have a fundamental constitutional right protected by the Due Process Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights "in the care, custody, and control of their children." *Troxel v. Granville*, 530 U.S. 57, 64 (2000); *Frase v. Barnhart*, 379 Md. 100, 124, 840 A.2d 114 (2003); *Koshko v. Haining*, 398 Md. 404, 422-27, 921 A.2d 171 (2007). Parents have a constitutional right to instruct their children in the safe use and handling of firearms and components otherwise protected by the Second Amendment, including the assembly and disassembly of handguns and long guns. Such assembly and disassembly necessarily includes the possession and handling of a slide or cylinder of a handgun or the barrel of a long gun. That process may also include the possession of a serialized firearm or of a "ghost gun" prior to disassembly or after assembly. In so far as the bans imposed by Section 57-7 of Chapter 57 purport to apply to regulate parents and their relationships with their minor children, Section 57-7 of Chapter 57 violates the fundamental constitutional right of parents "in the care, custody, and control of their children."

133. At least one or more of the individual plaintiffs is a parent with minor children who reside with him and has engaged in the conduct banned by the foregoing provisions of Section 57-7 of Chapter 57. These persons have been chilled in the actions they may take with their minor children by the prospect of enforcement of Section 57-7's unconstitutional provisions. Each of these plaintiffs intends to engage in such conduct in the future and has been harmed and is imminently threatened with future harm by the prospect of enforcement of Chapter 57.

134. Pursuant to 42 U.S.C. § 1983, plaintiffs are entitled to declaratory and equitable relief and compensatory damages, including nominal damages, for the foregoing violations of their parental rights under the Due Process Clause of Fourteenth Amendment. *Uzuegbunam v. Preczewski*, 141 S.Ct. 792 (2021). Plaintiffs are likewise entitled to reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, for the foregoing violations of their Due Process rights under the Fourteenth Amendment. Plaintiffs are entitled to declaratory and equitable relief for their claims arising under Article 24 of the Maryland Declaration of Rights.

COUNT VII -- SECOND AMENDMENT

Violations of the Second Amendment Right to Armed Self-Defense in Public

135. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint. This Count addresses violations of the Second Amendment to the United States Constitution and is brought pursuant to and arises under 42 U.S.C. § 1983. For purposes of this Count, defendant Montgomery County has acted under "color of state law" within the meaning of Section 1983 in enacting Chapter 57, as amended by Bill 4-21 and Bill 21-22E.

136. The Second Amendment to the United States Constitution provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The Supreme Court has squarely held that the Second Amendment bestows an individual right to keep and bear arms and that right may be exercised by all responsible, law-abiding Americans. *District of Columbia v. Heller,* 554 U.S. 570 (2008). The Second Amendment is applicable to the States as incorporated through the Due Process Clause of Fourteenth Amendment because the right to "keep and bear Arms" is a fundamental constitutional right essential to ordered liberty. *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

137. On June 23, 2022, the Supreme Court decided *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (2022). In *Bruen*, the Supreme Court held that the Second Amendment right to bear arms means "a State may not prevent law-abiding citizens from publicly carrying handguns because they have not demonstrated a special need for self-defense." 142 S.Ct. at 2135 n.8. This holding abrogates the holding of the Maryland Court of Appeals in *Williams v. State*, 417 Md. 479, 496, 10 A.3d 1167 (2011), that the Second Amendment does not apply outside the home. Under *Bruen*, "the Second Amendment guarantees a general right to public carry." *Bruen*, 142 S.Ct. at 2135.

138. The *Bruen* Court struck down as unconstitutional New York's "proper cause" requirement for issuance of a permit to carry a handgun in public. The Court went on to reject the "means-end," two-step, intermediate scrutiny analysis used by the lower courts to sustain gun regulations, holding that "[d]espite the popularity of this two-step approach, it is one step too many." *Bruen*, 142 S.Ct. at 2127. The Court ruled that "the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 142 S.Ct. at 2126.

139. The historical analogue required by *Bruen* to justify a firearms regulation looks to 1791 or, at the latest, 1868, when the 14th Amendment was adopted. See *Bruen*, 142 S.Ct. at 2135-36 (finding it unnecessary to resolve the scholarly dispute about which time period is controlling). That is because "'Constitutional rights are enshrined with the scope they were understood to have when the people adopted them.'" *Bruen*, 142 S.Ct. at 2136, quoting *District of Columbia v. Heller*, 554 U.S. 570, 634-35 (2008). 20th century and late 19th century statutes and regulations "cannot

provide much insight into the meaning of the Second Amendment when it contradicts earlier evidence." *Bruen*, 142 S.Ct. at 2154 & n.28. Under *Bruen*, the historical analogue necessary to justify regulation must be "a well-established and representative historical analogue," not outliers. *Bruen*, 142 S.Ct. at slip op. at 2133.

140. Historical "outlier" requirements of a few jurisdictions or of the Territories are to be disregarded. *Bruen*, 142 S.Ct. at 2133, 2153, 2147 n.22 & 2156. This analysis required by the Supreme Court is a legal inquiry that examines legal history, which is appropriately presented in the briefs. See *Bruen*, 142 S. Ct. at 2130 n.6 (noting that the historical inquiry presents "legal questions" that judges are capable of addressing) (emphasis in original); see also id. at 2135 n.8 (rejecting the dissent's suggestion that further fact-finding was needed and holding that its ruling did not "depend on any of the factual issues raised by the dissent"). Accordingly, the required analysis is a legal inquiry and does not require fact-finding by a court.

141. *Bruen* holds that governments may presumptively regulate the public possession of firearms at "legislative assemblies, polling places, and courthouses" and notes that governments may also regulate firearms "in" schools and government buildings. *Bruen*, 142 S.Ct. at 2133, citing *Heller*, 554 U.S. at 599. *Bruen* states that "courts can use analogies to those historical regulations of 'sensitive places' to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible." (Id.). The *Bruen* Court rejected New York's "attempt to characterize New York's proper-cause requirement as "a 'sensitive-place' law," ruling that "expanding the category of 'sensitive places' simply to all places of public congregation that are not isolated from law enforcement defines the category of 'sensitive places' far too broadly." 142 S.Ct. at 2134. As the Court explained, "[p]ut simply, there is no historical basis for New York

to effectively declare the island of Manhattan a 'sensitive place' simply because it is crowded and protected generally by the New York City Police Department." (Id.).

142. The government bears the burden of proof to show such "well-established and representative historical analogue." See *Bruen*, 142 S.Ct. at 2150 ("we are not obliged to sift the historical materials for evidence to sustain New York's statute. That is respondents' burden."). Public safety concerns are not part of the analysis and cannot be used to justify any statute or regulation that restricts the general right to carry arms in public. Under *Bruen*, "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." 142 S.Ct. at 2129-30. A government "may not simply posit that the regulation promotes an important interest," but rather "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." 142 S.Ct. at 2126. Under *Bruen*, a court must "closely scrutinize *all* gun restrictions for a historically grounded justification," *Frein v. Pennsylvania State Police*, 47 F.4th 247, 254 (3d Cir. 2022) (emphasis in original).

143. The text of the Second Amendment, as construed by the Supreme Court and lower courts, indisputably covers the "possession, sale, transport, and transfer" of firearms and ammunition, as regulated by Chapter 57. In so far as these regulations imposed by Chapter 57 ban the possession or transport of a firearm in locations other than schools, government buildings, courthouses, polling places and legislative assemblies, as identified in *Bruen*, these prohibitions imposed by Chapter 57 are not supported by any showing that they are "consistent with this Nation's historical tradition of firearm regulation." Nothing in *Bruen* can be read to allow a State (or a municipality) to regulate or ban firearms at all these other places which the County defines to be a "place of public assembly." Nor may the County define any of these five areas, such as schools, in such a way that is inconsistent with how those terms were used and understood in 1791. There is,

for example, no history or tradition banning the possession of firearms in trade schools or other places of instruction of adults. The County thus violated the Second Amendment when it redefined "schools" in Bill 4-21 to expand that definition beyond primary and secondary schools, as the term was previously defined by Chapter 57 prior to Bill 4-21.

144. In enacting Bill 21-22E after the Supreme Court's decision in *Bruen*, the County made no effort to identify any historical analogue for the restrictions and bans imposed by Chapter 57, as amended by Bill 21-22E. Beyond the five locations specifically identified by the Supreme Court in *Bruen*, *viz*, "in" schools, public buildings, polling places, courthouses and legislative assemblies, as these terms are properly understood and delineated by history and tradition, there is no appropriate historical analogue that would permit the County to ban all possession, sale, transfer or transport of firearms or ammunition at a "place of public assembly," as defined by Chapter 57, as amended Bill 21-22E. Nor is there any appropriate historical analogue for any such regulation within 100 yards of such locations. Montgomery County is no more a "sensitive place" than is Manhattan. See *Antonyuk v. Hochul*, --- F.Supp.3d ----, 2022 WL 16744700 at *86 (N.D.N.Y. 2022) (applying *Bruen* and holding unconstitutional New York's ban on possession of a firearm at or on (1) any location providing behavioral health or dependence services, (2) any place of worship, (3) any public parks and zoos, (4) airports where a person is complying with otherwise applicable federal regulations, (5) buses, (6) any establishment where alcohol is consumed, (7) theaters, conference centers and banquet halls, (8) any gathering of individuals to collectively express their constitutional rights, and (9) private property); *Hardaway v. Nigrelli,* --- F.Supp.3d ----, 2022 WL 11669872 at *17-18 (W.D.N.Y. 2022) (applying *Bruen* and holding that New York's ban on the possession of firearms in or at any place of worship violated the Second Amendment); *Christian v.*

Nigrelli, No. 22-cv-695 (W.D.N.Y. Nov. 22, 2022) (preliminarily enjoining New York's ban on carry on all private property open to the public).

145. The restricted locations specified by Chapter 57's definition of a place of public assembly are very common and located on the major roads and in many neighborhoods throughout the County. The vagueness and/or ubiquity associated with these places makes avoiding such places impossible because, as a practical matter, there is no way for an ordinary permit holder to know, for example, the location of a "library" on privately owned land, or the meaning or location of a privately owned "recreational facility," a privately owned "park," or other privately or publicly owned locations in which possession and transport is banned by Chapter 57. A permit holder, particularly a person who may be unfamiliar with the area, could easily find himself or herself driving within 100 yards of any of these locations in which possession and transport is banned by Chapter 57 without any intent or knowledge of doing so. Such a permit holder would nonetheless be in violation of Chapter 57.

146. Taken together, the broad sweep of the locations in which possession and transport are banned by Chapter 57, the vagueness associated with these places, and the strict criminal liability imposed by Chapter 57 for any violation, create an *in terrorem* effect for wear and carry permit holders who are at risk of arrest and prosecution for otherwise carrying a loaded firearm anywhere in the County, including those locations in which carry is otherwise permitted by State law. Any such arrest or prosecution could severely and adversely affect the plaintiffs' employment status, ability to conduct business or maintain other legal relationships. Such an arrest or prosecution would likely lead to a revocation of the person's wear and carry permit for carrying in places where firearms are prohibited by law, thus abrogating the ability of that person to exercise his or her Second Amendment right of armed self-defense in public, recognized in *Bruen*.

147. Because the Maryland wear and carry permit is "not valid where firearms are prohibited by law," any violation of Chapter 57 by a wear and carry permit holder could also easily lead to arrest and prosecution under MD Code, Criminal Law, § 4-203(a). A violation of Section 4-203(a) is a strict liability offense, and is punishable by up to three years imprisonment and a substantial fine for the first offense. Under federal law, 18 U.S.C. § 922(g), and 18 U.S.C. § 921(a)(20), any conviction under Section 4-203 would result in a lifetime federal firearms disability and the consequent destruction of the permit holder's Second Amendment rights. See *Hamilton v. Pallozzi*, 848 F.3d 614 (4th Cir.), *cert. denied,* 138 S.Ct. 500 (2017). Subsequent possession of a modern firearm or ammunition by a person subject to this firearms disability is a violation of 18 U.S.C. § 922(g), which is punishable by up to 10 years imprisonment under federal law. 18 U.S.C. § 924(a)(2). The same firearms disability is imposed under Maryland law. See MD Code, Public Safety, § 5-101(g)(3) (defining disqualifying crime), § 5-133(b)(1) (regulated firearms), § 5-205(b)(1) (long guns). A violation of MD Code Public Safety, § 5-133(b), is punishable by imprisonment for up to 5 years and/or a fine not exceeding $10,000. MD Code, Public Safety, § 5-144(b). A violation of MD Code, Public Safety, § 5-205(b), is punishable by up to 3 years imprisonment and/or a $1,000 fine. MD Code, Public Safety, § 5-205(e). These draconian punishments and disqualifications make the *in terrorem* effect of Chapter 57 even more severe.

148. Chapter 57 imposes strict criminal liability without regard to a person's intent or knowledge or state of mind. Given that imposition of strict liability and the proximity of the "sensitive places" to public roads and streets, an ordinary permit holder would find it impossible to avoid transporting a loaded firearm within 100 yards of such locations. Through Chapter 57, as amended by Bill 4-21 and Bill 21-22E, the County has enacted a legal scheme that effectively "den[ies] ordinary citizens their right to public carry." *Bruen*, 142 S.Ct. at 2138 n.9. Chapter 57

"defines the category of 'sensitive places' far too broadly" and "would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense." *Bruen*, 142 S.Ct. at 2134. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, is therefore unconstitutional under the Second Amendment.

149. Under the Second Amendment, the County may presumptively regulate the five, specific locations identified in *Bruen* and *Heller*, *viz*, "in" schools, public buildings, polling places, courthouses and legislative assemblies, to the extent such regulations are otherwise authorized by State law. Such places are relatively easy to identify and avoid by a permit holder and thus do not have the *in terrorem* effect inflicted by Chapter 57. The County may not enact or enforce firearms or ammunition regulations for any location or place *beyond* the five, specific locations that were specified as presumptively appropriate in *Bruen* and *Heller,* without identifying and proving that "a well-established and representative historical analogue" for any such regulation exists. The County has made no attempt to do so.

150. There is no "well-established, representative historical analogue" for Chapter 57's bans on the possession, transport, sale or transfer of firearms and components at a "(A) park; (B) place of worship; … (D) library; (E) recreational facility; (F) hospital; (G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health; (H) long-term facility, including any licensed nursing home, group home, or care home; (I) multipurpose exhibition facility, such as a fairgrounds or conference center; or (J) childcare facility" or for "all property associated with the place, such as a parking lot or grounds of a building" for these areas. Likewise, there is no "well-established, representative historical analogue" for Chapter 57's bans imposed on the 100-yard zone around any of these locations or at the five locations specified in *Bruen*, or for any other location.

151. The County made no apparent attempt to identify any such "well-established, representative historical analogues" prior to the enactment of Bill 21-22E. See Exhibit D. To the contrary, the lead sponsor of Bill 21-22E, the President of the County Council, expressed hostility to the Court's decision in *Bruen* and to the right of armed self-defense. https://www.youtube.com/watch?v=dt4-vSmq7sw&t=35s. The County Council did likewise. https://www.youtube.com/watch?v=i_H2cLLD2nY&t=7453s (starting at 2:04) The County Executive also expressed hostility to armed self-defense. https://www.fox5dc.com/news/montgomery-county-to-review-concealed-carry-ban-proposal (commenting that "there is no excuse for walking around with a gun in this County"). The County Council passed Bill 21-22E unanimously.

152. Chapter 57 is facially unconstitutional under the Second Amendment to the extent that it purports to impose any regulatory restrictions on the possession, transfer, sale or transport of firearms and ammunition in or at any place other than in the five specific locations specified in *Bruen* and *Heller*. Chapter 57 is also facially unconstitutional under the Second Amendment to the extent that it purports to impose any regulatory restrictions on the possession, transfer, sale or transport of firearms and ammunition in or at any place within 100 yards of any location.

153. Chapter 57 is unconstitutional under the Second Amendment *as* applied to the named plaintiffs and to any member of plaintiff MSI to the extent that it purports to impose any regulatory restrictions on the possession, transfer, sale or transport of firearms or ammunition in or at any place other than "in" the five specific locations specified in *Bruen* and *Heller*. Chapter 57 is unconstitutional under the Second Amendment as applied to the named plaintiffs and to any member of plaintiff MSI to the extent that it purports to impose any regulatory restrictions on the possession,

transfer, sale or transport of firearms or ammunition in or at any place within 100 yards of any location.

154. To the extent that MD Code, Criminal Law, § 4-209(b), purports to authorize County or local regulation for areas other than "in" the five locations, or in any manner or scope beyond the manner or scope permitted in *Heller* and *Bruen*, it is likewise unconstitutional under the Second Amendment and thus cannot legally or constitutionally authorize such local regulation. To the extent that MD Code, Criminal Law, § 4-209(b) purports to authorize County or local regulation on the possession, transfer, sale or transport of firearms or ammunition in or at any place within 100 yards of *any* location it is likewise unconstitutional under the Second Amendment and thus cannot legally or constitutionally authorize any such local regulation.

155. Each of the individual plaintiffs and MSI members with carry permits and who live in the County or transport loaded firearms in the County are directly, substantially and adversely affected by the foregoing violation of the Second Amendment. Such plaintiffs and MSI members with wear and carry permits have, prior to the enactment of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, lawfully possessed and transported loaded firearms within the County at or within 100 yards of the locations that Chapter 57, bans the possession, transport, sale or transfer of firearms. All the individual plaintiffs and MSI members with carry permits intend to possess and transport firearms in such locations in the future. All these plaintiffs and MSI members have a reasonable fear of prosecution under Chapter 57 if they do so.

156. The business locations of plaintiffs Engage Armament and ICE Firearms arguably are at or within 100 yards of one or more of the locations in which the possession, transport, sale and transfer of firearms is now banned by Chapter 57, as amended by Bill 21-22E. Under Chapter 57 Engage would be unable to engage and the possession, sales, transports and transfer of firearms,

at its business location. All these activities are essential for the operation of a business by a federally licensed and State licensed firearms dealer. Plaintiff Engage Armament, as a Type I, Type VII and Type X, federal firearms licensee, intends to continue to possess, transport, sell and transfer firearms and "major components" at its business establishment, as otherwise authorized by State and federal law. It reasonably fears prosecution under Chapter 57 if it does so.

157. ICE Firearms likewise possesses, transports and temporarily transfers firearms at its business location as part of the firearms training programs it conducts. ICE Firearms intends to continue to possess, transport and temporarily transfer firearms at its business location. ICE Firearms reasonably fears prosecution under Chapter 57 should it engage in these activities now banned by Chapter 57. Engage Armament and ICE Firearms each have standing to bring this Second Amended Complaint on behalf of themselves and their actual and potential customers. *Maryland Shall Issue, Inc. v. Hogan*, 971 F.3d 199, 212 (4th Cir. 2020).

158. Pursuant to 42 U.S.C. § 1983, plaintiffs are entitled to declaratory and equitable relief and compensatory damages, including nominal damages, for the foregoing violations of their Second Amendment rights. *Uzuegbunam v. Preczewski*, 141 S.Ct. 792 (2021). Plaintiffs are likewise entitled to reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, for the foregoing violations of their Second Amendment rights.

COUNT VIII -- SECOND AMENDMENT

Violation of the Second Amendment Right to Possess

Privately Made Firearms and Components for Personal Use

159. Plaintiffs reallege and incorporate herein by reference all the foregoing allegations of this Second Amended Complaint. This Count addresses violations of the Second Amendment to the United States Constitution and is brought pursuant to and arises under 42 U.S.C. § 1983. For

purposes of this Count, defendant Montgomery County has acted under "color of state law" within the meaning of Section 1983 in enacting Chapter 57, as amended by Bill 4-21 and Bill 21-22E.

160. The Second Amendment, as construed by the Supreme Court "'protects the possession and use of weapons that are in common use at the time'" the Second Amendment was adopted in 1791. *Bruen*, 142 S.Ct. at 2128, quoting *Heller*, 554 U.S. at 627 (internal quotes and citation omitted). "Ghost guns," as defined by Chapter 57, as amended by Bill 4-21 and Bill 21-22E, are simply ordinary long guns and pistols which lack a serial number engraved by a federally licensed manufacturer or importer. Such long guns and pistols without serial numbers are "bearable arms," and are suitable to be carried "upon the person" ready "for offensive or defensive action in a case of conflict with another person." *Heller*, 554 U.S at 582, 584. Because "ghost guns" are simply firearms that lack a serial number, they fall within the "text" of the Second Amendment's right to "keep and bear Arms." Under *Bruen*, it is therefore the County's burden to demonstrate that "ghost guns" are not in common use and thus may be banned. See *Rigby v. Jennings*, --- F.Supp.3d ----, 2022 WL 4448220 at *7 (D. Del. 2022). The County made no attempt to do so.

161. Serial numbers were not required to be engraved on firearms until the federal Gun Control Act of 1968, Public Law 90-618, 82 Stat. 1213 (1968), was enacted on October 22, 1968, and that portion of the Act requiring serial numbers (enacted as part of Section 102 of the Act) did not go into effect until December 16, 1968. See Section 105(a), 82 Stat. at 1226. During the time period around 1791, personally made firearms for personal use were in common use by law-abiding citizens for lawful purposes. None of these firearms were serialized during the relevant time period and no serialization was required. To this day, nothing in federal law requires persons to engrave serial numbers on firearms manufactured by non-licensees for personal use. Such manufacture is also permissible in the vast majority of States. To this day, unserialized rifles and pistols

manufactured by non-licensees for personal use are "in common use" for lawful purposes by law-abiding persons.

162. The right to "keep and bear arms" protected by the Second Amendment indisputably covers the "possession" and "transport" of firearms and ammunition, including firearms that are defined by Chapter 57 as "ghost guns," and "major components" from which firearms may be assembled or built. There is a long tradition and history in the United States, dating back to before 1791 and extending to the present day, of manufacture and possession of firearms and components for personal use by otherwise law-abiding, responsible persons. See *Rigby v. Jennings*, --- F.Supp.3d ----, 2022 WL 4448220 (D. Del. 2022). The ATF regulations, issued in 2022, confirm that law-abiding persons are not required to serialize PMFs under federal law. See 87 Fed. Reg. 24653 ("the final rule does not mandate unlicensed persons to mark their own PMFs for personal use, or when they occasionally acquire them for a personal collection or sell or transfer them from a personal collection to unlicensed in-State residents consistent with Federal, State, and local law.").

163. Chapter 57, as amended by Bill 4-21 and Bill 21-22E, flatly bans the possession, transport, sale and transfer of "ghost guns" and "major components," as defined in Chapter 57, at or within 100 yards of the specified locations, including in the home. These bans burden constitutionally protected conduct because the possession and transport of such items are textually within the scope of the Second Amendment's right to "keep and bear Arms." See *Jackson v. City & Cty. of San Francisco*, 746 F.3d 953, 967-68 (9th Cir. 2014) (hollow-point ammunition); *Duncan v. Becerra*, 970 F.3d 1133 (9th Cir. 2020) (ammunition magazines over 10 rounds); *Teixeira v. Cty. of Alameda*, 873 F.3d 670, 678 (9th Cir. 2017) (discussing authorities acknowledging the right to acquire arms*); Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011) (holding that the Second Amendment "implies a corresponding right to acquire and maintain proficiency" with arms). Under

Bruen, "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." 142 S.Ct. at 2126. The Second Amendment thus "presumptively protects" the right of otherwise law-abiding persons to "keep and bear" "ghost guns," and "major components," as those terms are defined by Chapter 57, as amended by Bill 4-21 and Bill 21-22E.

164. *Bruen* holds that "[t]o justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id*. As demonstrated by the Staff Report on the amendments made to Bill 21-22E (Exhibit D), in enacting Bill 4-21 and Bill 21-22E, the County made no apparent effort to demonstrate or determine that its regulation of "ghost guns" and "major components" are consistent "with this Nation's historical tradition of firearm regulation." The County "has not shown that these firearms and components are not commonly owned by law-abiding citizens for lawful purposes." *Rigby*, 2022 WL 4448220 at *8. Chapter 57's regulation of "ghost guns" and "major components" is inconsistent "with this Nation's historical tradition of firearm regulation." The County's bans on "ghost guns" and "major components" lack an historical analogue from "before, during, and even after the Founding." *Bruen*, 142 S.Ct. at 2131–32. Chapter 57's bans on "ghost guns" and "major components" are therefore unconstitutional under the Second Amendment.

165. At least one of the individual plaintiffs and plaintiffs Engage and ICE Firearms and at least one MSI member have possessed "ghost guns" and "major components" in the County and intend to continue to do so in the future. All these persons reasonably fear prosecution under Chapter 57 if they do so. All these plaintiffs and MSI members thus are directly, substantially and adversely affected by the foregoing violation of the Second Amendment with respect to "ghost guns" and

"components." These plaintiffs and MSI members have, prior to the enactment of Bill 21-22E, lawfully possessed and transported "ghost guns" and "components" at or within 100 yards of one or more of the locations in which possession and transport of these items is banned by Chapter 57, as amended by Bill 21-22E. All such individual plaintiffs, and MSI members, intend to possess and transport such "ghost guns" and "major components" in their homes or businesses or at or within 100 yards of the locations at which Chapter 57, as amended by Bill 4-21 and Bill 21-22E, bans possession and transport of these items. All these plaintiffs and MSI members reasonably fear prosecution under Chapter 57 if they do so.

166. The business location of plaintiffs Engage Armament is arguably at or within 100 yards of one or more of the locations in which the possession, transport, sale and transfer of firearms is now banned by Chapter 57, as amended by Bill 21-22E. Engage Armament uses, manufactures, transfers and sells "major components" as part of its business as a Type VII federally licensed firearms manufacturer. It would be unable to engage in any of these activities at its place of business. Plaintiff Engage Armament, as a Type I, Type VII and Type X federal firearms licensee and State firearms licensee, intends to possess, transport, sell and transfer "ghost guns" and "major components" at its business establishment. Engage Armament reasonably fears prosecution under Chapter 57 if it does so.

167. ICE Firearms likewise is arguably located at or within 100 yards of one or more of the in which the possession, transport, sale and transfer of firearms are now banned by Chapter 57, as amended by Bill 21-22E. ICE Firearms likewise intends to continue to conduct its firearms training at its location, including using or providing "ghost guns" and "major components," to customers for use in training activities. ICE Firearms reasonably fears prosecution under Chapter 57 should it do so.

168. To the extent that MD Code, Criminal Law, § 4-209(b), purports to authorize County regulation of "ghost guns" or "components" in any manner or scope beyond the manner or scope permitted in *Heller* and *Bruen*, it is likewise unconstitutional under the Second Amendment and thus cannot legally or constitutionally authorize Chapter 57's regulation of "ghost guns" and "major components."

169. Pursuant to 42 U.S.C. § 1983, plaintiffs are entitled to declaratory and equitable relief and nominal damages, for the foregoing violations of their Second Amendment rights. *Uzuegbunam v. Preczewski*, 141 S.Ct. 792 (2021). Plaintiffs are likewise entitled to reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, for the foregoing violations of their Second Amendment rights.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request:

A. That this Court issue a declaratory judgment that Chapter 57, as amended by Bill 4-21 and Bill 21-22E, is not a "local law," and is in conflict and inconsistent with the "General Law" as enacted by the General Assembly is thus unconstitutional under Article XI–A, § 3 and Article XI–A, § 6, of the Maryland Constitution, as more fully set forth in Count I, above;

B. That this Court issue a declaratory judgment that Chapter 57, as amended by Bill 4-21 and Bill 21-22E, violates the Express Powers Act, MD Code, Local Government, § 10-206, in that it is in conflict or inconsistent with, and/or preempted by Maryland statutes, as more fully set forth in Count II, above;

C. That this Court issue a declaratory judgment that Chapter 57, as amended by Bill 4-21 and Bill 21-22E, violates the Maryland Takings Clause, Article III § 40, and the Due Process Clause of Article 24 of the Maryland Declaration of Rights, in so far as it deprives plaintiffs and MSI

members of the beneficial use of their lawfully acquired, vested property rights, as more fully set forth in Count III above. In accordance with Maryland law, the Court should enjoin enforcement of Chapter 57, as amended by Bill 4-21 and Bill 21-22E, until just compensation is paid, calculate the amount of compensation due, and order the County to pay such compensation to each plaintiff who was deprived of the use and possession of his property by Chapter 57;

D. That this Court issue a declaratory judgment that Chapter 57, as amended by Bill 4-21 and Bill 21-22E, is void for vagueness under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article 24 of the Maryland Declaration of Rights, as more fully set forth in Count IV, above;

E. That this Court issue a declaratory judgment that Chapter 57, as amended by Bill 4-21 and Bill 21-22E is unconstitutional under the Due Process Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights in so far as Chapter 57 regulates "major components" of firearms, as more fully set forth in Count V, above;

F. That this Court issue a declaratory judgment that Section 57-7 of Chapter 57 is unconstitutional under the Due Process Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights in so far as Section 57-7 purports to regulate the rights of parents in relationship with their minor children, as more fully set forth in Count VI, above;

G. That this Court issue a declaratory judgment that Chapter 57, as amended by Bill 4-21 and Bill 21-22E, are unconstitutional under the Second Amendment, as more fully set forth in Counts VII and VIII, above.

H. That this Court find that all plaintiffs have been and/or will be irreparably harmed by the conduct of defendant challenged in Counts I, II, III, IV, V, VI, VII and VIII, and enter a preliminary

and permanent injunction barring the County from enforcing Chapter 57, as amended by Bill 4-21 and Bill 21-22E, against plaintiffs and the members of MSI;

I. That this Court award plaintiff Engage compensatory damages for the County's violations of the its rights, including, without limitation, nominal damages, as authorized by 42 U.S.C. § 1983;

J. That this Court award all the plaintiffs and MSI members nominal damages, as authorized and required by 42 U.S.C. § 1983;

K. That this Court award attorney's fees and costs against defendant, as authorized by 42 U.S.C. § 1988;

L. That this Court award the plaintiffs such other and further relief as in law and justice they may be entitled to receive.

Respectfully submitted,

/s/ Mark W. Pennak

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MD Atty No. 1905150005

Date: November 29, 2022

Counsel for Plaintiffs

Bill No. 4-21
Concerning: Weapons - Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns
Revised: 04/06/2021 Draft No. 5
Introduced: January 19, 2021
Enacted: April 6, 2021
Executive: April 16, 2021
Effective: July 16, 2021
Sunset Date: None
Ch. 7, Laws of Mont. Co. 2021

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council Vice-President Albornoz
Co-Sponsors: Council President Hucker, Councilmembers Katz, Jawando, Navarro, Friedson, Rice, Riemer and Glass

AN ACT to:

(1) define terms related to firearm laws;
(2) restrict the **[[**manufacture,**]]** possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
(3) restrict the **[[**manufacture,**]]** possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
(4) generally amend the law regarding firearms and other weapons.

By amending
Montgomery County Code
Chapter 57, Weapons
Sections 57-1, 57-7, and 57-11

By adding
Montgomery County Code
Chapter 57, Weapons
Section 57-16

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

EXHIBIT A

Sec. 1. Sections 57-1, 57-7, and 57-11 are amended, and Section 57-16 is added, as follows:

57-1. Definitions.

In this Chapter, the following words and phrases have the following meanings:

3D printing process: a process of making a three-dimensional, solid object using a computer code or program, including any process in which material is joined or solidified under computer control to create a three-dimensional object.

* * *

Gun or *firearm*: Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

(1) The term "antique firearm" means (a) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in subparagraph (a) if such replica (i) is not designed or redesigned or using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer under federal law or markings in accordance

with 27 C.F.R. § 479.102. It does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

(3) "Handgun" means any pistol, revolver or other firearm capable of being concealed on the person, including a short-barreled shotgun and a short-barreled rifle as these terms are defined below. "Handgun" does not include a shotgun, rifle, or antique firearm.

[(3)**]** (4) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

[(4)**]** (5) The term "short-barreled rifle" means a rifle having one (1) or more barrels less than sixteen (16) inches in length and any weapon made from a rifle (whether by alternation, modification or otherwise) if such weapon, as modified, has an overall length of less than twenty-six (26) inches.

[(5)**]** (6) The term "short-barreled shotgun" means a shotgun having one (1) or more barrels less than eighteen (18) inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches.

[(6)**]** (7) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth

bore either a number of ball shot or a single projectile for each single pull of the trigger.

(8) "Undetectable gun" means:

(A) a firearm that, after the removal of all its parts other than a major component, is not detectable by walk-through metal detectors commonly used at airports or other public buildings;

(B) a major component that, if subjected to inspection by the types of detection devices commonly used at airports or other public buildings for security screening, would not generate an image that accurately depicts the shape of the component; or

(C) a firearm manufactured wholly of plastic, fiberglass, or through a 3D printing process.

* * *

Major component means, with respect to a firearm:

(1) the slide or cylinder or the frame or receiver; and

(2) in the case of a rifle or shotgun, the barrel.

Minor: An individual younger than 18 years old.

* * *

Place of public assembly: A "place of public assembly" is a place where the public may assemble, whether the place is publicly or privately owned, including a **[**government owned**]** park **[**identified by the Maryland-National Capital Park and Planning Commission**]**; place of worship; **[**elementary or secondary**]** school; **[**public**]** library; **[**government-owned or -operated**]** recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition

facility, such as fairgrounds or a conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

57-7. Access to guns by minors.

(a) A person must not give, sell, rent, lend, or otherwise transfer any rifle or shotgun or any ammunition or major component for these guns in the County to a minor. This subsection does not apply when the transferor is at least 18 years old and is the parent, guardian, or instructor of the minor, or in connection with a regularly conducted or supervised program of marksmanship or marksmanship training.

(b) An owner, employee, or agent of a gun shop must not allow a minor to, and a minor must not, enter the gun shop unless the minor is accompanied by a parent or other legal guardian at all times when the minor is in the gun shop.

(c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:

(1) a ghost gun or major component of a ghost gun;

(2) an undetectable gun or major component of an undetectable gun; or

(3) a computer code or program to make a gun through a 3D printing process.

(d) A person must not **[[**manufacture or assemble**]]** purchase, sell, transfer, possess, or transfer a ghost gun, including **[[**making**]]** a gun created through a 3D printing process, in the presence of a minor.

(e) A person must not store or leave a ghost gun, an undetectable gun, or a major component of a ghost gun or an undetectable gun, in a location that the person knows or should know is accessible to a minor.

[(c)**]** (f) This section must be construed as broadly as possible within the limits of State law to protect minors.

57-11. Firearms in or near places of public assembly.

(a) **[**A**]** In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, **[[**manufacture, assemble,**]]** possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms**[**, in or within 100 yards of a place of public assembly**]**; or

(2) sell, transfer, possess, or transport**[[**, or use a computer code to create,**]]** a firearm created through a 3D printing process.

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm;

(5) apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or

((6) apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

* * *

57-15. Penalty.

Any violation of this Chapter or a condition of an approval certificate issued under this Chapter is a Class A violation to which the maximum penalties for a Class A violation apply. Any violation of Section 57-8 is a Class A civil violation.

57-16. Reporting requirement.

(a) The County Police Department must submit a report annually to the County Executive and the County Council regarding the availability and use of ghost guns and undetectable guns in the County.

(b) The report must include the number of ghost guns and undetectable guns recovered by the Department during the prior year.

(c) Each report must be available to the public on the Police Department's website.

BILL NO. 4-21

Approved:

4/7/2021

Tom Hucker, President, County Council Date

Approved:

4/16/2021

Marc Elrich, County Executive Date

This is a correct copy of Council action.

4/16/2021

Selena Mendy Singleton, Esq., Clerk of the Council Date

Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or Near Places of Public Assembly
Revised: 11/10/2022 Draft No. 2
Introduced: July 12, 2022
Enacted: November 15, 2022
Executive: November 28, 2022
Effective: November 28, 2022
Sunset Date: None
Ch. 36, Laws of Mont. Co. 2022

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Albornoz
Co-Sponsors: Councilmembers Hucker, Friedson, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

AN EXPEDITED ACT to:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
(3) generally amend the law regarding restrictions against firearms in the County.

By amending
Montgomery County Code
Chapter 57, Weapons
[[Section**]]** Sections 57-1, 57-7, and 57-11

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

EXHIBIT B

Sec. 1. [[Section]] Sections 57-1, 57-7, and 57-11 [[is]] are amended as follows:

57-1. Definitions.

* * *

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[[**under**]]** in accordance with federal law [or]; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[[**27 C.F.R. § 479.102**]]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[[It**]]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

(8) "Undetectable gun" means:

* * *

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

* * *

Place of public assembly: A "place of public assembly" is:

(1) a **[[**place where the public may assemble, whether the place is**]]** publicly or privately owned:**[[**, including a**]]**

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[[**or**]]**

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

57-7. Access to guns by minors.

* * *

(d) A person must not purchase, sell, transfer, possess, or **[[**transfer**]]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or

(2) sell, transfer, possess, or transport a firearm created through a 3D printing process.

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or

(5) **[**apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or**]**

[(6)**]** apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

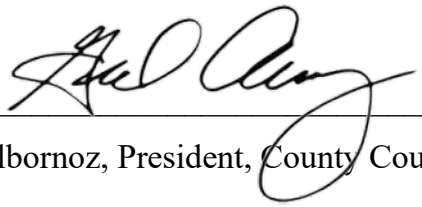
* * *

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

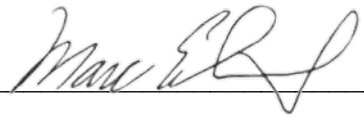
Approved:



11/17/2022

Gabriel Albornoz, President, County Council — Date

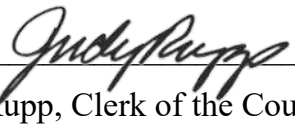
Approved:



11/28/2022

Marc Elrich, County Executive — Date

This is a correct copy of Council action.



11/28/2022

Judy Rupp, Clerk of the Council — Date

MARYLAND SHALL ISSUE®
SELF DEFENSE IS A CIVIL RIGHT

President
Mark W. Pennak

February 9, 2021

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO BILL 4-21 (Corrected)

I am the President of Maryland Shall Issue ("MSI"). Maryland Shall Issue is an all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners' rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland firearms Law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License and a certified NRA instructor in rifle, pistol and personal protection in the home, personal protection outside the home, muzzle loading as well as a range safety officer. I write in OPPOSITION TO BILL 4-21. For the reasons set forth below, this bill is preempted by State law and, if enacted, would be violative of the First Amendment and the Second Amendment of the Constitution. The Council would be well-advised to stay its hand and allow the General Assembly take the lead in these matters.

The Bill Is Preempted:

State law, MD Code, Criminal Law, § 4-209, broadly preempts "the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of: (1) a handgun, rifle, or shotgun; and (2) ammunition for and components of a handgun, rifle, or shotgun." The statute provides, as an exception, that the locality may regulate these subject matters '(i) with respect to minors; (ii) with respect to law enforcement officials of the subdivision; and (iii) except as provided in paragraph (2) of this subsection, within 100 yards of or in a park, church, school, public building, and other place of public assembly."

This bill violates Section 4-209 in multiple ways. First, and perhaps most egregiously, the bill defines a place of public assembly to include "a place where the public may assemble, whether the place is publicly or privately owned." The bill thus defines public "assembly" as a privately or publicly owned place where people "may assemble" and is thus utterly circular. It includes places where persons "may" assemble, not merely places where people do assemble or even regularly assemble.

EXHIBIT C

It could thus include any place, private or public, that people "may" assemble in the unknowable future.

Such an extraordinarily broad, circular definition is no definition at all. It is so vague as to violate the Due Process Clause of the Fourteenth Amendment. See *Giovani Carandola, Ltd. v. Fox*, 470 F.3d 1074, 1079 (4th Cir. 2006) (recognizing that "[a] statute is impermissibly vague if it either (1) fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits or (2) authorizes or even encourages arbitrary and discriminatory enforcement" (internal quotations omitted). See also *Grayned v. City of Rockford*, 408 U.S. 104, 108-109, (1972) ("A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis"). This body has an obligation to define regulatory prohibitions, not make them so vague as to ensnare the innocent or lead to arbitrary enforcement, especially where the law affects Constitutional rights. *City of Chicago v. Morales*, 527 U.S. 41, 54 (1999). A statute will be deemed unconstitutionally vague if it (1) "fails to give ordinary people fair notice of the conduct it punishes," or (2) is "so standardless that it invites arbitrary enforcement." *Johnson v. United States*, 576 U.S. 591, 595 (2015). The definition of place of public assembly fails that test.

Even more fundamentally, the bill's definition of place of public assembly is in conflict with Section 4-209. The proviso in Section 4-209 that allows the County to regulate firearms in within a 100 yards of "another place of public assembly" must read in context. See, e.g., *Berry v. Queen*, 469 Md. 674, 690, 233 A.3d 42 (2020) ("In order to interpret a word's specific meaning in a particular statute we look to the context in which the word is used.") (citation omitted). That proviso does not allow the County to regulate places where people "may" assemble, it allows regulation of a place within 100 yards "**another** place **of** public assembly," thus covering specific, existing locations where people typically already assemble.

The rule is that "'when general words in a statute follow the designation of particular things or classes of subjects or persons, the general words will usually be construed to include only those things or persons of the same class or general nature as those specifically mentioned.'" *In re Wallace W.,* 333 Md. 186, 190, 634 A.2d 53 (1993), quoting *Giant of Md. v. State's Attorney*, 274 Md. 158, 167, 334 A.2d 107, 113 (1975). This is simply an application of the canon of *ejusdem generis* which is based on "the supposition that if the legislature had intended the general words to be construed in an unrestricted sense, it would not have enumerated the specific things." *State v. 158 Gaming Devices*, 304 Md. 404, 429 n. 12, 499 A.2d 940 (1985). See also *State v. Sinclair*, 274 Md. 646, 650, 659, 337 A.2d 703 (1975). As the Supreme Court has also noted, the canon of *ejusdem generis* "limits general terms [that] follow specific ones to matters similar to those specified." *CSX Transp., Inc. v. Alabama Dept. of Revenue*, 562 U.S. 277, 294 (2011).

Here, by using the term "another place of public assembly," the statute was obviously intended to include "another" place which is akin or similar to the places expressly mentioned in the same statutory sentence, viz. a "park," a "church," a "school" or a "public building." Privately owned businesses or private property in

general are not like any of these specific places. Read literally, the bill's definition of a "place of public assembly" dramatically expands the area subject to local regulation to include any place within 100 yards of a private business or private property that "may" be used as place of assembly as well as to any place within 100 yards of a park, school, church or a public building. A place of public assembly as defined by this bill could cover a private business or a private home used as a place for a book club to meet, or a private property used to host any sort of event, no matter how small or limited in scope. It intrudes into private homes and businesses in a wholly unprecedented way. That is a vast overreach of legislative power by the County. It will not go unchallenged.

Even if the definition of "another place of public assembly" is limited to private businesses, the term is unbelievably broad. Given the number of private businesses in the County, such application would expand the exception to a huge portion of the County, including literally thousands of private homes within a 100 yards of a business. This sweep into private homes is not saved by Section 57-11, as this bill amends Section 57-11 to directly regulate the mere possession of "a ghost gun or undetectable gun" in the person's own home. The Section 4-209 exception for "another" place of public assembly simply cannot be reasonably read to allow such all-encompassing regulation of private possession in one's own home. This is particularly so given that State law expressly permits home possession of firearms, including handguns. MD Code, Criminal Law, § 4-203(b)(6) (providing that a person may wear, carry or transport a handgun "on real estate that the person owns or leases"). Nothing in Section 4-209 allows the County to regulate home possession of firearms. For these reasons alone, the bill's definition of "public assembly" will not survive judicial review. See *Montgomery County v. Atlantic Guns, Inc.*, 302 Md. 540, 489 A.2d 1114 (1985).

The bill conflicts with State law in other ways. The bill amends Section 57-11 to regulate possession of a firearm and ammunition at a business, providing that such owner may possess a firearm only if the owner "has a permit to carry the firearm." It similarly allows an authorized employee of the business to possess a firearm only if the employee "has a permit to carry the firearm." These amendments (requiring the owner and the employee to have a permit) bring the bill into direct conflict with State law. Specifically, MD Code, Criminal Law, § 4-203(b), expressly provides that a person need not have a permit to transport a handgun between the residence "and the place of business of the person" if the business is owned substantially by that person (Section 4-203(b)(3)), and further provides that a person may, without a permit, wear and carry a handgun "within the confines of a business establishment that the person owns or leases" (Section 4-203(b)(6)). Section 4-203(b)(7) extends the same right to wear and carry a handgun, without a permit, to an authorized supervisory employee within the confines of the business. These State law provisions are also not limited to "one" firearm, much less to ammunition for that one firearm, as required by this bill. These provisions of State law bar the County from regulating possession of firearms by business owners and employees.

Specifically, under the Express Powers Act, counties in Maryland have no power to pass legislation that is inconsistent with State law. See MD Code, Local

Government, §10-206(a) (providing that a county may pass an ordinance, resolution, or bylaw that is "not inconsistent with State law"). Thus, "[a] county may exercise the powers provided under this title only to the extent that the powers are not preempted by or in conflict with public general law." (Id. at §10-206(b)). It is thus well established that a local law is preempted by conflict when the local law prohibits an activity which is permitted by State law, or permits an activity prohibited by state law. See *City of Baltimore v. Sitnick*, 254 Md. 303, 317, 255 A.2d 376 (1969) ("a political subdivision may not prohibit what the State by general public law has permitted"). The bill obviously fails that test. Nothing in Section 4-209 allows the County to enact regulations that actually and directly ban conduct expressly permitted by State law. This County has already been rebuffed in its attempt to regulate ammunition by the Maryland Court of Appeals. See *Montgomery County v. Atlantic Guns, Inc.*, 302 Md. 540, 489 A.2d 1114 (1985). The limited exception for regulation allowed in Section 4-209 cannot be construed to allow the County to directly contravene State law in this manner. See, e.g., *Allied Vending, Inc. v. City of Bowie*, 332 Md. 279, 297-98, 631 A.2d 77 (1993) ("state law may pre-empt local law in one of three ways: 1) pre-emption by conflict, 2) express pre-emption, or 3) implied pre-emption").

This bill also seeks to outlaw so called "ghost guns" to the extent possible and in so doing violates existing State law. For example, the bill bans the mere possession or transport of any firearm (including a ghost gun) within 100 yards of a place of public assembly. As noted, the bill expressly amends Section 57-11 to make clear that this ban applies to ghost guns in the home. As explained above, the County may not ban the possession of any firearms in the home as State law expressly permits such possession. MD Code, Public Safety, §4-203(b)(6). That includes ghost gun possessions in the home. The County may not regulate home possession of any firearm. Period. Full stop.

The bill also provides that a person "must not" "sell, transfer, possess, transport, or use a computer code to create, a firearm through a 3D printing process." That language is a grammatical mess. Does the bill ban the mere sale or possession of such code or does it ban such a sale or possession only when it is used "to create a firearm." If it bans the former, then the bill is blatantly unconstitutional under the First Amendment and Second Amendment, as discussed below, and preempted, as discussed above. If it bans only the latter, then the bill is nonsense, as it is hard to envision a "transport" or "sale" of code that "creates" a gun. Such poor draftsmanship is intolerable in a bill that would attach penalties for a Class A violation. *Sessions v. Dimaya*, 138 S.Ct. 1204, 1212 (2018) ("the prohibition of vagueness in criminal statutes…is 'essential' of due process required by both 'ordinary notions of fair play and the settled rules of law") (citation omitted). See also *Myers v. State*, 248 Md. App. 422, 437, 241 A.3d 997 (2020) ("The United States Supreme Court has stated that 'a vague law is no law at all.'"), quoting *United States v. Davis*, 139 S. Ct. 2319, 2323 (2019).

The bill also bans "access" by a minor to any "major component" of a ghost gun and defines a major component to include "the slide or cylinder or the frame or receiver" or the barrel in the case of a rifle or shotgun. That limitation is inconsistent with

current State law that regulates access by a minor under the age of 16 to a loaded "firearm," not merely access to an unloaded component of a firearm. MD Code, Criminal Law, § 4-104. Current State law allows such access to an entire firearm, including a loaded firearm, if the child under the age of 16 has a hunter safety certificate. (Id.). The statute also expressly permits such access if supervised "by an individual at least 18 years old." (Id.). Once again, the bill improperly prohibits an activity permitted by State law.

Similarly, the bill provides that a person "must not" sell, lend or otherwise transfer a ghost gun to a minor and bans the manufacture or assembly of "a gun" (any gun) in the mere presence of a minor, including in the home, by a parent or firearms instructor or other adult. These bans are directly contrary to State law, which provides that a minor (or any person under 21) may "transfer" and possess a regulated firearm (including a handgun) if that person is under the supervision of a person over 21 or being trained by an instructor. MD Code, Public Safety, § 5-133(d). Such firearms instruction by an adult also frequently includes cleaning firearms, which is a process that necessarily includes disassembly and assembly of a firearm. Yet, this bill would ban these activities expressly permitted by State law. Indeed, Section 4-209(b)(2) flatly prohibits the County from banning firearms training, including the training of minors. That is exactly what this bill does by banning the assembly of any firearm in the mere "presence" of a minor and by banning the use of a ghost gun in the training or supervised access expressly allowed by Section 5-133(d).

The Bill Violates The First Amendment:

The bill amends Section 57-11 to ban the mere possession, transport, sale or transfer of computer software. Yet, there is no doubt that computer "software" or a "computer program" is fully protected by the First Amendment. See, e.g., *Junger v. Daley*, 209 F.3d 481, 482 (6th Cir. 2000) ("Because computer source code is an expressive means for the exchange of information and ideas about computer programming, we hold that it is protected by the First Amendment."); *Universal City Studios, Inc. v. Corley,* 273 F.3d 429, 449 (2d Cir. 2001) ("[C]omputer code, and computer programs constructed from code can merit First Amendment protection."). Banning computer programs is thus akin to banning a book and banning distribution of computer code is thus akin to banning the distribution of a book. Legally, if passed, the bill would turn County law enforcement officers into censors and the County government into a bunch of book burners.

The ban imposed by the bill is a purely "content-based" prior restraint on a First Amendment activities. See *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015). It is well-established that prior restraints to speech are "the most serious and least tolerable infringement on First Amendment rights." *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). Under *Reed*, a facially content-neutral law will still be categorized as content-based if it "cannot be "'justified without reference to the content of the regulated speech,'" or ... adopted by the government 'because of disagreement with the message [the speech] conveys.'" 135 S.Ct. at 2227, quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Here, there is nothing remotely facially neutral

about the bans imposed by this bill. The bans are based on the County's "disagreement with the message." Such a prior restraint on the message cannot stand. See *Defense Distributed v. Dept. of State*, 838 F.3d 451, 468-70 (5th Cir. 2016), c*ert. denied* 138 S.Ct. 638 (2018) (Jones, J. dissenting on other grounds) (reaching the merits of the First Amendment claim not considered by the majority and noting that the government's restriction on the export of 3-D printing code was content-based and thus must be analyzed under strict scrutiny).

Moreover, every American has a First Amendment right to receive information. Although the First Amendment refers only to the right to speak, courts have long recognized that the Amendment also protects the right to receive the speech of others. See *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (stating that the "First Amendment ... afford[s] the public access to discussion, debate, and the dissemination of information and ideas"); *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976) (ban on advertising of prescription drug prices overturned); *Bigelow v. Virginia*, 421 U.S. 809, (1975) (ban on abortion advertising invalid); *Lamont v. Postmaster General*, 381 U.S. 301, (1965) (a postal regulation limiting the importation of Communist publications overturned); *Martin v. City of Struthers*, 319 U.S. 141 (1943) (ordinance prohibiting door-to-door solicitation invalid as to distribution of leaflets announcing a religious meeting). Every person in Maryland has a constitutional right to receive, purchase or otherwise obtain the very computer software or programs that the bill would ban.

The Bill Is Unconstitutional Under The Second Amendment:

As noted, the bill would ban mere possession of a "ghost gun" within 100 yards of broad and vague definition of a place of public assembly, including banning possession in the home. This bill is thus a gun ban, pure and simple. Such a gun ban violates the Second Amendment right of owners to possess firearms under *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. Chicago*, 561 U.S. 742, 750 (2010). Even under the least demanding test ("intermediate scrutiny"), if the State can accomplish its legitimate objectives without a ban (a naked desire to penalize gun owners is not legitimate), then the State must use that alternative. *McCullen v. Coakley*, 134 S. Ct. 2518, 2534 (2014). Stated differently, under intermediate scrutiny, the State has the burden to demonstrate that its law does not "burden substantially more [protected conduct] than is necessary to further the government's legitimate interest." Id. at 2535, quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 796 (1989). See also *NY State Rifle & Pistol Ass'n. v. Cuomo*, 804 F.3d 242, 264 (2d Cir. 2015), cert. denied, 136 S.Ct. 2486 (2016) (striking down a 7 round load limit in a firearm magazine because the limit was "untethered from the stated rationale"). See also *Reynolds v. Middleton*, 779 F.3d 222, 232 (4th Cir. 2015) (holding that, under the intermediate scrutiny test as construed in *McCullen*, the government must "prove that it actually tried other methods to address the problem"). (Emphasis in original).

The test for "strict scrutiny" is even more demanding as, under that test, the State must prove both a "compelling need" and that it used the "least" restrictive alternative in addressing that need. See *United States v. Playboy Entm't. Grp., Inc.*,

529 U.S. 803, 813 (2000). More generally, the constitutionality of gun laws must be analyzed under the "text, history and tradition" test that was actually used in *Heller* and *McDonald*. See, e.g., *Heller v. District of Columbia*, 670 F.3d 1244, 1269 (D.C. Cir. 2016) (Kavanaugh, J., dissenting) ("In my view, *Heller* and *McDonald* leave little doubt that courts are to assess gun bans and regulations based on text, history, and tradition, not by a balancing test such as strict or intermediate scrutiny."). There is no "text, history or tradition" that could possibly support the types of bans imposed by this bill.

The manufacture of a homemade firearm or the use of a 3-D printer to create a homemade gun or gun component does not make that gun illegal in the slightest under long-standing federal law and state law. Under federal law, a person may legally manufacture a firearm for his own personal use. See 18 U.S.C. § 922(a). However, "it is illegal to transfer such weapons in any way." *Defense Distributed v. United States*, 838 F.3d 451, 454 (5th Cir. 2016). This manufacture "involves starting with an '80% lower receiver,' which is simply an unfinished piece of metal that looks quite a bit like a lower receiver but is not legally considered one and may therefore be bought and sold freely. It requires additional milling and other work to turn into a functional lower receiver." (Id).

Manufacturing an "80% lower" into a "functional lower receiver" is not a trivial process. It takes machine tools, expertise and hours of time. Miscues are common and, when made, essentially convert the "80% lower" into scrap metal. Individuals who undertake this process are overwhelmingly hobbyists, not criminals. Even after the receiver is successfully made, the owner would still have to purchase the additional parts, such as a barrel, the trigger, slide and all the internal parts to complete the assembly. All these additional parts are expensive. With the cost of the tools to mill the receiver, plus the cost of the parts, a final assembled homemade gun costs more to make than it would to actually buy an identical gun from a dealer. This bill would ban the hobby and penalize the hobbyist for the continued possession of any gun (within a 100 yards of a place of public assembly) that the hobbyist constructed prior to the enactment of the law. That result likely includes literally thousands of law-abiding people in Montgomery County.

Banning manufacture or the mere possession of any gun made by a 3-D printer, cannot be justified under any of these tests applicable to the Second Amendment. The bills' ban on the use of computers is akin to the argument that the Second Amendment protects only muskets that were used during the Revolutionary War, a contention that the Court in *Heller* rejected as "bordering on the frivolous." *Heller*, 554 U.S. at 582. Indeed, almost all firearms are manufactured using computer software. The County simply may not ban the possession of these types of arms. See *Defense Distributed v. Dept. of State*, 121 F.Supp.3d 680, 699 (W.D. Tex. 2015), *aff'd,* 838 F.3d 451 (5th Cir. 2016), *cert. denied,* 138 S.Ct. 638 (2018) (sustaining a regulation of 3-D printed guns under the Second Amendment because plaintiffs were "not prohibited from manufacturing their own firearms" and were "not prohibited from acquiring the computer files at issue").

Heller held that guns in "common use" by law abiding persons are prima facie protected arms under the Second Amendment. *Heller*, 554 U.S. at 627. Homemade guns easily satisfy this requirement as there are literally tens of thousands of such guns made over many years throughout the United States. Guns for personal use have been made at home for centuries, even before the Revolutionary War. The Council simply may not disregard that reality. See *Caetano v. Massachusetts*, 136 S.Ct.1027 (2016) (summarily reversing Massachusetts' highest court for failing to follow the reasoning of Heller in sustaining a state ban on stun guns); *Ramirez v. Commonwealth,* 479 Mass. 331, 332, 352 (2017) (on remand from *Caetano*, holding that "the absolute prohibition against civilian possession of stun guns under § 131J is in violation of the Second Amendment" and declaring the State's absolute ban to be "facially invalid"). Homemade guns are at least as much "in common use" as stun guns at issue in Caetano.

Here, the supposed evil that this bill purports to address is guns without serial numbers because such guns are not "traceable." Yet, tracing runs out after identification of the gun's first purchaser and firearms may be sold and resold many times in their lifetime. Criminals, who may not possess firearms at all, will not be deterred by the bill as possession of a firearm by a prohibited person is already a 10-year federal felony, 18 U.S.C. § 922(g), and a serious crime under existing State law, MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1). The few crimes that are solved by tracing guns left at a crime scene are only a small fraction of guns used in crimes because very few guns are actually traced by the ATF. See David B. Kopel, Clueless: The Misuse of BATF Firearms Tracing Data. http://www.davekopel.org/2A/LawRev/CluelessBATFtracing.htm. See also Police Departments Fail to Regularly Trace Crime Guns. https://www.thetrace.org/2018/12/police-departments-gun-trace-atf/. The ATF itself has cautioned against any use of trace data, noting that "[t]he firearms selected [for tracing] do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe." Bureau of Alcohol, Tobacco, Firearms and Explosives. Firearms Trace Data, 2016: Maryland, https://www.atf.gov/docs/163521-mdatfwebsite15pdf/download. As the ATF further notes, "[n]ot all firearms used in crime are traced and not all firearms traced are used in crime," stating further that "[f]irearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime."

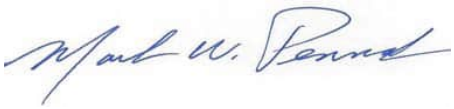
But, if the concern is truly that these guns lack a serial number (rather than a desire to penalize gun owners), then that concern can be addressed without banning homemade guns. Specifically, there are alternatives to bans. For example, a new law passed in California (which is ranked by the Giffords Law Center as having the most restrictive gun laws in the nation) provides that a new resident to the state shall apply to the Department of Justice for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously self-manufactured or self-assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification. As of July 1, 2018, prior to manufacturing or assembling a new firearm, a person is

required to apply to California for a unique serial number. The gun owner is then simply required to engrave that number onto the receiver and report back to California that he or she has done so. As of January 1, 2019, owners of existing guns were required to apply for such serial numbers and perform this engraving. See California Penal Code §§ 29180-29184.

In short, assembly of new homemade guns and existing possession is permitted as long as this serial number is obtained, engraved and reported. California Penal Code §29180. In this way, the owner is identified and the gun is fully "traceable" and thus no longer a so-called "ghost gun." As this law indicates, there is no reason to take the extreme step of flatly banning homemade guns or converting existing owners into criminals. Under *Heller*, the County may not simply reject this alternative simply because a general ban is more convenient or cheaper. Gun owners may not be penalized for such flimsy reasons. See, e.g., *Board of Estimate of City of New York v. Morris*, 489 U.S. 688, 702 n.10 (1989); *Heller v. District of Columbia*, 801 F.3d 264, 310 (D.C. Cir. 2015) (Henderson, J., concurring in part and dissenting in part). Indeed, in 2018, the House Judiciary Committee in the General Assembly favorably reported a bill (HB 740) that expressly required the State Police to conduct a study of this California alternative. Such legislation may be enacted in the future. The Council has no role in such State-wide matters.

In sum, the Council should not venture out on this ill-conceived regulatory adventure that will, more likely than not, be struck down as preempted or otherwise invalidated by the courts. Waiting for the State to act also makes fiscal sense. If the State General Assembly decides to regulate "ghost guns," then the substantial litigation costs associated with defending that policy will be borne by the State, not by the County. Such legislation, if enacted by the General Assembly, will also undoubtedly conflict in some way with the bans that would be imposed by this bill, thereby resulting in the preemption of the County law. The Council should await action by the General Assembly. "Feel good" legislation is no substitute for sound legal judgment.

Sincerely,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
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Montgomery County Council

Committee: PS
Committee Review: Completed
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #FirearmsInPublicPlaces

AGENDA ITEM #4B
November 15, 2022
Action

SUBJECT

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

Lead Sponsors: Council President Albornoz

Co-Sponsors: Councilmembers Hucker, Friedson, Navarro, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

EXPECTED ATTENDEES

N/A

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action – Council vote expected
- The Public Safety Committee (3-0) recommends enactment of Bill 21-22 as amended.

DESCRIPTION/ISSUE

Expedited Bill 21-22 would:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly: and
(3) generally amend the law regarding restrictions against firearms in the County.

SUMMARY OF KEY DISCUSSION POINTS

The PS Committee recommends the enactment of Expedited Bill 21-22 with amendments to:

- clarify the definition of "place of public assembly" in light of recent Supreme Court jurisprudence;
- update provisions regarding ghost guns due to changes in Maryland law; and
- expressly add a severability clause to Chapter 57 of the County Code.

This report contains:

EXHIBIT D

Alternative format requests for people with disabilities. If you need assistance accessing this report you may submit alternative format requests to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

Agenda Item #4B
November 15, 2022
Action

M E M O R A N D U M

November 10, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

PURPOSE: Final action – roll call vote expected

Committee recommendation (3-0): approval of Bill 21-22 with amendments

Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly, sponsored by Lead Sponsor Council President Albornoz and Co-Sponsored by Councilmembers Hucker, Friedson, Navarro, Jawando, Riemer, Katz, Council Vice-President Glass and Councilmember Rice, was introduced on July 12, 2022. A Public Hearing occurred on July 26, 2022 and a Public Safety Committee worksession was held on October 31, 2022. Final action is scheduled for November 15, 2022.

Expedited Bill 21-22 would:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;

(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly: and

(3) generally amend the law regarding restrictions against firearms in the County.

BACKGROUND

In the Supreme Court decision of *New York State Rifle & Pistol Assn. v. Bruen, Superintendent of New York State Police,* Slip Opinion No. 20-843 (June 23, 2022), available at https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf, the Supreme Court overturned a requirement of New York's handgun carry law. The New York law had required an applicant for a handgun carry license to show "proper cause" for the license, and the Supreme Court held that the requirement violated the Second Amendment's right to bear arms. The Court explained, however, that "longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" are constitutionally permissible.

Like New York, Maryland has a proper-cause requirement for wear-and-carry handgun licenses. *See* Md. Code Ann., Public Safety Section 5-306. Governor Hogan, in response to *Bruen*, instructed the Maryland State Police not to enforce the proper-cause element of the Maryland law. https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/. Subsequently, the Court of Special Appeals struck down Maryland's proper cause requirement in late July. *In re Rounds*, 255 Md. App. 205 (2022).

As a result of the Supreme Court eliminating "just cause" requirements, more individuals in Maryland likely will carry firearms, regardless of whether the individuals have any good or substantial reason to carry them.

BILL SPECIFICS

Expedited Bill 21-22 would **prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland**. This restriction would strengthen current County law, which exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

LEGAL FRAMEWORK

Maryland law specifically allows counties to regulate the possession of certain firearms within 100 yards of a place of public assembly. Under the Criminal Law Article of the Maryland Code, § 4-209:

State preemption

(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of:

(1) a handgun, rifle, or shotgun; and

(2) ammunition for and components of a handgun, rifle, or shotgun.

Exceptions

(b)(1) A county, municipal corporation, or special taxing district **may regulate the purchase, sale, transfer, ownership, possession, and transportation** of the items listed in subsection (a) of this section:

(i) with respect to minors;

(ii) with respect to law enforcement officials of the subdivision; and

(iii) except as provided in paragraph (2) of this subsection, **within 100 yards of or in a park, church, school, public building, and other place of public assembly**.

(2) A county, municipal corporation, or special taxing district may not prohibit the teaching of or training in firearms safety, or other educational or sporting use of the items listed in subsection (a) of this section.

(Emphasis added).

There are many instances in which the State limits a person's ability to carry a weapon, regardless of whether the person has a permit. *See* the Maryland State Police website, https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx, which lists numerous state areas, such as State parks and State buildings, where a concealed carry permit does not apply. Currently, the State law prevents permit carriers from possessing firearms at specific locations including school property, state buildings (not County buildings), state parks, the General Assembly, aircraft, Maryland Rest Areas, and certain daycares. *See id*.

Notably, these restricted areas identified by the State Police do not include certain areas within the County's broader definition of "place of public assembly" – which was amended under Bill 4-21 bill to mean "a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building."

SUMMARY OF PUBLIC HEARING

On July 26, 2022, the Council heard extensive testimony regarding Expedited Bill 21-22. (©15). Many speakers supported the bill as necessary for public safety. Many speakers opposed the bill based upon Second Amendment and safety concerns.

SUMMARY OF PUBLIC SAFETY WORKSESSION

The Committee discussed the following issues, and adopted the following amendments.

1. **Supreme Court Approach to Identifying "Sensitive Places" – *i.e.*, places where Guns may be Banned**

Prior to *Bruen*, the judicial test to review firearms regulations consisted of two parts: (1) whether a gun regulation was consistent with Constitutional text and history; and (2) whether the regulation satisfied a means-ends balancing test (consisting of strict or intermediate scrutiny). Under *Bruen*, the Court has shifted so that only the first part of the test now matters; if the court concludes that a regulation is not consistent with the Constitutional text and history, it is invalid. It can no longer be resuscitated by a balancing test.

In *Bruen*, the Supreme Court explicitly rejected New York's identification of "sensitive places" where firearms may be banned, even for individuals who have wear-and-carry permits:

> Although we have no occasion to comprehensively define "sensitive places" in this case, ***we do think respondents err in their attempt to characterize New York's proper-cause requirement as a "sensitive-place" law. In their view, "sensitive***

> ***places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available."*** Brief for Respondents 34. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. ***But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" far too broadly.*** Respondents' argument would in effect exempt cities from the Second Amendment and would eviscerate ***the general right to publicly carry arms for self-defense***….
>
> Slip opinion at 21 (emphasis added).

The Court went on to identify five locations – schools, legislative assemblies, government buildings, polling places, and courthouses – it considers to be "sensitive places" where weapons may be totally prohibited. The Court left open the possibility that other locations where weapons were historically banned – or the modern counterparts of those locations – might qualify as "sensitive places."

> ….**[A]*nalogical reasoning requires only that the government identify a well-established and representative historical analogue, not a historical twin*. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster**.
>
> Consider, for example, Heller's discussion of ***"longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings***." 554 U. S., at 626. Although the historical record yields relatively few 18th- and 19th-century "sensitive places" where weapons were altogether prohibited—***e.g., legislative assemblies, polling places, and courthouses***—we are also aware of no disputes regarding the lawfulness of such prohibitions. See D. Kopel & J. Greenlee, The "Sensitive Places" Doctrine, 13 Charleston L. Rev. 205, 229–236, 244–247 (2018); see also Brief for Independent Institute as Amicus Curiae 11–17. We therefore can assume it settled that these locations were "sensitive places" where arms carrying could be prohibited consistent with the Second Amendment. ***And courts can use analogies to those historical regulations of "sensitive places" to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible***.
>
> Slip opinion at 21 (emphasis added).

2. <u>Amendments to the Definition of "Place of Public Assembly"</u>

The County currently defines a "place of public assembly" as follows:

> Place of public assembly: A "place of public assembly" is a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health

center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building. (Sec. 57-1).

In order to make this definition more closely aligned with *Bruen*'s approach to "sensitive places" (as discussed above) – and in order to include places that *Bruen* has specifically said do qualify as "sensitive places" – the Committee voted to adopt the following amendment.

After line 1, add the following.

57-1. Definitions

* * *

Place of public assembly: A "place of public assembly" is:

(1) a **[**place where the public may assemble, whether the place is**]** publicly or privately owned:**[**, including a**]**

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[**or**]**

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

3. Severability Clause

Given the fluctuating jurisprudence regarding the Second Amendment, the Committee voted to add a "severability clause" to the bill. The purpose of the severability clause is to explicitly reflect the Council's intent that if any portion of the bill is found to be invalid, the remainder of the bill must remain in effect. This is important so that if a court were to strike down portions of the County's law against carrying firearms in "places of public assembly", the remainder of the law would be enforceable.

After line 31, insert the following.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

4. Alignment with Maryland Law

After the adoption of Council Bill 4-21 (Ghost Guns), the General Assembly adopted ghost gun legislation requested by Attorney General Frosh (Chapter 1 of the 2022 Laws of Maryland).

In order to align County ghost gun definitions with those of the new state law – and in order to acknowledge that the ghost gun laws must be interpreted in accordance with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives – the Committee adopted the following amendments.

After line 1, add the following.

57-1. Definitions

* * *

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[**under**]** in accordance with federal law; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[**27 C.F.R. § 479.102**]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[It**]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

(8) "Undetectable gun" means:

* * *

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Add the following uncodified section to Bill 21-22.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

5. Technical Correction

The Committee voted to adopt the following technical amendment to correct a typographical error in Section 57-7(d).

57-7. Access to guns by minors.

* * *

(d) A person must not purchase, sell, transfer, possess, or **[**transfer**]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

NEXT STEP: Roll call vote on whether to enact Expedited Bill 21-22 with amendments, as recommended by the Public Safety Committee.

This packet contains:	Circle #
Expedited Bill 21-22	1
Legislative Request Report	7
Fiscal Impact Statement	8

Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or Near Places of Public Assembly
Revised: 11/10/2022 Draft No. 2
Introduced: July 12, 2022
Expires: January 12, 2024
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Albornoz
Co-Sponsors: Councilmembers Hucker, Friedson, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

AN EXPEDITED ACT to:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
(3) generally amend the law regarding restrictions against firearms in the County.

By amending
Montgomery County Code
Chapter 57, Weapons
[[Section**]]** Sections 57-1, 57-7, and 57-11

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. [[Section]] Sections 57-1, 57-7, and 57-11 [[is]] are amended as follows:

57-1. Definitions.

* * *

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[[**under**]]** in accordance with federal law; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[[**27 C.F.R. § 479.102**]]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[[It**]]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

(8) "Undetectable gun" means:

* * *

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

* * *

Place of public assembly: A "place of public assembly" is:

(1) a **[[**place where the public may assemble, whether the place is**]]** publicly or privately owned:**[[**, including a**]]**

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[[**or**]]**

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

57-7. Access to guns by minors.

* * *

(d) A person must not purchase, sell, transfer, possess, or **[[**transfer**]]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or

(2) sell, transfer, possess, or transport a firearm created through a 3D printing process.

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or

(5) **[**apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or**]**

[(6)**]** apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

* * *

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

LEGISLATIVE REQUEST REPORT

Bill 21-22
Weapons – Firearms in or Near Places of Public Assembly

DESCRIPTION:	The bill would prohibit the possession of firearms in or near areas of public assembly and remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly.
PROBLEM:	Gun violence.
GOALS AND OBJECTIVES:	Protect the possession of certain areas within sensitive areas, e.,g., in or near places of public assembly.
COORDINATION:	Montgomery County Police Department
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	Office of Legislative Oversight
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	Office of Legislative Oversight
EVALUATION:	To be done.
EXPERIENCE ELSEWHERE:	State of Maryland
SOURCE OF INFORMATION:	Christine Wellons, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	Yes
PENALTIES:	N/A

Fiscal Impact Statement
Bill 21-22 – Weapons – Firearms In or Near Places of Public Assembly

1. **Legislative Summary**

   Bill 21-22 would prohibit the possession of firearms in or near places of public assembly, remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly, and amend the law regarding restrictions against firearms in the County.

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   The Bill's impact on County expenditures is expected to be nominal. Changes in the number of calls for service are expected to be small and can be absorbed within the Montgomery County Police Department's current staff complement. There is no anticipated impact on County revenues.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   As stated in the response to question #2, the Bill's impact on County expenditures is expected to be nominal, and there is no anticipated impact on County revenues.

4. **An Actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable.

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   There is no anticipated impact on County information technology systems.

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Bill 21-22 does not authorize future spending.

7. **An estimate of the staff time needed to implement the bill.**

   Staff time required to administer the Bill is expected to be minimal. Officer training will be accomplished through an informational bulletin.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   No new staff would be required.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

The number of additional calls that the Emergency Communications Center (ECC) may receive in a calendar year due to this Bill is difficult to quantify, but is expected to be minimal. The Department will reevaluate after one year.

12. If a bill is likely to have no fiscal impact, why that is the case.

See response to question #2.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Darren Francke, Assistant Chief of Police, Management Services Bureau
Dale Phillips, Director, Management and Budget Division
Karla Thomas, Manager, Management and Budget Division
Derrick Harrigan, Office of Management and Budget

Jennifer R. Bryant, Director
Office of Management and Budget

8/22/22
Date

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED BILL 21-22: WEAPONS – FIREARMS IN OR NEAR PLACES OF PUBLIC ASSEMBLY

SUMMARY

The Office of Legislative Oversight (OLO) finds the racial equity and social justice (RESJ) impact of Expedited Bill 21-22 is indeterminant due to insufficient information on the demographics of the Bill's beneficiaries, as well as on the potential effects on gun violence and police interactions in the County.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.[1] Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.[2]

PURPOSE OF EXPEDITED BILL 21-22

Gun violence is a significant public health problem in the United States. In 2020, there were 45,222 gun-related deaths, 54 percent of which were suicides and 43 percent of which were homicides.[3] Gun homicides have recently been highlighted as a rapidly growing concern, potentially a result of distress during the pandemic.[4] In 2020, 79 percent of homicides involved a firearm, the highest percentage recorded in over 50 years.[5] Further, the firearm homicide rate jumped 35 percent in 2020, an increase deemed as historic by the Centers for Disease Control and Prevention (CDC).[6] The U.S. also stands out internationally when it comes to gun homicides. Among high-income countries with populations of 10 million or more, the U.S. ranks first in gun homicides, having a rate more than double the next country on the list, Chile, and 22 times greater than in the European Union as a whole.[7]

Following the Supreme Court decision on *New York State Rifle & Pistol Assn. v. Bruen, Superintendent of New York State Police*, Governor Larry Hogan ordered Maryland State Police to suspend the 'good and substantial reason' standard in reviewing applications for wear-and-carry permits.[8] Recent reports have noted a sharp increase in new permit applications in Maryland following the governor's orders.[9]

The goal of Expedited Bill 21-22 is to "prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland."[10] The Bill achieves this goal through removing an exemption in County law that currently allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly.

State law currently prohibits permit carriers from possessing firearms at specific locations, including school property, state buildings, and state parks, among other locations. Bill 21-22 broadens the restricted areas established by the state to include places of public assembly as defined by County law, which includes parks, places of worship, schools, libraries, recreational facilities, hospitals, community health centers, long-term facilities, or multipurpose exhibition facilities, such as fairgrounds or conference centers. A place of public assembly can be publicly or privately owned, and includes all property associated with the place, such as a parking lot or grounds of a building.[11]

Expedited Bill 21-22 was introduced to the Council on July 12, 2022.

In February 2021, OLO published a RESJ impact statement (RESJIS) for Bill 4-21, Weapons – Protection of Minors and Public Places – Restrictions Against Ghost Guns and Undetectable Guns.[12] OLO builds on Bill 4-21's analysis for this RESJIS.

GUN VIOLENCE AND RACIAL EQUITY

Black, Indigenous, and Other People of Color (BIPOC), have long experienced significant disparities in gun violence. Regarding the recent sharp increase in gun homicides, researchers at the CDC stated:

> "The firearm homicide rate in 2020 was the highest recorded since 1994 (1). However, the increase in firearm homicides was not equally distributed. Young persons, males, and Black persons consistently have the highest firearm homicide rates, and these groups experienced the largest increases in 2020. These increases represent the widening of long-standing disparities in firearm homicide rates. For example, the firearm homicide rate among Black males aged 10–24 years was 20.6 times as high as the rate among White males of the same age in 2019, and this ratio increased to 21.6 in 2020."[13]

While some attribute violence in BIPOC communities to individual behaviors and choices, these explanations often ignore the central role government has played in driving segregation and concentrated poverty, common conditions in communities stricken with violence. The following section provides an overview of studies that explore the relationship between violence, segregation, and concentrated poverty, with the intent of demonstrating that racial and ethnic disparities in gun violence are neither natural nor random. Please see the RESJIS for Expedited Bill 30-21 , Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, for detailed background on the government's role in fostering segregation and the racial wealth divide.[14]

Drivers of Gun Violence. Multiple studies have pointed to residential segregation and concentrated poverty as strong predictors of violence, and more specifically gun violence, in communities, for instance:

- A study of 103 metropolitan areas over five decades found that "(1) racial segregation substantially increases the risk of homicide victimization for blacks while (2) simultaneously decreasing the risk of white homicide victimization. The result…is that (3) segregation plays a central role in driving black-white differences in homicide mortality."[15]
- A study of over 65,000 firearm-related deaths among U.S. youth ages 5 to 24 between 2007 and 2016 found that "higher concentration of county-level poverty was associated with increased rates of total firearm-related deaths." Moreover, "two-thirds of firearm-related homicides could be associated with living in a county with a high concentration of poverty."[16]

- A study of U.S. gun violence data between 2014 and 2017 found that "gun violence is higher in counties with both high median incomes and higher levels of poverty." The researchers went on to state that the "findings may well be due to racial segregation and concentrated disadvantage, due to institutional racism, police-community relations, and related factors."[17]
- A study of shootings in Syracuse, New York between 2009 and 2015 found that "higher rates of segregation, poverty and the summer months were all associated with increased risk of gun violence."[18]
- A study of gunshot victims (GSVs) in Louisville, KY between 2012 and 2018 found that "[r]elative to green-graded neighborhoods, red-graded [redlined] neighborhoods had five times as many GSVs. This difference remained statistically significant after accounting for differences in demographic, racial, and housing characteristics of neighborhoods."[19]
- A study of 13 U.S. cities between 2018 and 2020 found that in 2020, "violence was higher in less-privileged neighborhoods than in the most privileged," where less-privileged neighborhoods demonstrated a higher degree of racial, economic, and racialized economic segregation.[20]

Consequences of Gun Violence. Gun violence has harmful effects that reverberate deeply in families and communities. As Dr. Thomas R. Simon, CDC Associate Director for Science, Division of Violence Prevention, stated to Vox "[p]art of the reason why violence is a public health problem is because of the significant and lasting health consequences for victims." The 2022 Vox article provides an overview of research on the toll of gun violence, including the following findings:[21]

- Survivors of gun violence are at an increased risk of chronic pain, psychiatric disorders, and substance abuse and are more likely to experience mental health challenges.
- More than 15,000 American children lose a parent to gun violence each year. Children who lose a parent (for any reason, including gun violence) are more likely to have lower educational attainment, which could lead to poorer health given the strong link between education and health outcomes.
- Even if a person has not directly lost a loved one to a gun incident, being exposed to gun violence in a community leads to mental health issues, including problems with social function, anxiety, and depression.
- A 2018 study of six American cities found that individual shootings cost between $583,000 and $2.5 million, depending on the city and whether the firearm injury was fatal or nonfatal.

Data on Gun Violence. National data in Table 1 demonstrates racial and ethnic disparities in gun homicides, whereby Black Americans had a firearm homicide rate eleven times that of White Americans in 2020. Latinx and Native Americans respectively had firearm homicide rates two and three times greater than Whites, while Asian/Pacific Islanders had a lower firearm homicide rate than Whites.

Table 1: 2020 Firearm Homicide Incidence by Race and Ethnicity, United States

Race and Ethnicity[22]	Number of Firearm Homicides	Rate of Firearm Homicides per 100,000 persons
Asian or Pacific Islander	227	1.0
American Indian or Alaska Native	221	8.1
Black	11,904	26.6
Latinx	2,946	4.5
White	4,052	2.2

Note: Rates are age-adjusted
Source: Changes in Firearm Homicide and Suicide Rates Report, CDC

Local data also confirms racial and ethnic disparities in gun violence. A review of 2016-2018 data by Healthy Montgomery, the County's community health improvement initiative, found that Black residents had an age-adjusted firearm hospitalization rate of 8.6 per 100,000 persons, compared to 2.4 for Latinx residents, 1.2 for White residents, and 0.3 for Asian residents.[23]

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Expedited Bill 21-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, the primary beneficiaries of the Bill are presumably residents who frequent places of public assembly, as they could experience increased safety from more gun restrictions in these areas. However, there is no definitive data on the demographics of people who frequent places of public assembly in the County. As such, OLO cannot conclude whether there are racial or ethnic disparities among the primary beneficiaries of this Bill.

For the second question, OLO considers the effect this Bill could have on reducing gun violence in the County given its disproportionate impact on BIPOC residents. While there is strong evidence to suggest that restricting gun access can reduce gun violence,[24] there is little research on the effect of place-based restrictions such as those proposed in this Bill. Further, it is unclear how the enforcement of this law would potentially change police contact with residents, and whether that could worsen existing disparities in police interactions with BIPOC residents.[25]

Taken together, OLO finds that the RESJ impact of this Bill is indeterminant.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.[26] OLO finds that the RESJ impact of Expedited Bill 21-22 is indeterminant due to insufficient information on the demographics of the Bill's beneficiaries, as well as on the potential effects on gun violence and police interactions in the County. OLO does not offer recommended amendments since the Bill was not found to be inequitable.

In their recently released study on increased gun violence, researchers at the CDC note, "[t]he findings of this study underscore the importance of comprehensive strategies that can stop violence now and in the future by addressing factors that contribute to homicide and suicide, including the underlying economic, physical, and social inequities that drive racial and ethnic disparities in multiple health outcomes."[27] Should the Council seek to improve the RESJ impact of this Bill through incorporating recommended amendments or introducing companion legislation, the policy solutions highlighted by the CDC researchers in the study can be considered.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña drafted this RESJ impact statement.

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Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 21-22 — Weapons – Firearms In or Near Places of Public Assembly

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 21-22 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

BACKGROUND

The goal of Bill 21-22 is to protect places in or near places of public assembly from gun violence.[1] The Bill would attempt to achieve this goal by amending the law regarding restrictions against firearms in the County in two ways. First, it would "prohibit the possession of firearms in or near areas of public assembly." Second, it would "remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly."[2] If enacted, the change in law would take effect on the date it becomes law.[3]

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 21-22 on County-based private organizations and residents in terms of the Council's priority economic indicators and assess whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.[4] It is doubtful that enacting Bill 21-22 would impact firearm sales from County-based gun shops. Moreover, while gun violence has direct and indirect economic costs for victims, perpetrators, and other stakeholders,[5] it is beyond the scope of this analysis to assess the effectiveness of the restrictions in preventing gun violence in the future. Thus, OLO does not anticipate the changes to the law regarding restrictions against firearms in the County to have significant economic impacts on private organizations, residents, or overall conditions in the County.

VARIABLES

Not applicable

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[1] Legislative Request Report.
[2] Bill 21-22.
[3] Ibid.
[4] Montgomery County Code, Sec. 2-81B.
[5] A State-by-State Examination of the Economic Costs of Gun Violence; Follman et al, "The True Cost of Gun Violence in America."

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

Not applicable

Residents

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

A State-by-State Examination of the Economic Costs of Gun Violence. U.S. Congress Joint Economic Committee, Democratic Staff. September 18, 2019.

Mark Follman, Julia Lurie, Jaeah Lee, and James West. "The True Cost of Gun Violence in America." *Mother Jones*. April 15, 2015.

Montgomery County Code. Sec. 2-81B, Economic Impact Statements.

Montgomery County Council. Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly. Introduced on July 12, 2022.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

AISGW | The Association of Independent Schools of Greater Washington

In Support of Expedited Bill 21-22, Weapons -Firearms In or Near Places of Public Assembly
On behalf of the Association of Independent Schools of Greater Washington

July 20, 2022

I am submitting this testimony as Executive Director of the Association of Independent Schools of Greater Washington ("AISGW") in support of *Expedited Bill 21-22, Weapons-Firearms In or Near Places of Public Assembly*. AISGW represents 78 member schools in the greater D.C. area, and our schools educate over 10,000 students in Montgomery County alone. *Expedited Bill 21-22* would prevent an individual from possessing a firearm within 100 yards of a "place of public assembly" even when the individual has a wear-and-carry permit from the State of Maryland. The definition of public assembly includes schools. This restriction strengthens current County law, which currently exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

We commend the Montgomery County Council for these efforts to stem acts of gun violence that have become shockingly all too common in our communities and on our school grounds. The recent mass shooting at the Robb Elementary School in Uvalde, Texas, along with the persistent and terrifying recurrence of mass shootings across our country, have left school leaders once again consoling and calming their communities while searching for solutions to keep their school communities safe. Indeed, one of our very own AISGW schools was subject to a harrowing act of gun violence in April of this year.

We understand that Maryland State law already prohibits the wear, carry and transport of handguns and firearms on public school grounds. *CR 4-102.* Extending that protection to *all* schools, as well as other community gathering places throughout the County, however, is an important and – unfortunately – very necessary next step as we see this wave of gun violence continue. Moreover, we urge the County to consider any other steps that would keep our children safe, whether those include broader prevention and education efforts, or prohibitions such as this proposed legislation, aimed at preventing this violence from reoccurring.

I appreciate the opportunity to comment on the proposed legislation on behalf of our AISGW member schools and would welcome any chance to support further the goals of keeping our children and our school campuses protected from this persistent threat.

1524 35th Street NW • Washington, DC 20007 • 202.625.9223 • www.aisgw.org

On Monday, July 11th, County Council President Gabe Albornoz introduced Bill 21-22, to remove the exemption for W&C permit holders from the county's ban on possessing firearms "in or within 100 yards of a place of public assembly," which includes parks and churches, banning carry in those places. I oppose this bill as an infringement on our residents' recently affirmed constitutional rights as issued by the US Supreme Court(i.e., Bruen case).

The bill provides no requirement for the county to clearly mark which of these areas are to be "gun-free zones," which will result in confusion among law-abiding citizens who are permit holders.

The legislation also makes no mention of whether the county intends to guarantee the safety of disarmed citizens in those places with measures, such as metal detectors or police presence. Gun free zone declarations are soft targets for criminals and those intent on wrecking havoc. |

Also, this proposed bill like many of the Democratic Party and left wing gun control policies of extreme gun control over the years have and will not work given high crime and murder rates in many Maryland cities and towns – not be law abiding gun owners but by criminals and unstable persons.

This proposed bill will not improve safety of our citizens. Armed criminals, who already illegally carry without any permits and illegally possess firearms in violation of state and federal laws, will likely ignore the arbitrary boundaries created by this ordinance.

This bill would create more targets of opportunity for criminals and prevent responsible law abiding citizens from their right of self-defense. Recent mall shooter in Indiana was terminated by a law abiding citizen with a legal carry permit, saving untold additional lives. Good people carrying self-defense capabilities are far more effective at deterring crime and reducing crazed mayhem than any police presence can do. I urge the council to vote No on Bill 21-22 to keep Montgomery County safer than if it was passed into law. If the Council approves this measure then the Council needs to address the safety of unarmed citizens in these gun free zones and take measure to ensure access to these "gun free zones" provides control points to ensure the safety of us.

To the members of the council,

My name is Anthony Nelson, and I have been a resident of Montgomery county since roughly 2013. I previously lived in Prince George's County where I experienced more than my fair share of crime directly or indirectly including robbery, home break-ins, and car theft. That was precisely part of my desire to move out to an area that for most of my life, I considered to be relatively low in crime and safe.

As a lifelong resident of Maryland, it has been a long frustrating road for the issue of self-defense and Maryland's views to the methods in which one chooses to defend themselves. For my entire adult life, I have had to accept lawfully, that I am not able to defend myself or my family to the best of my ability due to what many politician's refer to as "common-sense gun legislation." Up until July 5, 2022, Maryland has remained a "may issue" state in regards to the issuance of any type of permit to carry citing "good and substantial" reasoning which to most, felt like an arbitrary term that applied to a very small population. The recent Supreme Court Ruling and subsequent statement from Gov. Hogan suspending the "good and substantial" clause was an exciting time for many Marylanders and a restoration of a long restricted constitutional right as well as the "unalienable right" to Life mentioned in the countries founding document. A right that governments were instituted to secure.

Despite the legislation that Maryland has upheld for all these years, touting some of the strictest gun laws on the books in the country, Maryland has remained competitive in the category of "most homicides by state" category. This can be partly contributed to Maryland's unwillingness to prosecute criminals who are in turn released and commit more heinous crimes; as well as enforce laws that are already on the books. As recent as June, Deputy First Class Glenn Hilliard was murdered by a man who should have been previously locked-up for being convicted of armed robbery. I would like to note that at the time of the armed robbery and at the time of the murder of Deputy Hilliard, the suspect was under the age of legal handgun ownership in the state of Maryland. At the time of this letter, just one week ago, a 15-year-old squeegee worker in Baltimore shot and killed a bat-wielding man in Baltimore. While all of the details of the case may never all be known, we know that a 15-year old boy was armed and it was stated that most of the boys who are on these corners providing this service are as well. This stands to show that no matter what laws are on the books, criminals will always willfully disobey them, and it is always the law-abiding citizen who is left at a disadvantage. This legislation is not aimed at keeping criminals from bringing guns into "public areas," because we all know that criminals will do it no matter what the law says. What we do know for sure is that criminals don't look for resistance or a fight, they look for victims and easy targets. This bill only creates more of the latter.

Driving into my home city of Olney now, there are road signs warning of car jackings. A January 2022 WTOP article titled "Homicides, carjackings up in Montgomery County" is a constant lingering thought in my head when I come to a stop light with my 3 small children who are under the age of 6 and wife all in the vehicle. The article denotes an 88% rise in homicides and 72% increase in carjackings. Average law-abiding citizens are tired of being a statistic. Having more trained citizens looking to protect themselves and their families suddenly becoming criminals because of a law based on no data is the exact reason why crime statistics in this county will continue to rise if this unconstitutional bill is passed.

Members of this council have stated that Marylanders want this bill passed; however I think it can be reasonably argued by the influx of applications for wear and carry permits, as well as the current backlog

of people trying to sign up for the class, is quite representative of the climate. This bill, while directly in opposition to the supreme court ruling and purpose for the ruling in the first place, stands to turn law-abiding citizens who took the time to get the training and spent upwards of $1000 in total to exercise a constitutional right into criminals.

I strongly urge the council to rescind this bill as it is in opposition to the recent supreme court ruling, as well as the basic human rights we all have, to defend ourselves and our families.

Thank you for your time and attention.

Sincerely,

Anthony Nelson

21 July, 2022

Mr. Gabe Albornoz
President, Montgomery County Council

Regarding Bill 21-22 to remove the exemption from Montgomery County Code § 57.11 for holders of Maryland Wear and Carry Permit from within 100 yards of "Place of Public Assembly.

Dear Mr. Albornoz,

I write to oppose Bill 21-22. This new bill would remove the existing exception for permit carry that has long existed in Montgomery County code, and is a clear violation of the Supreme Court's decision in *NYSRPA v. Bruen* as it would ban carry by a permit holder virtually everywhere including stores and businesses throughout Montgomery County. Carry permits will be useless in Montgomery County if this bill is enacted and allowed to stand.

I am a resident of Anne Arundel County; however, I frequent Montgomery County to access the wonderful care at a Johns Hopkins Wilmer Eye Institute in Bethesda. Unfortunately, I suffer from glaucoma, which has been difficult to control. While I am not allowed to carry within hospitals and medical clinics, Bill 21-22 would not allow me even to carry within the county in order to access quality health care. Why are you afraid of a law-abiding citizen, like me, who may find it necessary to find health care elsewhere should this law be passed?

Please do not vote for Bill 21-22.

Sincerely,
Cathy S. Wright

My name is Galen Muhammad and I am the State Director of Maryland and Washington, DC for the National African American Gun Association or NAAGA. I am also the chapter president for the NAAGA chapter in Prince George's County – Onyx Sharpshooters.

I am **vehemently** opposed to this bill as I often travel through Montgomery County as a law-abiding citizen who is a concealed carry licensee. While I don't live in Montgomery County, the members of my gun club, others who are also concealed carry licensees and those who seek said license will be barred from conducting business or just traveling from Point A to Point B within Montgomery County.

As a certified firearms instructor, I also plan to visit my Montgomery County chapter and their events within the county and train residents of Montgomery County at locations in Montgomery County and I do travel with my concealed carry firearms.

This bill gives absolutely no consideration, nor does it mention the fact that those with the Wear & Carry license are **already prohibited** from many areas, including sporting events, federal, state, county and city buildings, public transportation, public schools, colleges and universities, banks, retail establishment with clearly posted signage, post offices **AND** their parking lots, etc. These are the proverbial "***bricks***" around which we, law-abiding citizens, who **legally** concealed carry legally navigate. This *vague* bill being proposed seeks to be the "***mortar***" to fill in the gaps and add additional and unnecessary areas, creating and manufacturing a problem where there isn't one.

This bill also overlooks the mandatory firearms training that each licensee must attend to be qualified to receive the Wear & Carry license. During this training, we are taught that Maryland is **NOT** a Castle Doctrine state and that we have a duty to retreat, if possible.

I ask that this bill be given an unfavorable report.

To the Honorable Members of the County Council of Montgomery County, MD

Gabe Albornoz, Chairman
Andrew Friedson
Evan Glass
Tom Hucker
Will Jawando
Sidney Katz
Nancy Navarro
Craig Rice
Hans Riemer

From: Dr. Jack L. Rutner
Silver Spring MD

Re: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

This purpose of this testimonial letter is to raise questions to the Montgomery County Council about the constitutionality of the proposed legislation embodied in Bill 21-22. This testimonial letter will cover three issues:

I. The guidance provided by the Supreme Court to the Courts in the Bruen decision in how to adjudicate Second Amendment cases henceforth;
II. The Supreme Court's discussion on sensitive places;
III. The Supreme Court's reference to D. Kopel & J. Greenlee, The "Sensitive Places" Doctrine, 13 *Charleston L. Rev.* 205 (2018), and Brief for Independent Institute as *Amicus Curiae* and how they would affect the constitutionality of Expedited Bill 21-22.

I: The Supreme Court in the Bruen decision (8: II) reviewed the two-step procedure Courts of Appeal have used since the *Heller* and *McDonald* decisions. The Court held that, that was one step too many. Specifically, the Court wrote:

> In keeping with *Heller*, we hold that when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. **To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation.** Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." (My emphasis.)

The Court emphasizes this further when it writes (10: IIB):

> the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.

On examining Expedited Bill 21-22 I find nowhere does it show how the proposed regulation expanding sensitive places to many places of public assembly falls within the scope of being consistent with "this Nation's historical tradition of firearm regulation." Absent such analysis Expedited Bill 21-22 appears to on infirm constitutional grounds. On this basis alone a legal challenge to the constitutionality of 21-22 will prove successful in the federal courts.

II. With regard to sensitive places, the Court discussed the issue of sensitive places. It wrote that expanding sensitive places to a large variety of places of public assembly is inconsistent with the

Second Amendment. In particular, it writes (22) about New York State's view on sensitive places:

> In [New York State's] view, "sensitive places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available." Brief for Respondents 34. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. **But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" far too broadly.** Respondents' argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. (My emphasis.)

Expedited Bill 21-22 does precisely what the Court counseled governments not to do, which is to expand the category of sensitive places to almost all places of public congregation. According to the Court, that categorizes sensitive places far too broadly. Indeed, based on the Court's language in Bruen, should the Council pass Expedited Bill 21-22, legal challenges to it would be successful because of the overly broad categorization of sensitive places. When that is coupled with the absence of analysis demonstrating that 21-22 is consistent with this Nation's historical tradition of firearm regulation, then it would seem 21-22 is on very legally infirm constitutional grounds and will not be upheld in federal court.

III. The definition of public places in Expedited Bill 21-22 is derived from Bill 4-21. They are:

> [A] place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building."

Most of those places in 4-21 do not fall within the purview of public places based on the current references in its discussion in Bruen (21) regarding sensitive places. There, it pointed to an article in *Charleston Law Review* from 2018 title the "Sensitive Places Doctrine" by Kopel and Greenlee (hereinafter, KG), and to the *Amicus Curia* Brief of the Independent Institute (hereinafter BII). Both documents discuss sensitive places while the latter provides guidance on "longstanding" laws regarding such places/

In the KG article, there is a useful summary of the sensitive place doctrine (287*f.*), some of which I quote here (with my emphasis):

> *Extensions by analogy to schools and government buildings.* It is difficult to create a rationale for extending the "sensitive places" doctrine to places that are not schools or government buildings. As discussed above, there are few "longstanding" restrictions on other locations.
>
> Given the thin historical record, one can only guess about what factors make places "sensitive." Some of the guesses are: **places where most persons therein are minors (K-12 schools), places that concentrate adversarial conflict and can generate passionately angry emotions (courthouses, legislatures, polling places), or buildings containing people at acute personal risk of being targets of assassination (many government buildings).**
>
> **The answer cannot be that the places are crowded.** Sometimes they are, but no more so than a busy downtown sidewalk, and sidewalks are not sensitive places.

> Rather than try to figure out analogies to "schools and government buildings," the better judicial approach for other locations is simply to give the government the opportunity to prove its case under heightened scrutiny.
>
> ***Buffer zones are not sensitive places.*** **Heller allows for carry bans "in" sensitive places—not bans "around" or "near" sensitive places. Accordingly, buffer zones are not sensitive places.**
>
> …
>
> ***Laws that broadly negate the right to arms are not legitimate precedents.*** **Laws that widely prohibit bearing arms are contrary to the text of the Second Amendment. Accordingly, they are not a legitimate part of the history and tradition of the right to bear arms.**

In my opinion the critical passages for 21-22 in this summary by KG are those bolded. It is clear that Bill 21-22 would widely prohibit carrying arms in a large variety of places within the County. As KG observe, "Laws that widely prohibit bearing arms are contrary to the text of the Second Amendment." Moreover, as they suggest, an argument that such places are crowded will be insufficient to sustain the constitutionality of Bill 21-22 under heightened scrutiny.

Bill 21-22 defines places of public assembly to those listed in Bill 4-21. Most of those places though do not meet the criteria KG outline in their summary for sensitive places. The places I think that do not meet those criteria are places of worship, recreational facilities, hospital, community health centers, long-term facility, multipurpose exhibition facilities (e.g., fairgrounds or conference centers). Such places are not places where most persons are minors, they are not places which concentrate adversarial conduct and they are not places where passionate angry emotions are generated. Declaring them off limits to the legal carriage of guns therein again will prove to be on constitutionally infirm ground based the guidance in Bruen.

Another issue of Bill 21-22 is the creation 100-yard buffers zones around places of public assembly. Such buffer zones under Bruen are most likely not be justifiable for Second Amendment cases. KG reviewed several court cases regarding buffer zones around sensitive places of which I will summarize one. The case is an Illinois case termed, the *People v. Chairez*. The State of Illinois had made it illegal to carry a firearm within a 1,000-foot buffer zone around a state park. According to KG (269), the Illinois Supreme Court ruled: "that the law severely burdened the core of the right to bear arms, because it prohibited the carriage of weapons for self-defense and it affected the entire law-abiding population of Illinois." Moreover the Court found that the 'State was unable to support its "assertion that a 1000–foot firearm ban around a public park protects children, as well as other vulnerable persons, from firearm violence" ' (KG, 269*f*.). Bill 21-22 appears to contain both defects found in *People v. Chairez*: it affects the entire law-abiding population of Montgomery County; and the County will be unable to support an assertion that buffer zones protect children and vulnerable persons. Consequently, the buffer zones themselves are not sensitive places and would be ruled unconstitutional. Moreover, based on the guidance in the Bruen decision, even if the County could show that such buffer zones might protect children and vulnerable persons that would be insufficient to meet the criterion of being within "the historical tradition of firearm regulation" and so would be declared unconstitutional based solely on that.

We turn next to *Amicus Curiae* brief filed by Independent Institute (BII) in the Bruen Case for further guidance on the issue of sensitive places and longstanding traditions of restricting Second Amendment rights. In BII, there is a short review of American laws regarding sensitive places, which it sometimes terms, "gun-free zones." According to BII (11), in colonial America, "gun-free zones through the time of the Founding were limited …"

A notable exception was Maryland's ban on bringing weapons into houses of Assembly (government buildings). According to BII (12) Virginia followed up on that a century later when it 'forbade most (but not all) people from "com[ing] before the Justices of any Court, or other of their Ministers of Justice, doing their office, with force and arms." … Virginia's law also barred citizens from carrying arms "in other places," but only when such carrying was done "in terror of the country," *id.*, thus respecting a general right to peaceably carry but carving out a narrow exception for courts.' Thus, according to BII, government buildings would meet the criterion laid down in Bruen of being consistent with "this Nation's historic tradition of firearm regulation" insofar as such bans are longstanding traditions. On the other hand, a ban on firearms in a wide variety of places of public assembly, such as in 21-22, would not be consistent with that historic tradition because there is no longstanding tradition of banning firearms in such places. Hence, the constitutionality of a such a bill would no doubt not be upheld in federal court based on the guidance the Court provided in Bruen.

BII does indicate certain narrow conditions under which government can ban firearms consistent with the Second Amendment (see BII, 22). It writes:

> The most obvious way is to limit modern gun-free zones to areas in which the government has demonstrated a serious commitment and a realistic ability to ensure public safety. This can be accomplished by ensuring that would-be criminals are prevented by more than the normative power of a legal prohibition to remain unarmed through, *e.g.*, the provision of law enforcement officers and armed security, along with metal detectors or other defensive instruments.

It writes further (BII 24):

> If the government cannot (or chooses not to) provide protection similar to that at airports in other areas, then designating those areas as "gun free" necessarily evicerates (*sic.*) the self-defense right and, accordingly, constitutes a Second Amendment violation.

It would appear from BII, that if the Council bans firearms in public places without its supplying adequate security and specifically by supplying adequate law enforcement personnel and metal detectors, it will have eviscerated the self-rights of the citizens of Montgomery County and anyone else who comes into the County. Hence, I think that under the current guidance found in Bruen, Expedited Bill 21-22 is on infirm constitutional grounds and will be found unconstitutional in federal court.

The Institute for Forensic Psychology

Jack Leeb, PsyD
Police & Public Safety Psychology
Associate Member, International Association of Chiefs of Police
Associate Member, Maryland Chiefs of Police Association
Certified Force Science Analyst

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www.policetest.com
drleeb1@gmail.com

Date: 19 July 2022
To: Montgomery County Council
Re: Bill 21-22

As a police psychologist, firearms instructor, and MD Wear and Carry permit holder for over 20 years, I am very concerned about County Council bill 21-22, which would effectively negate the recent US Supreme Court decision affirming the right of law-abiding citizens to carry a firearm in public. As a police psychologist I have received threats over the years related to my work; I have also studied criminal behavior. As a firearms instructor I transport firearms to and from classes and the range and have witnessed firsthand over the past 25 years just how serious the average citizen who desires to possess a firearm is with regard to its use and safety in general. I have been comforted by the fact that I have the option to carry a firearm to protect myself and my family when out and about, and I have been proud of my fellow law-abiding citizens' clear desire to do the right thing with regard to the possession and use of a firearm.

I would remind Council members that, in general, concealed carry permit holders across the United States are far more law abiding than those who do not possess a permit. CCW permit holders do NOT commit crime; rather, law-abiding citizens who have the ability to defend themselves STOP crimes from occurring hundreds of times every day in the US, in most cases without firing a shot. Since criminals routinely ignore laws, these events would more frequently end in victimization of the law-abiding if we do not have the means to defend ourselves.If passed, not only would bill 21-22 deprive law-abiding citizens of the right to defend themselves and their families, but it would make anyone who is legally permitted to carry a firearm elsewhere in Maryland a criminal in Montgomery County. Expecting W&C permit holders to stop, unload their firearms before crossing the Montgomery County line, and store the firearm in a lock box is not only unrealistic, but also *unsafe.*

In addition, given Maryland's stringent background checks and training requirements, it is even less likely that a Marylander who legally carries a firearm would use it inappropriately or unlawfully. I respectfully ask that you re-consider bill 21-22 and not eliminate my right, and the right of other law-abiding citizens, to defend ourselves. I would be happy to discuss this matter with the Council as a whole, or with any members who might wish speak with me about this important topic.

Thank you.

Jack Leeb PsyD
Police and Public Safety Psychology
301 452-4900

I feel it is uncostitutional and unsafe for the general public to create unlimited gunfree zones to keep legally o
with little or no resistance or fear of being stopped or caught. Everyone that creates these laws are

Thank you

e surrounded by their own armed security and don't have to defend theirselves or family on their own.

My name is James P. Tully. I am 55 years old and have been a Montgomery County Resident my Entire life. I have served in the Military, and for the past 22 years I have been a Uniformed Diplomatic Security Officer at the U.S. Department of State. I have been sworn in, as a Special Deputy U.S. Marshal, and have received training in Active Shooter Response. I am well acquainted with Gun Valence, and come to the conclusion that additional legislation does nothing to address criminal activity.

As a Maryland Ware and Carry Permit Holder, which I have had since 1995. I have strong Objections to Bill 21-22. By not allowing a permit holder to come within 100 yards of any place of public Assembly. This proposed bill will Make it impossible to travel any ware in Montgomery County with out being in violation of the law. An illegal weapons charge would result in criminal charges and having my Maryland Gun Permit revoked. These two actions would have an adverse effect on my current employment.

Bill 21-20 will not allow me to travel in my car, or by foot, in my own neighborhood without passing within 100 yards of a school or state park. I would not even be able to stand in my own back yard because my property is within 100 yards of a Montgomery County Park.

In addition, I object to definition of public venues, to including privately own property. This is an example of extreme Government over reach. To Include Houses of worship is pure insanity. Multiple churches in this country have been the targets of active shooters. The reason being is that it is a soft target. The Active Shooters only has one mission, that is to kill as many people as they can. Not allowing people to defend themselves in their house of worship only would help facilitate another tragedy.

It is foolish to believe our local police departments can do any thing to prevent this sort of gun violence. Police resources are extreamly limited. The school Resource Officer was Removed from McGruder High School a few weeks before that school shooting. If I am not Mistaken, I believe a budget cut was cited as the reason. It is a tragedy that Montgomery County government took absolutely no responsibility for their lack of insight. The School Resource Officer would not have been in the school in the first place if there was not a clear and present known danger.

As a current Maryland Gun Permit Holder, I can say there is absolutely nothing wrong with the current restrictions that have been in place for many years. Most of the civilian gun violence does not involve permitholders anyway. This proposed Bill dose noting to stop Gun Violence and would only help facilitate more violence by preventing law abiding citizens from defending themselves. There is so much to say on this topic more to say on this topic. Brevity is of the upmost importance and I believe I made my point. In conclusion there is no reason this bill 21-22 be made into law.

Commented [JT1]: It

Hello,

I'm writing regarding Bill 21-22. I understand this bill removes the exemption for holders of Marylands Wear and Carry permit. This would make it illegal for permit holders to be within 100 yards of "Place of Public Assembly", which equates to everywhere in the county.

According to Data.montgomerycounty.md, from 6/1/2022 to 7/15/2022 there were over 4,800 founded crimes in Montgomery County. This equates to 106 crimes per day in the 45 day period. A quick internet search proves these are not legal permit holders committing these crimes. Bill 21-22 would leave me unable to protect myself from assault, burglary, theft, robbery and all such crimes were reported within the county. Why can a criminal have a weapon to commit these crimes but I, being a law abiding American citizen, cannot have one to protect myself from such crimes?

The Supreme Court upheld our right to defend ourselves outside our homes in the recent ruling of Bruen. Why are you attempting to subvert the Supreme Court and the constitution?

I have lived in WV, OH, PA and CO over my life. Maryland is the first place I have lived that I am afraid to be out of my home for an extended time. I am a law abiding citizen and I've completed all the necessary training and requirements in Maryland for a Wear and Carry permit. Carrying a weapon for protection is an overwhelming responsibility for the permit holder. Criminals have no requirements to meet and feel no such responsibility. It is reprehensible that a criminal is more protected than I am.

Bill 21-22 impacts my travel as I live in an adjoining county. I will no longer be able to see my physicians or patronize restaurants and shops in the county. I hope the officials of Montgomery County use statistics and facts and support their law abiding citizens.

Janice Hess Frederick County

July 15, 2022

Montgomery County Council
Legislative Branch
Bill 21-22

Gentlemen, I would respectfully vote against this bill. I have lived in Burtonsville, Maryland for 16 years. I have seen an alarming rise in crime in this area, especially over the last 4 years. This past week on July 10th, 2022 there was a shooting just down the street from my house at the Briggs Chaney Market place. Over 60 shots were fired and one innocent bystander was wounded by gunfire. This shooting happened within 2 hours of a STRING of robberies in down town Silver Spring. Bill 21-22 would prevent law abiding citizens from protecting themselves and their families and would do NOTHING to prevent criminals from obtaining firearms and committing violence. I understand law makers are desperate to solve gun violence but these laws don't affect criminals. There are so many guns in this country, barring the banning of ALL guns, we need to be smarter with possible solutions. Energy would be better spent on training and vetting of carry applicants. Examining credentials and references for carry applicants would go a long way to keeping us all safe.
Why do citizens need carry rights :
Unfortunately, there is a response time for police response. There are occasions when a citizen will not have time to call and wait for the police. If I'm walking and attacked by dogs I will not be able to call the police for help. If I'm walking and a robber threatens me with a knife, I will not have the luxury of calling the police. Last year I called the police to report a trespasser on my property. It took 40 minutes for the police to show up.

Respectfully,

John Murphy

Montgomery County Council July 21, 2022
Legislative Branch
Bill 21-22

I would respectfully vote against this bill. Here are two examples why I feel this way.

On July 17, 2022 a gunman walked in to the food court of Greenwood Park Mall in Indiana. Shot and killed 3 innocent bystanders and wounded another 3. Elishjah Dicken, a 22 year old legally carrying, killed the gunman and was declared by local police and the Mayor a Hero who saved countless lives. YOUR bill would have prevented this intervention. WHERE WERE THE POLICE ???
WHERE WERE THE POLICE IN UVALDE ???

Closer to home in MONTGOMERY COUNTY yesterday, Wednesday July 20th at 1pm an elderly man out for a walk was attacked by a pit bull in Silver Spring. The owners had trouble stopping the attack even hitting the dog with their car. The victim is in the hospital. How many times does this happen ?? Google how many people are attacked by dogs every year. More than 4.5 million people are bitten by dogs in the USA each year. Many victims are killed.
I am elderly and walk every day in Burtonsville. I have been chased by stray dogs twice. You want to make Montgomery County safer ? How about banning pit bulls ? A breed known for vicious unprovoked attacks.
My house is close to 2 schools, a church, and the Burtonsville Library. No matter which direction I choose to walk I will be walking past one of these “Places of Public Assembly”.
Every time I walk I fear being attacked by dogs. I am completely defenseless thanks to your carry laws.

John Murphy

My name is Jonathan Wrieden and I am a resident of Montgomery County. Bill 21-22 is blatantly unconstitutional and directly infringes on my right to self-defense. I was in the United States Army Infantry for ten years and am a combat veteran. I have more training than most police officers, yet this bill would prevent me from carrying a firearm in public for protection. Because of my extensive military training, I am an asset to society. If any of you were in a mass shooting scenario, you would want me there with a gun to save you. I do not trust the police to protect me or my wife in one of these situations. In most cases, mass shootings are over and the damage is already done before police can arrive. And even if police do arrive in time, I do not want to have to hope and pray they possess the courage to act, unlike the police officers in Uvalde. Furthermore, this bill will not stop criminals from carrying guns. That's why they're called criminals, because they break the law. If a criminal wants to carry out a mass shooting, then they are going to do it anyway and this bill will not stop them. This bill will only affect the law-abiding citizens. It will strip them of their right to protect themselves and their families. All law-abiding citizens can be assets to society. The solution is to properly train and equip them, not to strip them of their right to carry a firearm so that they are left defenseless against criminals. On July 17, 2022, an armed bystander shot a mass shooter who opened fire in a mall in Indiana. If it wasn't for this responsible citizen, the criminal would have killed many others. There are countless other examples of armed law-abiding citizens taking down mass shooters and thereby saving many lives while waiting for police to arrive. Do not let the recent sensationalizing of shootings in the media make you feel like you have to pass laws to make it look like you care enough to do something. This bill is nothing more than an emotional reaction to NYSRPA v. Bruen and it will not stand up in court. This bill does not pass the history and traditions test for constitutionality established by the Supreme Court in NYSRPA v. Bruen. You're going about it the wrong way. Focus on keeping guns out of the hands of criminals and keeping them in the hands of law-abiding citizens, the assets of society. That's the solution. I urge you not to pass Bill 21-22. It will cost lives, not save them. Thank you for your consideration.

Testimony regarding EXPEDITED BILL NO. 21-22,
Amending Montgomery County Code Chapter 57, Weapons, Section 57-11

Michael Burke

I rise in opposition to the language of the proposed Expedited Act to prohibit the possession of firearms in or near places of public assembly.

As written -

Section b) (2) *(does not) apply to a law enforcement officer, or a security guard licensed to carry the firearm…*

Please consider the extremely adverse consequences of your proposed bill. Thousands of retired law enforcement officers reside in Montgomery County, while thousands more routinely travel through the county daily from across the greater DC Metropolitan Area. You (the Council) and both the Montgomery County Police Department (MCPD), Montgomery County Sheriff's Office (MCSO) and the Maryland State Police (MSP) rely on these highly trained, well vetted, and experienced law enforcement veterans to assist them in maintaining the peace and responding to violent incidents (such as an active shooter). Those retired officers, who carry their handguns under Maryland State Police Handgun Permits (issued at no cost to all former/retired Maryland officers and deputies) and retired Federal Agents and Officers (ATF, FBI, Secret Service, US Marshals, Military Police, Military Intelligence, and other counter-terrorist agencies) are prepared today, and tomorrow, to step in and STOP violent crime as it develops. These men and women with decades of skills have been performing these public safety roles for decades. I'm one of them.

Your bill would order thousands of women and men to DISARM and cease to function as unpaid auxiliary forces to safeguard the citizens of the County, and prevent them from coming to the aid and assistance of MCPD, MCSO, and MSP for fear of being arrested, detained, and prosecuted for unlawful possession of their handguns. Is this what you truly desire?

Consider the cases of Deputy Chief State Fire Marshal Sander Cohen, and FBI Supervisory Special Agent Carlos Wolff. These men took the extreme risk, both "off duty," to come to the aid of a Montgomery County citizen in distress, on Friday, December 8, 2017. Both were killed that night. Sander Cohen also served as a volunteer firefighter with the Rockville Volunteer Fire Department. They died on I-270, near Great Falls Road, serving the citizens of Montgomery County, knowing the risks they faced by serving – you.

Consider the shooting at Magruder High School, in May 2022. Off duty and retired law enforcement officers residing in the area responded to the report of "active shooter" at the school, knowing that meant placing their lives at risk – to potentially save CHILDREN, while the local precinct was short-staffed. MCPD has 27 unfilled sworn positions, though brass and union leadership express concern for a "crisis" in the future. Between April 2020 and April 2021,

police resignations rose 26 percent, from 19 to 24, over the preceding 12 months. Retirements increased 18 percent, from 28 to 33, department data show.

The Law Enforcement Officers Safety Act (LEOSA) is a United States federal law, enacted in 2004, that allows two classes of persons—the "qualified law enforcement officer" and the "qualified retired or separated law enforcement officer"—to carry a concealed firearm in any jurisdiction in the United States, regardless of state or local law. It is codified within the provisions of the Gun Control Act of 1968 as 18 USC § 926B and USC § 926C. LEOSA also covers state and public university and/or college campus law enforcement officers (such as University of Maryland Police, Montgomery Community College Police, and approximately 20 other colleges and universities that have armed law enforcement officers).

18 USC § 926B

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b)This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c), "qualified law enforcement officer" is defined as any individual employed by a governmental agency, who:

1. is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest, or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice); This includes state and public college/university police officers.
2. is authorized by the agency to carry a firearm;
3. is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
4. meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
5. is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
6. is not prohibited by Federal law from receiving a firearm.

(d) the individual must carry photographic identification issued by the governmental agency for which the individual is employed that identifies the employee as a police officer or law enforcement officer of the agency.

Testimony regarding EXPEDITED BILL NO. 21-22,
Amending Montgomery County Code Chapter 57, Weapons, Section 57-11

Michael Burke

In 2013, LEOSA was amended by the National Defense Authorization Act (NDAA) for Fiscal Year 2013, effective January 2, 2013, after **President Obama** signed Public Law 112-239 (H.R. 4310).

Senator Patrick Leahy, a key sponsor of the bill, remarked "The Senate has agreed to extend that trust to the law enforcement officers that serve within our military. They are no less deserving or worthy of this privilege and I am very pleased we have acted to equalize their treatment under the federal law". He further stated "The amendment we adopt today will place military police and civilian police officers within the Department of Defense on equal footing with their law enforcement counterparts across the country when it comes to coverage under LEOSA."

I cannot imagine that this Council wishes to oppose President Obama or Senator Leahy in recognizing the vast importance of recognizing these men and women as extremely valuable members of the community, people that you would disarm and render ineffective if you pass this bill as written. Your statute seeks to nullify unknown thousands of Handgun Permits issued lawfully by the Maryland State Police, following deep and detailed background investigations, extensive training in the Use of Force, Marksmanship, and other legal education required by the General Assembly and the Maryland Police and Correctional Training Commissions (MPTC).

These well trained, well-armed County residents and visitors, individuals possessing handgun permits from around the DC Metropolitan Region, are NOT a threat to public safety- they are an unnoticed, unappreciated asset to protecting and serving the communities under your care.

William Adams

Opposition to Bill 21-22

How any elected official may feel personally about guns is not what they are obliged to act on. As an elected official, trusted to honor the US Constitution, the Maryland Constitution, and the collective wants of their constituents, they must be true to their responsibilities and act according to the wishes of their constituents within the bounds of the US Constitution. Therefore, the only right thing to do is to reject this bill as it clearly violates the 1st, 2nd, and 14th Amendments and is simply a dangerous bill.

Setting aside for a moment the Constitutional violations this bill presents; the question is why? Why do you feel compelled to deny a properly permitted firearm holder freedom of travel simply because they are now permitted to carry a firearm when previously there was no prohibition from doing so? Is there evidence that anyone is now in greater danger, or is it simply speculation based on some misinformed notion that gun holders are dangerous? Handgun Permit (HGP) holders in this state have complied with the rigorous training and background checks requirements to obtain a permit, and as such, are shown to be safer, law-abiding, and even-tempered individuals.

This proposed law does NOTHING to improve the safety of Maryland citizens that may reside, work, or pass through your county. As we have seen most recently at the Greenwood Park Mall in Indiana, an armed citizen legally carrying a concealed firearm stopped a mass shooter on a shooting rampage in the mall. How many more lives would have been lost had a law like Bill 21-22 is proposing been in place in this Indiana town. Bill 21-22 will prevent a legally armed citizen from responding to such an event in Montgomery County.

Anyone saying that the freedom to carry a firearm outside the home for self-defense or the protection of others is unnecessary and claiming that firearms in the public space is unsafe, is simply misinformed or ignoring the facts. If you are truly concerned about the safety of the residents, workers, and visitors to Montgomery County, please direct your energies to stopping gang crime in your county and leave the law-abiding citizens of Maryland alone.

PLEASE, reject this bill!

Sincerely,
William Adams

Please allow law abiding citizens to exercise their constitutional rights in Montgomery county. Clearly, the statistics show that criminals are getting more and more brazen as we've felt the crime wave in our communities. We are already at a disadvantage against criminals. Please give us the opportunity to defend ourselves.

Testimony in support of Bill 21-22

Prohibiting firearms in or Near Places of Public Assembly

Good afternoon. My name is Mindy Landau, I am a resident of Potomac, MD in Montgomery County and I've lived and worked here as a federal employee, now retired, for 40 years. I am a co-lead of Brady United's Montgomery County Chapter and also represent Brady Maryland and our state executive committee. Thank you to the Montgomery County Council for giving me this opportunity to testify.

Bill 21-22 **will protect Montgomery County residents from an armed threats to our citizens in places where they work, play and socialize.** Our children should not have to fear that someone with a gun will invade their "safe" space for learning. Government workers and concertgoers should be able to go to work, concerts and parks without worrying whether the person next to them is carrying a gun. Our citizens don't want to feel anxious, intimidated, or afraid. We just want to be free and feel safe in the places we visit that give us joy. The presence of guns at or around these public places poses a danger to citizens' emotional and physical well-being. We must protect the citizens of this county and their ability to visit places of worship and parks freely and without fear of being shot.

Let's call it what it is - guns in public places represent armed threats, clear and simple. And intimidation is not what Montgomery County is about. This is why Brady United Against Gun Violence appreciates and strongly supports Council President Albornoz' bill.

By prohibiting firearms within 100 feet of a gathering place, this bill will help to ensure we are protecting the sacred right to assemble for our generation, and generations to come.

Although we respect the Second Amendment and rights of gun owners under the constitution and laws of Maryland, that right must be exercised so as not to infringe on constitutional rights of others, including the right to assemble peacefully. Gun laws are designed to do more than to protect physical safety alone. They can and do help preserve public order and the freedom of others to peaceably assemble, speak, and worship without fear and intimidation.

As a country, much work has been done over the last 100 years to ensure that freedoms, as represented by the right to assemble peacefully, is accessible by all - regardless of their race, socioeconomic class or disability. We must continue this work today. Thank you.

Good afternoon: I am writing to express my concern with Bill 21-22. The bill is problematic and worrisome in quite a few ways, but some more than others – and, of course, some more personally than others as well.

I expect to receive my Wear and Carry Permit later this year, as do many others now that the Supreme Court, in its *Bruen* ruling, has declared the "Good and Substantial Reason" portion of the permitting law to be unconstitutional. Currently, Montgomery County law forbids carrying a firearm within one hundred yards of any place of public assembly, specifying public parks as one such location, and makes an exception for those who have carry permits. Bill 21-22 would remove this exemption, making it unlawful even for permit holders to carry in such areas.

My apartment lies about twenty yards from the border of a park owned by Montgomery County. Although Bill 21-22 does make an exception for carrying within one's home, it would seem to make it impossible for me to walk out of my own front door while carrying my firearm. For me to comply with this bill, I would apparently have to unload my firearm, walk or drive to a location deemed suitable for carry by Montgomery County, then reload my firearm and go about my day. (And, of course, I would need to perform the same procedure in reverse on my way home.) This would make it so inconvenient to use my carry permit that it would effectively make my permit useless – which would defeat the purpose of getting the permit in the first place.

I urge you not to pass this bill. If you do, someone in my circumstances will undoubtedly file a lawsuit against Montgomery County, and while I am not a lawyer, I find it difficult to see how the county could possibly win. You could, in fact, end up having other restrictions besides this one thrown out by the court, leaving you with fewer carry restrictions than you had in the first place.

Very truly yours,

{signed}
Parrish S. Knight

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Woodbine, MD 21797
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Civil Engineering for Land Development

SILL ENGINEERING GROUP, LLC

July 13, 2022

Montgomery County Council
Montgomery County, Maryland 21043

Re: Council Bill 21-22
OPPOSE

To Whom It May Concern,

As I read this proposed bill I am very concerned for my right to self-protection. I have had a Maryland Wear and Carry Permit and other State's carry permits for many years now and routinely carry a firearm and travel into Montgomery County for business and personal reasons. I believe this bill as worded will effectively ban firearm possession in the entire county, stripping me of my Constitutional Right to self-protection. Please OPPOSE this bill.

Should you have any questions or comments regarding this matter, please do not hesitate to contact this office.

Sincerely,
SILL ENGINEERING GROUP, LLC

Paul M. Sill, PE, LEED AP

The United States is founded on laws. We as a people, follow the laws. When the government decided to not follow the laws, it is no longer a government.

To place the county under a gun free zone, will not serve law abiding citizens. No one will be safe, crime will continue to rise. There will be no reason to live in Montgomery County as it will be run by criminals and gangs.

Since you are infringing on my right afforded to me by the Constitution of the United States. I am requesting that this bill be removed or voted down. It serves no law abiding citizens in Montgomery County.

Robert Utley

Simeon Pollock

Dear Mr. President,

I am writing to you as President of the Montgomery County Council, to ask the council through you, to please reconsider passing the ill advised bill 21-22 - Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

Not only is this bill illegal following the Supreme Court's ruling in Bruen, it will only make criminals of otherwise law abiding citizens. It tries to superseded Maryland State law as well as tell the Maryland State Police (MSP) that it does not know how to vett and process Concealed Carry Permits.

The State of Maryland, through the MSP, already has in place an age limit - 21, a thorough vetting process for anyone wanting a Concealed Carry Permit (CCW). There are classes required for an HQL, more class time & testing for a CCW. This state process allows concealed handguns to be in the hands of responsible adults.

The bill before the council will only serve to make vetted, trained, responsible adults into criminals in MoCo. Why do that? The criminals who will attack the public won't follow this law. So what purpose does it serve? It will only put a burden on law abiding citizens.

As a religious Jew who makes his home in the USA & in Montgomery County, I am becoming increasingly alarmed at the rise in anti-semitism, plain old Jew hatred that is on display in this country and recently in our county, in the heavily Jewish neighborhood of Kemp Mill. I want to be able to fight back should anyone come and try to kill Jews just for being Jews and congregating in a synagogue. *Never Again,* means that we won't be attacked & slaughtered without fighting back.

In Israel where guns of all kinds are common place, it's usually a private citizen that stops an attack before the police or army can respond. That can be here as well.

In many cases where synagogues were attacked in America, trained & armed congregants may have ended the attacks easily as most attackers are not trained in any way to use firearms if they are fired upon or face an armed citizen. Even in schools across the country, students & teachers are dying because no one is trained & armed to confront the attacker. They are forced to wait for the police who will hopefully come & stop the attack.

Concealed guns grant the element of surprise to any would be attacker & just the knowledge that citizens may be trained & armed may prevent a future attack.

Please don't pass this legislation & make life for law abiding citizens more difficult.

Sincerely,

Simeon Pollock

Please follow the recent Supreme Ruling on firearms carry permits. You all took an oath to uphold the Constituion.

Vincent C. McGinnis

July 18, 2022

Dear Montgomery County Council,

RE: Bill 21-22

Montgomery County Bill 21-22 as written could restrict law-abiding citizens with a Maryland issued "wear and carry" permit from exercising their right, if they live "within 100 yards of a place of public assembly". My issue with that is, I live between 1 to 2 blocks from Seneca Valley High School (SVHS) and cannot avoid the high school. This law could nullify my right to bring a firearm outside my house; let alone carry one for personal protection, because of living in such close proximity to SVHS.

Background: I moved into the 'Olde Seneca Woods' development 35 years ago. I am 62 year old and I enjoy the convenient location and walking as much as possible. I walk to the FNB ATM on the corner of Crystal Rock Drive/118. I walk to the grocery store, the Post Office, the dry cleaners, and really anywhere I can. All this helps me get exercise and reduces dependence on my car. Though I love this location for all its convenience, I try to walk during the day; and not too late at night. That's because my house is located in the Crystal Rock Drive area (near The Hampton Apartments) and is one of the worst crime areas in Germantown. Just ask any Montgomery County Police Officer who has worked in Germantown. For this and other reasons, I applied for a Maryland State issued wear and carry permit.

Bill 21-22 as currently written could nullify my right to bring a firearm outside my house; let alone carrying one for protection; because I live in such close proximity to SVHS. This would gut the intent of recent change in the law for me and others who live so close to designated gun-free zones.

Thanks for listening my concern. I hope you can address this issue in the bill before its voted on.

Please feel free to call me with any questions you have.

Sincerely,

Vincent C. McGinnis

July 15, 2022

Reg: Bill 21-22

Dear Council Members:

I do not support Bill 21-22. I believe the bill is driven by the mistaken belief that "more guns on the street means more crime."

The Bill is intended to outlaw concealed carry almost everywhere in Montgomery County.

One needs only to know what happened in the 44 states that have either "shall issue" or "constitutional" (no permit required) concealed carry. The law-abiding who do not carry guns today, do not become criminals tomorrow after personal defense is permitted by the government.

No State that has permissive concealed carry has seen an increase in gun crimes by the law-abiding (source AWR Hawkins, John Lott Jr., et. al.)

Self-defense is a natural right. A "belief" that concealed carry by the law abiding means more crime is unfounded and is subordinate to the natural right to survive.

I support Maryland law as it stands for concealed carry. That is enough for public safety. Bill 21-22 is not required.

Best Regards,

Cs//

Cary Secrest

Public Testimony In Response to Bill 21-22, Weapons-Firearms In or Near Places of Public Assembly- July 26, 2022

Good afternoon,

I am a resident of Montgomery County, MD (Gaithersburg/Damascus to be exact) and a law-abiding firearms owner. I am also an attorney and a staunch believer in civil rights. I am writing to express my grave concerns with the efforts of the county to curb exercise of civil rights by law-abiding firearms owners, as made plainly evident in the text of Bill 21-22.

As the Council is no doubt aware, the Bill of Rights to the US Constitution recognizes certain key and fundamental civil rights of US Citizens that the founders thought so profoundly important they bore being enumerated. The Second Amendment to the Constitution protects the right of individuals to keep and bear arms. The Supreme Court has continually held that this is a protected civil right. Citizens have a constitutional right to keep and bear arms; to keep and bear arms of those types in ordinary use; and to keep and bear arms *in public* for purposes of self-defense and other lawful ends. The Maryland Charter makes the US Constitution the supreme law of Maryland so, quite clearly, Marylanders have a constitutional right to wear and carry firearms in public. As recognized by Governor Hogan, Marylanders no longer need convince the government that they should be allowed to exercise a civil right. The proposed bill's definition of places of public assembly would act to essentially deprive those in or visiting Montgomery County of a right to defend themselves, even on private property. This is in direct contravention to the recent Supreme Court decision in NYSRPA v. Bruen, but you are aware of this fact as the bill is in direct response to the decision in Bruen.

The Council is, nonetheless, pursuing a bill that directly and intentionally flies in the face of constitutional rights. Section 4-209 of the Maryland Criminal Law Code also prohibits local governments from imposing certain restrictions on possession of firearms. Bill 21-22 goes well beyond the exceptions permitted under Section 4-209.

Given that the Council is fully aware of the Constitutional rights that it seeks to intentionally infringe through attempted imposition of Bill 21-22, I want to draw your attention to 42 US Code Section 1983. Section 1983 is a federal statute which provides a right for individuals to sue local government officials directly when those officials violate civil rights in the course of their duties. Given that the Council is aware that this bill would violate civil rights (it is clearly written with that express intent) Council members likely lose any defense of qualified immunity and become personally liable for their unconstitutional actions. I for one would consider seeking a 1983 action if the Council passes a bill directly aimed at infringing my civil rights.

Putting the above aside for the moment, what is it that frightens the Council so much about the lawful exercise of civil rights? Does the Council also intend to ban prayer within 100 yards of a place of public assembly? Does the fifth amendment not apply

within 100 yards of a place of public assembly? Does the Council believe that individuals should lose their fourth amendment rights if within 100 yards of a place of public assembly?

Will the Council ban armed security or law enforcement at Council meetings or is it ok for the Council to be protected by firearms as long as the rest of us are not? Given that gun control is really the last vestige of Jim Crow laws, maybe the Council is scared of minorities being able to defend themselves? Is that it?

Representative Jamie Raskin, of whom I am no fan, recently publicly pointed out the ridiculousness of Bill 21-22 and that it is just a waste of precious taxpayer resources and likely to be overturned in court. That said, he also called protection of constitutional civil rights draconian and foolish, so maybe he's not a great example.

I truly encourage you to listen to your better angels and recognize the foolishness of 21-22 and, instead, embrace an approach that protects civil liberties of all Montgomery County residents and guests.

Respectfully,

Matthew Hoffman

Members of the County Council

I am writing to express my opposition to Bill 21-22 as drafted.

As written, this proposed ordinance would effectively prohibit use of a Maryland wear and carry permit in any of the built up areas of Montgomery County as it would be nearly impossible to drive or walk up or down a major street (e.g., Georgia Avenue, Wisconsin Avenue, New Hampshire Avenue) without coming within 100 yards of any property attached to a place of public assembly. Moreover, any Montgomery County resident with a wear or carry permit who lived or owned a business within 100 yards of any property attached to a place of public assembly would be barred from using the Maryland wear and carry permit while entering or exiting his residence or business. Additionally, there are places in Montgomery County where the Beltway and U.S/ 29, for example, come within 100 yards of property attached to a place of public assembly. Thus, this ordinance would criminalize use of a wear and carry permit while traveling through Montgomery County on the Beltway or U.S. 29. It should not be difficult to see why the breath of this ban is inconsistent with the recent Supreme Court decision allowing legislatures to ban guns only in narrowly defined sensitive spaces.

There is also a problem with the vagueness of the definition of place of public assembly. By use of the term “including” the ordinance reads as if there are other unlisted places that may be considered a place of public assembly. With a criminal statute, the citizen is not supposed to have to guess what may or may not be included – particularly with a term that is broad enough to include, for example, any store.

There is a saying, “Bad cases make bad law.” Passing this ordinance as written will undoubtedly result in rejection by the courts and may very well result in a court decision that further restricts the right of a legislature to ban guns from sensitive spaces and thus winds up making gun control harder rather than easier. In addition, passage of this ordinance as written will unnecessarily run up County legal fees with money that could be spent on productive initiatives.

In my 31-year career (1966-1997) in criminal justice (including positions as a police officer, probation officer, and parole officer in New York State, Staff Director of the U.S. Parole Commission, and Principal Technical Advisor of the U.S. Sentencing Commission), I have seen quite a few pieces of criminal justice legislation that were not well thought out and/or not well drafted. In my opinion, this proposed ordinance, as written, falls in this category. Thus, I recommend strongly this proposed ordinance not be enacted as written. 1

Sincerely,

Peter B. Hoffman

Silver Spring, MD

1. If the "within 100 yards of" language were removed from this bill (so as to limit the prohibition to the actual property of the place of public assembly), and if the definition of place of public assembly was tightened to remove its vagueness, it might ameliorate the above noted issues. Whether the proposed legislation is needed to address a real problem is another issue on which I take no position other than to note that during my career in criminal justice, I reviewed more than 25,000 files of convicted offenders and I remember only one case involving a crime committed with a handgun carried by a person having a permit to carry a handgun (not including offenses committed by persons who were authorized to vary a handgun because they were law enforcement officers).

Dear Counsel Members and constituents,

I am writing in regards to Bill Bill 21-22. Please allow me an opportunity to voice my concerns and kindly accept it for consideration. I will try to make this short and sweet.

I have lived in Montgomery County, Maryland for my whole life, except when I went to college. I am almost 42 years of age. Although I was a knucklehead growing up, I earned a Master's degree, volunteered for the fire department, am a member of a chamber of commerce, am Senior Home Safety Specialist, Client Liaison Manager and Marketing Coordinator and served on the community board of directors. Not to mention, my wife and I work hard, very hard. We have also been steadily employed our whole lives and we pay all our taxes on time.

As you make your decision, please take this into consideration, how is it fair that a criminal will be able to go to a mall with a gun, like it happened in 2016, but someone with my background has to be unarmed? Would that really make you feel safer? I live across the street from the mall. When I walk my dog, how do I know the proximity of when I am committing a crime by being 100ft of 100 people?

This approach will either force me to be unarmed, or deal with a subjective approach of a police officer. Why is it that the Supreme Court of the United States just made me, you and a lot of others like us more equal and you are voting to take that away? Please excuse me, but the laws you are considering will not make us safer.

Even if I don't carry arms, I feel a lot safer knowing that others who are responsible carry their arms. Montgomery County is a great county, but it's not in a secret bubble. Criminals are all over the place and they will not follow this law, nor will the criminals from neighboring counties who will flock here knowing how rich and unarmed our citizens are.

There have been many mass killings. The numbers are staggering. It's obvious some of you want to make guns go away. I honestly wish we could disarm all of America too, but we can't. It's ingrained in the constitution and the Supreme Court just clarified that. The law being considered will undoubtedly be challenged by many and it may end up being a very costly decision for our county. Please consider putting that time and money into schools, our infrastructure, and placing real criminals behind bars.

Please give me and other responsible citizens of Montgomery County the right and chance to defend ourselves if the unlikely, but life threatening, situation happens to arise. The elements of this law should be left up to private establishments on whether to allow or not allow arms.

It's great to require proper training and background checks. Maryland has good laws right now. Please, please, please do not create a law to punish the responsible citizens. This law can harm a responsible citizen with their lack of safety and/or having unfair legal repercussions.

Thank you for your open-mindedness and consideration. Please make that right decision and give the responsible citizens the equality that they deserve and that the rest of the country already has.

Respectfully,

Renan Augusto

Statement regarding Bill 21-22

Good afternoon, my name is Michele Walker. I am a native of Maryland. My husband and I have raised four children in Montgomery County since 1990. Like our parents, we taught our children to respect our country and every person in it no matter their financial or educational status. Sadly, there are those among us who do neither of those things.

Every American has the right and responsibility to defend not just themselves but their family, neighbors and other Americans whom they do not know personally. The 2nd Amendment of the United States Constitution does not restrict American Citizens from wearing and carrying their firearms. The Supreme Court has recently ruled against legislature that demands reason or need applications. The courts have ruled against many restrictions that would infringe upon our citizens rights. There's an extremely low percentage of people using firearms to commit crimes or harm to others in comparison to the number of people who own one or more firearms that do not use them for those purposes.

There are numerous cases where a law abiding gun owner saved the day as a crime was happening. Some were in convenience stores and saved the clerk or another customer from robbery and possible death. A judge in Ohio was able to save himself from a criminal who was attempting to kill the judge right outside of the courthouse. In a mall a gunman was stopped by a citizen who had a permit. None of us have the ability to know if we will be in one of those situations where a gun will be used with harmful intent but all of us would be grateful to be saved by someone who had our backs. To those who want to push gun control, close your eyes and imagine yourself in one of those situations where there is an angry or upset person with a gun. Now imagine if you have no one there to save your life because of these laws. How would you feel if your close family member were just an innocent bystander harmed or killed because of the gun control law that prevented the possibility of someone to stop it from happening? None of us are exempt from the potentiality of being harmed by people who just don't care about the law or who are out of their mind. None of us, that includes you too.

Please stop trying to unarm the law abiding citizens. We have been taught to respect the gun and use it properly. Gun control does NOT work. Look at the localities that have the strictest laws on the books and see that things have gotten progressively worse. Chicago, New York and Philadelphia are shining examples of those cities. Law abiding citizens do not have intent to go shoot up people or places. We intend to protect ourselves and those around us from others who either have criminal intent or have a mental illness. Address the real issues mentioned in the last sentence because it is not the gun, it's the person holding the gun.

To the Honorable Members of the County Council of Montgomery County, MD,

I urge you to vote against Expedited Bill 21-22, Weapons – Firearms in or Near Places of Public Assembly. I know you want to make me safer, but this bill does the exact opposite.

Antisemitic incidents are on the rise in the county, particularly by white supremacists[i]. White supremacists are the most likely of all extremists to use violence[ii]. They target synagogues because these facilities serve the Jewish community and assure the presence of a significant number of Montgomery County citizens at certain times of the week. Furthermore, In the orthodox community, Sabbath synagogue attendees do not carry their phones, so there would be a delay in alerting police to an active threat.

An additional factor impacting incident response is that Montgomery County police are understaffed and recruitment is down. Our sworn officers per capita is only half the national average[iii]. It is unrealistic to expect police to be able to engage with an active threat fast enough to prevent mass casualties.

Furthermore, turning places of worship (and essentially the entirety of the county) into gun free zones would do the precise opposite of its intent. It would serve as a welcome sign for potential mass murderers as to which locations they can "safely" unleash their mayhem[iv] — and there'll be nobody there (with a gun) to stop them! This is because the only people who will comply are law-abiding, licensed gun owners. Do you really think someone intent on mass murder will leave their gun at home because of this law?

Lastly, the expedited basis of this bill is unjustified. The CCW permit application process takes 90 days from submission to approval[v] plus a few days to mail the permit to the applicant. This provides the MDSP sufficient time to perform a background investigation and interview up to three character witnesses. Before you can do that, you have to schedule and attend a 16-hour training class. You also need to take a live fire test with your instructor at a range to prove your proficiency firing a handgun. You also need to schedule and have your fingerprints taken to submit along with your application and fee. Then your CCW permitted citizen would have to select and purchase an appropriate concealed carry weapon, which in Maryland involves a minimum 7 day waiting period. Therefore, you have 90 to 120 days before the impact of additional CCW permit holders will be seen in the county.

CCW permit holders should be allowed to carry their concealed weapon to their place of worship specifically because of the heightened threat against places of worship. This bill will make it illegal for them to protect themselves specifically at the place they need it most. Therefore, I strongly urge you to vote against Expedited Bill 21-22.

Larry Jaffe
Silver Spring, MD

[i] "Sharp rise in anti-Semitism in Maryland, Virginia and D.C., ADL reports" https://www.washingtonjewishweek.com/sharp-rise-in-anti-semitism-in-maryland-virginia-and-d-c-adl-reports/ and "ADL H.E.A.T. Map™ (Hate, Extremism, Antisemitism, Terrorism)" https://www.adl.org/resources/tools-to-track-hate/heat-map

[ii] "Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks" https://www.humanrightsfirst.org/resource/domestic-extremism-america-examining-white-supremacist-violence-wake-recent-attacks Relevant excerpt below:

In Pittsburgh, Pennsylvania, the killer who attacked worshippers in a synagogue wrote that he believed Western Civilization was facing "extinction" and that refugees were "invaders";[5]

The Christchurch, New Zealand killer titled his writings "The Great Replacement" and targeted Muslims in a country he was initially only visiting;[6]

The shooter in El Paso, Texas targeted Latinx people in the United States but wrote that he "supported" the racist screed from Christchurch;[7]

In Poway, California, the shooter first targeted a mosque and then a month later opened fire in a synagogue, claiming that Jews were orchestrating a "planned genocide of the European race";[8]

And most recently, the killer in Buffalo, New York, spent weeks identifying a locale in which to murder Black Americans. His own screed was largely a plagiarism of the Christchurch shooter's "Great Replacement" text, but was so sloppy that at times he merely swapped out terms for one victimized community for another.[9]

This heartbreaking trail of violence illustrates how fluidly the Great Replacement conspiracy theory travels across borders and populations.

Unfortunately, these mass casualty attacks are only one element in the larger phenomenon of violent white supremacism and domestic extremism.

Over the last decade in available data, white supremacist terrorism in the United States has increased many times over. Of the 100 white supremacist attacks between 2000 and 2019, 80 of them occurred after 2009, according to the Global Terrorism Database (GTD).[10] And while these terrorist attacks have increased, they have also become more lethal. Mass casualty attacks perpetrated by white supremacist terrorists like the horrific attack in Buffalo, used to be a rare occurrence. Now, they are frequent tragedies.

[iii] "Departures, sagging recruitment plague Montgomery County police (bethesdamagazine.com)" https://bethesdamagazine.com/bethesda-beat/police-fire/departures-sagging-recruitment-plague-montgomery-county-police-even-as-crime-soars/

[iv] "Mass Public Shootings keep occurring in Gun-Free Zones: 94% of attacks since 1950" https://crimeresearch.org/2018/06/more-misleading-information-from-bloombergs-everytown-for-gun-safety-on-guns-analysis-of-recent-mass-shootings/

[v] "Wear and Carry Permit (maryland.gov)" https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx

My name is Gary Simon. I am a lifelong resident of Montgomery County. I am a law-abiding MD Wear and Carry Permit holder as well as a MD Qualified Handgun Instructor (QHIC). While I think it fair to say that my viewpoints and philosophies are not very similar to the majority of the esteemed council, I do wish to thank you for the time that each of you dedicate to serving our county. I am here today to ask that you do so from a perspective of practicality and one that adheres to the laws that make our country what it is today.

You have proposed a law, 21-22, in response to a decision of the Supreme Court in the NYSRPA v. Bruen matter. In doing so, you present a code that directly defies the majority opinion written by the Honorable Judge Thomas. I offer a portion of that decision for the record here today. I offer only text, removing citation and reference in the essence of time and brevity.

"Consider, for example, Heller's discussion of "longstanding" laws forbidding the carrying of firearms in sensitive places such as schools and government buildings. Although the historical record yields relatively few 18th- and 19th-century "sensitive places" where weapons are altogether prohibited-e.g., legislative assemblies, polling places, and courthouses- we are also aware of no disputes regarding the lawfulness of such prohibitions. We therefore can assume it settled that these locations were "sensitive places" where arms carrying cold be prohibited consistent with the Second Amendment. And courts can use analogies to those historical regulations of "sensitive places" to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible. Although we have no occasion to comprehensively define "sensitive places" in this case, we do think respondents err in their attempt to characterize New York's proper cause requirement as a "sensitive-place" law. In their view, "sensitive places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law enforcement and other public-safety professionals are presumptively available. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" too broadly. Respondent's argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. Put simply, there is no historical basis for New York to effectively declare the island of Manhattan a "sensitive place" simply because it is crowded and protected generally by the New York Police Department,".

I am a permit holding, law-abiding citizen who will certainly be effected by this error-filled piece of legislation. What I believe gives me the greatest concern is that a body such as yourselves would propose such a piece of legislation that you know would be challenged and likely overturned. Rather than focusing on laws that focus on criminal conduct and are centered on the solving of an issue at hand, you propose something that is nothing more than window dressing to your constituency so that you are able to say we tried to do something. Perhaps if this type of energy was directed at criminals rather than law-abiding citizens exercising their constitutionally protected rights, you might garner the support of people like myself.

Thank you for your time and consideration.

Edward Walker

Why I Oppose Bill 21-22 (and you should too)

I oppose Bill 21-22 for many reasons. The being that it doesn't just turn a right into a privilege, it completely removes this constitutional right from the people. For example even with a Maryland wear and carry permit, I would be unable to leave my place of residence with a legally owned firearm, 100 yards from the ground of a place of public assembly would extend into the street. There is a library, a church and a bank a few blocks from my house on the main road. Which means I'd have to break the law to exercise my RIGHT to carry even if was not intending to carry in Montgomery county.

Another reason I oppose this bill, as we have seen time and time again the police fail to act and to defend civilians, the Uvalde shooting is a prime example of law enforcements inability, unwillingness and cowardice to act in the event of a mass shooting or violent encounter. There's also an old saying which comes to mind in these cases "when seconds count, cops are minutes away". Throughout the years and as recently July 17, 2022 we saw a law abiding citizen, good guy with a gun, stop a cold hearted criminal, bad guy with a gun, in 15 seconds. 15 seconds and the horrendous atrocity was ended. 15 seconds. The officers at Uvalde waited 1 hour and 15 minutes. 1 hour and 15 minutes compared to 15 seconds. This shouldn't even need to be discussed. The answer is clear the people deserve to maintain their RIGHT to carry in public.

This bill will turn law abiding citizens who would like to exercise their right to carry a firearm, legally with a permit, for defense into criminals, while criminals would still be criminals who don't care about our laws and will still carry because they are criminals. This bill is bad legislation that will only effect lawful gun owners.

Thank you for your time, even if you don't actually care what the people think and only give us this opportunity to make us feel as if our opinions actually matter to you. We'll see you in court if this passes. Have a nice day.

Good afternoon. I'm Deborah Miller, the Director of Maryland Government and Community Relations for the JCRC of Greater Washington. The JCRC represents over 100 social services agencies, synagogues, and Jewish schools throughout the region. We work to build strong relationships and coalitions with other communities in pursuit of justice, tolerance, and equity for all. I am here today in support of Expedited Bill 21-22, which aims to reduce the dramatic rise in gun violence we are witnessing every day not only across the country, but in our county.

At the JCRC, one of our highest priorities is the safety and security of all faith-based institutions, particularly Jewish houses of worship, given the unprecedented increase in antisemitism- up 34% across the nation and 17% in Maryland according to the ADL. Additionally, MCPD's latest report on religious bias incidents shows that more than 85% targeted Jews, although they only make up only 10% of the County population. The Jewish community knows all too well the devastating impact of gun violence. In addition to the horrific targeting of African Americans, Asian Americans, and the LGBT Community throughout the country, we remember the Tree of Life tragedy in where 11 members of the Jewish community were murdered.

The importance of this legislation at this time cannot be underestimated. The JCRC is deeply disappointed by the Supreme Court's ruling striking down NY's concealed weapon permit law. We believe it will pose increased risk to public safety. Houses of worship should be left to establish their own security plans. We do not want individuals who could walk in off the street with a weapon acting in their own individual capacity. It could lead to chaos and create an even more potentially deadly situation.

We will continue to advocate for common-sense gun safety measures throughout our region, because we know that the senseless violence, can only be stemmed by limiting easy access to such deadly weapons. While the Supreme Court taken a step backward to curb violence and ensure safety, we are grateful that in Montgomery County, our leaders are taking a step forward to counter this dangerous trend. Fewer guns near or inside our places of assembly will create a safer environment for all of our residents. We thank the lead sponsor, Council President Gabe Albornoz as well as the entire council for its co-sponsorship.

Testimony of Montgomery County Young Democrats in Support of Expedited Bill 21-22–Weapons–Firearms In or Near Places of Public Assembly

July 25, 2022

Members of the County Council:

The Montgomery County Young Democrats strongly support Councilmember Albornoz's Bill 21-22, which would ban the possession of guns in or near places of public assembly, with a few exceptions. It would also remove an exemption that allows certain people with permits to have guns within one hundred yards of these places. Gun violence is a major problem in our county and country, resulting in tens of thousands of deaths every year, and residents should not live in fear when they are out in public. This proposal will tighten restrictions on guns and help ensure that people can participate in public life without being intimidated.

Currently Maryland law allows people with wear-and-carry permits to possess guns when they are within one hundred yards of or in parks, churchs, schools, public buildings, and other places of public assembly. This bill bans people from selling, transferring, possessing, or transporting guns in those areas. It includes reasonable exemptions for police officers or security guards, business owners, residents who live within 100 yards of a place of public assembly, and instructors for firearm safety and use.

In order for people to thrive in Montgomery County and engage in its civic and commercial life, they should feel welcome and not be subject to menacing threats. The goal of this bill is to promote public safety and ease of mind. We want to minimize concerns and worries that people have about people carrying weapons in and around these places. People should be able to go to school, their places of worship, the mall, or

community centers without having to constantly look over their shoulder and worry about shooters.

Recently we have seen a troubling trend of people showing up with openly carried weapons outside polling places and other locations; these are blatant attempts to intimate people, discouraging them from voting and exercising their other political rights. And various authoritarian groups have shown up to various events, most notably Drag Queen Story Hour, and tried to disrupt them.

Bill 21-22 would help reduce acts of violence in county public spaces, counter attempts to intimidate people, and keep people safer. MCYD urges the County Council to vote yes on this bill.

Sincerely,

The Montgomery County Young Democrats

Montgomery County Council
Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

July 25, 2022

Re: OPPOSE Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

Esteemed Council Members:

I am writing you as a Maryland native, a Montgomery County business owner, and a registered Montgomery County voter to oppose Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly. I am also a Maryland Wear and Carry permit holder, earned with a substantial amount of background checks and training. While I understand your intent is to protect the lives of innocent people, this bill is vague and will create confusion for law-abiding citizens with carry permits.

Under this proposed bill, there is no definition of "places of public assembly," which can be construed as something as simple as a grocery store or bank without context. Since many of us with carry permits are frequently traveling from work and the primary purpose of the permit is to keep us safe in the disposition of our duties as a business owner while banking or traveling to and from our home, this vague wording places us at risk for breaking the law within the county where Maryland has provided us the right to protect our lives.

For instance, the specific addition of school parking lots places many of us at risk as we travel home from work while legally carrying a firearm. With the current cost of gasoline, it is ridiculous to expect us to go miles out of our way to return home.

The most substantial reason for my opposition to this bill is that it creates a patchwork regulation within the state of Maryland, which creates a challenging structure for law-abiding citizens of Montgomery County and Maryland to comply. This would also set a precedent where law-abiding citizens are placed at risk for prosecution from laws within a smaller jurisdiction without any type of signage to identify that legal firearm carrying is prohibited. It is challenging enough to recall which states have which specific laws and which areas are restricted.

In addition, there has been an inadequate amount of time since Bill 21-22 was introduced and the hearing date of July 26, 2022. Many Montgomery County residents are unaware of the aforementioned bill and have not had an opportunity to read or speak their affirmation or opposition to it. This quick vote seems underhanded and sneaky, something I am certain none of you wishes to be, particularly with the upcoming election.

Please oppose this bill and let us address gun violence from root cause mitigation. I would be honored to help with supporting the council with data and statistics on root cause mitigation and public awareness.

Sincerely,

Rachel King

Testimony in Opposition of Council Bill 21-22

I submit this petition hosted on change.org in opposition of Council Bill 21-22.

https://chng.it/bKmKQXGq

Regards,
Katie Novotny

Dear Councilmembers,

I'm writing you as a resident of Montgomery county to let you know that I strongly oppose bill 21-22. I've lived here in Montgomery county for over 20 years now, I've seen the area go though lots of changes some good, some bad. Over the years, crime in the area is slowly getting worse and worse, from shootings happening less than a mile away from me, to muggings and armed assaults'. While I appreciate your efforts to try keep citizens safe, all this bill is doing is sending a message to criminals that the county is leaving its citizens defenseless. Stripping your law abiding citizens rights to protect themselves even when they've gone through the training, the background checks showing that the police approve of them to conceal a weapon is not a well thought out idea.

Someone that conceal carry's a firearm should be of sound mind and an upstanding citizen, there are checks and balances in place to restrict who can and cannot own and even conceal carry a firearm already in place. Thorough training is required, background checks are in place police have references to double check people who are applying. These should be more than enough. This is not going to be the wild west with people carrying a weapon exposed on their hip, These are going to be law abiding citizens, concealing a weapon, knowing it's a last line of defense incase something were to happen. With crimes going up, police response time going up, its not enough to solely rely on the police. I've had friends be victims of violent hate crimes, I've been in a situation where there was an attempted murder and was run to for help, in those 8-9 minutes of waiting for police to hopefully respond can often mean life or death for some.

I urge you to reconsider going through with this bill. Criminals will never listen to the letter of the law. Criminals see gun free zones as easy targets. Allowing your citizens the option to carry with a concealed carry permit is a deterrent in itself. Criminals may think twice, and move along not knowing who may or may not be able to defend themselves. Freedom is a two way street. Its often said ignorance of the law does not make you innocent. I've seen a lot of arguments that people should not have to worry who around them may or may not legally be carrying a weapon, well, ignorance of the law on their part does not make me a criminal. There have been a large number of situations where legal residents carrying a concealed firearm have kept horrible things from happening. A perfect example of this would be what just happened in Indiana. A mall where a "gun free zone" was in place 2 people broke that rule, one with the intent to cause harm to as many as he could, the other, a citizen with a concealed carry permit and a firearm out of sight. That citizen was able to save countless lives that day due to his training and fast thinking. While that is an extreme example it's also a realistic one.

In closing. Please reconsider passing this. I appreciate your attempts to make this county a "safer" place, but this will not accomplish it and will only hurt its citizens, and possibly even turn perfectly law abiding citizens into criminals just by wanting to legally protect themselves by carrying WITH a permit that has been issues by the police.

Thank you for your time,

Luke Roetman.

Testimony on Expedited Bill 21-22

Councilmembers,

My name is Daniel Sangaree and I'm a Montgomery County resident in Glenmont, a member of my community's home owners' association's board of directors, a married gay man, a registered and voting Democrat, and a Maryland Handgun Wear and Carry permit holder. My firearms training and experience includes handgun training by the Greene County (Missouri) Sheriff's Department as part of my university's criminal justice degree program, competitive handgun shooting as part of the American Criminal Justice Association, years of experience as a concealed weapons permit holder before moving to Maryland, Maryland's Handgun Qualification License training, and Maryland and DC's 16+ hours of concealed handgun permit training. This letter is my testimony in opposition to expedited Bill 21-22 currently under your consideration.

Bill 21-22 proposes to remove the exemption for Maryland handgun permit holders to the county's places of public assembly restrictions. As a permit holder this bill will affect me to a rather extreme degree. It is, in fact, a de facto ban on legal firearm carry throughout the populated areas of the county. Under even the much more objective definitions that existed before Bill 4-21, which this council previously passed, with the exemption removed I will not be able to do any of the following while otherwise legally armed:

- travel more than a block from my home in any direction on foot, Metro rail, or by car
- inspect, as a director, all of the property that is under my HOA's jurisdiction
- shop at my primary grocery store, the Safeway in Wheaton, or almost any of the grocery stores in the area, including: Giant in Aspen Hill, Lidl in Glenmont, Aldi in Glenmont, H-Mart

in Glenmont, Giant in Norbeck, Safeway in Norbeck, Giant in Wheaton, Target in Wheaton, Safeway in Kensington, and so many more.

- walk my dog on his normal route which was chosen entirely for conflict avoidance
- defend myself in my car during a rising trend of violent, armed carjackings in the county that police, by the laws of physics, are unable to defend us from

While I am only speaking for myself, as an HOA board member I have also noted that there are households within my HOA that, due to their proximity to a park, residents won't be able to legally leave their house at all while armed, either walking or by car. Many are likely even unaware that they are affected in this way. This specific scenario applies to many people in the county and that's before applying the vague definitions as provided in Bill 4-21.

The vague definitions for a place of public assembly brought by 4-21 add a truly dystopian lens through which to view this bill. This bill will allow police to arrest anyone who is otherwise legally armed nearly anywhere in the county based purely on the personal discretion and biases of the officer. It takes absolutely zero imagination to figure out exactly how that will be abused and what groups will be victimized by the wide latitude this bill would give police. But just to be absolutely clear, it will be people of color, queer people, and other oppressed minorities that bear the brunt of abuses by police from this just as they bear the brunt of all police abuses. This is exactly why The Black Attorneys of Legal Aid, the Bronx Defenders, and Brooklyn Defender Services, three public-defender groups in New York, filed an amicus brief in support of NY State Rifle and Pistol Association in NYSRPA v Bruen. To quote that brief, "virtually all our clients whom New York prosecutes for exercising their Second Amendment right are Black or Hispanic. And that is no accident. New York enacted its firearm licensing requirements to criminalize gun ownership by racial and ethnic minorities. That remains the effect of its enforcement by police and prosecutors today." ("Brief amici curiae of Black Attorneys of Legal Aid, et al. ", 2021)

Which brings me to the biggest problem with this bill. Either the members of this council have never visited a county jail, prison, or other place of incarceration or they came away from it with a wholly different takeaway than I did when I visited jails and prisons as part of my criminal justice program. This bill intends to send upstanding members of our community, vetted by the state police as law abiding and trained, to jail for up to six months for an act with no element of malice and likely an honest mistake or a matter of police/prosecutorial discretion. This result, which is explicitly what this bill demands, is cruel and honestly horrific. This is the exact opposite of criminal justice reform that the Democratic Party has called for over the past multiple decades.

I ask that the members of this council reject this bill which will only serve to criminalize upstanding, and disproportionately minority, members of our community.

Sincerely,

Daniel Sangaree

References

"BRIEF OF THE BLACK ATTORNEYS OF LEGAL AID, THE BRONX DEFENDERS, BROOKLYN DEFENDER SERVICES, ET AL. AS AMICI CURIAE IN SUPPORT OF PETITIONERS", July 2021. Accessible via Supreme Court of the United States website, Docket 20-843.

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Lisa Morris. I am a volunteer with Maryland Moms Demand Action and I live in North Potomac. I am submitting written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I have lived in Montgomery County my entire life. I am also a gun violence survivor as my life intersected with gun violence two times. I feel and believe our safety as a community and individuals/families are more at risk then ever.

The very dangerous decision made by the Supreme Court to weaken states permitting systems is already seeing ripple effect in states across the country, including in Maryland. States see that a weakened permitting system has a 13-15% increase in the rate of violent crimes. Research shows that when it is easier for people to carry guns in public, violent crime goes ups.

Montgomery County is experiencing a rise in gun violence; the last thing our county needs is guns where people gather.
The increased prevalence of guns outside the home only increases the risk of violence in public places. This will further endanger the public in Montgomery county and Maryland putting families, children, individuals and law enforcement in danger in what is already a gun violence and mass shooting epidemic.

Now the burden is more then ever on state and local officials to define the spaces in our community where guns are not permitted

and to provide strong public safety and gun reform legislation to keep all of us safe from gun violence in our communities as we go about our daily lives.

I urge you and the council to pass Bill 21-22.

Thank you and the all of the council members for all you do for our county.

Lisa Morris
Volunteer
Moms Demand Action for Gun Sense in America, Maryland Chapter

Testimony for the Montgomery County Council

July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

I am Peter Benjamin, a former mayor of the Town of Garrett Park. I am submitting written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I agree with the legislation proposed and respectfully suggest two additions:

1. Include within the definition of places of public assembly all modes of public transportation, including vehicles and facilities as well as school buses.
2. I believe that New York, in its action in response to the Bruen decision, dealt with weapons carried into private business. I would propose a similar provision that would ban weapons in all places of business, including stores, offices, and service facilities unless the owner or operator chooses to allow weapons in its place of business, in which case the exemption must be posted prominently and publicly at all entrances.

Thank you for your consideration,

Peter Benjamin

MARYLAND SHALL ISSUE®
SELF DEFENSE IS A CIVIL RIGHT

President
Mark W. Pennak

July 21, 2022

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO BILL 21-22

I am the President of Maryland Shall Issue ("MSI"). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners' rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland Firearms Law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home, muzzle loading, as well as a range safety officer. This letter is submitted in opposition to Bill 21-22.

In Bill 21-22, the County would amend Section 57.11(b) of the County Code to eliminate the existing exemption for carry permit holders from the prohibitions found in Section 57.11(a). Section 57.11(a) provides: "In or within 100 yards of a place of public assembly, a person must not: (1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or (2) sell, transfer, possess, or transport a firearm created through a 3D printing process." The County code defines the term "place of public assembly" extremely broadly to mean: "a place where the public may assemble, whether the place is publicly or privately owned." This definition goes on to include, but is not limited to, any "park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as fairgrounds or a conference center." See County Code Section 57.1 (definitions).

The County invokes as its authority for this bill, an exception provision to a State preemption statute, MD Code, Criminal Law, § 4-209(a). That statute provides: "(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of: (1) a handgun, rifle, or shotgun; and (2) ammunition for and components of a handgun, rifle, or shotgun." Section 4-209(b) contains exceptions to this general preemption, one of which is that a "county, municipal corporation, or special taxing district may regulate the purchase, sale, transfer, ownership, possession, and transportation of the items listed in subsection (a) of this section:

*** (iii) * * * within 100 yards of or in a park, church, school, public building, and other place of public assembly." MD Code, Criminal Law, 4-209(b)(1)(iii).

That exception provision is narrow and strictly construed. In *Mora v. City of Gaithersburg*, 462 F.Supp.2d 675, 689 (D.Md. 2006), *modified on other grounds,* 519 F.3d 216 (4th Cir. 2008), a federal district court here in Maryland held that "the Legislature" has "occup[ied] virtually the entire field of weapons and ammunition regulation," holding further there can be no doubt that "the exceptions [in Section 4-209(b)] to otherwise blanket preemption [in Section 4-209(a)] are narrow and strictly construable." As thus construed, Section 4-209(b)(1)(iii) does not authorize this legislation. Indeed, the extent of the County's power under this provision is currently in litigation in *MSI v. Montgomery County*, Case No.: 485899V (Mont. Co. Cir. Ct), where MSI and other plaintiffs have challenged the County's enactment of Bill 4-21 last year. Cross-motions for summary judgment in that case were filed and oral argument conducted on July 19, 2022. Bill 21-22 builds on the framework established by Bill 4-21 and effectively negates carry permits issued by the State Police throughout the County. If the County loses the Bill 4-21 suit, such a decision would necessarily mean that the County likewise lacks the authority to enact Bill 21-22, as currently drafted. The County would be well-advised to await a decision before doubling down on its misguided reliance on Section 4-209(b)(1)(iii).

But even assuming *arguendo* that the County has the power it claims under Section 4-209(b)(1)(iii), Bill 21-22 still fails as it is blatantly unconstitutional under the Second Amendment, as construed by the Supreme Court in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (2022). In *Bruen*, the Supreme Court held that the Second Amendment right to bear arms means "a State may not prevent law-abiding citizens from publicly carrying handguns because they have not demonstrated a special need for self-defense." Slip op. at 24-25 n.8. Specifically, the Court struck down as unconstitutional New York's "proper cause" requirement for issuance of a permit to carry a handgun in public. The Court went on to reject the "means-end," two step, intermediate scrutiny analysis used by the lower courts to sustain gun regulations, holding that "[d]espite the popularity of this two-step approach, it is one step too many." The Court ruled that "the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." Any such historical analogue would have to date from 1791 or, at the latest, 1868, when the 14th Amendment was adopted. See *Bruen*, slip op. at 25-26. That is because "'Constitutional rights are enshrined with the scope they were understood to have when the people adopted them.'" *Bruen*, slip op. at 25, quoting *District of Columbia v. Heller*, 554 U.S. 570, 634–635 (2008).

Bruen also holds that governments may regulate the public possession of firearms at "legislative assemblies, polling places, and courthouses" and notes that governments may also regulate firearms "in" schools and government buildings. *Bruen*, slip op. at 21, citing *Heller*, 554 U.S. at 599. *Bruen* states that "courts can use analogies to those historical regulations of 'sensitive places' to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive

places are constitutionally permissible." (Id.). But nothing in *Bruen* can be read to allow a State (or a municipality) to regulate or ban firearms at every location where the "public may assemble" regardless of whether the place is "publicly or privately owned." Indeed, the Court rejected New York's "attempt to characterize New York's proper-cause requirement as "a 'sensitive-place' law," ruling that "**expanding the category of 'sensitive places' simply to all places of public congregation that are not isolated from law enforcement defines the category of 'sensitive places' far too broadly**." Slip op. at 22. As the Court explained, "[p]ut simply, there is no historical basis for New York to effectively declare the island of Manhattan a 'sensitive place' simply because it is crowded and protected generally by the New York City Police Department." (Id.).

In a courtroom, the County will bear the burden of proof to show the historical presence of such analogous regulations. See *Bruen*. at 52 ("we are not obliged to sift the historical materials for evidence to sustain New York's statute. That is respondents' burden."). *Ipse dixit* declarations or avowed public safety concerns will not do. Under *Bruen*, "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." Slip op. at 8. Here, the text of the Second Amendment indisputably covers the "possession, sale, transport, and transfer" of firearms and ammunition, as regulated by Section 57.11(a) of the County Code. **In such cases, "the government may not simply posit that the regulation promotes an important interest," but rather "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation."** Id. In short, under *Bruen*, "**the Second Amendment guarantees a general right to public carry.**" *Bruen*, slip op. at 24.

The County has not and cannot make any such showing that eliminating the right to carry under a permit issued by the State Police "is consistent with this Nation's historical tradition of firearm regulation." Indeed, the very suggestion is nonsensical. There is no historical analogue that would permit the County to ban all possession of firearms in a church or a park, much less in any "other place of public assembly" as vastly defined by the County to include any place where the public "may assemble" regardless of whether such place is on public or private land. Montgomery County is no more a "sensitive place" than is Manhattan. Under the Second Amendment, the County may presumptively enact otherwise reasonable firearms regulations for these five, specific locations identified in *Bruen* and *Heller*, *viz*, in schools, public buildings, polling places, courthouses and legislative assemblies, **to the extent such regulation is otherwise authorized by State law**. As noted, the State has generally barred local regulation of firearms under Section 4-209(a). For example, the County has no authority to enact its own, "shall issue" licensing system that would supersede or conflict with that established by State law. Nor would it make any practical sense for the County to attempt to duplicate State law on such matters.

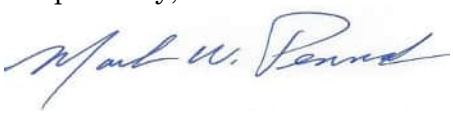
The State Police may continue to regulate public possession of handguns under its existing permit system as long as it issues permits on an objective, "shall issue" basis and the permitting system does not operate in such a way as to "deny ordinary citizens their right to public carry." See *Bruen*, slip op. at 30 n.9. But, there is no historical analogue that could justify regulating within 100 yards of those locations

or beyond those places. *Bruen* holds that the "Second Amendment guarantees a general right to public carry," and thus the County may not purport to ban the "possession, sale, transport, and transfer of firearms" within 100 yards of any location. Again, the burden is on the County to prove an historical analogue to the contrary.

Such bans are particularly nonsensical for persons who have obtained a wear and carry permit from the Maryland State Police. Under State law, MD Code, Public Safety, § 5-306(b), such individuals are subject to highly intrusive background investigations (including fingerprinting) conducted by the State Police and must undergo extensive training by State certified instructors, including passing a scored live-fire proficiency test. The undersigned is such a State Police-certified instructor. The State Police will continue to enforce those requirements even after *Bruen*. See Maryland State Police Advisory, LD-HPU-22-002 (July 5, 2022). Permit holders are among the most law-abiding individuals there are. They are not the problem. That has been true in all of the 43 States and the District of Columbia that issue permits on a "shall issue" basis. https://www.dailywire.com/news/report-concealed-carry-permit-holders-are-most-law-aaron-bandler/. Eliminating the exception for permit holders currently found in Section 57.11(b) of the County Code is utterly senseless from any calm, rational perspective.

Stated simply, regardless of the personal views of members of the Council County, this County is bound by the decisions of the Supreme Court, including decisions involving the Second Amendment. The County needs to rethink this Bill. If the County persists with the enactment of Bill 21-22, it will not survive judicial review. Defying the Supreme Court did not work for the racist proponents of segregation who refused to accept *Brown v. Board* in the 1950s and 1960s, and it will not work for any County attempt to defy *Bruen*. The Second Amendment is not a "second class right" that the County is free to ignore. *Bruen*, slip op. at 62. The sooner that members of the Council are able to put aside their personal opinions and accept that reality, the better. As stated in *Heller*, "the enshrinement of constitutional rights necessarily takes certain policy choices off the table." *Heller*, 554 U.S. at 636. County taxpayer dollars have better uses than litigation that will most certainly ensue from any enactment of Bill 21-22. When plaintiffs prevail in such litigation (and they will), the County will also be on the hook for plaintiffs' attorneys' fees and costs under federal law, 42 U.S.C. § 1988, and those sums could well be substantial. The County Council should stop and think carefully before it goes down that road. Responsible, adult stewardship of the County requires nothing less. The County cannot say it was not put on notice or acted in ignorance of State law or the Second Amendment.

Respectfully,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Jennifer Stein, and I am a long-standing volunteer with Maryland Moms Demand Action. I have lived in Montgomery County since 1995 and currently live in the Town of Chevy Chase. Together with my husband, Michael, we have raised a family here. I am submitting written testimony in support of Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly.

Gun violence in our country has become a public health crisis of epic proportions. The statistics are so monumental—110 deaths and 200 more injuries every day—it is possible to become numb unless directly affected. But none of us is immune to the scourge of gun violence, which destroys lives, families, and communities. So far, Montgomery County has avoided a mass shooting in a sensitive public space, but this is not a matter of luck. Maryland's strong concealed carry permitting system was appropriate and necessary for public safety. Meanwhile, Montgomery County is experiencing a rise in gun violence—the last thing our county needs is guns where people gather. And no one should have to worry about gun violence when they take their kids to a playground, to a park, or drop them off at school.

The Supreme Court's dangerous decision striking down the "proper cause" discretionary requirement to conceal carry a firearm has already increased the risk of tragic mass shootings in our community. When permitting systems are weakened and more people may carry concealed weapons into sensitive public spaces, the research shows that deadly violence rises. States with no such discretion in issuing concealed carry permits have homicide rates 11% higher than states like Maryland and New York.

Now that the Supreme Court's concealed carry decision is the law of the land, Maryland and its local governments must take all reasonable action to protect children and adults from senseless gun violence within its borders. Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly would be a commonsense, constitutional measure to help ensure public safety in the post-*Bruen* era. Montgomery County has the power under Maryland state law to regulate firearms as set forth in Expedited Bill 21-22. I urge the passage of this life-saving bill.

Sincerely,
Jennifer Stein
State Data Co-Lead
Moms Demand Action for Gun Sense in America, Maryland Chapter

Dear Sir or Ma'am -

In reference to Bill 4-21:

It is inherently dangerous to signal to criminals that the entire county is, in effect, a giant gun-free zone... "a place where the public may assemble" is literally and figuratively anywhere.

Please be reminded that the Colorado theater shooter specifically chose the particular theater because of it being in a gun-free zone, that is to say, free of law-abiding citizens capable of defending themselves. In doing so, he knew he could maximize the most damage in the least amount of time without a worry that someone, anyone could fight back.

Now, what are the chances of that happening here? That's the wrong question to ask. It's not about the chances, it's about the stakes - my life, and that of my family, is too great to risk.

I am open to any question or comments.

Very sincerely,

- Ben Figueroa

Testimony for the Montgomery County Council

July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Melissa Ladd. I am a volunteer with Maryland Moms Demand Action and I am a resident of Olney, and have lived in Montgomery County for 20 years. I am submitting written testimony in support of **Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.** Thank you for writing this bill in response to the misguided decision of the Supreme Court.

The breadth of studies on concealed carry permitting show that when permitting restrictions are eased, the rate of violent crime increases. A 2019 Study from Journal of Empirical Legal Studies shows that "RTC (Right to Carry) laws are associated with 13–15 percent *higher* aggregate violent crime rates 10 years after adoption".[1] Also, the Johns Hopkins School of Public Health research indicates that "By years 7 through 10 following the adoption of a RTC law, violent crime rates were 11% to 14% higher than predicted had such laws not been in place."[2] From a study by Duke University we learn that "increases in violent gun crime (29 percent), gun robbery (32 percent), and gun theft (35 percent) following the introduction of shall-issue concealed carry permit laws."[3]

We know that sensitive area prohibitions keep people safe where the risk of gun violence is elevated. Maryland law grants counties and other local authorities the power to regulate firearms in and near certain sensitive places, like those listed in this ordinance. The county must

[1] https://onlinelibrary.wiley.com/doi/abs/10.1111/jels.12219
[2] https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-violence-prevention-and-policy/_archive-2019/_pdfs/concealed-carry-of-firearms.pdf
[3] https://www.nber.org/system/files/working_papers/w30190/w30190.pdf?utm_source=The+Trace+mailing+list&utm_campaign=b670a8e418-EMAIL_CAMPAIGN_2019_09_24_04_06_COPY_01&utm_medium=email&utm_term=0_f76c3ff31c-b670a8e418-112434573

do all it can to keep guns out of these sensitive locations where our children and families gather, and where we and our elected representatives take part in the democratic process.

Thank you for addressing this issue and I strongly urge you to pass Bill 21-22.

Sincerely,

Melissa Ladd

Chapter Leader

Moms Demand Action for Gun Sense in America, Maryland Chapter

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Joanna Pearl. I am a volunteer with Maryland Moms Demand Action, and I live in Kensington. I submit this written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I recently moved to this area, and my family chose to live in Maryland because we hope and believe it will be a safe place to raise my four-year-old daughter. Every day, I worry that even here in our state, we and our children are not safe from gun violence as we do everyday things like go to a park, a synagogue, a library, or a community center.

Montgomery County is experiencing a rise in gun violence, and the last thing we need is guns where people gather. Maryland law grants counties and other local authorities the power to regulate firearms in and near certain sensitive places, like those listed in the ordinance. The county should do all it can to keep guns out of these sensitive locations where our children and families gather, and where we and our elected representatives take part in the democratic process.

A growing body of research shows that when it is easier for people to carry guns in public, violent crime goes up. Sensitive area prohibitions, however, keep people safe where the risk of gun violence is elevated. It is a myth that mass shooters target gun-free zones: a study of 30-year of shootings showed no evidence that a single mass shooter chose to target a place because it prohibited guns. Rather, studies have shown that most mass shooters were connected to the location or were motivated by hate, a perceived grievance, or an interpersonal conflict. Keeping guns out of sensitive areas, as this bill would do, will make us all safer.

I hope the Committee will pass Expedited Bill 21-22 and protect everyone in our community from gun violence. Thank you for your attention to this critically important issue.

Sincerely,
Joanna Pearl
Montgomery County Local Group Co-Lead
Moms Demand Action for Gun Sense in America, Maryland Chapter

I would like to submit brief testimony in opposition to Expedited Bill 21-22, Weapons - Firearms In or Near Places of Public Assembly. I have four reasons for opposing this legislation:

It will not make me and my family less susceptible to violent crime.

While the legislation's intended purpose is to improve safety and protect county residents from violent offenders, I fail to see how this provision does that. Literally, all Montgomery County residents, including legally armed residents deemed responsible by the state police, will be more vulnerable to violent crime. Criminals will know they have the tactical advantage when pursuing targets in places of public gatherings such as bus stops, train stations, parks and shopping center parking lots. I found it ironic this bill was announced the same day county police announced the arrest of district residents performing armed robbery of MontCo residents waiting at bus stops. This type of crime will continue.

The legislation will place a greater burden on police officers

At a time when police officers are retiring at record paces and the number of recruits failing to meet those losses, current officers will be forced to bear a greater burden to prevent and respond to crimes, particularly violent crime, before and when they occur. As a native New Yorker, I have personally experienced moments of tranquillity turn to chaos in a matter of seconds. The time chaos ensues to the time when the police arrive seems like an eternity whether it is 30 seconds or three minutes. The truth is every individual is their own first responder.

The legislation will place greater liability costs on businesses

Businesses will bear additional costs to ensure occupants to their businesses are safe from criminal elements. Liability and security

insurance will increase as businesses look to protect themselves from lawsuits stemming from crimes committed on their premises. Public officials need to reevaluate their objective and not target law abiding citizens.

It appears to me this legislation is not addressing the problem it is trying to solve: gun-related crime.

There is a process in place to ensure firearms are not in the hands of law abiding citizens who may not be suitable for owning firearms; are criminals looking to circumvent the law, and/or are individual with emotional or mental health issues. The county needs to trust this process and not disarmed county residents the state police deem responsible to legally own and carry firearms. There are also many laws in place designed to prevent the illegal purchase, use and distribution of firearms. Elected officials must trust the process and laws in place and only make changes which ensure law abiding citizens are protected not punished.

Thank you.

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL. *v.* BRUEN, SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 20–843. Argued November 3, 2021—Decided June 23, 2022

The State of New York makes it a crime to possess a firearm without a license, whether inside or outside the home. An individual who wants to carry a firearm outside his home may obtain an unrestricted license to "have and carry" a concealed "pistol or revolver" if he can prove that "proper cause exists" for doing so. N. Y. Penal Law Ann. §400.00(2)(f). An applicant satisfies the "proper cause" requirement only if he can "demonstrate a special need for self-protection distinguishable from that of the general community." *E.g.*, *In re Klenosky*, 75 App. Div. 2d 793, 428 N. Y. S. 2d 256, 257.

Petitioners Brandon Koch and Robert Nash are adult, law-abiding New York residents who both applied for unrestricted licenses to carry a handgun in public based on their generalized interest in self-defense. The State denied both of their applications for unrestricted licenses, allegedly because Koch and Nash failed to satisfy the "proper cause" requirement. Petitioners then sued respondents—state officials who oversee the processing of licensing applications—for declaratory and injunctive relief, alleging that respondents violated their Second and Fourteenth Amendment rights by denying their unrestricted-license applications for failure to demonstrate a unique need for self-defense. The District Court dismissed petitioners' complaint and the Court of Appeals affirmed. Both courts relied on the Second Circuit's prior decision in *Kachalsky* v. *County of Westchester*, 701 F. 3d 81, which had sustained New York's proper-cause standard, holding that the requirement was "substantially related to the achievement of an important governmental interest." *Id.*, at 96.

Syllabus

Held: New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense. Pp. 8–63.

(a) In *District of Columbia* v. *Heller*, 554 U. S. 570, and *McDonald* v. *Chicago*, 561 U. S. 742, the Court held that the Second and Fourteenth Amendments protect an individual right to keep and bear arms for self-defense. Under *Heller*, when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct, and to justify a firearm regulation the government must demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation. Pp. 8–22.

(1) Since *Heller* and *McDonald*, the Courts of Appeals have developed a "two-step" framework for analyzing Second Amendment challenges that combines history with means-end scrutiny. The Court rejects that two-part approach as having one step too many. Step one is broadly consistent with *Heller*, which demands a test rooted in the Second Amendment's text, as informed by history. But *Heller* and *McDonald* do not support a second step that applies means-end scrutiny in the Second Amendment context. *Heller*'s methodology centered on constitutional text and history. It did not invoke any means-end test such as strict or intermediate scrutiny, and it expressly rejected any interest-balancing inquiry akin to intermediate scrutiny. Pp. 9–15.

(2) Historical analysis can sometimes be difficult and nuanced, but reliance on history to inform the meaning of constitutional text is more legitimate, and more administrable, than asking judges to "make difficult empirical judgments" about "the costs and benefits of firearms restrictions," especially given their "lack [of] expertise" in the field. *McDonald*, 561 U. S., at 790–791 (plurality opinion). Federal courts tasked with making difficult empirical judgments regarding firearm regulations under the banner of "intermediate scrutiny" often defer to the determinations of legislatures. While judicial deference to legislative interest balancing is understandable—and, elsewhere, appropriate—it is not deference that the Constitution demands here. The Second Amendment "is the very product of an interest balancing by the people," and it "surely elevates above all other interests the right of law-abiding, responsible citizens to use arms" for self-defense. *Heller*, 554 U. S., at 635. Pp. 15–17.

(3) The test that the Court set forth in *Heller* and applies today requires courts to assess whether modern firearms regulations are consistent with the Second Amendment's text and historical understanding. Of course, the regulatory challenges posed by firearms today are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868. But the Constitution

can, and must, apply to circumstances beyond those the Founders specifically anticipated, even though its meaning is fixed according to the understandings of those who ratified it. See, *e.g.*, *United States* v. *Jones*, 565 U. S. 400, 404–405. Indeed, the Court recognized in *Heller* at least one way in which the Second Amendment's historically fixed meaning applies to new circumstances: Its reference to "arms" does not apply "only [to] those arms in existence in the 18th century." 554 U. S., at 582.

To determine whether a firearm regulation is consistent with the Second Amendment, *Heller* and *McDonald* point toward at least two relevant metrics: first, whether modern and historical regulations impose a comparable burden on the right of armed self-defense, and second, whether that regulatory burden is comparably justified. Because "individual self-defense is 'the *central component*' of the Second Amendment right," these two metrics are "'*central*'" considerations when engaging in an analogical inquiry. *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599).

To be clear, even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster. For example, courts can use analogies to "longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" to determine whether modern regulations are constitutionally permissible. *Id.*, at 626. That said, respondents' attempt to characterize New York's proper-cause requirement as a "sensitive-place" law lacks merit because there is no historical basis for New York to effectively declare the island of Manhattan a "sensitive place" simply because it is crowded and protected generally by the New York City Police Department. Pp. 17–22.

(b) Having made the constitutional standard endorsed in *Heller* more explicit, the Court applies that standard to New York's proper-cause requirement. Pp. 23–62.

(1) It is undisputed that petitioners Koch and Nash—two ordinary, law-abiding, adult citizens—are part of "the people" whom the Second Amendment protects. See *Heller*, 554 U. S., at 580. And no party disputes that handguns are weapons "in common use" today for self-defense. See *id.*, at 627. The Court has little difficulty concluding also that the plain text of the Second Amendment protects Koch's and Nash's proposed course of conduct—carrying handguns publicly for self-defense. Nothing in the Second Amendment's text draws a home/public distinction with respect to the right to keep and bear arms, and the definition of "bear" naturally encompasses public carry. Moreover, the Second Amendment guarantees an "individual right to possess and carry weapons in case of confrontation," *id.*, at 592, and confrontation can surely take place outside the home. Pp. 23–24.

Syllabus

(2) The burden then falls on respondents to show that New York's proper-cause requirement is consistent with this Nation's historical tradition of firearm regulation. To do so, respondents appeal to a variety of historical sources from the late 1200s to the early 1900s. But when it comes to interpreting the Constitution, not all history is created equal. "Constitutional rights are enshrined with the scope they were understood to have when the people adopted them." *Heller*, 554 U. S., at 634–635. The Second Amendment was adopted in 1791; the Fourteenth in 1868. Historical evidence that long predates or postdates either time may not illuminate the scope of the right. With these principles in mind, the Court concludes that respondents have failed to meet their burden to identify an American tradition justifying New York's proper-cause requirement. Pp. 24–62.

(i) Respondents' substantial reliance on English history and custom before the founding makes some sense given *Heller*'s statement that the Second Amendment "codified a right 'inherited from our English ancestors.'" 554 U. S., at 599. But the Court finds that history ambiguous at best and sees little reason to think that the Framers would have thought it applicable in the New World. The Court cannot conclude from this historical record that, by the time of the founding, English law would have justified restricting the right to publicly bear arms suited for self-defense only to those who demonstrate some special need for self-protection. Pp. 30–37.

(ii) Respondents next direct the Court to the history of the Colonies and early Republic, but they identify only three restrictions on public carry from that time. While the Court doubts that just three colonial regulations could suffice to show a tradition of public-carry regulation, even looking at these laws on their own terms, the Court is not convinced that they regulated public carry akin to the New York law at issue. The statutes essentially prohibited bearing arms in a way that spread "fear" or "terror" among the people, including by carrying of "dangerous and unusual weapons." See 554 U. S., at 627. Whatever the likelihood that handguns were considered "dangerous and unusual" during the colonial period, they are today "the quintessential self-defense weapon." *Id.*, at 629. Thus, these colonial laws provide no justification for laws restricting the public carry of weapons that are unquestionably in common use today. Pp. 37–42.

(iii) Only after the ratification of the Second Amendment in 1791 did public-carry restrictions proliferate. Respondents rely heavily on these restrictions, which generally fell into three categories: common-law offenses, statutory prohibitions, and "surety" statutes. None of these restrictions imposed a substantial burden on public carry analogous to that imposed by New York's restrictive licensing regime.

Common-Law Offenses. As during the colonial and founding periods, the common-law offenses of "affray" or going armed "to the terror of the people" continued to impose some limits on firearm carry in the antebellum period. But there is no evidence indicating that these common-law limitations impaired the right of the general population to peaceable public carry.

Statutory Prohibitions. In the early to mid-19th century, some States began enacting laws that proscribed the concealed carry of pistols and other small weapons. But the antebellum state-court decisions upholding them evince a consensus view that States could not altogether prohibit the public carry of arms protected by the Second Amendment or state analogues.

Surety Statutes. In the mid-19th century, many jurisdictions began adopting laws that required certain individuals to post bond before carrying weapons in public. Contrary to respondents' position, these surety statutes in no way represented direct precursors to New York's proper-cause requirement. While New York presumes that individuals have no public carry right without a showing of heightened need, the surety statutes presumed that individuals had a right to public carry that could be burdened only if another could make out a specific showing of "reasonable cause to fear an injury, or breach of the peace." Mass. Rev. Stat., ch. 134, §16 (1836). Thus, unlike New York's regime, a showing of special need was required only *after* an individual was reasonably accused of intending to injure another or breach the peace. And, even then, proving special need simply avoided a fee.

In sum, the historical evidence from antebellum America does demonstrate that the manner of public carry was subject to reasonable regulation, but none of these limitations on the right to bear arms operated to prevent law-abiding citizens with ordinary self-defense needs from carrying arms in public for that purpose. Pp. 42–51.

(iv) Evidence from around the adoption of the Fourteenth Amendment also does not support respondents' position. The "discussion of the [right to keep and bear arms] in Congress and in public discourse, as people debated whether and how to secure constitutional rights for newly free slaves," *Heller*, 554 U. S., at 614, generally demonstrates that during Reconstruction the right to keep and bear arms had limits that were consistent with a right of the public to peaceably carry handguns for self-defense. The Court acknowledges two Texas cases—*English* v. *State*, 35 Tex. 473 and *State* v. *Duke*, 42 Tex. 455—that approved a statutory "reasonable grounds" standard for public carry analogous to New York's proper-cause requirement. But these decisions were outliers and therefore provide little insight into how postbellum courts viewed the right to carry protected arms in public. See *Heller*, 554 U. S., at 632. Pp. 52–58.

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(v) Finally, respondents point to the slight uptick in gun regulation during the late-19th century. As the Court suggested in *Heller*, however, late-19th-century evidence cannot provide much insight into the meaning of the Second Amendment when it contradicts earlier evidence. In addition, the vast majority of the statutes that respondents invoke come from the Western Territories. The bare existence of these localized restrictions cannot overcome the overwhelming evidence of an otherwise enduring American tradition permitting public carry. See *Heller*, 554 U. S., at 614. Moreover, these territorial laws were rarely subject to judicial scrutiny, and absent any evidence explaining why these unprecedented prohibitions on all public carry were understood to comport with the Second Amendment, they do little to inform "the origins and continuing significance of the Amendment." *Ibid.*; see also The Federalist No. 37, p. 229. Finally, these territorial restrictions deserve little weight because they were, consistent with the transitory nature of territorial government, short lived. Some were held unconstitutional shortly after passage, and others did not survive a Territory's admission to the Union as a State. Pp. 58–62.

(vi) After reviewing the Anglo-American history of public carry, the Court concludes that respondents have not met their burden to identify an American tradition justifying New York's proper-cause requirement. Apart from a few late-19th-century outlier jurisdictions, American governments simply have not broadly prohibited the public carry of commonly used firearms for personal defense. Nor have they generally required law-abiding, responsible citizens to "demonstrate a special need for self-protection distinguishable from that of the general community" to carry arms in public. *Klenosky*, 75 App. Div. 2d, at 793, 428 N. Y. S. 2d, at 257. P. 62.

(c) The constitutional right to bear arms in public for self-defense is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees." *McDonald*, 561 U. S., at 780 (plurality opinion). The exercise of other constitutional rights does not require individuals to demonstrate to government officers some special need. The Second Amendment right to carry arms in public for self-defense is no different. New York's proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms in public. Pp. 62–63.

818 Fed. Appx. 99, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and ALITO, GORSUCH, KAVANAUGH, and BARRETT, JJ., joined. ALITO, J., filed a concurring opinion. KAVANAUGH, J., filed a concurring opinion, in which ROBERTS, C. J., joined. BARRETT, J., filed a concurring opinion. BREYER, J., filed a dissenting opinion, in which SOTOMAYOR and KAGAN, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 20–843

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL., PETITIONERS *v.* KEVIN P. BRUEN, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 23, 2022]

JUSTICE THOMAS delivered the opinion of the Court.

In *District of Columbia* v. *Heller*, 554 U. S. 570 (2008), and *McDonald* v. *Chicago*, 561 U. S. 742 (2010), we recognized that the Second and Fourteenth Amendments protect the right of an ordinary, law-abiding citizen to possess a handgun in the home for self-defense. In this case, petitioners and respondents agree that ordinary, law-abiding citizens have a similar right to carry handguns publicly for their self-defense. We too agree, and now hold, consistent with *Heller* and *McDonald*, that the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home.

The parties nevertheless dispute whether New York's licensing regime respects the constitutional right to carry handguns publicly for self-defense. In 43 States, the government issues licenses to carry based on objective criteria. But in six States, including New York, the government further conditions issuance of a license to carry on a citizen's showing of some additional special need. Because the State

of New York issues public-carry licenses only when an applicant demonstrates a special need for self-defense, we conclude that the State's licensing regime violates the Constitution.

I

A

New York State has regulated the public carry of handguns at least since the early 20th century. In 1905, New York made it a misdemeanor for anyone over the age of 16 to "have or carry concealed upon his person in any city or village of [New York], any pistol, revolver or other firearm without a written license . . . issued to him by a police magistrate." 1905 N. Y. Laws ch. 92, §2, pp. 129–130; see also 1908 N. Y. Laws ch. 93, §1, pp. 242–243 (allowing justices of the peace to issue licenses). In 1911, New York's "Sullivan Law" expanded the State's criminal prohibition to the possession of all handguns—concealed or otherwise—without a government-issued license. See 1911 N. Y. Laws ch. 195, §1, p. 443. New York later amended the Sullivan Law to clarify the licensing standard: Magistrates could "issue to [a] person a license to have and carry concealed a pistol or revolver without regard to employment or place of possessing such weapon" only if that person proved "good moral character" and "proper cause." 1913 N. Y. Laws ch. 608, §1, p. 1629.

Today's licensing scheme largely tracks that of the early 1900s. It is a crime in New York to possess "any firearm" without a license, whether inside or outside the home, punishable by up to four years in prison or a $5,000 fine for a felony offense, and one year in prison or a $1,000 fine for a misdemeanor. See N. Y. Penal Law Ann. §§265.01–b (West 2017), 261.01(1) (West Cum. Supp. 2022), 70.00(2)(e) and (3)(b), 80.00(1)(a) (West 2021), 70.15(1), 80.05(1). Meanwhile, possessing a loaded firearm outside one's home or place of business without a license is a felony punishable by

up to 15 years in prison. §§265.03(3) (West 2017), 70.00(2)(c) and (3)(b), 80.00(1)(a).

A license applicant who wants to possess a firearm *at home* (or in his place of business) must convince a "licensing officer"—usually a judge or law enforcement officer—that, among other things, he is of good moral character, has no history of crime or mental illness, and that "no good cause exists for the denial of the license." §§400.00(1)(a)–(n) (West Cum. Supp. 2022). If he wants to carry a firearm *outside* his home or place of business for self-defense, the applicant must obtain an unrestricted license to "have and carry" a concealed "pistol or revolver." §400.00(2)(f). To secure that license, the applicant must prove that "proper cause exists" to issue it. *Ibid.* If an applicant cannot make that showing, he can receive only a "restricted" license for public carry, which allows him to carry a firearm for a limited purpose, such as hunting, target shooting, or employment. See, *e.g.*, *In re O'Brien*, 87 N. Y. 2d 436, 438–439, 663 N. E. 2d 316, 316–317 (1996); *Babernitz* v. *Police Dept. of City of New York*, 65 App. Div. 2d 320, 324, 411 N. Y. S. 2d 309, 311 (1978); *In re O'Connor*, 154 Misc. 2d 694, 696–698, 585 N. Y. S. 2d 1000, 1003 (Westchester Cty. 1992).

No New York statute defines "proper cause." But New York courts have held that an applicant shows proper cause only if he can "demonstrate a special need for self-protection distinguishable from that of the general community." *E.g.*, *In re Klenosky*, 75 App. Div. 2d 793, 428 N. Y. S. 2d 256, 257 (1980). This "special need" standard is demanding. For example, living or working in an area "'noted for criminal activity'" does not suffice. *In re Bernstein*, 85 App. Div. 2d 574, 445 N. Y. S. 2d 716, 717 (1981). Rather, New York courts generally require evidence "of particular threats, attacks or other extraordinary danger to personal safety." *In re Martinek*, 294 App. Div. 2d 221, 222, 743 N. Y. S. 2d 80, 81 (2002); see also *In re Kaplan*, 249 App. Div. 2d 199, 201, 673 N. Y. S. 2d 66, 68 (1998) (approving the New York

City Police Department's requirement of "'extraordinary personal danger, documented by proof of recurrent threats to life or safety'" (quoting 38 N. Y. C. R. R. §5–03(b))).

When a licensing officer denies an application, judicial review is limited. New York courts defer to an officer's application of the proper-cause standard unless it is "arbitrary and capricious." *In re Bando*, 290 App. Div. 2d 691, 692, 735 N. Y. S. 2d 660, 661 (2002). In other words, the decision "must be upheld if the record shows a rational basis for it." *Kaplan*, 249 App. Div. 2d, at 201, 673 N. Y. S. 2d, at 68. The rule leaves applicants little recourse if their local licensing officer denies a permit.

New York is not alone in requiring a permit to carry a handgun in public. But the vast majority of States—43 by our count—are "shall issue" jurisdictions, where authorities must issue concealed-carry licenses whenever applicants satisfy certain threshold requirements, without granting licensing officials discretion to deny licenses based on a perceived lack of need or suitability.[1] Meanwhile, only six

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[1] See Ala. Code §13A–11–75 (Cum. Supp. 2021); Alaska Stat. §18.65.700 (2020); Ariz. Rev. Stat. Ann. §13–3112 (Cum. Supp. 2021); Ark. Code Ann. §5–73–309 (Supp. 2021); Colo. Rev. Stat. §18–12–206 (2021); Fla. Stat. §790.06 (2021); Ga. Code Ann. §16–11–129 (Supp. 2021); Idaho Code Ann. §18–3302K (Cum. Supp. 2021); Ill. Comp. Stat., ch. 430, §66/10 (West Cum. Supp. 2021); Ind. Code §35–47–2–3 (2021); Iowa Code §724.7 (2022); Kan. Stat. Ann. §75–7c03 (2021); Ky. Rev. Stat. Ann. §237.110 (Lexis Cum. Supp. 2021); La. Rev. Stat. Ann. §40:1379.3 (West Cum. Supp. 2022); Me. Rev. Stat. Ann., Tit. 25, §2003 (Cum. Supp. 2022); Mich. Comp. Laws §28.425b (2020); Minn. Stat. §624.714 (2020); Miss. Code Ann. §45–9–101 (2022); Mo. Rev. Stat. §571.101 (2016); Mont. Code Ann. §45–8–321 (2021); Neb. Rev. Stat. §69–2430 (2019); Nev. Rev. Stat. §202.3657 (2021); N. H. Rev. Stat. Ann. §159:6 (Cum. Supp. 2021); N. M. Stat. Ann. §29–19–4 (2018); N. C. Gen. Stat. Ann. §14–415.11 (2021); N. D. Cent. Code Ann. §62.1–04–03 (Supp. 2021); Ohio Rev. Code Ann. §2923.125 (2020); Okla. Stat., Tit. 21, §1290.12 (2021); Ore. Rev. Stat. §166.291 (2021); 18 Pa. Cons. Stat. §6109 (Cum. Supp. 2016); S. C. Code Ann. §23–31–215(A) (Cum. Supp. 2021); S. D. Codified Laws §23–7–7 (Cum. Supp. 2021); Tenn. Code Ann. §39–17–1366 (Supp. 2021); Tex. Govt. Code Ann. §411.177 (West Cum. Supp. 2021); Utah Code §53–5–

States and the District of Columbia have "may issue" licensing laws, under which authorities have discretion to deny concealed-carry licenses even when the applicant satisfies the statutory criteria, usually because the applicant has not demonstrated cause or suitability for the relevant license. Aside from New York, then, only California, the District of Columbia, Hawaii, Maryland, Massachusetts, and New

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704.5 (2022); Va. Code Ann. §18.2–308.04 (2021); Wash. Rev. Code §9.41.070 (2021); W. Va. Code Ann. §61–7–4 (2021); Wis. Stat. §175.60 (2021); Wyo. Stat. Ann. §6–8–104 (2021). Vermont has no permitting system for the concealed carry of handguns. Three States—Connecticut, Delaware, and Rhode Island—have discretionary criteria but appear to operate like "shall issue" jurisdictions. See Conn. Gen. Stat. §29–28(b) (2021); Del. Code, Tit. 11, §1441 (2022); R. I. Gen. Laws §11–47–11 (2002). Although Connecticut officials have discretion to deny a concealed-carry permit to anyone who is not a "suitable person," see Conn. Gen. Stat. §29–28(b), the "suitable person" standard precludes permits only to those "individuals whose conduct has shown them to be lacking the essential character of temperament necessary to be entrusted with a weapon." *Dwyer* v. *Farrell*, 193 Conn. 7, 12, 475 A. 2d 257, 260 (1984) (internal quotation marks omitted). As for Delaware, the State has thus far processed 5,680 license applications and renewals in fiscal year 2022 and has denied only 112. See Del. Courts, Super. Ct., Carrying Concealed Deadly Weapon (June 9, 2022), https://courts.delaware.gov/forms/download.aspx?ID=125408. Moreover, Delaware appears to have no licensing requirement for open carry. Finally, Rhode Island has a suitability requirement, see R. I. Gen. Laws §11–47–11, but the Rhode Island Supreme Court has flatly denied that the "[d]emonstration of a proper showing of need" is a component of that requirement. *Gadomski* v. *Tavares*, 113 A. 3d 387, 392 (2015). Additionally, some "shall issue" jurisdictions have so-called "constitutional carry" protections that allow certain individuals to carry handguns in public within the State without *any* permit whatsoever. See, *e.g.*, A. Sherman, More States Remove Permit Requirement To Carry a Concealed Gun, PolitiFact (Apr. 12, 2022), https://www.politifact.com/article/2022/apr/12/more-states-remove-permit-requirement-carry-concea/ ("Twenty-five states now have permitless concealed carry laws . . . The states that have approved permitless carry laws are: Alabama, Alaska, Arizona, Arkansas, Idaho, Indiana, Iowa, Georgia, Kansas, Kentucky, Maine, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, and Wyoming").

Jersey have analogues to the "proper cause" standard.[2] All of these "proper cause" analogues have been upheld by the Courts of Appeals, save for the District of Columbia's, which has been permanently enjoined since 2017. Compare *Gould* v. *Morgan*, 907 F. 3d 659, 677 (CA1 2018); *Kachalsky* v. *County of Westchester*, 701 F. 3d 81, 101 (CA2 2012); *Drake* v. *Filko*, 724 F. 3d 426, 440 (CA3 2013); *United States* v. *Masciandaro*, 638 F. 3d 458, 460 (CA4 2011); *Young* v. *Hawaii*, 992 F. 3d 765, 773 (CA9 2021) (en banc), with *Wrenn* v. *District of Columbia*, 864 F. 3d 650, 668 (CADC 2017).

B

As set forth in the pleadings below, petitioners Brandon Koch and Robert Nash are law-abiding, adult citizens of Rensselaer County, New York. Koch lives in Troy, while Nash lives in Averill Park. Petitioner New York State Rifle & Pistol Association, Inc., is a public-interest group organized to defend the Second Amendment rights of New Yorkers. Both Koch and Nash are members.

In 2014, Nash applied for an unrestricted license to carry a handgun in public. Nash did not claim any unique danger to his personal safety; he simply wanted to carry a handgun for self-defense. In early 2015, the State denied Nash's application for an unrestricted license but granted him a restricted license for hunting and target shooting only. In late 2016, Nash asked a licensing officer to remove the restrictions, citing a string of recent robberies in his neighborhood. After an informal hearing, the licensing officer denied the request. The officer reiterated that Nash's existing license permitted him "to carry concealed for purposes of off

[2] See Cal. Penal Code Ann. §26150 (West 2021) ("Good cause"); D. C. Code §§7–2509.11(1) (2018), 22–4506(a) (Cum. Supp. 2021) ("proper reason," *i.e.*, "special need for self-protection"); Haw. Rev. Stat. §§134–2 (Cum. Supp. 2018), 134–9(a) (2011) ("exceptional case"); Md. Pub. Saf. Code Ann. §5–306(a)(6)(ii) (2018) ("good and substantial reason"); Mass. Gen. Laws, ch. 140, §131(d) (2020) ("good reason"); N. J. Stat. Ann. §2C:58–4(c) (West Cum. Supp. 2021) ("justifiable need").

road back country, outdoor activities similar to hunting," such as "fishing, hiking & camping etc." App. 41. But, at the same time, the officer emphasized that the restrictions were "intended to *prohibit* [Nash] from carrying concealed in ANY LOCATION typically open to and frequented by the general public." *Ibid.*

Between 2008 and 2017, Koch was in the same position as Nash: He faced no special dangers, wanted a handgun for general self-defense, and had only a restricted license permitting him to carry a handgun outside the home for hunting and target shooting. In late 2017, Koch applied to a licensing officer to remove the restrictions on his license, citing his extensive experience in safely handling firearms. Like Nash's application, Koch's was denied, except that the officer permitted Koch to "carry to and from work." *Id.*, at 114.

C

Respondents are the superintendent of the New York State Police, who oversees the enforcement of the State's licensing laws, and a New York Supreme Court justice, who oversees the processing of licensing applications in Rensselaer County. Petitioners sued respondents for declaratory and injunctive relief under Rev. Stat. 1979, 42 U. S. C. §1983, alleging that respondents violated their Second and Fourteenth Amendment rights by denying their unrestricted-license applications on the basis that they had failed to show "proper cause," *i.e.*, had failed to demonstrate a unique need for self-defense.

The District Court dismissed petitioners' complaint and the Court of Appeals affirmed. See 818 Fed. Appx. 99, 100 (CA2 2020). Both courts relied on the Court of Appeals' prior decision in *Kachalsky*, 701 F. 3d 81, which had sustained New York's proper-cause standard, holding that the requirement was "substantially related to the achievement of an important governmental interest." *Id.*, at 96.

We granted certiorari to decide whether New York's denial of petitioners' license applications violated the Constitution. 593 U. S. ___ (2021).

II

In *Heller* and *McDonald*, we held that the Second and Fourteenth Amendments protect an individual right to keep and bear arms for self-defense. In doing so, we held unconstitutional two laws that prohibited the possession and use of handguns in the home. In the years since, the Courts of Appeals have coalesced around a "two-step" framework for analyzing Second Amendment challenges that combines history with means-end scrutiny.

Today, we decline to adopt that two-part approach. In keeping with *Heller*, we hold that when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." *Konigsberg* v. *State Bar of Cal.*, 366 U. S. 36, 50, n. 10 (1961).[3]

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[3] Rather than begin with its view of the governing legal framework, the dissent chronicles, in painstaking detail, evidence of crimes committed by individuals with firearms. See *post,* at 1–9 (opinion of BREYER, J.). The dissent invokes all of these statistics presumably to justify granting States greater leeway in restricting firearm ownership and use. But, as Members of the Court have already explained, "[t]he right to keep and bear arms . . . is not the only constitutional right that has controversial public safety implications." *McDonald* v. *Chicago*, 561 U. S. 742, 783 (2010) (plurality opinion).

A

Since *Heller* and *McDonald*, the two-step test that Courts of Appeals have developed to assess Second Amendment claims proceeds as follows. At the first step, the government may justify its regulation by "establish[ing] that the challenged law regulates activity falling outside the scope of the right as originally understood." *E.g.*, *Kanter* v. *Barr*, 919 F. 3d 437, 441 (CA7 2019) (internal quotation marks omitted). But see *United States* v. *Boyd*, 999 F. 3d 171, 185 (CA3 2021) (requiring claimant to show "'a burden on conduct falling within the scope of the Second Amendment's guarantee'"). The Courts of Appeals then ascertain the original scope of the right based on its historical meaning. *E.g.*, *United States* v. *Focia*, 869 F. 3d 1269, 1285 (CA11 2017). If the government can prove that the regulated conduct falls beyond the Amendment's original scope, "then the analysis can stop there; the regulated activity is categorically unprotected." *United States* v. *Greeno*, 679 F. 3d 510, 518 (CA6 2012) (internal quotation marks omitted). But if the historical evidence at this step is "inconclusive or suggests that the regulated activity is *not* categorically unprotected," the courts generally proceed to step two. *Kanter*, 919 F. 3d, at 441 (internal quotation marks omitted).

At the second step, courts often analyze "how close the law comes to the core of the Second Amendment right and the severity of the law's burden on that right." *Ibid.* (internal quotation marks omitted). The Courts of Appeals generally maintain "that the core Second Amendment right is limited to self-defense *in the home*." *Gould*, 907 F. 3d, at 671 (emphasis added). But see *Wrenn*, 864 F. 3d, at 659 ("[T]he Amendment's core generally covers carrying in public for self defense"). If a "core" Second Amendment right is burdened, courts apply "strict scrutiny" and ask whether the Government can prove that the law is "narrowly tailored to achieve a compelling governmental interest." *Kolbe* v. *Hogan*, 849 F. 3d 114, 133 (CA4 2017) (internal quotation

marks omitted). Otherwise, they apply intermediate scrutiny and consider whether the Government can show that the regulation is "substantially related to the achievement of an important governmental interest." *Kachalsky*, 701 F. 3d, at 96.[4] Both respondents and the United States largely agree with this consensus, arguing that intermediate scrutiny is appropriate when text and history are unclear in attempting to delineate the scope of the right. See Brief for Respondents 37; Brief for United States as *Amicus Curiae* 4.

B

Despite the popularity of this two-step approach, it is one step too many. Step one of the predominant framework is broadly consistent with *Heller*, which demands a test rooted in the Second Amendment's text, as informed by history. But *Heller* and *McDonald* do not support applying means-end scrutiny in the Second Amendment context. Instead, the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.

1

To show why *Heller* does not support applying means-end scrutiny, we first summarize *Heller*'s methodological approach to the Second Amendment.

In *Heller*, we began with a "textual analysis" focused on

[4] See *Association of N. J. Rifle & Pistol Clubs, Inc.* v. *Attorney General N. J.*, 910 F. 3d 106, 117 (CA3 2018); accord, *Worman* v. *Healey*, 922 F. 3d 26, 33, 36–39 (CA1 2019); *Libertarian Party of Erie Cty.* v. *Cuomo*, 970 F. 3d 106, 127–128 (CA2 2020); *Harley* v. *Wilkinson*, 988 F. 3d 766, 769 (CA4 2021); *National Rifle Assn. of Am., Inc.* v. *Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 700 F. 3d 185, 194–195 (CA5 2012); *United States* v. *Greeno*, 679 F. 3d 510, 518 (CA6 2012); *Kanter* v. *Barr*, 919 F. 3d 437, 442 (CA7 2019); *Young* v. *Hawaii*, 992 F. 3d 765, 783 (CA9 2021) (en banc); *United States* v. *Reese*, 627 F. 3d 792, 800–801 (CA10 2010); *GeorgiaCarry.Org, Inc.* v. *Georgia*, 687 F. 3d 1244, 1260, n. 34 (CA11 2012); *United States* v. *Class*, 930 F. 3d 460, 463 (CADC 2019).

the "'normal and ordinary'" meaning of the Second Amendment's language. 554 U. S., at 576–577, 578. That analysis suggested that the Amendment's operative clause—"the right of the people to keep and bear Arms shall not be infringed"—"guarantee[s] the individual right to possess and carry weapons in case of confrontation" that does not depend on service in the militia. *Id.*, at 592.

From there, we assessed whether our initial conclusion was "confirmed by the historical background of the Second Amendment." *Ibid.* We looked to history because "it has always been widely understood that the Second Amendment . . . codified a *pre-existing* right." *Ibid.* The Amendment "was not intended to lay down a novel principle but rather codified a right inherited from our English ancestors." *Id.*, at 599 (alterations and internal quotation marks omitted). After surveying English history dating from the late 1600s, along with American colonial views leading up to the founding, we found "no doubt, on the basis of both text and history, that the Second Amendment conferred an individual right to keep and bear arms." *Id.*, at 595.

We then canvassed the historical record and found yet further confirmation. That history included the "analogous arms-bearing rights in state constitutions that preceded and immediately followed adoption of the Second Amendment," *id.*, at 600–601, and "how the Second Amendment was interpreted from immediately after its ratification through the end of the 19th century," *id.*, at 605. When the principal dissent charged that the latter category of sources was illegitimate "postenactment legislative history," *id.*, at 662, n. 28 (opinion of Stevens, J.), we clarified that "examination of a variety of legal and other sources to determine *the public understanding* of a legal text in the period after its enactment or ratification" was "a critical tool of constitutional interpretation," *id.*, at 605 (majority opinion).

In assessing the postratification history, we looked to four

different types of sources. First, we reviewed "[t]hree important founding-era legal scholars [who] interpreted the Second Amendment in published writings." *Ibid.* Second, we looked to "19th-century cases that interpreted the Second Amendment" and found that they "universally support an individual right" to keep and bear arms. *Id.*, at 610. Third, we examined the "discussion of the Second Amendment in Congress and in public discourse" after the Civil War, "as people debated whether and how to secure constitutional rights for newly freed slaves." *Id.*, at 614. Fourth, we considered how post-Civil War commentators understood the right. See *id.*, at 616–619.

After holding that the Second Amendment protected an individual right to armed self-defense, we also relied on the historical understanding of the Amendment to demark the limits on the exercise of that right. We noted that, "[l]ike most rights, the right secured by the Second Amendment is not unlimited." *Id.*, at 626. "From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Ibid.* For example, we found it "fairly supported by the historical tradition of prohibiting the carrying of 'dangerous and unusual weapons'" that the Second Amendment protects the possession and use of weapons that are "'in common use at the time.'" *Id.*, at 627 (first citing 4 W. Blackstone, Commentaries on the Laws of England 148–149 (1769); then quoting *United States* v. *Miller*, 307 U. S. 174, 179 (1939)). That said, we cautioned that we were not "undertak[ing] an exhaustive historical analysis today of the full scope of the Second Amendment" and moved on to considering the constitutionality of the District of Columbia's handgun ban. 554 U. S., at 627.

We assessed the lawfulness of that handgun ban by scrutinizing whether it comported with history and tradition. Although we noted that the ban "would fail constitutional

muster" "[u]nder any of the standards of scrutiny that we have applied to enumerated constitutional rights," *id.*, at 628–629, we did not engage in means-end scrutiny when resolving the constitutional question. Instead, we focused on the historically unprecedented nature of the District's ban, observing that "[f]ew laws in the history of our Nation have come close to [that] severe restriction." *Id.*, at 629. Likewise, when one of the dissents attempted to justify the District's prohibition with "founding-era historical precedent," including "various restrictive laws in the colonial period," we addressed each purported analogue and concluded that they were either irrelevant or "d[id] not remotely burden the right of self-defense as much as an absolute ban on handguns." *Id.*, at 631–632; see *id.*, at 631–634. Thus, our earlier historical analysis sufficed to show that the Second Amendment did not countenance a "complete prohibition" on the use of "the most popular weapon chosen by Americans for self-defense in the home." *Id.*, at 629.

2

As the foregoing shows, *Heller*'s methodology centered on constitutional text and history. Whether it came to defining the character of the right (individual or militia dependent), suggesting the outer limits of the right, or assessing the constitutionality of a particular regulation, *Heller* relied on text and history. It did not invoke any means-end test such as strict or intermediate scrutiny.

Moreover, *Heller* and *McDonald* expressly rejected the application of any "judge-empowering 'interest-balancing inquiry' that 'asks whether the statute burdens a protected interest in a way or to an extent that is out of proportion to the statute's salutary effects upon other important governmental interests.'" *Heller*, 554 U. S., at 634 (quoting *id.*, at 689–690 (BREYER, J., dissenting)); see also *McDonald*, 561 U. S., at 790–791 (plurality opinion) (the Second Amendment does not permit—let alone require—"judges to assess

the costs and benefits of firearms restrictions" under means-end scrutiny). We declined to engage in means-end scrutiny because "[t]he very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis whether the right is *really worth* insisting upon." *Heller*, 554 U. S., at 634. We then concluded: "A constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all." *Ibid.*

Not only did *Heller* decline to engage in means-end scrutiny generally, but it also specifically ruled out the intermediate-scrutiny test that respondents and the United States now urge us to adopt. Dissenting in *Heller*, JUSTICE BREYER's proposed standard—"ask[ing] whether [a] statute burdens a protected interest in a way or to an extent that is out of proportion to the statute's salutary effects upon other important governmental interests," *id.*, at 689–690 (dissenting opinion)—simply expressed a classic formulation of intermediate scrutiny in a slightly different way, see *Clark* v. *Jeter*, 486 U. S. 456, 461 (1988) (asking whether the challenged law is "substantially related to an important government objective"). In fact, JUSTICE BREYER all but admitted that his *Heller* dissent advocated for intermediate scrutiny by repeatedly invoking a quintessential intermediate-scrutiny precedent. See *Heller*, 554 U. S., at 690, 696, 704–705 (citing *Turner Broadcasting System, Inc.* v. *FCC*, 520 U. S. 180 (1997)). Thus, when *Heller* expressly rejected that dissent's "interest-balancing inquiry," 554 U. S., at 634 (internal quotation marks omitted), it necessarily rejected intermediate scrutiny.[5]

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[5] The dissent asserts that we misread *Heller* to eschew means-end scrutiny because *Heller* mentioned that the District of Columbia's handgun ban "would fail constitutional muster" "[u]nder any of the standards of scrutiny that we have applied to enumerated constitutional rights." *Heller*, 554 U. S., at 628–629; see *post,* at 23 (opinion of BREYER, J.). But *Heller*'s passing observation that the District's ban would fail under any

In sum, the Courts of Appeals' second step is inconsistent with *Heller*'s historical approach and its rejection of means-end scrutiny. We reiterate that the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." *Konigsberg*, 366 U. S., at 50, n. 10.

C

This Second Amendment standard accords with how we protect other constitutional rights. Take, for instance, the freedom of speech in the First Amendment, to which *Heller* repeatedly compared the right to keep and bear arms. 554 U. S., at 582, 595, 606, 618, 634–635. In that context, "[w]hen the Government restricts speech, the Government bears the burden of proving the constitutionality of its actions." *United States* v. *Playboy Entertainment Group*, *Inc.*, 529 U. S. 803, 816 (2000); see also *Philadelphia Newspapers*, *Inc.* v. *Hepps*, 475 U. S. 767, 777 (1986). In some cases, that burden includes showing whether the expressive conduct falls outside of the category of protected speech. See *Illinois ex rel. Madigan* v. *Telemarketing Associates*, *Inc.*, 538 U. S. 600, 620, n. 9 (2003). And to carry that burden, the government must generally point to *historical* evidence about the reach of the First Amendment's protections. See,

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heightened "standar[d] of scrutiny" did not supplant *Heller*'s focus on constitutional text and history. Rather, *Heller*'s comment "was more of a gilding-the-lily observation about the extreme nature of D.C.'s law," *Heller* v. *District of Columbia*, 670 F. 3d 1244, 1277 (CADC 2011) (Kavanaugh, J., dissenting), than a reflection of *Heller*'s methodology or holding.

e.g., *United States* v. *Stevens*, 559 U. S. 460, 468–471 (2010) (placing the burden on the government to show that a type of speech belongs to a "historic and traditional categor[y]" of constitutionally unprotected speech "long familiar to the bar" (internal quotation marks omitted)).

And beyond the freedom of speech, our focus on history also comports with how we assess many other constitutional claims. If a litigant asserts the right in court to "be confronted with the witnesses against him," U. S. Const., Amdt. 6, we require courts to consult history to determine the scope of that right. See, *e.g.*, *Giles* v. *California*, 554 U. S. 353, 358 (2008) ("admitting only those exceptions [to the Confrontation Clause] established at the time of the founding" (internal quotation marks omitted)). Similarly, when a litigant claims a violation of his rights under the Establishment Clause, Members of this Court "loo[k] to history for guidance." *American Legion* v. *American Humanist Assn.*, 588 U. S. ___, ___ (2019) (plurality opinion) (slip op., at 25). We adopt a similar approach here.

To be sure, "[h]istorical analysis can be difficult; it sometimes requires resolving threshold questions, and making nuanced judgments about which evidence to consult and how to interpret it." *McDonald*, 561 U. S., at 803–804 (Scalia, J., concurring). But reliance on history to inform the meaning of constitutional text—especially text meant to codify a *pre-existing* right—is, in our view, more legitimate, and more administrable, than asking judges to "make difficult empirical judgments" about "the costs and benefits of firearms restrictions," especially given their "lack [of] expertise" in the field. *Id.*, at 790–791 (plurality opinion).[6]

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[6]The dissent claims that *Heller*'s text-and-history test will prove unworkable compared to means-end scrutiny in part because judges are relatively ill equipped to "resolv[e] difficult historical questions" or engage in "searching historical surveys." *Post*, at 26, 30. We are unpersuaded. The job of judges is not to resolve historical questions in the abstract; it

If the last decade of Second Amendment litigation has taught this Court anything, it is that federal courts tasked with making such difficult empirical judgments regarding firearm regulations under the banner of "intermediate scrutiny" often defer to the determinations of legislatures. But while that judicial deference to legislative interest balancing is understandable—and, elsewhere, appropriate—it is not deference that the Constitution demands here. The Second Amendment "is the very *product* of an interest balancing by the people" and it "surely elevates above all other interests the right of law-abiding, responsible citizens to use arms" for self-defense. *Heller*, 554 U. S., at 635. It is this balance—struck by the traditions of the American people—that demands our unqualified deference.

D

The test that we set forth in *Heller* and apply today requires courts to assess whether modern firearms regulations are consistent with the Second Amendment's text and historical understanding. In some cases, that inquiry will be fairly straightforward. For instance, when a challenged regulation addresses a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment. Likewise, if earlier generations addressed the societal problem, but did so through materially different means, that also could be evidence that

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is to resolve *legal* questions presented in particular cases or controversies. That "legal inquiry is a refined subset" of a broader "historical inquiry," and it relies on "various evidentiary principles and default rules" to resolve uncertainties. W. Baude & S. Sachs, Originalism and the Law of the Past, 37 L. & Hist. Rev. 809, 810–811 (2019). For example, "[i]n our adversarial system of adjudication, we follow the principle of party presentation." *United States* v. *Sineneng-Smith*, 590 U. S. ___, ___ (2020) (slip op., at 3). Courts are thus entitled to decide a case based on the historical record compiled by the parties.

a modern regulation is unconstitutional. And if some jurisdictions actually attempted to enact analogous regulations during this timeframe, but those proposals were rejected on constitutional grounds, that rejection surely would provide some probative evidence of unconstitutionality.

Heller itself exemplifies this kind of straightforward historical inquiry. One of the District's regulations challenged in *Heller* "totally ban[ned] handgun possession in the home." *Id.*, at 628. The District in *Heller* addressed a perceived societal problem—firearm violence in densely populated communities—and it employed a regulation—a flat ban on the possession of handguns in the home—that the Founders themselves could have adopted to confront that problem. Accordingly, after considering "founding-era historical precedent," including "various restrictive laws in the colonial period," and finding that none was analogous to the District's ban, *Heller* concluded that the handgun ban was unconstitutional. *Id.,* at 631; see also *id.,* at 634 (describing the claim that "there were somewhat similar restrictions in the founding period" a "false proposition").

New York's proper-cause requirement concerns the same alleged societal problem addressed in *Heller*: "handgun violence," primarily in "urban area[s]." *Ibid.* Following the course charted by *Heller*, we will consider whether "historical precedent" from before, during, and even after the founding evinces a comparable tradition of regulation. *Id.,* at 631. And, as we explain below, we find no such tradition in the historical materials that respondents and their *amici* have brought to bear on that question. See Part III–B, *infra*.

While the historical analogies here and in *Heller* are relatively simple to draw, other cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced approach. The regulatory challenges posed by firearms today are not always the same

as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868. Fortunately, the Founders created a Constitution—and a Second Amendment—"intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs." *McCulloch* v. *Maryland*, 4 Wheat. 316, 415 (1819) (emphasis deleted). Although its meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated. See, *e.g.*, *United States* v. *Jones*, 565 U. S. 400, 404–405 (2012) (holding that installation of a tracking device was "a physical intrusion [that] would have been considered a 'search' within the meaning of the Fourth Amendment when it was adopted").

We have already recognized in *Heller* at least one way in which the Second Amendment's historically fixed meaning applies to new circumstances: Its reference to "arms" does not apply "only [to] those arms in existence in the 18th century." 554 U. S., at 582. "Just as the First Amendment protects modern forms of communications, and the Fourth Amendment applies to modern forms of search, the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding." *Ibid.* (citations omitted). Thus, even though the Second Amendment's definition of "arms" is fixed according to its historical understanding, that general definition covers modern instruments that facilitate armed self-defense. Cf. *Caetano* v. *Massachusetts*, 577 U. S. 411, 411–412 (2016) (*per curiam*) (stun guns).

Much like we use history to determine which modern "arms" are protected by the Second Amendment, so too does history guide our consideration of modern regulations that were unimaginable at the founding. When confronting such present-day firearm regulations, this historical inquiry that courts must conduct will often involve reasoning by analogy—a commonplace task for any lawyer or judge. Like all

analogical reasoning, determining whether a historical regulation is a proper analogue for a distinctly modern firearm regulation requires a determination of whether the two regulations are "relevantly similar." C. Sunstein, On Analogical Reasoning, 106 Harv. L. Rev. 741, 773 (1993). And because "[e]verything is similar in infinite ways to everything else," *id.,* at 774, one needs "some metric enabling the analogizer to assess which similarities are important and which are not," F. Schauer & B. Spellman, Analogy, Expertise, and Experience, 84 U. Chi. L. Rev. 249, 254 (2017). For instance, a green truck and a green hat are relevantly similar if one's metric is "things that are green." See *ibid.* They are not relevantly similar if the applicable metric is "things you can wear."

While we do not now provide an exhaustive survey of the features that render regulations relevantly similar under the Second Amendment, we do think that *Heller* and *McDonald* point toward at least two metrics: how and why the regulations burden a law-abiding citizen's right to armed self-defense. As we stated in *Heller* and repeated in *McDonald*, "individual self-defense is 'the *central component*' of the Second Amendment right." *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599); see also *id.,* at 628 ("the inherent right of self-defense has been central to the Second Amendment right"). Therefore, whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified are "'*central*'" considerations when engaging in an analogical inquiry. *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599).[7]

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[7]This does not mean that courts may engage in independent means-end scrutiny under the guise of an analogical inquiry. Again, the Second Amendment is the "product of an interest balancing *by the people*," not the evolving product of federal judges. *Heller*, 554 U. S., at 635 (emphasis altered). Analogical reasoning requires judges to apply faithfully the balance struck by the founding generation to modern circumstances, and

To be clear, analogical reasoning under the Second Amendment is neither a regulatory straightjacket nor a regulatory blank check. On the one hand, courts should not "uphold every modern law that remotely resembles a historical analogue," because doing so "risk[s] endorsing outliers that our ancestors would never have accepted." *Drummond* v. *Robinson*, 9 F. 4th 217, 226 (CA3 2021). On the other hand, analogical reasoning requires only that the government identify a well-established and representative historical *analogue*, not a historical *twin*. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster.

Consider, for example, *Heller*'s discussion of "longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings." 554 U. S., at 626. Although the historical record yields relatively few 18th- and 19th-century "sensitive places" where weapons were altogether prohibited—*e.g.,* legislative assemblies, polling places, and courthouses—we are also aware of no disputes regarding the lawfulness of such prohibitions. See D. Kopel & J. Greenlee, The "Sensitive Places" Doctrine, 13 Charleston L. Rev. 205, 229–236, 244–247 (2018); see also Brief for Independent Institute as *Amicus Curiae* 11–17. We therefore can assume it settled that these locations were "sensitive places" where arms carrying could be prohibited consistent with the Second Amendment. And courts can use analogies to those historical regulations of "sensitive places" to determine that modern regulations prohibiting the carry of firearms in *new* and analogous sensitive places are constitutionally permissible.

Although we have no occasion to comprehensively define

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contrary to the dissent's assertion, there is nothing "[i]roni[c]" about that undertaking. *Post,* at 30. It is not an invitation to revise that balance through means-end scrutiny.

"sensitive places" in this case, we do think respondents err in their attempt to characterize New York's proper-cause requirement as a "sensitive-place" law. In their view, "sensitive places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available." Brief for Respondents 34. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" far too broadly. Respondents' argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. See Part III–B, *infra*. Put simply, there is no historical basis for New York to effectively declare the island of Manhattan a "sensitive place" simply because it is crowded and protected generally by the New York City Police Department.

Like *Heller*, we "do not undertake an exhaustive historical analysis . . . of the full scope of the Second Amendment." 554 U. S., at 626. And we acknowledge that "applying constitutional principles to novel modern conditions can be difficult and leave close questions at the margins." *Heller* v. *District of Columbia*, 670 F. 3d 1244, 1275 (CADC 2011) (Kavanaugh, J., dissenting). "But that is hardly unique to the Second Amendment. It is an essential component of judicial decisionmaking under our enduring Constitution." *Ibid.* We see no reason why judges frequently tasked with answering these kinds of historical, analogical questions cannot do the same for Second Amendment claims.

III

Having made the constitutional standard endorsed in *Heller* more explicit, we now apply that standard to New York's proper-cause requirement.

A

It is undisputed that petitioners Koch and Nash—two ordinary, law-abiding, adult citizens—are part of "the people" whom the Second Amendment protects. See *Heller*, 554 U. S., at 580. Nor does any party dispute that handguns are weapons "in common use" today for self-defense. See *id.*, at 627; see also *Caetano*, 577 U. S., at 411–412. We therefore turn to whether the plain text of the Second Amendment protects Koch's and Nash's proposed course of conduct—carrying handguns publicly for self-defense.

We have little difficulty concluding that it does. Respondents do not dispute this. See Brief for Respondents 19. Nor could they. Nothing in the Second Amendment's text draws a home/public distinction with respect to the right to keep and bear arms. As we explained in *Heller*, the "textual elements" of the Second Amendment's operative clause— "the right of the people to keep and bear Arms, shall not be infringed"—"guarantee the individual right to possess and carry weapons in case of confrontation." 554 U. S., at 592. *Heller* further confirmed that the right to "bear arms" refers to the right to "wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another person." *Id.*, at 584 (quoting *Muscarello* v. *United States*, 524 U. S. 125, 143 (1998) (Ginsburg, J., dissenting); internal quotation marks omitted).

This definition of "bear" naturally encompasses public carry. Most gun owners do not wear a holstered pistol at their hip in their bedroom or while sitting at the dinner table. Although individuals often "keep" firearms in their home, at the ready for self-defense, most do not "bear" (*i.e.*,

carry) them in the home beyond moments of actual confrontation. To confine the right to "bear" arms to the home would nullify half of the Second Amendment's operative protections.

Moreover, confining the right to "bear" arms to the home would make little sense given that self-defense is "the *central component* of the [Second Amendment] right itself." *Heller*, 554 U. S., at 599; see also *McDonald*, 561 U. S., at 767. After all, the Second Amendment guarantees an "individual right to possess and carry weapons in case of confrontation," *Heller*, 554 U. S., at 592, and confrontation can surely take place outside the home.

Although we remarked in *Heller* that the need for armed self-defense is perhaps "most acute" in the home, *id.*, at 628, we did not suggest that the need was insignificant elsewhere. Many Americans hazard greater danger outside the home than in it. See *Moore* v. *Madigan*, 702 F. 3d 933, 937 (CA7 2012) ("[A] Chicagoan is a good deal more likely to be attacked on a sidewalk in a rough neighborhood than in his apartment on the 35th floor of the Park Tower"). The text of the Second Amendment reflects that reality.

The Second Amendment's plain text thus presumptively guarantees petitioners Koch and Nash a right to "bear" arms in public for self-defense.

B

Conceding that the Second Amendment guarantees a general right to public carry, contra, *Young*, 992 F. 3d, at 813, respondents instead claim that the Amendment "permits a State to condition handgun carrying in areas 'frequented by the general public' on a showing of a nonspeculative need for armed self-defense in those areas," Brief for Respondents 19 (citation omitted).[8] To support

[8]The dissent claims that we cannot answer the question presented without giving respondents the opportunity to develop an evidentiary record fleshing out "how New York's law is administered in practice, how

that claim, the burden falls on respondents to show that New York's proper-cause requirement is consistent with this Nation's historical tradition of firearm regulation. Only if respondents carry that burden can they show that the pre-existing right codified in the Second Amendment, and made applicable to the States through the Fourteenth, does not protect petitioners' proposed course of conduct.

Respondents appeal to a variety of historical sources from the late 1200s to the early 1900s. We categorize these periods as follows: (1) medieval to early modern England; (2) the American Colonies and the early Republic; (3) antebellum America; (4) Reconstruction; and (5) the late-19th and early-20th centuries.

We categorize these historical sources because, when it comes to interpreting the Constitution, not all history is created equal. "Constitutional rights are enshrined with the scope they were understood to have *when the people adopted them*." *Heller*, 554 U. S., at 634–635 (emphasis added). The Second Amendment was adopted in 1791; the

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much discretion licensing officers in New York possess, or whether the proper cause standard differs across counties." *Post,* at 20. We disagree. The dissent does not dispute that any applicant for an unrestricted concealed-carry license in New York can satisfy the proper-cause standard only if he has "'"a special need for self-protection distinguishable from that of the general community."'" *Post,* at 13 (quoting *Kachalsky* v. *County of Westchester*, 701 F. 3d 81, 86 (CA2 2012)). And in light of the text of the Second Amendment, along with the Nation's history of firearm regulation, we conclude below that a State may not prevent law-abiding citizens from publicly carrying handguns because they have not demonstrated a special need for self-defense. See *infra*, at 62. That conclusion does not depend upon any of the factual questions raised by the dissent. Nash and Koch allege that they were denied unrestricted licenses because they had not "demonstrate[d] a special need for self-defense that distinguished [them] from the general public." App. 123, 125. If those allegations are proven true, then it simply does not matter whether licensing officers have applied the proper-cause standard differently to other concealed-carry license applicants; Nash's and Koch's constitutional rights to bear arms in public for self-defense were still violated.

Fourteenth in 1868. Historical evidence that long predates either date may not illuminate the scope of the right if linguistic or legal conventions changed in the intervening years. It is one thing for courts to "reac[h] back to the 14th century" for English practices that "prevailed up to the 'period immediately before and after the framing of the Constitution.'" *Sprint Communications Co.* v. *APCC Services, Inc.*, 554 U. S. 269, 311 (2008) (ROBERTS, C. J., dissenting). It is quite another to rely on an "ancient" practice that had become "obsolete in England at the time of the adoption of the Constitution" and never "was acted upon or accepted in the colonies." *Dimick* v. *Schiedt*, 293 U. S. 474, 477 (1935).

As with historical evidence generally, courts must be careful when assessing evidence concerning English common-law rights. The common law, of course, developed over time. *Associated Gen. Contractors of Cal., Inc.* v. *Carpenters*, 459 U. S. 519, 533, n. 28 (1983); see also *Rogers* v. *Tennessee*, 532 U. S. 451, 461 (2001). And English common-law practices and understandings at any given time in history cannot be indiscriminately attributed to the Framers of our own Constitution. Even "the words of *Magna Charta*"—foundational as they were to the rights of America's forefathers—"stood for very different things at the time of the separation of the American Colonies from what they represented originally" in 1215. *Hurtado* v. *California*, 110 U. S. 516, 529 (1884). Sometimes, in interpreting our own Constitution, "it [is] better not to go too far back into antiquity for the best securities of our liberties," *Funk* v. *United States*, 290 U. S. 371, 382 (1933), unless evidence shows that medieval law survived to become our Founders' law. A long, unbroken line of common-law precedent stretching from Bracton to Blackstone is far more likely to be part of our law than a short-lived, 14th-century English practice.

Similarly, we must also guard against giving postenactment history more weight than it can rightly bear. It is true

that in *Heller* we reiterated that evidence of "how the Second Amendment was interpreted from immediately after its ratification through the end of the 19th century" represented a "critical tool of constitutional interpretation." 554 U. S., at 605. We therefore examined "a variety of legal and other sources to determine *the public understanding* of [the Second Amendment] after its . . . ratification." *Ibid.* And, in other contexts, we have explained that "'a regular course of practice' can 'liquidate & settle the meaning of' disputed or indeterminate 'terms & phrases'" in the Constitution. *Chiafalo* v. *Washington*, 591 U. S. ___, ___ (2020) (slip op., at 13) (quoting Letter from J. Madison to S. Roane (Sept. 2, 1819), in 8 Writings of James Madison 450 (G. Hunt ed. 1908)); see also, *e.g.*, *Houston Community College System* v. *Wilson*, 595 U. S. ___, ___ (2022) (slip op., at 5) (same); The Federalist No. 37, p. 229 (C. Rossiter ed. 1961) (J. Madison); see generally C. Nelson, *Stare Decisis* and Demonstrably Erroneous Precedents, 87 Va. L. Rev. 1, 10–21 (2001); W. Baude, Constitutional Liquidation, 71 Stan. L. Rev. 1 (2019). In other words, we recognize that "where a governmental practice has been open, widespread, and unchallenged since the early days of the Republic, the practice should guide our interpretation of an ambiguous constitutional provision." *NLRB* v. *Noel Canning*, 573 U. S. 513, 572 (2014) (Scalia, J., concurring in judgment); see also *Myers* v. *United States*, 272 U. S. 52, 174 (1926); *Printz* v. *United States*, 521 U. S. 898, 905 (1997).

But to the extent later history contradicts what the text says, the text controls. "'[L]iquidating' indeterminacies in written laws is far removed from expanding or altering them." *Gamble* v. *United States*, 587 U. S. ___, ___ (2019) (THOMAS, J., concurring) (slip op., at 13); see also Letter from J. Madison to N. Trist (Dec. 1831), in 9 Writings of James Madison 477 (G. Hunt ed. 1910). Thus, "post-ratification adoption or acceptance of laws that are *inconsistent* with the original meaning of the constitutional text

obviously cannot overcome or alter that text." *Heller*, 670 F. 3d, at 1274, n. 6 (Kavanaugh, J., dissenting); see also *Espinoza* v. *Montana Dept. of Revenue*, 591 U. S. ___, ___ (2020) (slip op., at 15).

As we recognized in *Heller* itself, because post-Civil War discussions of the right to keep and bear arms "took place 75 years after the ratification of the Second Amendment, they do not provide as much insight into its original meaning as earlier sources." 554 U. S., at 614; cf. *Sprint Communications Co.*, 554 U. S., at 312 (ROBERTS, C. J., dissenting) ("The belated innovations of the mid- to late-19th-century courts come too late to provide insight into the meaning of [the Constitution in 1787]"). And we made clear in *Gamble* that *Heller*'s interest in mid- to late-19th-century commentary was secondary. *Heller* considered this evidence "only after surveying what it regarded as a wealth of authority for its reading—including the text of the Second Amendment and state constitutions." *Gamble*, 587 U. S., at ___ (majority opinion) (slip op., at 23). In other words, this 19th-century evidence was "treated as mere confirmation of what the Court thought had already been established." *Ibid.*

A final word on historical method: Strictly speaking, New York is bound to respect the right to keep and bear arms because of the Fourteenth Amendment, not the Second. See, *e.g.*, *Barron ex rel. Tiernan* v. *Mayor of Baltimore*, 7 Pet. 243, 250–251 (1833) (Bill of Rights applies only to the Federal Government). Nonetheless, we have made clear that individual rights enumerated in the Bill of Rights and made applicable against the States through the Fourteenth Amendment have the same scope as against the Federal Government. See, *e.g.*, *Ramos* v. *Louisiana*, 590 U. S. ___, ___ (2020) (slip op., at 7); *Timbs* v. *Indiana*, 586 U. S. ___, ___–___ (2019) (slip op., at 2–3); *Malloy* v. *Hogan*, 378 U. S. 1, 10–11 (1964). And we have generally assumed that the

scope of the protection applicable to the Federal Government and States is pegged to the public understanding of the right when the Bill of Rights was adopted in 1791. See, *e.g.*, *Crawford* v. *Washington*, 541 U. S. 36, 42–50 (2004) (Sixth Amendment); *Virginia* v. *Moore*, 553 U. S. 164, 168–169 (2008) (Fourth Amendment); *Nevada Comm'n on Ethics* v. *Carrigan*, 564 U. S. 117, 122–125 (2011) (First Amendment).

We also acknowledge that there is an ongoing scholarly debate on whether courts should primarily rely on the prevailing understanding of an individual right when the Fourteenth Amendment was ratified in 1868 when defining its scope (as well as the scope of the right against the Federal Government). See, *e.g.*, A. Amar, The Bill of Rights: Creation and Reconstruction xiv, 223, 243 (1998); K. Lash, Re-Speaking the Bill of Rights: A New Doctrine of Incorporation (Jan. 15, 2021) (manuscript, at 2), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3766917 ("When the people adopted the Fourteenth Amendment into existence, they readopted the original Bill of Rights, and did so in a manner that invested those original 1791 texts with new 1868 meanings"). We need not address this issue today because, as we explain below, the public understanding of the right to keep and bear arms in both 1791 and 1868 was, for all relevant purposes, the same with respect to public carry.

* * *

With these principles in mind, we turn to respondents' historical evidence. Throughout modern Anglo-American history, the right to keep and bear arms in public has traditionally been subject to well-defined restrictions governing the intent for which one could carry arms, the manner of carry, or the exceptional circumstances under which one could not carry arms. But apart from a handful of late-19th-century jurisdictions, the historical record compiled by respondents does not demonstrate a tradition of broadly

prohibiting the public carry of commonly used firearms for self-defense. Nor is there any such historical tradition limiting public carry only to those law-abiding citizens who demonstrate a special need for self-defense.[9] We conclude that respondents have failed to meet their burden to identify an American tradition justifying New York's proper-cause requirement. Under *Heller*'s text-and-history standard, the proper-cause requirement is therefore unconstitutional.

1

Respondents' substantial reliance on English history and custom before the founding makes some sense given our statement in *Heller* that the Second Amendment "codified a right 'inherited from our English ancestors.'" 554 U. S., at 599 (quoting *Robertson* v. *Baldwin*, 165 U. S. 275, 281 (1897)); see also *Smith* v. *Alabama*, 124 U. S. 465, 478

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[9] To be clear, nothing in our analysis should be interpreted to suggest the unconstitutionality of the 43 States' "shall-issue" licensing regimes, under which "a general desire for self-defense is sufficient to obtain a [permit]." *Drake* v. *Filko*, 724 F. 3d 426, 442 (CA3 2013) (Hardiman, J., dissenting). Because these licensing regimes do not require applicants to show an atypical need for armed self-defense, they do not necessarily prevent "law-abiding, responsible citizens" from exercising their Second Amendment right to public carry. *District of Columbia* v. *Heller*, 554 U. S. 570, 635 (2008). Rather, it appears that these shall-issue regimes, which often require applicants to undergo a background check or pass a firearms safety course, are designed to ensure only that those bearing arms in the jurisdiction are, in fact, "law-abiding, responsible citizens." *Ibid.* And they likewise appear to contain only "narrow, objective, and definite standards" guiding licensing officials, *Shuttlesworth* v. *Birmingham*, 394 U. S. 147, 151 (1969), rather than requiring the "appraisal of facts, the exercise of judgment, and the formation of an opinion," *Cantwell* v. *Connecticut*, 310 U. S. 296, 305 (1940)—features that typify proper-cause standards like New York's. That said, because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry.

(1888). But this Court has long cautioned that the English common law "is not to be taken in all respects to be that of America." *Van Ness* v. *Pacard*, 2 Pet. 137, 144 (1829) (Story, J., for the Court); see also *Wheaton* v. *Peters*, 8 Pet. 591, 659 (1834); *Funk*, 290 U. S., at 384. Thus, "[t]he language of the Constitution cannot be interpreted safely except by reference to the common law and to British institutions *as they were when the instrument was framed and adopted*," not as they existed in the Middle Ages. *Ex parte Grossman*, 267 U. S. 87, 108–109 (1925) (emphasis added); see also *United States* v. *Reid*, 12 How. 361, 363 (1852).

We interpret the English history that respondents and the United States muster in light of these interpretive principles. We find that history ambiguous at best and see little reason to think that the Framers would have thought it applicable in the New World. It is not sufficiently probative to defend New York's proper-cause requirement.

To begin, respondents and their *amici* point to several medieval English regulations from as early as 1285 that they say indicate a longstanding tradition of restricting the public carry of firearms. See 13 Edw. 1, 102. The most prominent is the 1328 Statute of Northampton (or Statute), passed shortly after Edward II was deposed by force of arms and his son, Edward III, took the throne of a kingdom where "tendency to turmoil and rebellion was everywhere apparent throughout the realm." N. Trenholme, The Risings in the English Monastic Towns in 1327, 6 Am. Hist. Rev. 650, 651 (1901). At the time, "[b]ands of malefactors, knights as well as those of lesser degree, harried the country, committing assaults and murders," prompted by a more general "spirit of insubordination" that led to a "decay in English national life." K. Vickers, England in the Later Middle Ages 107 (1926).

The Statute of Northampton was, in part, "a product of . . . the acute disorder that still plagued England." A. Verduyn, The Politics of Law and Order During the Early

Years of Edward III, 108 Eng. Hist. Rev. 842, 850 (1993). It provided that, with some exceptions, Englishmen could not "come before the King's Justices, or other of the King's Ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices or other Ministers, nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King's pleasure." 2 Edw. 3 c. 3 (1328).

Respondents argue that the prohibition on "rid[ing]" or "go[ing] . . . armed" was a sweeping restriction on public carry of self-defense weapons that would ultimately be adopted in Colonial America and justify onerous public-carry regulations. Notwithstanding the ink the parties spill over this provision, the Statute of Northampton—at least as it was understood during the Middle Ages—has little bearing on the Second Amendment adopted in 1791. The Statute of Northampton was enacted nearly 20 years before the Black Death, more than 200 years before the birth of Shakespeare, more than 350 years before the Salem Witch Trials, more than 450 years before the ratification of the Constitution, and nearly 550 years before the adoption of the Fourteenth Amendment.

The Statute's prohibition on going or riding "armed" obviously did not contemplate handguns, given they did not appear in Europe until about the mid-1500s. See K. Chase, Firearms: A Global History to 1700, p. 61 (2003). Rather, it appears to have been centrally concerned with the wearing of armor. See, *e.g.*, Calendar of the Close Rolls, Edward III, 1330–1333, p. 131 (Apr. 3, 1330) (H. Maxwell-Lyte ed. 1898); *id.*, at 243 (May 28, 1331); *id.*, Edward III, 1327–1330, at 314 (Aug. 29, 1328) (1896). If it did apply beyond armor, it applied to such weapons as the "launcegay," a 10- to 12-foot-long lightweight lance. See 7 Rich. 2 c. 13 (1383); 20 Rich. 2 c. 1 (1396).

The Statute's apparent focus on armor and, perhaps,

weapons like launcegays makes sense given that armor and lances were generally worn or carried only when one intended to engage in lawful combat or—as most early violations of the Statute show—to breach the peace. See, *e.g.*, Calendar of the Close Rolls, Edward III, 1327–1330, at 402 (July 7, 1328); *id.*, Edward III, 1333–1337, at 695 (Aug. 18, 1336) (1898). Contrast these arms with daggers. In the medieval period, "[a]lmost everyone carried a knife or a dagger in his belt." H. Peterson, Daggers and Fighting Knives of the Western World 12 (2001). While these knives were used by knights in warfare, "[c]ivilians wore them for self-protection," among other things. *Ibid.* Respondents point to no evidence suggesting the Statute applied to the smaller medieval weapons that strike us as most analogous to modern handguns.

When handguns were introduced in England during the Tudor and early Stuart eras, they did prompt royal efforts at suppression. For example, Henry VIII issued several proclamations decrying the proliferation of handguns, and Parliament passed several statutes restricting their possession. See, *e.g.*, 6 Hen. 8 c. 13, §1 (1514); 25 Hen. 8 c. 17, §1 (1533); 33 Hen. 8 c. 6 (1541); Prohibiting Use of Handguns and Crossbows (Jan. 1537), in 1 Tudor Royal Proclamations 249 (P. Hughes & J. Larkin eds. 1964). But Henry VIII's displeasure with handguns arose not primarily from concerns about their safety but rather their inefficacy. Henry VIII worried that handguns threatened Englishmen's proficiency with the longbow—a weapon many believed was crucial to English military victories in the 1300s and 1400s, including the legendary English victories at Crécy and Agincourt. See R. Payne-Gallwey, The Crossbow 32, 34 (1903); L. Schwoerer, Gun Culture in Early Modern England 54 (2016) (Schwoerer).

Similarly, James I considered small handguns—called dags—"utterly unserviceable for defence, Militarie practise, or other lawful use." A Proclamation Against Steelets,

Pocket Daggers, Pocket Dagges and Pistols (R. Barker printer 1616). But, in any event, James I's proclamation in 1616 "was the last one regarding civilians carrying dags," Schwoerer 63. "After this the question faded without explanation." *Ibid.* So, by the time Englishmen began to arrive in America in the early 1600s, the public carry of handguns was no longer widely proscribed.

When we look to the latter half of the 17th century, respondents' case only weakens. As in *Heller*, we consider this history "[b]etween the [Stuart] Restoration [in 1660] and the Glorious Revolution [in 1688]" to be particularly instructive. 554 U. S., at 592. During that time, the Stuart Kings Charles II and James II ramped up efforts to disarm their political opponents, an experience that "caused Englishmen . . . to be jealous of their arms." *Id.*, at 593.

In one notable example, the government charged Sir John Knight, a prominent detractor of James II, with violating the Statute of Northampton because he allegedly "did walk about the streets armed with guns, and that he went into the church of St. Michael, in Bristol, in the time of divine service, with a gun, to terrify the King's subjects." *Sir John Knight's Case*, 3 Mod. 117, 87 Eng. Rep. 75, 76 (K. B. 1686). Chief Justice Holt explained that the Statute of Northampton had "almost gone in *desuetudinem*," *Rex* v. *Sir John Knight*, 1 Comb. 38, 38–39, 90 Eng. Rep. 330 (K. B. 1686), meaning that the Statute had largely become obsolete through disuse.[10] And the Chief Justice further explained

[10] Another medieval firearm restriction—a 1541 statute enacted under Henry VIII that limited the ownership and use of handguns (which could not be shorter than a yard) to those subjects with annual property values of at least £100, see 33 Hen. 8 c. 6, §§1–2—fell into a similar obsolescence. As far as we can discern, the last recorded prosecutions under the 1541 statute occurred in 1693, neither of which appears to have been successful. See *King and Queen* v. *Bullock*, 4 Mod. 147, 87 Eng. Rep. 315 (K. B. 1693); *King* v. *Litten*, 1 Shower, K. B. 367, 89 Eng. Rep. 644 (K. B. 1693). It seems that other prosecutions under the 1541 statute during the late 1600s were similarly unsuccessful. See *King* v. *Silcot*, 3 Mod. 280, 280–

that the act of "go[ing] armed *to terrify* the King's subjects" was "a great offence at the *common law*" and that the Statute of Northampton "is but an affirmance of that law." 3 Mod., at 118, 87 Eng. Rep., at 76 (first emphasis added). Thus, one's conduct "will come within the Act,"—*i.e.*, would terrify the King's subjects—only "where the crime shall appear to be malo animo," 1 Comb., at 39, 90 Eng. Rep., at 330, with evil intent or malice. Knight was ultimately acquitted by the jury.[11]

281, 87 Eng. Rep. 186 (K. B. 1690); *King* v. *Lewellin*, 1 Shower, K. B. 48, 89 Eng. Rep. 440 (K. B. 1689); cf. *King and Queen* v. *Alsop*, 4 Mod. 49, 50–51, 87 Eng. Rep. 256, 256–257 (K. B. 1691). By the late 1700s, it was widely recognized that the 1541 statute was "obsolete." 2 R. Burn, The Justice of the Peace, and Parish Officer 243, n. (11th ed. 1769); see also, *e.g.*, The Farmer's Lawyer 143 (1774) ("entirely obsolete"); 1 G. Jacob, Game-Laws II, Law-Dictionary (T. Tomlins ed. 1797); 2 R. Burn, The Justice of the Peace, and Parish Officer 409 (18th ed. 1797) (calling the 1541 statute "a matter more of curiosity than use").

In any event, lest one be tempted to put much evidentiary weight on the 1541 statute, it impeded not only public carry, but further made it unlawful for those without sufficient means to "kepe in his or their houses" any "handgun." 33 Hen. 8 c. 6, §1. Of course, this kind of limitation is inconsistent with *Heller*'s historical analysis regarding the Second Amendment's meaning at the founding and thereafter. So, even if a severe restriction on keeping firearms in the home may have seemed appropriate in the mid-1500s, it was not incorporated into the Second Amendment's scope. We see little reason why the parts of the 1541 statute that address public carry should not be understood similarly.

We note also that even this otherwise restrictive 1541 statute, which generally prohibited shooting firearms in any city, exempted discharges "for the defence of [one's] p[er]son or house." §4. Apparently, the paramount need for self-defense trumped the Crown's interest in firearm suppression even during the 16th century.

[11] The dissent discounts *Sir John Knight's Case*, 3 Mod. 117, 87 Eng. Rep. 75, because it only "arguably" supports the view that an evil-intent requirement attached to the Statute of Northampton by the late 1600s and early 1700s. See *post*, at 37. But again, because the Second Amendment's bare text covers petitioners' public carry, the respondents here shoulder the burden of demonstrating that New York's proper-cause requirement is consistent with the Second Amendment's text and historical scope. See *supra,* at 15. To the extent there are multiple plausible

Just three years later, Parliament responded by writing the "predecessor to our Second Amendment" into the 1689 English Bill of Rights, *Heller*, 554 U. S., at 593, guaranteeing that "Protestants . . . may have Arms for their Defence suitable to their Conditions, and as allowed by Law," 1 Wm. & Mary c. 2, §7, in 3 Eng. Stat. at Large 417 (1689). Although this right was initially limited—it was restricted to Protestants and held only against the Crown, but not Parliament—it represented a watershed in English history. Englishmen had "never before claimed . . . the right of the individual to arms." Schwoerer 156.[12] And as that individual right matured, "by the time of the founding," the right to keep and bear arms was "understood to be an individual right protecting against both public and private violence." *Heller*, 554 U. S., at 594.

To be sure, the Statute of Northampton survived both *Sir John Knight's Case* and the English Bill of Rights, but it was no obstacle to public carry for self-defense in the decades leading to the founding. Serjeant William Hawkins, in his widely read 1716 treatise, confirmed that "no wearing of Arms is within the meaning of [the Statute of Northampton], unless it be accompanied with such Circumstances as are apt to terrify the People." 1 Pleas of the Crown 136. To illustrate that proposition, Hawkins noted as an example that "Persons of Quality" were "in no Danger of Offending against this Statute by wearing common Weapons" because, in those circumstances, it would be clear that they

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interpretations of *Sir John Knight's Case*, we will favor the one that is more consistent with the Second Amendment's command.

[12] Even Catholics, who fell beyond the protection of the right to have arms, and who were stripped of all "Arms, Weapons, Gunpowder, [and] Ammunition," were at least allowed to keep "such necessary Weapons as shall be allowed . . . by Order of the Justices of the Peace . . . for the Defence of his House or Person." 1 Wm. & Mary c. 15, §4, in 3 Eng. Stat. at Large 399 (1688).

had no "Intention to commit any Act of Violence or Disturbance of the Peace." *Ibid.*; see also T. Barlow, The Justice of Peace 12 (1745). Respondents do not offer any evidence showing that, in the early 18th century or after, the mere public carrying of a handgun would terrify people. In fact, the opposite seems to have been true. As time went on, "domestic gun culture [in England] softened" any "terror" that firearms might once have conveyed. Schwoerer 4. Thus, whatever place handguns had in English society during the Tudor and Stuart reigns, by the time we reach the 18th century—and near the founding—they had gained a fairly secure footing in English culture.

At the very least, we cannot conclude from this historical record that, by the time of the founding, English law would have justified restricting the right to publicly bear arms suited for self-defense only to those who demonstrate some special need for self-protection.

2

Respondents next point us to the history of the Colonies and early Republic, but there is little evidence of an early American practice of regulating public carry by the general public. This should come as no surprise—English subjects founded the Colonies at about the time England had itself begun to eliminate restrictions on the ownership and use of handguns.

In the colonial era, respondents point to only three restrictions on public carry. For starters, we doubt that *three* colonial regulations could suffice to show a tradition of public-carry regulation. In any event, even looking at these laws on their own terms, we are not convinced that they regulated public carry akin to the New York law before us.

Two of the statutes were substantively identical. Colonial Massachusetts and New Hampshire both authorized justices of the peace to arrest "all Affrayers, Rioters, Disturbers, or Breakers of the Peace, and such as shall ride or

go armed Offensively . . . by Night or by Day, in Fear or Affray of Their Majesties Liege People." 1692 Mass. Acts and Laws no. 6, pp. 11–12; see 1699 N. H. Acts and Laws ch. 1. Respondents and their *amici* contend that being "armed offensively" meant bearing any offensive weapons, including firearms. See Brief for Respondents 33. In particular, respondents' *amici* argue that "'offensive'" arms in the 1600s and 1700s were what Blackstone and others referred to as "'dangerous or unusual weapons,'" Brief for Professors of History and Law as *Amici Curiae* 7 (quoting 4 Blackstone, Commentaries, at 148–149), a category that they say included firearms, see also *post,* at 40–42 (BREYER, J., dissenting).

Respondents, their *amici*, and the dissent all misunderstand these statutes. Far from banning the carrying of any class of firearms, they merely codified the existing common-law offense of bearing arms to terrorize the people, as had the Statute of Northampton itself. See *supra*, at 34–37. For instance, the Massachusetts statute proscribed "go[ing] armed Offensively . . . in Fear or Affray" of the people, indicating that these laws were modeled after the Statute of Northampton to the extent that the statute would have been understood to limit public carry *in the late 1600s*. Moreover, it makes very little sense to read these statutes as banning the public carry of all firearms just a few years after Chief Justice Holt in *Sir John Knight's Case* indicated that the English common law did not do so.

Regardless, even if respondents' reading of these colonial statutes were correct, it would still do little to support restrictions on the public carry of handguns *today*. At most, respondents can show that colonial legislatures sometimes prohibited the carrying of "dangerous and unusual weapons"—a fact we already acknowledged in *Heller*. See 554 U. S., at 627. Drawing from this historical tradition, we explained there that the Second Amendment protects only the carrying of weapons that are those "in common use at the

time," as opposed to those that "are highly unusual in society at large." *Ibid.* (internal quotation marks omitted). Whatever the likelihood that handguns were considered "dangerous and unusual" during the colonial period, they are indisputably in "common use" for self-defense today. They are, in fact, "the quintessential self-defense weapon." *Id.*, at 629. Thus, even if these colonial laws prohibited the carrying of handguns because they were considered "dangerous and unusual weapons" in the 1690s, they provide no justification for laws restricting the public carry of weapons that are unquestionably in common use today.

The third statute invoked by respondents was enacted in East New Jersey in 1686. It prohibited the concealed carry of "pocket pistol[s]" or other "unusual or unlawful weapons," and it further prohibited "planter[s]" from carrying all pistols unless in military service or, if "strangers," when traveling through the Province. An Act Against Wearing Swords, &c., ch. 9, in Grants, Concessions, and Original Constitutions of the Province of New Jersey 290 (2d ed. 1881) (Grants and Concessions). These restrictions do not meaningfully support respondents. The law restricted only concealed carry, not all public carry, and its restrictions applied only to certain "unusual or unlawful weapons," including "pocket pistol[s]." *Ibid.* It also did not apply to all pistols, let alone all firearms. "Pocket pistols" had barrel lengths of perhaps 3 or 4 inches, far smaller than the 6-inch to 14-inch barrels found on the other belt and hip pistols that were commonly used for lawful purposes in the 1600s. J. George, English Pistols and Revolvers 16 (1938); see also, *e.g.*, 14 Car. 2 c. 3, §20 (1662); H. Peterson, Arms and Armor in Colonial America, 1526–1783, p. 208 (1956) (Peterson). Moreover, the law prohibited only the *concealed* carry of pocket pistols; it presumably did not by its terms touch the

open carry of larger, presumably more common pistols, except as to "planters."[13] In colonial times, a "planter" was simply a farmer or plantation owner who settled new territory. R. Lederer, Colonial American English 175 (1985); New Jersey State Archives, J. Klett, Using the Records of the East and West Jersey Proprietors 31 (rev. ed. 2014), https://www.nj.gov/state/archives/pdf/proprietors.pdf. While the reason behind this singular restriction is not entirely clear, planters may have been targeted because colonial-era East New Jersey was riven with "strife and excitement" between planters and the Colony's proprietors "respecting titles to the soil." See W. Whitehead, East Jersey Under the Proprietary Governments 150–151 (rev. 2d ed. 1875); see also T. Gordon, The History of New Jersey 49 (1834).

In any event, we cannot put meaningful weight on this solitary statute. First, although the "planter" restriction may have prohibited the public carry of pistols, it did not prohibit planters from carrying long guns for self-defense—including the popular musket and carbine. See Peterson 41. Second, it does not appear that the statute survived for very long. By 1694, East New Jersey provided that no slave "be permitted to carry any gun or pistol . . . into the woods, or plantations" unless their owner accompanied them. Grants and Concessions 341. If slave-owning planters were prohibited from carrying pistols, it is hard to comprehend why slaves would have been able to carry them in the planter's presence. Moreover, there is no evidence that the 1686 statute survived the 1702 merger of East and West New Jersey. See 1 Nevill, Acts of the General Assembly of the Province of New-Jersey (1752). At most eight years of

[13] Even assuming that pocket pistols were, as East Jersey in 1686 deemed them, "unusual or unlawful," it appears that they were commonly used at least by the founding. See, *e.g.*, G. Neumann, The History of Weapons of the American Revolution 150–151 (1967); see also H. Hendrick, P. Paradis, & R. Hornick, Human Factors Issues in Handgun Safety and Forensics 44 (2008).

history in half a Colony roughly a century before the founding sheds little light on how to properly interpret the Second Amendment.

Respondents next direct our attention to three late-18th-century and early-19th-century statutes, but each parallels the colonial statutes already discussed. One 1786 Virginia statute provided that "no man, great nor small, [shall] go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country." Collection of All Such Acts of the General Assembly of Virginia ch. 21, p. 33 (1794).[14] A Massachusetts statute from 1795 commanded justices of the peace to arrest "all affrayers, rioters, disturbers, or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terror of the good citizens of this Commonwealth." 1795 Mass. Acts and Laws ch. 2, p. 436, in Laws of the Commonwealth of Massachusetts. And an 1801 Tennessee statute likewise required any person who would "publicly ride or go armed to the terror of the people, or privately carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person" to post a surety; otherwise, his continued violation of the law would be "punished as for a breach of the peace, or riot at common law." 1801 Tenn. Acts pp. 260–261.

A by-now-familiar thread runs through these three statutes: They prohibit bearing arms in a way that spreads "fear" or "terror" among the people. As we have already explained, Chief Justice Holt in *Sir John Knight's Case* interpreted this *in Terrorem Populi* element to require something more than merely carrying a firearm in public. See *supra*, at 34–35. Respondents give us no reason to think that the founding generation held a different view. Thus, all told, in the century leading up to the Second Amendment

[14] The Virginia statute all but codified the existing common law in this regard. See G. Webb, The Office and Authority of a Justice of Peace 92 (1736) (explaining how a constable "may take away Arms from such who ride, or go, offensively armed, in Terror of the People").

and in the first decade after its adoption, there is no historical basis for concluding that the pre-existing right enshrined in the Second Amendment permitted broad prohibitions on all forms of public carry.

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Only after the ratification of the Second Amendment in 1791 did public-carry restrictions proliferate. Respondents rely heavily on these restrictions, which generally fell into three categories: common-law offenses, statutory prohibitions, and "surety" statutes. None of these restrictions imposed a substantial burden on public carry analogous to the burden created by New York's restrictive licensing regime.

Common-Law Offenses. As during the colonial and founding periods, the common-law offenses of "affray" or going armed "to the terror of the people" continued to impose some limits on firearm carry in the antebellum period. But as with the earlier periods, there is no evidence indicating that these common-law limitations impaired the right of the general population to peaceable public carry.

For example, the Tennessee attorney general once charged a defendant with the common-law offense of affray, arguing that the man committed the crime when he "'arm[ed] himself with dangerous and unusual weapons, in such a manner as will naturally cause terror to the people.'" *Simpson* v. *State*, 13 Tenn. 356, 358 (1833). More specifically, the indictment charged that Simpson "with force and arms being arrayed in a warlike manner . . . unlawfully, and to the great terror and disturbance of divers good citizens, did make an affray." *Id.*, at 361. The Tennessee Supreme Court quashed the indictment, holding that the Statute of Northampton was never part of Tennessee law. *Id.*, at 359. But even assuming that Tennesseans' ancestors brought with them the common law associated with the Statute, the *Simpson* court found that if the Statute had

made, as an "independent ground of affray," the mere arming of oneself with firearms, the Tennessee Constitution's Second Amendment analogue had "completely abrogated it." *Id.*, at 360. At least in light of that constitutional guarantee, the court did not think that it could attribute to the mere carrying of arms "a necessarily consequent operation as terror to the people." *Ibid.*

Perhaps more telling was the North Carolina Supreme Court's decision in *State* v. *Huntly*, 25 N. C. 418 (1843) (*per curiam*). Unlike the Tennessee Supreme Court in *Simpson*, the *Huntly* court held that the common-law offense codified by the Statute of Northampton was part of the State's law. See 25 N. C., at 421–422. However, consistent with the Statute's long-settled interpretation, the North Carolina Supreme Court acknowledged "that the carrying of a gun" for a lawful purpose "*per se* constitutes no offence." *Id.*, at 422–423. Only carrying for a "wicked purpose" with a "mischievous result . . . constitute[d a] crime." *Id.*, at 423; see also J. Haywood, The Duty and Office of Justices of Peace 10 (1800); H. Potter, The Office and Duties of a Justice of the Peace 39 (1816).[15] Other state courts likewise recognized that the common law did not punish the carrying of

[15] The dissent concedes that *Huntly*, 25 N. C. 418, recognized that citizens were "'at perfect liberty' to carry for 'lawful purpose[s].'" *Post*, at 42 (quoting *Huntly*, 25 N. C., at 423). But the dissent disputes that such "lawful purpose[s]" included self-defense, because *Huntly* goes on to speak more specifically of carrying arms for "business or amusement." *Id.*, at 422–423. This is an unduly stingy interpretation of *Huntly*. In particular, *Huntly* stated that "the citizen is at perfect liberty to carry his gun" "[f]or *any* lawful purpose," of which "business" and "amusement" were then mentioned. *Ibid.* (emphasis added). *Huntly* then contrasted these "lawful purpose[s]" with the "wicked purpose . . . to terrify and alarm." *Ibid.* Because there is no evidence that *Huntly* considered self-defense a "wicked purpose," we think the best reading of *Huntly* would sanction public carry for self-defense, so long as it was not "in such [a] manner as naturally will terrify and alarm." *Id.*, at 423.

deadly weapons *per se*, but only the carrying of such weapons "for the purpose of an affray, and in such manner as to strike terror to the people." *O'Neil* v. *State*, 16 Ala. 65, 67 (1849). Therefore, those who sought to carry firearms publicly and peaceably in antebellum America were generally free to do so.

Statutory Prohibitions. In the early to mid-19th century, some States began enacting laws that proscribed the concealed carry of pistols and other small weapons. As we recognized in *Heller*, "the majority of the 19th-century courts to consider the question held that [these] prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues." 554 U. S., at 626. Respondents unsurprisingly cite these statutes[16]—and decisions upholding them[17]—as evidence that States were historically free to ban public carry.

In fact, however, the history reveals a consensus that States could *not* ban public carry altogether. Respondents'

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[16] Beginning in 1813 with Kentucky, six States (five of which were in the South) enacted laws prohibiting the concealed carry of pistols by 1846. See 1813 Ky. Acts §1, p. 100; 1813 La. Acts p. 172; 1820 Ind. Acts p. 39; Ark. Rev. Stat. §13, p. 280 (1838); 1838 Va. Acts ch. 101, §1, p. 76; 1839 Ala. Acts no. 77, §1. During this period, Georgia enacted a law that appeared to prohibit both concealed and open carry, see 1837 Ga. Acts §§1, 4, p. 90, but the Georgia Supreme Court later held that the prohibition could not extend to open carry consistent with the Second Amendment. See *infra*, at 45–46. Between 1846 and 1859, only one other State, Ohio, joined this group. 1859 Ohio Laws §1, p. 56. Tennessee, meanwhile, enacted in 1821 a broader law that prohibited carrying, among other things, "belt or pocket pistols, either public or private," except while traveling. 1821 Tenn. Acts ch. 13, §1, p. 15. And the Territory of Florida prohibited concealed carry during this same timeframe. See 1835 Terr. of Fla. Laws p. 423.

[17] See *State* v. *Mitchell*, 3 Blackf. 229 (Ind. 1833); *State* v. *Reid*, 1 Ala. 612, 616 (1840); *State* v. *Buzzard*, 4 Ark. 18 (1842); *Nunn* v. *State*, 1 Ga. 243 (1846); *State* v. *Chandler*, 5 La. 489 (1850); *State* v. *Smith*, 11 La. 633 (1856); *State* v. *Jumel*, 13 La. 399 (1858). But see *Bliss* v. *Commonwealth*, 12 Ky. 90 (1822). See generally 2 J. Kent, Commentaries on American Law *340, n. *b*.

cited opinions agreed that concealed-carry prohibitions were constitutional only if they did not similarly prohibit *open* carry. That was true in Alabama. See *State* v. *Reid*, 1 Ala. 612, 616, 619–621 (1840).[18] It was also true in Louisiana. See *State* v. *Chandler*, 5 La. 489, 490 (1850).[19] Kentucky, meanwhile, went one step further—the State Supreme Court *invalidated* a concealed-carry prohibition. See *Bliss* v. *Commonwealth*, 12 Ky. 90 (1822).[20]

The Georgia Supreme Court's decision in *Nunn* v. *State*, 1 Ga. 243 (1846), is particularly instructive. Georgia's 1837 statute broadly prohibited "wearing" or "carrying" pistols "as arms of offence or defence," without distinguishing between concealed and open carry. 1837 Ga. Acts 90, §1. To the extent the 1837 Act prohibited "carrying certain weapons *secretly*," the court explained, it was "valid." *Nunn*, 1

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[18] See *Reid*, 1 Ala., at 619 (holding that "the Legislature cannot inhibit the citizen from bearing arms openly"); *id.*, at 621 (noting that there was no evidence "tending to show that the defendant could not have defended himself as successfully, by carrying the pistol openly, as by secreting it about his person").

[19] See, *e.g.*, *Chandler*, 5 La., at 490 (Louisiana concealed-carry prohibition "interfered with no man's right to carry arms (to use its words) 'in full open view,' which places men upon an equality"); *Smith*, 11 La., at 633 (The "arms" described in the Second Amendment "are such as are borne by a people in war, or at least carried openly"); *Jumel*, 13 La., at 399–400 ("The statute in question does not infringe the right of the people to keep or bear arms. It is a measure of police, prohibiting only *a particular mode* of bearing arms which is found dangerous to the peace of society").

[20] With respect to Indiana's concealed-carry prohibition, the Indiana Supreme Court's reasons for upholding it are unknown because the court issued a one-sentence *per curiam* order holding the law "not unconstitutional." *Mitchell*, 3 Blackf., at 229. Similarly, the Arkansas Supreme Court upheld Arkansas' prohibition, but without reaching a majority rationale. See *Buzzard*, 4 Ark. 18. The Arkansas Supreme Court would later adopt Tennessee's approach, which tolerated the prohibition of all public carry of handguns except for military-style revolvers. See, *e.g.*, *Fife* v. *State*, 31 Ark. 455 (1876).

Ga., at 251. But to the extent the Act also prohibited "bearing arms *openly*," the court went on, it was "in conflict with the Constitutio[n] and *void*." *Ibid.*; see also *Heller*, 554 U. S., at 612. The Georgia Supreme Court's treatment of the State's general prohibition on the public carriage of handguns indicates that it was considered beyond the constitutional pale in antebellum America to altogether prohibit public carry.

Finally, we agree that Tennessee's prohibition on carrying "publicly or privately" any "belt or pocket pisto[l]," 1821 Tenn. Acts ch. 13, p. 15, was, on its face, uniquely severe, see *Heller*, 554 U. S., at 629. That said, when the Tennessee Supreme Court addressed the constitutionality of a substantively identical successor provision, see 1870 Tenn. Acts ch. 13, §1, p. 28, the court read this language to permit the public carry of larger, military-style pistols because any categorical prohibition on their carry would "violat[e] the constitutional right to keep arms." *Andrews* v. *State*, 50 Tenn. 165, 187 (1871); see also *Heller*, 554 U. S., at 629 (discussing *Andrews*).[21]

All told, these antebellum state-court decisions evince a consensus view that States could not altogether prohibit the public carry of "arms" protected by the Second Amendment or state analogues.[22]

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[21] Shortly after *Andrews*, 50 Tenn. 165, Tennessee codified an exception to the State's handgun ban for "an[y] army pistol, or such as are commonly carried and used in the United States Army" so long as they were carried "openly in [one's] hands." 1871 Tenn. Pub. Acts ch. 90, §1; see also *State* v. *Wilburn*, 66 Tenn. 57, 61–63 (1872); *Porter* v. *State*, 66 Tenn. 106, 107–108 (1874).

[22] The Territory of New Mexico made it a crime in 1860 to carry "any class of pistols whatever" "concealed or otherwise." 1860 Terr. of N. M. Laws §§1–2, p. 94. This extreme restriction is an outlier statute enacted by a territorial government nearly 70 years after the ratification of the Bill of Rights, and its constitutionality was never tested in court. Its value in discerning the original meaning of the Second Amendment is insubstantial. Moreover, like many other stringent carry restrictions

Surety Statutes. In the mid-19th century, many jurisdictions began adopting surety statutes that required certain individuals to post bond before carrying weapons in public. Although respondents seize on these laws to justify the proper-cause restriction, their reliance on them is misplaced. These laws were not *bans* on public carry, and they typically targeted only those threatening to do harm.

As discussed earlier, Massachusetts had prohibited riding or going "armed offensively, to the fear or terror of the good citizens of this Commonwealth" since 1795. 1795 Mass. Acts and Laws ch. 2, at 436, in Laws of the Commonwealth of Massachusetts. In 1836, Massachusetts enacted a new law providing:

> "If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided." Mass. Rev. Stat., ch. 134, §16.

In short, the Commonwealth required any person who was reasonably likely to "breach the peace," and who, standing accused, could not prove a special need for self-defense, to post a bond before publicly carrying a firearm. Between 1838 and 1871, nine other jurisdictions adopted variants of

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that were localized in the Western Territories, New Mexico's prohibition ended when the Territory entered the Union as a State in 1911 and guaranteed in its State Constitution that "[t]he people have the right to bear arms for their security and defense, but nothing herein shall be held to permit the carrying of concealed weapons." N. M. Const., Art. II, §6 (1911); see *infra*, at 61.

the Massachusetts law.[23]

Contrary to respondents' position, these "reasonable-cause laws" in no way represented the "direct precursor" to the proper-cause requirement. Brief for Respondents 27. While New York presumes that individuals have *no* public carry right without a showing of heightened need, the surety statutes *presumed* that individuals had a right to public carry that could be burdened only if another could make out a specific showing of "reasonable cause to fear an injury, or breach of the peace." Mass. Rev. Stat., ch. 134, §16 (1836).[24] As William Rawle explained in an influential treatise, an individual's carrying of arms was "sufficient cause to require him to give surety of the peace" only when "attended with circumstances giving just reason to fear that he purposes to make an unlawful use of them." A View of the Constitution of the United States of America 126 (2d ed. 1829). Then, even on such a showing, the surety laws did not *prohibit* public carry in locations frequented by the general community. Rather, an accused arms-bearer "could go on carrying without criminal penalty" so long as he "post[ed] money that would be forfeited if he breached the peace or injured others—a requirement from which he was exempt if *he* needed self-defense." *Wrenn*, 864 F. 3d, at 661.

Thus, unlike New York's regime, a showing of special need was required only *after* an individual was reasonably accused of intending to injure another or breach the peace. And, even then, proving special need simply avoided a fee rather than a ban. All told, therefore, "[u]nder surety laws

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[23] See 1838 Terr. of Wis. Stat. §16, p. 381; Me. Rev. Stat., ch. 169, §16 (1840); Mich. Rev. Stat., ch. 162, §16 (1846); 1847 Va. Acts ch. 14, §16; Terr. of Minn. Rev. Stat., ch. 112, §18 (1851); 1854 Ore. Stat. ch. 16, §17, p. 220; D. C. Rev. Code ch. 141, §16 (1857); 1860 Pa. Laws p. 432, §6; W. Va. Code, ch. 153, §8 (1868).

[24] It is true that two of the antebellum surety laws were unusually broad in that they did not expressly require a citizen complaint to trigger the posting of a surety. See 1847 Va. Acts ch. 14, §16; W. Va. Code, ch. 153, §8 (1868).

. . . everyone started out with robust carrying rights" and only those reasonably accused were required to show a special need in order to avoid posting a bond. *Ibid.* These antebellum special-need requirements "did not expand carrying for the responsible; it shrank burdens on carrying by the (allegedly) reckless." *Ibid.*

One Court of Appeals has nonetheless remarked that these surety laws were "a severe constraint on anyone thinking of carrying a weapon in public." *Young*, 992 F. 3d, at 820. That contention has little support in the historical record. Respondents cite no evidence showing the average size of surety postings. And given that surety laws were "intended merely for prevention" and were "not meant as any degree of punishment," 4 Blackstone, Commentaries, at 249, the burden these surety statutes may have had on the right to public carry was likely too insignificant to shed light on New York's proper-cause standard—a violation of which can carry a 4-year prison term or a $5,000 fine. In *Heller*, we noted that founding-era laws punishing unlawful discharge "with a small fine and forfeiture of the weapon . . . , not with significant criminal penalties," likely did not "preven[t] a person in the founding era from using a gun to protect himself or his family from violence, or that if he did so the law would be enforced against him." 554 U. S., at 633–634. Similarly, we have little reason to think that the hypothetical possibility of posting a bond would have prevented anyone from carrying a firearm for self-defense in the 19th century.

Besides, respondents offer little evidence that authorities ever enforced surety laws. The only recorded case that we know of involved a justice of the peace *declining* to require a surety, even when the complainant alleged that the arms-bearer "'did threaten to beat, wou[n]d, mai[m], and kill'" him. Brief for Professor Robert Leider et al. as *Amici Curiae* 31 (quoting *Grover* v. *Bullock*, No. 185 (Worcester Cty.,

Aug. 13, 1853)); see E. Ruben & S. Cornell, Firearm Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context, 125 Yale L. J. Forum 121, 130, n. 53 (2015). And one scholar who canvassed 19th-century newspapers—which routinely reported on local judicial matters—found only a handful of other examples in Massachusetts and the District of Columbia, all involving black defendants who may have been targeted for selective or pretextual enforcement. See R. Leider, Constitutional Liquidation, Surety Laws, and the Right To Bear Arms 15–17, in New Histories of Gun Rights and Regulation (J. Blocher, J. Charles, & D. Miller eds.) (forthcoming); see also Brief for Professor Robert Leider et al. as *Amici Curiae* 31–32. That is surely too slender a reed on which to hang a historical tradition of restricting the right to public carry.[25]

Respondents also argue that surety statutes were severe restrictions on firearms because the "reasonable cause to fear" standard was essentially *pro forma*, given that "merely carrying firearms in populous areas breached the peace" *per se*. Brief for Respondents 27. But that is a counterintuitive reading of the language that the surety statutes actually used. If the mere carrying of handguns breached the peace, it would be odd to draft a surety statute requiring a complainant to demonstrate "reasonable cause to fear an injury, or breach of the peace," Mass. Rev. Stat., ch. 134, §16, rather than a reasonable likelihood that the armsbearer carried a covered weapon. After all, if it was the nature of the weapon rather than the manner of carry that

[25] The dissent speculates that the absence of recorded cases involving surety laws may simply "show that these laws were normally followed." *Post,* at 45. Perhaps. But again, the burden rests with the government to establish the relevant tradition of regulation, see *supra,* at 15, and, given all of the other features of surety laws that make them poor analogues to New York's proper-cause standard, we consider the barren record of enforcement to be simply one additional reason to discount their relevance.

was dispositive, then the "reasonable fear" requirement would be redundant.

Moreover, the overlapping scope of surety statutes and criminal statutes suggests that the former were not viewed as substantial restrictions on public carry. For example, when Massachusetts enacted its surety statute in 1836, it reaffirmed its 1794 criminal prohibition on "go[ing] armed offensively, to the terror of the people." Mass. Rev. Stat., ch. 85, §24. And Massachusetts continued to criminalize the carrying of various "dangerous weapons" well after passing the 1836 surety statute. See, *e.g.*, 1850 Mass. Acts ch. 194, §1, p. 401; Mass. Gen. Stat., ch. 164, §10 (1860). Similarly, Virginia had criminalized the concealed carry of pistols since 1838, see 1838 Va. Acts ch. 101, §1, nearly a decade before it enacted its surety statute, see 1847 Va. Acts ch. 14, §16. It is unlikely that these surety statutes constituted a "severe" restraint on public carry, let alone a restriction tantamount to a ban, when they were supplemented by direct criminal prohibitions on specific weapons and methods of carry.

To summarize: The historical evidence from antebellum America does demonstrate that *the manner* of public carry was subject to reasonable regulation. Under the common law, individuals could not carry deadly weapons in a manner likely to terrorize others. Similarly, although surety statutes did not directly restrict public carry, they did provide financial incentives for responsible arms carrying. Finally, States could lawfully eliminate one kind of public carry—concealed carry—so long as they left open the option to carry openly.

None of these historical limitations on the right to bear arms approach New York's proper-cause requirement because none operated to prevent law-abiding citizens with ordinary self-defense needs from carrying arms in public for that purpose.

Evidence from around the adoption of the Fourteenth Amendment also fails to support respondents' position. For the most part, respondents and the United States ignore the "outpouring of discussion of the [right to keep and bear arms] in Congress and in public discourse, as people debated whether and how to secure constitutional rights for newly free slaves" after the Civil War. *Heller*, 554 U. S., at 614. Of course, we are not obliged to sift the historical materials for evidence to sustain New York's statute. That is respondents' burden. Nevertheless, we think a short review of the public discourse surrounding Reconstruction is useful in demonstrating how public carry for self-defense remained a central component of the protection that the Fourteenth Amendment secured for all citizens.

A short prologue is in order. Even before the Civil War commenced in 1861, this Court indirectly affirmed the importance of the right to keep and bear arms in public. Writing for the Court in *Dred Scott* v. *Sandford*, 19 How. 393 (1857), Chief Justice Taney offered what he thought was a parade of horribles that would result from recognizing that free blacks were citizens of the United States. If blacks were citizens, Taney fretted, they would be entitled to the privileges and immunities of citizens, including the right "to keep and carry arms *wherever they went*." *Id.*, at 417 (emphasis added). Thus, even Chief Justice Taney recognized (albeit unenthusiastically in the case of blacks) that public carry was a component of the right to keep and bear arms—a right free blacks were often denied in antebellum America.

After the Civil War, of course, the exercise of this fundamental right by freed slaves was systematically thwarted. This Court has already recounted some of the Southern abuses violating blacks' right to keep and bear arms. See *McDonald*, 561 U. S., at 771 (noting the "systematic efforts"

made to disarm blacks); *id.*, at 845–847 (THOMAS, J., concurring in part and concurring in judgment); see also S. Exec. Doc. No. 43, 39th Cong., 1st Sess., 8 (1866) ("Pistols, old muskets, and shotguns were taken away from [freed slaves] as such weapons would be wrested from the hands of lunatics").

In the years before the 39th Congress proposed the Fourteenth Amendment, the Freedmen's Bureau regularly kept it abreast of the dangers to blacks and Union men in the postbellum South. The reports described how blacks used publicly carried weapons to defend themselves and their communities. For example, the Bureau reported that a teacher from a Freedmen's school in Maryland had written to say that, because of attacks on the school, "[b]oth the mayor and sheriff have warned the colored people to go armed to school, (which they do,)" and that the "[t]he superintendent of schools came down and brought [the teacher] a revolver" for his protection. Cong. Globe, 39th Cong., 1st Sess., 658 (1866); see also H. R. Exec. Doc. No. 68, 39th Cong., 2d Sess., 91 (1867) (noting how, during the New Orleans riots, blacks under attack "defended themselves . . . with such pistols as they had").

Witnesses before the Joint Committee on Reconstruction also described the depredations visited on Southern blacks, and the efforts they made to defend themselves. One Virginia music professor related that when "[t]wo Union men were attacked . . . they drew their revolvers and held their assailants at bay." H. R. Rep. No. 30, 39th Cong., 1st Sess., pt. 2, p. 110 (1866). An assistant commissioner to the Bureau from Alabama similarly reported that men were "robbing and disarming negroes upon the highway," H. R. Exec. Doc. No. 70, 39th Cong., 1st Sess., 297 (1866), indicating that blacks indeed carried arms publicly for their self-protection, even if not always with success. See also H. R. Exec. Doc. No. 329, 40th Cong., 2d Sess., 41 (1868) (describing a Ku Klux Klan outfit that rode "through the country

. . . robbing every one they come across of money, pistols, papers, &c."); *id.*, at 36 (noting how a black man in Tennessee had been murdered on his way to get book subscriptions, with the murderer taking, among other things, the man's pistol).

Blacks had "procured great numbers of old army muskets and revolvers, particularly in Texas," and "employed them to protect themselves" with "vigor and audacity." S. Exec. Doc. No. 43, 39th Cong., 1st Sess., at 8. Seeing that government was inadequately protecting them, "there [was] the strongest desire on the part of the freedmen to secure arms, revolvers particularly." H. R. Rep. No. 30, 39th Cong., 1st Sess., pt. 3, at 102.

On July 6, 1868, Congress extended the 1866 Freedmen's Bureau Act, see 15 Stat. 83, and reaffirmed that freedmen were entitled to the "full and equal benefit of all laws and proceedings concerning personal liberty [and] personal security . . . *including the constitutional right to keep and bear arms*." §14, 14 Stat. 176 (1866) (emphasis added). That same day, a Bureau official reported that freedmen in Kentucky and Tennessee were still constantly under threat: "No Union man or negro who attempts to take any active part in politics, or the improvement of his race, is safe a single day; and nearly all sleep upon their arms at night, and carry concealed weapons during the day." H. R. Exec. Doc. No. 329, 40th Cong., 2d Sess., at 40.

Of course, even during Reconstruction the right to keep and bear arms had limits. But those limits were consistent with a right of the public to peaceably carry handguns for self-defense. For instance, when General D. E. Sickles issued a decree in 1866 pre-empting South Carolina's Black Codes—which prohibited firearm possession by blacks—he stated: "The constitutional rights of all loyal and well-disposed inhabitants to bear arms will not be infringed; nevertheless this shall not be construed to sanction the unlawful practice of carrying concealed weapons. . . . And no

disorderly person, vagrant, or disturber of the peace, shall be allowed to bear arms." Cong. Globe, 39th Cong., 1st Sess., at 908–909; see also *McDonald*, 561 U. S., at 847–848 (opinion of THOMAS, J.).[26] Around the same time, the editors of The Loyal Georgian, a prominent black-owned newspaper, were asked by "A Colored Citizen" whether "colored persons [have] a right to own and carry fire arms." The editors responded that blacks had "the *same* right to own and carry fire arms that *other* citizens have." The Loyal Georgian, Feb. 3, 1866, p. 3, col. 4. And, borrowing language from a Freedmen's Bureau circular, the editors maintained that "[a]ny person, white or black, may be disarmed if convicted of making an improper or dangerous use of weapons," even though "no military or civil officer has the right or authority to disarm any class of people, thereby placing them at the mercy of others." *Ibid.* (quoting Circular No. 5, Freedmen's Bureau, Dec. 22, 1865); see also *McDonald*, 561 U. S., at 848–849 (opinion of THOMAS, J.).[27]

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[26] Respondents invoke General Orders No. 10, which covered the Second Military District (North and South Carolina), and provided that "[t]he practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited." Headquarters Second Military Dist., Gen. Orders No. 10 (Charleston, S. C., Apr. 11, 1867), in S. Exec. Doc. No. 14, 40th Cong., 1st Sess., 64 (1867). We put little weight on this categorical restriction given that the order also specified that a violation of this prohibition would "render the offender amenable to trial and punishment by military commission," *ibid.*, rather than a jury otherwise guaranteed by the Constitution. There is thus little indication that these military dictates were designed to align with the Constitution's usual application during times of peace.

[27] That said, Southern prohibitions on concealed carry were not always applied equally, even when under federal scrutiny. One lieutenant posted in Saint Augustine, Florida, remarked how local enforcement of concealed-carry laws discriminated against blacks: "To sentence a negro to several dollars' fine for carrying a revolver concealed upon his person, is in accordance with an ordinance of the town; but still the question naturally arises in my mind, 'Why is this poor fellow fined for an offence which is committed hourly by every other white man I meet in the streets?'" H. R. Exec. Doc. No. 57, 40th Cong., 2d Sess., 83 (1867); see

As for Reconstruction-era state regulations, there was little innovation over the kinds of public-carry restrictions that had been commonplace in the early 19th century. For instance, South Carolina in 1870 authorized the arrest of "all who go armed offensively, to the terror of the people," 1870 S. C. Acts p. 403, no. 288, §4, parroting earlier statutes that codified the common-law offense. That same year, after it cleaved from Virginia, West Virginia enacted a surety statute nearly identical to the one it inherited from Virginia. See W. Va. Code, ch. 153, §8. Also in 1870, Tennessee essentially reenacted its 1821 prohibition on the public carry of handguns but, as explained above, Tennessee courts interpreted that statute to exempt large pistols suitable for military use. See *supra*, at 46.

Respondents and the United States, however, direct our attention primarily to two late-19th-century cases in Texas. In 1871, Texas law forbade anyone from "carrying on or about his person . . . any pistol . . . unless he has reasonable grounds for fearing an unlawful attack on his person." 1871 Tex. Gen. Laws §1. The Texas Supreme Court upheld that restriction in *English* v. *State*, 35 Tex. 473 (1871). The Court reasoned that the Second Amendment, and the State's constitutional analogue, protected only those arms "as are useful and proper to an armed militia," including holster pistols, but not other kinds of handguns. *Id.*, at 474–475. Beyond that constitutional holding, the *English* court further opined that the law was not "contrary to public policy," *id.*, at 479, given that it "ma[de] all necessary exceptions" allowing deadly weapons to "be carried as means of self-defense," and therefore "fully cover[ed] all wants of society," *id.*, at 477.

Four years later, in *State* v. *Duke*, 42 Tex. 455 (1875), the Texas Supreme Court modified its analysis. The court reinterpreted Texas' State Constitution to protect not only

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also H. R. Rep. No. 16, 39th Cong., 2d Sess., 427 (1867).

military-style weapons but rather all arms "as are commonly kept, according to the customs of the people, and are appropriate for open and manly use in self-defense." *Id.*, at 458. On that understanding, the court recognized that, in addition to "holster pistol[s]," the right to bear arms covered the carry of "such pistols at least as are not adapted to being carried concealed." *Id.*, at 458–459. Nonetheless, after expanding the scope of firearms that warranted state constitutional protection, *Duke* held that requiring any pistol-bearer to have "'reasonable grounds fearing an unlawful attack on [one's] person'" was a "legitimate and highly proper" regulation of handgun carriage. *Id.*, at 456, 459–460. *Duke* thus concluded that the 1871 statute "appear[ed] to have respected the right to carry a pistol openly when needed for self-defense." *Id.*, at 459.

We acknowledge that the Texas cases support New York's proper-cause requirement, which one can analogize to Texas' "reasonable grounds" standard. But the Texas statute, and the rationales set forth in *English* and *Duke*, are outliers. In fact, only one other State, West Virginia, adopted a similar public-carry statute before 1900. See W. Va. Code, ch. 148, §7 (1887). The West Virginia Supreme Court upheld that prohibition, reasoning that *no* handguns of any kind were protected by the Second Amendment, a rationale endorsed by no other court during this period. See *State* v. *Workman*, 35 W. Va. 367, 371–374, 14 S. E. 9, 11 (1891). The Texas decisions therefore provide little insight into how postbellum courts viewed the right to carry protected arms in public.

In the end, while we recognize the support that postbellum Texas provides for respondents' view, we will not give disproportionate weight to a single state statute and a pair of state-court decisions. As in *Heller*, we will not "stake our interpretation of the Second Amendment upon a single law, in effect in a single [State], that contradicts the overwhelming weight of other evidence regarding the right to keep and

bear arms for defense" in public. 554 U. S., at 632.

5

Finally, respondents point to the slight uptick in gun regulation during the late-19th century—principally in the Western Territories. As we suggested in *Heller*, however, late-19th-century evidence cannot provide much insight into the meaning of the Second Amendment when it contradicts earlier evidence. See *id.*, at 614; *supra*, at 28.[28] Here, moreover, respondents' reliance on late-19th-century laws has several serious flaws even beyond their temporal distance from the founding.

The vast majority of the statutes that respondents invoke come from the Western Territories. Two Territories prohibited the carry of pistols in towns, cities, and villages, but seemingly permitted the carry of rifles and other long guns everywhere. See 1889 Ariz. Terr. Sess. Laws no. 13, §1, p. 16; 1869 N. M. Laws ch. 32, §§1–2, p. 72.[29] Two others prohibited the carry of *all* firearms in towns, cities, and villages, including long guns. See 1875 Wyo. Terr. Sess. Laws ch. 52, §1; 1889 Idaho Terr. Gen. Laws §1, p. 23. And one Territory completely prohibited public carry of pistols *everywhere*, but allowed the carry of "shot-guns or rifles" for certain purposes. See 1890 Okla. Terr. Stats., Art. 47, §§1–2, 5, p. 495.

These territorial restrictions fail to justify New York's

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[28] We will not address any of the 20th-century historical evidence brought to bear by respondents or their *amici*. As with their late-19th-century evidence, the 20th-century evidence presented by respondents and their *amici* does not provide insight into the meaning of the Second Amendment when it contradicts earlier evidence.

[29] The New Mexico restriction allowed an exception for individuals carrying for "the lawful defence of themselves, their families or their property, and the same being then and there threatened with danger." 1869 Terr. of N. M. Laws ch. 32, §1, p. 72. The Arizona law similarly exempted those who have "reasonable ground for fearing an unlawful attack upon his person." 1889 Ariz. Terr. Sess. Laws no. 13, §2, p. 17.

proper-cause requirement for several reasons. First, the bare existence of these localized restrictions cannot overcome the overwhelming evidence of an otherwise enduring American tradition permitting public carry. For starters, "[t]he very transitional and temporary character of the American [territorial] system" often "permitted legislative improvisations which might not have been tolerated in a permanent setup." E. Pomeroy, The Territories and the United States 1861–1890, p. 4 (1947). These territorial "legislative improvisations," which conflict with the Nation's earlier approach to firearm regulation, are most unlikely to reflect "the origins and continuing significance of the Second Amendment" and we do not consider them "instructive." *Heller*, 554 U. S., at 614.

The exceptional nature of these western restrictions is all the more apparent when one considers the miniscule territorial populations who would have lived under them. To put that point into perspective, one need not look further than the 1890 census. Roughly 62 million people lived in the United States at that time. Arizona, Idaho, New Mexico, Oklahoma, and Wyoming combined to account for only 420,000 of those inhabitants—about two-thirds of 1% of the population. See Dept. of Interior, Compendium of the Eleventh Census: 1890, Part I.–Population 2 (1892). Put simply, these western restrictions were irrelevant to more than 99% of the American population. We have already explained that we will not stake our interpretation of the Second Amendment upon a law in effect in a single State, or a single city, "that contradicts the overwhelming weight of other evidence regarding the right to keep and bear arms" in public for self-defense. *Heller*, 554 U. S., at 632; see *supra,* at 57–58. Similarly, we will not stake our interpretation on a handful of temporary territorial laws that were enacted nearly a century after the Second Amendment's adoption, governed less than 1% of the American population, and also "contradic[t] the overwhelming weight" of

other, more contemporaneous historical evidence. *Heller*, 554 U. S., at 632.

Second, because these territorial laws were rarely subject to judicial scrutiny, we do not know the basis of their perceived legality. When States generally prohibited both open and concealed carry of handguns in the late-19th century, state courts usually upheld the restrictions when they exempted army revolvers, or read the laws to exempt at least that category of weapons. See, *e.g.*, *Haile* v. *State*, 38 Ark. 564, 567 (1882); *Wilson* v. *State*, 33 Ark. 557, 560 (1878); *Fife* v. *State*, 31 Ark. 455, 461 (1876); *State* v. *Wilburn*, 66 Tenn. 57, 60 (1872); *Andrews*, 50 Tenn., at 187.[30] Those state courts that upheld broader prohibitions without qualification generally operated under a fundamental misunderstanding of the right to bear arms, as expressed in *Heller*. For example, the Kansas Supreme Court upheld a complete ban on public carry enacted by the city of Salina in 1901 based on the rationale that the Second Amendment protects only "the right to bear arms as a member of the state militia, or some other military organization provided for by law." *Salina* v. *Blaksley*, 72 Kan. 230, 232, 83 P. 619, 620 (1905). That was clearly erroneous. See *Heller*, 554 U. S., at 592.

Absent any evidence explaining *why* these unprecedented prohibitions on *all* public carry were understood to comport with the Second Amendment, we fail to see how they inform "the origins and continuing significance of the Amendment." *Id.*, at 614; see also The Federalist No. 37,

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[30] Many other state courts during this period continued the antebellum tradition of upholding concealed carry regimes that seemingly provided for open carry. See, *e.g.*, *State* v. *Speller*, 86 N. C. 697 (1882); *Chatteaux* v. *State*, 52 Ala. 388 (1875); *Eslava* v. *State*, 49 Ala. 355 (1873); *State* v. *Shelby*, 90 Mo. 302, 2 S. W. 468 (1886); *Carroll* v. *State*, 28 Ark. 99 (1872); cf. *Robertson* v. *Baldwin*, 165 U. S. 275, 281–282 (1897) (remarking in dicta that "the right of the people to keep and bear arms . . . is not infringed by laws prohibiting the carrying of concealed weapons").

at 229 (explaining that the meaning of ambiguous constitutional provisions can be "liquidated and ascertained *by a series of particular discussions and adjudications*" (emphasis added)).

Finally, these territorial restrictions deserve little weight because they were—consistent with the transitory nature of territorial government—short lived. Some were held unconstitutional shortly after passage. See *In re Brickey*, 8 Idaho 597, 70 P. 609 (1902). Others did not survive a Territory's admission to the Union as a State. See Wyo. Rev. Stat., ch. 3, §5051 (1899) (1890 law enacted upon statehood prohibiting public carry only when combined with "intent, or avowed purpose, of injuring [one's] fellow-man"). Thus, they appear more as passing regulatory efforts by not-yet-mature jurisdictions on the way to statehood, rather than part of an enduring American tradition of state regulation.

Beyond these Territories, respondents identify one Western State—Kansas—that instructed cities with more than 15,000 inhabitants to pass ordinances prohibiting the public carry of firearms. See 1881 Kan. Sess. Laws §§1, 23, pp. 79, 92.[31] By 1890, the only cities meeting the population threshold were Kansas City, Topeka, and Wichita. See Compendium of the Eleventh Census: 1890, at 442–452. Even if each of these three cities enacted prohibitions by 1890, their combined population (93,000) accounted for only 6.5% of Kansas' total population. *Ibid.* Although other Kansas cities may also have restricted public carry unilaterally,[32] the lone late-19th-century state law respondents

[31] In 1875, Arkansas prohibited the public carry of all pistols. See 1875 Ark. Acts p. 156, §1. But this categorical prohibition was also short lived. About six years later, Arkansas exempted "pistols as are used in the army or navy of the United States," so long as they were carried "uncovered, and in [the] hand." 1881 Ark. Acts p. 191, no. 96, §§1, 2.

[32] In 1879, Salina, Kansas, prohibited the carry of pistols but broadly exempted "cases when any person carrying [a pistol] is engaged in the pursuit of any lawful business, calling or employment" and the circumstances were "such as to justify a prudent man in carrying such weapon,

identify does not prove that Kansas meaningfully restricted public carry, let alone demonstrate a broad tradition of States doing so.

* * *

At the end of this long journey through the Anglo-American history of public carry, we conclude that respondents have not met their burden to identify an American tradition justifying the State's proper-cause requirement. The Second Amendment guaranteed to "all Americans" the right to bear commonly used arms in public subject to certain reasonable, well-defined restrictions. *Heller*, 554 U. S., at 581. Those restrictions, for example, limited the intent for which one could carry arms, the manner by which one carried arms, or the exceptional circumstances under which one could not carry arms, such as before justices of the peace and other government officials. Apart from a few late-19th-century outlier jurisdictions, American governments simply have not broadly prohibited the public carry of commonly used firearms for personal defense. Nor, subject to a few late-in-time outliers, have American governments required law-abiding, responsible citizens to "demonstrate a special need for self-protection distinguishable from that of the general community" in order to carry arms in public. *Klenosky*, 75 App. Div., at 793, 428 N. Y. S. 2d, at 257.

IV

The constitutional right to bear arms in public for self-defense is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees." *McDonald*, 561 U. S., at 780 (plurality opinion). We know of no other constitutional right that an individual may exercise only after demonstrating to government offic-

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for the defense of his person, property or family." Salina, Kan., Rev. Ordinance No. 268, §2.

ers some special need. That is not how the First Amendment works when it comes to unpopular speech or the free exercise of religion. It is not how the Sixth Amendment works when it comes to a defendant's right to confront the witnesses against him. And it is not how the Second Amendment works when it comes to public carry for self-defense.

New York's proper-cause requirement violates the Fourteenth Amendment in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms. We therefore reverse the judgment of the Court of Appeals and remand the case for further proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 20–843

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL., PETITIONERS *v.* KEVIN P. BRUEN, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 23, 2022]

JUSTICE ALITO, concurring.

I join the opinion of the Court in full but add the following comments in response to the dissent.

I

Much of the dissent seems designed to obscure the specific question that the Court has decided, and therefore it may be helpful to provide a succinct summary of what we have actually held. In *District of Columbia* v. *Heller*, 554 U. S. 570 (2008), the Court concluded that the Second Amendment protects the right to keep a handgun in the home for self-defense. *Heller* found that the Amendment codified a preexisting right and that this right was regarded at the time of the Amendment's adoption as rooted in "'the natural right of resistance and self-preservation.'" *Id.,* at 594. "[T]he inherent right of self-defense," *Heller* explained, is "central to the Second Amendment right." *Id.*, at 628.

Although *Heller* concerned the possession of a handgun in the home, the key point that we decided was that "the people," not just members of the "militia," have the right to use a firearm to defend themselves. And because many people face a serious risk of lethal violence when they venture

outside their homes, the Second Amendment was understood at the time of adoption to apply under those circumstances. The Court's exhaustive historical survey establishes that point very clearly, and today's decision therefore holds that a State may not enforce a law, like New York's Sullivan Law, that effectively prevents its law-abiding residents from carrying a gun for this purpose.

That is all we decide. Our holding decides nothing about who may lawfully possess a firearm or the requirements that must be met to buy a gun. Nor does it decide anything about the kinds of weapons that people may possess. Nor have we disturbed anything that we said in *Heller* or *McDonald* v. *Chicago*, 561 U. S. 742 (2010), about restrictions that may be imposed on the possession or carrying of guns.

In light of what we have actually held, it is hard to see what legitimate purpose can possibly be served by most of the dissent's lengthy introductory section. See *post*, at 1–8 (opinion of BREYER, J.). Why, for example, does the dissent think it is relevant to recount the mass shootings that have occurred in recent years? *Post*, at 4–5. Does the dissent think that laws like New York's prevent or deter such atrocities? Will a person bent on carrying out a mass shooting be stopped if he knows that it is illegal to carry a handgun outside the home? And how does the dissent account for the fact that one of the mass shootings near the top of its list took place in Buffalo? The New York law at issue in this case obviously did not stop that perpetrator.

What is the relevance of statistics about the use of guns to commit suicide? See *post*, at 5–6. Does the dissent think that a lot of people who possess guns in their homes will be stopped or deterred from shooting themselves if they cannot lawfully take them outside?

The dissent cites statistics about the use of guns in domestic disputes, see *post,* at 5, but it does not explain why these statistics are relevant to the question presented in

this case. How many of the cases involving the use of a gun in a domestic dispute occur outside the home, and how many are prevented by laws like New York's?

The dissent cites statistics on children and adolescents killed by guns, see *post,* at 1, 4, but what does this have to do with the question whether an adult who is licensed to possess a handgun may be prohibited from carrying it outside the home? Our decision, as noted, does not expand the categories of people who may lawfully possess a gun, and federal law generally forbids the possession of a handgun by a person who is under the age of 18, 18 U. S. C. §§922(x)(2)–(5), and bars the sale of a handgun to anyone under the age of 21, §§922(b)(1), (c)(1).[1]

The dissent cites the large number of guns in private hands—nearly 400 million—but it does not explain what this statistic has to do with the question whether a person who already has the right to keep a gun in the home for self-

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[1] The dissent makes no effort to explain the relevance of most of the incidents and statistics cited in its introductory section (*post*, at 1–8) (opinion of BREYER, J.). Instead, it points to studies (summarized later in its opinion) regarding the effects of "shall issue" licensing regimes on rates of homicide and other violent crimes. I note only that the dissent's presentation of such studies is one-sided. See RAND Corporation, Effects of Concealed-Carry Laws on Violent Crime (Apr. 22, 2022), https://www.rand.org/research/gun-policy/analysis/concealed-carry/violent-crime-html; see also Brief for William English et al. as *Amici Curiae* 3 ("The overwhelming weight of statistical analysis on the effects of [right-to-carry] laws on violent crime concludes that RTC laws do not result in any statistically significant increase in violent crime rates"); Brief for Arizona et al. as *Amici Curiae* 12 ("[P]opulation-level data on licensed carry is extensive, and the weight of the evidence confirms that objective, non-discriminatory licensed-carry laws have two results: (1) statistically significant reductions in some types of violent crime, or (2) no statistically significant effect on overall violent crime"); Brief for Law Enforcement Groups et al. as *Amici Curiae* 12 ("[O]ver the period 1991–2019 the inventory of firearms more than doubled; the number of concealed carry permits increased by at least sevenfold," but "murder rates fell by almost half, from 9.8 per 100,000 people in 1991 to 5.0 per 100,000 in 2019" and "[v]iolent crimes plummeted by over half").

defense is likely to be deterred from acquiring a gun by the knowledge that the gun cannot be carried outside the home. See *post*, at 3. And while the dissent seemingly thinks that the ubiquity of guns and our country's high level of gun violence provide reasons for sustaining the New York law, the dissent appears not to understand that it is these very facts that cause law-abiding citizens to feel the need to carry a gun for self-defense.

No one apparently knows how many of the 400 million privately held guns are in the hands of criminals, but there can be little doubt that many muggers and rapists are armed and are undeterred by the Sullivan Law. Each year, the New York City Police Department (NYPD) confiscates thousands of guns,[2] and it is fair to assume that the number of guns seized is a fraction of the total number held unlawfully. The police cannot disarm every person who acquires a gun for use in criminal activity; nor can they provide bodyguard protection for the State's nearly 20 million residents or the 8.8 million people who live in New York City. Some of these people live in high-crime neighborhoods. Some must traverse dark and dangerous streets in order to reach their homes after work or other evening activities. Some are members of groups whose members feel especially vulnerable. And some of these people reasonably believe that unless they can brandish or, if necessary, use a handgun in the case of attack, they may be murdered, raped, or suffer some other serious injury.

Ordinary citizens frequently use firearms to protect

[2] NYPD statistics show approximately 6,000 illegal guns were seized in 2021. A. Southall, This Police Captain's Plan To Stop Gun Violence Uses More Than Handcuffs, N. Y. Times, Feb. 4, 2022. According to recent remarks by New York City Mayor Eric Adams, the NYPD has confiscated 3,000 firearms in 2022 so far. City of New York, Transcript: Mayor Eric Adams Makes Announcement About NYPD Gun Violence Suppression Division (June 6, 2022), https://www1.nyc.gov/office-of-the-mayor/news/369-22/trascript-mayor-eric-adams-makes-announcement-nypd-gun-violence-suppression-division.

themselves from criminal attack. According to survey data, defensive firearm use occurs up to 2.5 million times per year. Brief for Law Enforcement Groups et al. as *Amici Curiae* 5. A Centers for Disease Control and Prevention report commissioned by former President Barack Obama reviewed the literature surrounding firearms use and noted that "[s]tudies that directly assessed the effect of actual defensive uses of guns . . . have found consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies." Institute of Medicine and National Research Council, Priorities for Research To Reduce the Threat of Firearm-Related Violence 15–16 (2013) (referenced in Brief for Independent Women's Law Center as *Amicus Curiae* 19–20).

Many of the *amicus* briefs filed in this case tell the story of such people. Some recount incidents in which a potential victim escaped death or serious injury only because carrying a gun for self-defense was allowed in the jurisdiction where the incident occurred. Here are two examples. One night in 1987, Austin Fulk, a gay man from Arkansas, "was chatting with another man in a parking lot when four gay bashers charged them with baseball bats and tire irons. Fulk's companion drew his pistol from under the seat of his car, brandished it at the attackers, and fired a single shot over their heads, causing them to flee and saving the would-be victims from serious harm." Brief for DC Project Foundation et al. as *Amici Curiae* 31 (footnote omitted).

On July 7, 2020, a woman was brutally assaulted in the parking lot of a fast food restaurant in Jefferson City, Tennessee. Her assailant slammed her to the ground and began to drag her around while strangling her. She was saved when a bystander who was lawfully carrying a pistol pointed his gun at the assailant, who then stopped the assault and the assailant was arrested. *Ibid.* (citing C. Wethington, Jefferson City Police: Legally Armed Good Samaritan Stops Assault, ABC News 6, WATE.com (July 9, 2020),

https://www.wate.com/news/local-news/jefferson-city-police-legally-armed-good-samaritan-stops-assault/).

In other incidents, a law-abiding person was driven to violate the Sullivan Law because of fear of victimization and as a result was arrested, prosecuted, and incarcerated. See Brief for Black Attorneys of Legal Aid et al. as *Amici Curiae* 22–25.

Some briefs were filed by members of groups whose members feel that they have special reasons to fear attacks. See Brief for Asian Pacific American Gun Owners Association as *Amicus Curiae*; Brief for DC Project Foundation et al. as *Amici Curiae*; Brief for Black Guns Matter et al. as *Amici Curiae*; Brief for Independent Women's Law Center as *Amicus Curiae*; Brief for National African American Gun Association, Inc., as *Amicus Curiae*.

I reiterate: All that we decide in this case is that the Second Amendment protects the right of law-abiding people to carry a gun outside the home for self-defense and that the Sullivan Law, which makes that virtually impossible for most New Yorkers, is unconstitutional.

II

This brings me to Part II–B of the dissent, *post*, at 11–21, which chastises the Court for deciding this case without a trial and factual findings about just how hard it is for a law-abiding New Yorker to get a carry permit. The record before us, however, tells us everything we need on this score. At argument, New York's solicitor general was asked about an ordinary person who works at night and must walk through dark and crime-infested streets to get home. Tr. of Oral Arg. 66–67. The solicitor general was asked whether such a person would be issued a carry permit if she pleaded: "[T]here have been a lot of muggings in this area, and I am scared to death." *Id.,* at 67. The solicitor general's candid answer was "in general," no. *Ibid.* To get a permit, the applicant would have to show more—for example, that she

had been singled out for attack. *Id.,* at 65; see also *id.,* at 58. A law that dictates that answer violates the Second Amendment.

III

My final point concerns the dissent's complaint that the Court relies too heavily on history and should instead approve the sort of "means-end" analysis employed in this case by the Second Circuit. Under that approach, a court, in most cases, assesses a law's burden on the Second Amendment right and the strength of the State's interest in imposing the challenged restriction. See *post*, at 20. This mode of analysis places no firm limits on the ability of judges to sustain any law restricting the possession or use of a gun. Two examples illustrate the point.

The first is the Second Circuit's decision in a case the Court decided two Terms ago, *New York State Rifle & Pistol Assn., Inc.* v. *City of New York*, 590 U. S. ___ (2020). The law in that case affected New York City residents who had been issued permits to keep a gun in the home for self-defense. The city recommended that these permit holders practice at a range to ensure that they are able to handle their guns safely, but the law prohibited them from taking their guns to any range other than the seven that were spread around the city's five boroughs. Even if such a person unloaded the gun, locked it in the trunk of a car, and drove to the nearest range, that person would violate the law if the nearest range happened to be outside city limits. The Second Circuit held that the law was constitutional, concluding, among other things, that the restriction was substantially related to the city's interests in public safety and crime prevention. See *New York State Rifle & Pistol Assn., Inc.* v. *New York*, 883 F. 3d 45, 62–64 (2018). But after we agreed to review that decision, the city repealed the law and admitted that it did not actually have any beneficial effect on public safety. See N. Y. Penal Law Ann.

§400.00(6) (West Cum. Supp. 2022); Suggestion of Mootness in *New York State Rifle & Pistol Assn., Inc.* v. *City of New York*, O. T. 2019, No. 18–280, pp. 5–7.

Exhibit two is the dissent filed in *Heller* by JUSTICE BREYER, the author of today's dissent. At issue in *Heller* was an ordinance that made it impossible for any District of Columbia resident to keep a handgun in the home for self-defense. See 554 U. S., at 574–575. Even the respondent, who carried a gun on the job while protecting federal facilities, did not qualify. *Id.,* at 575–576. The District of Columbia law was an extreme outlier; only a few other jurisdictions in the entire country had similar laws. Nevertheless, JUSTICE BREYER's dissent, while accepting for the sake of argument that the Second Amendment protects the right to keep a handgun in the home, concluded, based on essentially the same test that today's dissent defends, that the District's complete ban was constitutional. See *id.,* at 689, 722 (under "an interest-balancing inquiry. . ." the dissent would "conclude that the District's measure is a proportionate, not a disproportionate, response to the compelling concerns that led the District to adopt it").

Like that dissent in *Heller*, the real thrust of today's dissent is that guns are bad and that States and local jurisdictions should be free to restrict them essentially as they see fit.[3] That argument was rejected in *Heller*, and while the dissent protests that it is not rearguing *Heller*, it proceeds to do just that. See *post*, at 25–28.

Heller correctly recognized that the Second Amendment

[3] If we put together the dissent in this case and JUSTICE BREYER's *Heller* dissent, States and local governments would essentially be free to ban the possession of all handguns, and it is unclear whether its approach would impose any significant restrictions on laws regulating long guns. The dissent would extend a very large measure of deference to legislation implicating Second Amendment rights, but it does not claim that such deference is appropriate when any other constitutional right is at issue.

codifies the right of ordinary law-abiding Americans to protect themselves from lethal violence by possessing and, if necessary, using a gun. In 1791, when the Second Amendment was adopted, there were no police departments, and many families lived alone on isolated farms or on the frontiers. If these people were attacked, they were on their own. It is hard to imagine the furor that would have erupted if the Federal Government and the States had tried to take away the guns that these people needed for protection.

Today, unfortunately, many Americans have good reason to fear that they will be victimized if they are unable to protect themselves. And today, no less than in 1791, the Second Amendment guarantees their right to do so.

SUPREME COURT OF THE UNITED STATES

No. 20–843

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL., PETITIONERS *v.* KEVIN P. BRUEN, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 23, 2022]

JUSTICE KAVANAUGH, with whom THE CHIEF JUSTICE joins, concurring.

The Court employs and elaborates on the text, history, and tradition test that *Heller* and *McDonald* require for evaluating whether a government regulation infringes on the Second Amendment right to possess and carry guns for self-defense. See *District of Columbia* v. *Heller*, 554 U. S. 570 (2008); *McDonald* v. *Chicago*, 561 U. S. 742 (2010). Applying that test, the Court correctly holds that New York's outlier "may-issue" licensing regime for carrying handguns for self-defense violates the Second Amendment.

I join the Court's opinion, and I write separately to underscore two important points about the limits of the Court's decision.

First, the Court's decision does not prohibit States from imposing licensing requirements for carrying a handgun for self-defense. In particular, the Court's decision does not affect the existing licensing regimes—known as "shall-issue" regimes—that are employed in 43 States.

The Court's decision addresses only the unusual discretionary licensing regimes, known as "may-issue" regimes, that are employed by 6 States including New York. As the

Court explains, New York's outlier may-issue regime is constitutionally problematic because it grants open-ended discretion to licensing officials and authorizes licenses only for those applicants who can show some special need apart from self-defense. Those features of New York's regime—the unchanneled discretion for licensing officials and the special-need requirement—in effect deny the right to carry handguns for self-defense to many "ordinary, law-abiding citizens." *Ante*, at 1; see also *Heller*, 554 U. S., at 635. The Court has held that "individual self-defense is 'the *central component*' of the Second Amendment right." *McDonald*, 561 U. S., at 767 (quoting *Heller*, 554 U. S., at 599). New York's law is inconsistent with the Second Amendment right to possess and carry handguns for self-defense.

By contrast, 43 States employ objective shall-issue licensing regimes. Those shall-issue regimes may require a license applicant to undergo fingerprinting, a background check, a mental health records check, and training in firearms handling and in laws regarding the use of force, among other possible requirements. Brief for Arizona et al. as *Amici Curiae* 7. Unlike New York's may-issue regime, those shall-issue regimes do not grant open-ended discretion to licensing officials and do not require a showing of some special need apart from self-defense. As petitioners acknowledge, shall-issue licensing regimes are constitutionally permissible, subject of course to an as-applied challenge if a shall-issue licensing regime does not operate in that manner in practice. Tr. of Oral Arg. 50–51.

Going forward, therefore, the 43 States that employ objective shall-issue licensing regimes for carrying handguns for self-defense may continue to do so. Likewise, the 6 States including New York potentially affected by today's decision may continue to require licenses for carrying handguns for self-defense so long as those States employ objective licensing requirements like those used by the 43 shall-issue States.

Second, as *Heller* and *McDonald* established and the Court today again explains, the Second Amendment "is neither a regulatory straightjacket nor a regulatory blank check." *Ante*, at 21. Properly interpreted, the Second Amendment allows a "variety" of gun regulations. *Heller*, 554 U. S., at 636. As Justice Scalia wrote in his opinion for the Court in *Heller*, and JUSTICE ALITO reiterated in relevant part in the principal opinion in *McDonald*:

> "Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. . . . [N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. [Footnote 26: We identify these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive.]
>
> "We also recognize another important limitation on the right to keep and carry arms. *Miller* said, as we have explained, that the sorts of weapons protected were those in common use at the time. We think that limitation is fairly supported by the historical tradition of prohibiting the carrying of dangerous and unusual weapons." *Heller*, 554 U. S., at 626–627, and n. 26 (citations and quotation marks omitted); see also *McDonald*, 561 U. S., at 786 (plurality opinion).

* * *

With those additional comments, I join the opinion of the Court.

SUPREME COURT OF THE UNITED STATES

No. 20–843

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL., PETITIONERS *v.* KEVIN P. BRUEN, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 23, 2022]

JUSTICE BARRETT, concurring.

I join the Court's opinion in full. I write separately to highlight two methodological points that the Court does not resolve. First, the Court does not conclusively determine the manner and circumstances in which postratification practice may bear on the original meaning of the Constitution. See *ante*, at 24–29. Scholars have proposed competing and potentially conflicting frameworks for this analysis, including liquidation, tradition, and precedent. See, *e.g.*, Nelson, Originalism and Interpretive Conventions, 70 U. Chi. L. Rev. 519 (2003); McConnell, Time, Institutions, and Interpretation, 95 B. U. L. Rev. 1745 (2015). The limits on the permissible use of history may vary between these frameworks (and between different articulations of each one). To name just a few unsettled questions: How long after ratification may subsequent practice illuminate original public meaning? Cf. *McCulloch* v. *Maryland*, 4 Wheat. 316, 401 (1819) (citing practice "introduced at a very early period of our history"). What form must practice take to carry weight in constitutional analysis? See *Myers* v. *United States*, 272 U. S. 52, 175 (1926) (citing a "legislative exposition of the Constitution . . . acquiesced in for a long term of years"). And may practice settle the meaning of individual

rights as well as structural provisions? See Baude, Constitutional Liquidation, 71 Stan. L. Rev. 1, 49–51 (2019) (canvassing arguments). The historical inquiry presented in this case does not require us to answer such questions, which might make a difference in another case. See *ante*, at 17–19.

Second and relatedly, the Court avoids another "ongoing scholarly debate on whether courts should primarily rely on the prevailing understanding of an individual right when the Fourteenth Amendment was ratified in 1868" or when the Bill of Rights was ratified in 1791. *Ante*, at 29. Here, the lack of support for New York's law in either period makes it unnecessary to choose between them. But if 1791 is the benchmark, then New York's appeals to Reconstruction-era history would fail for the independent reason that this evidence is simply too late (in addition to too little). Cf. *Espinoza* v. *Montana Dept. of Revenue*, 591 U. S. ___, ___–___ (2020) (slip op., at 15–16) (a practice that "arose in the second half of the 19th century . . . cannot by itself establish an early American tradition" informing our understanding of the First Amendment). So today's decision should not be understood to endorse freewheeling reliance on historical practice from the mid-to-late 19th century to establish the original meaning of the Bill of Rights. On the contrary, the Court is careful to caution "against giving postenactment history more weight than it can rightly bear." *Ante*, at 26.

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 23, 2022]

JUSTICE BREYER, with whom JUSTICE SOTOMAYOR and JUSTICE KAGAN join, dissenting.

In 2020, 45,222 Americans were killed by firearms. See Centers for Disease Control and Prevention, Fast Facts: Firearm Violence Prevention (last updated May 4, 2022) (CDC, Fast Facts), https://www.cdc.gov/violenceprevention/firearms/fastfact.html. Since the start of this year (2022), there have been 277 reported mass shootings—an average of more than one per day. See Gun Violence Archive (last visited June 20, 2022), https://www.gunviolencearchive.org. Gun violence has now surpassed motor vehicle crashes as the leading cause of death among children and adolescents. J. Goldstick, R. Cunningham, & P. Carter, Current Causes of Death in Children and Adolescents in the United States, 386 New England J. Med. 1955 (May 19, 2022) (Goldstick).

Many States have tried to address some of the dangers of gun violence just described by passing laws that limit, in various ways, who may purchase, carry, or use firearms of different kinds. The Court today severely burdens States' efforts to do so. It invokes the Second Amendment to strike down a New York law regulating the public carriage of con-

cealed handguns. In my view, that decision rests upon several serious mistakes.

First, the Court decides this case on the basis of the pleadings, without the benefit of discovery or an evidentiary record. As a result, it may well rest its decision on a mistaken understanding of how New York's law operates in practice. Second, the Court wrongly limits its analysis to focus nearly exclusively on history. It refuses to consider the government interests that justify a challenged gun regulation, regardless of how compelling those interests may be. The Constitution contains no such limitation, and neither do our precedents. Third, the Court itself demonstrates the practical problems with its history-only approach. In applying that approach to New York's law, the Court fails to correctly identify and analyze the relevant historical facts. Only by ignoring an abundance of historical evidence supporting regulations restricting the public carriage of firearms can the Court conclude that New York's law is not "consistent with the Nation's historical tradition of firearm regulation." See *ante,* at 15.

In my view, when courts interpret the Second Amendment, it is constitutionally proper, indeed often necessary, for them to consider the serious dangers and consequences of gun violence that lead States to regulate firearms. The Second Circuit has done so and has held that New York's law does not violate the Second Amendment. See *Kachalsky* v. *County of Westchester*, 701 F. 3d 81, 97–99, 101 (2012). I would affirm that holding. At a minimum, I would not strike down the law based only on the pleadings, as the Court does today—without first allowing for the development of an evidentiary record and without considering the State's compelling interest in preventing gun violence. I respectfully dissent.

I

The question before us concerns the extent to which the

Second Amendment prevents democratically elected officials from enacting laws to address the serious problem of gun violence. And yet the Court today purports to answer that question without discussing the nature or severity of that problem.

In 2017, there were an estimated 393.3 million civilian-held firearms in the United States, or about 120 firearms per 100 people. A. Karp, Estimating Global Civilian-Held Firearms Numbers, Small Arms Survey 4 (June 2018), https://www.smallarmssurvey.org/sites/default/files/resources/SAS-BP-Civilian-Firearms-Numbers.pdf. That is more guns per capita than in any other country in the world. *Ibid.* (By comparison, Yemen is second with about 52.8 firearms per 100 people—less than half the per capita rate in the United States—and some countries, like Indonesia and Japan, have fewer than one firearm per 100 people. *Id.,* at 3–4.)

Unsurprisingly, the United States also suffers a disproportionately high rate of firearm-related deaths and injuries. Cf. Brief for Educational Fund To Stop Gun Violence et al. as *Amici Curiae* 17–18 (Brief for Educational Fund) (citing studies showing that, within the United States, "states that rank among the highest in gun ownership also rank among the highest in gun deaths" while "states with lower rates of gun ownership have lower rates of gun deaths"). In 2015, approximately 36,000 people were killed by firearms nationwide. M. Siegel et al., Easiness of Legal Access to Concealed Firearm Permits and Homicide Rates in the United States, 107 Am. J. Pub. Health 1923 (2017). Of those deaths, 22,018 (or about 61%) were suicides, 13,463 (37%) were homicides, and 489 (1%) were unintentional injuries. *Ibid.* On top of that, firearms caused an average of 85,694 emergency room visits for nonfatal injuries each year between 2009 and 2017. E. Kaufman et al., Epidemiological Trends in Fatal and Nonfatal Firearm Injuries in the US, 2009–2017, 181 JAMA Internal Medicine

237 (2021) (Kaufman).

Worse yet, gun violence appears to be on the rise. By 2020, the number of firearm-related deaths had risen to 45,222, CDC, Fast Facts, or by about 25% since 2015. That means that, in 2020, an average of about 124 people died from gun violence every day. *Ibid.* As I mentioned above, gun violence has now become the leading cause of death in children and adolescents, surpassing car crashes, which had previously been the leading cause of death in that age group for over 60 years. Goldstick 1955; J. Bates, Guns Became the Leading Cause of Death for American Children and Teens in 2020, Time, Apr. 27, 2022, https://www.time.com/6170864/cause-of-death-children-guns/. And the consequences of gun violence are borne disproportionately by communities of color, and Black communities in particular. See CDC, Age-Adjusted Rates of Firearm-Related Homicide, by Race, Hispanic Origin, and Sex—National Vital Statistics System, United States, 2019, at 1491 (Oct. 22, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7042a6-H.pdf (documenting 34.9 firearm-related homicides per 100,000 population for non-Hispanic Black men in 2019, compared to 7.7 such homicides per 100,000 population for men of all races); S. Kegler et al., CDC, *Vital Signs*: Changes in Firearm Homicide and Suicide Rates—United States, 2019–2020, at 656–658 (May 13, 2022), https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7119e1-H.pdf.

The dangers posed by firearms can take many forms. Newspapers report mass shootings occurring at an entertainment district in Philadelphia, Pennsylvania (3 dead and 11 injured); an elementary school in Uvalde, Texas (21 dead); a supermarket in Buffalo, New York (10 dead and 3 injured); a series of spas in Atlanta, Georgia (8 dead); a busy street in an entertainment district of Dayton, Ohio (9 dead and 17 injured); a nightclub in Orlando, Florida (50 dead and 53 injured); a church in Charleston, South Carolina (9 dead); a movie theater in Aurora, Colorado (12 dead and 50

injured); an elementary school in Newtown, Connecticut (26 dead); and many, many more. See, *e.g.,* R. Todt, 3 Dead, 11 Wounded in Philadelphia Shooting on Busy Street, Washington Post, June 5, 2022; A. Hernández, J. Slater, D. Barrett, & S. Foster-Frau, At Least 19 Children, 2 Teachers Killed at Texas Elementary School, Washington Post, May 25, 2022; A. Joly, J. Slater, D. Barrett, & A. Hernandez, 10 Killed in Racially Motivated Shooting at Buffalo Grocery Store, Washington Post, May 14, 2022; C. McWhirter & V. Bauerlein, Atlanta-Area Shootings at Spas Leave Eight Dead, Wall Street Journal, Mar. 17, 2021; A. Hassan, Dayton Gunman Shot 26 People in 32 Seconds, Police Timeline Reveals, N. Y. Times, Aug. 13, 2019; L. Alvarez & R. Pérez-Peña, Orlando Gunman Attacks Gay Nightclub, Leaving 50 Dead, N. Y. Times, June 12, 2016; J. Horowitz, N. Corasaniti, & A. Southall, Nine Killed in Shooting at Black Church in Charleston, N. Y. Times, June 17, 2015; R. Lin, Gunman Kills 12 at 'Dark Knight Rises' Screening in Colorado, L. A. Times, July 20, 2012; J. Barron, Nation Reels After Gunman Massacres 20 Children at School in Connecticut, N. Y. Times, Dec. 14, 2012. Since the start of this year alone (2022), there have already been 277 reported mass shootings—an average of more than one per day. Gun Violence Archive; see also Gun Violence Archive, General Methodology, https://www.gunviolencearchive.org/methodology (defining mass shootings to include incidents in which at least four victims are shot, not including the shooter).

And mass shootings are just one part of the problem. Easy access to firearms can also make many other aspects of American life more dangerous. Consider, for example, the effect of guns on road rage. In 2021, an average of 44 people each month were shot and either killed or wounded in road rage incidents, double the annual average between 2016 and 2019. S. Burd-Sharps & K. Bistline, Everytown for Gun Safety, Reports of Road Rage Shootings Are on the Rise (Apr. 4, 2022), https://www.everytownresearch.org/reports-

of-road-rage-shootings-are-on-the-rise/; see also J. Donohue, A. Aneja, & K. Weber, Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis, 16 J. Empirical Legal Studies 198, 204 (2019). Some of those deaths might have been avoided if there had not been a loaded gun in the car. See *ibid.*; Brief for American Bar Association as *Amicus Curiae* 17–18; Brief for Educational Fund 20–23 (citing studies showing that the presence of a firearm is likely to increase aggression in both the person carrying the gun and others who see it).

The same could be said of protests: A study of 30,000 protests between January 2020 and June 2021 found that armed protests were nearly six times more likely to become violent or destructive than unarmed protests. Everytown for Gun Safety, Armed Assembly: Guns, Demonstrations, and Political Violence in America (Aug. 23, 2021), https://www.everytownresearch.org/report/armed-assembly-guns-demonstrations-and-political-violence-in-america/ (finding that 16% of armed protests turned violent, compared to less than 3% of unarmed protests). Or domestic disputes: Another study found that a woman is five times more likely to be killed by an abusive partner if that partner has access to a gun. Brief for Educational Fund 8 (citing A. Zeoli, R. Malinski, & B. Turchan, Risks and Targeted Interventions: Firearms in Intimate Partner Violence, 38 Epidemiologic Revs. 125 (2016); J. Campbell et al., Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study, 93 Am. J. Pub. Health 1089, 1092 (2003)). Or suicides: A study found that men who own handguns are three times as likely to commit suicide than men who do not and women who own handguns are seven times as likely to commit suicide than women who do not. D. Studdert et al., Handgun Ownership and Suicide in California, 382 New England J. Med. 2220, 2224 (June 4, 2020).

Consider, too, interactions with police officers. The presence of a gun in the hands of a civilian poses a risk to both officers and civilians. *Amici* prosecutors and police chiefs tell us that most officers who are killed in the line of duty are killed by firearms; they explain that officers in States with high rates of gun ownership are three times as likely to be killed in the line of duty as officers in States with low rates of gun ownership. Brief for Prosecutors Against Gun Violence as *Amicus Curiae* 23–24; Brief for Former Major City Police Chiefs as *Amici Curiae* 13–14, and n. 21, (citing D. Swedler, M. Simmons, F. Dominici, & D. Hemenway, Firearm Prevalence and Homicides of Law Enforcement Officers in the United States, 105 Am. J. Pub. Health 2042, 2045 (2015)). They also say that States with the highest rates of gun ownership report four times as many fatal shootings of civilians by police officers compared to States with the lowest rates of gun ownership. Brief for Former Major City Police Chiefs as *Amici Curiae* 16 (citing D. Hemenway, D. Azrael, A. Connor, & M. Miller, Variation in Rates of Fatal Police Shootings Across US States: The Role of Firearm Availability, 96 J. Urb. Health 63, 67 (2018)).

These are just some examples of the dangers that firearms pose. There is, of course, another side to the story. I am not simply saying that "guns are bad." See *ante,* at 8 (ALITO, J., concurring). Some Americans use guns for legitimate purposes, such as sport (*e.g.,* hunting or target shooting), certain types of employment (*e.g.,* as a private security guard), or self-defense. Cf. *ante,* at 4–6 (ALITO, J., concurring). Balancing these lawful uses against the dangers of firearms is primarily the responsibility of elected bodies, such as legislatures. It requires consideration of facts, statistics, expert opinions, predictive judgments, relevant values, and a host of other circumstances, which together make decisions about how, when, and where to regulate guns more appropriately legislative work. That consideration counsels modesty and restraint on the part of judges

when they interpret and apply the Second Amendment.

Consider, for one thing, that different types of firearms may pose different risks and serve different purposes. The Court has previously observed that handguns, the type of firearm at issue here, "are the most popular weapon chosen by Americans for self-defense in the home." *District of Columbia* v. *Heller*, 554 U. S. 570, 629 (2008). But handguns are also the most popular weapon chosen by perpetrators of violent crimes. In 2018, 64.4% of firearm homicides and 91.8% of nonfatal firearm assaults were committed with a handgun. Dept. of Justice, Bureau of Justice Statistics, G. Kena & J. Truman, Trends and Patterns in Firearm Violence, 1993–2018, pp. 5–6 (Apr. 2022). Handguns are also the most commonly stolen type of firearm—63% of burglaries resulting in gun theft between 2005 and 2010 involved the theft of at least one handgun. Dept. of Justice, Bureau of Justice Statistics, L. Langton, Firearms Stolen During Household Burglaries and Other Property Crimes, 2005–2010, p. 3 (Nov. 2012).

Or consider, for another thing, that the dangers and benefits posed by firearms may differ between urban and rural areas. See generally Brief for City of Chicago et al. as *Amici Curiae* (detailing particular concerns about gun violence in large cities). Firearm-related homicides and assaults are significantly more common in urban areas than rural ones. For example, from 1999 to 2016, 89.8% of the 213,175 firearm-related homicides in the United States occurred in "metropolitan" areas. M. Siegel et al., The Impact of State Firearm Laws on Homicide Rates in Suburban and Rural Areas Compared to Large Cities in the United States, 1991–2016, 36 J. Rural Health 255 (2020); see also Brief for Partnership for New York City as *Amicus Curiae* 10; Kaufman 237 (finding higher rates of fatal assault injuries from firearms in urban areas compared to rural areas); C. Branas, M. Nance, M. Elliott, T. Richmond, & C. Schwab, Urban-Rural Shifts in Intentional Firearm Death: Different

Causes, Same Results, 94 Am. J. Pub. Health 1750, 1752 (2004) (finding higher rates of firearm homicide in urban counties compared to rural counties).

JUSTICE ALITO asks why I have begun my opinion by reviewing some of the dangers and challenges posed by gun violence and what relevance that has to today's case. *Ante,* at 2–4 (concurring opinion). All of the above considerations illustrate that the question of firearm regulation presents a complex problem—one that should be solved by legislatures rather than courts. What kinds of firearm regulations should a State adopt? Different States might choose to answer that question differently. They may face different challenges because of their different geographic and demographic compositions. A State like New York, which must account for the roughly 8.5 million people living in the 303 square miles of New York City, might choose to adopt different (and stricter) firearms regulations than States like Montana or Wyoming, which do not contain any city remotely comparable in terms of population or density. See U. S. Census Bureau, Quick Facts: New York City (last updated July 1, 2021) (Quick Facts: New York City), https://www.census.gov/quickfacts/newyorkcitynewyork/; Brief for City of New York as *Amicus Curiae* 8, 22. For a variety of reasons, States may also be willing to tolerate different degrees of risk and therefore choose to balance the competing benefits and dangers of firearms differently.

The question presented in this case concerns the extent to which the Second Amendment restricts different States (and the Federal Government) from working out solutions to these problems through democratic processes. The primary difference between the Court's view and mine is that I believe the Amendment allows States to take account of the serious problems posed by gun violence that I have just described. I fear that the Court's interpretation ignores these significant dangers and leaves States without the ability to address them.

II

A

New York State requires individuals to obtain a license in order to carry a concealed handgun in public. N. Y. Penal Law Ann. §400.00(2) (West Cum. Supp. 2022). I address the specifics of that licensing regime in greater detail in Part II–B below. Because, at this stage in the proceedings, the parties have not had an opportunity to develop the evidentiary record, I refer to facts and representations made in petitioners' complaint and in *amicus* briefs filed before us.

Under New York's regime, petitioners Brandon Koch and Robert Nash have obtained restricted licenses that permit them to carry a concealed handgun for certain purposes and at certain times and places. They wish to expand the scope of their licenses so that they can carry a concealed handgun without restriction.

Koch and Nash are residents of Rensselaer County, New York. Koch lives in Troy, a town of about 50,000, located eight miles from New York's capital city of Albany, which has a population of about 98,000. See App. 100; U. S. Census Bureau, Quick Facts: Troy City, New York (last updated July 1, 2021), https://www.census.gov/quickfacts/troycitynewyork; *id.*, Albany City, New York, https://www.census.gov/quickfacts/albanycitynewyork. Nash lives in Averill Park, a small town 12.5 miles from Albany. App. 100.

Koch and Nash each applied for a license to carry a concealed handgun. Both were issued restricted licenses that allowed them to carry handguns only for purposes of hunting and target shooting. *Id.*, at 104, 106. But they wanted "unrestricted" licenses that would allow them to carry concealed handguns "for personal protection and all lawful purposes." *Id.*, at 112; see also *id.*, at 40. They wrote to the licensing officer in Rensselaer County—Justice Richard

McNally, a justice of the New York Supreme Court—requesting that the hunting and target shooting restrictions on their licenses be removed. *Id.,* at 40, 111–113. After holding individual hearings for each petitioner, Justice McNally denied their requests. *Id.,* at 31, 41, 105, 107, 114. He clarified that, in addition to hunting and target shooting, Koch and Nash could "carry concealed for purposes of off road back country, outdoor activities similar to hunting, for example fishing, hiking & camping." *Id.,* at 41, 114. He also permitted Koch, who was employed by the New York Court System's Division of Technology, to "carry to and from work." *Id.*, at 111, 114. But he reaffirmed that Nash was prohibited from carrying a concealed handgun in locations "typically open to and frequented by the general public." *Id.*, at 41. Neither Koch nor Nash alleges that he appealed Justice McNally's decision. Brief for Respondents 13; see App. 122–126.

Instead, petitioners Koch and Nash, along with the New York State Rifle & Pistol Association, Inc., brought this lawsuit in federal court against Justice McNally and other State representatives responsible for enforcing New York's firearms laws. Petitioners claimed that the State's refusal to modify Koch's and Nash's licenses violated the Second Amendment. The District Court dismissed their complaint. It followed Second Circuit precedent holding that New York's licensing regime was constitutional. See *Kachalsky*, 701 F. 3d, at 101. The Court of Appeals for the Second Circuit affirmed. We granted certiorari to review the constitutionality of "New York's denial of petitioners' license applications." *Ante,* at 8 (majority opinion).

B

As the Court recognizes, New York's licensing regime traces its origins to 1911, when New York enacted the "Sullivan Law," which prohibited public carriage of handguns without a license. See 1911 N. Y. Laws ch. 195, §1, p. 443.

Two years later in 1913, New York amended the law to establish substantive standards for the issuance of a license. See 1913 N. Y. Laws ch. 608, §1, pp. 1627–1629. Those standards have remained the foundation of New York's licensing regime ever since—a regime that the Court now, more than a century later, strikes down as unconstitutional.

As it did over 100 years ago, New York's law today continues to require individuals to obtain a license before carrying a concealed handgun in public. N. Y. Penal Law Ann. §400.00(2); *Kachalsky*, 701 F. 3d, at 85–86. Because the State does not allow the open carriage of handguns at all, a concealed-carry license is the only way to legally carry a handgun in public. *Id.*, at 86. This licensing requirement applies only to handguns (*i.e.,* "pistols and revolvers") and short-barreled rifles and shotguns, not to all types of firearms. *Id.*, at 85. For instance, the State does not require a license to carry a long gun (*i.e.,* a rifle or a shotgun over a certain length) in public. *Ibid.*; §265.00(3) (West 2022).

To obtain a concealed-carry license for a handgun, an applicant must satisfy certain eligibility criteria. Among other things, he must generally be at least 21 years old and of "good moral character." §400.00(1). And he cannot have been convicted of a felony, dishonorably discharged from the military, or involuntarily committed to a mental hygiene facility. *Ibid.* If these and other eligibility criteria are satisfied, New York law provides that a concealed-carry license "shall be issued" to individuals working in certain professions, such as judges, corrections officers, or messengers of a "banking institution or express company." §400.00(2). Individuals who satisfy the eligibility criteria but do not work in one of these professions may still obtain a concealed-carry license, but they must additionally show that "proper cause exists for the issuance thereof." §400.00(2)(f).

The words "proper cause" may appear on their face to be

broad, but there is "a substantial body of law instructing licensing officials on the application of this standard." *Id.*, at 86. New York courts have interpreted proper cause "to include carrying a handgun for target practice, hunting, or self-defense." *Ibid.* When an applicant seeks a license for target practice or hunting, he must show "'a sincere desire to participate in target shooting and hunting.'" *Ibid.* (quoting *In re O'Connor*, 154 Misc. 2d 694, 697, 585 N. Y. S. 2d 1000, 1003 (Westchester Cty. 1992)). When an applicant seeks a license for self-defense, he must show "'a special need for self-protection distinguishable from that of the general community.'" 701 F. 3d, at 86 (quoting *In re Klenosky*, 75 App. Div. 2d 793, 793, 428 N. Y. S. 2d 256, 257 (1980)). Whether an applicant meets these proper cause standards is determined in the first instance by a "licensing officer in the city or county . . . where the applicant resides." §400.00(3). In most counties, the licensing officer is a local judge. *Kachalsky*, 701 F. 3d, at 87, n. 6. For example, in Rensselaer County, the licensing officer who denied petitioners' requests to remove the restrictions on their licenses was a justice of the New York Supreme Court. App. 31. If the officer denies an application, the applicant can obtain judicial review under Article 78 of New York's Civil Practice Law and Rules. *Kachalsky*, 701 F. 3d, at 87. New York courts will then review whether the denial was arbitrary and capricious. *Ibid.*

In describing New York's law, the Court recites the above facts but adds its own gloss. It suggests that New York's licensing regime gives licensing officers too much discretion and provides too "limited" judicial review of their decisions, *ante,* at 4; that the proper cause standard is too "demanding," *ante,* at 3; and that these features make New York an outlier compared to the "vast majority of States," *ante,* at 4. But on what evidence does the Court base these characterizations? Recall that this case comes to us at the pleading stage. The parties have not had an opportunity to conduct

discovery, and no evidentiary hearings have been held to develop the record. See App. 15–26. Thus, at this point, there is no record to support the Court's negative characterizations, as we know very little about how the law has actually been applied on the ground.

Consider each of the Court's criticisms in turn. First, the Court says that New York gives licensing officers too much discretion and "leaves applicants little recourse if their local licensing officer denies a permit." *Ante*, at 4. But there is nothing unusual about broad statutory language that can be given more specific content by judicial interpretation. Nor is there anything unusual or inadequate about subjecting licensing officers' decisions to arbitrary-and-capricious review. Judges routinely apply that standard, for example, to determine whether an agency action is lawful under both New York law and the Administrative Procedure Act. See, *e.g.,* N. Y. Civ. Prac. Law Ann. §7803(3) (2021); 5 U. S. C. §706(2)(A). The arbitrary-and-capricious standard has thus been used to review important policies concerning health, safety, and immigration, to name just a few examples. See, *e.g., Biden* v. *Missouri*, 595 U. S. ___, ___ (2022) (*per curiam*) (slip op., at 8); *Department of Homeland Security* v. *Regents of Univ. of Cal.*, 591 U. S. ___, ___, ___ (2020) (slip op., at 9, 17); *Department of Commerce* v. *New York*, 588 U. S. ___, ___ (2019) (slip op., at 16); *Motor Vehicle Mfrs. Assn. of United States, Inc.* v. *State Farm Mut. Automobile Ins. Co.*, 463 U. S. 29, 41, 46 (1983).

Without an evidentiary record, there is no reason to assume that New York courts applying this standard fail to provide license applicants with meaningful review. And there is no evidentiary record to support the Court's assumption here. Based on the pleadings alone, we cannot know how often New York courts find the denial of a concealed-carry license to be arbitrary and capricious or on what basis. We do not even know how a court would have reviewed the licensing officer's decisions in Koch's and

Nash's cases because they do not appear to have sought judicial review at all. See Brief for Respondents 13; App. 122–126.

Second, the Court characterizes New York's proper cause standard as substantively "demanding." *Ante,* at 3. But, again, the Court has before it no evidentiary record to demonstrate how the standard has actually been applied. How "demanding" is the proper cause standard in practice? Does that answer differ from county to county? How many license applications are granted and denied each year? At the pleading stage, we do not know the answers to these and other important questions, so the Court's characterization of New York's law may very well be wrong.

In support of its assertion that the law is "demanding," the Court cites only to cases originating in New York City. *Ibid.* (citing *In re Martinek*, 294 App. Div. 2d 221, 743 N. Y. S. 2d 80 (2002) (New York County, *i.e.,* Manhattan); *In re Kaplan*, 249 App. Div. 2d 199, 673 N. Y. S. 2d 66 (1998) (same); *In re Klenosky*, 75 App. Div. 2d 793, 428 N. Y. S. 2d 256 (same); *In re Bernstein*, 85 App. Div. 2d 574, 445 N. Y. S. 2d 716 (1981) (Bronx County)). But cases from New York City may not accurately represent how the proper cause standard is applied in other parts of the State, including in Rensselaer County where petitioners reside.

To the contrary, *amici* tell us that New York's licensing regime is purposefully flexible: It allows counties and cities to respond to the particular needs and challenges of each area. See Brief for American Bar Association as *Amicus Curiae* 12; Brief for City of New York as *Amicus Curiae* 20–29. *Amici* suggest that some areas may interpret words such as "proper cause" or "special need" more or less strictly, depending upon each area's unique circumstances. See *ibid.* New York City, for example, reports that it "has applied the [proper cause] requirement relatively rigorously" because its densely populated urban areas pose a heightened risk of gun violence. Brief for City of New York

as *Amicus Curiae* 20. In comparison, other (perhaps more rural) counties "have tailored the requirement to their own circumstances, often issuing concealed-carry licenses more freely than the City." *Ibid.*; see also *In re O'Connor*, 154 Misc. 2d, at 698, 585 N. Y. S. 2d, at 1004 ("The circumstances which exist in New York City are significantly different than those which exist in Oswego or Putnam Counties. . . . The licensing officers in each county are in the best position to determine whether any interest of the population of their county is furthered by the use of restrictions on pistol licenses"); Brief for Citizens Crime Commission of New York City as *Amicus Curiae* 18–19. Given the geographic variation across the State, it is too sweeping for the Court to suggest, without an evidentiary record, that the proper cause standard is "demanding" in Rensselaer County merely because it may be so in New York City.

Finally, the Court compares New York's licensing regime to that of other States. *Ante,* at 4–6. It says that New York's law is a "may issue" licensing regime, which the Court describes as a law that provides licensing officers greater discretion to grant or deny licenses than a "shall issue" licensing regime. *Ante,* at 4–5. Because the Court counts 43 "shall issue" jurisdictions and only 7 "may issue" jurisdictions, it suggests that New York's law is an outlier. *Ibid.*; see also *ante,* at 1–2 (KAVANAUGH, J., concurring). Implicitly, the Court appears to ask, if so many other States have adopted the more generous "shall issue" approach, why can New York not be required to do the same?

But the Court's tabulation, and its implicit question, overlook important context. In drawing a line between "may issue" and "shall issue" licensing regimes, the Court ignores the degree of variation within and across these categories. Not all "may issue" regimes are necessarily alike, nor are all "shall issue" regimes. Conversely, not all "may issue" regimes are as different from the "shall issue" re-

gimes as the Court assumes. For instance, the Court recognizes in a footnote that three States (Connecticut, Delaware, and Rhode Island) have statutes with discretionary criteria, like so-called "may issue" regimes do. *Ante,* at 5, n. 1. But the Court nonetheless counts them among the 43 "shall issue" jurisdictions because, it says, these three States' laws operate in practice more like "shall issue" regimes. *Ibid.*; see also Brief for American Bar Association as *Amicus Curiae* 10 (recognizing, conversely, that some "shall issue" States, *e.g.,* Alabama, Colorado, Georgia, Oregon, and Virginia, still grant some degree of discretion to licensing authorities).

As these three States demonstrate, the line between "may issue" and "shall issue" regimes is not as clear cut as the Court suggests, and that line depends at least in part on how statutory discretion is applied in practice. Here, because the Court strikes down New York's law without affording the State an opportunity to develop an evidentiary record, we do not know how much discretion licensing officers in New York have in practice or how that discretion is exercised, let alone how the licensing regimes in the other six "may issue" jurisdictions operate.

Even accepting the Court's line between "may issue" and "shall issue" regimes and assuming that its tally (7 "may issue" and 43 "shall issue" jurisdictions) is correct, that count does not support the Court's implicit suggestion that the seven "may issue" jurisdictions are somehow outliers or anomalies. The Court's count captures only a snapshot in time. It forgets that "shall issue" licensing regimes are a relatively recent development. Until the 1980s, "may issue" regimes predominated. See *id.*, at 9; R. Grossman & S. Lee, May Issue Versus Shall Issue: Explaining the Pattern of Concealed-Carry Handgun Laws, 1960–2001, 26 Contemp. Econ. Pol'y 198, 200 (2008) (Grossman). As of 1987, 16 States and the District of Columbia prohibited concealed

carriage outright, 26 States had "may issue" licensing regimes, 7 States had "shall issue" regimes, and 1 State (Vermont) allowed concealed carriage without a permit. Congressional Research Service, Gun Control: Concealed Carry Legislation in the 115th Congress 1 (Jan. 30, 2018). Thus, it has only been in the last few decades that States have shifted toward "shall issue" licensing laws. Prior to that, most States operated "may issue" licensing regimes without legal or practical problem.

Moreover, even considering, as the Court does, only the present state of play, its tally provides an incomplete picture because it accounts for only the number of States with "may issue" regimes, not the number of people governed by those regimes. By the Court's count, the seven "may issue" jurisdictions are New York, California, Hawaii, Maryland, Massachusetts, New Jersey, and the District of Columbia. *Ante,* at 5–6. Together, these seven jurisdictions comprise about 84.4 million people and account for over a quarter of the country's population. U. S. Census Bureau, 2020 Population and Housing State Data (Aug. 12, 2021) (2020 Population), https://www.census.gov/library/visualizations/interactive/2020-population-and-housing-state-data.html. Thus, "may issue" laws can hardly be described as a marginal or outdated regime.

And there are good reasons why these seven jurisdictions may have chosen not to follow other States in shifting toward "shall issue" regimes. The seven remaining "may issue" jurisdictions are among the most densely populated in the United States: the District of Columbia (with an average of 11,280.0 people/square mile in 2020), New Jersey (1,263.0), Massachusetts (901.2), Maryland (636.1), New York (428.7), California (253.7), and Hawaii (226.6). U. S. Census Bureau, Historical Population Density (1910–2020) (Apr. 26, 2001), https://www.census.gov/data/tables/time-series/dec/density-data-text.html. In comparison, the average population density of the United States as a whole is

93.8 people/square mile, and some States have population densities as low as 1.3 (Alaska), 5.9 (Wyoming), and 7.4 (Montana) people/square mile. *Ibid.* These numbers reflect in part the fact that these "may issue" jurisdictions contain some of the country's densest and most populous urban areas, *e.g.,* New York City, Los Angeles, San Francisco, the District of Columbia, Honolulu, and Boston. U. S. Census Bureau, Urban Area Facts (Oct. 8, 2021), https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural/ua-facts.html. New York City, for example, has a population of about 8.5 million people, making it more populous than 38 States, and it squeezes that population into just over 300 square miles. Quick Facts: New York City; 2020 Population; Brief for City of New York as *Amicus Curiae* 8, 22.

As I explained above, *supra,* at 8–9, densely populated urban areas face different kinds and degrees of dangers from gun violence than rural areas. It is thus easy to see why the seven "may issue" jurisdictions might choose to regulate firearm carriage more strictly than other States. See Grossman 199 ("We find strong evidence that more urban states are less likely to shift to 'shall issue' than rural states").

New York and its *amici* present substantial data justifying the State's decision to retain a "may issue" licensing regime. The data show that stricter gun regulations are associated with lower rates of firearm-related death and injury. See, *e.g.,* Brief for Citizens Crime Commission of New York City as *Amicus Curiae* 9–11; Brief for Former Major City Police Chiefs as *Amici Curiae* 9–12; Brief for Educational Fund 25–28; Brief for Social Scientists et al. as *Amici Curiae* 9–19. In particular, studies have shown that "may issue" licensing regimes, like New York's, are associated with lower homicide rates and lower violent crime rates than "shall issue" licensing regimes. For example, one study compared homicide rates across all 50 States during

the 25-year period from 1991 to 2015 and found that "shall issue" laws were associated with 6.5% higher total homicide rates, 8.6% higher firearm homicide rates, and 10.6% higher handgun homicide rates. Siegel, 107 Am. J. Pub. Health, at 1924–1925, 1927. Another study longitudinally followed 33 States that had adopted "shall-issue" laws between 1981 and 2007 and found that the adoption of those laws was associated with a 13%–15% increase in rates of violent crime after 10 years. Donohue, 16 J. Empirical Legal Studies, at 200, 240. Numerous other studies show similar results. See, *e.g.,* Siegel, 36 J. Rural Health, at 261 (finding that "may issue" laws are associated with 17% lower firearm homicide rates in large cities); C. Crifasi et al., Association Between Firearm Laws and Homicide in Urban Counties, 95 J. Urb. Health 383, 387 (2018) (finding that "shall issue" laws are associated with a 4% increase in firearm homicide rates in urban counties); M. Doucette, C. Crifasi, & S. Frattaroli, Right-to-Carry Laws and Firearm Workplace Homicides: A Longitudinal Analysis (1992–2017), 109 Am. J. Pub. Health 1747, 1751 (Dec. 2019) (finding that States with "shall issue" laws between 1992 and 2017 experienced 29% higher rates of firearm-related workplace homicides); Brief for Social Scientists et al. as *Amici Curiae* 15–16, and nn. 17–20 (citing "thirteen . . . empirical papers from just the last few years linking ["shall issue"] laws to higher violent crime").

JUSTICE ALITO points to competing empirical evidence that arrives at a different conclusion. *Ante,* at 3, n. 1 (concurring opinion). But these types of disagreements are exactly the sort that are better addressed by legislatures than courts. The Court today restricts the ability of legislatures to fulfill that role. It does so without knowing how New York's law is administered in practice, how much discretion licensing officers in New York possess, or whether the proper cause standard differs across counties. And it does so without giving the State an opportunity to develop the

evidentiary record to answer those questions. Yet it strikes down New York's licensing regime as a violation of the Second Amendment.

III

A

How does the Court justify striking down New York's law without first considering how it actually works on the ground and what purposes it serves? The Court does so by purporting to rely nearly exclusively on history. It requires "the government [to] affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of 'the right to keep and bear arms.'" *Ante,* at 10. Beyond this historical inquiry, the Court refuses to employ what it calls "means-end scrutiny." *Ibid.* That is, it refuses to consider whether New York has a compelling interest in regulating the concealed carriage of handguns or whether New York's law is narrowly tailored to achieve that interest. Although I agree that history can often be a useful tool in determining the meaning and scope of constitutional provisions, I believe the Court's near-exclusive reliance on that single tool today goes much too far.

The Court concedes that no Court of Appeals has adopted its rigid history-only approach. See *ante,* at 8. To the contrary, every Court of Appeals to have addressed the question has agreed on a two-step framework for evaluating whether a firearm regulation is consistent with the Second Amendment. *Ibid.*; *ante,* at 10, n. 4 (majority opinion) (listing cases from the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Ninth, Tenth, Eleventh, and D. C. Circuits). At the first step, the Courts of Appeals use text and history to determine "whether the regulated activity falls within the scope of the Second Amendment." *Ezell* v. *Chicago*, 846 F. 3d 888, 892 (CA7 2017). If it does, they go on to the second step and consider "'the strength of the government's justification for restricting or regulating'" the Second

Amendment right. *Ibid.* In doing so, they apply a level of "means-ends" scrutiny "that is proportionate to the severity of the burden that the law imposes on the right": strict scrutiny if the burden is severe, and intermediate scrutiny if it is not. *National Rifle Assn. of Am., Inc.* v. *Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 700 F. 3d 185, 195, 198, 205 (CA5 2012).

The Court today replaces the Courts of Appeals' consensus framework with its own history-only approach. That is unusual. We do not normally disrupt settled consensus among the Courts of Appeals, especially not when that consensus approach has been applied without issue for over a decade. See Brief for Second Amendment Law Professors as *Amici Curiae* 4, 13–15; see also this Court's Rule 10. The Court attempts to justify its deviation from our normal practice by claiming that the Courts of Appeals' approach is inconsistent with *Heller*. See *ante,* at 10. In doing so, the Court implies that all 11 Courts of Appeals that have considered this question misread *Heller*.

To the contrary, it is this Court that misreads *Heller*. The opinion in *Heller* did focus primarily on "constitutional text and history," *ante,* at 13 (majority opinion), but it did *not* "rejec[t] . . . means-end scrutiny," as the Court claims, *ante,* at 15. Consider what the *Heller* Court actually said. True, the Court spent many pages in *Heller* discussing the text and historical context of the Second Amendment. 554 U. S., at 579–619. But that is not surprising because the *Heller* Court was asked to answer the preliminary question whether the Second Amendment right to "bear Arms" encompasses an individual right to possess a firearm in the home for self-defense. *Id.*, at 577. The *Heller* Court concluded that the Second Amendment's text and history were sufficiently clear to resolve that question: The Second Amendment, it said, does include such an individual right. *Id.*, at 579–619. There was thus no need for the Court to go further—to look beyond text and history, or to suggest what

analysis would be appropriate in other cases where the text and history are not clear.

But the *Heller* Court did not end its opinion with that preliminary question. After concluding that the Second Amendment protects an individual right to possess a firearm for self-defense, the *Heller* Court added that that right is "not unlimited." *Id.,* at 626. It thus had to determine whether the District of Columbia's law, which banned handgun possession in the home, was a permissible regulation of the right. *Id.*, at 628–630. In answering that second question, it said: "Under *any of the standards of scrutiny that we have applied to enumerated constitutional rights*, banning from the home 'the most preferred firearm in the nation to "keep" and use for protection of one's home and family' would fail constitutional muster." *Id.,* at 628–629 (emphasis added; footnote and citation omitted). That language makes clear that the *Heller* Court understood some form of means-end scrutiny to apply. It did not need to specify whether that scrutiny should be intermediate or strict because, in its view, the District's handgun ban was so "severe" that it would have failed either level of scrutiny. *Id.,* at 628–629; see also *id.,* at 628, n. 27 (clarifying that rational-basis review was not the proper level of scrutiny).

Despite *Heller*'s express invocation of means-end scrutiny, the Court today claims that the majority in *Heller* rejected means-end scrutiny because it rejected my dissent in that case. But that argument misreads both my dissent and the majority opinion. My dissent in *Heller* proposed directly weighing "the interests protected by the Second Amendment on one side and the governmental public-safety concerns on the other." *Id.,* at 689. I would have asked "whether the statute burdens a protected interest in a way or to an extent that is out of proportion to the statute's salutary effects upon other important governmental interests." *Id.,* at 689–690. The majority rejected my dissent,

not because I proposed using means-end scrutiny, but because, in its view, I had done the opposite. In its own words, the majority faulted my dissent for proposing "a *freestanding* 'interest-balancing' approach" that accorded with "*none of the traditionally expressed levels* [of scrutiny] (strict scrutiny, intermediate scrutiny, rational basis)." *Id.,* at 634 (emphasis added).

The majority further made clear that its rejection of freestanding interest balancing did *not* extend to traditional forms of means-end scrutiny. It said: "We know of no other enumerated constitutional right whose core protection has been subjected to a freestanding 'interest-balancing' approach." *Ibid.* To illustrate this point, it cited as an example the First Amendment right to free speech. *Id.*, at 635. Judges, of course, regularly use means-end scrutiny, including both strict and intermediate scrutiny, when they interpret or apply the First Amendment. See, *e.g., United States* v. *Playboy Entertainment Group, Inc.*, 529 U. S. 803, 813 (2000) (applying strict scrutiny); *Turner Broadcasting System, Inc.* v. *FCC*, 520 U. S. 180, 186, 189–190 (1997) (applying intermediate scrutiny). The majority therefore cannot have intended its opinion, consistent with our First Amendment jurisprudence, to be read as rejecting all traditional forms of means-end scrutiny.

As *Heller*'s First Amendment example illustrates, the Court today is wrong when it says that its rejection of means-end scrutiny and near-exclusive focus on history "accords with how we protect other constitutional rights." *Ante,* at 15. As the Court points out, we do look to history in the First Amendment context to determine "whether the expressive conduct falls outside of the category of protected speech." *Ibid.* But, if conduct falls within a category of protected speech, we then use means-end scrutiny to determine whether a challenged regulation unconstitutionally burdens that speech. And the degree of scrutiny we apply

often depends on the type of speech burdened and the severity of the burden. See, *e.g., Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. 721, 734 (2011) (applying strict scrutiny to laws that burden political speech); *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791 (1989) (applying intermediate scrutiny to time, place, and manner restrictions); *Central Hudson Gas & Elec. Corp.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 557, 564–566 (1980) (applying intermediate scrutiny to laws that burden commercial speech).

Additionally, beyond the right to freedom of speech, we regularly use means-end scrutiny in cases involving other constitutional provisions. See, *e.g., Church of Lukumi Babalu Aye, Inc.* v. *Hialeah*, 508 U. S. 520, 546 (1993) (applying strict scrutiny under the First Amendment to laws that restrict free exercise of religion in a way that is not neutral and generally applicable); *Adarand Constructors, Inc.* v. *Peña*, 515 U. S. 200, 227 (1995) (applying strict scrutiny under the Equal Protection Clause to race-based classifications); *Clark* v. *Jeter*, 486 U. S. 456, 461 (1988) (applying intermediate scrutiny under the Equal Protection Clause to sex-based classifications); see also *Virginia* v. *Moore*, 553 U. S. 164, 171 (2008) ("When history has not provided a conclusive answer, we have analyzed a search or seizure in light of traditional standards of reasonableness").

The upshot is that applying means-end scrutiny to laws that regulate the Second Amendment right to bear arms would not create a constitutional anomaly. Rather, it is the Court's rejection of means-end scrutiny and adoption of a rigid history-only approach that is anomalous.

B

The Court's near-exclusive reliance on history is not only unnecessary, it is deeply impractical. It imposes a task on the lower courts that judges cannot easily accomplish. Judges understand well how to weigh a law's objectives (its

"ends") against the methods used to achieve those objectives (its "means"). Judges are far less accustomed to resolving difficult historical questions. Courts are, after all, staffed by lawyers, not historians. Legal experts typically have little experience answering contested historical questions or applying those answers to resolve contemporary problems.

The Court's insistence that judges and lawyers rely nearly exclusively on history to interpret the Second Amendment thus raises a host of troubling questions. Consider, for example, the following. Do lower courts have the research resources necessary to conduct exhaustive historical analyses in every Second Amendment case? What historical regulations and decisions qualify as representative analogues to modern laws? How will judges determine which historians have the better view of close historical questions? Will the meaning of the Second Amendment change if or when new historical evidence becomes available? And, most importantly, will the Court's approach permit judges to reach the outcomes they prefer and then cloak those outcomes in the language of history? See S. Cornell, *Heller*, New Originalism, and Law Office History: "Meet the New Boss, Same as the Old Boss," 56 UCLA L. Rev. 1095, 1098 (2009) (describing "law office history" as "a results oriented methodology in which evidence is selectively gathered and interpreted to produce a preordained conclusion").

Consider *Heller* itself. That case, fraught with difficult historical questions, illustrates the practical problems with expecting courts to decide important constitutional questions based solely on history. The majority in *Heller* undertook 40 pages of textual and historical analysis and concluded that the Second Amendment's protection of the right to "keep and bear Arms" historically encompassed an "individual right to possess and carry weapons in case of confrontation"—that is, for self-defense. 554 U. S., at 592; see also *id.,* at 579–619. Justice Stevens' dissent conducted an

equally searching textual and historical inquiry and concluded, to the contrary, that the term "bear Arms" was an idiom that protected only the right "to use and possess arms in conjunction with service in a well-regulated militia." *Id.,* at 651. I do not intend to relitigate *Heller* here. I accept its holding as a matter of *stare decisis.* I refer to its historical analysis only to show the difficulties inherent in answering historical questions and to suggest that judges do not have the expertise needed to answer those questions accurately.

For example, the *Heller* majority relied heavily on its interpretation of the English Bill of Rights. Citing Blackstone, the majority claimed that the English Bill of Rights protected a "'right of having and using arms for self-preservation and defence.'" *Id.*, at 594 (quoting 1 Commentaries on the Laws of England 140 (1765)). The majority interpreted that language to mean a private right to bear arms for self-defense, "having nothing whatever to do with service in a militia." 554 U. S., at 593. Two years later, however, 21 English and early American historians (including experts at top universities) told us in *McDonald* v. *Chicago*, 561 U. S. 742 (2010), that the *Heller* Court had gotten the history wrong: The English Bill of Rights "did not . . . protect an individual's right to possess, own, or use arms for private purposes such as to defend a home against burglars." Brief for English/Early American Historians as *Amici Curiae* in *McDonald* v. *Chicago*, O. T. 2009, No. 08–1521, p. 2. Rather, these *amici* historians explained, the English right to "have arms" ensured that the Crown could not deny Parliament (which represented the people) the power to arm the landed gentry and raise a militia—or the right of the people to possess arms to take part in that militia—"should the sovereign usurp the laws, liberties, estates, and Protestant religion of the nation." *Id.,* at 2–3. Thus, the English right did protect a right of "self-preservation and defence," as Blackstone said, but that right "was to

be exercised not by individuals acting privately or independently, but as a militia organized by their elected representatives," *i.e.,* Parliament. *Id.,* at 7–8. The Court, not an expert in history, had misread Blackstone and other sources explaining the English Bill of Rights.

And that was not the *Heller* Court's only questionable judgment. The majority rejected Justice Stevens' argument that the Second Amendment's use of the words "bear Arms" drew on an idiomatic meaning that, at the time of the founding, commonly referred to military service. 554 U. S., at 586. Linguistics experts now tell us that the majority was wrong to do so. See, *e.g.,* Brief for Corpus Linguistics Professors and Experts as *Amici Curiae* (Brief for Linguistics Professors); Brief for Neal Goldfarb as *Amicus Curiae*; Brief for Americans Against Gun Violence as *Amicus Curiae* 13–15. Since *Heller* was decided, experts have searched over 120,000 founding-era texts from between 1760 and 1799, as well as 40,000 texts from sources dating as far back as 1475, for historical uses of the phrase "bear arms," and they concluded that the phrase was overwhelmingly used to refer to "'war, soldiering, or other forms of armed action by a group rather than an individual.'" Brief for Linguistics Professors 11, 14; see also D. Baron, Corpus Evidence Illuminates the Meaning of Bear Arms, 46 Hastings Const. L. Q. 509, 510 (2019) ("Non-military uses of *bear arms* in reference to hunting or personal self-defense are not just rare, they are almost nonexistent"); *id.*, at 510–511 (reporting 900 instances in which "bear arms" was used to refer to military or collective use of firearms and only 7 instances that were either ambiguous or without a military connotation).

These are just two examples. Other scholars have continued to write books and articles arguing that the Court's decision in *Heller* misread the text and history of the Second Amendment. See generally, *e.g.,* M. Waldman, The Second Amendment (2014); S. Cornell, The Changing Meaning of

the Right To Keep and Bear Arms: 1688–1788, in Guns in Law 20–27 (A. Sarat, L. Douglas, & M. Umphrey eds. 2019); P. Finkelman, The Living Constitution and the Second Amendment: Poor History, False Originalism, and a Very Confused Court, 37 Cardozo L. Rev. 623 (2015); D. Walker, Necessary to the Security of Free States: The Second Amendment as the Auxiliary Right of Federalism, 56 Am. J. Legal Hist. 365 (2016); W. Merkel, *Heller* as Hubris, and How *McDonald* v. *City of Chicago* May Well Change the Constitutional World as We Know It, 50 Santa Clara L. Rev. 1221 (2010).

I repeat that I do not cite these arguments in order to relitigate *Heller*. I wish only to illustrate the difficulties that may befall lawyers and judges when they attempt to rely *solely* on history to interpret the Constitution. In *Heller*, we attempted to determine the scope of the Second Amendment right to bear arms by conducting a historical analysis, and some of us arrived at very different conclusions based on the same historical sources. Many experts now tell us that the Court got it wrong in a number of ways. That is understandable given the difficulty of the inquiry that the Court attempted to undertake. The Court's past experience with historical analysis should serve as a warning against relying exclusively, or nearly exclusively, on this mode of analysis in the future.

Failing to heed that warning, the Court today does just that. Its near-exclusive reliance on history will pose a number of practical problems. First, the difficulties attendant to extensive historical analysis will be especially acute in the lower courts. The Court's historical analysis in this case is over 30 pages long and reviews numerous original sources from over 600 years of English and American history. *Ante,* at 30–62. Lower courts—especially district courts—typically have fewer research resources, less assistance from *amici* historians, and higher caseloads than we do. They are therefore ill equipped to conduct the type of

searching historical surveys that the Court's approach requires. Tellingly, even the Courts of Appeals that have addressed the question presented here (namely, the constitutionality of public carriage restrictions like New York's) "have, in large part, avoided extensive historical analysis." *Young* v. *Hawaii*, 992 F. 3d 765, 784–785 (CA9 2021) (collecting cases). In contrast, lawyers and courts are well equipped to administer means-end scrutiny, which is regularly applied in a variety of constitutional contexts, see *supra,* at 24–25.

Second, the Court's opinion today compounds these problems, for it gives the lower courts precious little guidance regarding how to resolve modern constitutional questions based almost solely on history. See, *e.g., ante,* at 1 (BARRETT, J., concurring) ("highlight[ing] two methodological points that the Court does not resolve"). The Court declines to "provide an exhaustive survey of the features that render regulations relevantly similar under the Second Amendment." *Ante,* at 20. Other than noting that its history-only analysis is "neither a . . . straightjacket nor a . . . blank check," the Court offers little explanation of how stringently its test should be applied. *Ante,* at 21. Ironically, the only two "relevan[t]" metrics that the Court does identify are "how and why" a gun control regulation "burden[s the] right to armed self-defense." *Ante,* at 20. In other words, the Court believes that the most relevant metrics of comparison are a regulation's means (how) and ends (why)—even as it rejects the utility of means-end scrutiny.

What the Court offers instead is a laundry list of reasons to discount seemingly relevant historical evidence. The Court believes that some historical laws and decisions cannot justify upholding modern regulations because, it says, they were outliers. It explains that just two court decisions or three colonial laws are not enough to satisfy its test. *Ante,* at 37, 57. But the Court does not say how many cases or laws would suffice "to show a tradition of public-carry

regulation." *Ante,* at 37. Other laws are irrelevant, the Court claims, because they are too dissimilar from New York's concealed-carry licensing regime. See, *e.g., ante,* at 48–49. But the Court does not say what "representative historical analogue," short of a "twin" or a "dead ringer," would suffice. See *ante,* at 21 (emphasis deleted). Indeed, the Court offers many and varied reasons to reject potential representative analogues, but very few reasons to accept them. At best, the numerous justifications that the Court finds for rejecting historical evidence give judges ample tools to pick their friends out of history's crowd. At worst, they create a one-way ratchet that will disqualify virtually any "representative historical analogue" and make it nearly impossible to sustain common-sense regulations necessary to our Nation's safety and security.

Third, even under ideal conditions, historical evidence will often fail to provide clear answers to difficult questions. As an initial matter, many aspects of the history of firearms and their regulation are ambiguous, contradictory, or disputed. Unsurprisingly, the extent to which colonial statutes enacted over 200 years ago were actually enforced, the basis for an acquittal in a 17th-century decision, and the interpretation of English laws from the Middle Ages (to name just a few examples) are often less than clear. And even historical experts may reach conflicting conclusions based on the same sources. Compare, *e.g.,* P. Charles, The Faces of the Second Amendment Outside the Home: History Versus Ahistorical Standards of Review, 60 Clev. St. L. Rev. 1, 14 (2012), with J. Malcolm, To Keep and Bear Arms: The Origins of an Anglo-American Right 104 (1994). As a result, history, as much as any other interpretive method, leaves ample discretion to "loo[k] over the heads of the [crowd] for one's friends." A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 377 (2012).

Fourth, I fear that history will be an especially inade-

quate tool when it comes to modern cases presenting modern problems. Consider the Court's apparent preference for founding-era regulation. See *ante,* at 25–28. Our country confronted profoundly different problems during that time period than it does today. Society at the founding was "predominantly rural." C. McKirdy, Misreading the Past: The Faulty Historical Basis Behind the Supreme Court's Decision in District of Columbia v. Heller, 45 Capital U. L. Rev. 107, 151 (2017). In 1790, most of America's relatively small population of just four million people lived on farms or in small towns. *Ibid.* Even New York City, the largest American city then, as it is now, had a population of just 33,000 people. *Ibid.* Small founding-era towns are unlikely to have faced the same degrees and types of risks from gun violence as major metropolitan areas do today, so the types of regulations they adopted are unlikely to address modern needs. *Id.,* at 152 ("For the most part, a population living on farms and in very small towns did not create conditions in which firearms created a significant danger to the public welfare"); see also *supra,* at 8–9.

This problem is all the more acute when it comes to "modern-day circumstances that [the Framers] could not have anticipated." *Heller*, 554 U. S., at 721–722 (BREYER, J., dissenting). How can we expect laws and cases that are over a century old to dictate the legality of regulations targeting "ghost guns" constructed with the aid of a three-dimensional printer? See, *e.g.,* White House Briefing Room, FACT SHEET: The Biden Administration Cracks Down on Ghost Guns, Ensures That ATF Has the Leadership It Needs To Enforce Our Gun Laws (Apr. 11, 2022), https://whitehouse.gov/briefing-room/statements-releases/2022/04/11/fact-sheet-the-biden-administration-cracks-down-on-ghost-guns-ensures-that-atf-has-the-leadership-it-needs-to-enforce-our-gun-laws/. Or modern laws requiring all gun shops to offer smart guns, which can only be fired by authorized users? See, *e.g.,* N. J. Stat. Ann. §2C:58–

2.10(a) (West Cum. Supp. 2022). Or laws imposing additional criminal penalties for the use of bullets capable of piercing body armor? See, *e.g.,* 18 U. S. C. §§921(a)(17)(B), 929(a).

The Court's answer is that judges will simply have to employ "analogical reasoning." *Ante,* at 19–20. But, as I explained above, the Court does not provide clear guidance on how to apply such reasoning. Even seemingly straightforward historical restrictions on firearm use may prove surprisingly difficult to apply to modern circumstances. The Court affirms *Heller*'s recognition that States may forbid public carriage in "sensitive places." *Ante,* at 21–22. But what, in 21st-century New York City, may properly be considered a sensitive place? Presumably "legislative assemblies, polling places, and courthouses," which the Court tells us were among the "relatively few" places "where weapons were altogether prohibited" in the 18th and 19th centuries. *Ante,* at 21. On the other hand, the Court also tells us that "expanding the category of 'sensitive places' simply to all places of public congregation that are not isolated from law enforcement defines th[at] category . . . far too broadly." *Ante,* at 22. So where does that leave the many locations in a modern city with no obvious 18th- or 19th-century analogue? What about subways, nightclubs, movie theaters, and sports stadiums? The Court does not say.

Although I hope—fervently—that future courts will be able to identify historical analogues supporting the validity of regulations that address new technologies, I fear that it will often prove difficult to identify analogous technological and social problems from Medieval England, the founding era, or the time period in which the Fourteenth Amendment was ratified. Laws addressing repeating crossbows, launcegays, dirks, dagges, skeines, stilladers, and other ancient weapons will be of little help to courts confronting modern problems. And as technological progress pushes

our society ever further beyond the bounds of the Framers' imaginations, attempts at "analogical reasoning" will become increasingly tortured. In short, a standard that relies solely on history is unjustifiable and unworkable.

IV

Indeed, the Court's application of its history-only test in this case demonstrates the very pitfalls described above. The historical evidence reveals a 700-year Anglo-American tradition of regulating the public carriage of firearms in general, and concealed or concealable firearms in particular. The Court spends more than half of its opinion trying to discredit this tradition. But, in my view, the robust evidence of such a tradition cannot be so easily explained away. Laws regulating the public carriage of weapons existed in England as early as the 13th century and on this Continent since before the founding. Similar laws remained on the books through the ratifications of the Second and Fourteenth Amendments through to the present day. Many of those historical regulations imposed significantly stricter restrictions on public carriage than New York's licensing requirements do today. Thus, even applying the Court's history-only analysis, New York's law must be upheld because "historical precedent from before, during, and . . . after the founding evinces a comparable tradition of regulation." *Ante,* at 18 (majority opinion) (internal quotation marks omitted).

A. England.

The right codified by the Second Amendment was "'inherited from our English ancestors.'" *Heller*, 554 U. S., at 599 (quoting *Robertson* v. *Baldwin*, 165 U. S. 275, 281 (1897)); see also *ante,* at 30 (majority opinion). And some of England's earliest laws regulating the public carriage of weapons were precursors of similar American laws enacted

roughly contemporaneously with the ratification of the Second Amendment. See *infra,* at 40–42. I therefore begin, as the Court does, *ante,* at 30–31, with the English ancestors of New York's laws regulating public carriage of firearms.

The relevant English history begins in the late-13th and early-14th centuries, when Edward I and Edward II issued a series of orders to local sheriffs that prohibited any person from "going armed." See 4 Calendar of the Close Rolls, Edward I, 1296–1302, p. 318 (Sept. 15, 1299) (1906); *id.,* at 588 (July 16, 1302); 5 *id.*, Edward I, 1302–1307, at 210 (June 10, 1304) (1908); *id.*, Edward II, 1307–1313, at 52 (Feb. 9, 1308) (1892); *id.,* at 257 (Apr. 9, 1310); *id.,* at 553 (Oct. 12, 1312); *id.*, Edward II, 1323–1327, at 560 (Apr. 28, 1326) (1898); 1 Calendar of Plea and Memoranda Rolls of the City of London, 1323–1364, p. 15 (Nov. 1326) (A. Thomas ed. 1926). Violators were subject to punishment, including "forfeiture of life and limb." See, *e.g.,* 4 Calendar of the Close Rolls, Edward I, 1296–1302, at 318 (Sept. 15, 1299) (1906). Many of these royal edicts contained exemptions for persons who had obtained "the king's special licence." See *ibid.*; 5 *id.*, Edward I, 1302–1307, at 210 (June 10, 1304); *id.*, Edward II, 1307–1313, at 553 (Oct. 12, 1312); *id.*, Edward II, 1323–1327, at 560 (Apr. 28, 1326). Like New York's law, these early edicts prohibited public carriage absent special governmental permission and enforced that prohibition on pain of punishment.

The Court seems to suggest that these early regulations are irrelevant because they were enacted during a time of "turmoil" when "malefactors . . . harried the country, committing assaults and murders." *Ante,* at 31 (internal quotation marks omitted). But it would seem to me that what the Court characterizes as a "right of armed self-defense" would be more, rather than less, necessary during a time of "turmoil." *Ante,* at 20. The Court also suggests that laws that were enacted before firearms arrived in England, like

these early edicts and the subsequent Statute of Northampton, are irrelevant. *Ante,* at 32. But why should that be? Pregun regulations prohibiting "going armed" in public illustrate an entrenched tradition of restricting public carriage of weapons. That tradition seems as likely to apply to firearms as to any other lethal weapons—particularly if we follow the Court's instruction to use analogical reasoning. See *ante,* at 19–20. And indeed, as we shall shortly see, the most significant prefirearm regulation of public carriage—the Statute of Northampton—was in fact applied to guns once they appeared in England. See *Sir John Knight's Case*, 3 Mod. 117, 87 Eng. Rep. 75, 76 (K. B. 1686)

The Statute of Northampton was enacted in 1328. 2 Edw. 3, 258, c. 3. By its terms, the statute made it a criminal offense to carry arms without the King's authorization. It provided that, without such authorization, "no Man great nor small, of what Condition soever he be," could "go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices or other Ministers, nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King's pleasure." *Ibid.* For more than a century following its enactment, England's sheriffs were routinely reminded to strictly enforce the Statute of Northampton against those going armed without the King's permission. See Calendar of the Close Rolls, Edward III, 1330–1333, at 131 (Apr. 3, 1330) (1898); 1 Calendar of the Close Rolls, Richard II, 1377–1381, at 34 (Dec. 1, 1377) (1914); 2 *id.*, Richard II, 1381–1385, at 3 (Aug. 7, 1381) (1920); 3 *id.*, Richard II, 1385–1389, at 128 (Feb. 6, 1386) (1921); *id.,* at 399–400 (May 16, 1388); 4 *id.*, Henry VI, 1441–1447, at 224 (May 12, 1444) (1937); see also 11 Tudor Royal Proclamations, The Later Tudors: 1553–1587, pp. 442–445 (Proclamation 641, 21 Elizabeth I, July 26, 1579) (P. Hughes & J. Larkin eds. 1969).

The Court thinks that the Statute of Northampton "has little bearing on the Second Amendment," in part because

it was "enacted . . . more than 450 years before the ratification of the Constitution." *Ante,* at 32. The statute, however, remained in force for hundreds of years, well into the 18th century. See 4 W. Blackstone, Commentaries 148–149 (1769) ("The offence of *riding* or *going armed*, with dangerous or unusual weapons, is a crime against the public peace, by terrifying the good people of the land; *and is particularly prohibited by the Statute of Northampton*" (first emphasis in original, second emphasis added)). It was discussed in the writings of Blackstone, Coke, and others. See *ibid.*; W. Hawkins, 1 Pleas of the Crown 135 (1716) (Hawkins); E. Coke, The Third Part of the Institutes of the Laws of England 160 (1797). And several American Colonies and States enacted restrictions modeled on the statute. See *infra,* at 40–42. There is thus every reason to believe that the Framers of the Second Amendment would have considered the Statute of Northampton a significant chapter in the Anglo-American tradition of firearms regulation.

The Court also believes that, by the end of the 17th century, the Statute of Northampton was understood to contain an extratextual intent element: the intent to cause terror in others. *Ante,* at 34–38, 41. The Court relies on two sources that arguably suggest that view: a 1686 decision, *Sir John Knight's Case*, and a 1716 treatise written by Serjeant William Hawkins. *Ante,* at 34–37. But other sources suggest that carrying arms in public was prohibited *because* it naturally tended to terrify the people. See, *e.g.,* M. Dalton, The Country Justice 282–283 (1690) ("[T]o wear Armor, or Weapons not usually worn, . . . seems also be a breach, or means of breach of the Peace . . . ; *for* they strike a fear and terror in the People" (emphasis added)). According to these sources, terror was the natural consequence—not an additional element—of the crime.

I find this view more persuasive in large part because it is not entirely clear that the two sources the Court relies on

actually support the existence of an intent-to-terrify requirement. Start with *Sir John Knight's Case*, which, according to the Court, considered Knight's arrest for walking "'about the streets'" and into a church "'armed with guns.'" *Ante,* at 34 (quoting *Sir John Knight's Case*, 3 Mod. 117, 87 Eng. Rep., at 76). The Court thinks that Knight's acquittal by a jury demonstrates that the Statute of Northampton only prohibited public carriage of firearms with an intent to terrify. *Ante,* at 34–35. But by now the legal significance of Knight's acquittal is impossible to reconstruct. Brief for Patrick J. Charles as *Amicus Curiae* 23, n. 9. The primary source describing the case (the English Reports) was notoriously incomplete at the time *Sir John Knight's Case* was decided. *Id.,* at 24–25. And the facts that historians can reconstruct do not uniformly support the Court's interpretation. The King's Bench required Knight to pay a surety to guarantee his future good behavior, so it may be more accurate to think of the case as having ended in "a conditional pardon" than acquittal. *Young*, 992 F. 3d, at 791; see also *Rex* v. *Sir John Knight*, 1 Comb. 40, 90 Eng. Rep. 331 (K. B. 1686). And, notably, it appears that Knight based his defense on his loyalty to the Crown, not a lack of intent to terrify. 3 The Entring Book of Roger Morrice 1677–1691: The Reign of James II, 1685–1687, pp. 307–308 (T. Harris ed. 2007).

Similarly, the passage from the Hawkins treatise on which the Court relies states that the Statute of Northampton's prohibition on the public carriage of weapons did not apply to the "wearing of Arms . . . unless it be accompanied with such Circumstances as are apt to terrify the People." Hawkins 136. But Hawkins goes on to enumerate relatively narrow circumstances where this exception applied: when "Persons of Quality . . . wea[r] common Weapons, or hav[e] their usual Number of Attendants with them, for their Ornament or Defence, in such Places, and upon such Occasions, in which it is the common Fashion to make use

of them," or to persons merely wearing "privy Coats of Mail." *Ibid*. It would make little sense if a narrow exception for nobility, see Oxford English Dictionary (3d ed., Dec. 2012), https://www.oed.com/view/Entry/155878 (defining "quality," A.I.5.a), and "privy coats of mail" were allowed to swallow the broad rule that Hawkins (and other commentators of his time) described elsewhere. That rule provided that "there may be an Affray where there is no actual Violence; as where a Man arms himself with dangerous and unusual Weapons, in such a Manner as will naturally cause a Terror to the People, which is . . . strictly prohibited by [the Statute of Northampton]." Hawkins 135. And it provided no exception for those who attempted to "excuse the wearing such Armour in Publick, by alleging that . . . he wears it for the Safety of his Person from . . . Assault." *Id.,* at 136. In my view, that rule announces the better reading of the Statute of Northampton—as a broad prohibition on the public carriage of firearms and other weapons, without an intent-to-terrify requirement or exception for self-defense.

Although the Statute of Northampton is particularly significant because of its breadth, longevity, and impact on American law, it was far from the only English restriction on firearms or their carriage. See, *e.g.,* 6 Hen. 8 c. 13, §1 (1514) (restricting the use and ownership of handguns); 25 Hen. 8 c. 17, §1 (1533) (same); 33 Hen. 8 c. 6, §§1–2 (1541) (same); 25 Edw. 3, st. 5, c. 2 (1350) (making it a "Felony or Trespass" to "ride armed covertly or secretly with Men of Arms against any other, to slay him, or rob him, or take him, or retain him till he hath made Fine or Ransom for to have his Deliverance") (brackets and footnote omitted). Whatever right to bear arms we inherited from our English forebears, it was qualified by a robust tradition of public carriage regulations.

As I have made clear, I am not a historian. But if the foregoing facts, which historians and other scholars have

presented to us, are even roughly correct, it is difficult to see how the Court can believe that English history fails to support legal restrictions on the public carriage of firearms.

B. The Colonies.

The American Colonies continued the English tradition of regulating public carriage on this side of the Atlantic. In 1686, the colony of East New Jersey passed a law providing that "no person or persons . . . shall presume privately to wear any pocket pistol, skeines, stilladers, daggers or dirks, or other unusual or unlawful weapons within this Province." An Act Against Wearing Swords, &c., ch. 9, in Grants, Concessions, and Original Constitutions of the Province of New Jersey 290 (2d ed. 1881). East New Jersey also specifically prohibited "planter[s]" from "rid[ing] or go[ing] armed with sword, pistol, or dagger." *Ibid.* Massachusetts Bay and New Hampshire followed suit in 1692 and 1771, respectively, enacting laws that, like the Statute of Northampton, provided that those who went "armed Offensively" could be punished. An Act for the Punishing of Criminal Offenders, 1692 Mass. Acts and Laws no. 6, pp. 11–12; An Act for the Punishing of Criminal Offenders, 1771 N. H. Acts and Laws ch. 6, §5, p. 17.

It is true, as the Court points out, that these laws were only enacted in three colonies. *Ante,* at 37. But that does not mean that they may be dismissed as outliers. They were successors to several centuries of comparable laws in England, see *supra,* at 34–40, and predecessors to numerous similar (in some cases, materially identical) laws enacted by the States after the founding, see *infra,* at 41–42. And while it may be true that these laws applied only to "dangerous and unusual weapons," see *ante,* at 38 (majority opinion), that category almost certainly included guns, see Charles, 60 Clev. St. L. Rev., at 34, n. 181 (listing 18th century sources defining "'offensive weapons'" to include "'Fire Arms'" and "'Guns'"); *State* v. *Huntly*, 25 N. C. 418, 422

(1843) (*per curiam*) ("A gun is an 'unusual weapon,' wherewith to be armed and clad"). Finally, the Court points out that New Jersey's ban on public carriage applied only to certain people or to the concealed carriage of certain smaller firearms. *Ante,* at 39–40. But the Court's refusal to credit the relevance of East New Jersey's law on this basis raises a serious question about what, short of a "twin" or a "dead ringer," qualifies as a relevant historical analogue. See *ante,* at 21 (majority opinion) (emphasis deleted).

C. The Founding Era.

The tradition of regulations restricting public carriage of firearms, inherited from England and adopted by the Colonies, continued into the founding era. Virginia, for example, enacted a law in 1786 that, like the Statute of Northampton, prohibited any person from "go[ing] nor rid[ing] armed by night nor by day, in fairs or markets, or in other places, in terror of the Country." 1786 Va. Acts, ch. 21. And, as the Court acknowledges, "public-carry restrictions proliferate[d]" after the Second Amendment's ratification five years later in 1791. *Ante,* at 42. Just a year after that, North Carolina enacted a law whose language was lifted from the Statute of Northampton virtually verbatim (vestigial references to the King included). Collection of Statutes, pp. 60–61, ch. 3 (F. Martin ed. 1792). Other States passed similar laws in the late-18th and 19th centuries. See, *e.g.,* 1795 Mass. Acts and Laws ch. 2, p. 436; 1801 Tenn. Acts pp. 260–261; 1821 Me. Laws p. 285; see also Charles, 60 Clev. St. L. Rev., at 40, n. 213 (collecting sources).

The Court discounts these laws primarily because they were modeled on the Statute of Northampton, which it believes prohibited only public carriage with the intent to terrify. *Ante,* at 41. I have previously explained why I believe

that preventing public terror was one *reason* that the Statute of Northampton prohibited public carriage, but not an *element* of the crime. See *supra,* at 37–39. And, consistent with that understanding, American regulations modeled on the Statute of Northampton appear to have been understood to set forth a broad prohibition on public carriage of firearms without any intent-to-terrify requirement. See Charles, 60 Clev. St. L. Rev., at 35, 37–41; J. Haywood, A Manual of the Laws of North-Carolina, pt. 2, p. 40 (3d ed.1814); J. Ewing, The Office and Duty of a Justice of the Peace 546 (1805).

The Court cites three cases considering common-law offenses, *ante,* at 42–44, but those cases do not support the view that only public carriage in a manner likely to terrify violated American successors to the Statute of Northampton. If anything, they suggest that public carriage of firearms was not common practice. At least one of the cases the Court cites, *State* v. *Huntly*, wrote that the Statute of Northampton codified a pre-existing common-law offense, which provided that "riding or going armed with dangerous or unusual weapons, is a crime against the public peace, *by* terrifying the good people of the land." 25 N. C., at 420–421 (quoting 4 Blackstone, Commentaries, at 149; emphasis added). *Huntly* added that "[a] gun is an 'unusual weapon'" and that "[n]o man amongst us carries it about with him, as one of his every-day accoutrements—as a part of his dress—and never, we trust, will the day come when any deadly weapon will be worn or wielded in our peace-loving and law-abiding State, as an appendage of manly equipment." 25 N. C., at 422. True, *Huntly* recognized that citizens were nonetheless "at perfect liberty" to carry for "lawful purpose[s]"—but it specified that those purposes were "business or amusement." *Id.,* at 422–423. New York's law similarly recognizes that hunting, target shooting, and certain professional activities are proper causes justifying lawful carriage of a firearm. See *supra,* at 12–13. The other two

cases the Court cites for this point similarly offer it only limited support—either because the atextual intent element the Court advocates was irrelevant to the decision's result, see *O'Neill* v. *State*, 16 Ala. 65 (1849), or because the decision adopted an outlier position not reflected in the other cases cited by the Court, see *Simpson* v. *State*, 13 Tenn. 356, 360 (1833); see also *ante,* at 42–43, 57 (majority opinion) (refusing to give "a pair of state-court decisions" "disproportionate weight"). The founding-era regulations—like the colonial and English laws on which they were modeled—thus demonstrate a longstanding tradition of broad restrictions on public carriage of firearms.

D. The 19th Century.

Beginning in the 19th century, States began to innovate on the Statute of Northampton in at least two ways. First, many States and Territories passed bans on concealed carriage or on any carriage, concealed or otherwise, of certain concealable weapons. For example, Georgia made it unlawful to carry, "unless in an open manner and fully exposed to view, any pistol, (except horseman's pistols,) dirk, sword in a cane, spear, bowie-knife, or any other kind of knives, manufactured and sold for the purpose of offence and defence." Ga. Code §4413 (1861). Other States and Territories enacted similar prohibitions. See, *e.g.,* Ala. Code §3274 (1852) (banning, with limited exceptions, concealed carriage of "a pistol, or any other description of fire arms"); see also *ante,* at 44, n. 16 (majority opinion) (collecting sources). And the Territory of New Mexico appears to have banned all carriage whatsoever of "any class of pistols whatever," as well as "bowie kni[ves,] . . . Arkansas toothpick[s], Spanish dagger[s], slung-shot[s], or any other deadly weapon." 1860 Terr. of N. M. Laws §§1–2, p. 94. These 19th-century bans on concealed carriage were stricter than New York's law, for they prohibited concealed carriage with at most limited exceptions, while New York permits concealed carriage

with a lawfully obtained license. See *supra,* at 12. Moreover, as *Heller* recognized, and the Court acknowledges, "the majority of the 19th-century courts to consider the question held that [these types of] prohibitions on carrying concealed weapons *were lawful* under the Second Amendment or state analogues." 554 U. S., at 626 (emphasis added); see also *ante,* at 44.

The Court discounts this history because, it says, courts in four Southern States suggested or held that a ban on concealed carriage was only lawful if open carriage or carriage of military pistols was allowed. *Ante,* at 44–46. (The Court also cites *Bliss* v. *Commonwealth*, 12 Ky. 90 (1822), which invalidated Kentucky's concealed-carry prohibition as contrary to that State's Second Amendment analogue. *Id.,* at 90–93. *Bliss* was later overturned by constitutional amendment and was, as the Court appears to concede, an outlier. See *Peruta* v. *County of San Diego*, 824 F. 3d 919, 935–936 (CA9 2016); *ante,* at 45.) Several of these decisions, however, emphasized States' leeway to regulate firearms carriage as necessary "to protect the orderly and well disposed citizens from the treacherous use of weapons not even designed for any purpose of public defence." *State* v. *Smith*, 11 La. 633 (1856); see also *Andrews* v. *State*, 50 Tenn. 165, 179–180 (1871) (stating that "the right to *keep*" rifles, shotguns, muskets, and repeaters could not be "*infringed* or *forbidden*," but "[t]heir *use* [may] be subordinated to such regulations and limitations as are or may be authorized by the law of the land, passed to subserve the general good, so as not to infringe the right secured and the necessary incidents to the exercise of such right"); *State* v. *Reid*, 1 Ala. 612, 616 (1840) (recognizing that the constitutional right to bear arms "necessarily . . . leave[s] with the Legislature the authority to adopt such regulations of police, as may be dictated by the safety of the people and the advancement of public morals"). And other courts upheld concealed-carry restrictions without any reference to an exception allowing

open carriage, so it is far from clear that the cases the Court cites represent a consensus view. See *State* v. *Mitchell*, 3 Blackf. 229 (Ind. 1833); *State* v. *Buzzard*, 4 Ark. 18 (1842). And, of course, the Court does not say whether the result in this case would be different if New York allowed open carriage by law-abiding citizens as a matter of course.

The second 19th-century innovation, adopted in a number of States, was surety laws. Massachusetts' surety law, which served as a model for laws adopted by many other States, provided that any person who went "armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon," and who lacked "reasonable cause to fear an assualt [*sic*]," could be made to pay a surety upon the "complaint of any person having reasonable cause to fear an injury, or breach of the peace." Mass. Rev. Stat., ch. 134, §16 (1836). Other States and Territories enacted identical or substantially similar laws. See, *e.g.,* Me. Rev. Stat., ch. 169, §16 (1840); Mich. Rev. Stat., ch. 162, §16 (1846); Terr. of Minn. Rev. Stat., ch. 112, §18 (1851); 1854 Ore. Stat., ch. 16, §17; W. Va. Code, ch. 153, §8 (1868); 1862 Pa. Laws p. 250, §6. These laws resemble New York's licensing regime in many, though admittedly not all, relevant respects. Most notably, like New York's proper cause requirement, the surety laws conditioned public carriage in at least some circumstances on a special showing of need. Compare *supra,* at 13, with Mass. Rev. Stat., ch. 134, §16.

The Court believes that the absence of recorded cases involving surety laws means that they were rarely enforced. *Ante,* at 49–50. Of course, this may just as well show that these laws were normally followed. In any case, scholars cited by the Court tell us that "traditional case law research is not especially probative of the application of these restrictions" because "in many cases those records did not survive the passage of time" or "are not well indexed or digitally searchable." E. Ruben & S. Cornell, Firearms

Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context, 125 Yale L. J. Forum 121, 130–131, n. 53 (2015). On the contrary, "the fact that restrictions on public carry were well accepted in places like Massachusetts and were included in the relevant manuals for justices of the peace" suggests "that violations were enforced at the justice of peace level, but did not result in expensive appeals that would have produced searchable case law." *Id.*, at 131, n. 53 (citation omitted). The surety laws and broader bans on concealed carriage enacted in the 19th century demonstrate that even relatively stringent restrictions on public carriage have long been understood to be consistent with the Second Amendment and its state equivalents.

E. Postbellum Regulation.

After the Civil War, public carriage of firearms remained subject to extensive regulation. See, *e.g.,* Cong. Globe, 39th Cong., 1st Sess., 908 (1866) ("The constitutional rights of all loyal and well-disposed inhabitants to bear arms will not be infringed; nevertheless this shall not be construed to sanction the unlawful practice of carrying concealed weapons"). Of course, during this period, Congress provided (and commentators recognized) that firearm regulations could not be designed or enforced in a discriminatory manner. See *ibid.*; Act of July 16, 1866, §14, 14 Stat. 176–177 (ensuring that all citizens were entitled to the "full and equal benefit of all laws . . . including the constitutional right to keep and bear arms . . . without respect to race or color, or previous condition of slavery"); see also The Loyal Georgian, Feb. 3, 1866, p. 3, col. 4. But that by-now uncontroversial proposition says little about the validity of nondiscriminatory restrictions on public carriage, like New York's.

What is more relevant for our purposes is the fact that, in the postbellum period, States continued to enact generally applicable restrictions on public carriage, many of

which were even more restrictive than their predecessors. See S. Cornell & J. Florence, The Right to Bear Arms in the Era of the Fourteenth Amendment: Gun Rights or Gun Regulation? 50 Santa Clara L. Rev. 1043, 1066 (2010). Most notably, many States and Western Territories enacted stringent regulations that prohibited *any* public carriage of firearms, with only limited exceptions. For example, Texas made it a misdemeanor to carry in public "any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purpose of offense or defense" absent "reasonable grounds for fearing an [immediate and pressing] unlawful attack." 1871 Tex. Gen. Laws ch. 34, §1. Similarly, New Mexico made it "unlawful for any person to carry deadly weapons, either concealed or otherwise, on or about their persons within any of the settlements of this Territory." 1869 Terr. of N. M. Laws ch. 32, §1. New Mexico's prohibition contained only narrow exceptions for carriage on a person's own property, for self-defense in the face of immediate danger, or with official authorization. *Ibid.* Other States and Territories adopted similar laws. See, *e.g.,* 1875 Wyo. Terr. Sess. Laws ch. 52, §1; 1889 Idaho Terr. Gen. Laws §1, p. 23; 1881 Kan. Sess. Laws §23, p. 92; 1889 Ariz. Terr. Sess. Laws no. 13, §1, p. 16.

When they were challenged, these laws were generally upheld. P. Charles, The Faces of the Second Amendment Outside the Home, Take Two: How We Got Here and Why It Matters, 64 Clev. St. L. Rev. 373, 414 (2016); see also *ante,* at 56–57 (majority opinion) (recognizing that postbellum Texas law and court decisions support the validity of New York's licensing regime); *Andrews*, 50 Tenn., at 182 (recognizing that "a man may well be prohibited from carrying his arms to church, or other public assemblage," and that the carriage of arms other than rifles, shot guns, muskets, and repeaters "may be prohibited if the Legislature

deems proper, absolutely, at all times, and under all circumstances").

The Court's principal answer to these broad prohibitions on public carriage is to discount gun control laws passed in the American West. *Ante,* at 58–61. It notes that laws enacted in the Western Territories were "rarely subject to judicial scrutiny." *Ante,* at 60. But, of course, that may well mean that "[w]e . . . can assume it settled that these" regulations were "consistent with the Second Amendment." See *ante,* at 21 (majority opinion). The Court also reasons that laws enacted in the Western Territories applied to a relatively small portion of the population and were comparatively short lived. See *ante,* 59–61. But even assuming that is true, it does not mean that these laws were historical aberrations. To the contrary, bans on public carriage in the American West and elsewhere constitute just one chapter of the centuries-old tradition of comparable firearms regulations described above.

F. The 20th Century.

The Court disregards "20th-century historical evidence." *Ante,* at 58, n. 28. But it is worth noting that the law the Court strikes down today is well over 100 years old, having been enacted in 1911 and amended to substantially its present form in 1913. See *supra,* at 12. That alone gives it a longer historical pedigree than at least three of the four types of firearms regulations that *Heller* identified as "presumptively lawful." 554 U. S., at 626–627, and n. 26; see C. Larson, Four Exceptions in Search of a Theory: *District of Columbia* v. *Heller* and Judicial *Ipse Dixit*, 60 Hastings L. J. 1371, 1374–1379 (2009) (concluding that "'prohibitions on the possession of firearms by felons and the mentally ill [and] laws imposing conditions and qualifications on the commercial sale of arms'" have their origins in the 20th century); *Kanter* v. *Barr*, 919 F. 3d 437, 451 (CA7 2019) (Barrett, J., dissenting) ("Founding-era legislatures

did not strip felons of the right to bear arms simply because of their status as felons"). Like JUSTICE KAVANAUGH, I understand the Court's opinion today to cast no doubt on that aspect of *Heller*'s holding. *Ante,* at 3 (concurring opinion). But unlike JUSTICE KAVANAUGH, I find the disconnect between *Heller*'s treatment of laws prohibiting, for example, firearms possession by felons or the mentally ill, and the Court's treatment of New York's licensing regime, hard to square. The inconsistency suggests that the Court today takes either an unnecessarily cramped view of the relevant historical record or a needlessly rigid approach to analogical reasoning.

* * *

The historical examples of regulations similar to New York's licensing regime are legion. Closely analogous English laws were enacted beginning in the 13th century, and similar American regulations were passed during the colonial period, the founding era, the 19th century, and the 20th century. Not all of these laws were identical to New York's, but that is inevitable in an analysis that demands examination of seven centuries of history. At a minimum, the laws I have recounted *resembled* New York's law, similarly restricting the right to publicly carry weapons and serving roughly similar purposes. That is all that the Court's test, which allows and even encourages "analogical reasoning," purports to require. See *ante,* at 21 (disclaiming the necessity of a "historical *twin*").

In each instance, the Court finds a reason to discount the historical evidence's persuasive force. Some of the laws New York has identified are too old. But others are too recent. Still others did not last long enough. Some applied to too few people. Some were enacted for the wrong reasons. Some may have been based on a constitutional rationale that is now impossible to identify. Some arose in historically unique circumstances. And some are not sufficiently

analogous to the licensing regime at issue here. But if the examples discussed above, taken together, do not show a tradition and history of regulation that supports the validity of New York's law, what could? Sadly, I do not know the answer to that question. What is worse, the Court appears to have no answer either.

V

We are bound by *Heller* insofar as *Heller* interpreted the Second Amendment to protect an individual right to possess a firearm for self-defense. But *Heller* recognized that that right was not without limits and could appropriately be subject to government regulation. 554 U. S., at 626–627. *Heller* therefore does not require holding that New York's law violates the Second Amendment. In so holding, the Court goes beyond *Heller*.

It bases its decision to strike down New York's law almost exclusively on its application of what it calls historical "analogical reasoning." *Ante,* at 19–20. As I have admitted above, I am not a historian, and neither is the Court. But the history, as it appears to me, seems to establish a robust tradition of regulations restricting the public carriage of concealed firearms. To the extent that any uncertainty remains between the Court's view of the history and mine, that uncertainty counsels against relying on history alone. In my view, it is appropriate in such circumstances to look beyond the history and engage in what the Court calls means-end scrutiny. Courts must be permitted to consider the State's interest in preventing gun violence, the effectiveness of the contested law in achieving that interest, the degree to which the law burdens the Second Amendment right, and, if appropriate, any less restrictive alternatives.

The Second Circuit has previously done just that, and it held that New York's law does not violate the Second Amendment. See *Kachalsky*, 701 F. 3d, at 101. It first evaluated the degree to which the law burdens the Second

Amendment right to bear arms. *Id.,* at 93–94. It concluded that the law "places substantial limits on the ability of law-abiding citizens to possess firearms for self-defense in public," but does not burden the right to possess a firearm in the home, where *Heller* said "'the need for defense of self, family, and property is most acute.'" *Kachalsky*, 701 F. 3d, at 93–94 (quoting *Heller,* 554 U. S., at 628). The Second Circuit therefore determined that the law should be subject to heightened scrutiny, but not to strict scrutiny and its attendant presumption of unconstitutionality. 701 F. 3d, at 93–94. In applying such heightened scrutiny, the Second Circuit recognized that "New York has substantial, indeed compelling, governmental interests in public safety and crime prevention." *Id.,* at 97. I agree. As I have demonstrated above, see *supra,* at 3–9, firearms in public present a number of dangers, ranging from mass shootings to road rage killings, and are responsible for many deaths and injuries in the United States. The Second Circuit then evaluated New York's law and concluded that it is "substantially related" to New York's compelling interests. *Kachalsky*, 701 F. 3d, at 98–99. To support that conclusion, the Second Circuit pointed to "studies and data demonstrating that widespread access to handguns in public increases the likelihood that felonies will result in death and fundamentally alters the safety and character of public spaces." *Id.,* at 99. We have before us additional studies confirming that conclusion. See, *e.g., supra,* at 19–20 (summarizing studies finding that "may issue" licensing regimes are associated with lower rates of violent crime than "shall issue" regimes). And we have been made aware of no less restrictive, but equally effective, alternative. After considering all of these factors, the Second Circuit held that New York's law does not unconstitutionally burden the right to bear arms under the Second Amendment. I would affirm that holding.

New York's Legislature considered the empirical evidence about gun violence and adopted a reasonable licensing law to regulate the concealed carriage of handguns in order to keep the people of New York safe. The Court today strikes down that law based only on the pleadings. It gives the State no opportunity to present evidence justifying its reasons for adopting the law or showing how the law actually operates in practice, and it does not so much as acknowledge these important considerations. Because I cannot agree with the Court's decision to strike New York's law down without allowing for discovery or the development of any evidentiary record, without considering the State's compelling interest in preventing gun violence and protecting the safety of its citizens, and without considering the potentially deadly consequences of its decision, I respectfully dissent.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF DANIEL CARLIN-WEBER ON BEHALF OF MARYLAND SHALL ISSUE, INC.

COMES NOW, the declarant, DANIEL CARLIN-WEBER, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is DANIEL CARLIN-WEBER and I am the Chairman of the Board of Directors of MARYLAND SHALL ISSUE, INC., a named plaintiff in the above captioned matter. I execute this declaration on behalf of MARYLAND SHALL ISSUE, INC. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to MARYLAND SHALL ISSUE, INC., are true.

EXHIBIT E

Dated this day of November 28, 2022:

DANIEL CARLIN-WEBER
Chairman of the Board of Directors,
Maryland Shall Issue, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC (L)
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF ANDREW RAYMOND

COMES NOW, the declarant, ANDREW RAYMOND, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is ANDREW RAYMOND, and I am named plaintiff in the above-captioned matter and a co-owner of ENGAGE ARMAMENT, LLC, which is also a named plaintiff in the above captioned matter. I execute this declaration on behalf of myself and on behalf of ENGAGE ARMAMENT, LLC. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to myself and ENGAGE ARMAMENT, LLC, are true.

Dated this day of November 28, 2022:
ANDREW RAYMOND

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF CARLOS RABANALES

COMES NOW, the declarant, CARLOS RABANALES, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is CARLOS RABANALES., and I am named plaintiff in the above-captioned matter and a co-owner of ENGAGE ARMAMENT, LLC, which is also a named plaintiff in the above captioned matter. I execute this declaration on behalf of myself and on behalf of ENGAGE ARMAMENT, LLC. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to myself and ENGAGE ARMAMENT, LLC, are true.

Dated this day of November 28, 2022:
CARLOS RABANALES

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF BRANDON FERRELL

COMES NOW, the declarant, BRANDON FERRELL, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is BRANDON FERRELL, and I am named plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to BRANDON FERRELL are true.

Brandon Ferrell

Dated this day of November 28, 2022:
BRANDON FERRELL

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC (L)
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF DERYCK WEAVER

COMES NOW, the declarant, DERYCK WEAVER, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is DERYCK WEAVER, and I am named plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to DERYCK WEAVER are true.

Dated this day of November 28, 2022:
DERYCK WEAVER

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC (L)
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF JOSHUA EDGAR

COMES NOW, the declarant, JOSHUA EDGAR, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is JOSHUA EDGAR, and I am named plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to JOSHUA EDGAR are true.

Dated this day of November 28, 2022:
JOSHUA EDGAR

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF RONALD DAVID

COMES NOW, the declarant, RONALD DAVID, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is RONALD DAVID, and I am named plaintiff in the above-captioned matter and the owner of I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC, which is also a named plaintiff in the above captioned matter. I execute this declaration on behalf of myself and on behalf of I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to myself and I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC, are true.

Dated this day of November 28, 2022:
RONALD DAVID

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
Plaintiffs,	)	
v.	)	Case No. 8:21-cv-01736-TDC (L)
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
Defendant.	)	

DECLARATION OF NANCY DAVID

COMES NOW, the declarant, NANCY DAVID, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is NANCY DAVID, and I am named plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to NANCY DAVID are true.

Dated this day of November 28, 2022:
NANCY DAVID

EXHIBIT L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF ELIYAHU SHEMONY

COMES NOW, the declarant, ELIYAHU SHEMONY, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is ELIYAHU SHEMONY, and I am named plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I have read and otherwise reviewed the allegations of the Second Amended Complaint in this matter. Based on personal knowledge, I hereby adopt, declare and verify that the factual allegations in the complaint that relate or refer to ELIYAHU SHEMONY are true.

Dated this day of November 28, 2022:
ELIYAHU SHEMONY

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF DAVID S. SUSSMAN

COMES NOW, the declarant, DAVID S. SUSSMAN, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is DAVID S. SUSSMAN, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I am a retired US Army Officer with multiple overseas deployments. I serve as the volunteer Director of Security and Safety for a Montgomery County synagogue. I initially received my restricted Maryland Wear and Carry Permit exclusively for the purpose of performing my security duties at my synagogue as was specifically identified on that initial permit. I have since been approved for an unrestricted Maryland Wear and Carry Permit that I now hold.

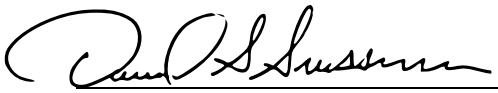
3. We have a small congregation that chooses not to expend its limited budget to hire either off-duty Police Officers or other security services more than is necessary. Because I am a member of the congregation, I am more familiar with the other members, and more aware of what "normal" looks like. I and others like me are the overall best security solution for our

EXHIBIT N

congregation at this time of increased hate and violence against the Jewish community and other communities of faith.

4. As a result of the recent law passed in Montgomery County, I am concerned about the lack of clarity as to whether I can lawfully continue to possess a firearm to protect myself while performing overwatch and security duties at my synagogue, which could render the members of my congregation unprotected.

5. I hereby declare and that the factual allegations in the complaint that relate or refer to myself and MARYLAND SHALL ISSUE, INC., are true.



Dated this day of November 30, 2022:
DAVID S. SUSSMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF ALLAN D. BARALL

COMES NOW, the declarant, ALLAN D. BARALL, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true to the best of my knowledge:

1. My name is ALLAN D. BARALL, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a Montgomery County, Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I am a member of my Jewish synagogue in Potomac, and I serve as a volunteer plain-clothed armed security member of that synagogue located in Montgomery County, Maryland with the permission of the rabbi and synagogue leadership.

3. I chose to obtain my wear and carry handgun permit in 2020 at the request of the synagogue's rabbi. In addition to myriad notable international Antisemitic incidents that that took place prior to that year, according to the Anti-Defamation League in 2019 there were 2,107 anti-Semitic incidents recorded in the United States that year alone. Following the deadly October 2018 armed attack against the Tree of Life – Or L'Simcha Congregation in Pittsburgh, Pennsylvania, in

EXHIBIT O

2019 there were multiple violent attacks, including: an April 2019 armed attack against Chabad of Poway synagogue in Poway, California; a December 2019 knife attack against rabbi in Monsey, New York, and a December 2019 attack in a kosher grocery store in Jersey City, New Jersey. In addition to service attendees, worshippers, and guests in our synagogue, we also have multiple priceless Hebrew Torah Scrolls that are adorned with silver. These Torah scrolls are routinely taken out of their storage for use during religious services, in preparation for upcoming services, and for frequent adjustment, checking, and repair. In light of all of this, my synagogue's rabbi requested that I serve as an armed volunteer to enhance our security.

4. The unfortunate trend of Antisemitism I cite above has only gotten worse according to publicly available religious bias and hate crimes reports from both the Anti-Defamation League and the Federal Bureau of Investigation. And, in 2021 while I was walking along a busy road to my synagogue for Sabbath services on a Saturday morning, the occupant of a passing car yelled an Antisemitic statement at me.

5. By way of background, I am a retired and decorated United States Army colonel. I faithfully served as an Army military intelligence officer for over 31 years with a security clearance above Top Secret and with polygraphs. I served in Special Forces and Special Operations units in Afghanistan and other global locations, in major intelligence organizations, at the White House on the National Security Council staff, and at the Pentagon on the staff of the Chairman of the Joint Chiefs of Staff. In one assignment with an Army unit designated to provide support to United States embassies I routinely qualified with weapons to the same certification standard as US Department of State Diplomatic Security officers on dynamic ranges.

6. In another synagogue that my family and I previously attended, I stood up, led, and managed a comprehensive security operation. While effective, it was also required a

significant amount of manpower to staff multiple shifts across Saturday Sabbaths and many holidays throughout the year alongside paid off-duty and retired law enforcement officers hired by the synagogue. While the off-duty and/or retired law enforcement officers are professional, they are also expensive and limited to working very few hours one day per week during the main service in the morning. However, synagogues hold services and classes almost every day on weekdays, weekends, and government holidays. Most importantly, the law enforcement officers generally lacked the innate awareness of Jewish cultural nuances and behaviors that indicate someone just doesn't belong at the synagogue at that time.

7. By its text, Bill 21-22E bans me and others with similar backgrounds, dispositions, and bona fides from wear and carry of firearms for protection at our synagogue, which is physically situated close to a road with relatively easy access. Our current wear and carry permits, granted by the Maryland State Police after background checks, are no longer sufficient for carry in my synagogue, despite the request of my rabbi, under Montgomery passage of Bill 21-22E. This exposes my synagogue, its property, and its members and guests – my friends and neighbors – to the very real risk of not being armed in the fact of an attack, like those I describe above.

8. It is my opinion that the result of Bill 21-22E infringes on my personal right of self-defense, on the collective rights of my congregation to permit and choose members to be armed, and creates risk in the face of an attack such as I describe above. It is ironic that my rabbi, my community, the United States government and United States Armed Forces, and the State of Maryland trust me to be armed, but Montgomery County does not.

9. I hereby declare that the factual allegations in the complaint that relate or refer to myself and my synagogue are true to the best of my knowledge.

/s/ Allan D. Barall

Dated: December 1, 2022:
ALLAN D. BARALL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF JOHN DOE NO.1

COMES NOW, the declarant, JOHN DOE NO.1, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is JOHN DOE NO.1, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a Montgomery County Maryland resident and I am fully competent to give sworn testimony in this matter. JOHN DOE NO. 1 is not my real name. I respectfully request that my identity remain anonymous. While I provide armed security to my synagogue, I have done so anonymously and the effectiveness of that security would be undermined if my role in doing so became public knowledge. Moreover, regretfully, I am concerned that my livelihood would be jeopardized should I be publicly associated with pro-Second Amendment advocacy.

2. I am an Orthodox Jew with a background in both armed and unarmed self-defense. I serve (anonymously) as a volunteer plain-clothed armed security member of an Orthodox synagogue located in Montgomery County Maryland at the request of the synagogue's Board and Rabbi ("leadership").

EXHIBIT P

3. At the request of the synagogue leadership, I initially applied for and received a restricted Maryland Wear and Carry Permit allowing me to be armed to, from and in the synagogue. Since then, I have been approved for and hold an unrestricted Maryland Wear and Carry Permit.

4. When I was originally asked to act in an armed security role, the synagogue's leadership were very concerned for the safety, welfare and security of our congregants. During the prior year, a Rabbi in Florida was murdered going to synagogue. Terrorists had attacked and killed all the members of the Mumbai (Bombay) Chabad Synagogue in India. Serious armed attacks against Jewish institutions in the U.S. had occurred in Los Angeles, Washington D.C., New York, Baltimore, and many other cities. Many congregants were killed at a synagogue in Har Nof Jerusalem; four people were executed at the Hyper Cacher market (Kosher Supermarket) in Paris; a congregant was killed outside the synagogue in Copenhagen, a child and son of the Chabad Rabbi were attacked in New Zealand.

5. More recently there were the tragic attacks on the Tree of Life Synagogue in Pittsburgh, Pennsylvania and the Poway Chabad Synagogue in California, that left many innocent congregants dead. There are nearly daily assaults on Jews in New York and across the country.

6. In the very recent past and very nearby, there has been vile anti-Semitic graffiti spray-painted on the fence at the entrance of the Bethesda Trolley Trail that included the images of three hanging bodies and the words, "no mercy for jews." I understand that this was the second such incident at this location this year. In fact, our synagogue has been defaced with anti-Semitic graffiti.

7. Even closer to home the avowed Neo-Nazi, who lives very close to our synagogue and who openly wears a shirt displaying a large swastika, has verbally accosted some of our synagogue members (these incidents have been reported to the police). While walking to

and from synagogue, I have been taunted and verbally accosted by passing motorists who have spit at me, called me "dirty Jew" and thrown loose change at me.

8. While our synagogue has a strong cooperative relationship with our local Montgomery County Police and the Maryland State Police, we are small and cannot afford to hire either off-duty Police Officers or other security services on a full-time basis. We also know the police are spread thin and a terrorist can inflict a great deal of harm before police could arrive at our location. In our congregation, small prayer groups meet early in the morning as well as in the late evening each day and are particularly vulnerable at these times. Because I am a long-time member of our congregation that regularly attends daily (both morning and evening), I know everyone who may be expected to visit, and who may require enhanced scrutiny, and I am well-situated to respond to a threat, should one G-d forbid, occur.

9. By its text, Bill 21-22E has banned the possession and transport of firearms at and within 100 yards of a "house of worship." That ban has stripped Jewish synagogues in the County of the armed protection provided by members of their congregations like me, thus leaving these places of worship vulnerable to attack. The urgency and need for such protection cannot be overstated.

10. I hereby declare that the factual allegations in the complaint that relate or refer to myself are true.

/s John Doe No. 1

Dated this day of November 30, 2022:
JOHN DOE NO.1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF JOHN DOE NO.2

COMES NOW, the declarant, JOHN DOE NO.2, and hereby solemnly declares under penalties of perjury and states that, based upon personal knowledge, the contents of the following declaration are true:

1. My name is [JOHN DOE NO.2]; my true identity is being withheld for fear of being stigmatized or retaliated against, either professionally or personally, both of which are unfortunately becoming more prevalent in the current cultural and political climate. I am concerned that should my name become a matter of public record or even unintentionally leaked to the public, my professional reputation and ability to earn a livelihood to support my family could be negatively affected. I am also concerned for the social effects on my children should my name be publicly associated with an issue that many people do not fully appreciate and with regard to which many people are intolerant and would not hesitate to demonize me and my children. I am a member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a resident of Montgomery County, Maryland and I am fully competent to give sworn testimony in this matter.

EXHIBIT Q

2. In addition to being a resident of Montgomery County, I have been a Maryland Wear and Carry Permit holder for nearly five years. I have over twenty-five years of experience and training in self-defense and have completed countless hours of firearms safety and skill training, with instruction from military, law enforcement and civilian instructors. I currently serve as the chair of my synagogue's security committee and volunteer as a member of our synagogue's small and discrete armed security team at the request of our Rabbi. As the grandchild of four Holocaust survivors, I had a conversation with my synagogue Rabbi in 2016 wherein I voiced concerns regarding the alarming rise in attacks against synagogues, Jewish institutions, and Jewish individuals. The Rabbi shared my concerns and agreed that our small synagogue needed a small group of well-trained, responsible, armed congregants willing and able to defend the synagogue's congregants, until police arrived, in case of emergency (including in the event of an attack on the synagogue by individuals with weapons). It was for this reason that I initially obtained my Wear and Carry Permit at the request of my synagogue's Rabbi, and as an identifiably Jewish individual, this continues to be one of the main reasons that I have legally carried a firearm for the past five years.

3. Over the last few years, there has been a marked increase in the frequency of attacks against synagogues, Jewish institutions and Jewish individuals worldwide, nationally and on the East Coast (Pittsburgh, New York, Florida and right here in Montgomery County). Most recently, antisemitic and vandalistic threats were made against the Montgomery County Jewish community - in the past 2 weeks, there have been at least two incidents of antisemitic graffiti (one at the Bethesda Trolley Trail, which including the words, "no mercy for Jews" and murderous depictions of lynchings or hangings and another with swastikas near the intersection of Old Georgetown Road and Tuckerman Lane) and prior to that there was an incident in August 2022,

which included swastikas and white power symbols. There have even been incidents over the past few months (which have been reported to the county police department) of members of our synagogue and other synagogues nearby being accosted, taunted and even threatened while walking to synagogue. There is also an individual who lives within walking distance of our synagogue and at least two other synagogues, a Jewish daycare facility a Jewish school (and various other places of worship and schools) who has a military background, but appears to suffer from mental illness and regularly wears a T-shirt depicting a swastika and who has verbally accosted members of the Jewish community. The police have stated that his speech is constitutionally protected and there's nothing they can do unless and until he breaks a law or harms a member of the community. His antagonism towards the local Jewish community combined with his mental illness and his military training creates a potentially volatile and dangerous situation for the members of the local Jewish community, the nearby houses of worship and Jewish institutions and the visibly Jewish children in our neighborhood. Should this individual suffer some sort of "psychological break" or psychological episode, it will likely not matter to him that he is within 100 yards of a "place of public assembly" as defined in the Montgomery County Code and prohibiting law-abiding citizens from having the means to protect themselves and their loved ones, will likely only increase the harm inflicted in any potentially violent attack by this individual on what he now knows to be an unarmed and unprotected community. Montgomery County Bill 21-22E disarms the Jewish community and other communities of faith, hamstrings our ability to protect ourselves and our loved ones and makes us and our institutions softer and more vulnerable targets for anyone wishing to attack Jews and cause death and suffering to an already vulnerable community and who, by dint of the fact that he or she wishes to illegally harm others, quite

obviously does not care about any legal restrictions imposed by law on the law-abiding citizens of our county or the State of Maryland.

4. Our synagogue is a small Jewish congregation that cannot afford to hire armed security or off-duty police officers at every service (3 times per day, 365 days per year). Additionally, as a member who attends services regularly, I am in many ways better-suited to notice things that are out of the ordinary or individuals who are potential threats than the random employee of a security guard company or a random police officer. In today's climate of increased antisemitism and violence against synagogues and other Jewish institutions as well as other communities of faith, it is imperative that members of all faiths be able to feel safe and secure in their houses of worship and have the means to protect themselves with any lifesaving means if threatened by violent criminals who, in any case, ignore the laws and do not apply for Maryland Wear and Carry permits prior to committing crimes.

5. In this time of rising crime rates and increased threat against the Jewish community, prohibiting members of the Jewish community (and other faith communities) from carrying firearms for self-defense and personal protection (a) makes our institutions more vulnerable to attack by those evil individuals and groups who wish to do us harm and have no regard for the laws in any event and (b) forces individuals to choose between (i) their desire to be safe and secure in their places of worship, (ii) their desire to be law-abiding citizens, and (iii) their desire to freely and openly practice their religious faith, protected by the First and Fourteenth Amendments of the Constitution of the United States, as well as the Declaration of Rights of the Constitution of Maryland.

6. As a visible and identifiable Jewish individual, I regularly and legally carry a loaded firearm nearly everywhere I go, which includes parks, the private Jewish day school that

my children attend, libraries, recreational facilities, healthcare facilities, and childcare facilities. Furthermore, because my home is located within 100 yards of a house of worship, under Montgomery County Bill 21-22E, I am prohibited from leaving my house with a firearm (including in my own yard). Additionally, the roads in my neighborhood and those on which I commute daily are lined by houses of worship, schools, parks, healthcare facilities, recreational facilities, long-term facilities and childcare facilities, as such Montgomery County Bill 21-22E, prohibits me from leaving my home with my firearm.

7. I hereby declare that the factual allegations in the complaint that relate or refer to myself and MARYLAND SHALL ISSUE, INC., are true.

/s/ John Doe No.2

Dated this day of November 30, 2022:
JOHN DOE NO.2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF THOMAS PAINE NO.1

COMES NOW, the declarant, THOMAS PAINE NO.1, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is THOMAS PAINE NO.1, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a Frederick County Maryland resident and I am fully competent to give sworn testimony in this matter. THOMAS PAINE NO. 1 is not my real name. I respectfully request that my identity remain anonymous. While I provide armed security to my Church, I have done so anonymously and the effectiveness of that security would be undermined if my role in doing so became public knowledge. Moreover, regretfully, I am concerned that my livelihood would be jeopardized should I be publicly associated with pro-Second Amendment advocacy.

2. I am a Deacon at my Church in Montgomery County and I serve (anonymously) as a volunteer plain-clothed armed security member of my Church located in Montgomery County Maryland with the permission of the pastor and church council.

EXHIBIT R

3. I chose to obtain my wear and carry permit in 2019 when the church decided to form a security team since the church dealt with large sums of checks and cash during Sunday services. I have attended the church for 53 years and back in the late 80's early 90's the church had anonymous bomb threats against it while my mother was the church secretary to which the Montgomery County police would do patrols on Sundays and Wednesdays during services for a few months. Since the shutdowns of Covid the church can no longer pay for an armed security service, it is now just armed church members providing security for the church. Also due to the violence seen across the country in every day places one might find themselves at a store or church like the Walmart shooting in Chesapeake VA on November 22, 2022 where 6 people were killed and 4 injured; Nightclub shooting in Colorado Springs on November 19, 2022 where 5 people were killed and 25 others were injured; Greenwood Park Mall in Indiana on July 17, 2022 where 3 people were killed before he gunman was killed by an armed citizen stopping the attack; Collierville Kroger Shooting on September 23, 2021 where one was killed and 14 injured; Colorado Springs Shooting at a trailer park on May 9, 2021 where 6 people were killed at a birthday party in a trailer park; West Freeway Church of Christ in White Settlement, Texas on December 29, 2019 where 2 congregants were killed before armed church security ended the threat by shooting the perpetrator; Sutherland Springs Church Shooting in Sutherland Springs, Texas on November 5, 2017 where 26 people were killed and 22 injured; Charleston church shooting in Charleston, South Carolina on June 17, 2015 where 9 congregants were killed. Our church has been concerned for safety for several years as we used to hire an off duty officer to provide security but have moved to armed church members.

4. Other religions have also experienced deadly attacks such as Jewish synagogues. Terrorists had attacked and killed all the members of the Mumbai (Bombay) Chabad Synagogue in India. Serious armed attacks against Jewish institutions in the U.S. had occurred in Los Angeles, Washington D.C., New York, Baltimore, and many other cities. Many congregants were killed at a synagogue in Har Nof Jerusalem; four people were executed at the Hyper Cacher market (Kosher Supermarket) in Paris; a congregant was killed outside the synagogue in Copenhagen, a child and son of the Chabad Rabbi were attacked in New Zealand.

5. We know the police are spread thin and a terrorist can inflict great deal of harm before police could arrive at our location. In our congregation, small prayer groups meet early in the morning on weekends as well as in the evening during the week on occasion and are particularly vulnerable at these times. Bill 21-22E has made it impossible for our churches security team members to transport a firearm to the church to protect the members thus leaving us at the mercy of the evil that exists in the world.

6. By its text, Bill 21-22E has banned the possession and transport of firearms at and within 100 yards of health care facilities (doctors' offices, urgent care facilities, nursing homes, hospitals) Parks (any kind) and any government property or facility operated or controlled by Montgomery County. The bill also removes the exception for authorized Maryland Wear and Carry permit holders. The effect of this on any permit holder is that in large parts of the County it is now a crime to carry with a permit in order to protect oneself. It is very difficult to know which one of these restricted places is within 100 yards (300 feet) of any place a permit holder may be. Because of these 100-yard exclusion zones, and the uncertainty concerning their locations, it is difficult if not impossible to transport a firearm in the County, including to and from the Church, with a wear and carry permit.

7. By its text, Bill 21-22E has banned the possession and transport of firearms at and within 100 yards of a "house of worship." That ban has stripped Christian Churches, as well as other houses of worship in the County, of the armed protection provided by members of their congregations like me, thus leaving these places of worship vulnerable to attack. The urgency and need for such protection cannot be overstated.

8. I hereby declare and that the factual allegations in the complaint that relate or refer to myself and my Church are true.

/s/ Thomas Paine No. 1

Dated: November 30, 2022:
THOMAS PAINE NO.1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

DECLARATION OF JOHN SMITH NO.1

COMES NOW, the declarant, JOHN SMITH NO.1, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is JOHN SMITH NO.1, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a Montgomery County Maryland resident and I am fully competent to give sworn testimony in this matter. JOHN SMITH NO. 1 is not my real name. I respectfully request that my identity remain anonymous. While I provide armed security to my Church, I have done so anonymously and the effectiveness of that security would be undermined if my role in doing so became public knowledge. Moreover, regretfully, I am concerned that my livelihood would be jeopardized should I be publicly associated with pro-Second Amendment advocacy.

2. I am a Deacon at my Church in Montgomery County and I serve (anonymously) as a volunteer plain-clothed armed security member of my Church located in Montgomery County Maryland with the permission of my pastor and other Deacons.

EXHIBIT S

3. After the U.S. Supreme Court's *Bruen* decision in June of this year I decided to obtain a Maryland Wear and Carry Permit for self-defense to include carrying a concealed firearm at church. I applied for and received an unrestricted Maryland Wear and Carry Permit earlier this fall.

4. I chose to obtain a MD wear and Carry permit due to the violence seen across the country in every day places one might find themselves such as a store or church like the Walmart shooting in Chesapeake VA on November 22, 2022 where 6 people were killed and 4 injuried; Nightclub shooting in Colorado Springs on November 19, 2022 where 5 people were killed and 25 others were injured; Greenwood Park Mall in Indiana on July 17, 2022 where 3 people were killed before he gunman was killed by an armed citizen stopping the attack; Collierville Kroger Shooting on September 23, 2021 where one was killed and 14 injured; Colorado Springs Shooting at a trailer park on May 9, 2021 where 6 people were killed at a birthday party in a trailer park; West Freeway Church of Christ in White Settlement, Texas on December 29, 2019 where 2 congregants were killed before armed church security ended the threat by shooting the perpetrator; Sutherland Springs Church Shooting in Sutherland Springs, Texas on November 5, 2017 where 26 people were killed and 22 injured; Charleston church shooting in Charleston, South Carolina on June 17, 2015 where 9 congregants were killed. Our church has been concerned for safety for several years as we used to hire an off duty officer to provide security but have moved to armed church members.

5. Other religions have also experienced deadly attacks such as Jewish synagogues. Terrorists had attacked and killed all the members of the Mumbai (Bombay) Chabad Synagogue in India. Serious armed attacks against Jewish institutions in the U.S. had occurred in Los Angeles, Washington D.C., New York, Baltimore, and many other cities. Many congregants were killed at

a synagogue in Har Nof Jerusalem; four people were executed at the Hyper Cacher market (Kosher Supermarket) in Paris; a congregant was killed outside the synagogue in Copenhagen, a child and son of the Chabad Rabbi were attacked in New Zealand.

6. More recently there were the tragic attacks on the Tree of Life Synagogue in Pittsburgh, Pennsylvania and the Poway Chabad Synagogue in California that left many innocent congregants dead. There are nearly daily assaults on Jews in New York and across the country.

7. We know the police are spread thin and a terrorist can inflict great deal of harm before police could arrive at our location. In our congregation, small prayer groups meet early in the morning on weekends as well as in the evening during the week on occasion and are particularly vulnerable at these times.

8. By its text, Bill 21-22E has banned the possession and transport of firearms at and within 100 yards of health care facilities (doctors offices, urgent care facilities, nursing homes, hospitals) Parks (any kind) and any government property or facility operated or controlled by Montgomery County. The bill also removes the exception for authorized Maryland Wear and Carry permit holders. The effect of this on any permit holder is that in large parts of the County it is now a crime to carry with a permit in order to protect oneself. It is very difficult to know which one of these restricted places is within 100 yards (300 feet) of any place a permit holder may be.

9. By its text, Bill 21-22E has banned the possession and transport of firearms at and within 100 yards of a "house of worship." That ban has stripped Christian Churches, as well as other houses of worship in the County, of the armed protection provided by members of their

congregations like me, thus leaving these places of worship vulnerable to attack. The urgency and need for such protection cannot be overstated.

/s/ John Smith

Dated: November 30, 2022:
JOHN SMITH NO. 1

Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or Near Places of Public Assembly
Revised: 11/10/2022 Draft No. 2
Introduced: July 12, 2022
Enacted: November 15, 2022
Executive: November 28, 2022
Effective: November 28, 2022
Sunset Date: None
Ch. 36, Laws of Mont. Co. 2022

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Albornoz
Co-Sponsors: Councilmembers Hucker, Friedson, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

AN EXPEDITED ACT to:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
(3) generally amend the law regarding restrictions against firearms in the County.

By amending
Montgomery County Code
Chapter 57, Weapons
[[Section**]]** Sections 57-1, 57-7, and 57-11

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

EXHIBIT 1

Sec. 1. [[Section]] Sections 57-1, 57-7, and 57-11 [[is]] are amended as follows:

57-1. Definitions.

* * *

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[[**under**]]** in accordance with federal law [or]; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[[**27 C.F.R. § 479.102**]]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[[It**]]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

(8) "Undetectable gun" means:

* * *

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

* * *

Place of public assembly: A "place of public assembly" is:

(1) a **[[**place where the public may assemble, whether the place is**]]** publicly or privately owned:**[[**, including a**]]**

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[[**or**]]**

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

57-7. Access to guns by minors.

* * *

(d) A person must not purchase, sell, transfer, possess, or **[[**transfer**]]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or

(2) sell, transfer, possess, or transport a firearm created through a 3D printing process.

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or

(5) **[**apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or**]**

[(6)**]** apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

* * *

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

Approved:

11/17/2022

Gabriel Albornoz, President, County Council — Date

Approved:

11/28/2022

Marc Elrich, County Executive — Date

This is a correct copy of Council action.

11/28/2022

Judy Rupp, Clerk of the Council — Date

Montgomery County Council

Committee: PS
Committee Review: Completed
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #FirearmsInPublicPlaces

AGENDA ITEM #4B
November 15, 2022
Action

SUBJECT

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

Lead Sponsors: Council President Albornoz

Co-Sponsors: Councilmembers Hucker, Friedson, Navarro, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

EXPECTED ATTENDEES

N/A

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action – Council vote expected
- The Public Safety Committee (3-0) recommends enactment of Bill 21-22 as amended.

DESCRIPTION/ISSUE

Expedited Bill 21-22 would:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly: and
(3) generally amend the law regarding restrictions against firearms in the County.

SUMMARY OF KEY DISCUSSION POINTS

The PS Committee recommends the enactment of Expedited Bill 21-22 with amendments to:

- clarify the definition of "place of public assembly" in light of recent Supreme Court jurisprudence;
- update provisions regarding ghost guns due to changes in Maryland law; and
- expressly add a severability clause to Chapter 57 of the County Code.

This report contains:

EXHIBIT 2

Alternative format requests for people with disabilities. If you need assistance accessing this report you may submit alternative format requests to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

Agenda Item #4B
November 15, 2022
Action

M E M O R A N D U M

November 10, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

PURPOSE: Final action – roll call vote expected

Committee recommendation (3-0): approval of Bill 21-22 with amendments

Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly, sponsored by Lead Sponsor Council President Albornoz and Co-Sponsored by Councilmembers Hucker, Friedson, Navarro, Jawando, Riemer, Katz, Council Vice-President Glass and Councilmember Rice, was introduced on July 12, 2022. A Public Hearing occurred on July 26, 2022 and a Public Safety Committee worksession was held on October 31, 2022. Final action is scheduled for November 15, 2022.

Expedited Bill 21-22 would:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;

(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly: and

(3) generally amend the law regarding restrictions against firearms in the County.

BACKGROUND

In the Supreme Court decision of *New York State Rifle & Pistol Assn. v. Bruen, Superintendent of New York State Police,* Slip Opinion No. 20-843 (June 23, 2022), available at https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf, the Supreme Court overturned a requirement of New York's handgun carry law. The New York law had required an applicant for a handgun carry license to show "proper cause" for the license, and the Supreme Court held that the requirement violated the Second Amendment's right to bear arms. The Court explained, however, that "longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings" are constitutionally permissible.

Like New York, Maryland has a proper-cause requirement for wear-and-carry handgun licenses. *See* Md. Code Ann., Public Safety Section 5-306. Governor Hogan, in response to *Bruen*, instructed the Maryland State Police not to enforce the proper-cause element of the Maryland law. https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/. Subsequently, the Court of Special Appeals struck down Maryland's proper cause requirement in late July. *In re Rounds*, 255 Md. App. 205 (2022).

As a result of the Supreme Court eliminating "just cause" requirements, more individuals in Maryland likely will carry firearms, regardless of whether the individuals have any good or substantial reason to carry them.

BILL SPECIFICS

Expedited Bill 21-22 would **prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland**. This restriction would strengthen current County law, which exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

LEGAL FRAMEWORK

Maryland law specifically allows counties to regulate the possession of certain firearms within 100 yards of a place of public assembly. Under the Criminal Law Article of the Maryland Code, § 4-209:

State preemption

(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of:

(1) a handgun, rifle, or shotgun; and

(2) ammunition for and components of a handgun, rifle, or shotgun.

Exceptions

(b)(1) A county, municipal corporation, or special taxing district **may regulate the purchase, sale, transfer, ownership, possession, and transportation** of the items listed in subsection (a) of this section:

(i) with respect to minors;

(ii) with respect to law enforcement officials of the subdivision; and

(iii) except as provided in paragraph (2) of this subsection, **within 100 yards of or in a park, church, school, public building, and other place of public assembly**.

(2) A county, municipal corporation, or special taxing district may not prohibit the teaching of or training in firearms safety, or other educational or sporting use of the items listed in subsection (a) of this section.

(Emphasis added).

There are many instances in which the State limits a person's ability to carry a weapon, regardless of whether the person has a permit. *See* the Maryland State Police website, https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx, which lists numerous state areas, such as State parks and State buildings, where a concealed carry permit does not apply. Currently, the State law prevents permit carriers from possessing firearms at specific locations including school property, state buildings (not County buildings), state parks, the General Assembly, aircraft, Maryland Rest Areas, and certain daycares. *See id*.

Notably, these restricted areas identified by the State Police do not include certain areas within the County's broader definition of "place of public assembly" – which was amended under Bill 4-21 bill to mean "a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building."

SUMMARY OF PUBLIC HEARING

On July 26, 2022, the Council heard extensive testimony regarding Expedited Bill 21-22. (©15). Many speakers supported the bill as necessary for public safety. Many speakers opposed the bill based upon Second Amendment and safety concerns.

SUMMARY OF PUBLIC SAFETY WORKSESSION

The Committee discussed the following issues, and adopted the following amendments.

1. Supreme Court Approach to Identifying "Sensitive Places" – *i.e.*, places where Guns may be Banned

Prior to *Bruen*, the judicial test to review firearms regulations consisted of two parts: (1) whether a gun regulation was consistent with Constitutional text and history; and (2) whether the regulation satisfied a means-ends balancing test (consisting of strict or intermediate scrutiny). Under *Bruen*, the Court has shifted so that only the first part of the test now matters; if the court concludes that a regulation is not consistent with the Constitutional text and history, it is invalid. It can no longer be resuscitated by a balancing test.

In *Bruen*, the Supreme Court explicitly rejected New York's identification of "sensitive places" where firearms may be banned, even for individuals who have wear-and-carry permits:

> Although we have no occasion to comprehensively define "sensitive places" in this case, ***we do think respondents err in their attempt to characterize New York's proper-cause requirement as a "sensitive-place" law. In their view, "sensitive***

> ***places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available."*** Brief for Respondents 34. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. ***But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" far too broadly.*** Respondents' argument would in effect exempt cities from the Second Amendment and would eviscerate ***the general right to publicly carry arms for self-defense***….
>
> Slip opinion at 21 (emphasis added).

The Court went on to identify five locations – schools, legislative assemblies, government buildings, polling places, and courthouses – it considers to be "sensitive places" where weapons may be totally prohibited. The Court left open the possibility that other locations where weapons were historically banned – or the modern counterparts of those locations – might qualify as "sensitive places."

> ….**[A]*nalogical reasoning requires only that the government identify a well-established and representative historical analogue, not a historical twin*. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster**.
>
> Consider, for example, Heller's discussion of ***"longstanding" "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings***." 554 U. S., at 626. Although the historical record yields relatively few 18th- and 19th-century "sensitive places" where weapons were altogether prohibited—***e.g., legislative assemblies, polling places, and courthouses***—we are also aware of no disputes regarding the lawfulness of such prohibitions. See D. Kopel & J. Greenlee, The "Sensitive Places" Doctrine, 13 Charleston L. Rev. 205, 229–236, 244–247 (2018); see also Brief for Independent Institute as Amicus Curiae 11–17. We therefore can assume it settled that these locations were "sensitive places" where arms carrying could be prohibited consistent with the Second Amendment. ***And courts can use analogies to those historical regulations of "sensitive places" to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible***.
>
> Slip opinion at 21 (emphasis added).

2. <u>Amendments to the Definition of "Place of Public Assembly"</u>

The County currently defines a "place of public assembly" as follows:

> Place of public assembly: A "place of public assembly" is a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health

center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building. (Sec. 57-1).

In order to make this definition more closely aligned with *Bruen*'s approach to "sensitive places" (as discussed above) – and in order to include places that *Bruen* has specifically said do qualify as "sensitive places" – the Committee voted to adopt the following amendment.

After line 1, add the following.

57-1. Definitions

* * *

Place of public assembly: A "place of public assembly" is:

(1) a **[**place where the public may assemble, whether the place is**]** publicly or privately owned:**[**, including a**]**

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[**or**]**

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

3. Severability Clause

Given the fluctuating jurisprudence regarding the Second Amendment, the Committee voted to add a "severability clause" to the bill. The purpose of the severability clause is to explicitly reflect the Council's intent that if any portion of the bill is found to be invalid, the remainder of the bill must remain in effect. This is important so that if a court were to strike down portions of the County's law against carrying firearms in "places of public assembly", the remainder of the law would be enforceable.

After line 31, insert the following.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

4. Alignment with Maryland Law

After the adoption of Council Bill 4-21 (Ghost Guns), the General Assembly adopted ghost gun legislation requested by Attorney General Frosh (Chapter 1 of the 2022 Laws of Maryland).

In order to align County ghost gun definitions with those of the new state law – and in order to acknowledge that the ghost gun laws must be interpreted in accordance with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives – the Committee adopted the following amendments.

After line 1, add the following.

57-1. Definitions

* * *

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[**under**]** in accordance with federal law; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[**27 C.F.R. § 479.102**]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[It**]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

(8) "Undetectable gun" means:

* * *

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Add the following uncodified section to Bill 21-22.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

5. Technical Correction

The Committee voted to adopt the following technical amendment to correct a typographical error in Section 57-7(d).

57-7. Access to guns by minors.

* * *

(d) A person must not purchase, sell, transfer, possess, or **[**transfer**]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

NEXT STEP: Roll call vote on whether to enact Expedited Bill 21-22 with amendments, as recommended by the Public Safety Committee.

This packet contains:	Circle #
Expedited Bill 21-22	1
Legislative Request Report	7
Fiscal Impact Statement	8

Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or Near Places of Public Assembly
Revised: 11/10/2022 Draft No. 2
Introduced: July 12, 2022
Expires: January 12, 2024
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. ____, Laws of Mont. Co. ____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Albornoz
Co-Sponsors: Councilmembers Hucker, Friedson, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

AN EXPEDITED ACT to:

(1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
(2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
(3) generally amend the law regarding restrictions against firearms in the County.

By amending
Montgomery County Code
Chapter 57, Weapons
[[Section**]]** Sections 57-1, 57-7, and 57-11

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. [[Section]] Sections 57-1, 57-7, and 57-11 [[is]] are amended as follows:

57-1. Definitions.

* * *

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer **[[**under**]]** in accordance with federal law; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with **[[**27 C.F.R. § 479.102**]]** Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[[It**]]** "Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

(8) "Undetectable gun" means:

* * *

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

* * *

Place of public assembly: A "place of public assembly" is:

(1) a **[[**place where the public may assemble, whether the place is**]]** publicly or privately owned:**[[**, including a**]]**

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home; **[[**or**]]**

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

57-7. Access to guns by minors.

* * *

(d) A person must not purchase, sell, transfer, possess, or **[[**transfer**]]** transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or

(2) sell, transfer, possess, or transport a firearm created through a 3D printing process.

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or

(5) **[**apply to the possession of a handgun by a person who has received a permit to carry the handgun under State law; or**]**

[(6)**]** apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

* * *

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

LEGISLATIVE REQUEST REPORT

Bill 21-22
Weapons – Firearms in or Near Places of Public Assembly

DESCRIPTION:	The bill would prohibit the possession of firearms in or near areas of public assembly and remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly.
PROBLEM:	Gun violence.
GOALS AND OBJECTIVES:	Protect the possession of certain areas within sensitive areas, e.,g., in or near places of public assembly.
COORDINATION:	Montgomery County Police Department
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	Office of Legislative Oversight
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	Office of Legislative Oversight
EVALUATION:	To be done.
EXPERIENCE ELSEWHERE:	State of Maryland
SOURCE OF INFORMATION:	Christine Wellons, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	Yes
PENALTIES:	N/A

Fiscal Impact Statement
Bill 21-22 – Weapons – Firearms In or Near Places of Public Assembly

1. **Legislative Summary**

   Bill 21-22 would prohibit the possession of firearms in or near places of public assembly, remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly, and amend the law regarding restrictions against firearms in the County.

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   The Bill's impact on County expenditures is expected to be nominal. Changes in the number of calls for service are expected to be small and can be absorbed within the Montgomery County Police Department's current staff complement. There is no anticipated impact on County revenues.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   As stated in the response to question #2, the Bill's impact on County expenditures is expected to be nominal, and there is no anticipated impact on County revenues.

4. **An Actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable.

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   There is no anticipated impact on County information technology systems.

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Bill 21-22 does not authorize future spending.

7. **An estimate of the staff time needed to implement the bill.**

   Staff time required to administer the Bill is expected to be minimal. Officer training will be accomplished through an informational bulletin.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   No new staff would be required.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

The number of additional calls that the Emergency Communications Center (ECC) may receive in a calendar year due to this Bill is difficult to quantify, but is expected to be minimal. The Department will reevaluate after one year.

12. If a bill is likely to have no fiscal impact, why that is the case.

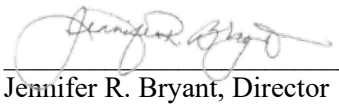
See response to question #2.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Darren Francke, Assistant Chief of Police, Management Services Bureau
Dale Phillips, Director, Management and Budget Division
Karla Thomas, Manager, Management and Budget Division
Derrick Harrigan, Office of Management and Budget



Jennifer R. Bryant, Director
Office of Management and Budget

8/22/22
Date

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED BILL 21-22: WEAPONS – FIREARMS IN OR NEAR PLACES OF PUBLIC ASSEMBLY

SUMMARY

The Office of Legislative Oversight (OLO) finds the racial equity and social justice (RESJ) impact of Expedited Bill 21-22 is indeterminant due to insufficient information on the demographics of the Bill's beneficiaries, as well as on the potential effects on gun violence and police interactions in the County.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.[1] Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.[2]

PURPOSE OF EXPEDITED BILL 21-22

Gun violence is a significant public health problem in the United States. In 2020, there were 45,222 gun-related deaths, 54 percent of which were suicides and 43 percent of which were homicides.[3] Gun homicides have recently been highlighted as a rapidly growing concern, potentially a result of distress during the pandemic.[4] In 2020, 79 percent of homicides involved a firearm, the highest percentage recorded in over 50 years.[5] Further, the firearm homicide rate jumped 35 percent in 2020, an increase deemed as historic by the Centers for Disease Control and Prevention (CDC).[6] The U.S. also stands out internationally when it comes to gun homicides. Among high-income countries with populations of 10 million or more, the U.S. ranks first in gun homicides, having a rate more than double the next country on the list, Chile, and 22 times greater than in the European Union as a whole.[7]

Following the Supreme Court decision on *New York State Rifle & Pistol Assn. v. Bruen, Superintendent of New York State Police*, Governor Larry Hogan ordered Maryland State Police to suspend the 'good and substantial reason' standard in reviewing applications for wear-and-carry permits.[8] Recent reports have noted a sharp increase in new permit applications in Maryland following the governor's orders.[9]

The goal of Expedited Bill 21-22 is to "prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland."[10] The Bill achieves this goal through removing an exemption in County law that currently allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly.

State law currently prohibits permit carriers from possessing firearms at specific locations, including school property, state buildings, and state parks, among other locations. Bill 21-22 broadens the restricted areas established by the state to include places of public assembly as defined by County law, which includes parks, places of worship, schools, libraries, recreational facilities, hospitals, community health centers, long-term facilities, or multipurpose exhibition facilities, such as fairgrounds or conference centers. A place of public assembly can be publicly or privately owned, and includes all property associated with the place, such as a parking lot or grounds of a building.[11]

Expedited Bill 21-22 was introduced to the Council on July 12, 2022.

In February 2021, OLO published a RESJ impact statement (RESJIS) for Bill 4-21, Weapons – Protection of Minors and Public Places – Restrictions Against Ghost Guns and Undetectable Guns.[12] OLO builds on Bill 4-21's analysis for this RESJIS.

GUN VIOLENCE AND RACIAL EQUITY

Black, Indigenous, and Other People of Color (BIPOC), have long experienced significant disparities in gun violence. Regarding the recent sharp increase in gun homicides, researchers at the CDC stated:

> "The firearm homicide rate in 2020 was the highest recorded since 1994 (1). However, the increase in firearm homicides was not equally distributed. Young persons, males, and Black persons consistently have the highest firearm homicide rates, and these groups experienced the largest increases in 2020. These increases represent the widening of long-standing disparities in firearm homicide rates. For example, the firearm homicide rate among Black males aged 10–24 years was 20.6 times as high as the rate among White males of the same age in 2019, and this ratio increased to 21.6 in 2020."[13]

While some attribute violence in BIPOC communities to individual behaviors and choices, these explanations often ignore the central role government has played in driving segregation and concentrated poverty, common conditions in communities stricken with violence. The following section provides an overview of studies that explore the relationship between violence, segregation, and concentrated poverty, with the intent of demonstrating that racial and ethnic disparities in gun violence are neither natural nor random. Please see the RESJIS for Expedited Bill 30-21 , Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, for detailed background on the government's role in fostering segregation and the racial wealth divide.[14]

Drivers of Gun Violence. Multiple studies have pointed to residential segregation and concentrated poverty as strong predictors of violence, and more specifically gun violence, in communities, for instance:

- A study of 103 metropolitan areas over five decades found that "(1) racial segregation substantially increases the risk of homicide victimization for blacks while (2) simultaneously decreasing the risk of white homicide victimization. The result…is that (3) segregation plays a central role in driving black-white differences in homicide mortality."[15]
- A study of over 65,000 firearm-related deaths among U.S. youth ages 5 to 24 between 2007 and 2016 found that "higher concentration of county-level poverty was associated with increased rates of total firearm-related deaths." Moreover, "two-thirds of firearm-related homicides could be associated with living in a county with a high concentration of poverty."[16]

- A study of U.S. gun violence data between 2014 and 2017 found that "gun violence is higher in counties with both high median incomes and higher levels of poverty." The researchers went on to state that the "findings may well be due to racial segregation and concentrated disadvantage, due to institutional racism, police-community relations, and related factors."[17]
- A study of shootings in Syracuse, New York between 2009 and 2015 found that "higher rates of segregation, poverty and the summer months were all associated with increased risk of gun violence."[18]
- A study of gunshot victims (GSVs) in Louisville, KY between 2012 and 2018 found that "[r]elative to green-graded neighborhoods, red-graded [redlined] neighborhoods had five times as many GSVs. This difference remained statistically significant after accounting for differences in demographic, racial, and housing characteristics of neighborhoods."[19]
- A study of 13 U.S. cities between 2018 and 2020 found that in 2020, "violence was higher in less-privileged neighborhoods than in the most privileged," where less-privileged neighborhoods demonstrated a higher degree of racial, economic, and racialized economic segregation.[20]

Consequences of Gun Violence. Gun violence has harmful effects that reverberate deeply in families and communities. As Dr. Thomas R. Simon, CDC Associate Director for Science, Division of Violence Prevention, stated to Vox "[p]art of the reason why violence is a public health problem is because of the significant and lasting health consequences for victims." The 2022 Vox article provides an overview of research on the toll of gun violence, including the following findings:[21]

- Survivors of gun violence are at an increased risk of chronic pain, psychiatric disorders, and substance abuse and are more likely to experience mental health challenges.
- More than 15,000 American children lose a parent to gun violence each year. Children who lose a parent (for any reason, including gun violence) are more likely to have lower educational attainment, which could lead to poorer health given the strong link between education and health outcomes.
- Even if a person has not directly lost a loved one to a gun incident, being exposed to gun violence in a community leads to mental health issues, including problems with social function, anxiety, and depression.
- A 2018 study of six American cities found that individual shootings cost between $583,000 and $2.5 million, depending on the city and whether the firearm injury was fatal or nonfatal.

Data on Gun Violence. National data in Table 1 demonstrates racial and ethnic disparities in gun homicides, whereby Black Americans had a firearm homicide rate eleven times that of White Americans in 2020. Latinx and Native Americans respectively had firearm homicide rates two and three times greater than Whites, while Asian/Pacific Islanders had a lower firearm homicide rate than Whites.

Table 1: 2020 Firearm Homicide Incidence by Race and Ethnicity, United States

Race and Ethnicity[22]	Number of Firearm Homicides	Rate of Firearm Homicides per 100,000 persons
Asian or Pacific Islander	227	1.0
American Indian or Alaska Native	221	8.1
Black	11,904	26.6
Latinx	2,946	4.5
White	4,052	2.2

Note: Rates are age-adjusted
Source: Changes in Firearm Homicide and Suicide Rates Report, CDC

Local data also confirms racial and ethnic disparities in gun violence. A review of 2016-2018 data by Healthy Montgomery, the County's community health improvement initiative, found that Black residents had an age-adjusted firearm hospitalization rate of 8.6 per 100,000 persons, compared to 2.4 for Latinx residents, 1.2 for White residents, and 0.3 for Asian residents.[23]

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Expedited Bill 21-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, the primary beneficiaries of the Bill are presumably residents who frequent places of public assembly, as they could experience increased safety from more gun restrictions in these areas. However, there is no definitive data on the demographics of people who frequent places of public assembly in the County. As such, OLO cannot conclude whether there are racial or ethnic disparities among the primary beneficiaries of this Bill.

For the second question, OLO considers the effect this Bill could have on reducing gun violence in the County given its disproportionate impact on BIPOC residents. While there is strong evidence to suggest that restricting gun access can reduce gun violence,[24] there is little research on the effect of place-based restrictions such as those proposed in this Bill. Further, it is unclear how the enforcement of this law would potentially change police contact with residents, and whether that could worsen existing disparities in police interactions with BIPOC residents.[25]

Taken together, OLO finds that the RESJ impact of this Bill is indeterminant.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.[26] OLO finds that the RESJ impact of Expedited Bill 21-22 is indeterminant due to insufficient information on the demographics of the Bill's beneficiaries, as well as on the potential effects on gun violence and police interactions in the County. OLO does not offer recommended amendments since the Bill was not found to be inequitable.

In their recently released study on increased gun violence, researchers at the CDC note, "[t]he findings of this study underscore the importance of comprehensive strategies that can stop violence now and in the future by addressing factors that contribute to homicide and suicide, including the underlying economic, physical, and social inequities that drive racial and ethnic disparities in multiple health outcomes."[27] Should the Council seek to improve the RESJ impact of this Bill through incorporating recommended amendments or introducing companion legislation, the policy solutions highlighted by the CDC researchers in the study can be considered.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña drafted this RESJ impact statement.

[1] Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. https://www.racialequitytools.org/glossary
[2] Ibid
[3] John Gramlich, "What the Data Says about Gun Deaths in the U.S.," Pew Research Center, February 3, 2022. https://www.pewresearch.org/fact-tank/2022/02/03/what-the-data-says-about-gun-deaths-in-the-u-s/
[4] Becky Sullivan and Nell Greenfieldboyce "Firearm-Related Homicide Rate Skyrockets Amid Stresses of the Pandemic, the CDC Says," Research News, NPR, May 10, 2022. https://www.npr.org/2022/05/10/1097916487/firearm-homicide-rates-soar-pandemic-cdc-says
[5] John Gramlich
[6] "Firearm Deaths Grow, Disparities Widen," CDC Newsroom, CDC, May 10, 2022. https://www.cdc.gov/media/releases/2022/s0510-vs-firearm-deathrates.html
[7] "On Gun Violence, the United States is an Outlier," Institute for Health Metrics and Evaluation," May 31, 2022. https://www.healthdata.org/acting-data/gun-violence-united-states-outlier
[8] "Governor Hogan Directs Maryland State Police to Suspend 'Good and Substantial Reason' Standard For Wear and Carry Permits," The Office of Governor Larry Hogan, July 5, 2022. https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/
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Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 21-22 Weapons – Firearms In or Near Places of Public Assembly

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 21-22 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

BACKGROUND

The goal of Bill 21-22 is to protect places in or near places of public assembly from gun violence.[1] The Bill would attempt to achieve this goal by amending the law regarding restrictions against firearms in the County in two ways. First, it would "prohibit the possession of firearms in or near areas of public assembly." Second, it would "remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly."[2] If enacted, the change in law would take effect on the date it becomes law.[3]

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 21-22 on County-based private organizations and residents in terms of the Council's priority economic indicators and assess whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.[4] It is doubtful that enacting Bill 21-22 would impact firearm sales from County-based gun shops. Moreover, while gun violence has direct and indirect economic costs for victims, perpetrators, and other stakeholders,[5] it is beyond the scope of this analysis to assess the effectiveness of the restrictions in preventing gun violence in the future. Thus, OLO does not anticipate the changes to the law regarding restrictions against firearms in the County to have significant economic impacts on private organizations, residents, or overall conditions in the County.

VARIABLES

Not applicable

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[1] Legislative Request Report.
[2] Bill 21-22.
[3] Ibid.
[4] Montgomery County Code, Sec. 2-81B.
[5] A State-by-State Examination of the Economic Costs of Gun Violence; Follman et al, "The True Cost of Gun Violence in America."

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

Not applicable

Residents

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

A State-by-State Examination of the Economic Costs of Gun Violence. U.S. Congress Joint Economic Committee, Democratic Staff. September 18, 2019.

Mark Follman, Julia Lurie, Jaeah Lee, and James West. "The True Cost of Gun Violence in America." *Mother Jones*. April 15, 2015.

Montgomery County Code. Sec. 2-81B, Economic Impact Statements.

Montgomery County Council. Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly. Introduced on July 12, 2022.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

AISGW | The Association of Independent Schools of Greater Washington

In Support of Expedited Bill 21-22, Weapons -Firearms In or Near Places of Public Assembly
On behalf of the Association of Independent Schools of Greater Washington

July 20, 2022

I am submitting this testimony as Executive Director of the Association of Independent Schools of Greater Washington ("AISGW") in support of *Expedited Bill 21-22, Weapons-Firearms In or Near Places of Public Assembly*. AISGW represents 78 member schools in the greater D.C. area, and our schools educate over 10,000 students in Montgomery County alone. *Expedited Bill 21-22* would prevent an individual from possessing a firearm within 100 yards of a "place of public assembly" even when the individual has a wear-and-carry permit from the State of Maryland. The definition of public assembly includes schools. This restriction strengthens current County law, which currently exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

We commend the Montgomery County Council for these efforts to stem acts of gun violence that have become shockingly all too common in our communities and on our school grounds. The recent mass shooting at the Robb Elementary School in Uvalde, Texas, along with the persistent and terrifying recurrence of mass shootings across our country, have left school leaders once again consoling and calming their communities while searching for solutions to keep their school communities safe. Indeed, one of our very own AISGW schools was subject to a harrowing act of gun violence in April of this year.

We understand that Maryland State law already prohibits the wear, carry and transport of handguns and firearms on public school grounds. *CR 4-102.* Extending that protection to *all* schools, as well as other community gathering places throughout the County, however, is an important and – unfortunately – very necessary next step as we see this wave of gun violence continue. Moreover, we urge the County to consider any other steps that would keep our children safe, whether those include broader prevention and education efforts, or prohibitions such as this proposed legislation, aimed at preventing this violence from reoccurring.

I appreciate the opportunity to comment on the proposed legislation on behalf of our AISGW member schools and would welcome any chance to support further the goals of keeping our children and our school campuses protected from this persistent threat.

1524 35th Street NW • Washington, DC 20007 • 202.625.9223 • www.aisgw.org

On Monday, July 11th, County Council President Gabe Albornoz introduced Bill 21-22, to remove the exemption for W&C permit holders from the county's ban on possessing firearms "in or within 100 yards of a place of public assembly," which includes parks and churches, banning carry in those places. I oppose this bill as an infringement on our residents' recently affirmed constitutional rights as issued by the US Supreme Court(i.e., Bruen case).

The bill provides no requirement for the county to clearly mark which of these areas are to be "gun-free zones," which will result in confusion among law-abiding citizens who are permit holders.

The legislation also makes no mention of whether the county intends to guarantee the safety of disarmed citizens in those places with measures, such as metal detectors or police presence. Gun free zone declarations are soft targets for criminals and those intent on wrecking havoc. |

Also, this proposed bill like many of the Democratic Party and left wing gun control policies of extreme gun control over the years have and will not work given high crime and murder rates in many Maryland cities and towns – not be law abiding gun owners but by criminals and unstable persons.

This proposed bill will not improve safety of our citizens. Armed criminals, who already illegally carry without any permits and illegally possess firearms in violation of state and federal laws, will likely ignore the arbitrary boundaries created by this ordinance.

This bill would create more targets of opportunity for criminals and prevent responsible law abiding citizens from their right of self-defense. Recent mall shooter in Indiana was terminated by a law abiding citizen with a legal carry permit, saving untold additional lives. Good people carrying self-defense capabilities are far more effective at deterring crime and reducing crazed mayhem than any police presence can do. I urge the council to vote No on Bill 21-22 to keep Montgomery County safer than if it was passed into law. If the Council approves this measure then the Council needs to address the safety of unarmed citizens in these gun free zones and take measure to ensure access to these "gun free zones" provides control points to ensure the safety of us.

To the members of the council,

My name is Anthony Nelson, and I have been a resident of Montgomery county since roughly 2013. I previously lived in Prince George's County where I experienced more than my fair share of crime directly or indirectly including robbery, home break-ins, and car theft. That was precisely part of my desire to move out to an area that for most of my life, I considered to be relatively low in crime and safe.

As a lifelong resident of Maryland, it has been a long frustrating road for the issue of self-defense and Maryland's views to the methods in which one chooses to defend themselves. For my entire adult life, I have had to accept lawfully, that I am not able to defend myself or my family to the best of my ability due to what many politician's refer to as "common-sense gun legislation." Up until July 5, 2022, Maryland has remained a "may issue" state in regards to the issuance of any type of permit to carry citing "good and substantial" reasoning which to most, felt like an arbitrary term that applied to a very small population. The recent Supreme Court Ruling and subsequent statement from Gov. Hogan suspending the "good and substantial" clause was an exciting time for many Marylanders and a restoration of a long restricted constitutional right as well as the "unalienable right" to Life mentioned in the countries founding document. A right that governments were instituted to secure.

Despite the legislation that Maryland has upheld for all these years, touting some of the strictest gun laws on the books in the country, Maryland has remained competitive in the category of "most homicides by state" category. This can be partly contributed to Maryland's unwillingness to prosecute criminals who are in turn released and commit more heinous crimes; as well as enforce laws that are already on the books. As recent as June, Deputy First Class Glenn Hilliard was murdered by a man who should have been previously locked-up for being convicted of armed robbery. I would like to note that at the time of the armed robbery and at the time of the murder of Deputy Hilliard, the suspect was under the age of legal handgun ownership in the state of Maryland. At the time of this letter, just one week ago, a 15-year-old squeegee worker in Baltimore shot and killed a bat-wielding man in Baltimore. While all of the details of the case may never all be known, we know that a 15-year old boy was armed and it was stated that most of the boys who are on these corners providing this service are as well. This stands to show that no matter what laws are on the books, criminals will always willfully disobey them, and it is always the law-abiding citizen who is left at a disadvantage. This legislation is not aimed at keeping criminals from bringing guns into "public areas," because we all know that criminals will do it no matter what the law says. What we do know for sure is that criminals don't look for resistance or a fight, they look for victims and easy targets. This bill only creates more of the latter.

Driving into my home city of Olney now, there are road signs warning of car jackings. A January 2022 WTOP article titled "Homicides, carjackings up in Montgomery County" is a constant lingering thought in my head when I come to a stop light with my 3 small children who are under the age of 6 and wife all in the vehicle. The article denotes an 88% rise in homicides and 72% increase in carjackings. Average law-abiding citizens are tired of being a statistic. Having more trained citizens looking to protect themselves and their families suddenly becoming criminals because of a law based on no data is the exact reason why crime statistics in this county will continue to rise if this unconstitutional bill is passed.

Members of this council have stated that Marylanders want this bill passed; however I think it can be reasonably argued by the influx of applications for wear and carry permits, as well as the current backlog

of people trying to sign up for the class, is quite representative of the climate. This bill, while directly in opposition to the supreme court ruling and purpose for the ruling in the first place, stands to turn law-abiding citizens who took the time to get the training and spent upwards of $1000 in total to exercise a constitutional right into criminals.

I strongly urge the council to rescind this bill as it is in opposition to the recent supreme court ruling, as well as the basic human rights we all have, to defend ourselves and our families.

Thank you for your time and attention.

Sincerely,

Anthony Nelson

21 July, 2022

Mr. Gabe Albornoz
President, Montgomery County Council

Regarding Bill 21-22 to remove the exemption from Montgomery County Code § 57.11 for holders of Maryland Wear and Carry Permit from within 100 yards of "Place of Public Assembly.

Dear Mr. Albornoz,

I write to oppose Bill 21-22. This new bill would remove the existing exception for permit carry that has long existed in Montgomery County code, and is a clear violation of the Supreme Court's decision in *NYSRPA v. Bruen* as it would ban carry by a permit holder virtually everywhere including stores and businesses throughout Montgomery County. Carry permits will be useless in Montgomery County if this bill is enacted and allowed to stand.

I am a resident of Anne Arundel County; however, I frequent Montgomery County to access the wonderful care at a Johns Hopkins Wilmer Eye Institute in Bethesda. Unfortunately, I suffer from glaucoma, which has been difficult to control. While I am not allowed to carry within hospitals and medical clinics, Bill 21-22 would not allow me even to carry within the county in order to access quality health care. Why are you afraid of a law-abiding citizen, like me, who may find it necessary to find health care elsewhere should this law be passed?

Please do not vote for Bill 21-22.

Sincerely,
Cathy S. Wright

My name is Galen Muhammad and I am the State Director of Maryland and Washington, DC for the National African American Gun Association or NAAGA. I am also the chapter president for the NAAGA chapter in Prince George's County – Onyx Sharpshooters.

I am **vehemently** opposed to this bill as I often travel through Montgomery County as a law-abiding citizen who is a concealed carry licensee. While I don't live in Montgomery County, the members of my gun club, others who are also concealed carry licensees and those who seek said license will be barred from conducting business or just traveling from Point A to Point B within Montgomery County.

As a certified firearms instructor, I also plan to visit my Montgomery County chapter and their events within the county and train residents of Montgomery County at locations in Montgomery County and I do travel with my concealed carry firearms.

This bill gives absolutely no consideration, nor does it mention the fact that those with the Wear & Carry license are **already prohibited** from many areas, including sporting events, federal, state, county and city buildings, public transportation, public schools, colleges and universities, banks, retail establishment with clearly posted signage, post offices **AND** their parking lots, etc. These are the proverbial "***bricks***" around which we, law-abiding citizens, who **legally** concealed carry legally navigate. This *vague* bill being proposed seeks to be the "***mortar***" to fill in the gaps and add additional and unnecessary areas, creating and manufacturing a problem where there isn't one.

This bill also overlooks the mandatory firearms training that each licensee must attend to be qualified to receive the Wear & Carry license. During this training, we are taught that Maryland is **NOT** a Castle Doctrine state and that we have a duty to retreat, if possible.

I ask that this bill be given an unfavorable report.

To the Honorable Members of the County Council of Montgomery County, MD

Gabe Albornoz, Chairman
Andrew Friedson
Evan Glass
Tom Hucker
Will Jawando
Sidney Katz
Nancy Navarro
Craig Rice
Hans Riemer

From: Dr. Jack L. Rutner
Silver Spring MD

Re: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

This purpose of this testimonial letter is to raise questions to the Montgomery County Council about the constitutionality of the proposed legislation embodied in Bill 21-22. This testimonial letter will cover three issues:

I. The guidance provided by the Supreme Court to the Courts in the Bruen decision in how to adjudicate Second Amendment cases henceforth;
II. The Supreme Court's discussion on sensitive places;
III. The Supreme Court's reference to D. Kopel & J. Greenlee, The "Sensitive Places" Doctrine, 13 *Charleston L. Rev.* 205 (2018), and Brief for Independent Institute as *Amicus Curiae* and how they would affect the constitutionality of Expedited Bill 21-22.

I: The Supreme Court in the Bruen decision (8: II) reviewed the two-step procedure Courts of Appeal have used since the *Heller* and *McDonald* decisions. The Court held that, that was one step too many. Specifically, the Court wrote:

> In keeping with *Heller*, we hold that when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. **To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation.** Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." (My emphasis.)

The Court emphasizes this further when it writes (10: IIB):

> the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.

On examining Expedited Bill 21-22 I find nowhere does it show how the proposed regulation expanding sensitive places to many places of public assembly falls within the scope of being consistent with "this Nation's historical tradition of firearm regulation." Absent such analysis Expedited Bill 21-22 appears to on infirm constitutional grounds. On this basis alone a legal challenge to the constitutionality of 21-22 will prove successful in the federal courts.

II. With regard to sensitive places, the Court discussed the issue of sensitive places. It wrote that expanding sensitive places to a large variety of places of public assembly is inconsistent with the

Second Amendment. In particular, it writes (22) about New York State's view on sensitive places:

> In [New York State's] view, "sensitive places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available." Brief for Respondents 34. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. **But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" far too broadly.** Respondents' argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. (My emphasis.)

Expedited Bill 21-22 does precisely what the Court counseled governments not to do, which is to expand the category of sensitive places to almost all places of public congregation. According to the Court, that categorizes sensitive places far too broadly. Indeed, based on the Court's language in Bruen, should the Council pass Expedited Bill 21-22, legal challenges to it would be successful because of the overly broad categorization of sensitive places. When that is coupled with the absence of analysis demonstrating that 21-22 is consistent with this Nation's historical tradition of firearm regulation, then it would seem 21-22 is on very legally infirm constitutional grounds and will not be upheld in federal court.

III. The definition of public places in Expedited Bill 21-22 is derived from Bill 4-21. They are:

> [A] place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building."

Most of those places in 4-21 do not fall within the purview of public places based on the current references in its discussion in Bruen (21) regarding sensitive places. There, it pointed to an article in *Charleston Law Review* from 2018 title the "Sensitive Places Doctrine" by Kopel and Greenlee (hereinafter, KG), and to the *Amicus Curia* Brief of the Independent Institute (hereinafter BII). Both documents discuss sensitive places while the latter provides guidance on "longstanding" laws regarding such places/

In the KG article, there is a useful summary of the sensitive place doctrine (287*f.*), some of which I quote here (with my emphasis):

> *Extensions by analogy to schools and government buildings.* It is difficult to create a rationale for extending the "sensitive places" doctrine to places that are not schools or government buildings. As discussed above, there are few "longstanding" restrictions on other locations.
>
> Given the thin historical record, one can only guess about what factors make places "sensitive." Some of the guesses are: **places where most persons therein are minors (K-12 schools), places that concentrate adversarial conflict and can generate passionately angry emotions (courthouses, legislatures, polling places), or buildings containing people at acute personal risk of being targets of assassination (many government buildings).**
>
> **The answer cannot be that the places are crowded.** Sometimes they are, but no more so than a busy downtown sidewalk, and sidewalks are not sensitive places.

> Rather than try to figure out analogies to "schools and government buildings," the better judicial approach for other locations is simply to give the government the opportunity to prove its case under heightened scrutiny.
>
> ***Buffer zones are not sensitive places.*** **Heller allows for carry bans "in" sensitive places—not bans "around" or "near" sensitive places. Accordingly, buffer zones are not sensitive places.**
>
> …
>
> ***Laws that broadly negate the right to arms are not legitimate precedents.*** **Laws that widely prohibit bearing arms are contrary to the text of the Second Amendment. Accordingly, they are not a legitimate part of the history and tradition of the right to bear arms.**

In my opinion the critical passages for 21-22 in this summary by KG are those bolded. It is clear that Bill 21-22 would widely prohibit carrying arms in a large variety of places within the County. As KG observe, "Laws that widely prohibit bearing arms are contrary to the text of the Second Amendment." Moreover, as they suggest, an argument that such places are crowded will be insufficient to sustain the constitutionality of Bill 21-22 under heightened scrutiny.

Bill 21-22 defines places of public assembly to those listed in Bill 4-21. Most of those places though do not meet the criteria KG outline in their summary for sensitive places. The places I think that do not meet those criteria are places of worship, recreational facilities, hospital, community health centers, long-term facility, multipurpose exhibition facilities (e.g., fairgrounds or conference centers). Such places are not places where most persons are minors, they are not places which concentrate adversarial conduct and they are not places where passionate angry emotions are generated. Declaring them off limits to the legal carriage of guns therein again will prove to be on constitutionally infirm ground based the guidance in Bruen.

Another issue of Bill 21-22 is the creation 100-yard buffers zones around places of public assembly. Such buffer zones under Bruen are most likely not be justifiable for Second Amendment cases. KG reviewed several court cases regarding buffer zones around sensitive places of which I will summarize one. The case is an Illinois case termed, the *People v. Chairez*. The State of Illinois had made it illegal to carry a firearm within a 1,000-foot buffer zone around a state park. According to KG (269), the Illinois Supreme Court ruled: "that the law severely burdened the core of the right to bear arms, because it prohibited the carriage of weapons for self-defense and it affected the entire law-abiding population of Illinois." Moreover the Court found that the 'State was unable to support its "assertion that a 1000–foot firearm ban around a public park protects children, as well as other vulnerable persons, from firearm violence" ' (KG, 269*f*.). Bill 21-22 appears to contain both defects found in *People v. Chairez*: it affects the entire law-abiding population of Montgomery County; and the County will be unable to support an assertion that buffer zones protect children and vulnerable persons. Consequently, the buffer zones themselves are not sensitive places and would be ruled unconstitutional. Moreover, based on the guidance in the Bruen decision, even if the County could show that such buffer zones might protect children and vulnerable persons that would be insufficient to meet the criterion of being within "the historical tradition of firearm regulation" and so would be declared unconstitutional based solely on that.

We turn next to *Amicus Curiae* brief filed by Independent Institute (BII) in the Bruen Case for further guidance on the issue of sensitive places and longstanding traditions of restricting Second Amendment rights. In BII, there is a short review of American laws regarding sensitive places, which it sometimes terms, "gun-free zones." According to BII (11), in colonial America, "gun-free zones through the time of the Founding were limited …"

A notable exception was Maryland's ban on bringing weapons into houses of Assembly (government buildings). According to BII (12) Virginia followed up on that a century later when it 'forbade most (but not all) people from "com[ing] before the Justices of any Court, or other of their Ministers of Justice, doing their office, with force and arms." … Virginia's law also barred citizens from carrying arms "in other places," but only when such carrying was done "in terror of the country," *id.*, thus respecting a general right to peaceably carry but carving out a narrow exception for courts.' Thus, according to BII, government buildings would meet the criterion laid down in Bruen of being consistent with "this Nation's historic tradition of firearm regulation" insofar as such bans are longstanding traditions. On the other hand, a ban on firearms in a wide variety of places of public assembly, such as in 21-22, would not be consistent with that historic tradition because there is no longstanding tradition of banning firearms in such places. Hence, the constitutionality of a such a bill would no doubt not be upheld in federal court based on the guidance the Court provided in Bruen.

BII does indicate certain narrow conditions under which government can ban firearms consistent with the Second Amendment (see BII, 22). It writes:

> The most obvious way is to limit modern gun-free zones to areas in which the government has demonstrated a serious commitment and a realistic ability to ensure public safety. This can be accomplished by ensuring that would-be criminals are prevented by more than the normative power of a legal prohibition to remain unarmed through, *e.g.*, the provision of law enforcement officers and armed security, along with metal detectors or other defensive instruments.

It writes further (BII 24):

> If the government cannot (or chooses not to) provide protection similar to that at airports in other areas, then designating those areas as "gun free" necessarily evicerates (*sic.*) the self-defense right and, accordingly, constitutes a Second Amendment violation.

It would appear from BII, that if the Council bans firearms in public places without its supplying adequate security and specifically by supplying adequate law enforcement personnel and metal detectors, it will have eviscerated the self-rights of the citizens of Montgomery County and anyone else who comes into the County. Hence, I think that under the current guidance found in Bruen, Expedited Bill 21-22 is on infirm constitutional grounds and will be found unconstitutional in federal court.

The Institute for Forensic Psychology

Jack Leeb, PsyD
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Date: 19 July 2022
To: Montgomery County Council
Re: Bill 21-22

As a police psychologist, firearms instructor, and MD Wear and Carry permit holder for over 20 years, I am very concerned about County Council bill 21-22, which would effectively negate the recent US Supreme Court decision affirming the right of law-abiding citizens to carry a firearm in public. As a police psychologist I have received threats over the years related to my work; I have also studied criminal behavior. As a firearms instructor I transport firearms to and from classes and the range and have witnessed firsthand over the past 25 years just how serious the average citizen who desires to possess a firearm is with regard to its use and safety in general. I have been comforted by the fact that I have the option to carry a firearm to protect myself and my family when out and about, and I have been proud of my fellow law-abiding citizens' clear desire to do the right thing with regard to the possession and use of a firearm.

I would remind Council members that, in general, concealed carry permit holders across the United States are far more law abiding than those who do not possess a permit. CCW permit holders do NOT commit crime; rather, law-abiding citizens who have the ability to defend themselves STOP crimes from occurring hundreds of times every day in the US, in most cases without firing a shot. Since criminals routinely ignore laws, these events would more frequently end in victimization of the law-abiding if we do not have the means to defend ourselves.If passed, not only would bill 21-22 deprive law-abiding citizens of the right to defend themselves and their families, but it would make anyone who is legally permitted to carry a firearm elsewhere in Maryland a criminal in Montgomery County. Expecting W&C permit holders to stop, unload their firearms before crossing the Montgomery County line, and store the firearm in a lock box is not only unrealistic, but also *unsafe.*

In addition, given Maryland's stringent background checks and training requirements, it is even less likely that a Marylander who legally carries a firearm would use it inappropriately or unlawfully. I respectfully ask that you re-consider bill 21-22 and not eliminate my right, and the right of other law-abiding citizens, to defend ourselves. I would be happy to discuss this matter with the Council as a whole, or with any members who might wish speak with me about this important topic.

Thank you.

Jack Leeb PsyD
Police and Public Safety Psychology
301 452-4900

I feel it is uncostitutional and unsafe for the general public to create unlimited gunfree zones to keep legally o
with little or no resistance or fear of being stopped or caught. Everyone that creates these laws are

Thank you

e surrounded by their own armed security and don't have to defend theirselves or family on their own.

My name is James P. Tully. I am 55 years old and have been a Montgomery County Resident my Entire life. I have served in the Military, and for the past 22 years I have been a Uniformed Diplomatic Security Officer at the U.S. Department of State. I have been sworn in, as a Special Deputy U.S. Marshal, and have received training in Active Shooter Response. I am well acquainted with Gun Valence, and come to the conclusion that additional legislation does nothing to address criminal activity.

As a Maryland Ware and Carry Permit Holder, which I have had since 1995. I have strong Objections to Bill 21-22. By not allowing a permit holder to come within 100 yards of any place of public Assembly. This proposed bill will Make it impossible to travel any ware in Montgomery County with out being in violation of the law. An illegal weapons charge would result in criminal charges and having my Maryland Gun Permit revoked. These two actions would have an adverse effect on my current employment.

Bill 21-20 will not allow me to travel in my car, or by foot, in my own neighborhood without passing within 100 yards of a school or state park. I would not even be able to stand in my own back yard because my property is within 100 yards of a Montgomery County Park.

In addition, I object to definition of public venues, to including privately own property. This is an example of extreme Government over reach. To Include Houses of worship is pure insanity. Multiple churches in this country have been the targets of active shooters. The reason being is that it is a soft target. The Active Shooters only has one mission, that is to kill as many people as they can. Not allowing people to defend themselves in their house of worship only would help facilitate another tragedy.

It is foolish to believe our local police departments can do any thing to prevent this sort of gun violence. Police resources are extreamly limited. The school Resource Officer was Removed from McGruder High School a few weeks before that school shooting. If I am not Mistaken, I believe a budget cut was cited as the reason. It is a tragedy that Montgomery County government took absolutely no responsibility for their lack of insight. The School Resource Officer would not have been in the school in the first place if there was not a clear and present known danger.

As a current Maryland Gun Permit Holder, I can say there is absolutely nothing wrong with the current restrictions that have been in place for many years. Most of the civilian gun violence does not involve permitholders anyway. This proposed Bill dose noting to stop Gun Violence and would only help facilitate more violence by preventing law abiding citizens from defending themselves. There is so much to say on this topic more to say on this topic. Brevity is of the upmost importance and I believe I made my point. In conclusion there is no reason this bill 21-22 be made into law.

Commented [JT1]: It

Hello,

I'm writing regarding Bill 21-22. I understand this bill removes the exemption for holders of Marylands Wear and Carry permit. This would make it illegal for permit holders to be within 100 yards of "Place of Public Assembly", which equates to everywhere in the county.

According to Data.montgomerycounty.md, from 6/1/2022 to 7/15/2022 there were over 4,800 founded crimes in Montgomery County. This equates to 106 crimes per day in the 45 day period. A quick internet search proves these are not legal permit holders committing these crimes. Bill 21-22 would leave me unable to protect myself from assault, burglary, theft, robbery and all such crimes were reported within the county. Why can a criminal have a weapon to commit these crimes but I, being a law abiding American citizen, cannot have one to protect myself from such crimes?

The Supreme Court upheld our right to defend ourselves outside our homes in the recent ruling of Bruen. Why are you attempting to subvert the Supreme Court and the constitution?

I have lived in WV, OH, PA and CO over my life. Maryland is the first place I have lived that I am afraid to be out of my home for an extended time. I am a law abiding citizen and I've completed all the necessary training and requirements in Maryland for a Wear and Carry permit. Carrying a weapon for protection is an overwhelming responsibility for the permit holder. Criminals have no requirements to meet and feel no such responsibility. It is reprehensible that a criminal is more protected than I am.

Bill 21-22 impacts my travel as I live in an adjoining county. I will no longer be able to see my physicians or patronize restaurants and shops in the county. I hope the officials of Montgomery County use statistics and facts and support their law abiding citizens.

Janice Hess Frederick County

July 15, 2022

Montgomery County Council
Legislative Branch
Bill 21-22

Gentlemen, I would respectfully vote against this bill. I have lived in Burtonsville, Maryland for 16 years. I have seen an alarming rise in crime in this area, especially over the last 4 years. This past week on July 10th, 2022 there was a shooting just down the street from my house at the Briggs Chaney Market place. Over 60 shots were fired and one innocent bystander was wounded by gunfire. This shooting happened within 2 hours of a STRING of robberies in down town Silver Spring. Bill 21-22 would prevent law abiding citizens from protecting themselves and their families and would do NOTHING to prevent criminals from obtaining firearms and committing violence. I understand law makers are desperate to solve gun violence but these laws don't affect criminals. There are so many guns in this country, barring the banning of ALL guns, we need to be smarter with possible solutions. Energy would be better spent on training and vetting of carry applicants. Examining credentials and references for carry applicants would go a long way to keeping us all safe.
Why do citizens need carry rights :
Unfortunately, there is a response time for police response. There are occasions when a citizen will not have time to call and wait for the police. If I'm walking and attacked by dogs I will not be able to call the police for help. If I'm walking and a robber threatens me with a knife, I will not have the luxury of calling the police. Last year I called the police to report a trespasser on my property. It took 40 minutes for the police to show up.

Respectfully,

John Murphy

Montgomery County Council July 21, 2022
Legislative Branch
Bill 21-22

I would respectfully vote against this bill. Here are two examples why I feel this way.

On July 17, 2022 a gunman walked in to the food court of Greenwood Park Mall in Indiana. Shot and killed 3 innocent bystanders and wounded another 3. Elishjah Dicken, a 22 year old legally carrying, killed the gunman and was declared by local police and the Mayor a Hero who saved countless lives. YOUR bill would have prevented this intervention. WHERE WERE THE POLICE ???
WHERE WERE THE POLICE IN UVALDE ???

Closer to home in MONTGOMERY COUNTY yesterday, Wednesday July 20th at 1pm an elderly man out for a walk was attacked by a pit bull in Silver Spring. The owners had trouble stopping the attack even hitting the dog with their car. The victim is in the hospital. How many times does this happen ?? Google how many people are attacked by dogs every year. More than 4.5 million people are bitten by dogs in the USA each year. Many victims are killed.
I am elderly and walk every day in Burtonsville. I have been chased by stray dogs twice. You want to make Montgomery County safer ? How about banning pit bulls ? A breed known for vicious unprovoked attacks.
My house is close to 2 schools, a church, and the Burtonsville Library. No matter which direction I choose to walk I will be walking past one of these “Places of Public Assembly”.
Every time I walk I fear being attacked by dogs. I am completely defenseless thanks to your carry laws.

John Murphy

My name is Jonathan Wrieden and I am a resident of Montgomery County. Bill 21-22 is blatantly unconstitutional and directly infringes on my right to self-defense. I was in the United States Army Infantry for ten years and am a combat veteran. I have more training than most police officers, yet this bill would prevent me from carrying a firearm in public for protection. Because of my extensive military training, I am an asset to society. If any of you were in a mass shooting scenario, you would want me there with a gun to save you. I do not trust the police to protect me or my wife in one of these situations. In most cases, mass shootings are over and the damage is already done before police can arrive. And even if police do arrive in time, I do not want to have to hope and pray they possess the courage to act, unlike the police officers in Uvalde. Furthermore, this bill will not stop criminals from carrying guns. That's why they're called criminals, because they break the law. If a criminal wants to carry out a mass shooting, then they are going to do it anyway and this bill will not stop them. This bill will only affect the law-abiding citizens. It will strip them of their right to protect themselves and their families. All law-abiding citizens can be assets to society. The solution is to properly train and equip them, not to strip them of their right to carry a firearm so that they are left defenseless against criminals. On July 17, 2022, an armed bystander shot a mass shooter who opened fire in a mall in Indiana. If it wasn't for this responsible citizen, the criminal would have killed many others. There are countless other examples of armed law-abiding citizens taking down mass shooters and thereby saving many lives while waiting for police to arrive. Do not let the recent sensationalizing of shootings in the media make you feel like you have to pass laws to make it look like you care enough to do something. This bill is nothing more than an emotional reaction to NYSRPA v. Bruen and it will not stand up in court. This bill does not pass the history and traditions test for constitutionality established by the Supreme Court in NYSRPA v. Bruen. You're going about it the wrong way. Focus on keeping guns out of the hands of criminals and keeping them in the hands of law-abiding citizens, the assets of society. That's the solution. I urge you not to pass Bill 21-22. It will cost lives, not save them. Thank you for your consideration.

Testimony regarding EXPEDITED BILL NO. 21-22,
Amending Montgomery County Code Chapter 57, Weapons, Section 57-11

Michael Burke

I rise in opposition to the language of the proposed Expedited Act to prohibit the possession of firearms in or near places of public assembly.

As written -

Section b) (2) *(does not) apply to a law enforcement officer, or a security guard licensed to carry the firearm…*

Please consider the extremely adverse consequences of your proposed bill. Thousands of retired law enforcement officers reside in Montgomery County, while thousands more routinely travel through the county daily from across the greater DC Metropolitan Area. You (the Council) and both the Montgomery County Police Department (MCPD), Montgomery County Sheriff's Office (MCSO) and the Maryland State Police (MSP) rely on these highly trained, well vetted, and experienced law enforcement veterans to assist them in maintaining the peace and responding to violent incidents (such as an active shooter). Those retired officers, who carry their handguns under Maryland State Police Handgun Permits (issued at no cost to all former/retired Maryland officers and deputies) and retired Federal Agents and Officers (ATF, FBI, Secret Service, US Marshals, Military Police, Military Intelligence, and other counter-terrorist agencies) are prepared today, and tomorrow, to step in and STOP violent crime as it develops. These men and women with decades of skills have been performing these public safety roles for decades. I'm one of them.

Your bill would order thousands of women and men to DISARM and cease to function as unpaid auxiliary forces to safeguard the citizens of the County, and prevent them from coming to the aid and assistance of MCPD, MCSO, and MSP for fear of being arrested, detained, and prosecuted for unlawful possession of their handguns. Is this what you truly desire?

Consider the cases of Deputy Chief State Fire Marshal Sander Cohen, and FBI Supervisory Special Agent Carlos Wolff. These men took the extreme risk, both "off duty," to come to the aid of a Montgomery County citizen in distress, on Friday, December 8, 2017. Both were killed that night. Sander Cohen also served as a volunteer firefighter with the Rockville Volunteer Fire Department. They died on I-270, near Great Falls Road, serving the citizens of Montgomery County, knowing the risks they faced by serving – you.

Consider the shooting at Magruder High School, in May 2022. Off duty and retired law enforcement officers residing in the area responded to the report of "active shooter" at the school, knowing that meant placing their lives at risk – to potentially save CHILDREN, while the local precinct was short-staffed. MCPD has 27 unfilled sworn positions, though brass and union leadership express concern for a "crisis" in the future. Between April 2020 and April 2021,

Testimony regarding EXPEDITED BILL NO. 21-22,
Amending Montgomery County Code Chapter 57, Weapons, Section 57-11

Michael Burke

police resignations rose 26 percent, from 19 to 24, over the preceding 12 months. Retirements increased 18 percent, from 28 to 33, department data show.

The Law Enforcement Officers Safety Act (LEOSA) is a United States federal law, enacted in 2004, that allows two classes of persons—the "qualified law enforcement officer" and the "qualified retired or separated law enforcement officer"—to carry a concealed firearm in any jurisdiction in the United States, regardless of state or local law. It is codified within the provisions of the Gun Control Act of 1968 as 18 USC § 926B and USC § 926C. LEOSA also covers state and public university and/or college campus law enforcement officers (such as University of Maryland Police, Montgomery Community College Police, and approximately 20 other colleges and universities that have armed law enforcement officers).

18 USC § 926B

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b)This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c), "qualified law enforcement officer" is defined as any individual employed by a governmental agency, who:

1. is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest, or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice); This includes state and public college/university police officers.
2. is authorized by the agency to carry a firearm;
3. is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
4. meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
5. is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
6. is not prohibited by Federal law from receiving a firearm.

(d) the individual must carry photographic identification issued by the governmental agency for which the individual is employed that identifies the employee as a police officer or law enforcement officer of the agency.

Testimony regarding EXPEDITED BILL NO. 21-22,
Amending Montgomery County Code Chapter 57, Weapons, Section 57-11

Michael Burke

In 2013, LEOSA was amended by the National Defense Authorization Act (NDAA) for Fiscal Year 2013, effective January 2, 2013, after **President Obama** signed Public Law 112-239 (H.R. 4310).

Senator Patrick Leahy, a key sponsor of the bill, remarked "The Senate has agreed to extend that trust to the law enforcement officers that serve within our military. They are no less deserving or worthy of this privilege and I am very pleased we have acted to equalize their treatment under the federal law". He further stated "The amendment we adopt today will place military police and civilian police officers within the Department of Defense on equal footing with their law enforcement counterparts across the country when it comes to coverage under LEOSA."

I cannot imagine that this Council wishes to oppose President Obama or Senator Leahy in recognizing the vast importance of recognizing these men and women as extremely valuable members of the community, people that you would disarm and render ineffective if you pass this bill as written. Your statute seeks to nullify unknown thousands of Handgun Permits issued lawfully by the Maryland State Police, following deep and detailed background investigations, extensive training in the Use of Force, Marksmanship, and other legal education required by the General Assembly and the Maryland Police and Correctional Training Commissions (MPTC).

These well trained, well-armed County residents and visitors, individuals possessing handgun permits from around the DC Metropolitan Region, are NOT a threat to public safety- they are an unnoticed, unappreciated asset to protecting and serving the communities under your care.

William Adams

Opposition to Bill 21-22

How any elected official may feel personally about guns is not what they are obliged to act on. As an elected official, trusted to honor the US Constitution, the Maryland Constitution, and the collective wants of their constituents, they must be true to their responsibilities and act according to the wishes of their constituents within the bounds of the US Constitution. Therefore, the only right thing to do is to reject this bill as it clearly violates the 1st, 2nd, and 14th Amendments and is simply a dangerous bill.

Setting aside for a moment the Constitutional violations this bill presents; the question is why? Why do you feel compelled to deny a properly permitted firearm holder freedom of travel simply because they are now permitted to carry a firearm when previously there was no prohibition from doing so? Is there evidence that anyone is now in greater danger, or is it simply speculation based on some misinformed notion that gun holders are dangerous? Handgun Permit (HGP) holders in this state have complied with the rigorous training and background checks requirements to obtain a permit, and as such, are shown to be safer, law-abiding, and even-tempered individuals.

This proposed law does NOTHING to improve the safety of Maryland citizens that may reside, work, or pass through your county. As we have seen most recently at the Greenwood Park Mall in Indiana, an armed citizen legally carrying a concealed firearm stopped a mass shooter on a shooting rampage in the mall. How many more lives would have been lost had a law like Bill 21-22 is proposing been in place in this Indiana town. Bill 21-22 will prevent a legally armed citizen from responding to such an event in Montgomery County.

Anyone saying that the freedom to carry a firearm outside the home for self-defense or the protection of others is unnecessary and claiming that firearms in the public space is unsafe, is simply misinformed or ignoring the facts. If you are truly concerned about the safety of the residents, workers, and visitors to Montgomery County, please direct your energies to stopping gang crime in your county and leave the law-abiding citizens of Maryland alone.

PLEASE, reject this bill!

Sincerely,
William Adams

Please allow law abiding citizens to exercise their constitutional rights in Montgomery county. Clearly, the statistics show that criminals are getting more and more brazen as we've felt the crime wave in our communities. We are already at a disadvantage against criminals. Please give us the opportunity to defend ourselves.

Testimony in support of Bill 21-22

Prohibiting firearms in or Near Places of Public Assembly

Good afternoon. My name is Mindy Landau, I am a resident of Potomac, MD in Montgomery County and I've lived and worked here as a federal employee, now retired, for 40 years. I am a co-lead of Brady United's Montgomery County Chapter and also represent Brady Maryland and our state executive committee. Thank you to the Montgomery County Council for giving me this opportunity to testify.

Bill 21-22 **will protect Montgomery County residents from an armed threats to our citizens in places where they work, play and socialize.** Our children should not have to fear that someone with a gun will invade their "safe" space for learning. Government workers and concertgoers should be able to go to work, concerts and parks without worrying whether the person next to them is carrying a gun. Our citizens don't want to feel anxious, intimidated, or afraid. We just want to be free and feel safe in the places we visit that give us joy. The presence of guns at or around these public places poses a danger to citizens' emotional and physical well-being. We must protect the citizens of this county and their ability to visit places of worship and parks freely and without fear of being shot.

Let's call it what it is - guns in public places represent armed threats, clear and simple. And intimidation is not what Montgomery County is about. This is why Brady United Against Gun Violence appreciates and strongly supports Council President Albornoz' bill.

By prohibiting firearms within 100 feet of a gathering place, this bill will help to ensure we are protecting the sacred right to assemble for our generation, and generations to come.

Although we respect the Second Amendment and rights of gun owners under the constitution and laws of Maryland, that right must be exercised so as not to infringe on constitutional rights of others, including the right to assemble peacefully. Gun laws are designed to do more than to protect physical safety alone. They can and do help preserve public order and the freedom of others to peaceably assemble, speak, and worship without fear and intimidation.

As a country, much work has been done over the last 100 years to ensure that freedoms, as represented by the right to assemble peacefully, is accessible by all - regardless of their race, socioeconomic class or disability. We must continue this work today. Thank you.

Good afternoon: I am writing to express my concern with Bill 21-22. The bill is problematic and worrisome in quite a few ways, but some more than others – and, of course, some more personally than others as well.

I expect to receive my Wear and Carry Permit later this year, as do many others now that the Supreme Court, in its *Bruen* ruling, has declared the "Good and Substantial Reason" portion of the permitting law to be unconstitutional. Currently, Montgomery County law forbids carrying a firearm within one hundred yards of any place of public assembly, specifying public parks as one such location, and makes an exception for those who have carry permits. Bill 21-22 would remove this exemption, making it unlawful even for permit holders to carry in such areas.

My apartment lies about twenty yards from the border of a park owned by Montgomery County. Although Bill 21-22 does make an exception for carrying within one's home, it would seem to make it impossible for me to walk out of my own front door while carrying my firearm. For me to comply with this bill, I would apparently have to unload my firearm, walk or drive to a location deemed suitable for carry by Montgomery County, then reload my firearm and go about my day. (And, of course, I would need to perform the same procedure in reverse on my way home.) This would make it so inconvenient to use my carry permit that it would effectively make my permit useless – which would defeat the purpose of getting the permit in the first place.

I urge you not to pass this bill. If you do, someone in my circumstances will undoubtedly file a lawsuit against Montgomery County, and while I am not a lawyer, I find it difficult to see how the county could possibly win. You could, in fact, end up having other restrictions besides this one thrown out by the court, leaving you with fewer carry restrictions than you had in the first place.

Very truly yours,

{signed}
Parrish S. Knight

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Civil Engineering for Land Development

SILL ENGINEERING GROUP, LLC

July 13, 2022

Montgomery County Council
Montgomery County, Maryland 21043

Re: Council Bill 21-22
OPPOSE

To Whom It May Concern,

As I read this proposed bill I am very concerned for my right to self-protection. I have had a Maryland Wear and Carry Permit and other State's carry permits for many years now and routinely carry a firearm and travel into Montgomery County for business and personal reasons. I believe this bill as worded will effectively ban firearm possession in the entire county, stripping me of my Constitutional Right to self-protection. Please OPPOSE this bill.

Should you have any questions or comments regarding this matter, please do not hesitate to contact this office.

Sincerely,
SILL ENGINEERING GROUP, LLC

Paul M. Sill, PE, LEED AP

The United States is founded on laws. We as a people, follow the laws. When the government decided to not follow the laws, it is no longer a government.

To place the county under a gun free zone, will not serve law abiding citizens. No one will be safe, crime will continue to rise. There will be no reason to live in Montgomery County as it will be run by criminals and gangs.

Since you are infringing on my right afforded to me by the Constitution of the United States. I am requesting that this bill be removed or voted down. It serves no law abiding citizens in Montgomery County.

Robert Utley

Simeon Pollock

Dear Mr. President,

I am writing to you as President of the Montgomery County Council, to ask the council through you, to please reconsider passing the ill advised bill 21-22 - Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

Not only is this bill illegal following the Supreme Court's ruling in Bruen, it will only make criminals of otherwise law abiding citizens. It tries to superseded Maryland State law as well as tell the Maryland State Police (MSP) that it does not know how to vett and process Concealed Carry Permits.

The State of Maryland, through the MSP, already has in place an age limit - 21, a thorough vetting process for anyone wanting a Concealed Carry Permit (CCW). There are classes required for an HQL, more class time & testing for a CCW. This state process allows concealed handguns to be in the hands of responsible adults.

The bill before the council will only serve to make vetted, trained, responsible adults into criminals in MoCo. Why do that? The criminals who will attack the public won't follow this law. So what purpose does it serve? It will only put a burden on law abiding citizens.

As a religious Jew who makes his home in the USA & in Montgomery County, I am becoming increasingly alarmed at the rise in anti-semitism, plain old Jew hatred that is on display in this country and recently in our county, in the heavily Jewish neighborhood of Kemp Mill. I want to be able to fight back should anyone come and try to kill Jews just for being Jews and congregating in a synagogue. *Never Again,* means that we won't be attacked & slaughtered without fighting back.

In Israel where guns of all kinds are common place, it's usually a private citizen that stops an attack before the police or army can respond. That can be here as well.

In many cases where synagogues were attacked in America, trained & armed congregants may have ended the attacks easily as most attackers are not trained in any way to use firearms if they are fired upon or face an armed citizen. Even in schools across the country, students & teachers are dying because no one is trained & armed to confront the attacker. They are forced to wait for the police who will hopefully come & stop the attack.

Concealed guns grant the element of surprise to any would be attacker & just the knowledge that citizens may be trained & armed may prevent a future attack.

Please don't pass this legislation & make life for law abiding citizens more difficult.

Sincerely,

Simeon Pollock

Please follow the recent Supreme Ruling on firearms carry permits. You all took an oath to uphold the Constituion.

Vincent C. McGinnis

July 18, 2022

Dear Montgomery County Council,

RE: Bill 21-22

Montgomery County Bill 21-22 as written could restrict law-abiding citizens with a Maryland issued "wear and carry" permit from exercising their right, if they live "within 100 yards of a place of public assembly". My issue with that is, I live between 1 to 2 blocks from Seneca Valley High School (SVHS) and cannot avoid the high school. This law could nullify my right to bring a firearm outside my house; let alone carry one for personal protection, because of living in such close proximity to SVHS.

Background: I moved into the 'Olde Seneca Woods' development 35 years ago. I am 62 year old and I enjoy the convenient location and walking as much as possible. I walk to the FNB ATM on the corner of Crystal Rock Drive/118. I walk to the grocery store, the Post Office, the dry cleaners, and really anywhere I can. All this helps me get exercise and reduces dependence on my car. Though I love this location for all its convenience, I try to walk during the day; and not too late at night. That's because my house is located in the Crystal Rock Drive area (near The Hampton Apartments) and is one of the worst crime areas in Germantown. Just ask any Montgomery County Police Officer who has worked in Germantown. For this and other reasons, I applied for a Maryland State issued wear and carry permit.

Bill 21-22 as currently written could nullify my right to bring a firearm outside my house; let alone carrying one for protection; because I live in such close proximity to SVHS. This would gut the intent of recent change in the law for me and others who live so close to designated gun-free zones.

Thanks for listening my concern. I hope you can address this issue in the bill before its voted on.

Please feel free to call me with any questions you have.

Sincerely,

Vincent C. McGinnis

July 15, 2022

Reg: Bill 21-22

Dear Council Members:

I do not support Bill 21-22. I believe the bill is driven by the mistaken belief that "more guns on the street means more crime."

The Bill is intended to outlaw concealed carry almost everywhere in Montgomery County.

One needs only to know what happened in the 44 states that have either "shall issue" or "constitutional" (no permit required) concealed carry. The law-abiding who do not carry guns today, do not become criminals tomorrow after personal defense is permitted by the government.

No State that has permissive concealed carry has seen an increase in gun crimes by the law-abiding (source AWR Hawkins, John Lott Jr., et. al.)

Self-defense is a natural right. A "belief" that concealed carry by the law abiding means more crime is unfounded and is subordinate to the natural right to survive.

I support Maryland law as it stands for concealed carry. That is enough for public safety. Bill 21-22 is not required.

Best Regards,

Cs//

Cary Secrest

Public Testimony In Response to Bill 21-22, Weapons-Firearms In or Near Places of Public Assembly- July 26, 2022

Good afternoon,

I am a resident of Montgomery County, MD (Gaithersburg/Damascus to be exact) and a law-abiding firearms owner. I am also an attorney and a staunch believer in civil rights. I am writing to express my grave concerns with the efforts of the county to curb exercise of civil rights by law-abiding firearms owners, as made plainly evident in the text of Bill 21-22.

As the Council is no doubt aware, the Bill of Rights to the US Constitution recognizes certain key and fundamental civil rights of US Citizens that the founders thought so profoundly important they bore being enumerated. The Second Amendment to the Constitution protects the right of individuals to keep and bear arms. The Supreme Court has continually held that this is a protected civil right. Citizens have a constitutional right to keep and bear arms; to keep and bear arms of those types in ordinary use; and to keep and bear arms *in public* for purposes of self-defense and other lawful ends. The Maryland Charter makes the US Constitution the supreme law of Maryland so, quite clearly, Marylanders have a constitutional right to wear and carry firearms in public. As recognized by Governor Hogan, Marylanders no longer need convince the government that they should be allowed to exercise a civil right. The proposed bill's definition of places of public assembly would act to essentially deprive those in or visiting Montgomery County of a right to defend themselves, even on private property. This is in direct contravention to the recent Supreme Court decision in NYSRPA v. Bruen, but you are aware of this fact as the bill is in direct response to the decision in Bruen.

The Council is, nonetheless, pursuing a bill that directly and intentionally flies in the face of constitutional rights. Section 4-209 of the Maryland Criminal Law Code also prohibits local governments from imposing certain restrictions on possession of firearms. Bill 21-22 goes well beyond the exceptions permitted under Section 4-209.

Given that the Council is fully aware of the Constitutional rights that it seeks to intentionally infringe through attempted imposition of Bill 21-22, I want to draw your attention to 42 US Code Section 1983. Section 1983 is a federal statute which provides a right for individuals to sue local government officials directly when those officials violate civil rights in the course of their duties. Given that the Council is aware that this bill would violate civil rights (it is clearly written with that express intent) Council members likely lose any defense of qualified immunity and become personally liable for their unconstitutional actions. I for one would consider seeking a 1983 action if the Council passes a bill directly aimed at infringing my civil rights.

Putting the above aside for the moment, what is it that frightens the Council so much about the lawful exercise of civil rights? Does the Council also intend to ban prayer within 100 yards of a place of public assembly? Does the fifth amendment not apply

within 100 yards of a place of public assembly? Does the Council believe that individuals should lose their fourth amendment rights if within 100 yards of a place of public assembly?

Will the Council ban armed security or law enforcement at Council meetings or is it ok for the Council to be protected by firearms as long as the rest of us are not? Given that gun control is really the last vestige of Jim Crow laws, maybe the Council is scared of minorities being able to defend themselves? Is that it?

Representative Jamie Raskin, of whom I am no fan, recently publicly pointed out the ridiculousness of Bill 21-22 and that it is just a waste of precious taxpayer resources and likely to be overturned in court. That said, he also called protection of constitutional civil rights draconian and foolish, so maybe he's not a great example.

I truly encourage you to listen to your better angels and recognize the foolishness of 21-22 and, instead, embrace an approach that protects civil liberties of all Montgomery County residents and guests.

Respectfully,

Matthew Hoffman

Members of the County Council

I am writing to express my opposition to Bill 21-22 as drafted.

As written, this proposed ordinance would effectively prohibit use of a Maryland wear and carry permit in any of the built up areas of Montgomery County as it would be nearly impossible to drive or walk up or down a major street (e.g., Georgia Avenue, Wisconsin Avenue, New Hampshire Avenue) without coming within 100 yards of any property attached to a place of public assembly. Moreover, any Montgomery County resident with a wear or carry permit who lived or owned a business within 100 yards of any property attached to a place of public assembly would be barred from using the Maryland wear and carry permit while entering or exiting his residence or business. Additionally, there are places in Montgomery County where the Beltway and U.S/ 29, for example, come within 100 yards of property attached to a place of public assembly. Thus, this ordinance would criminalize use of a wear and carry permit while traveling through Montgomery County on the Beltway or U.S. 29. It should not be difficult to see why the breath of this ban is inconsistent with the recent Supreme Court decision allowing legislatures to ban guns only in narrowly defined sensitive spaces.

There is also a problem with the vagueness of the definition of place of public assembly. By use of the term “including” the ordinance reads as if there are other unlisted places that may be considered a place of public assembly. With a criminal statute, the citizen is not supposed to have to guess what may or may not be included – particularly with a term that is broad enough to include, for example, any store.

There is a saying, “Bad cases make bad law.” Passing this ordinance as written will undoubtedly result in rejection by the courts and may very well result in a court decision that further restricts the right of a legislature to ban guns from sensitive spaces and thus winds up making gun control harder rather than easier. In addition, passage of this ordinance as written will unnecessarily run up County legal fees with money that could be spent on productive initiatives.

In my 31-year career (1966-1997) in criminal justice (including positions as a police officer, probation officer, and parole officer in New York State, Staff Director of the U.S. Parole Commission, and Principal Technical Advisor of the U.S. Sentencing Commission), I have seen quite a few pieces of criminal justice legislation that were not well thought out and/or not well drafted. In my opinion, this proposed ordinance, as written, falls in this category. Thus, I recommend strongly this proposed ordinance not be enacted as written. 1

Sincerely,

Peter B. Hoffman

Silver Spring, MD

1. If the "within 100 yards of" language were removed from this bill (so as to limit the prohibition to the actual property of the place of public assembly), and if the definition of place of public assembly was tightened to remove its vagueness, it might ameliorate the above noted issues. Whether the proposed legislation is needed to address a real problem is another issue on which I take no position other than to note that during my career in criminal justice, I reviewed more than 25,000 files of convicted offenders and I remember only one case involving a crime committed with a handgun carried by a person having a permit to carry a handgun (not including offenses committed by persons who were authorized to vary a handgun because they were law enforcement officers).

Dear Counsel Members and constituents,

I am writing in regards to Bill Bill 21-22. Please allow me an opportunity to voice my concerns and kindly accept it for consideration. I will try to make this short and sweet.

I have lived in Montgomery County, Maryland for my whole life, except when I went to college. I am almost 42 years of age. Although I was a knucklehead growing up, I earned a Master's degree, volunteered for the fire department, am a member of a chamber of commerce, am Senior Home Safety Specialist, Client Liaison Manager and Marketing Coordinator and served on the community board of directors. Not to mention, my wife and I work hard, very hard. We have also been steadily employed our whole lives and we pay all our taxes on time.

As you make your decision, please take this into consideration, how is it fair that a criminal will be able to go to a mall with a gun, like it happened in 2016, but someone with my background has to be unarmed? Would that really make you feel safer? I live across the street from the mall. When I walk my dog, how do I know the proximity of when I am committing a crime by being 100ft of 100 people?

This approach will either force me to be unarmed, or deal with a subjective approach of a police officer. Why is it that the Supreme Court of the United States just made me, you and a lot of others like us more equal and you are voting to take that away? Please excuse me, but the laws you are considering will not make us safer.

Even if I don't carry arms, I feel a lot safer knowing that others who are responsible carry their arms. Montgomery County is a great county, but it's not in a secret bubble. Criminals are all over the place and they will not follow this law, nor will the criminals from neighboring counties who will flock here knowing how rich and unarmed our citizens are.

There have been many mass killings. The numbers are staggering. It's obvious some of you want to make guns go away. I honestly wish we could disarm all of America too, but we can't. It's ingrained in the constitution and the Supreme Court just clarified that. The law being considered will undoubtedly be challenged by many and it may end up being a very costly decision for our county. Please consider putting that time and money into schools, our infrastructure, and placing real criminals behind bars.

Please give me and other responsible citizens of Montgomery County the right and chance to defend ourselves if the unlikely, but life threatening, situation happens to arise. The elements of this law should be left up to private establishments on whether to allow or not allow arms.

It's great to require proper training and background checks. Maryland has good laws right now. Please, please, please do not create a law to punish the responsible citizens. This law can harm a responsible citizen with their lack of safety and/or having unfair legal repercussions.

Thank you for your open-mindedness and consideration. Please make that right decision and give the responsible citizens the equality that they deserve and that the rest of the country already has.

Respectfully,

Renan Augusto

Statement regarding Bill 21-22

Good afternoon, my name is Michele Walker. I am a native of Maryland. My husband and I have raised four children in Montgomery County since 1990. Like our parents, we taught our children to respect our country and every person in it no matter their financial or educational status. Sadly, there are those among us who do neither of those things.

Every American has the right and responsibility to defend not just themselves but their family, neighbors and other Americans whom they do not know personally. The 2nd Amendment of the United States Constitution does not restrict American Citizens from wearing and carrying their firearms. The Supreme Court has recently ruled against legislature that demands reason or need applications. The courts have ruled against many restrictions that would infringe upon our citizens rights. There's an extremely low percentage of people using firearms to commit crimes or harm to others in comparison to the number of people who own one or more firearms that do not use them for those purposes.

There are numerous cases where a law abiding gun owner saved the day as a crime was happening. Some were in convenience stores and saved the clerk or another customer from robbery and possible death. A judge in Ohio was able to save himself from a criminal who was attempting to kill the judge right outside of the courthouse. In a mall a gunman was stopped by a citizen who had a permit. None of us have the ability to know if we will be in one of those situations where a gun will be used with harmful intent but all of us would be grateful to be saved by someone who had our backs. To those who want to push gun control, close your eyes and imagine yourself in one of those situations where there is an angry or upset person with a gun. Now imagine if you have no one there to save your life because of these laws. How would you feel if your close family member were just an innocent bystander harmed or killed because of the gun control law that prevented the possibility of someone to stop it from happening? None of us are exempt from the potentiality of being harmed by people who just don't care about the law or who are out of their mind. None of us, that includes you too.

Please stop trying to unarm the law abiding citizens. We have been taught to respect the gun and use it properly. Gun control does NOT work. Look at the localities that have the strictest laws on the books and see that things have gotten progressively worse. Chicago, New York and Philadelphia are shining examples of those cities. Law abiding citizens do not have intent to go shoot up people or places. We intend to protect ourselves and those around us from others who either have criminal intent or have a mental illness. Address the real issues mentioned in the last sentence because it is not the gun, it's the person holding the gun.

To the Honorable Members of the County Council of Montgomery County, MD,

I urge you to vote against Expedited Bill 21-22, Weapons – Firearms in or Near Places of Public Assembly. I know you want to make me safer, but this bill does the exact opposite.

Antisemitic incidents are on the rise in the county, particularly by white supremacists[i]. White supremacists are the most likely of all extremists to use violence[ii]. They target synagogues because these facilities serve the Jewish community and assure the presence of a significant number of Montgomery County citizens at certain times of the week. Furthermore, In the orthodox community, Sabbath synagogue attendees do not carry their phones, so there would be a delay in alerting police to an active threat.

An additional factor impacting incident response is that Montgomery County police are understaffed and recruitment is down. Our sworn officers per capita is only half the national average[iii]. It is unrealistic to expect police to be able to engage with an active threat fast enough to prevent mass casualties.

Furthermore, turning places of worship (and essentially the entirety of the county) into gun free zones would do the precise opposite of its intent. It would serve as a welcome sign for potential mass murderers as to which locations they can "safely" unleash their mayhem[iv] — and there'll be nobody there (with a gun) to stop them! This is because the only people who will comply are law-abiding, licensed gun owners. Do you really think someone intent on mass murder will leave their gun at home because of this law?

Lastly, the expedited basis of this bill is unjustified. The CCW permit application process takes 90 days from submission to approval[v] plus a few days to mail the permit to the applicant. This provides the MDSP sufficient time to perform a background investigation and interview up to three character witnesses. Before you can do that, you have to schedule and attend a 16-hour training class. You also need to take a live fire test with your instructor at a range to prove your proficiency firing a handgun. You also need to schedule and have your fingerprints taken to submit along with your application and fee. Then your CCW permitted citizen would have to select and purchase an appropriate concealed carry weapon, which in Maryland involves a minimum 7 day waiting period. Therefore, you have 90 to 120 days before the impact of additional CCW permit holders will be seen in the county.

CCW permit holders should be allowed to carry their concealed weapon to their place of worship specifically because of the heightened threat against places of worship. This bill will make it illegal for them to protect themselves specifically at the place they need it most. Therefore, I strongly urge you to vote against Expedited Bill 21-22.

Larry Jaffe
Silver Spring, MD

[i] "Sharp rise in anti-Semitism in Maryland, Virginia and D.C., ADL reports" https://www.washingtonjewishweek.com/sharp-rise-in-anti-semitism-in-maryland-virginia-and-d-c-adl-reports/ and "ADL H.E.A.T. Map™ (Hate, Extremism, Antisemitism, Terrorism)" https://www.adl.org/resources/tools-to-track-hate/heat-map

[ii] "Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks" https://www.humanrightsfirst.org/resource/domestic-extremism-america-examining-white-supremacist-violence-wake-recent-attacks Relevant excerpt below:

In Pittsburgh, Pennsylvania, the killer who attacked worshippers in a synagogue wrote that he believed Western Civilization was facing "extinction" and that refugees were "invaders";[5]

The Christchurch, New Zealand killer titled his writings "The Great Replacement" and targeted Muslims in a country he was initially only visiting;[6]

The shooter in El Paso, Texas targeted Latinx people in the United States but wrote that he "supported" the racist screed from Christchurch;[7]

In Poway, California, the shooter first targeted a mosque and then a month later opened fire in a synagogue, claiming that Jews were orchestrating a "planned genocide of the European race";[8]

And most recently, the killer in Buffalo, New York, spent weeks identifying a locale in which to murder Black Americans. His own screed was largely a plagiarism of the Christchurch shooter's "Great Replacement" text, but was so sloppy that at times he merely swapped out terms for one victimized community for another.[9]

This heartbreaking trail of violence illustrates how fluidly the Great Replacement conspiracy theory travels across borders and populations.

Unfortunately, these mass casualty attacks are only one element in the larger phenomenon of violent white supremacism and domestic extremism.

Over the last decade in available data, white supremacist terrorism in the United States has increased many times over. Of the 100 white supremacist attacks between 2000 and 2019, 80 of them occurred after 2009, according to the Global Terrorism Database (GTD).[10] And while these terrorist attacks have increased, they have also become more lethal. Mass casualty attacks perpetrated by white supremacist terrorists like the horrific attack in Buffalo, used to be a rare occurrence. Now, they are frequent tragedies.

[iii] "Departures, sagging recruitment plague Montgomery County police (bethesdamagazine.com)" https://bethesdamagazine.com/bethesda-beat/police-fire/departures-sagging-recruitment-plague-montgomery-county-police-even-as-crime-soars/

[iv] "Mass Public Shootings keep occurring in Gun-Free Zones: 94% of attacks since 1950" https://crimeresearch.org/2018/06/more-misleading-information-from-bloombergs-everytown-for-gun-safety-on-guns-analysis-of-recent-mass-shootings/

[v] "Wear and Carry Permit (maryland.gov)" https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx

My name is Gary Simon. I am a lifelong resident of Montgomery County. I am a law-abiding MD Wear and Carry Permit holder as well as a MD Qualified Handgun Instructor (QHIC). While I think it fair to say that my viewpoints and philosophies are not very similar to the majority of the esteemed council, I do wish to thank you for the time that each of you dedicate to serving our county. I am here today to ask that you do so from a perspective of practicality and one that adheres to the laws that make our country what it is today.

You have proposed a law, 21-22, in response to a decision of the Supreme Court in the NYSRPA v. Bruen matter. In doing so, you present a code that directly defies the majority opinion written by the Honorable Judge Thomas. I offer a portion of that decision for the record here today. I offer only text, removing citation and reference in the essence of time and brevity.

"Consider, for example, Heller's discussion of "longstanding" laws forbidding the carrying of firearms in sensitive places such as schools and government buildings. Although the historical record yields relatively few 18th- and 19th-century "sensitive places" where weapons are altogether prohibited-e.g., legislative assemblies, polling places, and courthouses- we are also aware of no disputes regarding the lawfulness of such prohibitions. We therefore can assume it settled that these locations were "sensitive places" where arms carrying cold be prohibited consistent with the Second Amendment. And courts can use analogies to those historical regulations of "sensitive places" to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible. Although we have no occasion to comprehensively define "sensitive places" in this case, we do think respondents err in their attempt to characterize New York's proper cause requirement as a "sensitive-place" law. In their view, "sensitive places" where the government may lawfully disarm law-abiding citizens include all "places where people typically congregate and where law enforcement and other public-safety professionals are presumptively available. It is true that people sometimes congregate in "sensitive places," and it is likewise true that law enforcement professionals are usually presumptively available in those locations. But expanding the category of "sensitive places" simply to all places of public congregation that are not isolated from law enforcement defines the category of "sensitive places" too broadly. Respondent's argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. Put simply, there is no historical basis for New York to effectively declare the island of Manhattan a "sensitive place" simply because it is crowded and protected generally by the New York Police Department,".

I am a permit holding, law-abiding citizen who will certainly be effected by this error-filled piece of legislation. What I believe gives me the greatest concern is that a body such as yourselves would propose such a piece of legislation that you know would be challenged and likely overturned. Rather than focusing on laws that focus on criminal conduct and are centered on the solving of an issue at hand, you propose something that is nothing more than window dressing to your constituency so that you are able to say we tried to do something. Perhaps if this type of energy was directed at criminals rather than law-abiding citizens exercising their constitutionally protected rights, you might garner the support of people like myself.

Thank you for your time and consideration.

Edward Walker

Why I Oppose Bill 21-22 (and you should too)

I oppose Bill 21-22 for many reasons. The being that it doesn't just turn a right into a privilege, it completely removes this constitutional right from the people. For example even with a Maryland wear and carry permit, I would be unable to leave my place of residence with a legally owned firearm, 100 yards from the ground of a place of public assembly would extend into the street. There is a library, a church and a bank a few blocks from my house on the main road. Which means I'd have to break the law to exercise my RIGHT to carry even if was not intending to carry in Montgomery county.

Another reason I oppose this bill, as we have seen time and time again the police fail to act and to defend civilians, the Uvalde shooting is a prime example of law enforcements inability, unwillingness and cowardice to act in the event of a mass shooting or violent encounter. There's also an old saying which comes to mind in these cases "when seconds count, cops are minutes away". Throughout the years and as recently July 17, 2022 we saw a law abiding citizen, good guy with a gun, stop a cold hearted criminal, bad guy with a gun, in 15 seconds. 15 seconds and the horrendous atrocity was ended. 15 seconds. The officers at Uvalde waited 1 hour and 15 minutes. 1 hour and 15 minutes compared to 15 seconds. This shouldn't even need to be discussed. The answer is clear the people deserve to maintain their RIGHT to carry in public.

This bill will turn law abiding citizens who would like to exercise their right to carry a firearm, legally with a permit, for defense into criminals, while criminals would still be criminals who don't care about our laws and will still carry because they are criminals. This bill is bad legislation that will only effect lawful gun owners.

Thank you for your time, even if you don't actually care what the people think and only give us this opportunity to make us feel as if our opinions actually matter to you. We'll see you in court if this passes. Have a nice day.

Good afternoon. I'm Deborah Miller, the Director of Maryland Government and Community Relations for the JCRC of Greater Washington. The JCRC represents over 100 social services agencies, synagogues, and Jewish schools throughout the region. We work to build strong relationships and coalitions with other communities in pursuit of justice, tolerance, and equity for all. I am here today in support of Expedited Bill 21-22, which aims to reduce the dramatic rise in gun violence we are witnessing every day not only across the country, but in our county.

At the JCRC, one of our highest priorities is the safety and security of all faith-based institutions, particularly Jewish houses of worship, given the unprecedented increase in antisemitism- up 34% across the nation and 17% in Maryland according to the ADL. Additionally, MCPD's latest report on religious bias incidents shows that more than 85% targeted Jews, although they only make up only 10% of the County population. The Jewish community knows all too well the devastating impact of gun violence. In addition to the horrific targeting of African Americans, Asian Americans, and the LGBT Community throughout the country, we remember the Tree of Life tragedy in where 11 members of the Jewish community were murdered.

The importance of this legislation at this time cannot be underestimated. The JCRC is deeply disappointed by the Supreme Court's ruling striking down NY's concealed weapon permit law. We believe it will pose increased risk to public safety. Houses of worship should be left to establish their own security plans. We do not want individuals who could walk in off the street with a weapon acting in their own individual capacity. It could lead to chaos and create an even more potentially deadly situation.

We will continue to advocate for common-sense gun safety measures throughout our region, because we know that the senseless violence, can only be stemmed by limiting easy access to such deadly weapons. While the Supreme Court taken a step backward to curb violence and ensure safety, we are grateful that in Montgomery County, our leaders are taking a step forward to counter this dangerous trend. Fewer guns near or inside our places of assembly will create a safer environment for all of our residents. We thank the lead sponsor, Council President Gabe Albornoz as well as the entire council for its co-sponsorship.

Testimony of Montgomery County Young Democrats in Support of Expedited Bill 21-22–Weapons–Firearms In or Near Places of Public Assembly

July 25, 2022

Members of the County Council:

The Montgomery County Young Democrats strongly support Councilmember Albornoz's Bill 21-22, which would ban the possession of guns in or near places of public assembly, with a few exceptions. It would also remove an exemption that allows certain people with permits to have guns within one hundred yards of these places. Gun violence is a major problem in our county and country, resulting in tens of thousands of deaths every year, and residents should not live in fear when they are out in public. This proposal will tighten restrictions on guns and help ensure that people can participate in public life without being intimidated.

Currently Maryland law allows people with wear-and-carry permits to possess guns when they are within one hundred yards of or in parks, churchs, schools, public buildings, and other places of public assembly. This bill bans people from selling, transferring, possessing, or transporting guns in those areas. It includes reasonable exemptions for police officers or security guards, business owners, residents who live within 100 yards of a place of public assembly, and instructors for firearm safety and use.

In order for people to thrive in Montgomery County and engage in its civic and commercial life, they should feel welcome and not be subject to menacing threats. The goal of this bill is to promote public safety and ease of mind. We want to minimize concerns and worries that people have about people carrying weapons in and around these places. People should be able to go to school, their places of worship, the mall, or

community centers without having to constantly look over their shoulder and worry about shooters.

Recently we have seen a troubling trend of people showing up with openly carried weapons outside polling places and other locations; these are blatant attempts to intimate people, discouraging them from voting and exercising their other political rights. And various authoritarian groups have shown up to various events, most notably Drag Queen Story Hour, and tried to disrupt them.

Bill 21-22 would help reduce acts of violence in county public spaces, counter attempts to intimidate people, and keep people safer. MCYD urges the County Council to vote yes on this bill.

Sincerely,

The Montgomery County Young Democrats

Montgomery County Council
Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

July 25, 2022

Re: OPPOSE Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

Esteemed Council Members:

I am writing you as a Maryland native, a Montgomery County business owner, and a registered Montgomery County voter to oppose Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly. I am also a Maryland Wear and Carry permit holder, earned with a substantial amount of background checks and training. While I understand your intent is to protect the lives of innocent people, this bill is vague and will create confusion for law-abiding citizens with carry permits.

Under this proposed bill, there is no definition of "places of public assembly," which can be construed as something as simple as a grocery store or bank without context. Since many of us with carry permits are frequently traveling from work and the primary purpose of the permit is to keep us safe in the disposition of our duties as a business owner while banking or traveling to and from our home, this vague wording places us at risk for breaking the law within the county where Maryland has provided us the right to protect our lives.

For instance, the specific addition of school parking lots places many of us at risk as we travel home from work while legally carrying a firearm. With the current cost of gasoline, it is ridiculous to expect us to go miles out of our way to return home.

The most substantial reason for my opposition to this bill is that it creates a patchwork regulation within the state of Maryland, which creates a challenging structure for law-abiding citizens of Montgomery County and Maryland to comply. This would also set a precedent where law-abiding citizens are placed at risk for prosecution from laws within a smaller jurisdiction without any type of signage to identify that legal firearm carrying is prohibited. It is challenging enough to recall which states have which specific laws and which areas are restricted.

In addition, there has been an inadequate amount of time since Bill 21-22 was introduced and the hearing date of July 26, 2022. Many Montgomery County residents are unaware of the aforementioned bill and have not had an opportunity to read or speak their affirmation or opposition to it. This quick vote seems underhanded and sneaky, something I am certain none of you wishes to be, particularly with the upcoming election.

Please oppose this bill and let us address gun violence from root cause mitigation. I would be honored to help with supporting the council with data and statistics on root cause mitigation and public awareness.

Sincerely,

Rachel King

Testimony in Opposition of Council Bill 21-22

I submit this petition hosted on change.org in opposition of Council Bill 21-22.

https://chng.it/bKmKQXGq

Regards,
Katie Novotny

Dear Councilmembers,

I'm writing you as a resident of Montgomery county to let you know that I strongly oppose bill 21-22. I've lived here in Montgomery county for over 20 years now, I've seen the area go though lots of changes some good, some bad. Over the years, crime in the area is slowly getting worse and worse, from shootings happening less than a mile away from me, to muggings and armed assaults'. While I appreciate your efforts to try keep citizens safe, all this bill is doing is sending a message to criminals that the county is leaving its citizens defenseless. Stripping your law abiding citizens rights to protect themselves even when they've gone through the training, the background checks showing that the police approve of them to conceal a weapon is not a well thought out idea.

Someone that conceal carry's a firearm should be of sound mind and an upstanding citizen, there are checks and balances in place to restrict who can and cannot own and even conceal carry a firearm already in place. Thorough training is required, background checks are in place police have references to double check people who are applying. These should be more than enough. This is not going to be the wild west with people carrying a weapon exposed on their hip, These are going to be law abiding citizens, concealing a weapon, knowing it's a last line of defense incase something were to happen. With crimes going up, police response time going up, its not enough to solely rely on the police. I've had friends be victims of violent hate crimes, I've been in a situation where there was an attempted murder and was run to for help, in those 8-9 minutes of waiting for police to hopefully respond can often mean life or death for some.

I urge you to reconsider going through with this bill. Criminals will never listen to the letter of the law. Criminals see gun free zones as easy targets. Allowing your citizens the option to carry with a concealed carry permit is a deterrent in itself. Criminals may think twice, and move along not knowing who may or may not be able to defend themselves. Freedom is a two way street. Its often said ignorance of the law does not make you innocent. I've seen a lot of arguments that people should not have to worry who around them may or may not legally be carrying a weapon, well, ignorance of the law on their part does not make me a criminal. There have been a large number of situations where legal residents carrying a concealed firearm have kept horrible things from happening. A perfect example of this would be what just happened in Indiana. A mall where a "gun free zone" was in place 2 people broke that rule, one with the intent to cause harm to as many as he could, the other, a citizen with a concealed carry permit and a firearm out of sight. That citizen was able to save countless lives that day due to his training and fast thinking. While that is an extreme example it's also a realistic one.

In closing. Please reconsider passing this. I appreciate your attempts to make this county a "safer" place, but this will not accomplish it and will only hurt its citizens, and possibly even turn perfectly law abiding citizens into criminals just by wanting to legally protect themselves by carrying WITH a permit that has been issues by the police.

Thank you for your time,

Luke Roetman.

Testimony on Expedited Bill 21-22

Councilmembers,

My name is Daniel Sangaree and I'm a Montgomery County resident in Glenmont, a member of my community's home owners' association's board of directors, a married gay man, a registered and voting Democrat, and a Maryland Handgun Wear and Carry permit holder. My firearms training and experience includes handgun training by the Greene County (Missouri) Sheriff's Department as part of my university's criminal justice degree program, competitive handgun shooting as part of the American Criminal Justice Association, years of experience as a concealed weapons permit holder before moving to Maryland, Maryland's Handgun Qualification License training, and Maryland and DC's 16+ hours of concealed handgun permit training. This letter is my testimony in opposition to expedited Bill 21-22 currently under your consideration.

Bill 21-22 proposes to remove the exemption for Maryland handgun permit holders to the county's places of public assembly restrictions. As a permit holder this bill will affect me to a rather extreme degree. It is, in fact, a de facto ban on legal firearm carry throughout the populated areas of the county. Under even the much more objective definitions that existed before Bill 4-21, which this council previously passed, with the exemption removed I will not be able to do any of the following while otherwise legally armed:

- travel more than a block from my home in any direction on foot, Metro rail, or by car
- inspect, as a director, all of the property that is under my HOA's jurisdiction
- shop at my primary grocery store, the Safeway in Wheaton, or almost any of the grocery stores in the area, including: Giant in Aspen Hill, Lidl in Glenmont, Aldi in Glenmont, H-Mart

in Glenmont, Giant in Norbeck, Safeway in Norbeck, Giant in Wheaton, Target in Wheaton, Safeway in Kensington, and so many more.

- walk my dog on his normal route which was chosen entirely for conflict avoidance
- defend myself in my car during a rising trend of violent, armed carjackings in the county that police, by the laws of physics, are unable to defend us from

While I am only speaking for myself, as an HOA board member I have also noted that there are households within my HOA that, due to their proximity to a park, residents won't be able to legally leave their house at all while armed, either walking or by car. Many are likely even unaware that they are affected in this way. This specific scenario applies to many people in the county and that's before applying the vague definitions as provided in Bill 4-21.

The vague definitions for a place of public assembly brought by 4-21 add a truly dystopian lens through which to view this bill. This bill will allow police to arrest anyone who is otherwise legally armed nearly anywhere in the county based purely on the personal discretion and biases of the officer. It takes absolutely zero imagination to figure out exactly how that will be abused and what groups will be victimized by the wide latitude this bill would give police. But just to be absolutely clear, it will be people of color, queer people, and other oppressed minorities that bear the brunt of abuses by police from this just as they bear the brunt of all police abuses. This is exactly why The Black Attorneys of Legal Aid, the Bronx Defenders, and Brooklyn Defender Services, three public-defender groups in New York, filed an amicus brief in support of NY State Rifle and Pistol Association in NYSRPA v Bruen. To quote that brief, "virtually all our clients whom New York prosecutes for exercising their Second Amendment right are Black or Hispanic. And that is no accident. New York enacted its firearm licensing requirements to criminalize gun ownership by racial and ethnic minorities. That remains the effect of its enforcement by police and prosecutors today." ("Brief amici curiae of Black Attorneys of Legal Aid, et al. ", 2021)

Which brings me to the biggest problem with this bill. Either the members of this council have never visited a county jail, prison, or other place of incarceration or they came away from it with a wholly different takeaway than I did when I visited jails and prisons as part of my criminal justice program. This bill intends to send upstanding members of our community, vetted by the state police as law abiding and trained, to jail for up to six months for an act with no element of malice and likely an honest mistake or a matter of police/prosecutorial discretion. This result, which is explicitly what this bill demands, is cruel and honestly horrific. This is the exact opposite of criminal justice reform that the Democratic Party has called for over the past multiple decades.

I ask that the members of this council reject this bill which will only serve to criminalize upstanding, and disproportionately minority, members of our community.

Sincerely,

Daniel Sangaree

References

"BRIEF OF THE BLACK ATTORNEYS OF LEGAL AID, THE BRONX DEFENDERS, BROOKLYN DEFENDER SERVICES, ET AL. AS AMICI CURIAE IN SUPPORT OF PETITIONERS", July 2021. Accessible via Supreme Court of the United States website, Docket 20-843.

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Lisa Morris. I am a volunteer with Maryland Moms Demand Action and I live in North Potomac. I am submitting written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I have lived in Montgomery County my entire life. I am also a gun violence survivor as my life intersected with gun violence two times. I feel and believe our safety as a community and individuals/families are more at risk then ever.

The very dangerous decision made by the Supreme Court to weaken states permitting systems is already seeing ripple effect in states across the country, including in Maryland. States see that a weakened permitting system has a 13-15% increase in the rate of violent crimes. Research shows that when it is easier for people to carry guns in public, violent crime goes ups.

Montgomery County is experiencing a rise in gun violence; the last thing our county needs is guns where people gather.
The increased prevalence of guns outside the home only increases the risk of violence in public places. This will further endanger the public in Montgomery county and Maryland putting families, children, individuals and law enforcement in danger in what is already a gun violence and mass shooting epidemic.

Now the burden is more then ever on state and local officials to define the spaces in our community where guns are not permitted

and to provide strong public safety and gun reform legislation to keep all of us safe from gun violence in our communities as we go about our daily lives.

I urge you and the council to pass Bill 21-22.

Thank you and the all of the council members for all you do for our county.

Lisa Morris
Volunteer
Moms Demand Action for Gun Sense in America, Maryland Chapter

Testimony for the Montgomery County Council

July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

I am Peter Benjamin, a former mayor of the Town of Garrett Park. I am submitting written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I agree with the legislation proposed and respectfully suggest two additions:

1. Include within the definition of places of public assembly all modes of public transportation, including vehicles and facilities as well as school buses.
2. I believe that New York, in its action in response to the Bruen decision, dealt with weapons carried into private business. I would propose a similar provision that would ban weapons in all places of business, including stores, offices, and service facilities unless the owner or operator chooses to allow weapons in its place of business, in which case the exemption must be posted prominently and publicly at all entrances.

Thank you for your consideration,

Peter Benjamin

MARYLAND SHALL ISSUE®
SELF DEFENSE IS A CIVIL RIGHT

President
Mark W. Pennak

July 21, 2022

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO BILL 21-22

I am the President of Maryland Shall Issue ("MSI"). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners' rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland Firearms Law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home, muzzle loading, as well as a range safety officer. This letter is submitted in opposition to Bill 21-22.

In Bill 21-22, the County would amend Section 57.11(b) of the County Code to eliminate the existing exemption for carry permit holders from the prohibitions found in Section 57.11(a). Section 57.11(a) provides: "In or within 100 yards of a place of public assembly, a person must not: (1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or (2) sell, transfer, possess, or transport a firearm created through a 3D printing process." The County code defines the term "place of public assembly" extremely broadly to mean: "a place where the public may assemble, whether the place is publicly or privately owned." This definition goes on to include, but is not limited to, any "park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as fairgrounds or a conference center." See County Code Section 57.1 (definitions).

The County invokes as its authority for this bill, an exception provision to a State preemption statute, MD Code, Criminal Law, § 4-209(a). That statute provides: "(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of: (1) a handgun, rifle, or shotgun; and (2) ammunition for and components of a handgun, rifle, or shotgun." Section 4-209(b) contains exceptions to this general preemption, one of which is that a "county, municipal corporation, or special taxing district may regulate the purchase, sale, transfer, ownership, possession, and transportation of the items listed in subsection (a) of this section:

*** (iii) * * * within 100 yards of or in a park, church, school, public building, and other place of public assembly." MD Code, Criminal Law, 4-209(b)(1)(iii).

That exception provision is narrow and strictly construed. In *Mora v. City of Gaithersburg*, 462 F.Supp.2d 675, 689 (D.Md. 2006), *modified on other grounds,* 519 F.3d 216 (4th Cir. 2008), a federal district court here in Maryland held that "the Legislature" has "occup[ied] virtually the entire field of weapons and ammunition regulation," holding further there can be no doubt that "the exceptions [in Section 4-209(b)] to otherwise blanket preemption [in Section 4-209(a)] are narrow and strictly construable." As thus construed, Section 4-209(b)(1)(iii) does not authorize this legislation. Indeed, the extent of the County's power under this provision is currently in litigation in *MSI v. Montgomery County*, Case No.: 485899V (Mont. Co. Cir. Ct), where MSI and other plaintiffs have challenged the County's enactment of Bill 4-21 last year. Cross-motions for summary judgment in that case were filed and oral argument conducted on July 19, 2022. Bill 21-22 builds on the framework established by Bill 4-21 and effectively negates carry permits issued by the State Police throughout the County. If the County loses the Bill 4-21 suit, such a decision would necessarily mean that the County likewise lacks the authority to enact Bill 21-22, as currently drafted. The County would be well-advised to await a decision before doubling down on its misguided reliance on Section 4-209(b)(1)(iii).

But even assuming *arguendo* that the County has the power it claims under Section 4-209(b)(1)(iii), Bill 21-22 still fails as it is blatantly unconstitutional under the Second Amendment, as construed by the Supreme Court in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (2022). In *Bruen*, the Supreme Court held that the Second Amendment right to bear arms means "a State may not prevent law-abiding citizens from publicly carrying handguns because they have not demonstrated a special need for self-defense." Slip op. at 24-25 n.8. Specifically, the Court struck down as unconstitutional New York's "proper cause" requirement for issuance of a permit to carry a handgun in public. The Court went on to reject the "means-end," two step, intermediate scrutiny analysis used by the lower courts to sustain gun regulations, holding that "[d]espite the popularity of this two-step approach, it is one step too many." The Court ruled that "the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." Any such historical analogue would have to date from 1791 or, at the latest, 1868, when the 14th Amendment was adopted. See *Bruen*, slip op. at 25-26. That is because "'Constitutional rights are enshrined with the scope they were understood to have when the people adopted them.'" *Bruen*, slip op. at 25, quoting *District of Columbia v. Heller*, 554 U.S. 570, 634–635 (2008).

Bruen also holds that governments may regulate the public possession of firearms at "legislative assemblies, polling places, and courthouses" and notes that governments may also regulate firearms "in" schools and government buildings. *Bruen*, slip op. at 21, citing *Heller*, 554 U.S. at 599. *Bruen* states that "courts can use analogies to those historical regulations of 'sensitive places' to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive

places are constitutionally permissible." (Id.). But nothing in *Bruen* can be read to allow a State (or a municipality) to regulate or ban firearms at every location where the "public may assemble" regardless of whether the place is "publicly or privately owned." Indeed, the Court rejected New York's "attempt to characterize New York's proper-cause requirement as "a 'sensitive-place' law," ruling that "**expanding the category of 'sensitive places' simply to all places of public congregation that are not isolated from law enforcement defines the category of 'sensitive places' far too broadly**." Slip op. at 22. As the Court explained, "[p]ut simply, there is no historical basis for New York to effectively declare the island of Manhattan a 'sensitive place' simply because it is crowded and protected generally by the New York City Police Department." (Id.).

In a courtroom, the County will bear the burden of proof to show the historical presence of such analogous regulations. See *Bruen*. at 52 ("we are not obliged to sift the historical materials for evidence to sustain New York's statute. That is respondents' burden."). *Ipse dixit* declarations or avowed public safety concerns will not do. Under *Bruen*, "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." Slip op. at 8. Here, the text of the Second Amendment indisputably covers the "possession, sale, transport, and transfer" of firearms and ammunition, as regulated by Section 57.11(a) of the County Code. **In such cases, "the government may not simply posit that the regulation promotes an important interest," but rather "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation."** Id. In short, under *Bruen*, "**the Second Amendment guarantees a general right to public carry.**" *Bruen*, slip op. at 24.

The County has not and cannot make any such showing that eliminating the right to carry under a permit issued by the State Police "is consistent with this Nation's historical tradition of firearm regulation." Indeed, the very suggestion is nonsensical. There is no historical analogue that would permit the County to ban all possession of firearms in a church or a park, much less in any "other place of public assembly" as vastly defined by the County to include any place where the public "may assemble" regardless of whether such place is on public or private land. Montgomery County is no more a "sensitive place" than is Manhattan. Under the Second Amendment, the County may presumptively enact otherwise reasonable firearms regulations for these five, specific locations identified in *Bruen* and *Heller*, *viz*, in schools, public buildings, polling places, courthouses and legislative assemblies, **to the extent such regulation is otherwise authorized by State law**. As noted, the State has generally barred local regulation of firearms under Section 4-209(a). For example, the County has no authority to enact its own, "shall issue" licensing system that would supersede or conflict with that established by State law. Nor would it make any practical sense for the County to attempt to duplicate State law on such matters.

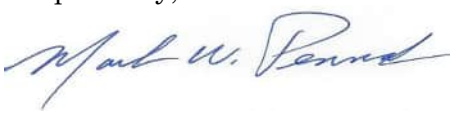
The State Police may continue to regulate public possession of handguns under its existing permit system as long as it issues permits on an objective, "shall issue" basis and the permitting system does not operate in such a way as to "deny ordinary citizens their right to public carry." See *Bruen*, slip op. at 30 n.9. But, there is no historical analogue that could justify regulating within 100 yards of those locations

or beyond those places. *Bruen* holds that the "Second Amendment guarantees a general right to public carry," and thus the County may not purport to ban the "possession, sale, transport, and transfer of firearms" within 100 yards of any location. Again, the burden is on the County to prove an historical analogue to the contrary.

Such bans are particularly nonsensical for persons who have obtained a wear and carry permit from the Maryland State Police. Under State law, MD Code, Public Safety, § 5-306(b), such individuals are subject to highly intrusive background investigations (including fingerprinting) conducted by the State Police and must undergo extensive training by State certified instructors, including passing a scored live-fire proficiency test. The undersigned is such a State Police-certified instructor. The State Police will continue to enforce those requirements even after *Bruen*. See Maryland State Police Advisory, LD-HPU-22-002 (July 5, 2022). Permit holders are among the most law-abiding individuals there are. They are not the problem. That has been true in all of the 43 States and the District of Columbia that issue permits on a "shall issue" basis. https://www.dailywire.com/news/report-concealed-carry-permit-holders-are-most-law-aaron-bandler/. Eliminating the exception for permit holders currently found in Section 57.11(b) of the County Code is utterly senseless from any calm, rational perspective.

Stated simply, regardless of the personal views of members of the Council County, this County is bound by the decisions of the Supreme Court, including decisions involving the Second Amendment. The County needs to rethink this Bill. If the County persists with the enactment of Bill 21-22, it will not survive judicial review. Defying the Supreme Court did not work for the racist proponents of segregation who refused to accept *Brown v. Board* in the 1950s and 1960s, and it will not work for any County attempt to defy *Bruen*. The Second Amendment is not a "second class right" that the County is free to ignore. *Bruen*, slip op. at 62. The sooner that members of the Council are able to put aside their personal opinions and accept that reality, the better. As stated in *Heller*, "the enshrinement of constitutional rights necessarily takes certain policy choices off the table." *Heller*, 554 U.S. at 636. County taxpayer dollars have better uses than litigation that will most certainly ensue from any enactment of Bill 21-22. When plaintiffs prevail in such litigation (and they will), the County will also be on the hook for plaintiffs' attorneys' fees and costs under federal law, 42 U.S.C. § 1988, and those sums could well be substantial. The County Council should stop and think carefully before it goes down that road. Responsible, adult stewardship of the County requires nothing less. The County cannot say it was not put on notice or acted in ignorance of State law or the Second Amendment.

Respectfully,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Jennifer Stein, and I am a long-standing volunteer with Maryland Moms Demand Action. I have lived in Montgomery County since 1995 and currently live in the Town of Chevy Chase. Together with my husband, Michael, we have raised a family here. I am submitting written testimony in support of Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly.

Gun violence in our country has become a public health crisis of epic proportions. The statistics are so monumental—110 deaths and 200 more injuries every day—it is possible to become numb unless directly affected. But none of us is immune to the scourge of gun violence, which destroys lives, families, and communities. So far, Montgomery County has avoided a mass shooting in a sensitive public space, but this is not a matter of luck. Maryland's strong concealed carry permitting system was appropriate and necessary for public safety. Meanwhile, Montgomery County is experiencing a rise in gun violence—the last thing our county needs is guns where people gather. And no one should have to worry about gun violence when they take their kids to a playground, to a park, or drop them off at school.

The Supreme Court's dangerous decision striking down the "proper cause" discretionary requirement to conceal carry a firearm has already increased the risk of tragic mass shootings in our community. When permitting systems are weakened and more people may carry concealed weapons into sensitive public spaces, the research shows that deadly violence rises. States with no such discretion in issuing concealed carry permits have homicide rates 11% higher than states like Maryland and New York.

Now that the Supreme Court's concealed carry decision is the law of the land, Maryland and its local governments must take all reasonable action to protect children and adults from senseless gun violence within its borders. Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly would be a commonsense, constitutional measure to help ensure public safety in the post-*Bruen* era. Montgomery County has the power under Maryland state law to regulate firearms as set forth in Expedited Bill 21-22. I urge the passage of this life-saving bill.

Sincerely,
Jennifer Stein
State Data Co-Lead
Moms Demand Action for Gun Sense in America, Maryland Chapter

Dear Sir or Ma'am -

In reference to Bill 4-21:

It is inherently dangerous to signal to criminals that the entire county is, in effect, a giant gun-free zone... "a place where the public may assemble" is literally and figuratively anywhere.

Please be reminded that the Colorado theater shooter specifically chose the particular theater because of it being in a gun-free zone, that is to say, free of law-abiding citizens capable of defending themselves. In doing so, he knew he could maximize the most damage in the least amount of time without a worry that someone, anyone could fight back.

Now, what are the chances of that happening here? That's the wrong question to ask. It's not about the chances, it's about the stakes - my life, and that of my family, is too great to risk.

I am open to any question or comments.

Very sincerely,

- Ben Figueroa

Testimony for the Montgomery County Council

July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Melissa Ladd. I am a volunteer with Maryland Moms Demand Action and I am a resident of Olney, and have lived in Montgomery County for 20 years. I am submitting written testimony in support of **Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.** Thank you for writing this bill in response to the misguided decision of the Supreme Court.

The breadth of studies on concealed carry permitting show that when permitting restrictions are eased, the rate of violent crime increases. A 2019 Study from Journal of Empirical Legal Studies shows that "RTC (Right to Carry) laws are associated with 13–15 percent *higher* aggregate violent crime rates 10 years after adoption".[1] Also, the Johns Hopkins School of Public Health research indicates that "By years 7 through 10 following the adoption of a RTC law, violent crime rates were 11% to 14% higher than predicted had such laws not been in place."[2] From a study by Duke University we learn that "increases in violent gun crime (29 percent), gun robbery (32 percent), and gun theft (35 percent) following the introduction of shall-issue concealed carry permit laws."[3]

We know that sensitive area prohibitions keep people safe where the risk of gun violence is elevated. Maryland law grants counties and other local authorities the power to regulate firearms in and near certain sensitive places, like those listed in this ordinance. The county must

[1] https://onlinelibrary.wiley.com/doi/abs/10.1111/jels.12219
[2] https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-violence-prevention-and-policy/_archive-2019/_pdfs/concealed-carry-of-firearms.pdf
[3] https://www.nber.org/system/files/working_papers/w30190/w30190.pdf?utm_source=The+Trace+mailing+list&utm_campaign=b670a8e418-EMAIL_CAMPAIGN_2019_09_24_04_06_COPY_01&utm_medium=email&utm_term=0_f76c3ff31c-b670a8e418-112434573

do all it can to keep guns out of these sensitive locations where our children and families gather, and where we and our elected representatives take part in the democratic process.

Thank you for addressing this issue and I strongly urge you to pass Bill 21-22.

Sincerely,

Melissa Ladd

Chapter Leader

Moms Demand Action for Gun Sense in America, Maryland Chapter

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Joanna Pearl. I am a volunteer with Maryland Moms Demand Action, and I live in Kensington. I submit this written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I recently moved to this area, and my family chose to live in Maryland because we hope and believe it will be a safe place to raise my four-year-old daughter. Every day, I worry that even here in our state, we and our children are not safe from gun violence as we do everyday things like go to a park, a synagogue, a library, or a community center.

Montgomery County is experiencing a rise in gun violence, and the last thing we need is guns where people gather. Maryland law grants counties and other local authorities the power to regulate firearms in and near certain sensitive places, like those listed in the ordinance. The county should do all it can to keep guns out of these sensitive locations where our children and families gather, and where we and our elected representatives take part in the democratic process.

A growing body of research shows that when it is easier for people to carry guns in public, violent crime goes up. Sensitive area prohibitions, however, keep people safe where the risk of gun violence is elevated. It is a myth that mass shooters target gun-free zones: a study of 30-year of shootings showed no evidence that a single mass shooter chose to target a place because it prohibited guns. Rather, studies have shown that most mass shooters were connected to the location or were motivated by hate, a perceived grievance, or an interpersonal conflict. Keeping guns out of sensitive areas, as this bill would do, will make us all safer.

I hope the Committee will pass Expedited Bill 21-22 and protect everyone in our community from gun violence. Thank you for your attention to this critically important issue.

Sincerely,
Joanna Pearl
Montgomery County Local Group Co-Lead
Moms Demand Action for Gun Sense in America, Maryland Chapter

I would like to submit brief testimony in opposition to Expedited Bill 21-22, Weapons - Firearms In or Near Places of Public Assembly. I have four reasons for opposing this legislation:

It will not make me and my family less susceptible to violent crime.

While the legislation's intended purpose is to improve safety and protect county residents from violent offenders, I fail to see how this provision does that. Literally, all Montgomery County residents, including legally armed residents deemed responsible by the state police, will be more vulnerable to violent crime. Criminals will know they have the tactical advantage when pursuing targets in places of public gatherings such as bus stops, train stations, parks and shopping center parking lots. I found it ironic this bill was announced the same day county police announced the arrest of district residents performing armed robbery of MontCo residents waiting at bus stops. This type of crime will continue.

The legislation will place a greater burden on police officers

At a time when police officers are retiring at record paces and the number of recruits failing to meet those losses, current officers will be forced to bear a greater burden to prevent and respond to crimes, particularly violent crime, before and when they occur. As a native New Yorker, I have personally experienced moments of tranquillity turn to chaos in a matter of seconds. The time chaos ensues to the time when the police arrive seems like an eternity whether it is 30 seconds or three minutes. The truth is every individual is their own first responder.

The legislation will place greater liability costs on businesses

Businesses will bear additional costs to ensure occupants to their businesses are safe from criminal elements. Liability and security

insurance will increase as businesses look to protect themselves from lawsuits stemming from crimes committed on their premises. Public officials need to reevaluate their objective and not target law abiding citizens.

It appears to me this legislation is not addressing the problem it is trying to solve: gun-related crime.

There is a process in place to ensure firearms are not in the hands of law abiding citizens who may not be suitable for owning firearms; are criminals looking to circumvent the law, and/or are individual with emotional or mental health issues. The county needs to trust this process and not disarmed county residents the state police deem responsible to legally own and carry firearms. There are also many laws in place designed to prevent the illegal purchase, use and distribution of firearms. Elected officials must trust the process and laws in place and only make changes which ensure law abiding citizens are protected not punished.

Thank you.

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., ET AL. *v.* BRUEN, SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 20–843. Argued November 3, 2021—Decided June 23, 2022

The State of New York makes it a crime to possess a firearm without a license, whether inside or outside the home. An individual who wants to carry a firearm outside his home may obtain an unrestricted license to "have and carry" a concealed "pistol or revolver" if he can prove that "proper cause exists" for doing so. N. Y. Penal Law Ann. §400.00(2)(f). An applicant satisfies the "proper cause" requirement only if he can "demonstrate a special need for self-protection distinguishable from that of the general community." *E.g.*, *In re Klenosky*, 75 App. Div. 2d 793, 428 N. Y. S. 2d 256, 257.

Petitioners Brandon Koch and Robert Nash are adult, law-abiding New York residents who both applied for unrestricted licenses to carry a handgun in public based on their generalized interest in self-defense. The State denied both of their applications for unrestricted licenses, allegedly because Koch and Nash failed to satisfy the "proper cause" requirement. Petitioners then sued respondents—state officials who oversee the processing of licensing applications—for declaratory and injunctive relief, alleging that respondents violated their Second and Fourteenth Amendment rights by denying their unrestricted-license applications for failure to demonstrate a unique need for self-defense. The District Court dismissed petitioners' complaint and the Court of Appeals affirmed. Both courts relied on the Second Circuit's prior decision in *Kachalsky* v. *County of Westchester*, 701 F. 3d 81, which had sustained New York's proper-cause standard, holding that the requirement was "substantially related to the achievement of an important governmental interest." *Id.*, at 96.

No. 23-1719

In the
United States Court of Appeals
for the Fourth Circuit

MARYLAND SHALL ISSUE, *et al.*,
Plaintiffs-Appellants

v.

MONTGOMERY COUNTY, MARYLAND,
Defendant-Appellee

On Appeal from the United States District Court
for the District of Maryland

JOINT APPENDIX VOLUME II

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EXHIBIT 3

MARYLAND FAMILY NETWORK

Frequently Requested Child Care Information

Maryland Child Care Resource Network

Child Care Demographics 2022

Montgomery County Report

Montgomery County is Maryland's most populous jurisdiction and one of its most affluent. It has a stable and significant office market and is a major economic engine for the state. The county is home to an array of groundbreaking innovations such as mapping the human genome, developing life-saving therapies, building premier cybersecurity defenses, and driving world-class IT advancements. Educational and research organizations such as the John Hopkins University's Montgomery County Campus, the Howard Hughes Medical Institute, the Henry M. Jackson Foundation, and the Universities at Shady Grove are located in Montgomery County. Federal facilities in the county include the National Institute of Health, the National Institute of Standards and Technology, and the Food and Drug Administration.

Successful industries in Montgomery County include information technology, telecommunications, biotechnology, software development, aerospace engineering, professional services, and government/federal contractors. The county's private sector industries generate $75.1 billion in economic output and continue to be a major economic contributor to the state of Maryland. Major private sector employers include Emergent Solutions, Choice Hotels, Adventist, GEICO, Giant Food, Kaiser Permanente, Astra Zeneca, and Lockheed Martin.

1. http://commerce.maryland.gov/Documents/ResearchDocument/AlleganyBef.pdf Source: Maryland Department of Commerce, Brief Economic Facts, 2019.
2. https://data.bls.gov/cew/apps/table_maker/v4/table_maker.htm#type=1&year=2020&qtr=1&own=5&ind=10&supp=0 Source: U.S. Bureau of Labor Statistics, Quarterly Census of Employment and Wages, March 2020.
3. https://www.dllr.state.md.us/lmi/emplists/ Source: Maryland Department of Labor, Major Employers List- Workforce Information & Performance, 2020

The Maryland Child Care Resource Network and Maryland Family Network, Inc. are co-publishers of this Montgomery County Report for the Network's Maryland Child Care Demographics Report series. The series includes reports for the State, for each of Maryland's 23 counties and the City of Baltimore.

This publication was produced as a work for hire for the benefit of, and with funds from, the Maryland State Department of Education.

Child Population 2010

Age Group	Number in age group
0-1	24,936
2-4	38,796
5-9	64,300
10-11	25,567
Total	153,599

Source: Maryland Department of Planning (MDP), 2010 Census Summary File 1.

Child Care Costs as Compared to Other Major Household Expenses

The estimated current median family income in Montgomery is $127,971[6]. A family of four that included a couple and two children ages 0-23 months and 2-4 years can be expected to have the following yearly household expenses:

Expense		Cost	% of Income
Child Care		$ 35,766	27.95%
Infant[1]	$15,832		
Preschooler[2]	$19,943		
Food[3]		$ 11,396	8.91%
Housing[4]		$ 29,976	23.42%
Taxes[5]		$ 26,328	20.57%
Total		$ 103,466	80.85%

[1] Average cost of full-time care in a family child care home (LOCATE, 2021). [2] Average cost of full-time care in a child care center (LOCATE, 2021). [3]National average cost of food at home based on a moderate cost plan (Cost of Food at Home Estimated for Food Plans at Four Cost Level, July 2021), U.S. Average, United States Department of Agriculture). [4]Based on U.S. Bureau of the Census 2010 median selected owner costs with a mortgage; included mortgage, taxes, insurance and utilities. [5]State and local taxes per Comptroller of Maryland (2021), Medicare and FICA taxes per moneychimp.com (2021). Taxes do not reflect Earned Income Credit. 6Current income as shown in the Geolytics Report dated July 2021. This data cannot be compared to previous data.

Average Weekly Cost of Full-time Child Care

Montgomery County

	Family Child Care Programs	Child Care Centers
0-23 months	$ 304.46	$ 448.69
2-4 years	$ 276.94	$ 383.34
5 years[1]	$ 258.59	$ 343.21
School Age Full[2]	$ 242.66	$ 299.01
School Age B/A[3]	$ 152.22	$ 160.78

Source: MFN/LOCATE: Child Care, 6/21.
[1]Average cost of full time care for a 5 year old. Defined as child being in full time child care or being in kindergarten and out-of-school child care, i.e., holidays, school closures and summers. [2]Average cost of full time care for a 6+ school age child (out-of-school child care, i.e., holidays, school closures and summers). [3]Average cost of before and after school child care.

Number of Montgomery Children under 12 with Mothers in the Work Force[1]

169,523 – 82.4%[2] of total 2021 child population under 12 (205,732).

[1]Source: MFN/LOCATE: Child Care. [2]Percent based on 2010 census data. Total population number based on GeoLytics, Inc. report, 2021.

MONTGOMERY

Child Care Demographics

Montgomery County

Population Information

Child Population

	2000		2010	
	Montgomery	Maryland	Montgomery	Maryland
0-3 years	35,779	209,218	37,926	217,560
3-4 years	24,394	144,175	25,806	146,928
5 years	12,246	74,546	12,766	72,700
6-9 years	51,057	316,772	51,534	294,168
10-11 years	26,248	162,481	25,567	151,023
Total	149,724	907,192	153,599	882,379

Source: U.S. Bureau of the Census, 2000, 2010.

Female Population (selected ages)

Age Group	2000	2010
20-24	21,948	26,737
25-29	29,724	33,733
30-34	36,155	34,514
Total	87,827	94,984

Source: U.S. Bureau of the Census, 2000, 2010.

Work Force Information

Total Population Ages 16+ in Work Force

	Montgomery	Maryland
2010		
Female	275,943	1,570,193
Male	291,702	1,623,215
2000		
Female	230,995	1,351,034
Male	246,128	1,418,491
Change		
Female	19.5% (+)	16.2% (+)
Male	18.5% (+)	14.4% (+)

Source: U.S. Bureau of the Census, 2000, 2010 American Community Survey (ACS).

Females (16+) with Children

Age Group	2000	2010	Change
Total females (16+) with children under 6	29,250	73,664	N/A*
Total females (16+) with children under 6 in the work force	19,676	N/A*	N/A*
Total females (16+) with children 6-17	64,240	154,931	N/A*
Total females (16+) with children 6-17 in the work force	50,541	N/A*	N/A*

Source: U.S. Bureau of the Census, 2010 ACS.
* Comparable data not available for 2010 census.

Total Population

	Montgomery	Maryland
2010	971,777	5,773,552
2000	873,341	5,296,486
1995	810,000	5,046,079
1990	757,027	4,780,753
1980	579,053	4,216,975

Source: U.S. Bureau of the Census, 2010, 2000, 1990, 1980.

Male Population (selected ages)

Age Group	2000	2010
20-24	21,736	27,294
25-29	27,839	32,506
30-34	32,849	31,640
Total	82,424	91,440

Source: U.S. Bureau of the Census, 2000, 2010.

Households

	2000	2010
Total household population	863,910	962,877
Total # of households	324,565	357,086
Average household size	2.66	2.70

Source: U.S. Bureau of the Census, 2000, 2010.

MONTGOMERY

Montgomery County

Census Information

Families and Poverty

	2000	%	2010	%	%Change
All Families	224,225	100%	244,898	100%	9.2%(+)
Families Below Poverty Level	8,428	3.8%	12,000	4.9%	42.4%(+)
All Families w/Children Under 6	27,701	N/A*	27,951	100%	N/A*
Families w/Children Under 5 Below Poverty Level	2,808	N/A*	N/A*	4.9%	N/A*
All Families w/Children Under 18	113,665	100%	118,482	100%	4.2%(+)
Families w/Children Under 18 Below Poverty Level	6,110	5.4%	9,597	8.1%	57.1%(+)

Source: U.S. Bureau of the Census, 2000, 2010. Prepared by MDP.
*Comparable data not available from 2010 Census.

Educational Attainment

	%Adult Pop. Over 25 Yrs Montgomery		%Adult Pop. Over 25 Yrs Maryland	
High School Grad or Higher	605,912	90.6%	3,410,847	88.1%
Bachelor's Degree or Higher	377,710	56.5%	1,396,843	36.1%

Source: U.S. Bureau of the Census, 2010 ACS.

Children and Poverty

	2000	%	2010	%	%Change
Total Related Children Under 18	205,941	100%	212,397	100%	3.1%(+)
Total Children Under 18 Below Poverty Level	13,516	6.6%	20,602	9.7%	52.4%(+)
Total Children Under 5 Below Poverty Level	3,698	6.8%	N/A*	8.4%	N/A*
Total Children 5-17 Below Poverty Level	9,818	6.5%	N/A*	10.2%	N/A*

Source: U.S. Bureau of the Census, 2000, 2010. Prepared by MDP.
*Comparable data not available from 2010 Census.

Families

Montgomery

	Total # of All Families With Related Children Total	Under Age 6	Total # of All Families With Related Children Under Age 18
2000	224,225	27,701	113,665
2010	224,898	30,680	126,250
Change	0.3%(+)	10.8%(+)	11.1%(+)

Maryland

	Total # of All Families With Related Children Total	Under Age 6	Total # of All Families With Related Children Under Age 18
2000	1,359,318	150,011	662,172
2010	1,447,002	170,870	728,045
Change	6.5%(+)	13.9%(+)	9.9%(+)

Source: U.S. Bureau of the Census, 2000, 2010. Prepared by MDP.

Income, Unemployment and Housing Information

Annual Wage Rate Information

Public School Teacher Salary (Montgomery County)[1]	$69,529
Public School Teacher Salary Average (MD)[1]	$63,849
Nonpublic School Teacher Average (Maryland)	$60,500
Family Child Care Provider (Maryland)	$41,177
Child Care Center Director (Maryland)	$40,539
Center Senior Staff/Teacher (Maryland)	$25,537
Center Aide (Maryland)	$17,889

[1]Maximum teacher salary with Bachelor's and Standard Professional Certificate (SPC). Sources: MSDE, Sept 2021, Association of Independent Maryland Schools (AIMS), 2020-21 school year, and MFN's 2021 Statewide Survey of Family Child Care Providers and Child Care Centers.

Family Income

Median Family Income, 2010 Census	
Montgomery	$120,664
Maryland	$83,137

Source: U.S. Bureau of the Census, 2010 ACS.

Median Household Income[1]:	
Montgomery	$109,754
Maryland	$85,454

Income Distribution	Percent Households	
	Montgomery	Maryland
under $25,000	9.1%	13.2%
$25,000 - $49,999	12.2%	16.0%
$50,000 - $74,999	12.6%	15.3%
$75,000 +	66.1%	55.5%

Source: [1]GeoLytics, Inc. report, 2021. U.S. Bureau of the Census, 2015-2019 American Community Survey 5-Year Estimates. Data is not directly comparable to 2010 or earlier reports.
NOTE: Percentages may not total 100% because of rounding

Unemployment Rate

	Montgomery	Maryland
2000	1.6%	3.4%
2001	2.6%	4.0%
2002	2.5%	3.9%
2003	2.5%	4.1%
2004	2.2%	3.9%
2005	2.8%	3.9%
2006	2.7%	3.7%
2007	2.7%	3.6%
2008	3.3%	4.5%
2009	5.3%	7.1%
2010	5.5%	7.3%
2011	5.5%	7.2%
2012	4.9%	6.5%
2013	4.9%	6.2%
2014	4.5%	5.6%
2015	4.0%	5.0%
2016	3.6%	4.5%
2017	3.2%	4.3%
2018	3.8%	4.5%
2019	3.4%	3.9%
2020	8.1%	8.3%
2021	6.4%	6.7%

Maryland Department of Labor, Licensing and Regulation (DLLR) 6/2021.

Housing Information

	Montgomery	Maryland
Owner-Occupied housing	238,022 (66%)	1,426,267 (67%)
Renter-Occupied housing	121,454 (34%)	701,172 (33%)

Note: Percentage is based on total occupied housing units.

	Montgomery	Maryland
Mean value of Owner-Occupied Housing	$447,200	$301,400
Median Selected Monthly Owner Costs With a Mortgage	$2,498	$2,016
Median Gross Residential Monthly Rent	$1,466	$1,131

Source: U.S. Bureau of the Census, 2010 ACS.

Montgomery County

Supply of Regulated Early Childhood Programs and Education

Children's Programs by Type with Capacity/ Enrollment

	# of Programs	Capacity[1]
Family Child Care Providers	743	5,874
*OCC Licensed Group Programs	425	34,511
8-12 Hour Child Care Centers	259	21,120
Infant/Toddler	141	2,467
Part-Day	54	N/A
Before/after School (School & Center-Based)	266	22,088
Employer-Sponsored Centers	7	843
Nursery Schools	103	N/A
Private Kindergarten	48	N/A
**Head Start	2	856
***Public Pre-Kindergarten Sites	1	N/A

[1]Some providers may still be closed due to COVID 19 considerations.
[2]Public Pre K Closure due to COVID-19.
*Note: Numbers do not total because facilities may have more than one type of program. Unless otherwise indicated, all programs are privately funded.
** Federally funded programs which include Head Start, Early Head Start and Home-based Head Start.
***State funded.
Source: MFN/LOCATE Child Care, 6/21; Maryland State Department of Education; Department of Health and Mental Hygiene.

Education

Public and Private Schools (Elementary and Middle)

	Public	Private*
Elementary Schools	135	24
Middle Schools	40	0
Combined	0	88

Elementary School Enrollment

	Public	Private*
Pre-Kindergarten	3,597	3,974
Kindergarten	10,347	1,591
Grades 1 - 6	70,835	9,092
Total	84,779	14,657

Source: MSDE, 2020-21 school year. Enrollment figures are for September 30, 2020. Private schools include MSDE approved schools and those operated by a tax-exempt religious organization which hold a letter of exemption from approval in accordance with State law.
*Self reported data from Maryland Nonpublic Schools as reported to MSDE.*Self reported data from Maryland Nonpublic Schools as reported to MSDE.

Supply of Regulated Early Childhood Programs and Education

Density of Family Providers and Center Programs by Community/Zip Code

The following chart shows the number of registered family child care providers and licensed full-day child care centers in Montgomery as of June 30, 2021.

Community/ Zip Code	Family Providers	8-12 Hour %	Centers	%
Ashton 20861	2	0.3	1	0.4
Bethesda 20814	7	0.9	13	5.0
Bethesda 20816	2	0.3	6	2.3
Bethesda 20817	27	3.6	12	4.6
Bethesda 20892	0	0.0	2	0.8
Boyds 20841	10	1.3	2	0.8
Brookeville 20833	3	0.4	0	0.0
Burtonsville 20866	15	2.0	2	0.8
Cabin John 20818	1	0.1	1	0.4
Chevy Chase 20815	1	0.1	6	1.2
Clarksburg 20871	35	4.7	2	0.8
Damascus 20872	15	2.0	3	1.2
Darnestown 20874	3	0.4	1	0.4
Darnestown 20878	0	0.0	1	0.4
Derwood 20855	7	0.9	3	1.2
Gaithersburg 20877	22	3.0	9	3.1
Gaithersburg 20878	33	4.4	11	4.2
Gaithersburg 20879	24	3.2	5	1.9
Gaithersburg 20882	8	1.1	1	0.4
Gaithersburg 20886	7	0.9	1	0.4
Gaithersburg 20899	0	0.0	1	0.4
Garrett Park 20896	0	0.0	1	0.4
Germantown 20874	66	8.9	13	5.0
Germantown 20876	38	5.1	11	3.5
Kensington 20895	10	1.3	7	2.7
Laytonsville 20882	1	0.1	0	0.0
Montgomery Village 20886	20	2.7	3	1.2
Mount Airy 21771	1	0.1	0	0.0
North Bethesda 20852	1	0.1	2	0.8
North Potomac 20878	11	1.5	5	1.9
Olney 20832	21	2.8	9	3.5
Poolesville 20837	3	0.4	3	1.2
Potomac 20854	22	3.0	17	6.6
Rockville 20850	20	2.7	18	6.9
Rockville 20851	11	1.5	5	1.9
Rockville 20852	9	1.2	11	4.2
Rockville 20853	38	5.1	7	2.7
Rockville 20855	8	1.1	4	1.5
Sandy Spring 20860	1	0.1	1	0.4
Silver Spring 20901	36	4.8	8	3.1
Silver Spring 20902	59	7.9	10	3.9
Silver Spring 20903	16	2.2	3	0.8
Silver Spring 20904	35	4.7	14	5.4
Silver Spring 20905	13	1.7	4	1.5
Silver Spring 20906	62	8.3	11	4.2
Silver Spring 20910	6	0.7	8	3.1
Spencerville 20868	1	0.1	1	0.4
Takoma Park 20912	9	1.2	6	2.3
Wheaton 20902	3	0.4	1	0.4
Totals	743	100.0%	259	100.0%

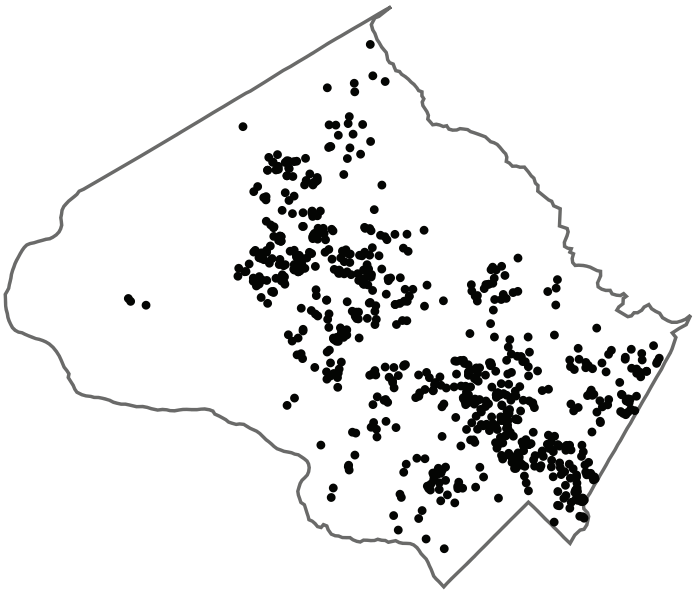
Source: MFN/LOCATE: Child Care, 6/21. NOTE: Percentages may not total 100% because of rounding.

Montgomery County

Supply of Regulated Child Care

Density of Regulated Family Child Care Homes in Montgomery County

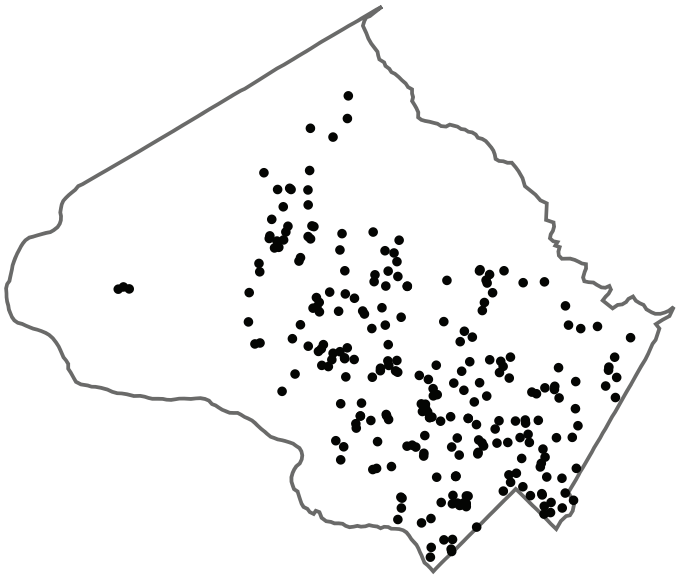
1 dot = 1 home



Source: MFN/LOCATE: Child Care, 6/21.

Density of Licensed 8-12 Hour Child Care Centers in Montgomery County

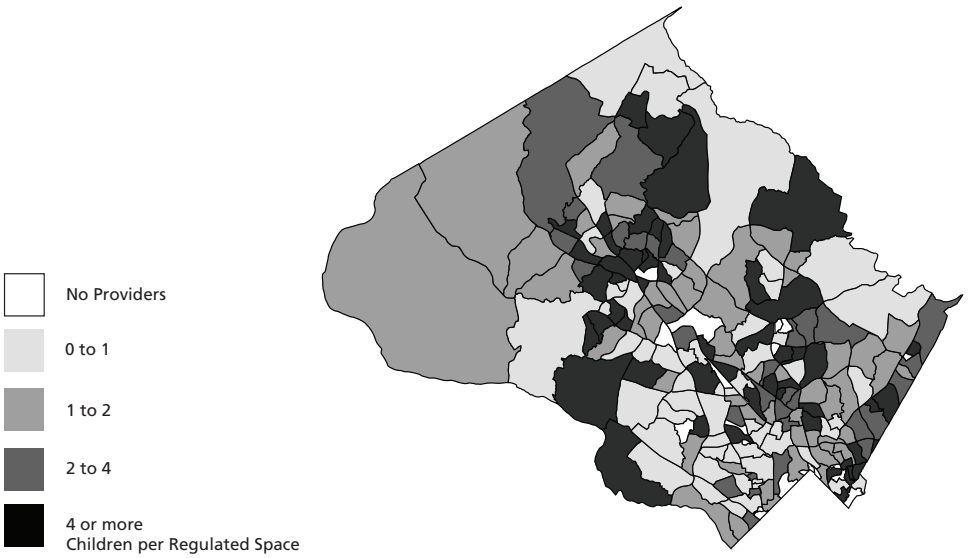
1 dot = 1 center



Source: MFN/LOCATE: Child Care, 6/21.

Supply of Regulated Child Care

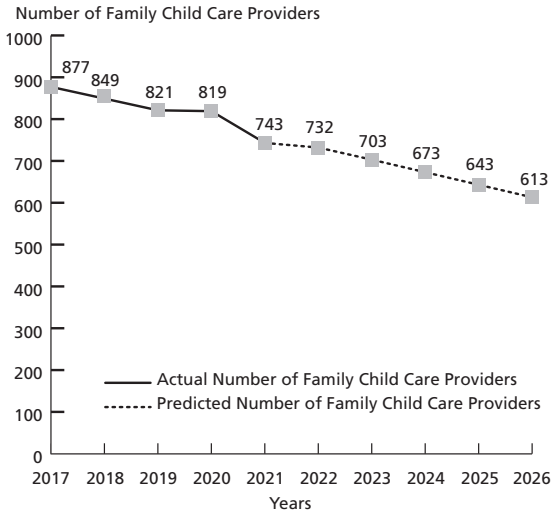
Number of Children 0-5 Years Per Regulated Child Care Space by Census Tract



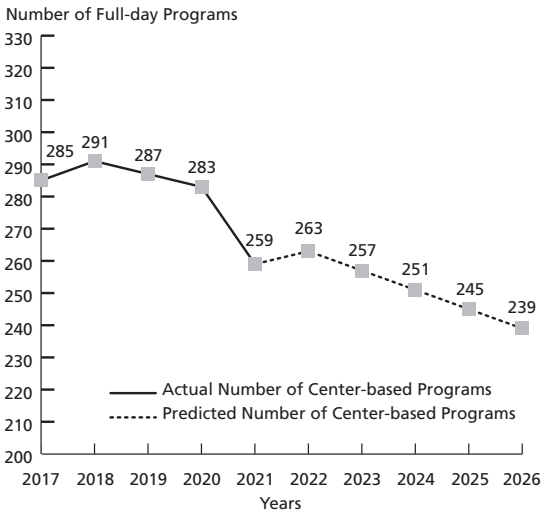
This map is based on census tracts defined by the U.S. Bureau of the Census. It does not accurately delineate land/water boundaries in some census tracts.
Sources: U.S. Bureau of the Census, 2010. MFN/LOCATE: Child Care, 6/21.

Past and Anticipated Growth Patterns for Family/Center Providers

Family Child Care Providers in Montgomery 2017-2026



Center-based Programs in Montgomery 2017-2026
Full-day (8 to 12 hours)



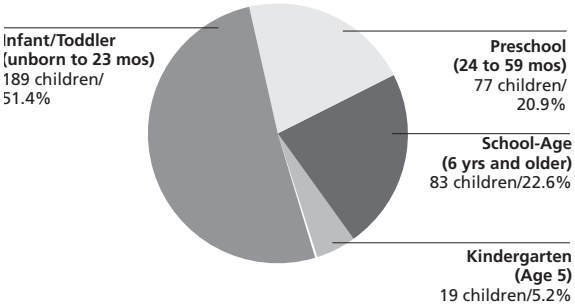
These predictions were generated with the use of the Multiple Regression Analysis and Forecasting template. The predictions generated by the Model do not reflect the effects of current changes to social programs affecting child care.
Source: MFN/LOCATE: Child Care, 6/21.

Montgomery County

Demand for Child Care

Children Served by Age

N=368

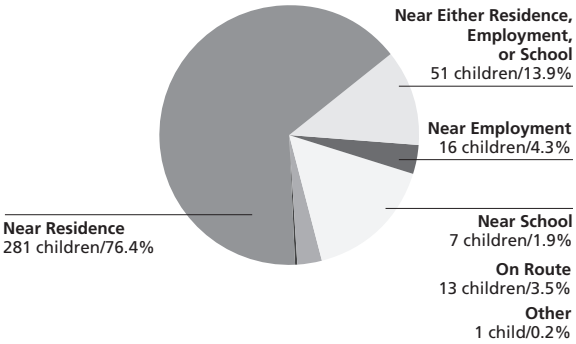


Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

NOTE: Percentages may not total 100% because of rounding.

Children Served by Locational Preferences for Care

N=368

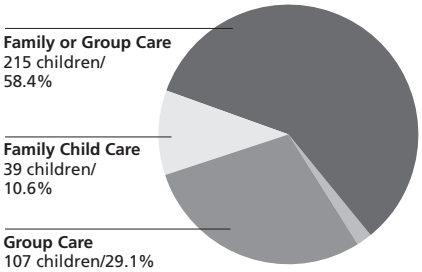


Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

NOTE: Percentages may not total 100% because of rounding.

Children Served by Type of Care Preferred

N=368

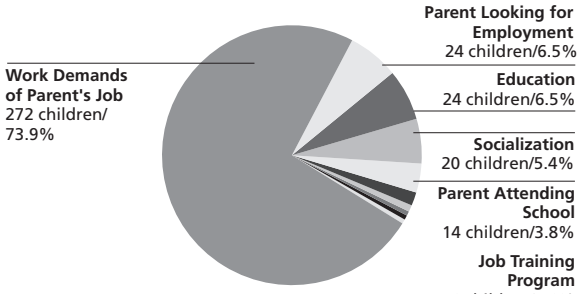


Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

NOTE: Percentages may not total 100% because of rounding.

Reason Child Care is Needed

N=368



Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

NOTE: Percentages may not total 100% because of rounding.

Child Care Demographics

Montgomery County

Demand for Child Care

Number of Children Served by LOCATE: Child Care
368 children (7/1/20-6/30/21)

Full-time or Part-time Care Needs of Children Served N=368

Full-time: 299 children (81.2%)
Part-time: 62 children (16.8%)
Other*: 7 children (1.9%)

* Includes requests for sick, backup and temporary care.

Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).
Note: Percentage may not total 100% because of rounding.

Major Reasons Parents Could Not Find Child Care in Montgomery County

Reason	Count
Other	4
Cost	2
No vacancies for Preschool	2
Hours of Operation/ part time	1
Location	1
No vacancies for School-Age	1
Quality of Care	1

Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

Major Factors Important to Parents Who Found Child Care in Montgomery County

Factor	Count
Caregiver	29
Educational program	25
Environment	20
Proximity to home, work, school	16
Cost	11
Hours of operation/part time	6
Only program/provider with vacancy	4

Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

Child Care Scholarship Program (CCS)*

July 2021 Children Receiving Child Care Scholarship
2,003

Source: Maryland State Department of Education 2020.
* Formerly Child Care Subsidy Program

Fiscal Year 2020 Monthly Average Number of Children Receiving WPA
259

NOTE: 1Child Care Scholarship Program (formerly Child CCS Program) is a statewide program funded with federal and state dollars and administered by the Maryland Department of Human Resources*. 2WPA, The Working Parents Assistance Program is a County-funded subsidy program. Source: WPA Automated System, 2020. WPA implemented the new subsidy tables on September 1, 2019 and the new income guidelines on November 9, 2019 in response to the changes of the State's income levels in August 1, 2019 and new subsidy rates in September 1, 2019.

Supply of Child Care

Child Care Scholarship Program (CCS)*

Number of Family Child Care Providers serving WPA Children in Montgomery County
23

Number of Child Care Centers serving WPA Children in Montgomery County
63

* Formerly Child Care Subsidy Program
Source: WPA Automated System, 2020. WPA implemented the new subsidy tables on September 1, 2019 and the new income guidelines on November 9, 2019 in response to the changes of the State's income levels in August 1, 2019 and new subsidy rates in September 1, 2019.

Number of Family Child Care Providers Serving SCCSP Children in Montgomery County
246 (33.1% of total family providers)

Number of Child Care Centers Serving SCCSP Children in Montgomery County
86 (30.4% of total centers)

Montgomery County FY21 Allocation (estimated)
$23,222,573 = 2,122 estimated number of children enrolled

Source: Maryland State Department of Education, Office of Child Care

Special Needs Child Care

Family providers who serve/have served children with special needs
296 (39.8% of total family child care providers in Montgomery)

Centers who serve/have served children with special needs
157 (60.6% of total child care centers in Montgomery)

Source: LOCATE: Child Care at Maryland Family Network, Baltimore (7/1/20-6/30/21).

MONTGOMERY

Montgomery County

Child Care Demographics

Definitions

Before/After-School Care: School-Age child care offers care to children enrolled in Kindergarten or above. Care is provided before and/or after school and during school holidays/vacations. Programs are licensed by the Office of Child Care. Programs may operate from a school building or other licensed facility.

Census of Population and Housing: There are two versions of the Census questionnaire: a short form which asks a limited number of population and housing questions of all households, and a long form questionnaire which asks additional social and economic questions of a sample of all households. The user should note that data obtained from a sample are subject to sampling variability, and that there are limitations to many of these data.

Child Care: The care or supervision of a child when the child's parent has given the child's care over to another for some portion of a 24-hour-day as a supplement to the parent's primary care of the child. (OCC)

Child Care Center: Child care provided in a facility that, for part or all of the day, provides care to children in the absence of the parent. Centers are licensed by the Office of Child Care.

Child Care Scholarship Program (CCS)*: Provides financial assistance to eligible families in securing care for their children in registered family child care homes or licensed child care centers while parents/guardians are attending school, working, or in job training.

Children with Special Needs: Children who, because of a disability or other special educational, developmental, physical, emotional, behavioral, or medical condition, require additional care, or whose activities are restricted by a certain condition. (OCC)

Current Median Family Income: Current median family income is the value shown in a Geolytics Report dated July 2021.

Current Population Estimates: Current population estimates are based on GeoLytics, Inc. Reports.

Educational Attainment: The highest level of school completed or the highest degree received. Educational attainment figures were used for persons over 25 years of age. (U.S. Bureau of the Census)

Employer-Sponsored Centers: A child care center located on-site or off-site which is sponsored by a corporation, business, or other employer. Employees are given priority for enrollment slots.

Family Child Care: The care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old, in place of parental care for less than 24 hours a day, in a residence other than the child's residence and for which the provider is paid. Regulations allow a family child care provider to care for as many as eight children at any time. (OCC)

Family Household Income: Family includes a householder and one or more persons living in the same household who are related to the householder by birth, marriage, or adoption. A household can contain only one family for purposes of census tabulations. (U.S. Bureau of the Census)

Head Start: Project Head Start provides comprehensive developmental services for children from low-income families. Head Start is comprised of four components including Education, Health, Parent Involvement, and Social Services. Head Start Centers serve children from age 3 to school entry age from income eligible families.

Infant/Toddler: In the State of Maryland, "infant"means a child under 18 months old. "Toddler" means a child 18 months old or older but younger than 2 years old. (OCC) MFN reports "infant" as a child birth through 23 months of age.

Kindergarten: An instructional program for children who are 5 years old by September 1st of each academic year. Programs may be operated by a private or public school. Kindergarten is the year of school which precedes entrance to first grade.

Nursery Schools: An instructional program approved or exempted by the Maryland State Department of Education for children who are two through four years old. The maximum length of the program is 6 hours per day, however most operate only a few hours per day and may meet only two or three times per week for a nine month period.

Owner Costs with Mortgage (Selected Monthly): The sum of payments for mortgages, deeds of trust, contracts to purchase, or similar debts on the property; real estate taxes; fire hazard, and flood insurance on the property; utilities; and fuels. It also includes, where appropriate, the monthly condominium fees or mobile home costs. A housing unit is owner-occupied if the owner or co-owner lives in the unit even if it is mortgaged or not fully paid for. (U.S. Bureau of the Census)

Definitions, cont.

Part Day: A program regulated by OCC with an educational focus for children one or two years before entering kindergarten. These programs are usually 2-3 hrs/day, 2-3 days/week, nine months/year.

Pre-Kindergarten: These are publicly funded pre-kindergarten programs for eligible 4-year-old children administered by local boards of education or qualified vendors. The programs have the overall goal of providing learning experiences to help children develop and maintain school readiness skills necessary for successful school performance. Local school systems shall enroll all 4-year-old applicants from economically disadvantaged or homeless families.

Poverty Level: The poverty guideline for a family of four persons was $26,500 in 2021. (U.S. Department of Health and Human Services, Jan 2021)

Renter Occupied Gross Monthly Rent: Monthly contract rent plus the estimated average monthly cost of utilities and fuels, if these are paid by the renter. All occupied housing units which are not owner-occupied, whether they are rented for cash rent or occupied without payment of cash rent, are classified as renter-occupied. (U.S. Bureau of the Census)

Unemployment Rate: Civilians 16 years old and over are classified unemployed if they (1) were neither "at work" nor "with a job but not at work"during the reference week, and (2) were looking for work during the last four weeks, and (3) were available to accept a job. Also included were civilians who did not work at all during the reference week and were waiting to be called back to a job from which they had been laid off. (U.S. Bureau of the Census)

The Maryland Child Care Resource Network is a public/private partnership designed to expand and improve child care delivery in Maryland. Maryland Family Network manages the Network and operates as its Statewide Coordinating Entity. Funding for this publication was made available by Maryland Family Network, the Maryland State Department of Education, and Maryland's business community.

For more information regarding the Child Care Demographic Reports, contact:
Maryland Family Network
1001 Eastern Avenue, 2nd Floor
Baltimore, Maryland 21202
tel 410.659.7701 *fax* 410.783.0814
www.marylandfamilynetwork.org

For information regarding technical assistance and training for the child care community, contact:
Montgomery County Child Care Resource and Referral Center
1401 Rockville Pike, Suite 200
Rockville, MD 20852
tel 240.777.3110

This publication was produced as a work for hire for the benefit of, and with funds from, the Maryland State Department of Education.

MARYLAND FAMILY NETWORK

MARYLAND STATE DEPARTMENT OF EDUCATION
EQUITY AND EXCELLENCE

MARYLAND CHILD CARE RESOURCE NETWORK

MONTGOMERY

EXHIBIT
4

Government

County Council passes legislation prohibiting rearm use, carrying within 100 yards of some public places

Bill could be challenged by second amendment groups

by **Steve Bohnel**
November 15, 2022 1:33 pm

Credit: Getty Images

This story was updated at 2 p.m. Nov. 15, 2022, to include more information about the bill.

The County Council voted 8-0 to approve a bill that prohibits the possession of firearms within 100 yards of some public places throughout the county, including those with wear and carry permits issued by Maryland

State Police.

County Council Member Tom Hucker (District 5) was absent from Tuesday's meeting, but he supported the legislation when it was passed last month in the council's Public Safety committee, 3-0. County Council President Gabe Albornoz and other council members said the bill was needed in light of recent shootings, including one at Clyde's Restaurant in Chevy Chase earlier this week.

The bill specifically delineates where firearms would be prohibited. According to the bill, the places of public assembly include: a park; place of worship; school; library; recreational facility; hospital; "community health center including any health care facility or community-based program licensed by the Maryland Department of Health;" "[a] long-term facility including any licensed nursing home, group home, or care home;" and a

It also includes government buildings or government-owned property, polling places and other facilities. Law enforcement officers are exempted, and the bill is effective as law once County Executive Marc Elrich (D) signs it, said Christine Wellons, the County Council's lead attorney.

Rich Madaleno, the county's chief administrative officer, told Bethesda Beat he believes Elrich will sign the bill.

Before the Tuesday vote, Albornoz (at-large) said that recent events — including a fatal shooting of multiple football players at the University of Virginia, and the shooting at Clyde's — has him and colleagues concerned about gun violence, and the number of guns in the county, state, and country.

Albornoz said he's heard criticism that "more policy" is not the answer. But he added that many firearms that county police are recovering and obtaining are coming from places where gun laws are less restrictive. He believes, as do other council members, that more guns are not the answer.

"As the parent of four children, this is not the world I want my kids growing up in," said Albornoz, who was lead sponsor of the bill.

Albornoz told Bethesda Beat after the vote that a violation of the law would result in a fine. Kristin Trible, a senior legislative aide to Albornoz, wrote in an email that a violation would "be a misdemeanor, punishable by fine up to $1000 and/or 6 months in jail."

The bill could potentially face a legal challenge from second-amendment rights groups in the state, including Maryland Shall Issue. That group, and other opponents, has said that the council's bill would be in violation of county residents' Second Amendment rights, especially given the Supreme Court's recent ruling in New York State Rifle & Pistol Association, Inc., et al. v. Bruen. That ruling was hailed as a victory for concealed carry supporters in the state of New York.

But Albornoz told Bethesda Beat that he and colleagues worked extensively with the county attorney's office to make sure the bill aligned with the findings in Bruen.

If it is challenged in court, council members would work with the Montgomery County State's Attorney's office, Maryland Attorney General's office and county attorney's office to defend the new law, the council president added.

"We believe we're on solid ground," Albornoz said.

EXHIBIT 5

The Washington Post
Democracy Dies in Darkness

LOCAL CRIME & PUBLIC SAFETY

Gun violence rises sharply in Montgomery County, police chief says

Chief Marcus Jones made remarks – citing year-to-date jumps – as county leaders introduced gun-control measure

By Dan Morse

Updated July 11, 2022 at 10:29 p.m. EDT | Published July 11, 2022 at 6:50 p.m. EDT

Gun violence has risen sharply in Montgomery County this year, with nonfatal shootings nearly double what they were 12 months ago, the jurisdiction's top officer said Monday.

Police Chief Marcus Jones made the remarks to reporters as county leaders discussed a proposed legislative action that would scale back the places someone could carry a handgun. He also spoke the day after dozens of gunshots were fired in a shopping center parking lot in Montgomery's Briggs Chaney area, sending a victim to the hospital with serious injuries and driving bullets into several businesses.

"Literally 60 rounds were fired in that parking lot," Jones said. "It just shows you that gun violence has become sort of the norm, which is not where we need to be."

While gun-related homicides are essentially flat compared with the same period last year, nonfatal shootings are up 75 percent and noncontact shootings have increased 29 percent, according to figures provided by the police department Monday.

"It is of grave concern," Jones said.

Leaders in Montgomery County following the rise in violence this year have cited several explanations.

One is the availability of firearms — in particular guns that can be assembled at home from parts ordered online. Residents build "ghost guns" — so named because they have no serial numbers — or buy them on the streets already assembled, police say.

Another big factor behind the violence, leaders say, is the disruption of so many young lives because of covid-19. Teenagers didn't have the structure of in-person classes or after-school programs.

"Kids on the cusp of being at risk fell toward criminality," Jessica Zarrella, a Montgomery County defense attorney and former prosecutor, said in an interview earlier this year.

Gabe Albornoz, president of the Montgomery County Council, added that the police department is stretched thin because officers are retiring at a higher rate than new police academy prospects are coming in — a trend Albornoz noted is taking place nationwide.

"It's a perfect negative storm," he said.

Under legislative action to be introduced Tuesday, Albornoz said, the county would make a "zone text amendment" to forbid a person — even if they have a "wear-and-carry permit" from the state — from taking a gun into a "place of public assembly."

The council president said such locations "are purposely wide-ranging," and could include places of worship, shopping centers and businesses.

"Montgomery County is absolutely seeing a rise in gun violence," said Lee Holland, president of Montgomery's police union. "It's alarming the number of shootings our members are responding to on a weekly and in some cases daily basis."

As of the end of June, homicides involving guns, victims and suspects under the age of 21 have more than doubled from 2021 to 2022, according to data from the Montgomery County Police Department.

"There are several contributors to the community violence, including drug robberies and interpersonal disputes or beefs, many of which begin or escalate on social media," according to a recent report to the County Council on youth safety.

Between June 2021 and June 2022, according to the report, "there have been 20 firearm homicide victims in the County, of which eight were 21 and younger."

The report also said county police have recovered more than 730 guns. About 110 of those were ghost guns. "These numbers are on track to overtake last year's total of 1,192 recovered firearms," the report said.

Tom Didone, who retired as a Montgomery assistant chief a year ago, agreed that the availability of firearms — ghost guns in particular — and the destabilizing effect of covid-19 have contributed to increased shooting violence.

"I think it's all related," he said.

Didone remains active on traffic safety matters with the International Association of Chiefs of Police. The No. 1 concern he hears from chiefs around the country is how do they get their officers to reengage in traffic stops.

"We're still getting guns off the streets. It's just not the same percentage," he said.

Such stops have received scrutiny over the years because they can escalate into a fatal shooting by police and there have been concerns nationwide about disparities in such stops.

Didone acknowledged that, around the country, too many officers took the practice too far — coming up with any excuse to pull over a car, for example. But he said that as long as officers are making true traffic stops — running a red light, talking on a cellphone — he would welcome a return to officers more often using that as a chance to try to find guns.

"Officers have to get back to doing our job. Montgomery is moving back in this direction faster than a lot of places," Didone said.

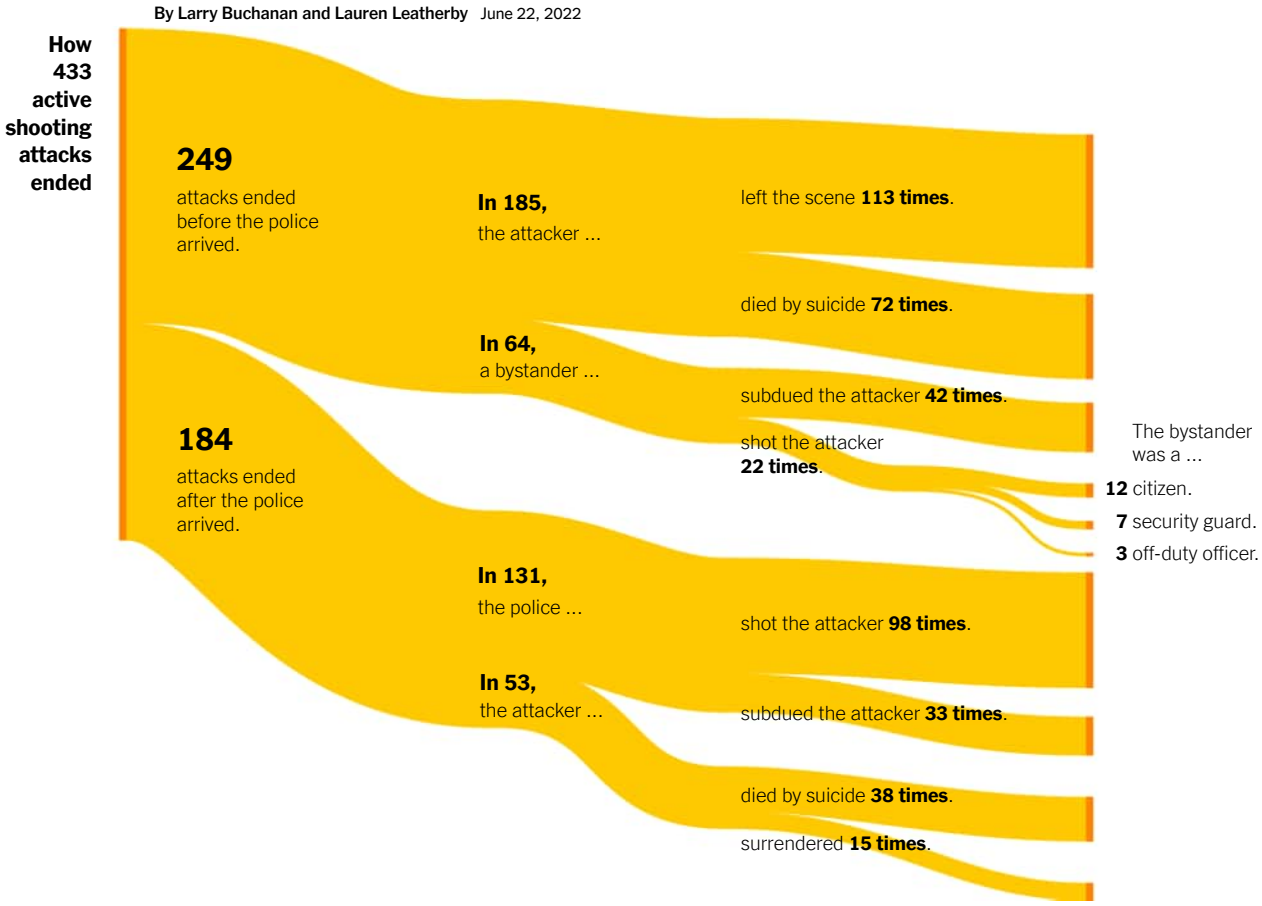
CLARIFICATION

This story has been updated with a clarification from Montgomery County police on gun violence numbers.

The New York Times https://nyti.ms/3OeHgJU

Who Stops a 'Bad Guy With a Gun'?

By Larry Buchanan and Lauren Leatherby June 22, 2022



Source: ALERRT Center

The lengthy police response to a school shooting in Uvalde, Texas, and the death of an armed security guard as part of an attack on a Buffalo supermarket last month have drawn fresh scrutiny to a recurring (and uniquely American) debate: What role should the police and bystanders play in active shooter attacks, and what interventions would best stop the violence?

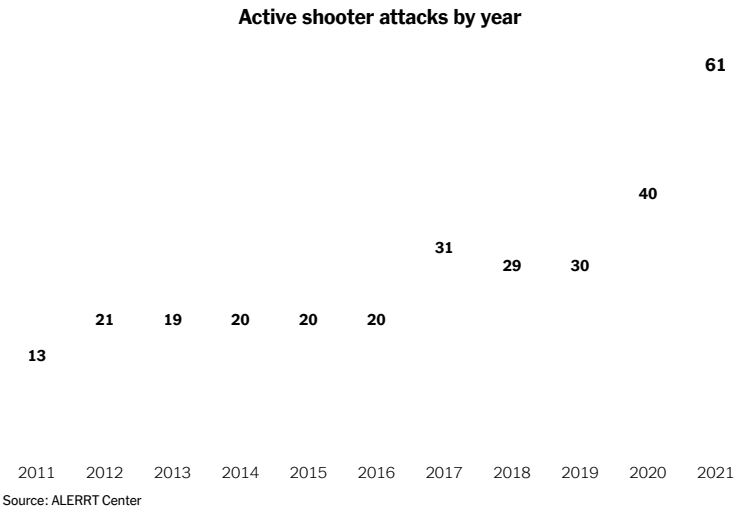
The debate has moved to Capitol Hill as lawmakers consider gun safety legislation that could increase funding for mental health services, school safety and other measures aimed at keeping guns out of the hands of dangerous people. "What stops armed bad guys is armed good guys," Senator Ted Cruz suggested in the wake of the Uvalde shooting, echoing many other gun rights advocates over the years.

Researchers who study active shooter events say it can be difficult to draw broad policy conclusions from individual episodes, but a review of data from two decades of such attacks reveals patterns in how they unfold, and how hard they are to stop once they have begun.

There were at least 433 active shooter attacks — in which one or more shooters killed or attempted to kill multiple unrelated people in a populated place — in the United States from 2000 to 2021. The country

EXHIBIT 6

experienced an average of more than one a week in 2021 alone.



Source: ALERRT Center

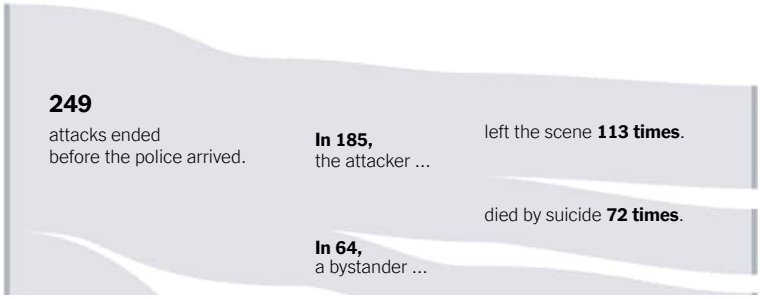
The data comes from the Advanced Law Enforcement Rapid Response Training Center at Texas State University, whose researchers work with the F.B.I. to catalog and examine these attacks. Unlike mass shooting tallies that count a minimum number of people shot or killed, the active attack data includes episodes with fewer casualties, but researchers exclude domestic shootings and gang-related attacks.

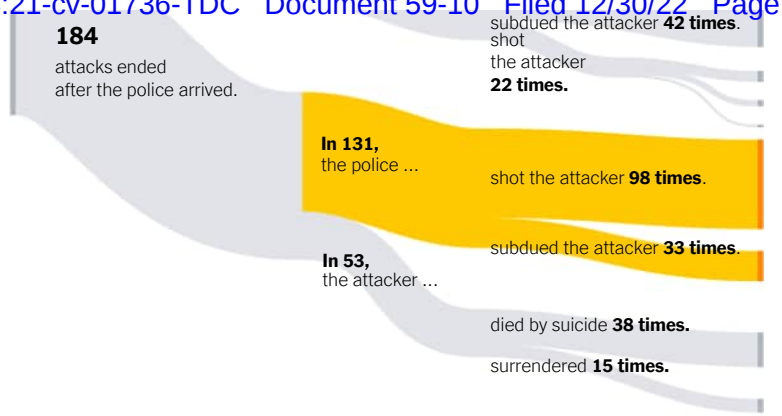
Researchers caution that some older attacks may be missing from the data, but they feel confident in their overall assessment that shootings are increasing. What is less clear is how to limit the damage of these attacks, given how quickly they unfold and how powerful the weapons used can be.

Most attacks captured in the data were already over before law enforcement arrived. People at the scene did intervene, sometimes shooting the attackers, but typically physically subduing them. But in about half of all cases, the attackers commited suicide or simply stopped shooting and fled.

“It’s direct, indisputable, empirical evidence that this kind of common claim that ‘the only thing that stops a bad guy with the gun is a good guy with the gun’ is wrong,” said Adam Lankford, a professor at the University of Alabama, who has studied mass shootings for more than a decade. “It’s demonstrably false, because often they are stopping themselves.”

Police officers shoot or physically subdue the shooter in less than a third of attacks.





Most events end before the police arrive, but police officers are usually the ones to end an attack if they get to the scene while it is ongoing.

Hunter Martaindale, director of research at the ALERRT Center, said the group has used the data to train law enforcement that "When you show up and this is going on, you are going to be the one to solve this problem."

Information on police response time is incomplete, but in the available data, it took law enforcement three minutes, on average, to arrive at the scene of an active shooting.

Yet, even when law enforcement responds quickly — sometimes within seconds — or if officers are already on the scene when the attack begins, active shooters can still wound and kill many people.

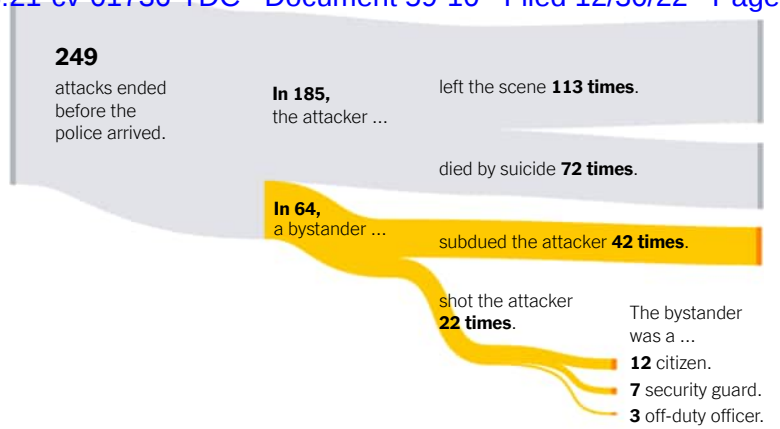
"Law enforcement could be one minute out, and if that individual is proficient with the weapon system they're using, they can quickly go through a lot of ammunition," Mr. Martaindale said. "And if they're proficient in their accuracy, you could have very high victim counts."

In **Dayton, Ohio**, in 2019, an attacker shot 26 people and killed nine outside a downtown bar in the 32 seconds before a police officer on duty shot the attacker. A week earlier, at the **Gilroy Garlic Festival** in Northern California, nearby officers engaged an attacker within a minute of his opening fire, but after 20 people had been shot. Three victims died and the attacker died by suicide.

"There's not a lot that can be done to stop someone in the opening seconds of harming a significant number of people," Mr. Lankford said.

And, like in Uvalde, law enforcement does not always bring an attack to a quick end. When a gunman opened fire at the **Pulse nightclub in Orlando, Fla.,** in 2016, a detective working extra duty shot at the gunman from outside the club. More police officers began arriving less than two minutes later. But the police did not enter the club for several minutes, after the gunman had paused his initial assault. Police officers ended the attack when they shot the gunman three hours after the assault began. Forty-nine people were killed and 53 more were wounded.

Bystanders stop some attackers, more often with physical force than with a gun.



In the wake of deadly shootings, gun rights advocates often push to arm more people, citing prominent examples where a "good guy with a gun" stopped a "bad guy."

After a gunman shot 46 people in a church in **Sutherland Springs, Texas**, in 2017, an armed neighbor arrived at the scene and exchanged gunfire with the gunman, injuring him, until the gunman fled.

But armed bystanders shooting attackers was not common in the data — 22 cases out of 433. In 10 of those, the "good guy" was a security guard or an off-duty police officer.

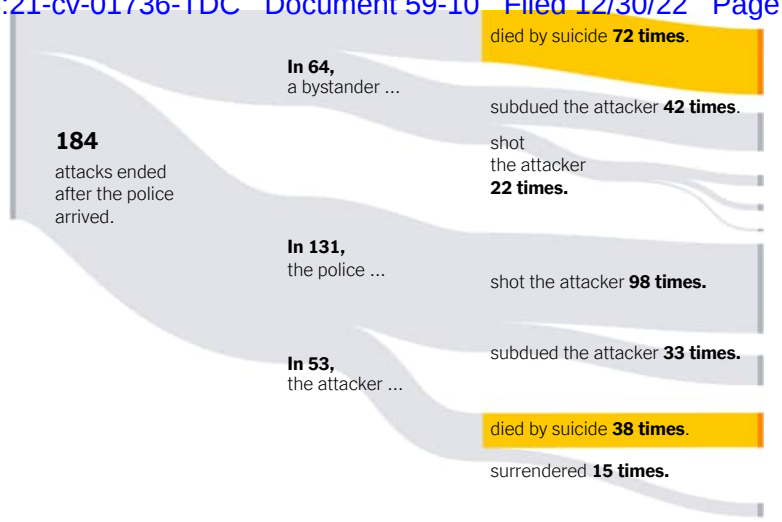
"The actual data show that some of these kind of heroic, Hollywood moments of armed citizens taking out active shooters are just extraordinarily rare," Mr. Lankford said.

In fact, having more than one armed person at the scene who is not a member of law enforcement can create confusion and carry dire risks. An armed bystander who shot and killed an attacker in 2021 in **Arvada, Colo.**, was himself shot and killed by the police, who mistook him for the gunman.

It was twice as common for bystanders to physically subdue the attackers, often by tackling or striking them. At **Seattle Pacific University** in 2014, a student security guard pepper sprayed and tackled a gunman who was reloading his weapon during an attack that killed one and injured three others. The guard took the attacker's gun away and held the attacker until law enforcement arrived.

When a gunman entered a classroom at the **University of North Carolina at Charlotte** in 2019, a student tackled him. The student was shot and killed, but the police chief said the attack would have had a far worse death toll had the student not intervened.

One in four attacks ends in a shooter suicide.



In more than a quarter of episodes, the attackers ended the shootings by turning the guns on themselves.

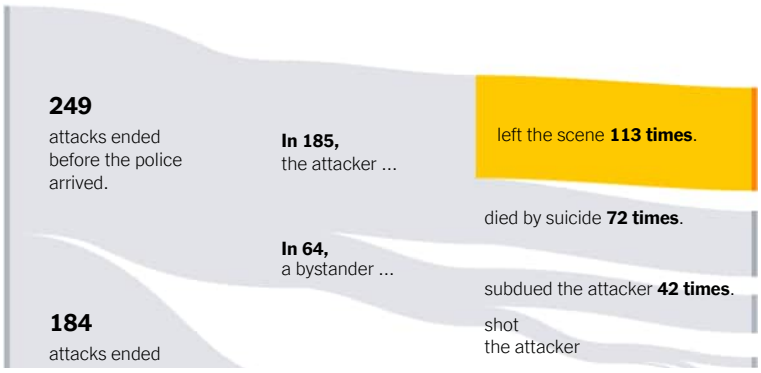
Many attackers died by suicide before the police arrived. At a **Binghamton, N.Y.**, immigration services center in 2009, an attacker shot 17 people, killing 13, before turning the gun on himself. A middleschooler died by suicide after shooting two fellow students and a teacher in **Sparks, Nev.**, in 2013. After shooting 471 people at the **Route 91 Harvest Festival in Las Vegas** from a hotel room overlooking the festival, the gunman died by suicide before the police arrived to his room.

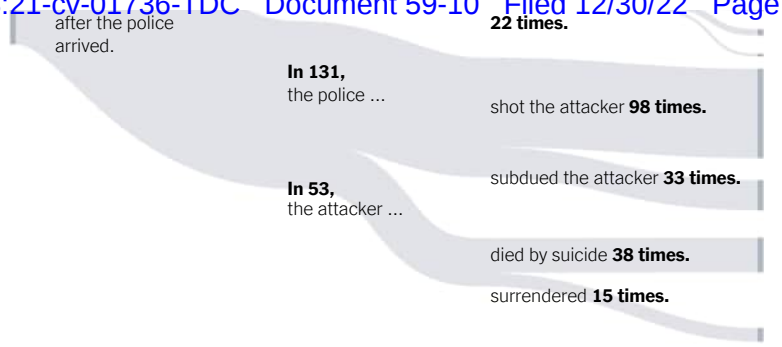
The share of attackers who die by suicide is most likely a fraction of those who have suicidal expectations, Mr. Lankford said. Based on evidence attackers leave before attacks, like online posts or suicide notes, more say they expect to die. Sometimes they expect to provoke law enforcement to kill them, Mr. Lankford said.

Police officers exchanged gunfire in 2018 with a gunman who shot 12 people at a bar in **Thousand Oaks, Calif.**, before he shot himself.

At **Virginia Tech** in 2007, a gunman locked doors to the building, initially stalling the police, before attacking students and professors, eventually shooting 49 people. But once law enforcement was able to enter, the attacker shot himself as police officers approached.

One in four attackers leaves the scene (though most are later caught).





About a quarter of shootings ended when the attacker or attackers stopped of their own accord and left the scene, then were apprehended or died by suicide at another location.

Many attacks that end when the shooter flees are spontaneous; for example, one may stem from a dispute that escalates when one party pulls out a gun.

In **San Antonio** in 2019, a man had a disagreement with the staff of a moving company, then opened fire on the company's workers before running away. The police apprehended him later without incident. Last year, a man who was kicked out of a nightclub in **Wichita, Kan.**, after a fight returned and shot six people, killing one. He fled the scene, and the police arrested him a month later in Phoenix.

Because these kinds of attacks are generally not planned, attackers may be more inclined to flee in hopes of getting away, Mr. Martaindale said.

But many premeditated attacks also ended when the attacker or attackers left the scene. After a gunman shot 34 people in 2018 at **Marjory Stoneman Douglas High School in Parkland, Fla.**, he dropped his weapon and fled the school with other students, bypassing police officers who had arrived on the scene but had not yet attempted to intervene. After fleeing, the gunman walked to a Walmart, bought a drink at a Subway and stopped at a McDonald's before he was apprehended by the police on a residential street.

In **El Paso**, a gunman shot 45 people, killing 23, in a Walmart before fleeing the scene. The police arrested him down the road without incident.

Why attackers stop themselves is a hard thing to know, but Mr. Lankford, after studying shooters for years, has some guesses. One is that sometimes, shooters plan for a dramatic confrontation with the police that does not happen. Another possibility, he said, is that the reality of their actions sets in.

Note: The ALERRT active attack database includes a small number of attacks in which a knife or a vehicle was the attacker's primary weapon. These were excluded from the analysis.

Correction: June 22, 2022
An earlier version of a chart with this article misstated the number of times in 433 separate active shooter attacks that the shooter left the scene and the number of times police officers shot the attacker. As the article and charts within it correctly noted, it was 113 times and 98 times, respectively, not 108 and 97.

GENERAL DIGEST

OF THE

ORDINANCES AND RESOLUTIONS

OF THE

Corporation of New-Orleans.

MADE BY ORDER OF THE CITY COUNCIL,
BY THEIR SECRETARY,
D. AUGUSTIN, ESQ. COUNSELLOR AT LAW.

PRINTED BY JEROME BAYON,
CORNER OF CHARTRES AND ST. LOUIS STREETS.
1831.

EXHIBIT 7

record book, kept for that purpose, all ordinances, bye-laws and resolutions which shall be passed henceforward by the City Council; the same shall be signed by the Recorder and by the Mayor, if by him approved in said record book which shall make a part of the archives of the Council and be regularly signed after each sitting. It shall also be the duty of the Secretary to keep in the French and English languages, an index of the proceedings, bye-laws, ordinances and resolutions passed by the City Council. In consideration of this increase of his duties, resolved that the resolution of the twenty-ninth of May eighteen hundred and twenty-four, reducing the Secretary's salary be and the same is hereby repealed, and his said salary reinstated and fixed at the sum of eighteen hundred dollars per annum, payable monthly from the first instant.

Approved, March 11, 1831.

THEATRES AND BALLS.

An Ordinance concerning the public exhibition and theatres of New-Orleans.

THE CITY COUNCIL ORDAINS AS FOLLOWS:

ART. 1. No person shall exhibit, or cause to be exhibited any dramatic composition, ballad, pantomime, or other performance of that kind, in any theatre in the city of New-Orleans, where all persons are admitted for their money; nor shall any person entertain the public with any display of fire-works, rope-dancing, or any performance of what kind soever it be, without having previously obtained from the Mayor of New-Orleans a license of permission for that purpose, on penalty of a fine of not less than twenty dollars nor exceeding one hundred dollars for every such offence; and the said license shall express the object and the length of time for which it is granted.

ART. 2. The day and hour of every public spectacle shall be appointed by the Mayor, and it shall be the duty of every manager, acting manager, or other person having the management or direction of any theatre or public exhibition, to apply to the Mayor for his orders on that subject, and strictly to conform thereto, announcing to the public the hour which shall have thus been appointed for the performances to commence. On the said days of performance, the stage, pit, boxes, galleries, lobbies and corridors must be carefully swept and cleansed, and as soon as the house is opened it must be lighted up, as also the lobbies, corridors and galleries: the outward doors shall be opened half an hour before the performance begins, and shall constantly remain open during its continuance; nor shall they be shut, neither shall the lights be extinguished until all the spectators have retired. And every manager, acting manager or other person having the management or direction of a theatre or public spectable, offending against any provision of this article, or neglecting to conform to the orders of the Mayor or other com-

trate invited by the Mayor to replace him thereto in case of his absence. Provided that the place so reserved for the Mayor or other persons sent in his place shall be furnished without said managers being entitled to any compensation, and they shall adhere to this condition before obtaining a license to open their theatres.

ART. 14. The Mayor, as often as he may deem it necessary, shall examine whether the theatres, places of public resort be constructed with the requisite solidity, and carefully kept in repair, so that the public may assemble there without danger; and he shall take suitable measures to prevent the accidents that might result from any negligence in that respect on the part of the proprietors, tenants or other persons having the management or direction of the said theatres, places of public spectacles, or other places of public resort.

ART. 15. The manager, acting manager or other person having the management or direction of a theatre, shall place and constantly keep, within the play-house, several large tubs, and at least one fire-engine in good repair, which must be filled on days of performance; and on failure of complying with this requisite, and until the manager shall have complied with it, the Mayor shall order the theatre to be and remain shut up.

ART. 16. By virtue of the powers granted by law to the Mayor and City Council, the Mayor shall cause to be shut up any place of public resort, whenever the maintenance of order, the public safety or tranquillity may require it.

Approved, June 8, 1816.

An Ordinance respecting public Balls.

THE CITY COUNCIL ORDAINS AS FOLLOWS:

ART. 1. It shall not be lawful for any person to enter into a public ball-room with any cane, stick, sword or any other weapon, and every person having either a cane, stick, sword or any other weapon, shall, before he enter the ball-room, deposite the same at the office which shall be at the door of the entrance of said ball-room, where there will be a person appointed to receive and take care of such articles which he shall carefully keep, affixing to each article a number, a check of which he shall give to the owner; and said articles shall not be returned to the persons respectively depositing them, until said persons are quitting the balls and produce their checks.

ART. 2. Every person entering in any public ball-room, in contravention to the above provision, shall pay a fine of five dollars; and every person giving a public ball without having previously established an office at the door of the entrance of said ball-room, and without appointing a person to receive and take care, in the manner aforesaid, of the articles before mentioned shall pay a fine of twenty-five dollars, and if the offence is repeated, the offender shall forfeit the right to hold any further permission to give such public balls.

ART. 3. Every person who shall commit any disorder, tumult, violence, insult, indecency, or shall commit an assault or battery in a public ball-room shall be taken before the Mayor, or any other justice of the peace, to be dealt with according to law.

ART. 4. Any person giving a public ball, who shall prolong the duration of the same beyond the hour fixed by the license or permit which he must obtain, for this purpose, of the Mayor of this city, shall pay a fine of twenty-five dollars, for each and every offence.

Approved October 27, 1817.

An Ordinance to authorize the Mayor to appoint constables for the police of the theatres, public exhibitions and balls.

THE CITY COUNCIL ORDAINS AS FOLLWS:

ART. 1. The Mayor shall nominate and appoint a sufficient number of men to be constables, and to form, under that denomination, a guard for the theatres, public exhibitions and balls, in order there to receive and execute the orders and directions of the Mayor, or of the commissaries of police, as to what concerns the maintenance of good order in the aforesaid premises: provided always, that the said constables shall be employed as a guard only at authorised theatres, spectacles and balls, and that their number shall not exceed five men for each of said theatres, exhibitions and balls.

ART. 2. The constables on guard at said theatres or exhibitions, shall be paid by the managers, acting-managers or other persons having the direction of the exhibition, at the rate of one dollar for each constable, every time of performance; and every constable on duty at a ball, shall be entitled to require from the person keeping such balls, the said compensation of one dollar, when the ball ends at midnight, and that of two dollars in case of any ball authorised for a later hour of the night.

ART. 3. In no case shall the above mentioned service be at the expense of the city, nor shall any of the men composing the city guard, be employed on that duty, unless in case of any disturbance breaking out in any of the aforesaid places, and then only till tranquillity be restored.

ART. 4. All persons are forbidden to oppose or obstruct any of the aforesaid constables in the legal execution of his office, or to utter against them invectives or opprobrious language in the discharge of their duty; and every person herein offending, shall pay a fine of from ten to fifty dollars for every such offence.

Approved, November 5, 1817.

An Ordinance laying a tax on public balls and public exhibitions.

THE CITY COUNCIL ORDAINS AS FOLLOWS:

ART. 1. It shall not be lawful for any person to give any public ball, either to white persons or free persons of colour, at any place within the extent of the city, or to exhibit any inferior spectacle where the public are admitted for money, such as a circus, for equestrian exhibitions, panoramas,

PUBLIC LAWS

OF THE

STATE OF MAINE.

Chapter 252.

AN ACT providing for the acceptance of the public money, apportioned to the State of Maine, on deposite, by the Government of the United States.

Treasurer of State to receive the proportion of surplus funds belonging to Maine.

Be it enacted by the Senate and House of Representatives in Legislature assembled, That the Treasurer of this State is hereby authorized to receive on the terms prescribed in the thirteenth section of the Act of Congress, entitled "An Act to regulate the deposites of the public money," approved the twenty-third day of June, eighteen hundred and thirty-six, the proportion of the moneys thereby directed to be deposited with the several States which may, according to the provisions of that section, be deposited with this State, and to sign and deliver to the Secretary of the Treasury of the United States such certificates of deposites therefor as may be required under the provisions of that section, and to pledge the faith of this State for the safe keeping and repayment thereof in such manner as may be necessary to entitle the Treasurer to receive, for and in behalf of this State, said proportion of the monies before mentioned.

[*Approved by the Governor January* 26, 1837.]

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EXHIBIT 8

missioned Officer or private so appointed, shall refuse or neglect to perform all or any of the duties of said office during said term, (except keeping the records,) he shall forfeit and pay not less than ten nor more than twenty dollars. And in case of the absence, sickness, or other inability of the Clerk of any Company, the commanding Officer thereof may appoint a Clerk pro tempore; or upon satisfactory evidence that no member of the Company will accept the office pro tempore, he may order any non-commissioned Officer or private in like manner to perform all the duties of the office of Clerk (except keeping the records,) until the Clerk shall be able to perform the same, or some other person be appointed, not exceeding the term of three months; and any person so ordered, refusing or neglecting to perform all the duties of said office (except keeping the records,) shall forfeit and pay not less than ten nor more than twenty dollars. In all such cases the records of the Company shall be kept by the commanding Officer as long as such vacancy, absence, sickness or other inability shall continue: and the records so kept shall be competent evidence of such orders and temporary appointments, as well as of all other matters of which such records would be evidence if kept by the Clerk.

Penalty for their refusing to perform said duty.

—Clerk pro tem. may be appointed in case of absence or sickness of Clerk.

Penalty for refusing to perform said duty.

Records to be kept by commanding Officer, and to be competent evidence.

SECT. 4. *Be it further enacted*, That all fines and forfeitures incurred in neglecting military duty, by members of any Company without Officers, (except forfeitures for refusing to give notice when ordered by the Officer detailed to command such Company, as provided in the second section of this Act or by the commanding Officer of the Regiment; and except forfeitures incurred by Clerks in neglecting to return the roll as required by the first section of this Act,) shall be prosecuted and collected by the Officer detailed to command said Company as provided in the second section of this Act, substantially in the manner that Clerks of Companies are

How fines are to be collected and how to be disposed of.

authorized and required to do by "An Act to organize, govern and discipline the Militia of this State," passed March 8, A. D. 1834, to which this is additional; one half of the amount recovered to be to the use of the Regiment, and the other half to the use of the Officer; and the Officer so prosecuting shall be a competent witness in the case. All fines and forfeitures incurred under the first, second and third sections of this Act, shall be recovered by indictment, or by action on the case, by any person whatever, one half of the sum recovered to be to the use of the State, and the other half to the use of the prosecutor.

No idiot, lunatic, common drunkard, vagabond, pauper, or person convicted of any infamous crime to be eligible for office,—nor unless able bodied, &c., &c.

SECT. 5. *Be it further enacted*, That no idiot, lunatic, common drunkard, vagabond, pauper, nor any person convicted of any infamous crime, nor any other than white, able-bodied, male citizens, shall be eligible to any office in the Militia; and whenever it shall appear to the Commander-in-Chief, that any person thus ineligible has received a majority of votes cast at any election of Officers, he shall not commission him, but, with the advice and consent of the Council, shall declare said election null and void, and appoint some person to fill the vacancy.

Persons ineligible not be commissioned.

—vacancy to be filled.

Students in Colleges made liable to do military duty.

SECT. 6. *Be it further enacted*, That all students attending any of the several colleges, academies or seminaries of this State, shall be holden and compelled to do military duty as other persons, in the town where said colleges, academies or seminaries are established.

Verbal notice to appear on a future day may be given on parade.

SECT. 7. *Be it further enacted*, That whenever any Company shall be paraded, the commanding Officer thereof is hereby authorized verbally to notify the men so paraded, to appear on some future day not exceeding thirty days from the time of such notification, for any military duty required by law, and such notification shall be legal as it respects the men present.

Officers and Clerks of Companies made witnesses.

SECT. 8. *Be it further enacted*, That all commanding officers, subaltern Officers, and all Clerks of Companies be and they hereby are made competent witnesses in law, to testify to all or any facts within their knowledge, in any suit commenced by said Clerk or commanding Officer, for the collection of any fine or forfeiture named in this Act, or in the several Acts to which this is additional.

In case of death of Clerk, commanding Officer, to continue prosecution for fines to final judgment—and to commence them where there is no Clerk.

SECT. 9. *Be it further enacted*, That whenever any action shall have been commenced, for any fine or forfeiture, by any Clerk of any Company, and said Clerk shall die, resign or refuse, or in any other way be disqualified to prosecute said suit so commenced, it shall be lawful and is hereby made the duty of the commanding Officer of the Company, to assume and prosecute said suit to final judgment and execution; and whenever any fine or forfeiture shall have been incurred by any private or non-commissioned Officer of any Company, and there shall be no Clerk, or the Clerk shall resign or die, or be disqualified, it shall be lawful for any Clerk appointed after said fine or forfeiture has been incurred, to sue for and recover the same; *Provided* said action shall be commenced within the time prescribed by law.

Copy of records of Courts Martial made evidence in cases.

SECT. 10. *Be it further enacted*, That a copy of the record of any Court Martial, certified by the President of such Court, together with a duly authenticated copy of the order convening said Court, shall be conclusive and sufficient evidence to sustain in any Court, any action commenced for the recovery of any fine and costs, or part costs, or either, agreeably to the provisions of an Act to which this is additional.

Fine imposed on commanding Officers who neglect to make returns of the May Inspection.

SECT. 11. *Be it further enacted*, That if any Captain or commanding Officer shall neglect or refuse to make, or cause to be made, a return of the state of his Company as it existed on the day of the annual inspection in May, to the command-

EXHIBIT 9

CHAP. 100. this State, and that a hearing was had at March term, eighteen hundred and thirty-four, when allegations preferred by his creditors were sustained; that an appeal was taken from the decision, bond with security filed, which bond was lost or mislaid; that said Schleigh is in fact actually insolvent:—Therefore,

Insolvent

Be it enacted by the General Assembly of Maryland, That Daniel H. Schleigh, of Washington county, is hereby empowered to apply for and obtain the benefit of the insolvent laws of this State, as if allegations never had been sustained against him, by his complying with all the provisions of the insolvent laws of this State.

CHAPTER 100.

Passed Feb. 28, 1838.

An act for the preservation of Wild Fowl in the waters of Smith's Island and its vicinity, in Somerset county.

Prohibition in the limits

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That from and after the first day of May next, it shall not be lawful for any person or persons, by day or night, to navigate or paddle any open skiff, canoe or open boat of any description, on board of which open skiff, canoe or open boat aforesaid may be any offensive weapon, gun, musket, fowling piece or pistol, within the region usually known as included from Hearn's Straits, in Somerset county, to the upper side of Holland's Straits, within fifty yards of any blind for shooting fowl, with intent to shoot or molest any wild fowl or fowls within the region aforesaid.

Penalty for violating

SEC. 2. *And be it enacted*, That the discovering or finding of any offensive weapon, gun, musket, fowling piece or pistol in any open skiff, canoe or open boat as aforesaid, within fifty yards of any blind for shooting fowl, shall, in all cases within the region aforesaid, be deemed prima facie evidence of intent to shoot or molest said wild fowls, and shall subject the offender in each and every case, to a penalty of ten dollars, to be recovered before the district court of Somerset county, by action of debt, in the name of the State, or

qui tam action, one-half of which penalty shall be for the benefit of the informer, and the remaining half shall be paid over to the commissioners of Somerset county, for the benefit of said county.

Witness

SEC. 3. *And be it enacted*, That the informer shall be deemed a competent witness in each and every prosecution under this act.

CHAPTER 101.

An act entitled, an act to Incorporate the Carroll Academy and House of Public Worship.

Passed Feb. 26, 1838

Persons incorporated

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That William Shriver, Peter E. Myers, James Hierd, William Burgoon and Joseph Keefer, be appointed trustees for a school erected in Carroll county, district number three, called "the Carroll Academy and House of Public Worship," and their successors to be appointed, as hereinafter directed, shall forever hereafter be, and they are hereby erected and established, and declared to be one body politic and corporate, with perpetual succession, in deed and in law, by the name, and style and title of the Trustees of "The Carroll Academy and House of Public Worship;" by which name and style the said trustees and their successors shall be capable in law and in equity to hold property, the value of which shall, at no time, exceed the sum of one thousand dollars for the said Academy and House of Public Worship.

Style

Corporate powers

House of Worship

SEC. 2. *And be it enacted*, That the said house shall be open and free for all Christian denominations to worship in; *provided*, no meeting for public worship shall interfere with school hours, unless by consent of a majority of the trustees.

Case of vacancy

SEC. 3. *And be it enacted*, That if a vacancy occur in the board of trustees, the same shall be filled by the remaining trustees, until the next annual election of the same,

Annual election

SEC. 4. *And be it enacted*, That on the first day of January in every year, an election shall be held by the qualified voters at the academy; which said election

THE

GENERAL LAWS

OF THE

Commonwealth of Massachusetts

PASSED AT THE

JANUARY SESSION, 1837.

NOTE. [The omitted chapters are those which contain the Special Statutes.]

CHAPTER 1.

AN ACT CONCERNING THE SURPLUS REVENUE OF THE UNITED STATES.

Treasurer authorized to receive, &c., Commonwealth's proportion of public money.

THE treasurer and receiver general of this Commonwealth is hereby authorized to receive, on the terms prescribed in the thirteenth section of the act of Congress, entitled, "an act to regulate the deposits of the public money," approved the twenty-third day of June, eighteen hundred and thirty-six, the proportion of the moneys thereby directed to be deposited with the several states, which may according to the provisions of that section be deposited with this state; and to sign, and deliver to the secretary of the treasury of the United States, such certificates of deposit therefor as may be required under the provisions of that section; and to pledge the faith of this state for the safe keeping and repayment thereof, in such manner as may be necessary to entitle the treasurer and receiver general to receive, for and in behalf of this state, said proportion of the moneys before mentioned. [January 19, 1837.]

Treasurer authorized to receive, &c., Commonwealth's proportion of public money.

And to sign certificates of deposit, &c.

CHAPTER 13.

AN ACT RELATING TO THE SALARY OF THE SERGEANT AT ARMS.

Salary of Sergeant at Arms increased.

FROM and after the first day of January, one thousand eight hundred and thirty-seven, the sergeant at arms shall receive an annual salary of one thousand dollars, instead of eight hundred and fifty dollars, as provided in the sixty-fifth section of the thirteenth chapter of the Revised Statutes. [February 14, 1837.]

Salary $1,000.

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EXHIBIT 10

CHAPTER 240.

AN ACT CONCERNING THE MILITIA.

Who shall be enrolled in the militia, and included in military returns.

SECT. 1. Every able-bodied white male citizen resident within this Commonwealth, who is, or shall be, of the age of eighteen, and under the age of forty five years, excepting idiots, lunatics, common drunkards, vagabonds, paupers, and persons convicted of any infamous crime, shall be enrolled in the militia, and included in the military returns: *provided*, that nothing herein contained shall be so construed as to render any of the exempts mentioned in the first, second and third sections of the twelfth chapter of the Revised Statutes, liable to do military duty otherwise than is therein provided.

Who shall appoint division inspectors, &c.

SECT. 2. Division inspectors and division quarter masters shall hereafter be appointed by the respective major generals, and approved by the commander in chief.

When commissions of staff officers expire.

SECT. 3. The commissions of all staff officers, appointed by any commanding officer, shall expire after the commanding officer shall be discharged or vacate his commission, as soon as his successor is commissioned.

Adjutant general to present his account to governor and council in February.

SECT. 4. The adjutant general shall annually, in the month of February, lay before the governor and council, for adjustment, an account of all expenditures of money made by him as adjutant general and acting quarter master general, with vouchers to support the same; and such accounts shall be settled by the governor and council.

How military returns shall be made; penalties for neglect; by whom penalties sued for.

SECT. 5. The military returns shall continue to be made, as provided in the thirty first and thirty second sections of the twelfth chapter of the Revised Statutes, excepting, that every commanding officer of a brigade shall make and transmit returns of the state of his brigade, to the commanding officer of the division to which he belongs, in the month of July annually; and every commanding officer of such division shall make and transmit returns of the state of his division to the adjutant general in the month of August annually. And the penalty for neglecting to make the returns as provided for in the thirty first and thirty second sections of the twelfth chapter of the Revised Statutes, and in this section, shall be as follows:

Every captain or commanding officer of a company, who shall

neglect to make returns, for each instance of such neglect, ten dollars.

Every commanding officer of a regiment or separate battalion, who shall neglect to make returns, for each instance of such neglect, twenty-five dollars.

Every commanding officer of a brigade, who shall neglect to make returns, for each instance of such neglect, fifty dollars.

Every commanding officer of a division, who shall neglect to make returns, for each instance of such neglect, seventy-five dollars.

Every brigade major and inspector who shall neglect to make returns, for each instance of such neglect, fifty dollars.

The above fines and forfeitures to be prosecuted for by the officer to whom the respective returns should be made, in any court of competent jurisdiction, and paid into the treasury of the Commonwealth.

Certain yearly returns dispensed with; majority of voters present may elect company officers.

Sect. 6. So much of the one hundred and fourteenth section of the twelfth chapter of the Revised Statutes as requires clerks of companies to make annual returns to the brigade majors, and the brigade majors to the commander-in-chief; and so much of the fifty-eighth section of the twelfth chapter of the Revised Statutes as requires a majority of the qualified voters of the company to be present at an election of officers, is hereby repealed; and a majority of the legal voters present at any company election, duly notified, may elect company officers.

On what terms members of volunteer companies exempted from duty in standing company.

Sect. 7. No non-commissioned officer or private of any company raised at large, shall be required to perform military duty in the standing company within whose limits he resides: *provided*, that when notified of his enrolment in such standing company, or otherwise requested, he shall produce within ten days, to the commanding officer of such standing company, a certificate from the commanding officer of his own company, that he is a member thereof; and if any such non-commissioned officer or private remove out of the limits within which his company is raised, he shall continue to be a member thereof.

Division inspector to keep roster, &c.; his compensation.

Sect. 8. The division inspector of each division shall constantly keep a correct roster of the division to which he belongs, and an orderly book, in which he shall record all orders received and issued; and he shall receive annually the same compensation which is now by law allowed to the oldest aid-de-camp of each major general; and so much of the twenty-seventh section of the twelfth chapter of the Revised Statutes as provides that the oldest aid-de-camp of each major general shall keep such roster and orderly book, is hereby repealed.

How fines, &c. of members of volunteer companies may be collected and disposed of.

Sect. 9. All fines and forfeitures, incurred by the members of volunteer companies, may be collected by such persons and disposed of in such manner, for the benefit of said companies, as a majority of the members thereof may determine.

When towns required to provide powder, &c.; forfeiture for not providing.

Sect. 10. Whenever in the opinion of the commander-in-chief it shall be necessary, he shall issue his proclamation, requiring all towns to provide, and deposit in some suitable and convenient place therein, sixty-four pounds of good powder; one hundred pounds of musket balls, each of the eighteenth

part of a pound; one hundred and twenty-eight flints suitable for muskets; three copper, iron, or tin camp kettles, for every sixty-four soldiers enrolled in said town; and the same proportion of the aforesaid articles for a greater or less number, and so to keep the same, until he shall by proclamation declare the same no longer necessary.

Any town which shall neglect to provide and keep deposited all or any of the aforesaid articles, as above required, shall forfeit the sum provided in the one hundred and sixth section of the twelfth chapter of the Revised Statutes.

Sections of former statute repealed.

Sect. 11. The forty-sixth and forty-seventh sections of the twelfth chapter, and all other provisions of the Revised Statutes which are inconsistent with this act, are hereby repealed. [April 20, 1837.]

CHAPTER 241.

AN ACT RELATING TO COMMON SCHOOLS.

Board of education, how constituted; term of office, &c.

Sect. 1. His excellency the governor, with the advice and consent of the council, is hereby authorized to appoint eight persons, who, together with the governor and lieutenant governor ex officiis, shall constitute and be denominated the board of education; and the persons so appointed shall hold their offices for the term of eight years: *provided*, the first person named in said board shall go out of office at the end of one year, the person next named shall go out of office at the end of two years, and so of the remaining members, one retiring each year, and in the order in which they are named, till the whole board be changed; and the governor, with the advice and consent of the council as aforesaid, shall fill all vacancies in said board, which may occur from death, resignation or otherwise.

Board to make yearly abstract of school returns.

May appoint a secretary; his duty, &c.

Sect. 2. The board of education shall prepare and lay before the Legislature, in a printed form, on or before the second Wednesday of January, annually, an abstract of the school returns received by the secretary of the Commonwealth, and the said board of education may appoint their own secretary, who shall receive a reasonable compensation for his services, not exceeding one thousand dollars per annum, and who shall, under the direction of the board, collect information of the actual condition and efficiency of the common schools, and other means of popular education, and diffuse as widely as possible throughout every part of the Commonwealth, information of the most approved and successful methods of arranging the studies and conducting the education of the young, to the end that all children in this Commonwealth, who depend upon common schools for instruction, may have the best education which those schools can be made to impart.

JUNE, 1843.

At the General Assembly of the STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, begun and holden by adjournment, at Newport, within and for said State, on the third Monday of June, in the year of our Lord one thousand eight hundred and forty-three, and of Independence the sixty-seventh.

PRESENT:

His Excellency JAMES FENNER, Governor:

His Honor BYRON DIMAN, Lieutenant Governor.

SENATORS FROM THE SEVERAL TOWNS:

Newport,	EDWARD W. LAWTON.
Providence,	ALBERT C. GREENE,
Portsmouth,	JOHN MANCHESTER.
Warwick,	JOHN BROWN FRANCIS.
Westerly,	
New-Shoreham,	SIMON R. SANDS.
North-Kingstown,	JEFFREY DAVIS.
South-Kingstown,	ELISHA R. POTTER.
East-Greenwich,	WILLIAM GREENE.
Jamestown,	GEORGE C. CARR.
Smithfield,	ISAAC WILKINSON.
Scituate,	JOB RANDALL.
Glocester,	SAMUEL STEERE.
Charlestown,	ASA CHURCH, Jun.
West-Greenwich,	GEORGE DAWLEY.
Coventry,	ELISHA HARRIS.
Exeter,	SAMUEL PHILLIPS.
Middletown,	JOSEPH I. BAILEY.
Bristol,	NATHANIEL BULLOCK.
Tiverton,	DAVID DURFEE.
Little-Compton,	NATHANIEL CHURCH.
Warren,	JOSEPH SMITH.
Cumberland,	OLNEY BALLOU.
Richmond,	ISRAEL ANTHONY.
Cranston,	ANSON POTTER.
Hopkinton,	JOSIAH W. LANGWORTHY.
Johnston,	CYRUS BROWN.
North-Providence,	LEVI C. EATON.
Barrington,	JAMES BOWEN.
Foster,	SAMUEL TILLINGHAST.
Burrillville,	OTIS WOOD.

THE SECRETARY.

GEORGE RIVERS, Esq. Clerk.

EXHIBIT 11

MILITIA LAW.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

In General Assembly, June Session, A. D. 1843.

AN ACT TO REGULATE THE MILITIA.

It is enacted by the General Assembly as follows:

Of the Enrolled Militia.

Section 1. Every able bodied white male citizen, in this State, who is or shall be of the age of eighteen years, and not exceeding the age of forty-five years, excepting persons absolutely exempted by the provisions of this act, and idiots, lunatics, common drunkards, paupers, vagabonds, and persons convicted of any infamous crime, shall be enrolled in the militia, as hereinafter provided.

Sec. 2. In addition to the persons exempted from military duty by the act of Congress, there shall also be exempted from the performance of such duty, the following persons to wit: all persons who have holden the office of Governor, or Lieutenant Governor; all persons who, after the last day of February, A. D. 1796, shall have holden any military commission or commissions, or staff office, with the rank of an officer of the line, for the space of five years successively, and who shall have been engaged thereon according to law, and been honorably discharged; and also all persons who shall have holden any such military commission or commissions, or staff office aforesaid, for a less term than five years, and who have been superseded without their consent.

Sec. 3. Persons of the following descriptions, as long as they shall remain of said descriptions, shall be exempted from the performance of military duty, to wit: the justices and clerks of the supreme judicial court, the justices and clerks of

the courts of common pleas, the Secretary of State, the Attorney General, the General Treasurer, the sheriff of each county, one ferryman at each stated ferry, who usually navigates the boat, the keepers of light houses within this State, all settled or ordained ministers of the gospel, the president, professors, tutors, students, and steward of Brown University, the town councils of the several towns, the Mayor and Aldermen of the city of Providence, town and city treasurers, town and city clerks, practising physicians, practising surgeons—not including the pupils of either—preceptors and ushers of academies and schools, and engine men; and provided that no engine shall have more than twenty men, unless otherwise provided by special enactment; the members of fire hook and ladder companies, and chartered fire hose companies; all persons belonging to the Society of Friends, commonly called Quakers, and the inhabitants of the towns of New-Shoreham and Jamestown, and of the island of Prudence, and such others as shall make oath or affirmation that they are conscientiously scrupulous against bearing arms, which fact shall appear to the commanding officer, by certificate of the magistrate before whom said oath or affirmation was given.

Sec. 4. It shall be the duty of the assessors of taxes in each town in this State, and in the city of Providence, annually to prepare a list or roll of all persons liable to be enrolled in the militia, as provided in the first section, together with all persons liable to do duty in case of invasion, insurrection, riot, and tumult, living within their respective limits, whether such persons be or be not attached to any chartered or regimental companies; and to place the same in the hands of the town clerk of such town, and of the said city of Providence, and it shall be the duty of every such clerk to record such list or roll of names in a proper book of record, to be kept for that purpose, in every town in this State, and in the city of Providence. Annual returns of the militia, thus enrolled, shall be transmitted to the Adjutant General in the month of October, in each and every year, by the clerks aforesaid, and by him to the President of the United States. It shall also be the duty of said assessors to assess upon the persons liable to be enrolled in the militia as aforesaid, except in the towns of New Shoreham and Jamestown, and that portion of the town of Portsmouth forming the island of Prudence, a tax of fifty

LAWS

OF THE

TERRITORY OF NEW MEXICO,

PASSED BY THE SECOND

LEGISLATIVE ASSEMBLY

IN THE CITY OF SANTA FÉ,

AT A SESSION BEGUN ON THE SIXTH DAY OF DECEMBER, 1852.

SANTA FÉ:
JAMES L. COLLINS & CO., PRINTERS.
MDCCCLIII.

EXHIBIT 12

the Justices of the Peace or Court in which the suit may be brought, with imprisonment for a time demanded by the gravity of the offence.

SEC. 4. All acts and parts of acts repugnant to this act shall be and are by these presents repealed.

SEC. 5. This act shall take effect, from and after its approval.

Translation.

AN ACT

Prohibiting the carrying a certain class of Arms, within the Settlements and in Balls.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SEC. 1. That each and every person is prohibited from carrying short arms, such as pistols, daggers, knives, and other deadly weapons, about their persons concealed, within the settlements, and any person who violates the provisions of this act, shall be fined in a sum not exceeding ten dollars, nor less than two dollars, or shall be imprisoned for a term not exceeding fifteen days nor less than five days.

SEC. 2. That the Sheriffs of the different counties, and Constables of the different precincts, are hereby required to enforce the observance and compliance of the provisions of the preceding section, having power to take with them, two or more armed persons, when they are on patrol at night, in order to make themselves respected while on such duty, and it is hereby made the duty of the Probate Judges and Justices of the Peace to aid and assist said officers in the prompt discharge of their duties.

SEC. 3. Any person desiring to give a Ball or Fandango, they shall apply to the Probate Judge or a Justice of the Peace

for a License for the same—who, after having granted such license, shall inform the applicant, that he must maintain good order, and for this purpose he shall swear him to faithfully discharge his duties as police officer and perform said duties during such Ball or Fandango, possessing the powers of a Sheriff, and that he will not permit any person to enter said Ball or room adjoining said ball where Liquors are sold, or to remain in said balls or Fandangos with fire arms or other deadly weapons, whether they be shown or concealed upon their persons and if any person or persons shall enter said Balls or Fandangos or ante-chamber, with deadly weapons upon their person, upon conviction for such offence before any Probate Judge or Justice of the Peace, they shall suffer the punishment prescribed in the first section of this Law.

Provided, that, in case any person desires a license for a ball or fandango, who shall not be competent, the Probate Judge or Justice of the Peace as the case may be, shall require him to present a competent person, who shall discharge the duties of a Police Officer, and shall swear him as prescribed in the foregoing section.

SEC. 4. That any person or persons giving Balls or Fandangos shall be liable to the punishments prescribed in the foregoing sections of this Law—if they permit any person or persons armed to remain in said Balls or Fandangos, they shall also be subject to the same penalties of the Police Officers who fail to discharge their duties or violate the provisions of this Law.

SEC. 5. That all fines collected by the provisions of this Law shall be applied to the use of the respective counties.

Translation.

AN ACT

Providing for the payment of the Salaries of Territorial Officers, not otherwise provided for by Law.

Sec. 1. Payment of officers under the Kearney code.
Sec. 2. How audited and paid.

FIRST

ANNUAL REPORT

ON THE

IMPROVEMENT

OF

THE CENTRAL PARK,

NEW YORK. —

JANUARY 1, 1857.

NEW YORK:
CHAS. W. BAKER, PRINTER, 29 BEEKMAN STREET.
1857.

EXHIBIT
13

APPENDIX.

A.

ORDINANCES OF THE CENTRAL PARK.

The Board of Commissioners of the Central Park do ordain as follows:

All persons are forbidden—

To enter or leave the Park except by the gateways.

To climb or walk upon the wall.

To turn cattle, horses, goats, or swine into the Park.

To carry firearms or to throw stones or other missiles within it.

To cut, break, or in any way injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, or other constructions upon the Park;

Or to converse with, or in any way to hinder those engaged in its construction.

Two pounds are hereby established within the Central Park, for the impounding of horses, cattle, sheep, goats, dogs, swine, and geese found trespassing upon said Park. All such animals found at large upon the Park may be taken by any person or persons, and driven or carried to one of the said pounds, and may be kept enclosed therein during five days, at the end of which time, if not previously claimed, they may be sold at public auction; provided that within two days after they shall have been impounded, notice of the sale shall have been conspicuously posted in the pound.

Any person claiming property in such impounded animals before the day of sale, may recover the same after suitable proof of his or her right thereto, upon payment for each animal

PUBLIC ACTS,

PASSED BY THE GENERAL ASSEMBLY

OF THE

State of Connecticut,

MAY SESSION, 1859.

STATE OF CONNECTICUT,

OFFICE OF THE SECRETARY OF STATE, JUNE, 1859.

HARTFORD:
DAY & CLARK, STATE PRINTERS.
1859.

EXHIBIT
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shall be forever precluded from claiming and showing that said taxes have not been paid, but it shall be taken as conclusively proved that said taxes have been paid. *Provided, however*, that in all cases where the selectmen of any town in this state have heretofore returned to the town clerk a list of the names of persons whose state or town taxes have been by them abated, and have neglected to subscribe their names thereto, the same shall not, by reason of such neglect, be thereby invalidated, and may be proved by any other proper evidence.

Omission of signatures of selectmen not to invalidate lists of abatements heretofore made.

SEC. 4. Any collector of taxes knowingly and designedly making a false certificate, and any selectman of any town knowingly and designedly making a false list of persons whose taxes shall be abated under this act, shall pay a fine not exceeding two hundred dollars; said offence to be a crime, and to be prosecuted and proceeded with like other criminal offences.

Penalty for making false certificate or list.

SEC. 5. The fifth section of the act to which this is an addition, and all acts and parts of acts inconsistent herewith, are hereby repealed.

Approved, June 24th, 1859.

CHAPTER LXXXII.

An Act in addition to and in alteration of "An Act for forming and conducting the Military Force."

Be it enacted by the Senate and House of Representatives in General Assembly convened:

SEC. 1. There shall be one parade annually, sometime in the month of May, for one day only, by company; also one parade annually, for one day only, by regiment or brigade, in the month of August or September, as the commanding officer of the division shall direct, with the approval of the commander-in-chief.

Parades.

SEC. 2. Chaplains, surgeons, paymasters, engineers and sergeant-majors, may appear on horseback only on days of general review; on all other occasions, they shall appear on foot.

What officers may appear on horseback, on days of general review, only.

SEC. 3. Every company that shall comply with the provisions of the military laws, shall be allowed, out of

Allowance for rent of armory and drill-room.

the state treasury, the sum of seventy-five dollars per annum, as rent for armory and drill-room, upon a certificate from the adjutant-general that such company is justly entitled to receive the same.

Allowance to governor's guards.

SEC. 4. Any company of governor's guards which shall do duty in accordance with the provisions of law, shall be allowed seventy-five dollars per annum for armory rent.

Temporary erections for sale of liquors or gaming, near parade ground, may be abated as nuisances.

SEC. 5. If any booth, shed, tent, or other temporary erection, within one mile of any military parade-ground, muster-field or encampment, shall be used and occupied for the sale of spirituous or intoxicating liquor, or for the purpose of gambling, the officer commanding said parade-ground, muster-field or encampment, the sheriff or deputy-sheriff of the county, or any justice of the peace, selectman, or constable of the town in which such booth, shed, tent, or other temporary erection is situated, upon having notice or knowledge that the same is so used or occupied, shall notify the owner or occupant thereof to vacate and close the same immediately; and, if said owner or occupant shall refuse or neglect so to do, said commanding officer, sheriff, deputy-sheriff, justice of the peace, selectman or constable, may forthwith abate such booth, shed, tent, or other such temporary erection, as a nuisance, and may pull down or otherwise destroy the same, with the assistance of any force, civil or military.

Board of officers may be appointed to prepare system of regulations.

SEC. 6. The commander-in-chief is hereby authorized to appoint a board of officers to prepare a system of general regulations for the government of the militia, for which services no compensation shall be claimed or allowed.

Quarter-master-general to inspect armories, gun houses, &c., annually.

SEC. 7. It shall be the duty of the quarter-master-general, annually, to inspect the armories and gun-houses of the several companies, and also the rooms occupied by the regimental bands; and, on or before the first day of November, to make to the adjutant-general a full report of the condition of the same, and what companies are entitled to the allowance for armory rent; for which services he shall be allowed the sum of nine cents for every mile of necessary travel.

Compensation.

Companies may adopt and enforce regulations, and by-laws.

SEC. 8. Each company may adopt, by a vote of two-thirds of its members, rules, regulations and by-laws for the government of its members, not inconsistent with the militia laws; and such rules, regulations and by-laws

shall be binding, and may be enforced by process of law; and any member who shall violate any such rule, regulation or by-law, may be expelled from his company by a major vote of the same, provided that such vote is approved by the commander of the regiment.

Compensation of assessors and collectors of commutation tax.

SEC. 9. Assessors of persons liable to pay the commutation tax, as provided in section nine of the act approved June 28, 1856, shall be allowed the sum of one cent for each person so assessed; and each collector of commutation taxes shall be allowed the sum of two cents for each tax actually collected and paid into the town treasury by him; and, if any assessor or collector shall refuse or neglect to perform the duty required by said act, he shall forfeit to the state not less than fifty nor more than one hundred dollars.

Penalty for neglect.

Second lieutenants required to attend officers' drill.

SEC. 10. Second lieutenants of companies are hereby required to attend the officers' drill, established by act approved June 29, 1855, and to comply with all laws relative thereto.

To take effect from passage.

SEC. 11. This act shall take effect from and after its passage; and section twenty-eight, of the act approved July 1, 1854,—section one, of the act approved June 28, 1856,—section one, section nine, of the act approved June 25, 1857,—and all other acts or parts of acts, inconsistent herewith, are hereby repealed. Section three, of the act approved June 29th, 1855, is hereby re-enacted.

Repeal.

Re-enactment of provision of 1855, for officers' drill.

Approved, June 24th, 1859.

CHAPTER LXXXIII.

An Act concerning Communities and Corporations.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Insurance companies to pay expense of recording returns to comptroller.

The secretaries or clerks of all stock fire and fire and marine insurance companies who are by law required to make returns to the comptroller, in the month of January of each year, shall, at the time of making said return, pay the expense of making the record of the same.

Approved, June 24th, 1859.

FOURTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

OF THE

CENTRAL PARK.

JANUARY, 1861.

EXHIBIT
15

NEW YORK:
WM. C. BRYANT & CO., PRINTERS, 41 NASSAU STREET, CORNER LIBERTY.
1861.

APPENDIX.

A.

ORDINANCES OF THE CENTRAL PARK.

The Board of Commissioners of the Central Park do ordain as follows:

All persons are forbidden—

To enter or leave the Park except by the gateways.

To climb or walk upon the wall.

To turn cattle, horses, goats, or swine into the Park.

To carry firearms or to throw stones or other missiles within it.

To cut, break, or in any way injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, or other constructions upon the Park;

Or to converse with, or in any way to hinder those engaged in its construction.

Two pounds are hereby established within the Central Park, for the impounding of horses, cattle, sheep, goats, dogs, swine, and geese found trespassing upon said Park. All such animals found at large upon the Park may be taken by any person or persons, and driven or carried to one of the said pounds, and may be kept enclosed therein during five days, at the end of which time, if not previously claimed, they may be sold at public auction; provided that within two days after they shall have been impounded, notice of the sale shall have been conspicuously posted in the pound.

Any person claiming property in such impounded animals before the day of sale, may recover the same after suitable proof of his or her right thereto, upon payment for each animal

PUBLIC GROUNDS APPROPRIATED

Act of Apr. 14, 1868, P.L. 1083, No. 1020 Cl. 11

A SUPPLEMENT

To an act, entitled "An Act appropriating ground for public purposes in the city of Philadelphia," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven.

Section 1. Boundaries of Park

The boundaries of the Fairmount Park in the City of Philadelphia shall be the following, to wit: Beginning at a point in the north-easterly line of property owned and occupied by the Reading Railroad Company, near the City Bridge over the river Schuylkill at the falls, where said north-easterly line would be intersected by the land dividing the property of H. Duhring from that of F. Stoever and T. Johnson, if the same were extended from thence in a south-westerly direction upon said dividing line, and its prolongation to the middle of the Ford Road, from thence by a line passing through the southeast corner of Forty-ninth and Lebanon Streets to George's Run; thence along the several courses of said run to a point fourteen hundred and eighty-seven and a half feet from the middle of the Pennsylvania Railroad, measured at right angles thereto; thence by a straight line through the northeast corner of Forty-Third and Hancock Streets, to the northerly side of Girard Avenue near Fortieth Street; thence by the said northerly line of Girard Avenue to the easterly side of the Junction Railroad as now used; thence by the said easterly side of the Junction Railroad and the Pennsylvania Railroad to the north side of Haverford Street; thence by the northerly side of said Haverford Street to the westerly side of Bridgewater Street; thence by said Bridgewater Street to the north line of Bridge Street; thence by said Bridge Street to the west abutment of the Suspension Bridge; hence by the northwesterly side of the Suspension Bridge and Callowhill Street to the angle in said street, on the southwesterly side of Fairmount Basin; thence by the northerly side of Callowhill and Biddle Streets to the westerly side of Twenty-fifth Street; thence by the said Twenty-fifth Street to the southwesterly side of Pennsylvania Avenue; thence by the southwesterly side of Pennsylvania Avenue to the west side of Twenty-third Street; thence along the westerly side of Twenty-third Street to the southwesterly line of Ridge Avenue; thence along the said Ridge Avenue to the southwesterly line of South Laurel Hill Cemetery (north of Huntingdon Street); thence by and along said property line to such a distance from the shore line of the River Schuylkill as will permit the location of a carriage road one hundred feet wide upon its margin; thence along said river shore and its several courses as may be most practicable, at the same distance as above specified (provided said distance shall not exceed one hundred and fifty feet), to a point opposite the intersection of the Ridge Turnpike and School Lane; thence northwardly to a point on the southwesterly side of said Turnpike Road opposite to the southeasterly side of said School Lane; thence by the southwesterly side of the Ridge Turnpike Road and its several courses to the southeasterly side of the Wissahickon Creek; thence by the several courses of the said southeasterly side of Wissahickon Creek to the Schuylkill River; thence across the watercourse of said river to the northeasterly line of the Reading Railroad Company's property as now occupied and in use, at the city boundary line; thence along said northeasterly line, as now occupied and used by said railroad company, to the place

EXHIBIT 16

of beginning, excepting, nevertheless, thereout the several water-works and their appurtenances, which are included within these boundaries, and such uses of the premises immediately adjacent to the same, and such other portions of the ground as are described in this section, as the City of Philadelphia may from time to time require for the purposes of its Water Department. 1868, April 14, P.L. 1083, Sec. 1; 1869, April 21, P.L. 1194, Sec. 8.

Section 2. Robert's Hollow Drive

There shall be laid out and constructed a road of easy and practicable grades, extending from the intersection of the northerly line of the park by Belmont Avenue on the westerly side of the River Schuylkill, to the head of Robert's Hollow, and thence along said hollow and the River Schuylkill to the foot of City Avenue, laid out with the ground contiguous thereto for ornamentation, of such width and so constructed as the Commissioners of Fairmount Park, appointed under authority of the act of the General Assembly of the Commonwealth, may determine. And such road and its contiguous ground are hereby declared to be a part of the aforesaid park; and the said park commissioners are hereby authorized and required to ascertain, by a proper survey, the limits thereof, which survey they shall file in the Survey Department of the City of Philadelphia.

It shall also be the duty of said park commissioners to appropriate the shores of the Wissahickon Creek, on both sides of the same from its mouth to the Paul's Mill Road, and of such width as may embrace the road now passing along the same; and may also protect the purity of the water of said creek, and by passing along the crest of the heights which are on either side of said creek, may preserve the beauty of its scenery. The said park commissioners are hereby authorized and required to cause a proper survey to be made of said grounds upon the Wissahickon, and to file said survey in the Survey Department of the City of Philadelphia, and the grounds and creek hereby appropriated are declared to be a part of Fairmount Park. 1868, April 14, P.L. 1083, Sec. 2.

Section 3. Title to Ground

The title to and ownership of the ground within said boundaries shall be vested in the City of Philadelphia, excepting therefrom so much as shall be required by the Schuylkill Navigation Company, the Philadelphia and Reading, the Junction and connecting railroad companies for the execution of their franchises, as now provided by law. 1868, April 14, P.L. 1083, Sec. 3.

Section 4. Release of Ground not Embraced in Boundaries

So much of the ground as was embraced in the act to which this is a supplement, approved the twenty-sixth day of March, one thousand eight hundred and sixty-seven, (Act of 1867, March 26, P.L. 547) and is not included in the above boundaries, is hereby released from all claim of title by the said city, with the same effect as if it had never been included. 1868, April 14, P.L. 1083, Sec. 4.

Section 5. Grounds Subject to Control of Commissioners; Comepnsation

All the grounds taken within the boundaries of the Fairmount Park by the first section of this act shall be subject to all the powers and control given, by the act (Act of 1867, March 26, P.L. 547) to which this is a supplement, to the City of Philadelphia and the park commissioners designated by or appointed under said act; and the owners of all ground taken for the park, and others interested therein, shall be

compensated as in said act is directed and provided. 1868, April 14, P.L. 1083, Sec. 5.

Section 6. Vacation and Opening of Roads and Streets

The said commissioners shall have power and authority, from time to time, to vacate any street or road within the boundaries of the park (excepting Girard Avenue), and to open for public use such other roads, avenues and streets therein as they deem necessary. 1868, April 14, P.L. 1083, Sec. 6.

Section 8. Footways on Boundary Streets

The jurisdiction of the commissioners of the park shall extend to the breadth of the footway next the park, in all avenues or streets which shall bound upon the park, and they shall direct the manner in which such footways shall be laid out, curbed, paved, planted and ornamented; which footways shall not be less than twenty feet in width on any avenue or street of the width of one hundred feet, and of like proportion upon any street or avenue of a greater or less width, unless otherwise directed by the commissioners. 1868, April 14, P.L. 1083, Sec. 8.

Section 9. Compensation for Buildings; Removal of Buildings, etc.; Taking Possession

The said park commissioners or jury, who shall assess the compensation to the owners for the ground taken, shall ascertain and make compensation for buildings as well as the ground taken; but all buildings and machinery and fixtures not required by the Park Commission shall be removed by the owners thereof whenever payment of the compensation awarded them shall be made or tendered to them, and upon such payment or tender the park commissioners shall forthwith take possession of the premises.

If any owner or lessee of ground taken cannot be found, notice of the taking and valuation of his land shall be given by advertisement in two daily papers published in Philadelphia six times, and in the Legal Intelligencer twice, and the amount awarded in such case to the owner or lessee shall remain in the City Treasury until such owner shall produce the decree of the court having jurisdiction in the premises, ordering the said moneys to be paid to him or his legal representatives. 1868, April 14, P.L. 1083, Sec. 9.

Section 10. Rrports of Commissioners and Jury; Duration of Jury's Powers; Appointment for One or More Cases; Payment of Valuation

The said commissioners and jury may make partial or special reports from time to time to the court as they may be ready to do so, and the court may act upon such reports separately, and the powers of the jury shall continue, unless limited by the court or they be required by the court to make report, until they shall have reported on all the cases on which they have been appointed, although a term or terms of the courts shall have intervened; and jurors, not to exceed six in number, may be appointed upon one or more cases according to the order of the court made; and whenever any report of the said commissioners or of the jury shall have been confirmed by the court, the valuation made shall be forthwith payable by the City of Philadelphia. 1868, April 14, P.L. 1083, Sec. 10.

Section 11. Loans for Purposes of Park

The City of Philadelphia shall be authorized and required to raise by loans, from time to time, such sums of money as shall be necessary to make compensation for all grounds heretofore taken or to be taken for said Fairmount Park, and for the laying out and construction thereof for public use; for the permanent care and improvement thereof, and for all culverts and other means for preserving the Schuylkill water pure for

the use of the citizens of said city, and shall annually assess taxes for keeping in repair and good order the said park; and shall also provide for the payment of the interest on all said loans, and the usual sinking fund for the redemption thereof. 1868, April 14, P.L. 1083, Sec. 11.

Section 12. Officers and Employees

The said park commissioners shall, from time to time, appoint such officers, agents, and subordinates as they may deem necessary, for the purposes of this act and the act (Act of 1867, March 26, P.L. 547) to which this a supplement; and they shall prescribe the duties and the compensation to be paid them. 1868, April 14, P.L. 1083, Sec. 12.

Section 13. Acquisition and Sale of Lands

It shall be lawful for said park commissioners to acquire title to the whole of any tract of land, part of which shall fall within the boundaries mentioned in the first section of this act, and to take conveyance thereof in the name of the City of Philadelphia; and such part thereof as shall lie beyond or without the said park limits, again to sell and convey in absolute fee-simple to any purchaser or purchasers thereof, by deeds to be signed by the mayor, under the seal of the city, to be affixed by direction of councils, either for cash, or part cash and part to be secured by bond and mortgage to the city, paying all cash into the City Treasury. Provided, That the proceeds of such sales shall be paid into the Sinking Fund for the redemption of the loan created under the provisions of this act: Provided also, That no commissioner, nor any officer under the Park Commission, shall in anywise be directly interested in any such sale of lands by the commissioners as aforesaid; and if any commissioner or officer aforesaid shall act in violation of this proviso, he shall, if a commissioner, be subject to expulsion; if an officer, to be discharged by a majority of the votes of the Board of Park Commissioners, after an opportunity afforded of explanation and defense. 1868, April 14, P.L. 1083, Sec. 13; 1870, Jan. 27, P.L. 93, Sec. 2.

Section 14. Annual Report

The said board of commissioners shall annually hereafter, in the month of December, make to the Mayor of the City of Philadelphia a report of their proceedings, and a statement of their expenditures for the preceding year. 1868, April 14, P.L. 1083, Sec. 14.

Section 15. Leases of Houses and Buildings

The said park commissioners shall have exclusive power to lease from year to year all houses and buildings within the park limits, which may be let without prejudice to the interests and purposes of the park by leases to be signed by their president and secretary, and to collect the rents and pay them into the City Treasury. 1868, April 14, P.L. 1083, Sec. 15.

Section 16. Club Houses and Zoological and Other Buildings

All houses and buildings now built or to be built on any part of the park grounds, by or for boat or skating clubs, or zoological or other purposes, shall be taken to have rights subordinate to the public purposes intended to be subserved by acquiring and laying out the park, and shall be subject to the regulations of said park commissioners under licenses, which shall be approved by the commission and signed by the president and secretary, and will subject them to their supervision and to removal or surrender to the city whensoever the said commissioners may require. 1868, April 14, P.L. 1083, Sec. 16.

Section 17. Acceptance of Devises, Bequests and Donations

The said park commissioners shall have power to accept, in the name and behalf of the City of Philadelphia devises,

bequests and donations of lands, moneys, objects of art and natural history, maps and books, or other things, upon such trusts as may be prescribed by the testator or donor: Provided, Such trusts be satisfactory to the commission and compatible with the purposes of said park. 1868, April 14, P.L. 1083, Sec. 17.

Section 18. Creation of Debts and Obligations

None of the park commissioners nor any person employed by them shall have power to create any debt or obligation to bind said Board of Commissioners, except by the express authority of the said commissioners at a meeting duly convened. 1868, April 14, P.L. 1083, Sec. 18.

Section 19. Government and Management of Park; Improvements; Repressing Disorders

The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements, therein, and to repress all disorders therein under the provisions hereinafter contained. 1868, April 14, P.L. 1083, Sec. 19.

Section 20. Licensing of Passenger Railways

The said park commissioners shall have authority to license the laying down and the use for a term of years from time to time of such passenger railways as they may think will comport with the use and enjoyment of the said park by the public, upon such terms as said commissioners may agree, all emoluments from which shall be paid into the City Treasury. 1868, April 14, P.L. 1083, Sec. 20.

Section 21. Park to be Under Regulations Specified and Such Others as may be Established

The said park shall be under the following rules and regulations, and such others as the park commissioners may from time to time ordain:

1. No person shall turn cattle, goats, swine, horses, or other animals, loose into the park.

2. No person shall carry fire-arms, or shoot birds, in the park, or within fifty yards thereof, or throw stones or other missiles therein.

3. No one shall cut, break, or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, structures, or statuary, or foul any fountains or springs within the park.

4. No person shall drive or ride therein at a rate exceeding seven miles an hour.

5. No one shall ride or drive therein upon any other than upon the avenues and roads.

6. No coach or vehicle, used for hire, shall stand upon any part of the park for the purpose of hire, nor except in waiting for persons taken by it into the park, unless in either case at points designated by the commission.

7. No wagon, or vehicle of burden or traffic, shall pass through the park except upon such road or avenue as shall be designated by the park commissioners for burden transportation.

8. No street railroad car shall come within the lines of the park without the license of the Park Commission.

9. No person shall expose any article for sale within the park without the previous license of the Park Commission.

10. No person shall take ice from the Schuylkill within the park without the license of the said commission first had, upon such terms as they may think proper.

11. No threatening, abusive, insulting or indecent language shall be allowed in the park.

12. No gaming shall be allowed therein, nor any obscene or indecent act therein.

13. No person shall go in to bathe within the park.

14. No person shall fish, or disturb the water-fowl in the pool, or any pond, or birds in any part of the park, nor discharge any fireworks therein, nor affix any bills or notices therein.

15. No person shall have any musical, theatrical or other entertainment therein without the license of the park commissioners.

16. No person shall enter or leave the park except by such gates or avenues as may be for such purposes arranged.

17. No gathering or meeting of any kind, assembled through advertisements, shall be permitted in the park without the previous permission of the commission; nor shall any gathering or meeting for political purposes in the park be permitted under any circumstances.

18. No intoxicating liquors shall be allowed to be sold within said park. 1868, April 14, P.L. 1083, Sec. 21.

Section 22. Compensation for Licenses

If said park commissioners should license the taking of ice in said park, or the entry of any street railroad car therein, or articles for sale, or musical entertainments, it may be with such compensation as they may think proper, to be paid into the City Treasury.

Any person who shall violate any of said rules and regulations, and any others which shall be ordained by the said park commissioners, for the government of said park, not inconsistent with this act, or the laws and Constitutions of this State and the United States---the power to ordain which rules and regulations is hereby expressly given to said commissioners---shall be guilty of a misdemeanor, and shall pay such fine as may be prescribed by said park commissioners, not to exceed five dollars for each and every violation thereof, to be recovered before any alderman of said city, as debts of that amount are recoverable, which fines shall be paid into the City Treasury.

Any person violating any of said rules and regulations shall be further liable to the full extent of any damage by him or her committed, in trespass or other action; and any tenant or licensed party who shall violate the said rules, or any of them, or consent to or permit the same to be violated on his, or her, or their premises, shall forfeit his, or her, or their lease or license, and shall be liable to be forthwith removed by a vote of the Park Commission; and every lease and license shall contain a clause making it cause of forfeiture thereof for the lessee or party licensed to violate or permit or suffer any violation of said rules and regulations or any of them.

It shall be the duty of the police appointed to duty in the park, without warrant, forthwith to arrest any offender against the preceding rules and regulations, whom they may detect in the commission of such offence, and to take the persons so arrested forth with before a magistrate having competent jurisdiction. 1868, April 14, P.L. 1083, Sec. 22.

Section 23. Disposition and Use of Moneys Received

All rents, license charges and fees, all fines, proceeds of all sales, except of lands purchased, and profits of whatsoever kind, to be collected, received, or howsoever realized, shall be paid into the City Treasury as a fund to be exclusively appropriated by councils for park purposes, under the direction

of said commission: Provided, That moneys or property given or bequeathed to the park commissioners upon specified trusts shall be received and receipted for by their treasurer, and held and applied according to the trusts specified. 1868, April 14, P.L. 1083, Sec. 23.

Section 24. Widening and Straightening Approaches

The councils of the City of Philadelphia be and they are hereby authorized to widen and straighten any street laid upon the public plans of said city, as they may think requisite to improve the approaches to Fairmount Park. 1868, April 14, P.L. 1083, Sec. 24.

Section 26. Proceedings to Assess Damages

The damages for ground and property taken for the purpose of this act shall be ascertained, adjusted and assessed in like manner as is prescribed by the act (Act of 1867, March 26, P.L. 547) to which this is a supplement. 1868, April 14, P.L. 1083, Sec. 26.

Section 27. Park Police

The said park commissioners shall employ, equip, and pay a park force, adequate to maintain good order therein and in all houses thereupon; which force shall be subject to the orders of the mayor upon any emergency; and so far as said force shall consist of others than the hands employed to labor in the park, it shall be appointed and controlled as the other police of the city. 1868, April 14, P.L. 1083, Sec. 27.

Section 28. Solicitor

There shall be appointed by the commissioners of Fairmount Park, a solicitor, whose duty it shall be under their direction to attend to the assessment of damages, and to such other business of a legal nature connected with the park as the commissioners may require; he shall receive during the present year and hereafter, until otherwise ordered by councils, the same compensation as is now provided for the assistant solicitor named in the said twenty-eighth section. (Act of 1868, April 14, P.L. 1083, Sec. 28, repealed.) 1870, Jan. 27, P.L. 93, Sec. 5.

ACTS

OF THE

STATE OF TENNESSEE,

PASSED BY THE FIRST SESSION OF

THE THIRTY-SIXTH GENERAL ASSEMBLY

FOR THE YEARS 1869-70.

PUBLISHED BY AUTHORITY.

NASHVILLE, TENN.:
JONES, PURVIS & CO., PRINTERS TO THE STATE.
1870.

EXHIBIT
17

CHAPTER XXI.

AN ACT to Amend An Act, passed on the 13th of March, 1868, entitled "An Act to amend the revenue laws of the State."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That An Act to amend the revenue laws of the State, passed on the 13th day of March, 1868, be so amended as to impose a tax of fifty cents on each room except two in a hotel or tavern, and a tax of fifty cents on each stall in a livery stable, or stable kept by hotel or tavern keepers, instead of one dollar, as now imposed by law. Hotels and Livery Stable

SEC. 2. *Be it further enacted*, That this Act take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representives.
D. B. THOMAS,
Speaker of the Senate.

Passed November 27, 1869.

CHAPTER XXII.

AN ACT to Amend the Criminal Laws of the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all voters in this State shall be required to vote in the civil district or ward in which they may reside. Any person violating this Act shall be guilty of a misdemeanor, and upon conviction thereof shall not be fined less than twenty nor more than fifty dollars; *Provided*, that sheriffs and other officers holding elections shall be permitted to vote at any ward or precinct in which they may hold an election. To vote in Civil District or Ward.

SEC. 2. *Be it further enacted*, That it shall not be lawful for any qualified voter or other person attending any election in this State, or for any person attending any fair, race course, or other public assembly of the people, to carry about his person, concealed or otherwise, any pistol, dirk, bowie-knife, Arkansas tooth-pick, or weapon in form, shape Deadly Weapons.

or size, resembling a bowie-knife, or Arkansas tooth-pick, or other deadly or dangerous weapon.

Penalty. SEC. 3. *Be it further enacted*, That all persons convicted under the second section of this Act shall he punished by fine of not less than fifty dollars, and by imprisonment, or both, at the discretion of the Court.

Liquor Shops. SEC. 4. *Be it further enacted*, That no liquor shop in this State, shall be kept open on election days, nor shall any person, on said days, give or sell intoxicating liquors to any person for any purpose at or near an election ground.

Grand Juries. SEC. 5. *Be it further enacted*, That the grand juries of this State shall have inquisitorial powers concerning the commission of the offenses created by these Acts, and may send for witnesses, as in cases of gaming, illegal voting, tippling and offenses now prescribed by law.

Judges. SEC. 6. *Be it further enacted*, That it shall be the duty of the Circuit and Criminal Judges of this State to give the above in special charge to the several grand juries of the courts.

Proviso. SEC. 7. *Be it further enacted*, That there shall be no property exempt from execution for fines and costs for this offense; *Provided*, That, if from any cause, there should be a failure to hold an election in any civil district or ward, then nothing in this Act shall be so construed as to prevent any voter from voting in any other civil district or ward in his county or town, for State or county officers, at the time prescribed by law.

SEC. 8. *Be it further enacted*, That this Act shall take effect from and after its passage.

W. O'N. PERKINS.
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Passed December 1, 1869.

ACTS AND RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF GEORGIA,

PASSED IN ATLANTA, GEORGIA,

AT THE

SESSION OF 1870.

COMPILED AND PUBLISHED BY AUTHORITY.

ATLANTA, GEORGIA:
PRINTED BY THE PUBLIC PRINTER.
1870.

EXHIBIT
18

To preserve the peace and harmony of the people of this State, etc.

TITLE XVI.

PENAL CODE—AMENDMENTS TO.

(No. 285.)

An Act to preserve the peace and harmony of the people of this State, and for other purposes.

SECTION 1. *Be it enacted, etc.*, That, from and immediately after the passage of this act, no person in said State of Georgia be permitted or allowed to carry about his or her person any dirk, bowie-knife, pistol or revolver, or any kind of deadly weapon, to any court of justice, or any election ground or precinct, or any place of public worship, or any other public gathering in this State, except militia muster-grounds. Carrying deadly weapons to certain places prohibited. Exception.

SEC. 2. *Be it further enacted*, That if any person or persons shall violate any portion of the above recited section of this act, he, she or they shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the court. Violation a misdemeanor—penalty

SEC. 3. All laws and parts of laws militating against this act are hereby repealed.

Approved October 18, 1870.

(No. 286.)

An Act to alter and amend section 4245 of Irwin's Revised Code, by striking out of said section the words "to work in a chain-gang on the public works," and for other purposes.

SECTION 1. *Be it enacted, etc.*, That the words "to work in a chain-gang on the public works," which occur in fourth and fifth lines of section 4245 of Irwin's Code, be, and the same are hereby, Chain-gang punishment prohibited.

To repeal Section 415 of the Revised Code.

stricken from said section, and chain-gangs shall no longer exist, or be tolerated in the State of Georgia, for persons convicted of misdemeanors.

SEC. 2. *Be it further enacted*, That said section be further amended, by substituting for the words herein stricken out, the words "to work on the city or town streets, or county roads, not longer than six months; but in no case shall such prisoners be chained or otherwise confined in a gang, but shall be guarded."

Punishment in lieu of chain-gang.

SEC. 3. *Be it further enacted*, That all laws and parts of laws in conflict with this act be, and they are hereby, repealed.

Approved October 27, 1870.

(No. 287.)

An Act to repeal section four hundred and fifteen (415) *of Irwin's Revised Code, in relation to entering nolle prosequis, and to prescribe the mode of settlement in criminal cases.*

SECTION 1. *Be it enacted, etc.*, That section four hundred and fifteen (415) of Irwin's Revised Code of Georgia, which said section authorizes Solicitors-General in this State to enter a *nolle prosequi* on indictments, be, and the same is hereby repealed, and no *nolle prosequi* shall be allowed, except it be in open court, for some fatal defect in the bill of indictment, to be judged of by the court, in which case the presiding Judge shall order another bill of indictment to be forthwith submitted to the grand jury.

Section 415 of Code, as to *nolle prosequi*, repealed.

Judge shall order second bill.

SEC. 2. *And be it further enacted by the authority aforesaid*, That all cases of indictments, or special presentments, shall be submitted to and passed upon by the jury, under the direction of the presiding Judge, unless there is a settlement thereof between the prosecutor and defendant, which settlement shall be good and valid only by the approval and order of the court on examination into the merits of the case.

All indictments submitted to jury.

Settlement—when good.

SEC. 3. *And be it further enacted, etc.*, That all laws and parts of laws conflicting with this act be, and the same are hereby, repealed.

Approved October 28, 1870.

No. 100.] AN ACT

To regulate the conduct and to maintain the freedom and purity of elections; to prescribe the mode of making, and designate the officers who shall make the returns thereof; to prevent fraud, violence, intimidation, riot, tumult, bribery or corruption at elections or at any registration or revision of registration; to limit the powers and duties of the sheriffs of the parishes of Orleans and Jefferson; to prescribe the powers and duties of the Board and officers of the Metropolitan Police in reference to elections; to prescribe the mode of entering on the rolls of the Senate and House of Representatives the names of members; to empower the Governor to preserve peace and order, to enforce the laws; to limit the powers and duties of the Mayors of the cities of New Orleans and Jefferson with regard to elections; to prohibit District or Parish Judges from issuing certain writs to Commissioners of Election; to make an appropriation for the expenses of the next revision of the registration and of the next election; and to enforce article one hundred and three of the constitution.

Time of holding elections.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened*, That all elections for State, parish and judicial officers, members of the General Assembly, and for members of Congress shall be held on the first Monday in November, and said elections shall be styled the general elections.

They shall be held in the manner and form, and subject to the regulations hereinafter prescribed, and no other.

Elections for representatives in the General Assembly.

SEC. 2. *Be it further enacted, etc.*, That elections for Representatives in the General Assembly shall be held on the first Monday of November, one thousand eight hundred and seventy, and every two (2) years thereafter; and all elections to supply the place of Senators in the General Assembly, whose terms of service shall have expired, shall be held at the same time as herein provided for the election of Representatives.

Elections for State Senators.

When held.

SEC. 3. *Be it further enacted, etc.*, That all elections shall be held in each parish at the several election polls or voting places to be established as is hereinafter prescribed.

When completed—polls open.

SEC. 4. *Be it further enacted, etc.*, That all elections shall be completed in one day, and the polls shall be kept open at each poll or voting place, from the hour of six in the morning until six o'clock in the afternoon.

Election precincts.

Voting places.

SEC. 5. *Be it further enacted, etc.*, That each parish in this State, except the parishes of Orleans and Jefferson, is hereby fixed as an election precinct, and the supervisor of registration in each of said parishes shall direct what number of polls or voting places shall be established in each precinct, fix the places of holding the election, and appoint commissioners of election for each poll or voting place. In the city of New Orleans, each ward shall constitute a precinct, and in the remaining part of the parish of Orleans, the supervisor of registration for the said parish shall fix both the precincts and voting places in each precinct, and in the parish of Jefferson, the supervisor of registration shall fix both the precincts and the voting places in each precinct; in the parishes of Orleans and Jefferson the supervisor of registration of each parish shall appoint commissioners of election therefor, as in the other parishes. Any duly registered voter may vote at any poll or voting place within his precinct.

Commissioners of election.

SEC. 6. *Be it further enacted, etc.*, That the elections at each poll or voting place shall be presided over by three commissioners of election, residents of the parish, who shall be able to read and write, to be appointed by the supervisor of registration for the parish,

EXHIBIT 19

mechanic any part of the wages due to such laborer, employe, tenant or mechanic, on account of any vote which such laborer, employe, tenant or mechanic has given or purposes to give, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than five hundred dollars, one-half of which shall go to the school fund of the parish in which the offense was committed, and by imprisonment in the parish prison for not less than three months.

Interference with commissioners, etc.

SEC. 69. *Be it further enacted, etc.*, That any person who shall molest, disturb, interfere with, or threaten with violence, any commissioner of election or person in charge of the ballot boxes, while in charge of the same, between the time of the close of the polls and the time that said ballot boxes are delivered to the supervisor of registration, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars, or by imprisonment in the penitentiary not less than one year, or both, at the discretion of the court.

Disturbing the counting of ballots.

SEC. 70. *Be it further enacted, etc.*, That any person not authorized by this law to receive or count the ballots at an election, who shall, during or after any election, and before the votes have been counted by the supervisors of registration, disturb, displace, conceal, destroy, handle or touch any ballot, after the same has been received from the voter by a commissioner of election, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars, or by imprisonment for not less than six months, or both, at the discretion of the court.

Interference with ballot boxes.

SEC. 71. *Be it further enacted, etc.*, That any person not authorized by this law to take charge of the ballot boxes at the close of the election who shall take, receive, conceal, displace or [in] any manner handle or disturb any ballot box at any time between the hour of the closing of the polls and the transmission of the ballot box to the supervisor of registration, or during such transmission, or at any time prior to the counting of the votes by the supervisor of registration, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars, or by imprisonment in the penitentiary not less than one year, or both, at the discretion of the court.

Interference with free exercise of right of suffrage.

SEC. 72. *Be it further enacted, etc.*, That if any person shall by bribery, menace, willful falsehood, or other corrupt means, directly or indirectly attempt to influence any elector of this State in the giving his vote or ballot, or to induce him to withhold the same, or disturb or hinder him in the free exercise of the right of suffrage at any election in this State, he shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five hundred dollars, and be imprisoned in the parish prison for a term not exceeding six months, and shall also be ineligible to any office in the State for the term of two years.

Weapons.

SEC. 73. *Be it further enacted, etc.*, That it shall be unlawful for any person to carry any gun, pistol, bowie knife or other dangerous weapon, concealed or unconcealed, on any day of election during the hours the polls are open, or on any day of registration or revision of registration, within a distance of one-half mile of any place of registration or revision of registration; any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than one hundred dol-

lars, and by imprisonment in the parish jail for not less than one month; provided, that the provisions of this section shall not apply to any commissioner or officer of the election or supervisor or assistant supervisor of registration, police officer or other person authorized to preserve the peace on days of registration or election.

Liquors.

SEC. 74. *Be it further enacted, etc.*, That no person shall give, sell or barter any spirituous or intoxicating liquors to any person on the day of election, and any person found guilty of violating the provisions of this section shall be fined in a sum of not less than one hundred dollars, nor more than three hundred dollars, which shall go to the school fund.

Corruptly voting.

SEC. 75. *Be it further enacted, etc.*, That whoever, knowing that he is not a qualified elector, shall vote or attempt to vote at any election, shall be fined in a sum not to exceed one hundred dollars, to be recovered by prosecution before any court of competent jurisdiction.

Double vote.

SEC. 76. *Be it further enacted, etc.*, That whoever shall knowingly give or vote two or more ballots folded as one at any election, shall be fined in a sum not to exceed one hundred dollars, to be recovered by prosecution before any court of competent jurisdiction.

Bribery to influence voters.

SEC. 77. *Be it further enacted, etc.*, That whoever, by bribery or by a promise to give employment or higher wages to any person, attempts to influence any voter at any election, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, and by imprisonment in the parish prison for not less than three months.

Obtaining illegal voting.

SEC. 78. *Be it further enacted, etc.*, That whoever willfully aids or abets any one, not legally qualified, to vote or attempt to vote at any election, shall be fined in a sum of not less than fifty dollars, to be recovered by prosecution before any court of competent jurisdiction.

Disorderly houses.

SEC. 79. *Be it further enacted, etc.*, That whoever is disorderly at any poll or voting place during an election, shall be fined in a sum not less than twenty dollars, to be recovered by prosecution before any court of competent jurisdiction.

Meetings of citizens.

SEC. 80. *Be it further enacted, etc.*, That whoever shall molest, interrupt or disturb any meeting of citizens assembled to transact or discuss political matters, shall be fined in a sum not less than fifty dollars, to be recovered by prosecution before any court of competent jurisdiction.

Any sheriff, constable or police officer present at the violation of this section shall forthwith arrest the offender or offenders, and convey him or them, as soon as practicable, before the proper court.

Imprisonment.

SEC. 81. *Be it further enacted, etc.*, That the court imposing any fine, as directed in sections seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine and eighty of this act, shall commit the person so fined to the parish prison until the fine is paid; *Provided*, That said imprisonment shall not exceed six months.

Perjury.

SEC. 82. *Be it further enacted, etc.*, That in cases where any oath or affirmation shall be administered by any supervisor of registration, assistant supervisor of registration or commissioner of election, in the performance of his duty as prescribed by law, any person swearing or affirming falsely in the premises shall be deemed guilty of perjury, and subjected to the penalties provided by the law for perjury.

Duty of Governor to insure peace.

SEC. 83. *Be it further enacted, etc.*, That the Governor shall take all necessary steps to secure a fair, free and peaceable election; and shall, on the days of election, have paramount charge and con-

trol of the peace and order of the State, over all peace and police officers, and shall have the command and direction in chief of all police officers, by whomsoever appointed, and of all sheriffs and constables in their capacity as officers of the peace.

SEC. 84. *Be it further enacted, etc.* That to defray the expenses of the next revision of registration, and of the next general election, there is hereby appropriated out of any funds in the treasury not otherwise appropriated, the sum of fifty thousand dollars ($50,000), or so much thereof as may be necessary. Expenses

SEC. 85. *Be it further enacted, etc.*, That all laws or parts of laws contrary to the provisions of this act, and all laws relating to the same subject matter are hereby repealed, and that this act shall take effect from and after its passage. Repeal.

(Signed) MORTIMER CARR,
Speaker of the House of Representatives.

(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.

Approved March 16, 1870.

(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.

A true copy:

GEO. E. BOVEE,
Secretary of State.

[No. 101.] AN ACT

To define and regulate the cost of the Clerks, Sheriffs, Recorders and Notaries Public throughout the State of Louisiana, and providing forfeitures and penalties for overcharging or failing to perform their duties, and the mode of collecting their fees.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened*, That the clerks of the district courts throughout the State shall be entitled to demand and receive the following fees of office, and no more; and they shall not be entitled to charge any other fees of office than those specially set forth therein, for any services as clerks which they may be required to render: Fees of clerks.

For indorsing, registering and filing petition, for all, ten cents.

For indorsing, registering and filing answer, for all, ten cents.

For issuing citation, with copy of same, with certificate and seal on each, fifty cents, one charge for both.

For issuing attachment, with copy of same, with certificates and seals on both, one dollar, one charge for both.

For issuing *fieri facias*, with seal, fifty cents.

For issuing writ of seizure and sale, with seal, one dollar.

For issuing writ of sequestration, with copy of same, with certificates and seals, one dollar, one charge for both.

For issuing writ of *certiorari*, with copy of same, with certificates and seals, one dollar, one charge for both.

ACTS OF ASSEMBLY

RELATING TO

FAIRMOUNT PARK.

PHILADELPHIA:
KING & BAIRD, PRINTERS, No. 607 SANSOM STREET.
1870.

EXHIBIT
20

A SUPPLEMENT

To an Act, entitled "An Act appropriating ground for public purposes, in the City of Philadelphia," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That the boundaries of the Fairmount Park in the City of Philadelphia shall be the following, to wit: Beginning at a point in the northeasterly line of property owned and occupied by the Reading Railroad Company, near the City bridge over the river Schuylkill at the Falls, where said northeasterly line* [is intersected by the line dividing property of H. Duhring from that of F. Stoever and T. Johnson; extending] from thence in a southwesterly direction upon said dividing line and its prolongation to the middle of the Ford road; from thence by a line passing through the southeast corner of Forty-ninth and Lebanon streets to George's run; thence along the several courses of said run to a point fourteen hundred and eighty-seven and a half feet from the middle of the Pennsylvania Railroad, measured at right angles thereto; thence by a straight line through the northeast corner of Forty-third and Hancock

* Amended by Act of April 21, 1869, Sec. 8, page 27.

SECT. 19. The said Park Commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair; and to construct all proper bridges, buildings, railways, and other improvements therein, and to repress all disorders therein under the provisions hereinafter contained.

SECT. 20. That the said Park Commissioners shall have authority to license the laying down, and the use for a term of years, from time to time, of such passenger railways as they may think will comport with the use and enjoyment of the said Park by the public, upon such terms as said Commissioners may agree; all emoluments from which shall be paid into the City Treasury.

SECT. 21. The said Park shall be under the following rules and regulations, and such others as the Park Commissioners may from time to time ordain:

I. No persons shall turn cattle, goats, swine or horses or other animals loose into the Park.

II. No persons shall carry fire-arms, or shoot birds in the Park, or within fifty yards thereof, or throw stones or other missiles therein.

III. No one shall cut, break, or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, structures or statuary, or foul any fountains or springs within the Park.

IV. No person shall drive or ride therein at a rate exceeding seven miles an hour.

V. No one shall ride or drive therein, upon any other than upon the avenues and roads.

VI. No coach or vehicle used for hire, shall stand upon any part of the Park for the purpose of hire, nor except in waiting for persons taken by it into the Park, unless in either case at points designated by the Commission.

VII. No wagon or vehicle of burden or traffic shall pass through the Park, except upon such road or avenue as shall be designated by the Park Commissioners for burden transportation.

VIII. No street railroad car shall come within the lines of the Park without the license of the Park Commission.

IX. No person shall expose any article for sale within the Park without the previous license of the Park Commission.

X. No person shall take ice from the Schuylkill within the Park without the license of the said Commission first had, upon such terms as they may think proper.

XI. No threatening, abusive, insulting, or indecent language shall be allowed in the Park.

XII. No gaming shall be allowed therein, nor any obscene or indecent act therein.

XIII. No person shall go in to bathe within the Park.

XIV. No person shall fish or disturb the water-fowl in the pool, or any pond, or birds in any part of the Park, nor discharge any fire-works therein, nor affix any bills or notices therein.

XV. No person shall have any musical, theatrical, or other entertainment therein, without the license of the Park Commissioners.

XVI. No person shall enter or leave the Park except by such gates or avenues as may be for such purpose arranged.

XVII. No gathering or meeting of any kind, assembled through advertisement, shall be permitted in the Park without the previous permission of the Commission; nor shall any gathering or meeting for political purposes in the Park be permitted under any circumstances.

XVIII. That no intoxicating liquors shall be allowed to be sold within said Park.

SECT. 22. Any person who shall violate any of said rules and regulations, and any others which shall be ordained by the said Park Commissioners, for the government of said Park, not inconsistent with this act, or the laws and constitutions of this State and United States—the power to ordain which rules and regulations is hereby expressly given to said Commissioners

force shall be subject to the orders of the Mayor upon any emergency; and so far as said force shall consist of others than the hands employed to labor in the Park, it shall be appointed and controlled as the other police of the City.

SECT. 28. [There shall be an additional assistant appointed by the City Solicitor, whose duty it shall be, under the direction of the City Solicitor, to attend to the assessments of damages, and to such other business of a legal nature connected with the Park as said Commissioners may require.]*

Approved April 14, 1868.

* Repealed by the 5th section of the Act of January 27, 1870, page 30.

GENERAL LAWS

OF THE

TWELFTH LEGISLATURE,

OF THE

STATE OF TEXAS.

CALLED SESSION.

BY AUTHORITY.

AUSTIN:
PRINTED BY TRACY, SIEMERING & CO.
1870.

EXHIBIT
21

CHAPTER XLVI.

AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That if any person shall go into any church or religious assembly, any school room or other place where persons are assembled for educational, literary or scientific purposes, or into a ball room, social party or other social gathering composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this State are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk or butcher-knife, or fire-arms, whether known as a six shooter, gun or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the court or jury trying the same; provided, that nothing contained in this section shall apply to locations subject to Indian depredations; and provided further, that this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.

SEC. 2. That this act take effect and be in force in sixty days from the passage thereof.

Approved August 12, 1870.

CHAPTER XLVII.

AN ACT AUTHORIZING THE GOVERNOR TO ORDER AN ELECTION TO BE HELD IN HILL COUNTY FOR THE PERMANENT LOCATION OF THEIR COUNTY SEAT.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the Governor of the State of Texas be, and is hereby authorized to order an election to be held in the county of Hill, on the second Monday in September, A. D. 1870, (or as soon thereafter as possible), for the permanent location of the county seat of the

county of Hill; said election shall be held at such places and under such rules and regulations as the Governor may prescribe.

SEC. 2. That the returns of said election shall be made to the Secretary of State, within twenty days after said election shall have been held, and the town receiving two-thirds of the votes cast shall be the permanent county seat of the county of Hill, but should no place receive two-thirds of the votes cast, the present county seat shall remain the permanent one.

SEC. 3. That the Governor shall, within twenty days after the returns of said election shall have been received, notify the Police Court of the county of Hill of the result of said election.

SEC. 4. That this act be in force from and after passage.

Approved August 12, 1870.

CHAPTER XLVIII.

AN ACT MAKING APPROPRIATIONS FOR THE PAYMENT OF THE EXPENSES OF MAINTAINING RANGING COMPANIES ON THE FRONTIER.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That the sum of seven hundred and fifty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any moneys in the State Treasury (derived from the sale or hypothecation of the bonds of the State issued for frontier protection), for the purpose of paying all expenses connected with the organization, arming and maintenance of the ranging companies on the frontier, called into service under the provisions of the act approved June 18, 1870.

SEC. 2. That this appropriation shall be expended under the direction of the Governor; and the Comptroller of Public Accounts shall, under the special direction of the Governor, audit all claims and accounts incurred for the purposes hereinbefore mentioned, and shall draw his warrant on the Treasurer for the payment of the same.

SEC. 3. That this act shall take effect from and after its passage.

Approved August 12, 1870.

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dred and forty-five, chapter three hundred and ten, the Maryland Tract Society was incorporated with a provision that the said act should inure for thirty years from the date of its passage, and it is therefore necessary that the corporate franchises, granted by the said act, should be renewed and extended in order to promote and continue the beneficent purposes of said corporation; therefore—

Renewed and extended

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That the corporate franchises granted by the said act of Assembly, entitled "an act to incorporate the Maryland Tract Society," passed at December session, eighteen hundred and forty-five, chapter three hundred and ten, be and the same are hereby renewed and extended without any limitation as to the duration of said corporation; provided, however, that the said General Assembly reserves to itself the right at any time to amend, alter or repeal this act.

In force

SEC. 2 *And be it enacted*, That this act shall take effect from the date of its passage.

Approved April 11th, 1874.

EXHIBIT 22

CHAPTER 250.

AN ACT to prevent the carrying of guns, pistols, dirks, dirk-knives, razors, billies or bludgeons, by any person in Kent, Queen Anne's or Montgomery counties, on the day of election in said counties.

Not lawful to carry

SECTION 1 *Be it enacted by the General Assembly of Maryland*, That from and after the passage of this act, it shall not be lawful for any person in Kent, Queen Anne's or Montgomery counties, to carry, on the days of election, secretly or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon; and any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof, before any justice of the peace in either

of said counties, shall be fined not less than five nor more than twenty dollars, and on refusal to pay said fine shall be committed by such justice of the peace to the jail of the county, until the same is paid.

Fines

SEC. 2. *And be it enacted*, That the fines collected under this act shall be paid by the officer collecting the same, to the school commissioners of the county where such offence shall have been committed, for school purposes.

Discharged.

SEC. 3. *And be it enacted*, That any constable of either of said counties, or the sheriff thereof, who shall refuse to arrest any person violating any provision of this act, upon information of such offence, shall be deemed guilty of a misdemeanor, and on conviction thereof, before the Circuit Court for such county, shall be fined not less than twenty nor more than fifty dollars, and shall forthwith be discharged from office.

Approved, April 6th, 1874.

CHAPTER 251.

AN ACT for the relief of the Cambridge and Chesapeake Railroad Company.

To demand and receive

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That the Cambridge and Chespeake Railroad Company, be and it is hereby authorized and empowered, to demand and receive for the transportation of passengers, goods, produce, merchandise or property of any description, upon said railroad, such sum or sums of money, as the President and Directors of said Company shall from time to time deem reasonable and proper.

Subscriptions to capital stock

SEC. 2. *And be it enacted*, That upon every subscription to the capital stock of said company there shall be paid, at the time of making the subscription, the sum of one dollar on every share subscribed, and

LAWS OF MISSOURI.

GENERAL AND LOCAL LAWS

PASSED AT THE

REGULAR SESSION

OF THE

TWENTY-EIGHTH GENERAL ASSEMBLY,

BEGUN AND HELD AT

THE CITY OF JEFFERSON, WEDNESDAY, JANUARY 6, 1875.

BY AUTHORITY.

JEFFERSON CITY:
REGAN & CARTER, STATE PRINTERS AND BINDERS.
1875.

EXHIBIT 23

same is hereby amended so as to read as follows: Section 56. Every person who shall willfully and maliciously break, destroy or injure the door or window of any dwelling house, shop, store, or other house or building, or sever therefrom, or from the gate, fence or inclosure, or any part thereof, any material of which it is formed, or sever from the freehold any produce thereof, or anything attached thereto, or pull down, injure or destroy any gate, post, railing or fence, or any part thereof, or cut down, lap, girdle, or otherwise injure or destroy any fruit or ornamental or shade tree, being the property of another, or who shall cut down, lap, girdle, or otherwise injure or destroy any ornamental or shade tree standing or growing on any common or public ground, or any street, alley, sidewalk or promenade, or who shall, without the consent of the owner, cut down, destroy or carry any timber or trees whatsoever, being on any land not his own, and not the property of the United States, or who shall buy or in any way receive any timber, wood or trees that shall have been cut down upon or carried away from the lands of another, without the consent of the owner thereof, knowing the same to have been so cut down or taken away as aforesaid, or who shall willfully break, destroy or injure any goods, wares, merchandise or other personal property of another, shall, upon conviction, be adjudged guilty of a misdemeanor.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved March 18, 1875.

CRIMES AND PUNISHMENTS: CARRYING CONCEALED WEAPONS.

AN ACT to prevent the carrying of weapons in public assemblies of the people, and to repeal "An act to prevent the carrying concealed weapons," approved March 26, 1874.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Whoever shall, in this state, go into any church or place where people have assembled for religious worship, or into any school room, or into any place where people be assembled for educational, 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 other than 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, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not to exceed six months, or by a fine

not less than ten nor more than one hundred dollars, or by both such fine and imprisonment: *Provided*, That this act shall not apply to any person whose duty it is to bear arms in the discharge of duties imposed by law.

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

This bill having remained with the Governor ten days (Sundays excepted), and the General Assembly being in session, it has become a law this thirtieth day of March, A. D. eighteen hundred and seventy-five.

MICH'L K. McGRATH, *Secretary of State.*

ELECTIONS: REGULATING BALLOTS, POLL-BOOKS, ETC.

AN ACT to amend sections 14 and 17 of chapter 2 of the General Statutes of Missouri, relating to elections, the same being sections 14 and 17 of chapter 51 of Wagner's Statutes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section fourteen of the above recited act be amended so as to read as follows: Section 14. Each voter at any election shall, in full view, deliver to one of the judges of election a single ballot, which shall be a piece of white paper, on which shall be written or printed the names of the persons voted for, with a designation of the office which he or they may be intended to fill: *Provided*, That in counties having a population of one hundred thousand and over, said ballot shall not bear upon it any device whatever, nor shall there be any writing or printing thereon, except the names of persons, and the designations of the office to be filled, leaving a margin on either side of the printed matter for substituting names. Each ballot may bear a plain written or printed caption thereon, composed of not more than three words, expressing its political character, but on all such ballots the said caption or headlines shall not, in any manner, be designed to mislead the voter as to the name or names thereunder. Any ballot not conforming to the provisions of this act shall be considered fraudulent, and the same shall not be counted.

SEC. 2. That section seventeen of the above recited act be amended so as to read as follows: Section 17. After the poll-books are signed in the manner hereinafter provided in the form of the poll-books, the ballot boxes shall be opened and the tickets shall be taken

ACTS

AND

JOINT RESOLUTIONS

PASSED BY

THE GENERAL ASSEMBLY

OF THE

STATE OF VIRGINIA

DURING THE

SESSION OF 1877-78.

EXHIBIT 24

RICHMOND:
R. F. WALKER, SUPERINTENDENT PUBLIC PRINTING.
1878.

Justices, and persons acting under their orders, guiltless, if a person be killed, &c.; if either of them killed, all engaged in the assembly guilty.

Persons acting under authority killing of another engaged in a riot, or spectator, held guiltless

5. If, by any means taken under authority of this chapter to disperse any such assembly, or arrest and secure those engaged in it, any person present, as spectator or otherwise, be killed or wounded, any judge or justice exercising such authority, and every one acting under his order, shall be held guiltless; and if the judge or justice, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assembly shall be deemed guilty of such killing or wounding.

If persons engaged in suppressing a riot be killed, &c., rioters deemed guilty of killing, &c

Punishment of rioter, when dwelling-house injured, and when not.

Where dwelling-house is destroyed in whole or part

Penalty

Where house is not injured

Penalty

6. If any rioter pull down or destroy, in whole or in part, any dwelling-house, or assist therein, he shall be confined in the penitentiary not less than two nor more than five years; and though no such house be so injured, every rioter, and every person unlawfully or tumultuously assembled, shall be confined in jail not more than one year, and fined not exceeding one hundred dollars.

Carrying concealed weapons.

Habitual carrying of concealed weapons

Penalty

7. If a person habitually carry about his person, hid from common observation, any pistol, dirk, bowie-knife, or any weapon of the like kind, he shall be fined not more than fifty dollars.

CHAPTER VII.

OF OFFENCES AGAINST MORALITY AND DECENCY—PROTECTION OF RELIGIOUS MEETINGS.

Persons marrying when former husband or wife is living; proviso.

Marrying when former husband or wife is living

Penalty

1. Any person who, being married, shall, during the life of the former husband or wife, marry another person in this state, or, if the marriage with such other person take place out of the state, shall thereafter cohabit with such other person in this state, shall be confined in the penitentiary not less than three, nor more than eight years.

Proviso

2. The preceding section shall not extend to a person whose former husband or wife shall have been continually absent from such person for seven years next before marriage of such person to another, and shall not have been known by such person to be living within that time; nor to a person who shall, at the time of the subsequent marriage,

have been divorced from the bond of the former marriage, or whose former marriage shall at that time have been declared void by the sentence of a court of competent jurisdiction.

Marriage within prohibited degrees punished.

Marriage in violation of §§ 9, 10, ch. 104, Code of 1873

Penalty

Residents of state, within prohibited degrees, or white person or negro, going out of state to be married, and afterwards returning

Penalty

Cohabitation evidence of marriage

3. If any person marry in violation of the ninth or tenth section of chapter one hundred and four of the Code of eighteen hundred and seventy-three, he shall be confined in jail not more than six months, or fined not exceeding five hundred dollars, at the discretion of the jury. And if any person, resident in this state, and within the degrees of relationship mentioned in those sections, or any white person and negro, shall go out of this state for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as man and wife, they shall be as guilty, and be punished as if the marriage had been in this state. The fact of their cohabitation here as man and wife shall be evidence of their marriage.

Issuing license or celebrating marriage contrary to law.

Issuing marriage license contrary to law

Penalty

4. If any clerk of a court knowingly issue a marriage license contrary to law, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

Performing marriage ceremony without license, or without authority

Penalty

5. If any person knowingly perform the ceremony of marriage without lawful license, or affiliate in celebrating the rites of marriage without being authorized by law to do so, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

Adultery and lewdness.

Adultery and fornication

Penalty

6. If a person commit adultery or fornication, he shall be fined not less than twenty dollars.

Lewdness

Penalty

Penalty for second offence

7. If any persons, not married to each other, lewdly and lasciviously associate and cohabit together, or, whether married or not, be guilty of open and gross lewdness and lasciviousness, they shall be fined not less than fifty nor more than five hundred dollars; and upon a repetition of the offence, and conviction thereof, they shall also be imprisoned in the county or corporation jail, at the discretion of the court or justice, for not less than six nor more than twelve months.

White person marrying a negro, or celebrating such marriage.

Marriage of a white person with a negro

Penalty

8. Any white person who shall intermarry with a negro, or any negro who shall intermarry with a white person, shall be confined in the penitentiary not less than two nor more than five years.

Penalty for performing marriage service

9. Any person who shall perform the ceremony of marriage between a white person and a negro, shall forfeit two hundred dollars, of which the informer shall have one-half.

Keeping house of ill-fame; obscene books, prints, &c.

Keeping house of ill-fame

Penalty

General character of house may be proved

10. If a person keep a house of ill-fame, resorted to for the purpose of prostitution or lewdness, he shall be confined in jail not more than one year, and fined not exceeding two hundred dollars; and in a prosecution for this offence, the general character of such house may be proved.

Obscene books, &c

11. If a person import, print, publish, sell or distribute, any book or other thing containing obscene language, or any print, picture, figure or description, manifestly tending to corrupt the morals of youth; or introduce into any family or place of education, or buy, or have in his possession any such thing for the purpose of sale, exhibition or circulation, or with intent to introduce it into any family or place of education, he shall be confined in jail not more than one year, and fined not exceeding two hundred dollars.

Penalty

Crime against nature.

Buggery

Penalty

12. If any person shall commit the crime of buggery, either with mankind or with any brute animal, he shall be confined in the penitentiary not less than two nor more than five years.

Violation of sepulture; injuries to burial-grounds.

Violation of sepulture

Penalty

13. If a person, unlawfully, disinter or displace a dead human body, or any part of a dead human body, which shall have been deposited in any vault or other burial place, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

Wilful and malicious injury to tombs, &c., in a cemetery, &c

14. Every person who shall willfully and maliciously destroy, mutilate, deface, injure, or remove any tomb, monument, grave-stone, or other structure placed within any cemetery, grave-yard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fences, railing, or other works for the protection or ornament of any tomb, monument, grave-stone, or other structure aforesaid; or of any cemetery lot within any cemetery; or shall willfully or maliciously destroy, remove, cut, break, or injure any tree, shrub, or plant within any cemetery or lot of any memorial or monumental association; or who shall willfully or maliciously destroy, mutilate, injure, or remove and carry away any flowers, wreaths, vases, or other ornaments placed upon or around any grave, tomb, monument, or lot in any cemetery, grave-yard, or other place of burial; or who shall willfully obstruct proper ingress and egress to and from any cemetery or lot belonging to any memorial association, shall be guilty of a misdemeanor, and be pun-

Obstruction of way to cemeteries, &c

Penalty

ished by a fine not exceeding one hundred dollars, or by imprisonment in jail not exceeding six months.

Cruelty to animals; profanity and drunkenness.

Cruelty to animals

Penalty

15. If a person cruelly beat or torture any horse, animal or other beast, whether his own or that of another, he shall be fined not exceeding fifty dollars.

Profanity and drunkenness

Penalty

16. If any person, arrived at the age of discretion, profanely curse or swear, or get drunk, he shall be fined by a justice one dollar for each offence.

Violation of the Sabbath.

Violation of Sabbath

Penalty

17. If a person, on a Sabbath day, be found laboring at any trade or calling, or employ his apprentices or servants in labor or other business, except in household or other work of necessity or charity, he shall forfeit two dollars for each offence; every day any servant or apprentice is so employed constituting a distinct offence.

Exceptions as to the mail, and as to certain persons.

Transportation of mail excepted

Exception as to certain religionists

Proviso

18. No forfeiture shall be incurred under the preceding section for the transportation on Sunday of the mail, or of passengers and their baggage. And the said forfeiture shall not be incurred by any person who conscientiously believes that the seventh day of the week ought to be observed as a Sabbath, and actually refrains from all secular business and labor on that day: provided he does not compel an apprentice or servant, not of his belief, to do secular work or business on Sunday, and does not on that day disturb any other person.

Sale of intoxicating liquors prohibited between certain hours

Penalty

Proviso

19. No bar-room, saloon, or other place for the sale of intoxicating liquors, shall be opened, and no intoxicating bitters or other drink shall be sold in any bar-room, restaurant, saloon, store, or other place, from twelve o'clock on each and every Saturday night of the week, until sunrise of the succeeding Monday morning; and any person violating the provisions of this section, shall be deemed guilty of a misdemeanor, and, if convicted, shall be punished by fine not less than ten nor more than five hundred dollars; and shall, moreover, at the discretion of the court, forfeit his license: provided that this law shall not apply to any city having police regulations on this subject, and an ordinance inflicting a penalty equal to the penalty inflicted by this section.

Disturbance of religious worship

Penalty

20. If a person willfully interrupt or disturb any assembly met for the worship of God, or being intoxicated, if he disturb the same, whether willfully or not, he shall be confined in jail not more than six months, and fined not exceeding one hundred dollars, and a justice may put him under restraint during religious worship, and bind him for not more than one year to be of good behavior.

Carrying dangerous weapons at a place of worship or on Sunday

21. If any person carrying any gun, pistol, bowie-knife, dagger, or other dangerous weapon, to any place of worship while a meeting for religious purposes is being held at such place, or without good and sufficient cause therefor, shall carry any such weapon on Sunday at any place other than his own premises, shall be fined not less than twenty dollars. Penalty

Offenders subject to arrest without warrant

If any offence under this section be committed at a place of religious worship, the offender may be arrested on the order of a conservator of the peace, without warrant, and held until warrant can be obtained, but not exceeding three hours.

Duty of justice where he knows of offence under this section

It shall be the duty of justices of the peace, upon their own knowledge, or upon the affidavit of any person, that an offence under this section has been committed, to issue a warrant for the arrest of the offender.

Protection of religious assemblies; prohibition against sale of liquors or other things near such meetings; proviso.

Sale of liquors, &c., prohibited

22. If any person shall erect, place, or have any booth, stall, tent, carriage, boat, vessel, vehicle, or other contrivance whatever, for the purpose or use of selling, giving, or otherwise disposing of any kind of spirituous and fermented liquors, or any other articles of traffic; or shall sell, give, barter, or otherwise dispose of any spirituous or fermented liquors, or any other articles of traffic within three miles of any camp-meeting, or other place of religious worship, during the time of holding any meeting for religious worship at such place, such person, on conviction before a justice of the peace, for the first offence, shall be fined not less than ten dollars, nor more than twenty dollars, and stand committed to jail until the fine and costs are paid; and for the second offence, shall be fined as aforesaid, and be imprisoned not less than ten nor more than thirty days. Penalty

Penalty for second offence

Additional penalty

23. If any person shall commit any offence against the provisions of the preceding section, he shall, in addition to the penalties therein mentioned, forfeit all such spirituous or fermented liquors, and other articles of traffic, and all the chests and other things containing the same, belonging to and in the possession of the person so offending, together with such booth, stall, tent, carriage, boat, vessel, vehicle, or other contrivance or thing prepared and used in violation of said section; and it shall be the duty of any sheriff, deputy sheriff, or constable, if he sees any person violating the preceding section, to arrest the offender and carry him before a justice of the peace. The sheriff, deputy sheriff, or constable, when he arrests the offender, shall seize the property hereby declared to be forfeited, or shall seize the same on a warrant against the offender, if such offender cannot be found; and the justice of the peace before whom such offender is convicted, or before whom the warrant is returned that the offender cannot be found, shall enter judgment of condemnation against such property, and issue a fieri facias for the

Duty of sheriffs, &c., to arrest offender and seize the property

Judgment of condemnation

Fi. fa. to issue

Proviso

sale thereof: provided the person who has been returned not found, and whose property has been condemned in his absence, may appear at any time before the sale of the property and have the case tried as if he had appeared at the return of the warrant.

To whom provisions not to apply

24. The provisions of the two preceding sections shall not apply to any licensed tavern-keeper, merchant, shop-keeper, farmer, or other person in the usual and lawful transaction of his ordinary business, in the usual place of transacting such business, or to any person having permission, in writing from the superintendent of such meeting, to sell such articles as may be named in such permission: provided this permission shall not extend to the sale of any spirituous or fermented liquors.

Proviso

Right of appeal.

Right of appeal preserved

25. Nothing in this chapter shall prevent the courts of record from exercising their common law or statutory jurisdiction in all cases for disturbing public worship: provided that the party convicted under the twenty-second or twenty-third sections of this chapter shall have the right to appeal to the next county court for the county where the conviction is had, upon giving bail for his appearance at court, and upon such appeal shall be entitled to a trial by jury: and provided further, that when any person or persons are proceeded against under the twenty-second or twenty-third sections of this chapter, he or they shall not be held to answer for the same offence before any grand jury or court of record, except as herein provided.

Proviso

Persons proceeded against not subject to answer before grand jury

Temporary police force for religious meetings.

Temporary police authorized

26. The supervisor, or any justice of the magisterial district where the meeting is held, shall have power to appoint a temporary police to enforce the provisions of this chapter.

CHAPTER VIII.

OF OFFENCES AGAINST PUBLIC HEALTH.

Selling unsound provisions.

Sale of unsound provisions

1. If a person knowingly sell any diseased, corrupted, or unwholesome provisions, whether meat or drink, without making the same known to the buyer, he shall be confined in jail not more than six months, and fined not exceeding one hundred dollars.

Penalty

THE

REVISED STATUTES

OF THE

STATE OF MISSOURI.

1879.

TO WHICH ARE PREFIXED THE DECLARATION OF INDEPENDENCE, WASHINGTON'S FAREWELL ADDRESS, ARTICLES OF CONFEDERATION, CONSTITUTION OF THE UNITED STATES, ACT OF CONGRESS FOR THE FORMATION OF A STATE GOVERNMENT, ORDINANCE OF THE CONVENTION ASSENTING THERETO, AND CONSTITUTION OF MISSOURI: WITH AN APPENDIX CONTAINING CERTAIN ACTS OF CONGRESS, AND PRACTICAL FORMS, REQUIRED TO BE PUBLISHED THEREIN.

REVISED AND PROMULGATED BY THE XXXTH GENERAL ASSEMBLY.

VOLUME ONE.

COLLATED AND ANNOTATED BY JOHN A. HOCKADAY, THOMAS H. PARRISH, BENJAMIN F. McDANIEL AND DANIEL H. McINTYRE, COMMITTEE APPOINTED FOR THAT PURPOSE.

PUBLISHED BY AUTHORITY OF CHAPTER 46, ARTICLE V, OF THE REVISED STATUTES OF THE STATE OF MISSOURI.

CITY OF JEFFERSON:
CARTER & REGAN, STATE PRINTERS AND BINDERS.
1879.

EXHIBIT 25

CHAPTER 24.

OF CRIMES AND CRIMINAL PROCEDURE.

ARTICLE I.

OFFENSES AGAINST THE GOVERNMENT AND THE SUPREMACY OF THE LAW.

SEC. 1227. *Treason, punishment of.*—Every person who shall commit treason against the state, by levying war against the same, or by adhering to the enemies thereof, by giving them aid and comfort, shall, upon conviction, suffer death, or be sentenced to imprisonment in the penitentiary for a period of not less than ten years. (G. S. 776, § 1.)

SEC. 1228. *Misprision of treason, how punished.*—Every person who shall have knowledge that any other person has committed, or is about to commit, treason against this state, and who shall conceal the same, shall be deemed guilty of misprision of treason, and, on conviction, shall be punished by imprisonment in the penitentiary for a period not exceeding seven years, or by imprisonment in the county jail not less than four months, and by fine not less than one thousand dollars. (G. S. 776, § 2.)

SEC. 1229. *Giving aid to enemies of state—punishment.*—Any person who, while this state shall be engaged in war, in cases authorized by the constitution of the United States, shall attempt or endeavor to join, or give aid or comfort to, the enemies of the state, or shall counsel, advise, persuade or induce any other person to join, give aid or comfort to them, in this state or elsewhere, shall, upon conviction, be punished by imprisonment in the penitentiary for a period not exceeding ten years, or by fine not less than one thousand nor exceeding five thousand dollars. (G. S. 777, § 3.)

SEC. 1271. *Abandonment of children.*—If any father or mother of any child under the age of six years, or any other person to whom such child shall have been confided, shall expose such child in a street, field or other place, with intent wholly to abandon it, he or she shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding five years, or in the county jail not less than six months. (G. S. 781, § 39.)

SEC. 1272. *Mistreatment of apprentices.*—If any master or mistress of an apprentice or other person having the legal care and control of any infant, shall, without lawful excuse, refuse or neglect to provide for such apprentice or infant, necessary food, clothing or lodging, or shall unlawfully and purposely assault such apprentice or infant, whereby his life shall be endangered, or his health shall have been or shall be likely to be permanently injured, the person so offending shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding three years, or by imprisonment in the county jail not exceeding one year, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. (New section.)

SEC. 1273. *Abandonment of wife or child.*—If any man shall, without good cause, abandon or desert his wife, or abandon his child or children under the age of twelve years born in lawful wedlock, and shall fail, neglect or refuse to maintain and provide for such wife, child or children, he shall, upon conviction, be punished by imprisonment in the county jail not more than one year, or by a fine of not less than fifty, nor more than one thousand dollars, or by both such fine and imprisonment. No other evidence shall be required to prove that such husband was married to such wife, or is the father of such child or children, than would be necessary to prove such fact or facts in a civil action. (Laws 1867, p. 112, amended—*m.*)

SEC. 1274. *Carrying deadly weapons, etc.*—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 educational, 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 lawful 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 firearms, 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 five nor more than one hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment. (Laws 1874, p. 43; laws 1875, p. 50, and laws 1877, p. 240, amended.)

SEC. 1275. *Above section not to apply to certain officers.*—The next preceding section shall not apply to police officers, nor to any officer or person whose duty it is to execute process or warrants, or to suppress breaches of the peace, or make arrests, nor to persons moving or traveling peaceably through this state, and it shall a good defense to the charge of carrying such weapon, if the defendant shall show that he has been threatened with great bodily harm, or had good reason to carry the same in the necessary defense of his person, home or property. (New section.)

SEC. 1276. *Fire arms not to be discharged near court house.*—Hereafter it shall be unlawful for any person in this state, except he be a sheriff or other officer in the discharge of official duty, to discharge or fire off any

(*m*) Wife held to be a competent witness to prove fact of abandonment. 43 Mo. 429. The fact that the defendant has brought suit for divorce is no defense. 52 Mo. 172.

THE

REVISED STATUTES

OF

TEXAS:

ADOPTED

BY THE REGULAR SESSION

OF THE

SIXTEENTH LEGISLATURE,

A. D. 1879.

PUBLISHED BY AUTHORITY OF THE STATE OF TEXAS.

(PURSUANT TO CHAPTER 151, ACTS 1879.)

EXHIBIT 26

GALVESTON:
A. H. BELO & CO., STATE PRINTERS.
1879.

who continue so unlawfully assembled, or engaged in a riot, after being warned to disperse, shall be punished by the addition of one-half the penalty to which they would otherwise be liable, if no such warning had been given.

CHAPTER THREE.

AFFRAYS AND DISTURBANCES OF THE PEACE.

"Affray" defined. P.C. 381.

ARTICLE. 313. If any two or more persons shall fight together in a public place, they shall be punished by fine not exceeding one hundred dollars.

Disturbance of the peace. (Act June 20, 1876, p. 24.) P.C. 382.

ART. 314. If any person shall go into any public place, or into or near any private house, or along any public street or highway near any private house, and shall use loud and vociferous or obscene, vulgar or indecent language, or swear, or curse, or expose his person, or rudely display any pistol or other deadly weapon in such public place, or upon such public street or highway, or near such private house, in a manner calculated to disturb the inhabitants thereof, he shall be fined in a sum not exceeding one hundred dollars.

"Public place" defined. P.C. 383.

ART. 315. A public place within the meaning of the two preceding articles, is any public road, street or alley, of a town or city, inn, tavern, store, grocery, work-shop, or any place to which people commonly resort for purposes of business, recreation or amusement.

Shooting in public place. (Act Nov. 12, 1866, p. 210.)

ART. 316. If any person shall discharge any gun, pistol, or fire-arms of any description, on or across any public square, street or alley in any city, town or village in this state, he shall be fined in a sum not exceeding one hundred dollars.

Horse-racing on public road or street. (Act May 19, 1873, pp. 83-4.)

ART. 317. Any person who shall run, or be in any way concerned in running any horse race in, along, or across any public square, street or alley in any city, town or village, or in, along or across any public road within this state, shall be fined in a sum not less than twenty-five nor more than one hundred dollars.

CHAPTER FOUR.

UNLAWFULLY CARRYING ARMS.

Unlawfully carrying arms. (Act April 12, 1871, p. 25.)

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

Not applicable when and to whom. (Act April 12, 1871, p. 25.)

ART. 319. The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own prem-

ises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

Carrying arms in church or other assembly (Act April 12, 1871, p. 25.)

ART. 320. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other fire-arm, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of a knife manufactured and sold for the purposes of offense and defense, he shall be punished by fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Not applicable to whom. (Act April 12, 1871, p. 25.)

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

Arrest without warrant. Officer failing punished. (Act April 12, 1871, p. 26.)

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

Not applicable to frontier counties. (Act April 12, 1871, p. 26.)

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

THE

REVISED ORDINANCE

OF THE

CITY OF ST. LOUIS,

TOGETHER WITH

THE CONSTITUTION OF THE UNITED STATES, CONSTITUTION OF THE STATE OF MISSOURI, THE SCHEME FOR THE SEPARATION OF THE GOVERNMENTS OF THE CITY AND COUNTY OF ST. LOUIS, THE CHARTER OF THE CITY, AND A DIGEST OF THE LAWS APPLICABLE TO THE CITY.

9155

M. J. SULLIVAN, REVISER.

ST. LOUIS:
TIMES PRINTING HOUSE, FIFTH AND CHESTNUT.
1881.

EXHIBIT 27

ARTICLE XI.

PROTECTION OF BIRDS.

SECTION 1. All persons are forbidden to molest, injure or disturb in any way, any small bird in the city of St. Louis, or the nest, young or brood of any small bird in said city.

Birds, or nests not to be disturbed. Ord. 8436, sec. 1.

SEC. 2. If any person shall willfully injure, molest, take or disturb in any way, any small bird in the city of St. Louis, or the nest, eggs, young or brood of any such small bird, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay to said city not less than five dollars for each bird so by him injured, molested, taken or disturbed, and not less than twenty dollars for each nest of eggs or brood of young of any such small bird in the city of St. Louis, so by him injured, molested taken or disturbed.

Penalty for disturbing birds or nests. Ibid. sec. 2.

SEC. 3. No person shall throw from his hand any fragment of stone, wood, metal or other missile capable of inflicting injury, in any street, alley, walk or park of the city of St. Louis, or use or have in his possession ready for use in any street, alley, walk or park of the city of St. Louis, any sling, cross bow and arrow, air gun or other contrivance for ejecting, discharging or throwing any fragment, bolt, arrow, pellet, or other missile of stone, metal, wood or other substance capable of inflicting injury or annoyance.

Throwing stones, wood, &c., prohibited. Ibid. sec. 3.

SEC. 4. If any person shall throw from his hand, in any alley, street, walk or park of the city of St. Louis, any missile of wood, stone, metal or other substance, or sub-

Penalty. Ibid. sec. 4.

THE CODE

OF THE

STATE OF GEORGIA.

PREPARED BY

R. H. CLARK, T. R. R. COBB AND D. IRWIN.

REVISED AND CORRECTED BY

DAVID IRWIN.

SECOND EDITION

REVISED, CORRECTED AND ANNOTATED BY

DAVID IRWIN, GEO. N. LESTER AND W. B. HILL.

FOURTH EDITION.

PREPARED BY

GEO. N. LESTER, C. ROWELL AND W. B. HILL.

ATLANTA, GEORGIA:
JAS. P. HARRISON & CO., PRINTERS AND PUBLISHERS.
1882.

EXHIBIT 28

NINTH DIVISION.

OFFENSES AGAINST THE PUBLIC PEACE AND TRANQUILITY.

mob violence; i.e. Lynching. /93.128

§4513. (4440.) (4399.) *Unlawful assemblies.* If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being commanded to do so by a Judge, Justice, Sheriff, constable, coroner, or other peace officer, such person so offending shall be guilty of a misdemeanor, and, on conviction, shall be punished as prescribed in section 4310 of this Code.

§4514. (4441.) (4400.) *Riot.* If any two or more persons, either with or without a common cause of quarrel, do an unlawful act of violence, or any other act in a violent and tumultuous manner, such persons so offending shall be guilty of a riot, and, on conviction, shall be punished [as prescribed in section 4310 of this Code.] (a.) (a) Acts of 1865-6, p. 233.

Demand for trial by one of those engaged in a riot, the others continuing their case: 17 Ga., 618. Construction of this law: 20 Ga., 839. No new trial where the charge of the Court was correct, and there was some evidence to support the verdict: 28 Ga., 192. There was no riot where two men fall to fighting each other: 22 Ga., 488. It cannot be committed unless as many as two act in the commission of a common intent: 30 Ga., 27. Where severance on trial of persons charged with a riot is within the Court's discretion: 34 Ga., 10. Sufficient evidence of identity and misnomer in name of one appearing on trial of the other separately, did not vitiate: 38 Ga., 184. Motion in arrest of judgment refused, the facts set up by defendant not appearing from the Court's records: 42 Ga., 203-205. May be tried separately, and the acquittal of one did not operate as an acquittal of the other: 51 Ga., 375. Severance and conviction of all, joint motion for a new trial unobjected to; costs: 52 Ga., 664-7. A weak case, but the verdict not disturbed, no written defense or plea being filed: 60 Ga., 127-8. Two of three convicted under sufficient evidence: 64 Ga., 361.

2 Whart. Cr. Law, §2475; 2 Bish. *Ib.*, §1096; 2 Bish. Cr. Proc., §992; 3 Gr. Ev., §216; 2 Arch. Cr. Pr. and Pl., 1697. "Horning serenade" is: 35 Am. R., 210.

§4515. (4442.) (4401.) *Affrays.* An affray is the fighting of two or more persons in some public place, to the terror of the citizens and disturbance of the public tranquility. Persons so offending shall be indicted, and, on conviction, shall be punished [as prescribed in section 4310 of this Code]; (a.) and it shall be considered a great aggravation of this offense if any contempt or disobedience of the magistrate, or other peace officer commanding the peace, shall be proved. (a) Acts of 1865-6, p. 233.

Two indicted, both must be convicted or neither; words alone will not constitute, but words with acts will; one aiding, assisting and abetting guilty as principal: 13 Ga., 322.

2 Whart. Cr. Law, §2494; 2 Bishop *Ib.*, §32-37; 2 Bish. Cr. Proc., §16; 2 Arch. Cr. Pr. and Pl., 1709; 30 Am. R., 86.

§4516. (4443.) (4402.) *Dueling.* If any person shall deliberately challenge, by word or writing, the person of another, to fight with sword, pistol, or other deadly weapon, or if any person so challenged shall accept the said challenge, in either case, such person so giving, or sending, or accepting any such challenge, shall, on conviction, be punished by a fine not less than five hundred dollars, and be imprisoned in the common jail of the county for any time not exceeding six months. Or, if the jury should so recommend, such person shall, in addition to the fine herein imposed, be punished by imprisonment and labor in

and considered the author himself, and be indicted and punished as such; and may, moreover, be punished for a contempt of the Court, as any other witness refusing to testify.

§4523. (4450.) (4409.) *The truth is evidence.* In all cases of indictment for a libel, or for slander, the person prosecuted shall be allowed to give the truth in evidence. §2979.

§4524. (4451.) (4410.) *Forcible entry.* Forcible entry is the violently taking possession of lands and tenements with menaces, force and arms, and without authority of law. §4085 *et seq.*

The prosecutor dispossessed, or from whom possession detained, a competent witness: 24 Ga., 191. The force must be private, not public, and when the entry under legal process by landlord was not within the terms of this section: 61 Ga., 496.

2 Whart. Cr. Law, §2013; 2 Bish. *Ib.*, §463; 2 Arch. Cr. Pr. and Pl., 1128.

§4525. (4452.) (4411.) *Forcible detainer.* Forcible detainer is the violently keeping possession of lands and tenements with menaces, force and arms, and without authority of law. §4085 *et seq.*

Section cited: 43 Ga., 433.

§4526. (4453.) (4412.) *Punishment for forcible entry or detainer.* Any person who shall be guilty of a forcible entry, or a forcible detainer, or both, may be indicted, and, on conviction, shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the Court; and the Court before whom the conviction takes place shall cause restitution of possession of the premises to be made to the party aggrieved: *Provided, always*, that if the party forcibly detaining lands and tenements, or those under whom he claims, shall have been in peaceable possession of the same for the space of three years or more, immediately preceding the filing of the complaint, such person or party shall not be subject to the penalties of this section, nor shall restitution of possession be made: *and provided, also*, that the only questions to be submitted to and determined by the jury in trials for forcibly entry, or forcible detainer, shall be the possession and the force, without regard to the merits of the title on either side.

§4527. (4454.) (4413.) *Carrying concealed weapons.* Any person having or carrying about his person, unless in an open manner and fully exposed to view, any pistol ~~(except horseman's pistol)~~, dirk, sword in a cane, spear, bowie knife, or any other kind of knives manufactured and sold for the purpose of offense and defense, shall be guilty of a misdemeanor, and, on conviction, shall be punished as prescribed in section 4310 of this Code. Act of 1837, C. p. 848. Acts of 1851 -2, p. 269. (a) Acts of 1865 6, p. 233. Amend. FL-8, 4B

Constitutionality of the Act of 1837: 1 Ga., 243 251. Act of 1851-2 did not repeal section 4570: 12 Ga., 1. If weapons carried so that others could see and know it was a pistol or weapon, it was no violation of the Act of 1851-2, although some part of it concealed from view: 32 Ga., 225. Otherwise if so far concealed, although partially exposed to view, so that it could not be readily seen and recognized as a pistol: 32 Ga., 292. Carrying concealed weapons is not always in law evidence of malice: 33 Ga., 303. When cannot prove defendant's custom to carry weapons exposed to view, on a charge of having concealed weapons at a certain time and place: 36 Ga., 242. As to the strict enforcement of this part of the criminal law: 31 Ga., 420-421. Army repeaters and horseman's pistols on the same footing, but not when carried concealed: 44 Ga., 221-2. When no evidence of motive in putting pistol in defendant's pocket: 46 Ga., 294. The Court should not express an opinion on the facts; counsel can present their view of the law and the facts to the jury: 10 Ga., 213; 56/503. Sufficient evidence to sustain the verdict of guilty: 52 Ga., 40. Continuance, evidence: 61 Ga., 481. When mainspring of the weapon disabled so as to prevent its discharge, was no excuse: 61 Ga., 417. Where no legal jeopardy, and newly discovered evidence not a ground for new trial: 60 Ga., 601.

2 Bish. Cr. Law, §120; 2 Whart. *Ib.*, §2496; 25 Am. R., 561–3, n. Pistols, one unloaded and one without tube, not weapons: 36 Am. R., 15.

§4528. *Deadly weapons not to be carried to public places.* No person in this State is permitted or allowed to carry about his or her person, any dirk, bowie knife, pistol or revolver, or any kind of deadly weapon to any Court of justice, or any election ground or precinct, or any place of (a) Acts of 1870, p. 421. Acts of 1878 -9, p. 64.

public worship, or any other public gathering in this State, except militia muster-grounds; and if any person or persons shall violate any portion of this section, he, she or they shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than twenty nor more than fifty dollars for each and every such offense, or imprisonment in the common jail of the county not less than ten nor more than twenty days, or both, at the discretion of the Court: *Provided*, that this section shall not apply to any Sheriff, deputy Sheriff, coroner, constable, marshal, policeman, or other arresting officer or officers in this State or their posses, acting in the discharge of their official duties.

Indictment sufficient, and this law not unconstitutional: 53 Ga., 472. What is a deadly weapon: 30 Ga., 138; 41/155; 15/223.

Acts of 1889 p. 151.

§4528. (a.) *Pointing weapon at another.* Any person who shall intentionally point or aim a gun or pistol, whether loaded or unloaded, at another, not in a sham battle by the military, and not in self-defense, or in defense of habitation, property or person, or other instances standing upon like footing of reason and justice, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as prescribed in section 4310 of this Code.

(a) Acts of 1865-6, p. 233.

§4529. (4455.) (4414.) *Other offenses against public peace.* All other offenses against the public peace, not provided for in this Code, shall be prosecuted and indicted as heretofore, and the punishment in every such case, shall be [as prescribed in section 4310 of this Code.] (a.)

Section cited: 53 Ga., 127.

Pointing same as shooting at, a misdemeanor.
192-108.

LAWS OF MISSOURI,

PASSED AT THE SESSION OF THE

THIRTY-SECOND GENERAL ASSEMBLY,

BEGUN AND HELD AT THE CITY OF JEFFERSON,

WEDNESDAY, JANUARY 3, 1883.

(REGULAR SESSION.)

BY AUTHORITY.

EXHIBIT
29

JEFFERSON CITY:
STATE JOURNAL COMPANY, STATE PRINTERS.
1883.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. Any person or persons doing a commission business in this state who shall receive cattle, hogs, sheep, grain, cotton or other commodities consigned or shipped to him or them for sale on commission, and who shall wilfully make a false return to his or their consignor or shipper, in an account of sale or sales of any such cattle, hogs, sheep, grain, cotton or other commodities made and rendered by such person or persons for and to such consignor or shipper, either as to weights or prices, shall be guilty of a misdemeanor and shall, on conviction, be punished by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars nor less than two hundred dollars, or by fine not less than one hundred dollars and imprisonment in the county jail not less than three months.

Approved April 2, 1883.

CRIMES AND CRIMINAL PROCEDURE: CONCEALED WEAPONS.

AN ACT to amend section 1274, article 2, chapter 24 of the Revised Statutes of Missouri, entitled "Of Crimes and Criminal Procedure."

SECTION 1. Carrying concealed weapon, etc., penalty for increased.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. That section 1274 of the Revised Statutes of Missouri be and the same is hereby amended by inserting the word "twenty" before the word "five" in the sixteenth line of said section, and by striking out the word "one" in the same line and inserting in lieu thereof the word "two," and by striking out the word "three" in the seventeenth line of said section and inserting in lieu thereof the word "six," so that said section, as amended, shall read as follows: Section 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 educational, 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 lawful 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.

Approved March 5, 1883.

G. L. Copeland; and also to issue his warrant upon the Treasurer for the sum of sixty dollars, payable to the order of Abram Zarks; and also to issue his warrant upon the Treasurer for the sum of sixty dollars, payable to the order of C. E. Gordon; the said sums of money having been paid for State license erroneously issued to said persons by the Clerk of the Circuit Court of Anne Arundel county.

SEC. 2. *And be it enacted*, That this act shall take effect from the date of its passage. Effective.

Approved April 7, 1886.

CHAPTER 189.

AN ACT to prevent the carrying of guns, pistols, dirk-knives, razors, billies or bludgeons by any person in Calvert county, on the days of election in said county, within one mile of the polls.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That from and after the passage of this act, it shall not be lawful for any person in Calvert county to carry, on the days of election and primary election, within three hundred yards of the polls, secretly, or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon, and any person violating the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof by the Circuit Court of Calvert county having criminal jurisdiction thereof, or before any Justice of the Peace in said county, shall be fined not less than ten nor more than fifty dollars for each offence, and on refusal or failure to pay said fine, shall be committed to the Jail of the county until the same is paid. Unlawful to carry weapons to the polls.

SEC. 2. *And be it enacted*, That the fines collected under this act shall be paid by the offi-

EXHIBIT 30

Fines go to schools.

cer collecting the same, to the School Commissioners of the county in which the offence was committed, for School purposes.

Misdemeanor.

Penalty.

SEC. 3. *And be it enacted*, That any Constable of said county, or the Sheriff thereof, who shall refuse to arrest any person violating any provision of this act, upon information of such offence, shall be deemed guilty of a misdemeanor, and on conviction thereof before the Circuit Court for Calvert county, as the case may be, shall be fined not less than fifty nor more than one hundred dollars, and shall, in the discretion of the Court, be discharged from office.

Effective.

SEC. 4. *And be it enacted*, That this act shall take effect from the date of its passage.

Approved April 7, 1886.

CHAPTER 190.

AN ACT to repeal section three of the acts of eighteen hundred and eighty-four, chapter sixteen, entitled an act for the protection of birds in Prince George's and Anne Arundel counties, and to re-enact the same with amendments, and to add new sections thereto.

Repealed and re-enacted.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That section three of chapter sixteen of the acts of eighteen hundred and eighty-four, entitled an act for the protection of birds in Prince George's and Anne Arundel counties, be and the same is hereby repealed and re-enacted so as to read as follows, and that new sections be added thereto.

SEC. 3. *And be it enacted*, That it shall not be lawful for any person or persons in said counties to shoot, kill or catch or in any way to

in the third degree shall be punished by imprisonment for not less than three nor more than twenty-one years, in the territorial penitentiary.

Intent of repeal.

SEC. 5. It is the true intent of this act to repeal said sections 687, 688, 689, 695, 699, 700, 702 and 703, referred to in the first section of this act, only so far as the same apply to offenses committed after the passage of this act, but the said sections are to be held and remain in force and apply to all acts done and offenses committed prior to the passage of this act, and all pending prosecutions and those hereafter instituted for acts done prior to the passage of this act shall be commenced and carried on and punishment be had under the said sections 687, 688, 689, 695, 699, 700, 702 and 703, which said sections are hereby continued in force only for that purpose.

SEC. 6. This act shall be in force from and after its passage.

Approved February 24, 1887.

CHAPTER XXX.

CRIMES-WEAPONS.

AN ACT to prohibit the unlawful carrying and use of deadly weapons.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

Carrying any deadly weapon.

SECTION 1. That any person who shall hereafter carry a deadly weapon, either concealed or otherwise, on or about the settlements of this territory, except it be in his or her residence, or on his or her landed estate, and in the lawful defense of his or her person, family or property, the same being then and there threatened with danger, or except such carrying be done by legal authority, upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than three hundred, or by imprisonment not less than sixty days, nor more than six months, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

EXHIBIT 31

Threatening any person.

SEC. 2. Any person who shall draw a deadly weapon on another, or who shall handle a deadly weapon in a threatening manner, at or towards another, in any part of this territory, except it be in the lawful defense of himself, his family or his property, or under legal authority, upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment at hard labor in the county jail or territorial penitentiary not less than three months nor more than eighteen months, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

Assault with deadly weapon.

SEC. 3. Any person who shall unlawfully assault or strike at another with a deadly weapon, upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor in the county jail or territorial penitentiary, not exceeding three years, in the discretion of the court or jury trying the same.

Flourishing deadly weapon.

SEC. 4. Any person who shall unlawfully draw, flourish or discharge a rifle, gun or pistol within the limits of any settlement in this territory, or within any saloon, store, public hall, dance hall or hotel, in this territory, except the same be done by lawful authority, or in the lawful defense of himself, his family or his property, upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for a term of not more than three years, or by both such fine and imprisonment, in the discretion of the court or jury trying the same. The word "settlement," as used in this act, shall be construed to mean any point within three hundred yards of any inhabited house, in the territory of New Mexico.

Insulting person while armed.

SEC. 5. Any person being armed with a deadly weapon, who shall, by words, or in any other manner, insult or assault another, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than three hundred dollars, or by imprisonment at hard labor in the county jail or territorial penitentiary for not less than three months, nor more than one year, or by both such fine and imprisonment, in the discretion of the court or jury trying the same.

Jurisdiction of offenses.

SEC. 6. Justices of the peace, as well as the district courts shall have concurrent jurisdiction of all offenses committed under the first section of this act; but of offenses committed under the remaining sections hereof, justices of the peace shall not have jurisdiction except as committing magistrates, and it is made the duty of the justices of the peace of the several counties of the territory before whom any person is brought or arraigned for the violation of any

of the above sections, other than section one of this act, if reasonable grounds exist to believe such person guilty, to bind such person over in a good and sufficient bond to the district court of such county, and in default of such bond to commit to jail as in other felonies.

What accused must prove.

SEC. 7. It shall not be necessary, in the trial of any cause arising under the provisions of this act to prove that the person charged was not, at the time of violating the said provisions, in the lawful defense of himself, his family or property, or acting by lawful authority, but the accused must prove that he was, at such time, within the exception claimed.

Deadly weapon, definition of.

SEC. 8. Deadly weapons, within the meaning of this act, shall be construed to mean all kinds and classes of pistols, whether the same be a revolver, repeater, derringer, or any kind or class of pistol or gun; any and all kinds of daggers, bowie knives, poniards, butcher knives, dirk knives, and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword canes, and any kind of sharp pointed canes; as also slung shots, bludgeons or any other deadly weapons with which dangerous wounds can be inflicted.

Travelers may carry arms.

SEC. 9. Persons traveling may carry arms for their own protection while actually prosecuting their journey and may pass through settlements on their road without disarming; but if such travelers shall stop at any settlement for a longer time than fifteen minutes they shall remove all arms from their person or persons, and not resume the same until upon eve of departure.

Officers may carry arms when.

SEC. 10. Sheriffs and constables of the various counties, and marshals and police of cities and towns, in this territory, and their lawfully appointed deputies, may carry weapons, in the legal discharge of the duties of their respective offices, when the same may be necessary, but it shall be for the court or the jury to decide from the evidence whether such carrying of weapons was necessary or not, and for an improper carrying or using deadly weapons by an officer, he shall be punished as other persons are punished, for the violation of the preceding sections of this act.

Duty of hotel and saloon keepers, &c.

SEC. 11. Every keeper of hotel, boarding house, bar room, drinking saloon or place where liquor is sold, or dance hall, in this territory, shall keep conspicuously posted up a copy of this act, in both the English and Spanish languages, and it is hereby made the duty of every such keeper of a hotel, boarding house, bar room, drinking saloon or place where liquor is sold, or dance hall, or the person in charge of the same, who shall become cognizant of any violations

of the provisions of this act, in, upon or about their premises, to immediately and at once direct the attention of such violator to the provisions of this act, and upon a failure of such keeper of a hotel, boarding house, bar room, drinking saloon, or place where liquor is sold, or dance hall, or the person in charge thereof, to so do, he or they shall be liable to pay a fine of not less than $5, nor more than $50.

Duty of judges.

SEC. 12. It shall be the duty of the judges of the several district courts of this territory, at the charging of the grand jury of the several counties, to direct the attention of the said grand juries to the provisions of this act, and require that they make diligent inquiry as to any violation of the same.

Duty of county commissioners.

SEC. 13. The boards of county commissioners of the several counties of this territory are hereby directed and required to have printed in both English and Spanish a sufficient number of copies of this act for the use of and to be furnished to all persons applying for the same; and it is made the duty of the several sheriffs and collectors of said counties to furnish to each person with a license a copy of this act, in both English and Spanish.

SEC. 14. All fines and penalties accruing from the violation of the provisions of this act shall be paid into the county treasury of the county in which such violation occurs to the credit and for the benefit of the school fund of said county.

SEC. 15. This act shall have full force and effect from and after the first day of March, 1887.

Approved February 18, 1887.

ANNUAL REPORTS

OF THE

CITY OFFICERS AND CITY BOARDS

OF THE

CITY OF SAINT PAUL,

FOR THE FISCAL YEAR ENDING DECEMBER 31, 1888.

GLOBE JOB OFFICE.
D. RAMALEY & SON, PRINTERS.
1889.

EXHIBIT
32

RULES AND REGULATIONS OF THE PUBLIC PARKS AND GROUNDS OF THE CITY OF SAINT PAUL.

1. No person shall drive or ride in any Park in the City of Saint Paul at a rate exceeding seven (7) miles per hour.

2. No person shall ride or drive upon any other part of any Park than the avenues and roads.

3. No coach or vehicle used for hire shall stand upon any part of any Park for the purpose of hire, unless licensed by the Board of Park Commissioners.

4. No person shall indulge in any threatening or abusive, insulting or indecent language in any Park.

5. No person shall engage in any gaming nor commit any obscene or indecent act in any Park.

6. No person shall carry firearms or shoot birds in any Park or within fifty yards thereof, or throw stones or other missiles therein.

7. No person shall disturb the fish or water fowl in any pool or pond or birds in any part of any Park, or annoy, strike, injure, maim or kill any animal kept by direction of the Board of Park Commissioners, either running at large or confined in a close; nor discharge any fireworks, nor affix any bills or notices therein.

8. No person shall cut, break or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, bridges, structures or statuary, or foul any fountain, well or spring within any Park.

9. No person shall throw any dead animal or offensive matter, or substance of any kind into any lake, stream or pool, within the limits of any Park.

10. No person shall go in to bathe within the limits of any Park.

11. No person shall turn cattle, goats, swine, horses, dogs or other animals loose in any Park, nor shall any animals be permitted to run at large therein.

12. No person shall injure, deface or destroy any notices, rules or regulations for the government of any Park, posted or in any other way fixed by order or permission of the Board of Park Commissioners within the limits of any Park.

13. Complaints against any employe of any Park may be made at the office of the Superintendent of Parks.

14 No person shall use any Park drive for business purposes, or for the transportation of farm products, dirt or any like material, or for the passage of teams employed for such purposes.

Any person who shall violate any of the foregoing rules and regulations shall be guilty of a misdemeanor, and for each and every offense shall be fined not less than the sum of Five Dollars ($5), nor more than Fifty Dollars ($50), which sum shall be paid into the city treasury for park purposes.

JOHN D. ESTABROOK,
Superintendent.

THE MARYLAND CODE.

Public Local Laws,

CODIFIED BY

JOHN PRENTISS POE.

ADOPTED BY THE GENERAL ASSEMBLY OF MARYLAND
MARCH 14, 1888.

Including also the Public Local Acts of the Session of 1888 incorporated therein.

BY AUTHORITY OF THE STATE OF MARYLAND.

VOLUME I,

CONTAINING ARTICLE 1, ALLEGANY COUNTY, TO ARTICLE 10, DORCHESTER COUNTY.

1409

BALTIMORE:
KING BROS., PRINTERS AND PUBLISHERS.
1888.

Allegany, Worcester and Kent counties, and Baltimore city, and all cities, towns or burroughs in which dogs are taxed by municipal ordinance, are exempted from the operation of sections 157 to 162 of article 81 of the public general laws, title "Revenue and Taxes."

ELECTION DISTRICTS.

P. L. L., (1860,) art. 4, sec. 80.

69. Calvert county is divided into three election districts, according to their present bounds and limits, in each of which districts all elections for public officers shall be held, at the place now established by law.

1872, ch. 77.

70. The county commissioners are authorized to redistrict or increase the number of election precincts in said county if in their judgment it may seem needful and necessary.

1886, ch. 189.

71. It shall not be lawful for any person in Calvert county to carry, on the days of election and primary election, within three hundred yards of the polls, secretly or otherwise, any gun, pistol, dirk, dirk-knife, razor, billy or bludgeon; and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof by the circuit court for Calvert county, or before any justice of the peace in said county, shall be fined not less than ten nor more than fifty dollars for each offence, and on refusal or failure to pay said fine, shall be committed to the jail of the county until the same is paid.

Ibid.

72. The fines collected under the preceding section shall be paid by the officer collecting the same to the school commissioners of the county for school purposes.

Ibid.

73. Any constable of said county, or the sheriff thereof, who shall refuse to arrest any person violating section 71, upon information of such offence, shall be deemed guilty of a misdemeanor, and on conviction thereof before the circuit court for Calvert

SESSION LAWS

OF THE

FIFTEENTH

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF ARIZONA.

SESSION BEGUN ON THE TWENTY-FIRST DAY
OF JANUARY, A. D. 1889.

EXHIBIT
34

SEC. 3. This Act shall take effect from and after its passage.

Approved March 18, 1889.

No. 12. AN ACT

Concerning the Transaction of Judicial Business on Legal Holidays.

Be it enacted by the Legislative Assembly of the Territory of Arizona:

SECTION 1. No Court of Justice shall be open, nor shall any Judicial business be transacted on any Legal Holiday, except for the following purposes:

1. To give, upon their request, instructions to a Jury when deliberating on their verdict.

2. To receive a verdict or discharge a Jury.

3. For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; provided, that the Supreme Court shall always be open for the transaction of business; and provided further, that injunctions, attachments, claim and delivery and writs of prohibition may be issued and served on any day.

SEC. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in force and effect from and after its passage.

Approved March 18, 1889.

No. 13. AN ACT

Defining and Punishing Certain Offenses Against the Public Peace.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

SECTION 1. If any person within any settlement, town, village or city within this Territory shall carry on or about his person, saddle, or in his saddlebags, any pistol, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which he is convicted, the weapon or weapons so carried.

SEC. 2. The preceding article shall not apply to a person in actual service as a militiaman, nor as a peace officer

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

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

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

SEC. 5. Any person violating any of the provisions of Articles 1 and 3, may be arrested without warrant by any peace officer and carried before the nearest Justice of the Peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not exceeding three hundred dollars.

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

SEC. 7. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons in accordance with Section 9 of this Act, and the Sheriffs of the various Counties

shall notify the keepers of hotels, boarding houses and drinking saloons in their respective Counties of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon, shall fail to keep notices posted as required by this Act, he shall, on conviction thereof before a Justice of the Peace, be fined in the sum of five dollars to go to the County Treasury.

SEC. 8. All Acts or parts of Acts in conflict with this Act are hereby repealed.

SEC. 9. This Act shall take effect upon the first day of April, 1889.

Approved March 18, 1889.

No. 14. AN ACT

To Amend Paragraph 492, Revised Statutes.

Be it Enacted by the Legislative Assembly of the Terrritory of Arizona:

SECTION 1. That Paragraph 492, Chapter 5, Title 13, of the Revised Statutes, be amended so as to read as follows: "If he fail to attend in person or by deputy any term of the District Court, the Court may designate some other person to perform the duties of District Attorney during his absence from Court, who shall receive a reasonable compensation to be certified by the Court, and paid out of the County Treasury, which the Court shall by order direct to be deducted from the salary of the District Attorney, if the absence of such Attorney is not excused by such Court."

SEC. 2. That all Acts and parts of Acts in conflict with this Act be, and the same are, hereby repealed.

SEC. 3. That this Act shall take effect and be in force from and after its passage.

Approved March 19, 1889.

No. 15. AN ACT

To Provide for the Payment of Boards of Supervisors of the Counties within the Territory of Arizona.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

SECTION 1. Each member of the Board of Supervisors within this Territory shall be allowed as compensation for their services Five Dollars per day for each day's actual attendance at the sitting of said Board, at which sitting any County business is transacted; and twenty cents per mile actually traveled

GENERAL ORDINANCES, etc.

OF THE

TOWN OF COLUMBIA,

IN

BOONE COUNTY, MISSOURI,

REVISED, PUBLISHED AND PROMULGATED BY AUTHORITY OF THE BOARD OF TRUSTEES OF SAID TOWN, IN THE YEAR 1890.

TO WHICH ARE APPENDED

THE PROVISIONS OF THE STATE CONSTITUTION RESPECTING MUNICIPAL CORPORATIONS; ALSO THE GENERAL AND SPECIAL CHARTERS OF SAID TOWN.

REVISED BY LEWIS M. SWITZLER.

COLUMBIA, MO.:
STATESMAN BOOK AND JOB OFFICE PRINT.
1890.

EXHIBIT 35

or spirituous liquors, or any composition of which fermented, vinous or spiritous liquors form a part. *Provided,* that this section shall not be so construed as to prevent any druggist from selling or giving away, in good faith, wine for sacramental purposes, or alcohol for art, mechanical or scientific purposes on the applicant therefor, and seller thereof, complying with the laws of this state in such case made and provided; nor to prevent the selling or giving away by druggists of alcohol, or intoxicating liquors, on a written prescription, dated and signed, first had and obtained from some regularly registered and practising physician, and then only when such physician shall state in such prescription the name of the person for whom the same is prescribed and that such intoxicating liquor is prescribed as a necessary remedy in such case.

Sec. 159. Any person who shall sell or give away, to any person already intoxicated, any intoxicating liquor shall be deemed guilty of a misdemeanor and be fined if a druggist selling or giving away on prescription, not less than twenty-five dollars; if any other person, not less than forty dollars.

Passed May 22, 1890.

CHAPTER XVII.

CARRYING CONCEALED WEAPONS—FIRING GUNS, PISTOLS, FIRE CRACKERS, ETC.

Be it ordained by the Board of Trustees of the Town of Columbia as follows:

Sec. 160. Any person who shall fire or discharge, or who shall cause the same to be done by any person under his authority or control, any gun, pistol, cannon, anvil, or any device or contrivance, charged with any explosive, shall be deemed guilty of a misdemeanor and on conviction be fined not less than ten dollars for each offense.

Sec. 161. Any person who shall ignite or explode any explosive compound, or suffer the same to be done by any person under his control, or who shall fire, or cause to be fired or exploded, or suffer the same to be done by any person under his control, any fire cracker, or crackers, Roman candles, rockets, torpedoes, squibs, or any other kind of fireworks whatever, shall be deemed guilty of a misdemeanor and on conviction be fined not less than five dollars for each offense.

Sec. 162. Any person who shall be guilty of carrying concealed upon or about his person any pistol, bowie knife, dirk, dagger, slung shot, or other deadly or dangerous weapon, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars for every such offense.

Sec. 163. Any person who 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 educational, literary or social purposes; or into any court room, during the sitting of court, or to any election precinct on any election day; or into any other public assemblage of persons met for any lawful purpose, other than for military drill, or meetings called under the militia laws of this state, carrying concealed or in sight upon or about his person, any fire arms or other deadly or dangerous weapon, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred nor more than one hundred and fifty dollars for ever such offense.

Sec. 164. Any person who shall be guilty of exhibiting any fire arms, or other deadly or dangerous weapon in a rude, angry, or threatening manner; or who shall carry any such weapon upon or about his person when intoxicated or under the influence of intoxicating drinks, shall be deemed guilty of a misdemeanor, and shall upon conviction be fined not less than fifty dollars for every such offense.

Provided, that the three last preceding sections shall not apply to police officers, nor to any officer whose duty it is to execute process or warrants, or to suppress breaches of the peace, or make arrests, nor to any posse when lawfully summoned and on duty; nor shall section 162 apply to persons moving or traveling peaceably through the state.

Passed May 22, 1890.

THE

STATUTES OF OKLAHOMA

1890.

Compiled under the supervision and direction of Robert Martin,
Secretary of the Territory,

—BY—

WILL T. LITTLE, L. G. PITMAN and R. J. BARKER,

—FROM—

The Laws Passed by the First Legislative Assembly of the Territory.

GUTHRIE, OKLAHOMA:
THE STATE CAPITAL PRINTING CO.,
PUBLISHERS.
1891.

EXHIBIT
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(2430) § **6**. Every person who, with intent to extort any money or other property from another, sends to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat. Sending threatening letter.

(2431) § **7**. Every person who unsuccessfully attempts by means of any verbal threat such as is specified in the second section of this article, to extort money or other property from another is guilty of a misdemeanor. Attempting to export money.

ARTICLE 47.—CONCEALED WEAPONS.

(2432) § **1**. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, saddle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided. Prohibited weapons enumerated.

(2433) § **2**. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided. Same.

(2434) § **3**. It shall be unlawful for any person within this Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article. Minors.

(2435) § **4**. Public officers while in the discharge of their duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: *Provided, however*, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person. Public officials, when privleged.

(2436) § **5**. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise. Arms, when lawful to carry.

(2437) § **6**. Any person violating the provisions of any one of the foregoing sections, shall on the first conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent con- Degree of punishment.

viction, the party offending shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

Public buildings and gatherings.

(2438) § **7.** It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

Intent of persons carrying weapons.

(2439) § **8.** It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

Pointing weapons at another.

(2440) § **9.** It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

Violation of section seven.

(2441) § **10.** Any person violating the provisions of section seven, eight or nine of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three not more than twelve months.

ARTICLE 48.—FALSE PERSONATION AND CHEATS.

Punishment for false impersonation.

(2442) § **1.** Every person who falsely personates another, and in such assumed character, either:

First. Marries or pretends to marry, or to sustain the marriage relation toward another, with or without the connivance of such other person; or,

Second. Becomes bail or surety for any party, in any proceeding whatever, before any court or officer authorized to take such bail or surety; or,

Third. Subscribes, verifies, publishes, acknowledges or proves, in the name of another person, any written instrument, with intent that the same may be delivered or used as true; or,

Fourth. Does any other act whereby, if it were done by the person falsely personated, he might in any event become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party personating, or to any other person.

LAWS

—AND—

ORDINANCES,

FOR THE GOVERNMENT OF THE MUNICIPAL CORPORATION OF THE

CITY OF WILLIAMSPORT, PENNSYLVANIA,

IN FORCE APRIL 1ST, 1891.

PUBLISHED BY AUTHORITY OF THE CITY COUNCILS.

IN FOUR PARTS.

EXHIBIT 37

WILLIAMSPORT, PA.:
PENNSYLVANIA GRIT BOOK AND JOB PRINTING HOUSE.
1891.

PART IV.

ORDINANCES

OF THE CITY OF WILLIAMSPORT, PA.

AN ORDINANCE

Brandon Park

Prescribing the rules and regulations for the government and protection of Brandon Park, imposing penalties for the violation of the same, and closing part of Packer street.

Regulations.

SECTION 1. *Be it ordained by the select and common councils of the city of Williamsport*, That the following rules and regulations be and are hereby established as the rules and regulations for the government and protection of Brandon Park, viz.:

Driving.

1. No person shall drive or ride in Brandon Park at a rate exceeding seven miles an hour.

Upon roads.

2. No person shall ride or drive upon any part of the park, except on the avenues and roads.

Vehicles prohibited.

3. No vehicle of burden or traffic shall be permitted within said park, except when employed in the business of the park.

Regulating speed.

4. No bicycles, tricycles or other vehicles of a similar nature, shall be driven at a greater speed than seven miles per hour in the park.

Law of road.

5. When carriages, bicycles, tricycles or equestrians meet, the parties respectively shall keep to the right as the law of the road.

Entrance and exit.

6. No person shall enter or leave the park except by such gates or avenues as may be for such purposes arranged.

Led horses.

7. No person shall bring or lead a horse or horses within the limits of the park not harnessed and attached to a vehicle, or mounted by an equestrian.

Animals at large.

8. No person shall turn cattle, goats, swine, horses, dogs or other animals loose into the park.

Shrubbery.

9. No person shall cut, break or in anywise injure or deface the trees, shrubs, plants, flowers, fruit, turf, or any of the buildings, fences, bridges, structures or statuary, or foul any fountains or springs within the park, nor throw stones or rubbish of any kind into any lake or pond of the park, or bathe in the same.

Nuisances.

10. No person shall throw any dead animal or offensive matter or substance of any kind within the boundaries of the park.

Fish, etc.

11. No person shall disturb the fish or water fowl in the pool or pond, or birds in any part of the park, or annoy, strike, injure, maim or kill any animal kept by direction of the commissioners, either running at large or confined.

Trees.

12. No person shall attach a swing to, fasten a horse to, nor climb a tree in said park.

Bills and notices.

13. No person shall injure, deface or destroy any notices, rules or regulations for the government of the park posted or in any other manner permanently fixed by order or permission of the commissioners of the park, nor affix any bills or notices within the limits of the same.

Traffic prohibited.

14. No person shall expose any article for sale within the park.

15. No person shall have any musical or other entertainment in the park, nor shall any parade or procession take place in or pass through the park, nor shall any picnic, gathering or public meeting of any kind be permitted therein without the previous permission of the commissioners. Parades, etc., prohibited.

16. No person shall engage in any play at base ball, cricket, shinny, foot-ball, croquet, or at any other athletic games within the limits of the park, except on such grounds only as shall be specially designated for such purposes by the park commissioners. Games prohibited.

17. No person shall introduce any spirituous, malt or brewed liquors into said park, either for his own use, to sell, or to give away, nor shall any intoxicated person enter or remain in said park. Liquors prohibited.

18. No person shall curse or swear or use threatening or abusive language, or fight or throw stones, or behave in a riotous or disorderly manner in said park. Swearing.

19. No person shall indulge in any insulting or indecent language, or commit a nuisance in the park. Nuisances.

20. No person shall engage in playing cards or gambling in said park. Gambling.

21. No person shall carry fire-arms, or shoot in the park, or discharge any fire-works, or throw stones or missiles therein. Firearms.

SEC. 2. Any person who shall violate any of said rules and regulations shall be liable to a fine of not less than five dollars nor more than fifty dollars, to be recovered before any alderman of the city of Williamsport, with costs, together with judgment of imprisonment not exceeding thirty days, if the amount of said judgment and costs shall not be paid, which fines shall be paid into the city treasury for park purposes. Penalty.

SEC. 3. Packer street, where it passes through the park, is hereby abandoned as a public highway and declared to be a part of the park, subject to the rules and regulations adopted for its government and protection. Street vacated.

APPROVED—June 18th, 1890.

F. H. KELLER,
Mayor.

THE ANNOTATED CODE

—OF THE—

GENERAL STATUTE LAWS

—OF—

THE STATE OF MISSISSIPPI,

—PREPARED BY—

R. H. THOMPSON, GEORGE G. DILLARD,
and R. B. CAMPBELL,

—AND—

Reported to and amended and adopted by the Legislature at its Regular Session in 1892.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

NASHVILLE, TENN.:
MARSHALL & BRUCE, LAW PUBLISHERS.
1892.

EXHIBIT
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years to have or to own, or to carry concealed, in whole or in part, any weapon the carrying of which concealed is prohibited, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than twenty dollars nor more than two hundred dollars, or may be imprisoned not more than sixty days in the county jail, or both.

1030 (2988). **The same; college students not to have, etc.**—A student of any university, college, or school, who shall carry, bring, receive, own, or have on the campus, college or school grounds, or within two miles thereof, any weapon the carrying of which concealed is prohibited, or a teacher, instructor, or professor who shall knowingly suffer or permit any such weapon to be carried, or so brought, received, owned, or had by a student or pupil, shall be guilty of a misdemeanor, and, on conviction, be fined not exceeding three hundred dollars or imprisoned in the county jail not exceeding three months, or both.

1031 (2804). **The same; exhibiting in rude, angry, or threatening manner, etc.**—If any person, having or carrying any dirk, dirk-knife, sword, sword-cane, or any deadly weapon, or other weapon the carrying of which concealed is prohibited, shall, in the presence of three or more persons, exhibit the same in a rude, angry, or threatening manner, not in necessary self-defense, or shall in any manner unlawfully use the same in any fight or quarrel, the person so offending, upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars or be imprisoned in the county jail not exceeding three months, or both. In prosecutions under this section it shall not be necessary for the affidavit or indictment to aver, nor for the state to prove on the trial, that any gun, pistol, or other fire-arm was charged, loaded, or in condition to be discharged.

The omission of the word "manner," after the words "rude, angry, and threatening," in an indictment, is a formal defect, and may be amended as such. In such indictment it is unnecessary to aver that the defendant was "carrying" the weapon. Gamblin v. State, 45 Miss., 658.

1032 (2769). **Disturbance of family; noises and offensive conduct.**—A person who willfully disturbs the peace of any family or person by an explosion of gunpowder or other explosive substance, or by loud or unusual noise, or by any tumultuous or offensive conduct, shall be punished by fine and imprisonment, or either; the fine not to exceed one hundred dollars, and the imprisonment not to exceed six months in the county jail.

What constitutes the offensive conduct, or the nature or character of the offensive conduct, should be stated in the affidavit or indictment. Finch v. State, 64 Miss., 461.

This section and the next one are intended to protect the peace of families. An affidavit or indictment averring the disturbance merely of an individual, charges no offense under either section. Brooks v. State 67 Miss., 577.

1033 (2770). **The same; using abusive, etc., language, etc.**—Any person who enters the dwelling-house of another, or the yard or curtilage thereof, or upon the public highway, or any other place near such premises, and in the presence or hearing of the family of the possessor or occupant thereof, or of any member thereof, or of any female, makes use of abusive, profane, vulgar, or indecent language, or is guilty of any indecent exposure of his person at such place, shall be punished for a misdemeanor.

Place is material. An indictment charging the use of abusive language in a yard, is not sustained by proof of its use near the yard. Quin v. State, 65 Miss., 479.

1034 (2767). **Disturbance of worship; proceedings and penalty.**—If any person shall willfully disturb any congregation of persons lawfully assembled for reli-

THE CHARTER

OF THE

TY OF WILMINGTON

AS AMENDED TO MAY 6TH, 1893;

ts of the General Assembly

RELATING TO THE CITY,

INCLUDING THE SESSION OF 1893;

(being vol. 19. Laws of Del.)

—AND—

INANCES, AND RULES AND REGULATIONS

Of Departments of the City Government,

S AMENDED AND IN FORCE, SEPTEMBER 1ST, 1893;

—ALSO—

E ORIGINAL BOROUGH CHARTER.

PUBLISHED BY ORDER OF THE COUNCIL.

WILMINGTON, DEL.:
DIAMOND PRINTING COMPANY,
1893.

EXHIBIT
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PART VII.

RULES AND REGULATIONS

OF THE

BOARD OF PARK COMMISSIONERS.

RULES AND REGULATIONS OF THE BOARD OF PARK COMMISSIONERS,

AS AMENDED AND IN FORCE SEPTEMBER 1ST, 1893.

1. No person shall ride or drive upon any other part of the Park than upon such roads as may be designated for such purposes. . . . . Penalty, $5 00

2. No person shall be permitted to bring led horses within the limits of the Park, or to turn any horses, cattle, goats, swine, dogs, or other animals loose in the Park. . . . . Penalty. $5 00

3. No person shall indulge in any threatening, abusive, insulting, or indecent language in the Park. . . . . Penalty, $5 00

4 No person shall engage in gaming, or commit any obscene or indecent act in the Park. . . . . Penalty, $10 00

5. No person shall go into bathe in any of the waters within the Park. . . . . Penalty, $5 00

6. No person shall throw any dead animal or offensive matter or substance of any kind into the Brandywine, or into any spring, brook, or other water, or in any way foul any of the same, which may be within the boundaries of the Park Penalty, $5 00

7. No person shall carry fire-arms or shoot birds or other animals within the Park, or throw stones or other missiles therein. Penalty, $5 00

8. No person shall disturb birds, or annoy, strike, injure or kill any animal, whether wild or domesticated, within the Park. Penalty, $5 00

9. No person shall cut, break, or in anywise injure or deface any trees, shrubs, plants, turf or rocks, or any buildings, fences, bridges, or other structures within the Park. Penalty, $10 00

10 No person shall injure, deface, or destroy any notices, rules or regulations for the government of the Park posted or in any other manner permanently fixed, by order or permission of the Board of Park Commissioners or their officers or employes. Penalty, $10 00

Adopted October 12, 1887.

THE STATUTES

OF

OKLAHOMA,

1893.

Being a Compilation of all the Laws now in force in the Territory of Oklahoma.

8180

Compiled Under the Direction and Supervision of Robert Martin, Secretary of the Territory

BY

W. A. McCARTNEY, JOHN H. BEATTY and J. MALCOLM JOHNSTON,

a Committee Elected by the Legislative Assembly.

GUTHRIE, OKLAHOMA,
STATE CAPITAL PRINTING CO.,
1893.

EXHIBIT
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Sending threatening letter.

(2402) § 6. Every person who, with intent to extort any money or other property from another, sends to any person any letter or other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

Attempting to extort money.

(2403) § 7. Every person who unsuccessfully attempts by means of any verbal threat such as is specified in the second section of this article, to extort money or other property from another is guilty of a misdemeanor.

ARTICLE 45.—CONCEALED WEAPONS.

Prohibited weapons enumerated.

(2404) § 1. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, saddle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

Same.

(2405) § 2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

Minors.

(2406) § 3. It shall be unlawful for any person within this Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article.

Public officials, when privileged.

(2407) § 4. Public officers while in the discharge of their duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: *Provided, however*, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

Arms, when lawful to carry.

(2408) § 5. Persons shall be permitted to carry shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise.

Degree of punishment.

(2409) § 6. Any person violating the provisions of any one of the foregoing sections, shall on the first conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent con-

Chap. 25.

viction, the party offending shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

Public buildings and gatherings.

(2410) § **7.** It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

Intent of persons carrying weapons.

(2411) § **8.** It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

Pointing weapons at another.

(2412) § **9.** It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

Violation of section seven.

(2413) § **10.** Any person violating the provisions of section seven, eight or nine of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three not more than twelve months.

ARTICLE 46.—FALSE PERSONATION AND CHEATS.

Punishment for false impersonation.

(2414) § **1.** Every person who falsely personates another, and in such assumed character, either:

First. Marries or pretends to marry, or to sustain the marriage relation toward another, with or without the connivance of such other person; or,

Second. Becomes bail or surety for any party, in any proceeding whatever, before any court or officer authorized to take such bail or surety; or,

Third. Subscribes, verifies, publishes, acknowledges or proves, in the name of another person, any written instrument, with intent that the same may be delivered or used as true; or,

Fourth. Does any other act whereby, if it were done by the person falsely personated, he might in any event become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party personating, or to any other person.

BUREAU OF PARKS.

July 31, 1893, § 1. O. B. 9, 262.

Bureau of parks created.

Officers and employees.

1. There shall be and is hereby created a bureau to be known as the "bureau of parks," which bureau shall consist of one superintendent whose compensation shall be two hundred dollars per month, one superintendent, whose compensation shall be one hundred and fifty dollars per month, and one assistant superintendent whose compensation shall be one hundred and twenty-five dollars per month, one clerk whose compensation shall be eighty-three dollars and thirty-three cents per month, and such foremen and laborers as may be required from time to time, at the same pay as like labor in other departments of the city (*a*).

July 6, 1896. O. B. 11, 139.

Preamble.

Preamble.

2. WHEREAS, The control, maintenance, supervision and preservation of the public parks is by law vested in the department of public works; and

WHEREAS, It is essential to proper exercise of these powers that persons should be employed as watchmen in the public parks for the protection of the public property therein.

Ibid § 1.

Watchmen compensation.

3. *Be it ordained, &c.*, That the director of the department of public works shall, and he is hereby authorized to employ such watchmen as may be necessary for the properly caring for, maintaining and protecting the public property in the public parks of this city at the daily compensation of two dollars and fifty cents each.

Ibid. § 2.

4. The compensation of such watchmen shall be paid out of appropriation No. 36, public parks.

July 27, 1893. § 1. O. B. 9, 260.

Rules adopted.

5. Upon the passage and approval of this ordinance the following rules and regulations shall be and are hereby established for the management and protection of the parks and public grounds of the city of Pittsburgh, to wit:

First. No person shall injure, deface or destroy any notices, rules or regulations for the government of the parks, posted or in any other manner permanently fixed by order of the chief of department of public works.

Second. No person shall be allowed to turn any chickens, ducks, geese or other fowls, or any cattle, goats, swine, horses or other animals loose within the parks or to bring led horses or a horse that is not harnessed and attached to a vehicle or mounted by an equestrian.

Third. No person shall be allowed to carry firearms, or to shoot or throw stones at or to set snares for birds, rabbits, squirrels or fish, within the limits of the parks or within one hundred yards thereof.

Fourth. No person shall cut, break, pluck or in anywise injure or deface the trees, shrubs, plants, turf or any of the buildings, fences, structures or statuary, or place or throw anything whatever in any springs or streams within the parks, or fasten a horse to a tree, bush or shrub.

(*a*) As amended by ordinance of Nov. 23, 1896. O. B. 9, p. 320, and ordinance of March 31, 1896. O. B. 11, p. 40.

July 27, 1893.
Park rules.

Fifth. No military or other parade or procession, or funeral shall take place in or pass through the limits of the parks without permission from the chief of department of public works.

Sixth. No one shall ride or drive therein except on the avenues or roads, or at a rate of speed exceeding eight miles per hour.

Seventh. No gathering or meeting of any kind, assembled through advertisement, shall be permitted in the parks without previous permission of the chief of the department of public works, nor shall any gathering or meeting for political purposes in the park be permitted under any circumstances.

Eighth. No wagon or vehicle of burden or traffic shall pass through the park, except on such road or avenue as shall be designated by the chief of the department of public works for burden transportation.

Ninth. No coach or vehicle used for hire, shall stand upon any part of the parks for the purpose of hire, nor except in waiting for persons taken by it into the park, unless at points designated by the chief of the department of public works.

Tenth. No profane, indecent, abusive or insulting language, gambling or drunkenness shall be allowed within the parks, nor shall any one be allowed to introduce any spirituous liquors within the limits of the same, either for his own use or for sale.

Eleventh No person shall climb any tree or attach any swing thereto, without the consent of the superintendent.

Twelfth. No picnic shall take place in the parks without a written permission for the purpose being obtained from the superintendent, in which shall be designated the spot where it shall be held, and parties holding picnics shall clean up the ground that has been occupied by them on quitting it, and not leave paper and other refuse on the ground.

Thirteenth. No person shall disturb any picnic in the parks, or intrude himself or herself on it without the consent of those composing it.

Fourteenth. No person shall stand, walk or sit on any fence, wall or embankment, or stand, slide, sit or roll upon any slope of the parks.

Fifteenth. No person shall set up any booth, table or stand for the sale of any article whatever, without the consent of the chief of the department of public works, previously obtained in writing.

Sixteenth. When carriages or equestrians meet, the parties respectively shall keep to the right as the law of the road.

Seventeenth. No person shall drive any vehicle displaying any placard or advertisement of any kind along any road or avenue in the parks, nor shall any person display any placards or advertisements of any kind, or post or fix any notice or bill or other writing or printing of any kind on any tree, lamp-post, hydrant, curbstone, coping, flagstone, fence, wall, building or other place within the parks.

Eighteenth. No benches or seats shall at any time be removed

July 27, 1893

or changed from their places in the parks, except by the order first obtained of the superintendent.

Nineteenth. Bicycles and tricycles shall be restricted to the use of the roadways, and be controlled by the same law which governs horses, vehicles and equestrians, and must pass to the right, when meeting the same or each other. When passing a carriage or equestrian from the rear to the front, it must be done to the left side and at a moderate rate of speed. Bicycles and tricycles must not travel more than two abreast.

Twentieth. All racing with horses, vehicles, tricycles and bicycles is prohibited at any time, and bicycles and tricycles must not be driven or propelled at greater speed than eight miles per hour.

Ibid. § 2.

Penalty.

6. Any violation of any of the foregoing rules shall subject the party so offending to a fine of twenty-five dollars, to be collected by summary process.

Aug. 28, 1871, § 1. O. B. 3, 122.

Improvement of part of Bluff street as a park authorized.

7. The citizens of the Sixth and Fourteenth wards of the city of Pittsburgh, residing in the vicinity of Bluff street, shall be and are hereby authorized to enclose with a good substantial fence a portion of Bluff street, from Gist to Magee street, as follows, viz: Commencing at Gist street thirty feet south of the northern curb line, and thence running by a line preserving the same width to Magee street, said fence to be constructed with openings at the street crossings, and at such other points as may be deemed proper openings for the convenient access of foot passengers. Said citizens shall be further authorized to lay off the grounds south of said fence to the line of said street with walks, and within said enclosure, and on the outside thereof, to plant trees and shrubbery, erect fountains and make other improvements thereon suitable for a public promenade: *Provided*, That no trees or other improvements shall be placed upon said street within a distance of twenty feet from the north curb line of said street.

Ibid. § 2.

City not liable for expense.

8. Said improvements shall be made and maintained at the expense of the parties making the same, and the city shall not be liable for any expense contracted for or on account of the same.

Ibid. § 3.

City may grade and pave.

9. Said city reserves the right to direct the grading and paving of said street at any time hereafter, without compensation for the improvement which may be made thereon as fully as if this ordinance had not been adopted.

Ibid. § 4.

10. Said improvements and the maintenance and care of the same shall be under the charge of such persons as may be selected by subscribers to the fund for making the same.

Ibid. § 5.

Penalty for injuring improvements.

11. It shall be unlawful for any person to injure or destroy any fence, trees, shrubbery or other improvement upon said ground; and if any person shall wilfully injure or destroy the same, or any part thereof, he or she shall forfeit and pay the sum of ten dollars, in addition to a sum sufficient to repair or replace the damage, to be recovered by action in the name of the city of Pittsburgh, or by summary conviction before the mayor

or any alderman of said city, and the sum so recovered shall be paid to the person having charge of said improvements, to be expended upon the same. Aug. 28, 1871.

12. The superintendent of the water works shall be authorized to direct a supply of water, free of charge, for not more than two fountains upon said ground at all reasonable times and to reasonable amounts, from the first day of April to the fifteenth day of October in each year: *Provided*, That said superintendent shall be authorized to prevent the unnecessary waste of water, and to prohibit its use during times of short supply. Ibid. § 6. Supply of water for two fountains authorized.

13. WHEREAS, The public market-house on Second street is of no benefit to the city; Sept. 27, 1858, O. B. 2, 125.

And whereas, The heirs and legal representatives of the estate of James O'Hara have, by deed dated the seventeenth day of May, one thousand eight hundred and twenty, and on the ninth of August, one thousand eight hundred and fifty-eight, consented that the ground dedicated by the late James O'Hara, on Second between Ross and Grant streets, may be used as a public square or area; therefore, Preamble.

14. *Be it ordained, &c.*, That all that portion of Second street extending from Grant to Ross street, and used for the purpose of a market house, be and the same is hereby devoted to the purpose of a public park, to be ornamented in such manner as shall be directed by the mayor of the city and members of councils for the time being of the Second ward, who are hereby authorized to adopt such rules for the same as may, in their judgment, be proper, and to keep the same posted on the gate-posts thereof: *Provided*, The whole expense of removing the market-house and of constructing said public park and keeping the same in repair, shall be provided by voluntary subscription, and shall in no case be a charge on the city treasury. Ibid. § 1. Second street market to be made a park. Rules. Proviso.

15. Any person that shall injure or destroy any tree, shrub or any other thing within said park, or the wall or fence that may surround it, shall, upon conviction before the mayor, be fined a sum not exceeding five dollars, in addition to the amount necessary to repair any injury so done, to be recovered as like penalties are by law recoverable. Ibid. § 2. Penalty for injuries.

16. It shall be lawful to erect within the said area or park one or more fountains, to be supplied from the public water pipes without any charge for the use of the water. Ibid. § 3. Fountains.

17. Before the work necessary for said improvement shall be commenced, the mayor and members of councils from the Second ward shall meet at the mayor's office and choose from among themselves one president, one secretary, and one treasurer, and shall proceed to agree upon a plan of the work, &c. Ibid. § 4.

18. For the purpose of constructing and maintaining a public park, there shall be and is hereby set aside, dedicated and appropriated so much of the ground belonging to said city as is not indispensably necessary for the safe and proper use of the reservoir known as the Herron Hill Reservoir. Sept. 14, 1880 § 1. O. B. 7, 131. Dedication of Herron Hill Park.

Sept. 14, 1889, § 2. Improvement.

19. The chief of the department of public works of said city be and he is hereby authorized and directed to improve all said ground lying around, adjacent to and connected with said reservoir, and which shall not be found actually necessary for the operation of said reservoir, to be used and enjoyed as a public park, to be known as and by the name of the "Herron Hill Park."

Sept. 16, 1889, § 1. Dedication of Highland Park.

20. For the purpose of constructing and maintaining a public park, there shall be and is hereby set aside, dedicated and appropriated so much of the ground belonging to said city as is not indispensably necessary for the safe and proper use of the reservoirs known as the Highland Reservoirs.

Ibid. § 2. Improvements.

21. The chief of the department of public works of said city be and he is hereby authorized and directed to improve all said ground lying around, adjacent to and connected with said reservoirs or which may be added thereto, and which shall not be found actually necessary for the operation of said reservoirs, to be used and enjoyed as a public park, to be known as and by the name of "Highland Park."

BUREAU OF CITY PROPERTY.

Dec. 17, 1887, § 18. O. B. 6, 227. Bureau created. Title of head. Salary. Duties. Clerk.

1. There shall be and is hereby created a bureau to be known as the bureau of city property, the head of which shall be known as superintendent of city property, and who shall receive the sum of one hundred and fifty dollars per month as his compensation. The duties of this bureau shall be to take charge of all public property belonging to said city not otherwise conferred upon some other department, including markets, city buildings, wharves, and such other property of the city as is not specially conferred elsewhere: *Provided*, That the chief clerk of this bureau shall act as clerk of the Diamond markets without extra compensation.

Feb. 28 1890, § 1. O. B. 7, 321. Salary of clerk of bureau of city property.

2. From and after the date of the passage of this ordinance, the salary of the clerk to the bureau of city property (who also acts as clerk of markets) shall be and is hereby fixed at fifteen hundred dollars per annum, and the said clerk to the bureau of city property shall receive compensation for his services at the rate of fifteen hundred dollars per annum from and after the date of the approval or passage of this ordinance.

City Code, 234, § 1. Penalty for injuring. Proviso.

3. If any person shall destroy or injure in any way whatsoever any public property within this city, he shall forfeit and pay for every such offense a fine of not less than ten dollars and not exceeding fifty dollars, besides the amount of the costs and expenses of repairing the same: *Provided*, That when the injury is accidental no further fine shall be imposed than the amount of the cost and expense of repairing.

Ibid. § 2. City officers to report to controller.

4. It shall be the duty of every city officer to report to the controller any damage or injury which may be done to any public property in his possession, that the same may be laid

THE REVISED ORDINANCES, etc.

—OF THE—

CITY OF HUNTSVILLE, MISSOURI,

OF 1894.

COLLATED, REVISED, PRINTED AND PUBLISHED BY AUTHORITY OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF HUNTSVILLE, MISSOURI, UNDER AN ORDINANCE OF THE SAID CITY, ENTITLED:

"AN ORDINANCE IN RELATION TO ORDINANCES, AND THE PUBLICATION THEREOF." APPROVED ON THE 11TH DAY OF JUNE, 1894.

HERALD PRINT.
HUNTSVILLE, MISSOURI:
1894.

EXHIBIT
42

CC
Huntsville M
3
1894

43-612

AN ORDINANCE IN RELATION TO BUTCHERS.

Be it ordained by the Board of Aldermen of the City of Huntsville, Missouri, as follows:

SECTION 1. No person shall carry on the business of a butcher within the city without taking out license therefor, and no person shall be permitted, under such license, to sell or dispose of meats at more than one place or stand within the city.

SECTION 2. For the purposes of this ordinance a butcher is defined to be any person engaged in selling or disposing of fresh meats for food in quantities less than one quarter

SECTION 3. Nothing herein contained shall be so construed as to prevent any grocer, at his place of business, from selling game, poultry or cured meats.

SECTION 4. This ordinance shall take effect and be in force from and after its passage, approval and publication, and any person violating any provision of said ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in any sum not exceeding one hundred dollars.

S. G. RICHESON,
Pres. of the Board of Aldermen.

Approved July 17, 1894.

Attest:
J. A. HEETHER, Clerk.

S. G. RICHESON, Mayor.

———o———

AN ORDINANCE IN RELATION TO CARRYING DEADLY WEAPONS.

Be it ordained by the Board of Aldermen of the City of Huntsville. Missouri, as follows:

SECTION 1. If within the city 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 educational, 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 lawful purpose other than for militia drill or meetings called under militia law of the state, having upon or about his person any kind of fire-arms, bowie-knife, dirk, dagger, sling-shot, or other deadly weap-

on, 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, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five nor more than one hundred dollars, or by imprisonment in the city prison not exceeding thirty days nor less than five days or by both such fine and imprisonment; provided, the Mayor may grant permisson to any person to discharge gun, pistol or other fire-arms under proper circumstances shown to him.

SECTION 2. The next preceding section shall not apply to police officers, nor to any officer or person whose duty it is to execute process or warrants, or to suppress breaches of the peace, or to make arrests, nor to persons moving or traveling peaceably through this state; and it shall be good defense to the charge of carrying such weapon, if the defendant shall show that he has been threatened with great bodily harm, or had good reason to carry the same in the necessary defense of his home, person or property.

SECTION 3. This ordinance shall take effect and be in force from and after its passage, approval and publication.

S. G. RICHESON,
Pres. of the Board of Aldermen.

Approved July 17, 1894.

Attest:
J. A. HEETHER, Clerk.

S. G. RICHESON, Mayor.

———o———

AN ORDINANCE IN RELATION TO THE USE OF FIRE-ARMS.

Be it ordained by the Board of Aldermen of the City of Huntsville, Missouri, as follows:

SECTION 1. It shall be unlawful for any person to discharge or fire off any gun, pistol or other fire-arm or other explosive within the city limits, unless by written permission of the Mayor.

SECTION 2. Nothing in the preceding section shall be construed as applying to officers in the discharge of their duties, licensed shooting galleries, or military funerals.

SECTION 3. Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine in any sum not exceeding one hundred dollars.

SECTION 4. This ordinance shall take effect and be in force from and after its passage, approval and publication.

S. G. RICHESON,
Pres. of the Board of Aldermen.

Approved July 17, 1894.

Attest:
J. A. HEETHER, Clerk.

S. G. RICHESON, Mayor.

———o———

AN ORDINANCE IN RELATION TO DISTURBANCES OF THE PEACE.

Be it ordained by the Board of Aldermen of the City of Huntsville, Missouri, as follows:

SECTION 1. If any person or persons within the city shall wilfully disturb the peace of any neighborhood, or any family or of any person by loud and offensive or indecent conversation, or by threatening, quarreling, challenging or fighting, every person so offending shall upon conviction, be adjudged guilty of a misdemeanor and punished by a fine in any sum not exceeding one hundred dollars, or by imprisonment in the city prison not exceeding thirty days.

SECTION 2. This ordinance shall take effect and be in force from and after its passage, approval and publication.

S. G. RICHESON,
Pres. of the Board of Aldermen

Approved July 17, 1894

Attest:
J. A. HEETHER, Clerk.

S. G. RICHESON, Mayor.

———o———

AN ORDINANCE IN RELATION TO ASSAULTS AND BATTERIES.

Be it ordained by the Board of Aldermen of the City of Huntsville, Missouri, as follows:

SECTION 1. Any person who shall within the city assault or beat or wound another, under such circumstances as not to constitute any felonious assault, shall upon conviction be deemed guilty of a misde-

LOCAL ACTS

OF

THE LEGISLATURE

OF THE

STATE OF MICHIGAN

PASSED AT THE

REGULAR SESSION OF 1895

WITH AN APPENDIX

BY AUTHORITY

EXHIBIT
43

LANSING
ROBERT SMITH & CO., STATE PRINTERS AND BINDERS
1895

tion (so called), and also all that part of said city lying and being east of the east bank of the Au Sable river, be and the same is hereby detached from the city of Au Sable, in said county of Iosco, State of Michigan, and the same shall be, and is hereby attached to the township of Au Sable in said county and State aforesaid. But the territory hereby detached shall not be relieved in any manner from its just share and proportion of the present legal bonded indebtedness of said city of Au Sable, together with interest thereon, and said indebtedness shall be apportioned in accordance with the provisions of act number thirty-eight of the session laws of eighteen hundred and eighty-three, approved April twenty-first, eighteen hundred and eighty-three, entitled "An act to provide for the adjustment of rights and liabilities on division of territory of cities and townships," and acts amendatory thereof.

Territory detached shall not be relieved of its share of legal bonded indebtedness.

SEC. 2. This act shall not be construed as nullifying or repealing an act entitled "An act to incorporate the board of education of the city of Au Sable," being act number two hundred and eighty-five of the local acts of eighteen hundred and ninety-one, and the persons elected as members of such board of education under the provisions thereof shall continue to have and exercise all the duties, powers and jurisdictions conferred upon them by the provisions thereof, within the territory and district in which their jurisdiction now extends.

This act not to repeal the act incorporating the board of education.

SEC. 3. The matter of procedure in the matter of apportioning, levying and collecting taxes for the support of the schools within said district, and for altering the boundaries thereof, shall be the same as near as may be as is provided by law in the case of fractional school districts.

Procedure in the matter of taxes.

Approved May 24, 1895.

[No. 436.]

AN ACT to amend an act entitled "An act supplemental to the charter of the city of Detroit, and relating to parks, boulevards and other public grounds in said city, and to repeal act number three hundred and seventy-four of the local acts of eighteen hundred and seventy-nine, entitled 'An act to provide for the establishment and maintenance of a broad street or boulevard about the limits of the city of Detroit and through portions of the townships of Hamtramck, Greenfield and Springwells, in the county of Wayne,' approved May twenty-one, eighteen hundred and seventy-nine," as amended by act number four hundred and fifteen of the local acts of eighteen hundred and ninety-three, approved May twenty-ninth, eighteen hundred and ninety-three, by amending sections six, seven and fourteen thereof, and to add to said act twenty new sections to stand as sections thirty-two, thirty-three, thirty-four, thirty-five, thirty-

six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty and fifty-one of said act.

Act amended and sections added.

SECTION 1. *The People of the State of Michigan enact,* That an act entitled "An act supplemental to the charter of the city of Detroit, and relating to parks, boulevards and public grounds in said city, and to repeal act number three hundred and seventy-four of the local acts of eighteen hundred and seventy-nine, entitled 'An act to provide for the establishment and maintenance of a broad street or boulevard about the limits of the city of Detroit and through portions of the townships of Hamtramck, Greenfield and Springwells, in the county of Wayne,' approved May twenty-one, eighteen hundred and seventy-nine," as amended by act number four hundred and fifteen of the local acts of eighteen hundred and ninety-three, approved May twenty-nine, eighteen hundred and ninety-three, be amended by amending sections six, seven and fourteen thereof, and by adding twenty new sections to stand as sections thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty and fifty-one, to read as follows:

Commissioners to have control, management, and charge of improvements of all parks and public grounds.

SEC. 6. The commissioners shall have the control and management, and shall have charge of the improvement of all the parks and public grounds of said city, including the island park (known as "Belle Isle park"), and of such parks or public grounds as may hereafter be acquired, laid out, purchased or dedicated for public use in said city. And they shall likewise have control, management and charge of the improvement and maintenace of the boulevard, which was laid out and established as provided by the (said) act creating said board of boulevard commissioners, and of any other boulevard which may at any time be hereafter acquired, laid out, established or located by said city. The authority hereby conferred shall not be construed as giving charge or control to said commissioners over and to the improvement of any ordinary public street or alley. When the estimated cost of any work or improvement ordered by said commissioners shall exceed the sum of one thousand dollars, the same shall be done by contract, after advertisements for bids in at least two daily papers, printed in said city, for at least seven days.

When improvements to be done by contract.

May make rules and regulations for maintenance and care of.

SEC. 7. The said commissioners may make all needful rules and regulations for the management, maintenance and care of the said parks, public grounds and boulevard or boulevards, and for the regulation thereof, and the common council of said city may provide by ordinance for the observance of the same, and may also in like manner provide for the observance and enforcement of any other rules and regulations duly made by said commissioners under any of the provisions of this act.

Protection of.

And said common council may by ordinance further provide for the preservation and protection of the parks, public grounds

and boulevards, and any of the property in charge of said commissioners against any destruction or injury, and prevent the destruction or injury to or the taking of any trees, shrubs, plants, flowers or other things set out, planted or used by said commissioners in beautifying, improving or ornamenting said parks, public grounds or boulevards, and to prevent any disorder or disturbance on or about said parks, public grounds or boulevards, or any encroachment thereon or interference with the quiet and peaceable use and enjoyment of the same for the purpose for which the same are established and maintained. Said ordinances may provide for the punishment for any breach or violation of any of their provisions by like penalties provided for violation of ordinances of said city. The commissioners of metropolitan police for the city of Detroit, upon the request of said commissioners of parks and boulevards, shall detail for service in any of the grounds under the charge of said park and boulevard commissioners, so many of the police force as may be necessary to maintain order and protect the property thereon, and any policeman on duty on said grounds may remove therefrom any person who may violate any of the rules and regulations of said commissioners, or any of the ordinances of said city, adopted as aforesaid, relating to said parks, public grounds or boulevards: *Provided*, That said commissioners of parks and boulevards, may in lieu of such detail by said commissioners of metropolitan police, appoint as many persons as may be necessary to maintain order and protect the property on any of the grounds, under the charge of the said park and boulevard commissioners, and such persons so appointed shall have all the powers of regularly appointed policemen of said city in and upon said grounds, but not elsewhere.

Police commissioner to detail police to maintain order and protect property on request.

Proviso.

SEC. 14. The grounds of which said commissioners may have control shall be used and enjoyed solely for the purposes for which they were established: *Provided*, That privileges for the hiring of boats and vehicles and other like purposes such as are usual in public parks may be let by the commissioners for a period not exceeding three years, but the same shall be exercised and permitted only upon the same being subject to their supervision and direction, and to such orders, rules and regulations as the said commissioners may make at any time: *Provided further*, That said commissioners may prohibit the construction, use and maintenance of any and all railway or tramway cars, tracks, engines or motors on Belle Isle park, or other city park or boulevard.

To be used for purpose for which they were established.

Proviso.

Further proviso.

SEC. 32. No person shall bring, drive or lead any swine, goat, cattle or any other animal other than horses or other beasts of burden in, on or along the boulevard, Belle Isle or any other parks or public grounds in charge of the commissioners of parks and boulevards; and no person shall lead any horse, mule or other animal on said boulevard or the driveways of either of said parks, or draw a second carriage, wagon or other vehicle with any horse or other motive power, nor drive thereon any

Driving or leading any swine, goat or cattle on or along boulevard or parks prohibited.

horse, before any sleigh or sled, unless there shall be a sufficient number of bells attached to harness of such horse, or to such sleigh or sled to warn persons of their approach.

Driving or speeding.

SEC. 33. No person shall ride or drive in said park or along said boulevard at a rate of speed exceeding eight miles per hour, excepting that horses may be speeded on such parts of said boulevard or Belle Isle park as may be set apart by said commissioners for that purpose, and then only under such regulations as the commissioners may prescribe.

Riding, driving, or drawing any velocipede, bicycle, hand-cart, horse or animal on the walks, etc., prohibited.

SEC. 34. No person shall ride, drive or draw any velocipede, bicycle, tricycle, wheelbarrow, handcart or any other vehicle, or any horse or other animal on the footwalks or sidewalk, grass plots or planting places of said parks or boulevard, or upon any other part or portion thereof, excepting upon the carriage drives; and no person shall permit any vehicle or animal to stand upon such roadways or carriage drives to the obstruction of the way or inconvenience of travel, and no person shall solicit passengers for hire on either of said park or boulevard, excepting by direction or permission of said commissioners.

Not to tie any animal to trees, shrubs, electric light tower or lamp post.

SEC. 35. No person shall tie any animal to any tree or shrub, electric light tower, lamp post, fire hydrant, or dock or building in said park or boulevard, nor pluck, break, trample upon or interfere with any grass, flower, plant or shrub in any of said parks or boulevards, or climb, peel, cut, deface, remove, injure or destroy any tree or shrub in any public park or boulevard, or pasture any animal on the grass in any of said parks or boulevards, and no person shall stand, walk or lie upon any part of any public park or boulevard laid out and appropriated for shrubbery or for grass when there shall have been placed thereon a sign having the words, "Keep off the grass," or other similar words thereon.

No heavy traffic permitted.

SEC. 36. No heavy traffic shall be permitted on said boulevard or any of said parks, and no person shall drive any wagon, cart, dray, truck or other vehicle for the carrying of or laden with merchandise, manure, coal, wood or building material of any kind:

Proviso.

Provided, That where there is no alley or side street by which premises fronting on the boulevard can be reached, trucks and such heavy vehicles carrying goods, merchandise or other articles to or from any house or premises abutting on the boulevard shall be permitted to enter thereon at the cross street nearest said house or premises in a direction in which the same are moving, and deliver or receive such goods, merchandise or articles, but shall not proceed thereon further than the nearest cross street thereafter:

Further proviso.

Provided further, That nothing in this section shall prevent the driving of milk wagons and ordinary light grocery or meat delivery wagons, along the boulevard for the accommodation of residents thereon.

Not to cut, break or injure any property, or post notices.

SEC. 37. No person shall cut, break or in any way injure any electric light tower, lamp post, fence, bridge, dock, building, fountain or other structure or property in or upon any of said parks or boulevards, and no person shall post or fix any

notice or bill or other writing or printing on any tree, tower, lamp post, hydrant, curbstone, coping, flagstone, fence, dock, bridge, wall, building or other place under the charge or control of said commissioners.

Not to drive any display advertisement or placards along the parks or boulevards.

SEC. 38. No person shall drive any vehicle displaying any placard or advertisement of any kind along said boulevard or on or along the driveway of any of said parks, nor shall any person display any placard or any advertisement of any kind on or upon or along the said boulevard or any of the said parks for advertising only.

Not to dig, remove or carry away any sward, sand or turf from parks.

SEC. 39. No person shall dig, remove or carry away any sward, sand, turf or earth in or from any public park, or boulevard, and no person shall open or dig up or tunnel under any part or portion of the boulevard without a permit from the commissioners of parks and boulevards, and before granting any such permit the applicant therefor shall be required to deposit with the secretary of said commissioners such sum of money as the superintendent of the boulevard or such other officer as the commissioners may designate for that purpose, shall estimate, will fully cover any expense to be incurred by the commissioners in connection with such opening or tunneling, and the commissioners may make suitable regulations and conditions with respect to issuing said permits. And said commissioners may retain the actual expense, which shall be certified by the superintendent, which may be incurred by the commissioners in connection with any work done by them, for the purpose of restoring any roadway, sidewalk, planting place or other portion of said boulevard, and the secretary shall refund to the person to whom said permit shall be issued the difference, if any, between the amount deposited and the amount so certified by the superintendent. Carriage or driveways and footwalks connecting with any premises adjoining the boulevard, or hitching posts thereon, shall be allowed only on a permit issued under this section, and the material used in making such ways, walks or posts shall be determined by the said commissioners.

Not to deposit dead carcasses, filth, dirt, stones, etc., on the boulevard or parks.

SEC. 40. No person shall place or deposit any dead carcass, ordure, filth, dirt, stone, ashes, garbage or rubbish of any kind, or other matter or substance on the said boulevard, or of any of said public parks, and no person shall wade into or throw any wood, sand, stone, or other substance into any basin, pool, lake or fountain in any public park, or bathe or fish in any of the waters thereon, except on Belle Isle park, where persons may bathe and swim, but only under such restrictions and conditions as may be prescribed by the commissioners of parks and boulevards; and no person shall send or ride any animal into same, nor shall any person kill, molest or disturb any fish, fowl or animals kept thereon.

Not to build any fence or barrier around grass plots or planting place.

SEC. 41. No person shall build or place any fence, or other barrier around any grass plot or planting place on said boulevard or public park, or place any building or obstruction of any kind thereon.

Not to play certain games.

SEC. 42. No person shall play at any game whatever in or upon said boulevard, or on any of the said parks, under the

Proviso.

charge of the said commissioners: *Provided, however,* That ball, cricket, lawn tennis and other like games of recreation may be played upon such portions of said parks as may be designated from time to time by the commissioners and under such rules and regulations as may be prescribed by them.

Not to engage in sport liable to frighten horses.

SEC. 43. No person shall engage in any sport or exercise upon said boulevard or park as shall be liable to frighten horses, injure travelers, or embarrass the passage of vehicles thereon.

Not to discharge firearms or fireworks.

SEC. 44. No person shall fire or discharge any gun or pistol or carry firearms, or throw stones or other missiles within said park or boulevard, nor shall any person fire, discharge or set off any rocket, cracker, torpedo, squib or other fireworks or things containing any substance of any explosive character on said park or boulevard, without the permission of said commissioners, and then only under such regulations as they shall prescribe.

No person shall expose or offer any article or thing for sale, play any musical instrument, etc., without permission of commissioners.

SEC. 45. No person shall expose any article or thing for sale or do any hawking or peddling in or upon said parks or boulevard, and no person, without the consent of said commissioners, shall play upon any musical instrument, or carry or display any flag, banner, target or transparency, nor shall any military or target company, or band or procession parade, march, drill or perform any evolution, movement or ceremony within any of said parks, or upon or along said boulevard, without the permission of said commissioners, and no person shall do or perform any act tending to the congregating of persons on said boulevard or in said parks.

Gambling and disorderly conduct.

SEC. 46. No person shall gamble, nor make any indecent exposure of himself or herself, nor use any obscene language, or be guilty of disorderly conduct, or make, aid, countenance or assist in making any disorderly noise, riot, or breach of the peace, within the limits of the said parks or boulevards; and

Intoxicating liquors.

no person shall sell or dispose of any intoxicating liquors in or upon any public park without the consent of the said commissioners.

All boats, carriages, railroad cars, and vehicles running for hire to be licensed.

SEC. 47. All boats and vessels, carriages, railroad cars and other vehicles running for hire to and from said Belle Isle park, or any other park, shall be duly licensed and shall be subject to all the rules and regulations that may be established by said commissioners or by the common council from time to time, and no person shall carry on the business of carrying passengers to and from either of said parks unless their vehicles shall be so licensed. And no person commanding or having charge of any boat, carrying passengers for hire shall land or permit any passengers thereform to land at any dock on Belle Isle park, excepting such as may be designated for that purpose by the commissioners, and no person having charge of any vessel shall fasten or tie the same at any wharf or dock in Belle Isle park, excepting for the purpose of receiving or discharging passengers as permitted by this section.

SEC. 48. No person shall place or deposit or allow to be placed or keep or deposit on any part of said boulevard any

building material without the written permission of said commissioners, which permit shall state the space to be occupied and the length of time during which said permit shall be in force, and every person having use of any portion of said boulevard for the purpose of erecting or repairing any building or for placing or keeping any building material or any other article or thing thereon which shall cause any obstruction to travel thereon or render the same in any respect dangerous to travelers thereon, shall cause two red lights to be placed in conspicuous places, one at the end of said obstruction, from sunset until sunrise in the morning of each day during the time such obstruction shall remain, and shall also construct and maintain proper safeguards, and a good and safe plank sidewalk around such obstruction, which sidewalk shall be at least two feet wide, and no such permit shall be granted under this section unless in the application therefor the party applying shall agree to indemnify the city against all liability from injury to any person or property arising from such obstruction.

Not to deposit building material on any part of boulevard without written permission of commissioners.

Red lights to be placed in conspicuous places.

SEC. 49. No person shall conduct or permit any funeral procession or hearse to be driven upon the boulevard: *Provided*, That nothing herein contained shall be construed to prevent the removal of any corpse from any house abutting upon said boulevard, and the forming of the funeral procession thereon, but the hearse or procession shall not proceed further thereon than the nearest paved cross street in the direction in which said hearse shall move.

Funeral processions not to drive on boulevard.

Proviso.

SEC. 50. No person shall remove any house or building on, along or across the boulevard, except on the written permission of said commissioners, which shall be issued only upon such terms and conditions, and under such regulations as they may prescribe, and upon a deposit with the secretary of said commissioners of such sum as may be fixed by said commissioners, and as they shall estimate will fully cover all damages to walks, roadways, grass plots, trees and other property and improvements of said boulevard, and said permit shall be issued only upon the express condition that said moving shall be commenced and completed between the hours of one and six o'clock in the forenoon, and the occupancy of the said boulevard shall continue only between said hours and after said moving shall have been completed, the roadway, grass plot, walks and other property and improvements shall be restored to their former condition by the said commissioners or under the supervision of their superintendent, and their superintendent shall thereupon certify to the secretary the actual expense incurred in such restoration, and the secretary shall refund to the person to whom said permit shall be issued the difference, if any, between the amount deposited and the amount so certified by the superintendent.

Not to remove any house or building on or along the boulevard without written permission of commissioner.

SEC. 51. Any violation of the provisions of this act shall be punished in the recorder's court by a fine not to exceed one hundred dollars and costs, and, in the imposition of any fine and costs, the court may make a further sentence, that the offender be imprisoned in the Detroit House of Correction

Penalty for violation.

until the payment of such fine, for any period of time not exceeding six months.

This act is ordered to take immediate effect.

Approved May 24, 1895.

[No. 437.]

AN ACT to amend sections two, five, seven and eleven of act number three hundred eighty-three of the local acts of eighteen hundred ninety-three, entitled "An act to provide for the election of two justices of the peace and for the appointment of a justice clerk in and for the city of Saginaw, and to define their jurisdiction and to fix their compensation; and to abolish and discontinue the five offices of justice of the peace of said city, upon the expiration of the terms of the present incumbents thereof; and to provide for the filing of the files, records and dockets belonging to or appertaining to the offices abolished and discontinued, and for the issuance of executions upon judgments appearing on said dockets and to repeal all provisions of the charter of the city of Saginaw and of all other acts or parts of acts in any wise contravening the provisions of this act," approved May thirteenth, eighteen hundred ninety-three.

Sections amended.

SECTION 1. *The People of the State of Michigan enact,* That sections two, five, seven and eleven of act number three hundred eighty-three of the local acts of eighteen hundred ninety-three, entitled "An act to provide for the election of two justices of the peace, and for the appointment of a justice clerk in and for the city of Saginaw, and to define their jurisdiction and to fix their compensation, and to abolish and discontinue the five offices of justices of the peace of said city, upon the expiration of the terms of the present incumbents thereof, and to provide for the filing of the files, records and dockets belonging to or appertaining to the offices abolished and discontinued, and for the issuance of executions upon judgments on said dockets, and to repeal all provisions of the charter of the city of Saginaw and of all other acts or parts of acts in any wise contravening the provisions of this act," approved May thirteenth, eighteen hundred ninety-three, be amended so as to read as follows:

Justices to have same jurisdiction as justices of townships.

Jurisdiction of civil cases.

SEC. 2. The said justices of the peace for the city of Saginaw shall have the same jurisdiction and powers and perform the same duties as are now exercised and performed, or may at any time hereafter be conferred by law upon justices of the peace for townships, together with jurisdiction in civil cases, where either of the parties to any such action reside in the county of Saginaw, and such further jurisdiction as may be provided by statute. In cases of examination of offenders by either of said justices, for offenses committed against the crim-

A DIGEST

OF THE

LAWS AND ORDINANCES

FOR THE GOVERNMENT OF THE MUNICIPAL CORPORATION OF THE

CITY OF READING, PENNSYLVANIA,

IN FORCE APRIL 1, 1897.

[PUBLISHED BY AUTHORITY OF THE CITY COUNCILS.]

COMPILED BY LOUIS RICHARDS.

EXHIBIT 44

READING, PA.:
EAGLE BOOK PRINT, 542 PENN STREET.
1897.

law authorizing cities of this commonwealth to acquire by purchase, or otherwise, private property for public park purposes.[1]

2 April 1896.

15. That the Mount Penn Gravity Railroad Company be and is hereby granted the right to occupy a portion of the northeast section of Penn's Common with their railroad and station appurtenances, and also the right to cross the Mineral Spring property of the city of Reading with their railroad track.

7 May 1889 § 1. J. 1889-90, App. 266.

Right of way granted to Mount Penn Gravity R. R. Company.

16. That the right to occupy Penn's Common is granted subject to the control and management of the common commissioners, and the right to cross the Mineral Spring property is granted subject to the control and management of the water commissioners.

Id. § 2.

Conditions.

17. That the rights herein are granted to the said railroad company for the purpose of constructing, maintaining and operating a gravity railroad, and shall continue during the corporate existence of the said company.

Id. § 3.

Purpose.

18. The employees of the water and park departments shall and are hereby directed to be paid semi-monthly, by pay roll, to be approved by the proper departments or committees; said pay roll to contain name of person, kind and time of service, rate per day, amount due, and a receipt to be signed by the person receiving the amount set opposite his name, and shall be prepared and certified by the superintendent of each of said departments to the city clerk and city controller.

5 Feb. 1894 § 2. J. 1893-94, App. 632.

Mode of payment of employees of park and water departments.

Pay rolls to be certified by superintendent.

19. Upon presentation to the city clerk of pay rolls properly certified and approved as beforementioned, the city clerk shall and he is hereby directed to draw warrants as follows: * * * * * * For the park department, "to the order of the superintendent."

Id. § 3.

How warrants to be drawn and moneys disbursed.

Said officials to dispose of the money in the manner indicated on the pay roll, and to be responsible for the proper disbursement of the same.[2]

II. Park Rules and Regulations.

20. That the following rules and regulations be and are hereby established as the rules and regulations for the government and protection of Penn's Common, viz.:

30 Dec. 1887 § 1. J. 1887-88, App. 339.

(1) No person shall drive or ride in Penn's Common at a rate exceeding seven miles an hour.

Limit of speed.

(2) No one shall ride or drive therein, upon any part of the common, than upon the avenues and roads.

Driving confined to roads.

(3) No vehicle of burden or traffic shall pass through the common.

Vehicles of burden.

(4) No person shall enter or leave the common except by such gates or avenues as may be for such purposes arranged.

Entrance and exit.

(5) No coach or vehicle used for hire shall stand upon any part of the common for the purposes of hire.

Coaches for hire.

(6) No person shall indulge in any threatening, abusive, insulting or indecent language in the common.

Threatening language, etc.

[1] See the ordinance of October 1, 1889 (Jour. 1889-90, App. 294), forever exempting from being paved a triangular piece of ground at the intersection of Centre Avenue, Third and Windsor Streets, 108 feet on Third and 51 feet on Windsor Street, deeded by the owners to citizens of the vicinity for conversion into a park: "*Provided*, That it be sodded and laid out with walks of proper width, and that it be improved and beautified and kept as a park."

[2] By the resolution of May 14, 1889, the common commissioners were requested to see that all persons employed at the park are residents and taxpayers of the city, and to give such as are willing to earn off their taxes preference when they apply for work. Jour. 1889-90, App. 333.

30 Dec. 1887.

Gaming and obscenity. (7) No person shall engage in any gaming, nor commit any obscene or indecent act in the common.

Firearms, etc. (8) No person shall carry firearms, or shoot in the common, or within fifty yards thereof, or throw stones or other missiles therein.

Disturbance of fish, birds or animals. (9) No person shall disturb the fish or water fowl in the pool or pond, or birds in any part of the common, or annoy, strike, injure, maim or kill any animal kept by direction of the commissioners, either running at large or confined in a close, nor discharge any fireworks, nor affix any bills or notices therein.

Fireworks. Placards.

Injury to trees, shrubbery, statuary, etc. (10) No person shall cut, break, or in any wise injure or deface the trees, shrubs, plants, turf or any of the buildings, fences, bridges, structures or statuary, or foul any fountains or springs within the common.

Dead animals, etc. (11) No person shall throw any dead animal or offensive matter or substance of any kind within the boundaries of Penn's Common.

Animals at large. (12) No person shall turn cattle, goats, swine, horses, dogs or other animals loose into the common. Nor shall they be permitted in or around the common, unless accompanied by the owner; and whether accompanied by the owner or not, if any of said animals are found running at large in and about the said common, it shall be lawful for, and the park watchman or any of his assistants shall have full power and authority to impound them, or any of them, and if the said animals or any of them are not called for by their respective owners within forty-eight hours after the impounding of the same, it shall be lawful for the city authorities to sell and dispose of the said animals or kill the same.[1]

Impounding and disposition of estrays.

Tearing down notices. (13) No person shall injure, deface or destroy any notices, rules or regulations for the government of the common, posted or in any other manner permanently fixed by order or permission of the commissioners of Penn's Common, within the limits of the same.

Leading of horses. (14) No person shall be permitted to bring or lead horses within the limits of Penn's Common, or a horse that is not harnessed and attached to a vehicle, or mounted by an equestrian.

Fakirs. (15) No person shall expose any article for sale within the common, without the previous license of the commissioners.

Musical entertainments, etc. Parades or funeral processions. (16) No person shall have any musical, theatrical or other entertainment therein, nor shall any military or other parade or procession, or funeral, take place in or pass through the limits of the common, without the license of the common commissioners.

Public meetings. (17) No gathering or meeting of any kind, assembled through advertisement, shall be permitted in the common without the previous permission of the commissioners.

Games of sport. (18) No person shall engage in any play at base ball, cricket, shinney, foot ball, croquet, or at any other games with ball and bat, nor shall [any] foot race or horse race be permitted within the limits of the common, except on such grounds only as shall be specially designated for such purpose.

[1] This rule amended as above by ordinance of June 26, 1895, Jour. 1895-96, App. 549.

21. Any person who shall violate any of said rules and regulations shall be guilty of a misdemeanor, and for each and every such offence shall pay the sum of five dollars, to be recovered before any alderman of the city of Reading, with costs, together with judgment of imprisonment not exceeding thirty days, if the amount of said judgment and costs shall not be paid, which fines shall be paid into the city treasury for common purposes.[1]

30 Dec. 1887 § 2. Penalty.

[1] These rules are supplemented by a series of additional regulations adopted by the board of park commissioners, June 14, 1895, prescribing the duties of the superintendent, gardener and park police.

Clerks of Councils.

1. Election of clerk of select council.
2. Term.
3. Duties.
4. Salary.
5. Repeal.
6. Duties of clerk of common council.

1. That the office of clerk of select council be and the same is hereby established. Said clerk of select council to be elected on the day fixed for the organization of council, or as soon thereafter as practicable; a majority of the votes cast shall be necessary for an election.

9 Mar. 1891 § 1. J. 1890-91, App. 352. Election of clerk of select council.

2. The term of office of the said clerk shall be one year, or until his successor shall have been duly elected and qualified.

Id. § 2. Term.

3. That it shall be the duty of the said clerk to keep a regular and accurate journal of the acts and proceedings of the said branch and prepare the same for printing, together with a calendar of unfinished business at each stated meeting; he shall also act as clerk of councils in joint convention.

Id. § 3. Duties.

4. That the salary of the clerk of select council shall be three hundred dollars per annum, payable as the salaries of other city officials are payable.[1]

Id. § 4. Salary.

5. That the ordinance, entitled "An ordinance defining the duties and fixing the bond and salary of the clerk of select council," approved by the mayor December 24th, 1875, and any other ordinance or ordinances, or part of ordinance or ordinances conflicting with the provisions of this ordinance, be and the same are hereby repealed so far as the same affects this ordinance.

Id. § 5. Repeal.

6. It shall be the duty of the clerk of the common council to keep a regular and accurate journal of the proceedings of said branch and prepare the same for printing, together with a calendar of unfinished business at each stated meeting.[2]

31 Dec. 1875 § 1. J. 1875-76, App. 247. Duties of clerk of common council.

[1] By Section 4 of the act of March 21, 1865, creating the Reading Water Board (*ante*, p. 186), the clerk of select council is *ex-officio* secretary of that body. His annual salary in that capacity is three hundred and sixty dollars.

[2] The annual salary of the clerk of common council remains at two hundred and fifty dollars, as fixed by the salary ordinance of February 17, 1877, (Jour. 1876-77, App. 183), those of all other officers therein named having been changed by subsequent legislation.

REVISED

ORDINANCES

— OF THE —

CITY OF BOULDER

Published by Authority of the City.

OSCAR F. A. GREENE,
COMPILER.

1899:
Printed by Ricketts & Kerr, at The News Office,
BOULDER, COLORADO.

MAR 11 1909

thirty-two in township one north of range seventy west, is hereby named and shall hereafter be known as VALVERDAN PARK.

510. Washington Park.

SEC. 5. That the city property in the west half of the south-west quarter of section twenty-five in township one north of range seventy-one west, shall be named and hereafter known as WASHINGTON PARK.

PARKS.

An Ordinance for the Protection of the Several Parks Belonging to the City and of the Buildings and Reservoirs and Trees and Other Improvements at and Within Said Parks, and to Provide Penalties for Injuring the Same.

Passed October 4, 1898.

(With amendment as noted.)

511. No firearms or shooting in.

SECTION 1. Any person other than the police officers of the city who shall take or carry or cause to be taken or carried into any of the parks belonging to the City of Boulder, any gun, pistol, revolver, or other firearm, or who shall shoot any firearm at or towards or over or into or upon any of said parks, shall be deemed guilty of a misdemeanor. (As amended August 2, 1899.)

512. No powder or explosives in.

SEC. 2. Any person who shall take or carry or cause to be taken or carried into any of said parks, any powder of any quality or kind or any explosive or dangerous or inflammable or combustible substance, shall be deemed guilty of a misdemeanor.

513. No fires or explosives.

SEC. 3. Any person who shall start any fire or cause or permit to be started any fire in any of said parks, not

being thereunto first authorized by the Mayor, or who shall in any of said parks fire or explode any fire-crackers, torpedoes, or any other substance or thing containing powder or other explosive substance, shall be deemed guilty of a misdemeanor.

514. Injury to property.

SEC. 4. Any person who shall deface, tear down, destroy or injure in any manner whatsoever any fence, building, furniture, seat, structure, excavation, post, bracket, lamp, awning, fire plug, hydrant, water pipe, tree, shrub, plant, flower, railing, bridge, culvert, or any other property whatsoever belonging to the city or to any private corporation or persons in, at or upon any of said parks, shall be deemed guilty of a misdemeanor.

515. Injury continued.

SEC. 5. Any person who shall injure or damage in any manner whatsoever any property of the city at, in or upon any of said parks by cutting, hacking, bending, breaking, burning, daubing with paint or other substances, hitching of horses or other animals, or by means of fire, or by effecting such acts in any other manner, shall be deemed guilty of a misdemeanor.

516. Violation—Misdemeanor Penalty.

SEC. 6. Any person upon conviction of any misdemeanor specified in any of the five preceding sections herein shall be fined not less than five and not more than three hundred dollars.

PARKS.

An Ordinance in Relation to Cottages in Texado Park.
Passed April 17th, 1899.

WHEREAS, a contract was made on, to-wit, the 19th day of March, A. D. 1898, at Boulder, Colorado, by and

BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY.

THE REVISED STATUTES OF ARIZONA TERRITORY

CONTAINING ALSO

THE LAWS PASSED BY THE TWENTY-FIRST LEGISLATIVE ASSEMBLY, THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC LAW OF ARIZONA AND THE AMENDMENTS OF CONGRESS RELATING THERETO.

1901

COLUMBIA, MISSOURI
PRESS OF E. W. STEPHENS
1901

EXHIBIT 46

noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or who applies any violent or abusive or obscene epithets to another, is punishable by fine not exceeding two hundred dollars, or by imprisonment in the county jail for not exceeding two months.

Persons assembling to disturb the peace.

380. If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being desired or commanded so to do by a public officer, the persons so offending are severally guilty of a misdemeanor.

Discharging guns in certain places.

381. Any person who shall, purposely or carelessly, discharge any gun, pistol or other firearm in any saloon, dance house, store or other public house or business house in this territory, thereby endangering the life or person of another, or thereby disturbing any of the inmates thereof, or who shall thereby injure, destroy or damage any property therein, or who shall discharge the same in any city, village or town of this territory, except in necessary self-defense, shall be fined in any sum not exceeding three hundred dollars, or be imprisoned in the county jail for a period not exceeding six months, or shall be punished by both such fine and imprisonment.

Certain arms not to be carried concealed.

382. It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty), to have or carry concealed on or about his person, any pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, or other knuckles of metal, bowie-knife or any kind of knife or weapon, except a pocket-knife, not manufactured and used for the purpose of offense and defense.

Penalty for carrying concealed weapons.

383. Any person violating any of the provisions of the preceding section shall be guilty of a misdemeanor, and may be arrested with or without a warrant, either in the day-time or night-time, and taken before the nearest justice of the peace for trial; and any peace officer who shall fail, neglect or refuse to arrest any such person on his own knowledge of the violation of said section, or upon the information from some credible person, or who shall appoint any person a deputy, not intended to be used in regular service, but as a mere pretext for the purpose of carrying a concealed weapon, shall be guilty of a misdemeanor.

Arrest of violators.

Punishment.

384. Any person found guilty of violating any of the provisions of the two preceding sections shall be punished by a fine of not less than five nor more than three hundred dollars, and shall forfeit to the county, such weapon or weapons.

Carrying weapons concealed while in villages, etc.

385. If any person within any settlement, town, village or city within this territory shall carry on or about his person, saddle, or in

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

Peace officers and militiamen may carry.

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

Carrying certain weapons to church.

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

Peace officers not included.

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

Violators may be arrested, how.

389. Any person violating any of the provisions of sections 382 and 385 may be arrested without warrant by any peace officer and carried before the nearest justice of the peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not exceeding three hundred dollars.

Travelers may carry arms, when.

390. Persons traveling may be permitted to carry arms within settlements or towns of the territory, for one-half hour after arriving in such settlements or towns, and while going out of such towns or

GENERAL LAWS.

CHAPTER I.

An Act to repeal Sections 3698 and 3699 of the Political Code of the State of Montana, relating to the Board of Appraisers of real estate.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 3698 and 3699 of the Political Code of the State of Montana be, and the same are hereby repealed. Sections 3698 and 3699 Political Code repealed.

Section 2. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed. Repealing clause.

Section 3. This Act shall take effect and be in force from and after its passage and approval. When act takes effect.

Approved Feby 6th 1903

CHAPTER II.

EXHIBIT 47

"An Act Entitled An Act to Amend Sections six and seven of an act to Provide for the Appointment of a Board of Sheep Commissioners, and to define their powers and duties. Approved March 5, 1897."

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section six of an act entitled "An Act to Provide for the Appointment of a Board of Sheep Commissioners and to Define their Powers and Duties, approved March 5, 1897," shall be amended to read as follows: Section 6 of Act to provide for Board of Sheep Commissioners approved March 5th, 1897, amended.

Section 6. The Board must make an annual report Annual report.

CHAPTER XXXV.

An Act to prohibit unlawful carrying of concealed weapons, to provide penalties for violations of this act and to define the meaning of the term concealed weapons.

Be it Enacted by the Legislative Assembly of the State of Montana:

Section 1.

Carrying weapons concealed or partially concealed about person.

Any person in this State who shall carry concealed or partially concealed on or about his person any revolver, pistol, dirk, dagger, slung shot, sword cane, or knuckles made of any metal or any hard substance shall be deemed guilty of a misdemeanor and shall 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 less than ten nor more than thirty days, or by both such fine and imprisonment.

Penalty.

Section 2.

Reservation.

The preceeding section shall not apply to a person in actual service as a militiaman, nor to a police officer or policeman, or person summoned to his aid nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises, or place of business.

Carrying weapons in certain places.

Section 3. If any person shall go into any church or religious assembly, any school room or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball room, social party, or social gathering, or to any election precinct or any place of registration, on the day or days of any election or registration, where any portion of the people of the State are collected to register or vote at any election, or to any other place where people may be assembled to perform any public duty, or at any public assembly, and shall have or carry concealed or partially concealed about his person a

pistol or other firearm, dirk, dagger, slung shot, sword cane, knuckles, or bowie knife, he shall be punished by a fine of not less than fifty nor more than five hundred dollars.

Penalty.

Section 4.

The preceding section shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated. "And any District Judge of any judicial district of the State of Montana, may, upon satisfactory proof being produced before him of the good moral character and peaceable disposition of any person, grant permission to such person to bear concealed or otherwise a "pistol" or "revolver" for such a period of time as such judge may deem necessary."

Reservation.

Permit of District Judge.

Section 5.

Any person violating any of the provisions of sections one and three of this act may be arrested without warrant by any peace officer and carried before the nearest justice of the peace for trial: and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some creditable person, shall be punished by a fine not exceeding five hundred dollars.

Arrest.

Peace officer failing to arrest.

Penalty.

Section 6.

The term concealed weapons shall be taken to mean any weapon mentioned in the foregoing sections which shall be wholly or partially covered by the clothing or wearing apparel of the person so carrying the weapon.

"Concealed weapon" defined.

Section 7.

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

Act not to apply to county designated by proclamation by Governor.

CITY OF TRENTON,

NEW JERSEY.

CHARTER AND ORDINANCES;

ALSO CERTAIN

ACTS OF THE LEGISLATURE RELATING

TO MUNICIPAL DEPARTMENTS,

AND

A TABLE OF CASES CITED IN THE FOOT NOTES.

Revised, Compiled and Published

BY ORDER OF THE COMMON COUNCIL.

TRENTON, N. J.:
THE JOHN L. MURPHY PUBLISHING CO., PRINTERS.
1903.

EXHIBIT
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to the amount to be raised by taxes in said city; and said portion of the principal so raised shall be paid yearly to the sinking fund commission of the city of Trenton, to be used exclusively for the liquidation of said bonds; *provided, however,* that whenever the amount of moneys in the hands of said commission shall be sufficient for the redemption of said bonds, no further sums shall be raised by taxation.

When to take effect.

9. That this ordinance shall take effect immediately.

An Ordinance providing for the government and protection of public parks and squares of the city of Trenton.

Vol. 6, p. 181.

Approved June 26th, 1890.

The Inhabitants of the City of Trenton do ordain:

Rate of speed for driving or riding.

1. No one shall drive or ride in Cadwalader park at a rate exceeding seven miles an hour.

Driving, where allowed.

2. No one shall ride or drive in or upon any of the public squares of this city or upon any other part of said park than upon its avenues and roads.

What vehicles not allowed in park.

3. No vehicle of burden or traffic shall pass through said park.

How persons shall enter.

4. No person shall enter or leave said park or squares except by such gates or avenues as may be for such purpose arranged.

Wagons not to stand in park for hire.

5. No coach or vehicle used for hire shall stand upon any part of said park for the purpose of hire.

No threatening language to be used.

6. No person shall indulge in any threatening, abusive, insulting or indecent language in said park or squares.

No obscene act to be permitted.

7. No person shall engage in any gaming nor commit any obscene or indecent act in the said park or squares.

No person to carry firearms.

8. No person shall carry firearms or shoot birds in said park or squares, or within fifty yards thereof, or throw stones or other missiles therein.

No person to annoy any of the animals.

9. No person shall disturb the fish or water fowl in the pools, ponds or other waters, or birds in any part of said park or squares, or annoy, strike, injure, maim or kill any animal kept by direction of common council or the park committee thereof, either running at large or confined in a close, nor discharge any fireworks nor affix any bills therein.

Not to deface trees or buildings.

10. No person shall cut, break or in anywise injure or deface the trees, shrubs, plants, turf, or any of the

outbuildings, fences, bridges, structures or statuary, or foul any fountains or springs within said park or squares.

11. No person shall throw any dead animal or offensive matter or substance of any kind into any pool, pond or other waters within the boundaries of said park or squares. Not to throw any offensive matter in water.

12. No person shall go into bathe within said park. Bathing prohibited.

13. No person shall turn cattle, goats, swine, horses, dogs or other animals loose in said park or squares. No animals to go loose in park.

14. No person shall injure, deface or destroy any notices, rules or regulations for the government of the said park or squares, posted or in any other way permanently fixed by order or permission of the common council or the park committtee thereof, within the limits of the same. Notices not to be defaced.

15. That for each and every violation of any of the foregoing provisions of this ordinance the person or persons so violating shall forfeit and pay a fine of ten dollars, to be enforced and collected according to law. Penalty.

An Ordinance to name the Five Points "Monument Park."

The Inhabitants of the City of Trenton do ordain:

1. That the locality commonly known as the Five Points, being that portion of the city bounded and described by Pennington avenue on the north, Broad street on the east, the southerly line of the lands recently purchased by the city of Trenton for a public park, by an ordinance passed common council February twenty-first, one thousand eight hundred and ninety-three, entitled "An ordinance to authorize the purchase of lands for the purposes of a public park," on the south, and the line of North Warren street, on the west, shall be hereby designated and known as "Monument Park." Ordinance of June 28th, 1898, Sec. 1, Vol. 6, p. 411.

2. That all ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. *Ib.*, § 2.

AMENDMENTS TO

"The Revised Municipal Code of Chicago of 1905"

(PASSED MARCH 20, 1905)

AND

New General Ordinances

Passed by the City Council of the City of Chicago
Between March 20, 1905, and
December 31, 1906

Compiled and Arranged by
EDWARD J. PADDEN
Chief Clerk

PRINTED BY ORDER OF THE CITY COUNCIL

ADRIAN C. ANSON
City Clerk
Chicago, Illinois

DECEMBER, 1906

EXHIBIT
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SECTIONS 1554 *to* 1569 *inclusive.* (*As amended April 7, 1906, pages 3454 to 3456, Council Proceedings.*)

ARTICLE I. (CHAPTER XLV.)

PARKS, PUBLIC PLAY GROUNDS AND BATHING BEACHES.

1554. Bureau Established].—There is hereby established a bureau of the Municipal Government to be known as the Bureau of Parks, Public Play Grounds and Bathing Beaches, which shall embrace the Superintendent of City Parks, Superintendent of Public Play Grounds and Bathing Beaches, the Secretary, and such other employees as the City Council may by ordinance provide. Such Bureau shall be under the sole supervision and control of the Special Park Commission as constituted by a resolution of the City Council passed November 6, 1899, and amended November 27, 1899.

1555. Superintendent of City Parks—Duties].—There is hereby created the office of Superintendent of City Parks. He shall be under the immediate jurisdiction and control of the Special Park Commission, and shall have the management and control of all City Parks, Public Squares, and other open spaces at street intersections, subject to the supervision of said Commission, and he shall also perform such other duties as the said Commission shall direct. He shall have full power, direction and control over all such employees as may be provided for by the City Council in connection with the improvement, maintenance and management of such Parks, Squares and other open spaces.

1556. Superintendent of Public Play Grounds and Bathing Beaches—Duties].—There is also hereby created the office of Superintendent of Public Play Grounds and Bathing Beaches. He shall be under the immediate jurisdiction and control of the Special Park Commission and shall have the management and control of all Public Play Grounds and Bathing Beaches, and of all matters pertaining to the administration, improvement, conduct and regulation thereof, subject to the supervision of said Commission; and shall also perform such other duties as the said Commission shall direct. He shall have full power, direction and control over all such employees as may be provided for by the City Council in connection with the improvement, maintenance and management of such Public Play Grounds and Bathing Beaches.

1557. Secretary—Duties].—There is also hereby created the office of Secretary of the Bureau of Parks, Public Play Grounds and

Ground or Bathing Beach of the City is enclosed, no person shall enter or leave the same except by the gateways. No person shall climb or walk upon the walls or fences thereof. Any of the entrances to such Parks, Public Play Grounds or Bathing Beaches of the city may be closed at any time by the direction of the officer or employee in charge of same.

1561. Animals Prohibited].—No person shall turn or lead any cattle, horses, goat, swine or other animals into any of such Parks, Public Play Grounds or Bathing Beaches.

1562. Firearms—Missiles].—All persons are forbidden to carry firearms or to throw stones or other missiles within any of the Parks, Public Play Grounds or Bathing Beaches of the City, and all persons are forbidden to cut, break or in any way injure or deface trees, shrubs, plants, turf or any of the buildings, fences, bridges or other construction or property contained therein.

1563. Peddling and Hawking Prohibited].—No person shall expose any article or thing for sale within any such Parks, Public Play Grounds or Bathing Beaches, nor shall any hawking or peddling be allowed therein.

1564. Indecent Words—Fortune Telling].—No threatening, abusive, insulting or indecent language shall be allowed in any part of such Parks, Public Play Grounds or Bathing Beaches; nor shall any conduct be permitted whereby a breach of the peace may be occasioned; nor shall any person tell fortunes or play any game of chance at or with any table or instrument of gaming, nor shall any person commit any obscene or indecent act therein.

1565. Bill Posting Prohibited].—No person shall post or otherwise affix any bills, notice or other paper upon any structure or thing within any such Park, Public Play Ground or Bathing Beach belonging to the city, nor upon any of the gates or inclosures thereof.

1566. Prohibited Uses].—No person shall play upon any musical instrument, nor shall any person take into, or carry or display in any Park, Public Play Ground or Bathing Beach, any flag, banner, target or transparency, nor shall any military company parade, drill, or perform therein, any military or other evolutions or movements, without a special permit from the Special Park Commission.

1567. Bonfires].—No person shall light, make or use any bonfire in any such Park, Public Play Ground or Bathing Beach.

1568. Grass].—No person shall go upon the grass, lawn or turf

of any of the City Parks, except when and where the word "common" is posted, indicating that persons are at liberty at that time and place to go on the grass.

1569. Penalty].—Any person who shall violate any of the provisions in this article shall be fined not less than five dollars nor more than one hundred dollars for each offense.

SECTION 1592. (*As amended May* 21, 1906, *page* 415, *Council Proceedings.*)

1592. Peddlers from Wagons—General Peddlers—Fish Peddlers—Oil Peddlers—Wood Peddlers—License Fee].—The fee to be charged for a license to peddle from a wagon or other vehicle drawn or propelled by animal power other than that supplied by a human being or drawn or propelled by mechanical power shall be fifty dollars per annum. Such license shall entitle the licensee to use one such wagon or similar vehicle in and about his business. For each additional wagon or other similar vehicle used by him in and about his business he shall pay an annual license fee of fifty dollars. Provided, however, that persons desiring a license to peddle fish, solely, from a wagon or other similar vehicle on Thursdays and Fridays of each week only, may be licensed for such purpose and shall be required to pay for such license the sum of fifteen dollars per annum for each and every wagon used by such licensee for that purpose.

Provided, also, that the licenses issued to persons who pay $15.00 per annum only therefor, shall be plainly stamped or marked so as to indicate that the licensee is authorized to peddle fish on Thursdays and Fridays of each week only, and that all tags issued to such licensees who pay such sum of $15.00 per annum shall be of a different design from tags issued to peddlers who pay $50.00 per annum as license fees.

SECTIONS 1594 *and* 1595. (*See "Peddling, Free Permits for, Etc.," page* 129 *post.*)

SECTIONS 1616, 1620, 1621, 1631, 1633, 1635, 1639, 1644, 1646, 1647, 1653, 1656, 1658, 1664, 1667, 1680 and 1705. (*As amended June* 18, 1906, *pages* 912 *to* 914, *Council Proceedings.*)

1616. Stop Cocks].—Every service pipe shall be provided with

H. F. No. 794.

CHAPTER 344.

Game and fish.

An act for the preservation, propagation, protection, taking, use and transportation of game and fish, and certain harmless birds and animals.

GENERAL PROVISIONS.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. Game and Fish Commission—Appointment—Terms—A state game and fish commission is hereby created, consisting of five (5) members to be appointed by the governor for a term of four (4) years each. Those heretofore appointed pursuant to chapter three hundred thirty-six (336) of the laws of 1903 shall continue in office until the expiration of their respective terms. Vacancies arising from any cause shall be filled by the governor. Members shall serve without compensation except for necessary expenses to be paid upon an itemized statement thereof duly audited by said commission.

Term of present com.

SEC. 2. Office—Said commission shall have an office in the capitol and be supplied with suitable stationery, a seal and blanks and postage for the transaction of its business.

SEC. 3. General Powers—Duties—Said commission shall enforce the laws of this state involving the protection and propagation of all game animals, game birds, fish and harmless birds and animals.

Said commission shall have general charge of—

Propagation and protection.

1. The propagation and preservation of such varieties of game and fish as it shall deem to be of public value.

Statistics.

2. The collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

Fish hatcheries.

3. The construction, control and management of all state fish hatcheries, including the control of grounds owned or leased for such purposes.

Spawn or fry from U. S. com. of fisheries and others.

4. The receiving from the United States commissioner of fisheries or other person, and the gathering, purchase and distribution to the waters of this state, of all fish spawn or fry.

Stocking of waters.

5. The taking of fish from the public waters of the state for the propagation and stocking of other waters therein.

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in shipping fish, either within or without this state, shall be plainly marked with the name and address of the consignor and consignee, and with the contents of the package.

In counties of 150,000 and over.

SEC. 51. Sale of Fish Prohibited, When—No person shall sell, have in possession with intent to sell, or offer for sale any fish caught in any lake situated partly or wholly within a county in this state that has a population of one hundred and fifty thousand, or over.

MISCELLANEOUS PROVISIONS.

SEC. 52. Game and Fish Taken in One Day.—No person shall wantonly waste or destroy any of the birds, animals or fish of the kinds mentioned in this chapter.

Fifteen birds in one day.

The catching, taking or killing of more than fifteen birds by any one person in any one day, or the catching, taking or killing of more than twenty-five fish by any one person in any one day, except fish caught, taken or killed in the Mississippi river or international waters with nets or seines, as by this chapter permitted, shall be deemed a wanton waste, and destruction of all such birds or fish caught, taken or killed in excess of such number.

Twenty-five fish. Exception.

Hunting, etc., prohibited.

SEC. 53. State Parks.—No person shall pursue, hunt, take, catch, or kill any wild bird or animal of any kind within the limits of any territory set apart, designated, used or maintained as a state public park, or within one-half mile of the outer limits thereof or have any such bird or animal or any part thereof in his possession or under his control within said park or within one-half mile of said outer limits.

As to fire arms.

No person shall have in his possession within any such park or within one-half mile of the outer limits thereof, any gun, revolver, or other firearm unless the same is unloaded, and except after the same has been sealed by the park commissioner or a deputy appointed by him, and except also such gun or other firearm at all times during which it may be lawfully had in such park remains so sealed and unloaded. Upon application to the park commissioner or any deputy appointed by him, it is hereby made his duty to securely seal any gun or firearm in such a manner that it cannot be loaded or discharged without breaking such seal. The provisions of this section shall apply to all persons including Indians.

To residents.

SEC. 54. Sale of Game by Commission—The game and fish commission is hereby authorized to sell to resi-

ORDINANCES, RULES AND REGULATIONS

OF THE

DEPARTMENT of PARKS

OF THE

CITY OF NEW YORK (city)

EXHIBIT
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ORDINANCES, RULES AND REGULATIONS

OF THE

DEPARTMENT OF PARKS

of the City of New York

The Park Board under Chapter 610 of the Charter (3d Edition, 1906) ordains as follows:

CHAPTER 17.

PARKS, PARKWAYS AND PARK-STREETS.

(Regulations of the Park Board.)

Article 1. General provisions.
2. Traffic regulations.
3. Building and other projections.
4. Miscellaneous.

ARTICLE 1.

Section 1. Definitions.
2. Interfering with lands or improvements thereon.
2. Sub-surface disturbances.
4. Over-head wires.
5. Destruction of or injury to park property.

other highway under the jurisdiction of the park commission, unless such person is in charge of a permit therefor issued by the commissioner or his supervisor of recreation nor otherwise than in accordance with the terms of such permit.

§16. Animals at large. No horse or other animal shall be allowed to go at large in any park or upon any park-street, except dogs that are restrained by a chain or leash not exceeding 6 feet in length.

§17. Disorderly conduct. No person shall, in any park,

1. Use threatening, abusive or insulting language;
2. Do any obscene or indecent act;
3. Throw stones or other missiles;
4. Beg or publicly solicit subscriptions or contributions;
5. Tell fortunes;
6. Play games of chance, or use or operate any gaming table or instrument;
7. Climb upon any wall, fence, shelter, seat, statute or other erection;
8. Fire or carry any firearm, firecracker, torpedo or fireworks;
9. Make a fire;
10. Enter or leave except at the established entrance-ways;
11. Enter any park for the purpose of loitering and remaining therein after 12 o'clock at night, except as, on special occasions, the occupation and use thereof may be authorized beyond the regular hours;

12. Do any act tending to a breach of the public peace.

13. Bring into any park a beverage containing alcohol, except for delivery to a restaurant therein, duly licensed by the State Excise Department, with the permission of the commissioner of parks having jurisdiction, or consume publicly, except within the premises of a restaurant, duly licensed as aforesaid, any beverage containing alcohol.

All persons doing any act injurious to a park shall be removed therefrom by the park keepers or by the police. When necessary to the protection of life or property, the officers and keepers of the park may remove all persons from any designated part thereof.

§18. No parent, guardian or custodian of a minor shall permit or allow such minor to do any act prohibited by any provision of this chapter.

ARTICLE 2.

Traffic Regulations.

Phoenixville, Pa.--Ordinances, etc.

A DIGEST

OF THE

ORDINANCES

OF

TOWN COUNCIL

OF THE

BOROUGH OF PHOENIXVILLE

TOGETHER WITH THE ACTS OF ASSEMBLY AND DECREES OF COURT ESPECIALLY RELATING TO PHOENIXVILLE

Originally compiled by P. G. Carey, Esq., Revised by H. P. Waitneight, Esq., 1896, and by Samuel A. Whitaker, Esq., 1906.

PHOENIXVILLE, PA.
"THE DAILY REPUBLICAN" PRINT.
1906

EXHIBIT
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shall give a bond annually, to be approved by the court.

13. The Collector of Taxes shall have all the power for the collection of said taxes, during his term of office, heretofore vested in collectors of county taxes under existing laws, and be subject to the same liabilities and penalties for neglect or violation of the duties of his office. Act 25 June, 1885. § 5 Powers

14. The accounts of Collectors of Taxes shall be settled by Township or Borough Auditors of the proper Township or Borough, and he shall state a separate account for each different tax collected by him; but collectors of county and State taxes shall settle with the County Commissioners, as heretofore. Ibid § 11 Accounts

15. If any vacancy shall take place in the office of Tax Collector * * * the Court of Quarter Sessions * * * upon petition of Town Council or any citizen who is a resident of said Borough, Township, ward, setting forth the fact that a vacancy does exist, shall appoint a suitable person to fill said vacancy for the full or unexpired term. Act 2 July, 1895 Vacancy

ORDINANCES.

(See CHARTER § 7, I; 8, IV; 10, I; 11, III; 13; BURGESS § 7, 10.)

1. The secretary shall * * * transcribe the by-laws, rules, regulations and ordinances adopted into a book kept for that purpose, and when signed by the presiding officer shall attest the same, preserve the records and documents of the corporation, certify copies of any book, paper, record, by-law, rule, regulation, ordinance or proceeding of the corporation under the seal thereof, which copies so certified shall be good evidence of the act or thing certified, and shall attest the execution of all instruments under the same record, the publication of all enactments, and attest the same by his signature thereto, and shall file of record the proof of service of all notices as required by this act or of supplements hereto, his ceretificate whereof shall be good evidence of such notice. Every ordinance and resolution which shall be passed by said Council shall be presented to the Chief Burgess of such Borough. If he approve he shall sign it, but if he shall not approve he shall return it with his objections to said Council at the next regular meeting thereof, when said objections shall be en- Act 3 April, 1851. § 8 Secretary to transcribe To certify copies certified copies to be evidence Act 28 May, 1893

tered at large in the minute book, and said Council shall proceed to a reconsideration of such ordinance or resolution. If after such reconsideration two-thirds of all the members elected to said Council shall vote to pass such ordinance or resolution it shall become and be of as full force and effect as if said Chief Burgess had signed it; but in such cases the votes of the members of Council shall be determined by the yeas and nays, and the names of the members voting shall be entered on the minutes of said Council: *Provided,* That when the number of Councilmen is less than nine, a majority of Council and one vote more shall be required to pass an ordinance over the veto. If such ordinance or resolution shall not be returned by the Chief Burgess at the next regular meeting of said Council after the same shall have been presented to him, the same shall likewise become and be in as full force and effect as if he had signed it: *Provided,* That before any ordinance shall come into force and effect as aforesaid the same shall be recorded in the Borough ordinance book with the certificate of the secretary and be advertised as heretofore required by law.

To be presented to chief burgess

Veto and passage over

PARADISE STREET.

Ord. 25 Feb. 1875

1. The width of * * * Paradise street from Nutts avenue to the Borough line * * * shall be * * * forty feet.

Ord. 26 Feb. 1877. § 4

2. Ordained * * * that Paradise street begin at a limestone in Nutts avenue, a corner of lands of Benjamin Moyer and Joseph Rapp, thence south thirty-two and one-half degrees west 508 feet six inches to an iron monument planted to indicate the centre of Pennsylvania avenue, thence the same course 250 feet to the centre of Chester avenue, thence the same course continued 250 feet to the centre of Columbia avenue, thence the same course continued 980 feet six inches to a spike at the Borough line.

PARK ALLEY.

Ord. 28 Sept. 1874

1. Ordained, etc., that an alley twenty feet wide 150 feet east of Main street, dedicated by the Phoenix Iron Company to the use of the public, running in a parallel line with Main street from Washington avenue to Second ave-

Dedicated and accepted

nue, be and the same is hereby accepted and ordered to be marked on the Borough plot.

Ord. 5 Aug., 1895

2. Park alley be and is hereby continued from Third avenue south to Fifth avenue, the centre line of said alley to be 190 feet east of the centre line of Main street, said alley to be twenty feet wide, or ten feet on each side of above described centre line.

Continued

Ord. 3 Aug., 1886

3. The owners of lots or lands bounding on and opposite the sidewalks along * * * both sides of Park alley from Washington avenue to Second avenue * * * are hereby required to put up curbstones at the edge of the sidewalks and to pave and gutter the said sidewalks under the direction of the Borough Surveyor and the Street Committee. * * *

Curb, pave and gutter

[If neglected after thirty days' notice Street Committee to have work done and file lien therefor. See Quick street § 4.]

PARKS.

Ord. 2 July, 1878

1. The following rules and regulations shall be adopted for the government and protection of Reeves Park, in the Borough of Phoenixville:

SECTION 1, PENAL.

Rules of Reeves' Park

1. No person shall enter or leave the park except by such gates or avenues as may be for such purposes arranged.

2. No person shall indulge in any threatening, abusive, insulting or indecent language in the park.

3. No person shall engage in gaming or commit any obscene or indecent act in the park.

4. No person shall carry fire-arms or shoot birds or throw stones or other missiles therein.

5. No person shall cut, break or in anywise injure or deface the trees, shrubs, plants, turf or any of the buildings, seats, fences, lamps or statuary in the park.

6. No person shall turn cattle, goats, swine, horses, dogs or other animals loose into the park.

7. No person shall injure, deface or destroy any notices, rules or regulations posted, or in any other manner permanently fixed for the government of the park.

8. No person shall engage in any play at baseball,

cricket, shinny, football or any other games with ball and bat, except croquet, within the limits of the park.

Any person who shall violate any of said rules and regulations shall be guilty of a misdemeanor, and for each and every such offence shall pay the sum of five dollars, to be recovered before the Burgess or either of the Justices of the Peace of the Borough of Phoenixville, which fines shall be paid into the Borough treasury for park purposes.

SECTION 2, LICENSES.

1. No person shall expose any article for sale within the park without permission from the Town Council or its representative.

2. No person or persons shall have any musical, theatrical or other entertainments therein, nor shall any military or other parade or procession take place in the park without permission from the Town Council or its representative.

3. No gathering or meeting of any kind, assembled through advertisement, shall be permitted in the park without permission from Council or its legal representative.

SECTION 3, PROHIBITIONS.

1. No gathering or meeting for political purposes, nor spirituous or malt liquors shall be allowed within the park under any circumstances.

N. B.—And we do hereby earnestly appeal to all peaceable, law-abiding citizens, entreating that in the exercise of their proprietary rights they will diligently co-operate in the enforcement of all lawful measures for the care and preservation of all things pertaining to Reeves Park. It is *your own property;* won't you take care of it?

PARTY WALLS.

(See CHARTER § 7, VII.; BUILDINGS § 1 TO 4.)

PAVEMENTS.

(See CHARTER § 7; BUILDINGS § 4, 5; FINES AND PENALTIES § 5, 6, 7, 19, 20.)

Act 30 April, 1905

1. All Boroughs are hereby authorized and empowered to direct and require the grading, paving, repaving and repairing of all sidewalks on the streets of the Borough,

GENERAL

Municipal Ordinances

—OF THE—

City of Oakland, Cal.

IN EFFECT NOVEMBER 1st, 1909

COMPILED AND ANNOTATED
BY AUTHORITY OF THE CITY COUNCIL

EXHIBIT
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SEC. 4. No military or other parade or procession or funeral shall take place, or pass through the limits of the parks under the control of the Park Commission, without the order or permission of the Park Commissioners.

SEC. 5. No person shall engage in any play, at baseball, cricket, shinney, football, croquet, or at any other game, with ball and bat, within the limits of the parks under the control of this Commission, except on such grounds only as shall be specially designated for such purpose.

SEC. 6. No person shall be permitted to use the shores of Lake Merritt as a landing place for boats, or keep thereat boats for hire, or floating boathouses with pleasure boats for hire, except by special order or permission of the Park Commissioners, and only at places designated by and under restrictions determined upon by said Commissioners.

SEC. 7. No regatta or boat race by clubs shall take place upon Lake Merritt without special permission granted by the Park Commission.

SEC. 8. No person shall turn loose into the parks controlled by this Commission any cattle, goats, swine, horses, or other animals.

SEC. 9. No person shall carry firearms, or shoot birds or throw stones or other missles within the boundaries of the parks controlled by the Park Commission.

SEC. 10. No person shall cut, break, or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, structures, or statuary or foul any fountains or springs within the parks controlled by the Park Commission.

SEC. 11. No person shall drive or ride within the boundaries of the parks controlled by the Park Commission at a rate exceeding seven miles an hour.

SEC. 12. No person shall ride or drive within the limits of the parks controlled by the Park Commission upon any other than the avenues and roads therefor.

SEC. 13. No coach or vehicle used for hire shall stand upon any part of the parks controlled by the Park Commission for the purpose of hire, nor except in waiting for persons taken by it into the parks, unless in either case at points designated by the Park Commission.

SEC. 14. No wagon or vehicle of burden or traffic shall pass through the parks, except upon such road or avenue as shall be designated by the Park Commissioners for burden transportations.

SEC. 15. No person shall expose or display any article for sale within the parks without the order or permission of the Park Commission.

THE CODE

OF THE

CITY OF STAUNTON, VIRGINIA

CONTAINING

THE CHARTER AND GENERAL LAWS

AND ORDINANCES

EXHIBIT 54

1910
SHULTZ PRINTING CO.
Staunton, Va.

CHAPTER II.

OF THE PUBLIC PARKS AND THE GOVERNMENT THEREOF.

Sec. 134. Park Policeman.

There shall be selected by the council a park policeman whose duty it shall be to have carried out the rules and regulations for the government of the park.

Sec. 135. Acts prohibited in Park.

All persons are forbidden to enter or leave the park except by the gateways; to climb or walk upon any of the walls or fence, to turn cattle, horses, goats or swine into the park; to carry firearms, or to throw stones or other missiles within it; to cut, break, or in any way injure or deface the trees, benches, shrubs, plants, turf, or any of the buildings, fences, bridges, or other constructions upon the park; or to converse with, or in any way hinder those engaged in its construction.

Sec. 136. Fast driving, etc., prohibited.

No animal or wheeled vehicle shall travel on any part of the park, except upon the driveway, nor at a rate exceeding seven miles per hour. Persons on horseback shall not travel at a rate exceeding seven miles per hour.

Sec. 137. "Standing" or "hitching" places.

No animal or vehicle shall be permitted to stand upon any driveway or carriage road of the park, or any part thereof, and no animal or vehicle shall be permitted to be hitched or allowed to stand at any place within the park enclosure, except such places as may be provided and designated as "standing" or "hitching" places. Nor shall any person upon the park solicit or invite passengers.

Sec. 138. Vehicles for hire in park.

No hackney coach, carriage or other vehicle for hire, shall stand upon any part of the park for the purpose of taking in any

Birmingham, Ala.--Ordinances--

THE CODE

of

CITY OF BIRMINGHAM

ALABAMA

PREPARED BY

HENRY L. ANDERTON

BY AUTHORITY OF THE COMMISSION
OF THE CITY OF BIRMINGHAM

1917

EXHIBIT
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CHAPTER XLIV

Parks and Public Places

Sec. 1542. **All Parks Dedicated to Public Use.** All the parks heretofore marked out and dedicated to the city, and all public parks hereafter acquired by the city shall be and remain set apart and dedicated to the use of the public as parks and public grounds, and the same shall be regulated and governed in such manner as the Commission may from time to time ordain.

Sec. 1543. **For the Protection of Parks.** Any person who wilfully or maliciously breaks, cuts, disfigures, injures or destroys any tree, shrub, plant or flower within the enclosure of any of the public parks of the city, or any railing, structure or monument therein, or who shall hitch any horse or animal to any tree or shrub therein, shall, on conviction, be fined not less than one nor more than one hundred dollars.

Sec. 1544. **Conduct in Parks.** No person shall enter or leave any of the public parks of the City of Birmingham except by the gateways; no person shall climb or walk upon the walls or fences thereof; no person shall turn or lead any cattle, horses, goat, swine or other animals into any of such parks; no person shall carry firearms or throw stones or other missiles within any of such public parks; no person shall expose any article or thing for sale within any of such parks, nor shall any hawking or peddling be allowed therein; no threatening, abusive, insulting or indecent language shall be allowed in any part of any of such parks calculated to provoke a breach of the peace, nor shall any person tell fortunes or play at any game of chance at or with any table or instrument of gaming nor commit any obscene or indecent act there-

in; no person shall post or otherwise affix any bills, notice or other paper upon any structure or thing within any such park nor upon any gate or enclosure thereof; no person shall play upon any musical instrument, nor shall any person take into, carry or display in any such public park any flag, banner, target or transparency; no military company shall parade, drill or perform therein any military or other movements; no person shall light, make or use any fire in any such public park; no person shall go upon the grass, lawn or turf of the parks, except when and where the word "common" is posted, indicating that persons are at that time and place at liberty to go on the grass.

Sec. 1545. **Commission May Close Entrances.** The Commission may direct that any of the entrances to the public parks be closed at any time, and when so closed in obedience to such directions no person shall enter at any such place.

Sec. 1546. **Obstructions on Plats Along Public Streets.** It shall be unlawful for any person in possession of any lot or parcel of ground abutting on any public highway in the City of Birmingham to erect, maintain or permit any other person to erect or maintain or to continue or fail to remove within a reasonable time after notice or knowledge of the presence thereof of any wire, chain, rope or other obstruction or guard on any grass plat or parkway on any public highway in the City of Birmingham, unless such guard or obstruction shall conform to the following specifications, to-wit: The upright posts or stakes shall be made of dressed lumber four inches square and shall extend above the ground not less than three feet and shall be painted white. The cross bar shall consist of some rigid material and may be made either of iron pipe, an iron bar or a wooden bar which shall be placed at a height of not less than three feet above the surface of the ground and such bar or pipe shall also be painted white and shall be securely fastened to the said stakes or posts, which stakes shall be firmly placed in the ground and not more than eight feet apart.

No. 666, A.] [Published July 16, 1917.

CHAPTER 668

AN ACT to repeal sections 62.04 to 62.58, inclusive, and sections 4562d, 4567b, and 4567c; to create a new chapter to be numbered 29, and sixty-four new sections thereof, to be numbered 29.01 to 29.63, inclusive; to amend sections 4567d and 4567f; and to create sections 4562d and 172—41, relating to wild animals, and the regulation of the enjoyment, disposition and conservation thereof, prescribing penalties, and creating a conservation fund.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Sections 62.04 to 62.58, inclusive, and sections 4562d, 4567b, and 4567c of the statutes are repealed.

SECTION 2. A new chapter is added to the statutes, to be numbered and entitled as follows: "CHAPTER 29. WILD ANIMALS, AND THE REGULATION OF THE ENJOYMENT, DISPOSITION AND CONSERVATION THEREOF."

SECTION 3. Sixty-four new sections are added to the statutes, to be inserted in chapter 29, and to be numbered and to read:

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CHAPTER 29

WILD ANIMALS, AND THE REGULATION OF THE ENJOYMENT, DISPOSITION AND CONSERVATION THEREOF; GENERAL CONTROL AND REGULATION

EXHIBIT 56

of any person, grant a permit to such person to take and transport wild animals for propagation within the state, under the supervision of the commission or its deputies

29.56 FOREST COUNTY GAME REFUGE. Townships thirty-eight north, of range twelve and thirteen east, Forest county, shall be known as the Forest County Refuge. No person shall at any time or in any manner, hunt any game within said refuge.

29.57 WILD LIFE REFUGES. (1) Establishment. The owner or owners of any tract, or contiguous tracts, of land comprising in the aggregate not less than one hundred and sixty acres located outside the limits of any city or village, may apply to the state conservation commission for the establishment of said lands as a wild life refuge. The commission may thereupon employ such means as it may deem wise to inform itself regarding the premises; and if, upon inspection, investigation, hearing, or otherwise, it shall appear to the satisfaction of the commission that the establishment of said lands as a wild life refuge will promote the conservation of one or more useful species or varieties not native within this state, it may by order designate and establish the said lands as a wild life refuge.

(2) Enclosure. Within thirty days after the date of such order the owner or owners of the said lands shall enclose the same, wherever the same are not already enclosed by a fence, with a single substantial wire, and shall post and maintain along the said wire or fence, at each interval of twenty rods, signs or notices, furnished by the state conservation commission, proclaiming the establishment of said refuge.

(3) Publication. No such order shall be effective until at least thirty days after the date of its issue; nor unless the commission shall have caused notice thereof to be given by its publication, once in each week for three successive weeks next preceding the date of its effect, in at least one newspaper published in the county embracing the said lands. Thereupon the said lands shall be a wild life refuge, and shall so remain for a period of not less than five years, from and after the date of effect stated in said order.

(4) Absolute Protection. No owner of lands embraced within any such wild life refuge, and no other person whatever, shall hunt or trap within the boundaries of any wild life refuge, state park, or state fish hatchery lands; nor have in his possession or under his control therein any gun or rifle, unless the same is unloaded and knocked down or enclosed within its carry-

ing case; but nothing herein shall prohibit, prevent, or interfere with the state conservation commission, or its deputies, agents or employes, in the destruction of injurious animals.

(5) Animals procured by commission. The state conservation commission may place within any such wild life refuge, for the purpose of propagation, wild animals of any species or variety.

DESTRUCTION OF INJURIOUS ANIMALS

29.58 MUSKRATS INJURING DAMS. The owner or lessee of any dam may in any manner capture or kill muskrats at any time when said muskrats are injuring or destroying such dams or the levees connected therewith; but shall not sell, barter, or give to any other person the skin of any muskrat captured or killed during the close season therefor.

29.59 BEAVER CAUSING DAMAGE. (1) Complaint. Upon complaint in writing, by the owner or lessee of any lands, to the state conservation commission, that beaver are causing damage thereto the commission shall employ such means as it may deem wise to inquire into the matter; and if, upon inspection, investigation, hearing, or otherwise, it shall appear to the satisfaction of the commission that the facts stated in such complaint are true, it may, by written permit, authorize the said owner or lessee to capture and remove such beaver, as hereinafter prescribed.

(2) Supervision. No beaver shall be captured or killed under such permit except only during such period of time, from and after the first day of January in each year, as may be limited by the commission, and then only under the direct supervision of a deputy conservation warden.

(3) Disposition of animals. The owner or lessee shall capture, alive and without avoidable injury, such number of beaver as may be designated by the commission, for delivery to zoological parks or collections or for transplantation to other localities within the state; all others shall be killed and skinned with care to conserve the value of the skins, which shall be shipped without delay to Madison, consigned to the state conservation commission.

(4) Sale and disposition of proceeds. All such skins shall be sold by the commission, in the manner of a sale of confiscated game, and the proceeds paid into the conservation fund.

(5) In Price, Rusk, and Sawyer counties. Licenses for the taking, catching or killing of beaver in Price, Rusk, and Sawyer

First. To supplement the funds in those counties specified in section two of this act, in order to provide a six months school term in each of said counties; Supplements to county funds.

Second. After the provisions of section two have been complied with, then the State Board of Education shall apportion the residue of the funds provided in this section in order to pay the salaries of the county superintendents and assistant superintendents for six months, and all city superintendents, all supervisors not otherwise provided for, all principals of elementary schools having ten or more teachers, and principals of standard high schools, for three months. Apportionment of residue. County superintendents and assistants. City superintendents. Supervisors. Principals of elementary and high schools.

SEC. 5. That section five thousand four hundred and eighty-eight of the Consolidated Statutes, as amended, be and the same is hereby further amended by adding at the end thereof the following: "*Provided*, that no action in the nature of a writ of mandamus shall be brought against the board of county commissioners to compel said board to levy a rate of taxation greater than the rate authorized by the General Assembly." Proviso: mandamus for increase of tax rate not to lie.

SEC. 6. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed. Repealing clause.

SEC. 7. This act shall be in full force and effect on and after the date of its ratification.

Ratified this the 20th day of December, A.D. 1921.

CHAPTER 6

AN ACT TO PROTECT ANIMALS AND GAME IN PARKS AND GAME RESERVATIONS IN EITHER PRIVATE OR PUBLIC PARKS OR PLACES.

The General Assembly of North Carolina do enact:

SECTION 1. That it shall be unlawful for any person or persons to hunt, trap, capture, willfully disturb, or kill any animal or bird of any kind whatever, or take the eggs of any bird within the limits of any park or reservation for the protection, breeding, or keeping of any animals, game, or other birds, including buffalo, elk, deer, and such other animals or birds as may be kept in the aforesaid park or reservation, by any person or persons either in connection with the Government of the United States, or any department thereof, or held or owned by any private person or corporation. Protection of game in parks or reservations.

SEC. 2. That any person or persons who shall hunt, trap, capture, willfully disturb, or kill any animal or bird, or take the eggs of any bird of any kind or description in any park or reservation Misdemeanor.

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Punishment.

as described in section one of this act, at any time during the year, shall be guilty of a misdemeanor, and shall be fined or imprisoned in the discretion of the court for each and every offense.

Carrying weapons in parks or reservations. Misdemeanor.

SEC. 3. That any person who shall carry a pistol, revolver, or gun in any park or reservation such as is described in section one of this act, without having first obtained the written permission of the owner or manager of said park or reservation, shall be

Punishment.

guilty of a misdemeanor, or shall be fined or imprisoned, in the discretion of the court, for each and every offense.

Application of act.

SEC. 4. That the provisions of this act shall apply only to that part of the State of North Carolina situated west of the main line of the Southern Railway running from Danville, Virginia, by Greensboro, Salisbury, Charlotte, and Atlanta, Georgia.

Repealing clause.

SEC. 5. All laws and clauses of laws in conflict with this act are hereby repealed.

SEC. 6. That this act shall be in force from and after its ratification.

Ratified this the 15th day of December, A.D. 1921.

CHAPTER 7

AN ACT TO CHANGE THE MONTH DURING WHICH ACCOUNTS OF STATE OFFICERS ARE EXAMINED BY COMMISSIONERS OF THE LEGISLATURE.

The General Assembly of North Carolina do enact:

Date changed.

SECTION 1. That section seven thousand six hundred and ninety-two of the Consolidated Statutes be and the same is hereby amended by striking out the word "December" in line six of said section and inserting in lieu thereof the word "July."

SEC. 2. That this act shall be in force from and after its ratification.

Ratified this the 10th day of December, A.D. 1921.

CHAPTER 8

AN ACT TO AUTHORIZE THE TREASURER TO BORROW NOT EXCEEDING $710,000 FOR THE STATE PUBLIC SCHOOL FUND.

Preamble: tax at special session.

Purpose.

Whereas the special session of the General Assembly of one thousand nine hundred and twenty, chapter ninety-one, section one, Public Laws, provided a State tax of thirteen cents for the purpose of paying "one-half the annual salary of the county superintendents and three months salary of all teachers of all sorts

MONTGOMERY COUNTY CODE

INCLUDES Bill 21-22

Chapter 57. Weapons.

Cross references-Furnishing weapons to citizens during emergencies, § 2-15; special zoning requirements for rifle, pistol or skeet shooting ranges, §§ 59-G-2.51, 59-G-2.52.

State law references-Carrying weapons, Ann. Code of Md., art. 27, § 36 et seq.; sale, etc., of switchblade knives, Ann. Code of Md., art. 27, § 339; machine guns, Ann. Code of Md., art. 27, §§ 372-383; pistols, Ann. Code of Md., art. 27, §§ 441-448.

Sec. 57-1. Definitions.

In this Chapter, the following words and phrases have the following meanings:

3D printing process: a process of making a three-dimensional, solid object using a computer code or program, including any process in which material is joined or solidified under computer control to create a three-dimensional object.

Child safety handgun box: A secure, lockable box designed to hold the handgun being transferred that:

(1) requires a key or combination to remove;

(2) renders the handgun inoperable when locked; and

EXHIBIT 58

(3) is approved by Executive regulation under method (2).

Child safety handgun device: A child safety handgun lock or child safety handgun box.

Child safety handgun lock: A device that when locked in place prevents movement of the trigger of the handgun being transferred without first removing the lock by use of a key or combination. "Child safety handgun lock" also includes any other device that can be attached to a handgun and:

(1) requires a key or combination to remove;

(2) renders the handgun inoperable when locked in place; and

(3) is approved by Executive regulation under method (2).

Crime of violence: Murder, voluntary manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, arson, assault with intent to murder, ravish or rob, assault with deadly weapon or assault with intent to commit any offense punishable by imprisonment for more than one (1) year.

Firearm dealer: A person required by State or federal law to obtain a:

(1) regulated firearms dealer's license; or

(2) temporary transfer permit to display a regulated firearm at a gun show.

Fixed ammunition: Any ammunition composed of a projectile or projectiles, a casing, an explosive charge and a primer, all of which shall be contained as one (1) unit. Cartridges designed, made and intended to be used exclusively (i) in a device for signaling and safety purposes required or recommended by the United States Coast Guard or (ii) for industrial purposes, shall not be considered fixed ammunition. Curios or relics, as defined in regulations promulgated by the United States Secretary of the Treasury pursuant to 18 United States Code, section 921(A)(13), shall not be considered fixed ammunition.

Fugitive from justice: Any person for whom criminal proceedings have been instituted, warrant issued or indictment presented to the grand jury, who has fled from a sheriff or other peace officer within this state, or who has fled from any state, territory, District of Columbia or possession of the United States, to avoid prosecution for crime of violence or to avoid giving testimony in any criminal proceeding involving a felony or treason.

Gun or *firearm:* Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

(1) The term "antique firearm" means (a) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in subparagraph (a) if such replica (i) is not designed or redesigned or using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(2) "Ghost gun" means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer in accordance with federal law; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

"Ghost gun" does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

(3) "Handgun" means any pistol, revolver or other firearm capable of being concealed on the person, including a short-barreled shotgun and a short-barreled rifle as these terms are defined below. "Handgun" does not include a shotgun, rifle, or antique firearm.

(4) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(5) The term "short-barreled rifle" means a rifle having one (1) or more barrels less than sixteen (16) inches in length and any weapon made from a rifle (whether by alternation, modification or otherwise) if such weapon, as modified, has an overall length of less than twenty-six (26) inches.

(6) The term "short-barreled shotgun" means a shotgun having one (1) or more barrels less than eighteen (18) inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches.

(7) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a

smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(8) "Undetectable gun" means:

(A) a firearm that, after the removal of all its parts other than a major component, is not detectable by walk-through metal detectors commonly used at airports or other public buildings;

(B) a major component that, if subjected to inspection by the types of detection devices commonly used at airports or other public buildings for security screening, would not generate an image that accurately depicts the shape of the component; or

(C) a firearm manufactured wholly of plastic, fiberglass, or through a 3D printing process.

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Gun shop: An establishment where a handgun, rifle, or shotgun, or ammunition or major component of these guns is sold or transferred. "Gun shop" does not include an area of an establishment that is separated by a secure, physical barrier from all areas where any of these items is located.

Gun show: Any organized gathering where a gun is displayed for sale.

Major component means, with respect to a firearm:

(1) the slide or cylinder or the frame or receiver; and

(2) in the case of a rifle or shotgun, the barrel.

Minor: An individual younger than 18 years old.

Pistol or *revolver:* Any gun with a barrel less than twelve (12) inches in length that uses fixed ammunition.

Place of public assembly: A "place of public assembly" is:

(1) a publicly or privately owned:

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;

(H) long-term facility, including any licensed nursing home, group home, or care home;

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

Record plat means a subdivision plat recorded in the County's land records.

Sell or *purchase:* Such terms and the various derivatives of such words shall be construed to include letting on hire, giving, lending, borrowing or otherwise transferring.

Sporting use: "Sporting use" of a firearm and ammunition means hunting or target shooting in compliance with all federal, State, and local laws. Sporting use includes:

(a) participation in a managed hunt sponsored by a government agency; and

(b) the sale or other transfer of ammunition by a sporting club for immediate, on-site use at the club.

Tax assessment record means the information maintained by the State Department of Assessments and Taxation in its Real Property Database on each parcel of real property located in the County, including the tax map for each parcel.

Urban area: That part of the County within the following boundaries: Beginning at a point where the Maryland/District of Columbia boundary line in the County intersects with the Maryland/Virginia boundary line on the southwest side of the Potomac River; running then northwest along the Maryland/Virginia boundary line to the emptying of Watts Branch into the Potomac River; then northwest along the northeast side of the Potomac River to the emptying of Seneca Creek into the Potomac River; then north along Seneca Creek to Route 112 (Seneca Road); then east along Route 112 to Route 28 (Darnestown Road); then northwest along Route 28 to Route 118 (Darnestown-Germantown Road); then north along Route 118 to Route 117 (Clopper Road); then northwest along Route 117 to Little Seneca Creek; then northeast along Little Seneca Creek to Black Hill Regional Park; then along the eastern boundary of Black Hill Regional Park to the Park's southernmost intersection with I-270; then northwest along I-270 to Little Seneca Creek; then north along Little Seneca Creek to West Old Baltimore Road; then east along West Old Baltimore Road to Route 355 (Frederick Road); then south along Route 355 to Brink Road; then southeast on Brink Road to the Town of Laytonsville; then along the northern boundary of the Town of Laytonsville to Route 420 (Sundown Road); then east along Route 420 to Route 650 (Damascus Road); then southeast along Route 650 to Route 97 (Georgia Avenue); then south along Route 97 to Brighton Dam Road; then northeast along Brighton Dam Road to Route 650 (New Hampshire Avenue); then south along Route 650 to Route 108; then east along Route 108 to the Potomac Electric Power Company transmission line property; then southeast along the east side of the Potomac Electric Power Company right-of-way to Batson Road; then following along the southern boundary of the Washington Suburban Sanitary Commission property to Kruhm Road; then southeast along Kruhm Road to the Potomac Electric Power Company right-of-way; then southeast along the east side of the Potomac Electric Power Company right-of-way to Route 198; then east along Route 198 to the Prince George's County/Montgomery County boundary line; then southwest along the Montgomery County/Prince George's County boundary line to the Montgomery County/District of Columbia boundary line; then along the Montgomery County/District of Columbia boundary line to the beginning point.

Vehicle: Any motor vehicle, as defined in the Transportation Article of the Annotated Code of Maryland, trains, aircraft and vessels. (1981 L.M.C., ch. 42, § 1; 1983 L.M.C., ch. 50, § 1; CY 1991 L.M.C., ch. 21, § 1; 1993 L.M.C., ch. 50, § 1; 1997 L.M.C., ch. 3, § 1; 1997 L.M.C., ch. 14, §1; 1997 L.M.C., ch. 16; 2001 L.M.C., ch. 11, § 1; 2007 L.M.C., ch. 21, § 1; 2018 L.M.C., ch. 34, § 1; 2021 L.M.C., ch. 7, §1.)

Sec. 57-2. Firearm Safety Committee.

(a) There is a Firearm Safety Committee with 7 voting members appointed by the County Executive and confirmed by the County Council. The voting members should be trained and experienced in the safe and sportsmanlike use of weapons. The Executive must designate one voting member to serve as Chair. The Police Range Officer must serve as a non-voting member of the Committee.

(b) The Committee issues indoor and outdoor target, trap, skeet, and shooting range approval certificates. The Committee may specify the type of gun and ammunition that may be used on the range. An approval certificate is valid for 3 years. Before issuing a certificate, the Committee must find that:

(1) the discharge of guns on the range will not jeopardize life or property; and

(2) the applicant for the certificate is the owner, lessee, or person lawfully in possession of the land where the range is located.

(c) The Committee must inspect any firing range operated by the Police Department every 3 years.

(d) The Committee must create a standard safety checklist to assure that all firing ranges are evaluated using the same criteria.

(e) The Committee must keep a copy of each certificate.(1981 L.M.C., ch. 42, § 1; FY 1991 L.M.C., ch. 9, § 1; CY 1991 L.M.C., ch. 21, § 1; 2005 L.M.C., ch. 24, § 1.)

Cross reference-Boards and commissions generally, § 2-141 et seq.

Sec. 57-3. Change in urban area boundary.

On February 1 each year, the County Executive, after consulting with the Firearm Safety Committee, may recommend to the County Council any appropriate change in the boundary of the urban area based on new development or reported incidents of weapons discharged near developed areas. In addition, the County Executive, without consultation, may recommend any amendment to the boundary of the urban area at any other time. (CY 1991 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 11, § 1; 2005 L.M.C., ch. 24, § 1; 2018 L.M.C., ch. 34, § 1.)

Editor's note—Section 57-3, formerly § 57-2A, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-4. Discharge of guns in the urban area.

(a) *Prohibition.* Except as provided in subsection (b), a person, other than a peace officer or employee of the Maryland Department of Natural Resources performing official duties, must not discharge a gun within the urban area.

(b) *Exceptions.* Except as provided in Sections 57-7 and 57-11, a person may discharge a gun:

(1) on any indoor or outdoor target, trap, skeet, or shooting range that the Firearms Safety Committee has inspected and approved in writing;

(2) in a private basement or cellar target range;

(3) when necessary to protect life or property;

(4) to kill a dangerous animal;

(5) for discharge of blank cartridges in musical and theatrical performances, parades, or sporting events;

(6) for salutes by firing squads at military funerals;

(7) if approved by the Chief of Police, under a deer damage control permit issued by the Maryland Department of Natural Resources;

(8) for the purpose of deer hunting on private property that is at least 50 acres in size if:

(A) the person discharges the gun from an elevated position;

(B) the person does not load the gun until the person is located in the elevated position;

(C) the person unloads the gun before descending from the elevated position;

(D) the projectile has a downward trajectory;

(E) the property owner complies with any public notice requirements in applicable regulations; and

(F) the property owner gives written notice to the Chief of Police at least 15 days before any gun is discharged on the property which:

1. identifies the day or days on which deer hunting will occur;

2. identifies the time that deer hunting will begin and end each day;

3. lists the name of each individual who will participate in deer hunting; and

4. includes a copy of the record plat or tax assessment record for the property; or

(9) on property owned by the Maryland-National Capital Park and Planning Commission as a part of a deer management program conducted or sanctioned by the Commission that complies with safety requirements approved by the Chief of Police.

(c) *50-acre threshold.*

(1) Subject to the requirements of paragraph (2), up to 5 owners of contiguous parcels of property may aggregate their property to meet the 50-acre threshold in subsection (b)(8).

(2) If property owners aggregate their parcels to achieve the 50-acre threshold in subsection (b)(8), a person may discharge a gun for the purpose of deer hunting on the aggregated property if the person obtains written permission from each property owner, which must include a copy of the record plat or tax assessment record for each parcel in the aggregated property.

(d) A person who discharges a gun under the authority granted in subsection (b)(7), (b)(8), or (b)(9) is subject to the restrictions imposed by Section 57-5(a) on the discharge of a gun outside the urban area.

(e) *Regulations*. The County Executive must adopt regulations under method (2) which:

(1) establish procedures and criteria that the Chief of Police must use to decide whether it is safe to discharge a gun under the circumstances specified in subsection (b)(7); and

(2) to implement subsection (b)(8):

(A) require signs to be posted along the perimeter of each applicable property at least 15 days before any gun is discharged on the property;

(B) specify the size, wording, and location of each sign; and

(C) identify a method to determine the number of signs that must be posted. (1981 L.M.C., ch. 42, § 1; CY 1991 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 14, §1; 2001 L.M.C., ch. 11, § 1; 2005 L.M.C., ch. 24, § 1; 2007 L.M.C., ch. 21, § 1.)

Editor's note—Section 57-4, formerly § 57-3, was renumbered and amended pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-5. Discharge of guns outside the urban area.

(a) *Prohibition.* Except as provided in subsection (c)(1) through (c)(6), outside the urban area, a person, other than a peace officer or employee of the Maryland Department of Natural Resources performing official duties, must not:

(1) discharge a gun:

(A) onto, across, or within 50 yards of a public road;

(B) onto or across property located within 50 yards of a public road;

(C) into or within the safety zone (150 yards of a building or camp designed for human occupancy) without the owner or occupant's written consent; or

(C) from, onto, or across public or private property without the owner or occupant's written consent;

(2) discharge a full metal jacketed bullet of any caliber from a gun; or

(3) except as provided in subsection (b), discharge any fixed ammunition of a caliber higher than .25 caliber from a rifle or pistol.

(b) *Exception - High Caliber Ammunition.* A person may discharge fixed ammunition of a caliber higher than .25 from a rifle or pistol at:

(A) legal game or varmints on the ground; or

(B) a target on or near the ground that will not deflect a bullet.

(c) *Other Exceptions.* Except as provided in Sections 57-7 and 57-11, a person may discharge a gun:

(1) on any indoor or outdoor target, trap, skeet, or shooting range that the Firearm Safety Committee has inspected and approved in writing;

(2) in a private basement or cellar target range;

(3) when necessary to protect life or property;

(4) to kill a dangerous animal;

(5) for discharge of blank cartridges in musical and theatrical performances, parades, or sporting events;

(6) for salutes by firing squads at military funerals; or

(7) under a deer damage control permit issued by the Maryland Department of Natural Resources. (1981 L.M.C., ch. 42, § 1; CY 1991 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 14, §1; 2001 L.M.C., ch. 11, § 1; 2005 L.M.C., ch. 24, § 1; 2007 L.M.C., ch. 21, § 1.)

Editor's note—Section 57-5, formerly § 57-4, was renumbered and amended pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-6. Discharge of bows.

(a) *Prohibition.* A person must not discharge a bow in the County:

(1) from, onto, or across a public road;

(2) in violation of the archery hunting safety zone established in Md. Code, Natural Resources, §10-410, as amended, surrounding a building or camp designed for human occupancy without the owner or occupant's written consent; or

(3) from, onto, or across public or private property without the owner or occupant's written consent;

(b) *Exception.* Subsection (a) does not apply to target archery practiced in compliance with safety guidelines established in regulations adopted under method (2).

(c) A bow hunter must report the failure to recover a wounded deer to the County Police at the end of an unsuccessful search for the animal. (CY 1991 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 11, § 1; 2007 L.M.C., ch. 21, § 1; 2014 L.M.C., ch. 27, § 1; 2017 L.M.C., ch. 26, §1.)

Editor's note—Section 57-6, formerly § 57-4A, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-7. Access to guns by minors.

(a) A person must not give, sell, rent, lend, or otherwise transfer any rifle or shotgun or any ammunition or major component for these guns in the County to a minor. This subsection does not apply when the transferor is at least 18 years old and is

the parent, guardian, or instructor of the minor, or in connection with a regularly conducted or supervised program of marksmanship or marksmanship training.

(b) An owner, employee, or agent of a gun shop must not allow a minor to, and a minor must not, enter the gun shop unless the minor is accompanied by a parent or other legal guardian at all times when the minor is in the gun shop.

(c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:

(1) a ghost gun or major component of a ghost gun;

(2) an undetectable gun or major component of an undetectable gun; or

(3) a computer code or program to make a gun through a 3D printing process.

(d) A person must not purchase, sell, transfer, possess, or transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

(e) A person must not store or leave a ghost gun, an undetectable gun, or a major component of a ghost gun or an undetectable gun, in a location that the person knows or should know is accessible to a minor.

(f) This section must be construed as broadly as possible within the limits of State law to protect minors. (1981 L.M.C., ch. 42, § 1; 1997 L.M.C., ch. 14, § 1; 2001 L.M.C., ch. 11, § 1; 2021 L.M.C., ch. 7, §1.)

Editor's note—Section 57-7, formerly § 57-5, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-8. Child safety handgun devices and handguns.

(a) *Findings.* The unintentional discharge of handguns often causes accidental death or injury to children. Additional safeguards are needed to protect children from injury or death from the unintentional discharge of loaded and unlocked handguns. Requiring a firearm dealer who transfers a handgun to provide a child safety handgun device when a handgun is transferred can prevent unintentional injuries and fatalities to children

.

(b) *Child safety handgun device.*

(1) A firearm dealer who sells, leases, or otherwise transfers a handgun in the County must provide to the recipient of the handgun a child safety handgun device for the handgun at the time of the transfer. The dealer may charge for the child safety handgun device.

(2) A person who purchases or otherwise receives a handgun from a firearm dealer (or any transferor who would be a firearm dealer if the transfer occurred in the State) after October 8, 1997 must obtain a child safety handgun device for the handgun:

(A) at the time of a transfer in the County; or

(B) before entering the County with the handgun if the transfer occurred outside the County and the transferee resides in the County.

(c) *Notices*.

(1) A firearm dealer who sells, leases, or otherwise transfers a handgun must post conspicuously in the dealer's place of business a notice of:

(A) the requirement in subsection (b) for a child safety handgun device; and

(B) the prohibition in State law of storing or leaving a loaded firearm in a location where an unsupervised child can gain access to the firearm.

(2) If the firearm dealer transferring a handgun does not maintain a place of business in a commercial establishment, the dealer must provide the notices required by paragraph (1) in writing when transferring the handgun.

(d) *Enforcement.* The Department of Health and Human Services and any other department designated by the County Executive enforces this section.

(f) *Regulations.* The Executive may adopt regulations under method (2) to implement this Section. (1997 L.M.C., ch. 16; 2001 L.M.C., ch. 11, § 1.)

Editor's note—Section 57-8, formerly § 57-5A, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-9. Unlawful ownership or possession of firearms.

A person must not possess, exercise control over, use, carry, transport, or keep a rifle, shotgun, or pistol, if the person:

(a) is an unlawful user of , addicted to, or is under treatment for an addiction to, marijuana or any depressant or stimulant drug or narcotic drug (as defined in Maryland Criminal Law Code Annotated, sections 1-101, 5-101, 5-401, 5-404, and 5-604); or

(b) has been convicted in any court of a crime of violence, trafficking in narcotics, a criminal violation of any of the provisions of Maryland Public Safety Code Annotated, sections 5-101 to 5-138, 5-142, or any federal firearms control law; or

(c) is a fugitive from justice; or

(d) has been confined to any hospital or institution for treatment of a mental disorder or for mental illness unless a licensed physician has by affidavit stated that the physician is familiar with the person's history of mental illness and that in the physician's opinion the person is not disabled by such illness in a manner which should prevent the person from possessing a rifle or a shotgun; or

(e) has been confined to any hospital or institution for treatment of alcoholism unless a licensed physician has by affidavit stated that the physician is familiar with the person's history of alcoholism and that, in the physician's opinion, the person is no longer suffering from a disability in such a manner which should prevent the person from possessing a rifle or shotgun. (1981 L.M.C., ch. 42, § 1; 2001 L.M.C., ch. 11, § 1; 2004 L.M.C., ch. 22, §1.)

Editor's note—Section 57-9 is cited and quoted at Furda v. State, 421 Md. 332, 26 A.3d 918 (2011) where the Court of Appeals reversed the decision of the Court of Special Appeals; see also companion case at 194 Md. App. 1, 1 A.3d 528 (2010), also citing Section 57-9.

Section 57-9, formerly § 57-6, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-10. Keeping guns on person or in vehicles.

It shall be unlawful for any person to have upon his person, concealed or exposed, or in a motor vehicle where it is readily available for use, any gun designed to use explosive ammunition unless:

(a) *Lawful mission.* Such person is then engaged upon a lawful mission for which it is necessary to carry a gun upon his person; or

(b) *Special guard, special police, etc.* Such person is employed as a special guard, special police officer or special detective and has been lawfully deputized by the sheriff for the county, or has been appointed a constable in the county, or has been licensed under the laws of the state, should such a law be enacted, to carry such gun and then is on or in the immediate vicinity of the premises of any employer whose occupation lawfully requires the employment of a person carrying a gun while in the discharge of the duties of such employment; or

(c) *Military service.* Such person is then lawfully engaged in military service or as a duly authorized peace officer; or

(d) *Hunting, target practice, etc.* Such person is engaged in lawful hunting, drill, training or target practice on property of which he is the owner or lessee or on property with the prior permission of the owner or lessee thereof; or

(e) *Going to or returning from hunting, target practice, etc.* Such person is engaged in going to or from lawful hunting, drill training or target practice, or in delivering such gun to or carrying it from a gunsmith or repairman, or is engaged in any other lawful transfer of possession; provided, that such person shall be on or traveling upon a public highway or property of which he is the owner or lessee or on property with the prior permission of the owner or lessee thereof; provided further, that such gun shall not be loaded with explosive ammunition. (1981 L.M.C., ch. 42, § 1; 2001 L.M.C., ch. 11, § 1.)

Editor's note—Section 57-10, formerly § 57-7, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or

(2) sell, transfer, possess, or transport a firearm created through a 3D printing process.

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or

(5) apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

(c) This section does not prohibit a gun show at a multipurpose exhibition facility if:

(1) the facility's intended and actual primary use is firearms sports (hunting or target, trap, or skeet shooting) or education (firearms training); or

(2) no person who owns or operates the facility or promotes or sponsors the gun show received financial or in-kind support from the County (as defined in Section 57-13(a)) during the preceding 5 years, or after December 1, 2001, whichever is shorter; and

(A) no other public activity is allowed at the place of public assembly during the gun show; and

(B) if a minor may attend the gun show:

(i) the promoter or sponsor of the gun show provides to the Chief of Police, at least 30 days before the show:

(a) photographic identification, fingerprints, and any other information the Police Chief requires to conduct a background check of each individual who is or works for any promoter or sponsor of the show and will attend the show; and

(b) evidence that the applicant will provide adequate professional security personnel and any other safety measure required by the Police Chief, and will comply with this Chapter; and

(ii) the Police Chief does not prohibit the gun show before the gun show is scheduled to begin because:

(a) the promoter or sponsor has not met the requirements of clause (i); or

(b) the Police Chief has determined that an individual described in clause (i)(a) is not a responsible individual.

(d) Notwithstanding subsection (a), a gun shop owned and operated by a firearms dealer licensed under Maryland or federal law on January 1, 1997, may conduct regular, continuous operations after that date in the same permanent location under the same ownership if the gun shop:

(1) does not expand its inventory (the number of guns or rounds of ammunition displayed or stored at the gun shop at one time) or square footage by more than 10 percent, or expand the type of guns (handgun, rifle, or shotgun) or ammunition offered for sale since January 1, 1997;

(2) has secure locks on all doors and windows;

(3) physically secures all ammunition and each firearm in the gun shop (such as in a locked box or case, in a locked rack, or with a trigger lock);

(4) has adequate security lighting;

(5) has a functioning alarm system connected to a central station that notifies the police; and

(6) has liability insurance coverage of at least $1,000,000. (1997 L.M.C., ch. 14, §§1, 2; 1998 L.M.C., ch. 2, §§1, 2; 2001 L.M.C., ch. 11, § 1; 2021 L.M.C., ch. 7, §1.)

Editor's note—Section 57-11, formerly § 57-7A, was renumbered and amended pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-12. Sale of fixed ammunition.

(a) *Legislative intent.* The purpose of this section is to provide support to state and local law enforcement officials in their efforts against crime and violence by placing controls on the flow of dangerous ammunition, in addition to those provided by federal law, and to encourage compliance with the state police department's program of voluntary firearm registration. It is not the purpose of this section to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, or to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes. It is not the purpose of this section to create, nor does it permit the creation of, any separate system of county registration of firearms or ammunition, or the levying of any county fee in connection with any registration of firearms or ammunition. It is specifically not the intent of this section to serve as a revenue generating measure.

(b) *Registration of ammunition dealers.* Any ammunition dealer (as defined in 18 United States Code, section 921 et seq.) who conducts business in Montgomery

County is required to register with the Montgomery County department of police by maintaining on file with that department, at all times, a valid, current copy of his federal ammunition dealer's license.

(c) *Conditions for sale.* No ammunition dealer may sell fixed ammunition to any other person, unless:

(1) The sale is made in person;

(2) The purchaser exhibits, at the time of sale, a valid registration certificate or, in the case of a nonresident, proof that the firearm is lawfully possessed in the jurisdiction where the purchaser resides;

(3) The fixed ammunition to be sold is of the same caliber or gauge as the firearm described in the registration certificate, or other proof in the case of a nonresident; and

(4) The purchaser signs a receipt for the ammunition which shall be maintained by the licensed dealer for a period of one (1) year from the date of sale.

(d) *Exceptions.* The provisions of this section shall not apply to the sale of fixed ammunition:

(1) Which is suitable for use only in rifles or shotguns generally available in commerce, or to the sale of component parts of these types of ammunition;

(2) To any person licensed to possess fixed ammunition under an act of Congress and the law of the jurisdiction where the person resides or conducts business; or

(3) To any law enforcement officer of federal, state, local or any other governmental entity, if the officer has in his possession a statement from the head of his agency stating that the fixed ammunition is to be used in the officer's official duties.

(e) *Penalties.* Any ammunition dealer who sells fixed ammunition in violation of the provisions of this section shall be guilty of a class C violation, pursuant to section 1-19 of the Montgomery County Code, punishable only by a civil penalty in the amount of fifteen dollars ($15.00).

(f) *Exception for incorporated municipalities.* This section shall not be effective in any incorporated municipality which by law has authority to enact a law on the same subject. If any such incorporated municipality adopts this section and requests the county to enforce the adopted provisions thereof within its corporate limits, the county may thereafter administer and enforce the same within the

incorporated municipality. The county executive is authorized to enter into agreements with incorporated municipalities to enforce and administer the provisions so adopted and to collect the administrative costs of implementation from such municipalities. (1983 L.M.C., ch. 50, § 2.)

Editor's note--The above section was held to be invalid by the Court of Appeals in Montgomery County, Maryland, et al. v. Atlantic Gunds, Inc., et al., 302 Md. 540, 489 A.2d 1114 (1985).

Sec. 57-13. Use of public funds.

(a) The County must not give financial or in-kind support to any organization that allows the display and sale of guns at a facility owned or controlled by the organization. Financial or in-kind support means any thing of value that is not generally available to similar organizations in the County, such as a grant, special tax treatment, bond authority, free or discounted services, or a capital improvement constructed by the County.

(b) An organization referred to in subsection (a) that receives direct financial support from the County must repay the support if the organization allows the display and sale of guns at the organization's facility after receiving the County support. The repayment must include the actual, original value of the support, plus reasonable interest calculated by a method specified by the Director of Finance. (2001 L.M.C., ch. 11, § 1.)

Editor's note—2001 L.M.C., ch. 11, § 2, states:
(a) Section 57-13 of the County Code, as amended by Section 1 of this Act, applies to:
(1) support that an organization receives from the County after December 1, 2001; and
(2) the display of a gun for sale at the facility after December 1, 2001.
(b) Section 57-13 expires on December 1, 2011.
Section 57-13 is cited but not interpreted in Frank Krasner Enterprises, Ltd. v. Montgomery County, 401 F.3d 230 (4th Cir. 2005) because appellants lacked standing.

Sec. 57-14. Exemptions from Chapter.

Nothing in this Chapter applies to the purchase, ownership, or possession of a bona fide antique gun that is incapable of use as a gun. Except as provided in Sections 57-7 and 57-11, nothing in this Chapter prohibits the owner or tenant of any land from carrying or discharging a gun on that land for the purpose of killing predatory animals which prey on livestock. (1981 L.M.C., ch. 42, § 1; 1997 L.M.C., ch. 14, §1; 2001 L.M.C., ch. 11, § 1; 2007 L.M.C., ch. 21, § 1.)

Editor's note—Section 57-14, formerly § 57-8, was renumbered, amended, and retitled pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-15. Penalty.

Any violation of this Chapter or a condition of an approval certificate issued under this Chapter is a Class A violation to which the maximum penalties for a Class A violation apply. Any violation of Section 57-8 is a Class A civil violation. (Mont. Co. Code 1965, § 109-9; 1983 L.M.C., ch. 22, § 1; CY 1991 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 16; 2001 L.M.C., ch. 11, § 1.)

Editor's note—Section 57-15, formerly § 57-9, was renumbered and amended pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-16. Reporting requirement.

(a) The County Police Department must submit a report annually to the County Executive and the County Council regarding the availability and use of ghost guns and undetectable guns in the County.

(b) The report must include the number of ghost guns and undetectable guns recovered by the Department during the prior year.

(c) Each report must be available to the public on the Police Department's website. (2021 L.M.C., ch. 7, §1.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

SUPPLEMENTAL DECLARATION OF ELIYAHU SHEMONY

COMES NOW, the declarant, ELIYAHU SHEMONY, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following supplemental declaration are true:

1. My name is ELIYAHU SHEMONY, and I am named plaintiff in the above-captioned matter. I am an adult over the age of 18, a Maryland resident and I am fully competent to give sworn testimony in this matter.

2. I am a member and the former security director of the Magen David Sephardic Congregation ("MDSC") synagogue in Rockville, Maryland. I served as the security director for MDSC for nearly 20 years through the end of 2021.

3. Jewish communities, and especially religious institutions, are considered one of the top targets for violent attacks by the United States Office of Homeland Security. This was made abundantly clear by the deadly attacks on the Tree of Life Synagogue in Pittsburgh, Pennsylvania as well as the Chabad Congregation in Poway, California. In addition, the number of antisemitic incidents in Montgomery County has risen sharply over the past year, including hateful and threatening graffiti less than half a mile from our synagogue's location.

EXHIBIT A

4. As part of the security protocols we enacted at MDSC, I obtained a Maryland wear and carry permit approximately five years ago. We felt that the ability to legally carry a firearm in synagogue and outside was a necessary tool to protect our community. Upon being granted the permit, I carried a firearm to all daily religious services during the week as well as on the Sabbath (Saturday), including MDSC functions and trips taking place outside of the synagogue and on days other than on the Sabbath.

5. In an email dated November 18, 2022, I was informed by the president of MDSC, Mr. Elliot Totah, that since Montgomery County Bill 21-22 was passed, I was no longer allowed to carry a firearm in the synagogue. A true and correct copy of that email is attached as Exhibit 1. On November 18, 2022, I received a second email from Mr. Totah, explaining the reasons behind his first email. A true and correct copy of that email is attached as Exhibit 2. On December 9, 2022 MDSC he also sent a memorandum to the MDSC Community which stated that because of th enactment of Bill 21-22E, MDSC had decided to use metal detection wands at the entrances "t ensure that we did not run afoul of the new legislation." A true and correct copy of that MDS memorandum is attached as Exhibit 3.

6. The November 18 email stated that if I continued to carry a firearm to synagogue, he would notify the police and have me arrested.

7. In this email, he specifically stressed the following points:

1) This was not a voluntary policy change for the synagogue, but rather a reaction to the passing of Bill 21-22E and was put in place in order for the synagogue to be in "full compliance" with the law;

2) This was the specific guidance he received from Montgomery County' "office of the County Attorney General" and from "a County Council member;" and

3) If, at any future date, the court were to grant a Temporary Restraining Order (TRO), Temporary Injunction (TI), or strike down the law, Mr. Totah would reevaluate the decision.

8. The following week, when Bill 21-22 was officially signed into law, MDSC began using metal detectors to "comply" with Bill 21-22. I have complied with Bill 21-22E and the MDSC Community memorandum. My family and I don't feel safe anymore at MDSC because we have been stripped of our ability to defend ourselves from attack. My family and I are thus chilled in the exercise of our right to practice our Jewish faith.

9. The leadership of the synagogue refuses to amend this measure as long Bill 21-22 is in place, even though they are aware of the security risk it possesses, because Jewish law requires obedience to civil law. Exhibit 3.

Dated: JAN, 3, 2023

ELIYAHU SHEMONY

From: etotah@oxbridgedev.com
To: "Eli Shemony"
Subject: Montgomery County - New Gun Control Legislation
Date: Friday, November 18, 2022 10:06:03 AM

Eli,

I hope you are doing well.

As you may have already seen in the weekly MDSC announcements, we've been forced to take new gun control legislation enacted by the Montgomery County Council very seriously. Since I believe you've brought firearms into MDSC in the past, I wanted to make sure you are familiar with the new law and its impact on your ability to do so moving forward. Due to liability and licensing requirements, our security company will require any individual who unlawfully brings a firearm into MDSC to leave the premises or they will call law enforcement—I really want to make sure it doesn't come to this.

If you'd like to discuss further, please let me know. Otherwise, please be sure that you attend MDSC services from now on without any firearms at the premises or on your person. This is not a policy decision on the part of the Board or any officer of the congregation—this is a new countywide law that we have no choice but to abide by.

Thank you and Shabbat Shalom,

Elliot Totah

The Oxbridge Group
Phone: 301-294-4150 ext 1
Web: www.oxbridgedev.com
1250 Connecticut Ave NW, Suite 700
Washington, DC 20036

EXHIBIT 1

From: Elliot Totah
To: Eli Shemony
Subject: Re: Montgomery County - New Gun Control Legislation
Date: Friday, November 18, 2022 4:03:24 PM

Eli,

I stand corrected. Based on updated guidance we just received from the office of the Attorney General, the County Executive still needs to sign this bill into law (which it appears he intends to do). We will maintain the status quo until and if the bill is signed into law at which time my original email to you will stand.

Elliot Totah
The Oxbridge Group
Sent from my iTotah

EXHIBIT 2

Magen David Sephardic Congregation
Beit Eliahu Synagogue

The Sephardic Synagogue of the Nation's Capital

Shalom MDSC Community,

Last week we made an adjustment to our security protocol for all who enter the synagogue during Shabbat Shacharit and other larger gatherings. Our team of security professionals is now using a metal detection wand to ensure the safety of all those who pass through our doors. We wanted to explain this recent change and provide further insight into how it came about.

The introduction of the wand arose from the passage of new gun control legislation in Montgomery County on November 28, 2022 which prohibits anyone from carrying a gun in or around public places of assembly, including places of worship. The only exclusions are licensed security guards and individuals in law enforcement.

To ensure that we did not run afoul of the new legislation, we opted for the most halachically permissible method of enforcement: metal detection wands. This decision ensures that we respect *Dina D'malkhuta Dina*, the principle of obedience to civil law, as well as mitigates liability for the synagogue and our contractors.

In the event the law changes or is stayed/repealed, we will revisit our protocol. In the meantime, we appreciate everyone's cooperation in making Magen David as safe as possible. If you continue to have any halakhic concerns, please refer to the links below and note that a basket will be available to remove any metal items in your pocket prior to being wanded.

1. Staying Safe And Secure: Are All Security Measures Permitted On Shabbos? - The Bais HaVaad Halacha Center
2. shabbos security wand | שאל את הרב | דין (din.org.il)

Should you have any other questions, do not hesitate to contact us.

Thank you for your understanding.

Sincerely,

EXHIBIT 3

Elliot Totah, President
Frederic Richardson, Board Member & Chair of the Security Committee
Bernard Suissa, Board Member & Chair of the Religious Committee

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al*.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

SUPPLEMENTAL DECLARATION OF ALLAN D. BARALL

COMES NOW, the declarant, ALLAN D. BARALL, and hereby solemnly declares under penalties of perjury that the statements in this supplemental declaration are based upon personal knowledge that the contents of this supplemental declaration are true to the best of my knowledge and belief:

1. My name is ALLAN D. BARALL, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. I am an adult over the age of 18, a Montgomery County, Maryland resident and I am fully competent to give sworn testimony in this matter.

2. This Declaration is a follow-on to my previously submitted declaration, dated December 1, 2022.

3. Montgomery County, the Defendant in the Opposition to the Plaintiffs' Emergency Motion for Temporary Restraining Order and Emergency Motion for a Preliminary Injunction, states that "no irreparable harm" exists because of passing of County Bill 21-22E. I believe this is an incorrect statement.

EXHIBIT B

4. I am a law-abiding citizen. Upson passage of Bill 21-22E I stopped carrying a handgun in my synagogue even though I was specifically requested to carry by the synagogue's rabbi and senior leadership for security measures. Knowing that the new law would only affect law-abiding, permit holding people, I heard at least three independent persons state that they now feel like "sitting ducks" in my synagogue. This exact, precise phrase was used by separate, independent individuals. And, I am personally aware of at least two individuals who have now stopped coming to the synagogue because they no longer feel that it is safe to do so in light of the County's enactment of Bill 21-22E.

5. Orthodox Jews often attend services at a synagogue two or three times a day. Synagogues are especially open places. My specific synagogue is mere feet off a busy road where the congregation has its collective back to windows that face the street. It is especially easy for someone with ill intent to enter.

6. A report issued on December 28, 2022, entitled the "Hate Crime Accountability Project" documents that 194 antisemitic assaults occurred between 2018 and 2022. (https://bit.ly/3X4BNtn.) Among the incidents noted in the report was that two men were arrested on November 18, 2022, for a plot to attack a New York City synagogue. "What might have been the next Pittsburgh or Poway synagogue massacre was averted," the CEO of UJA-Federation of New York, Eric Goldstein, said, referring to the 2018 and 2019 massacres at Jewish houses of worship. (https://bit.ly/3i6KEfq.) I believe that the same sort of antisemitic attack could just as easily happen at my synagogue or any other synagogue in the Montgomery County, and that it is only a matter of time.

7. The Defendant states that "… Plaintiff's fear is outweighed by the fear the non-permit holding public may have that a stranger standing next to them – of unknown current state

or temperament – is carrying a loaded firearm as they exercise their First Amendment right to assemble in a place of public assembly". Referenced is a quote from the Montgomery County Council President "on the right of me and my family to go to a movie theater without having to wonder or worry about someone sitting next to me is carrying a gun on them." First of all, in order to obtain a wear and carry permit, I went through a background check from the State police, including fingerprinting, an interview with a State investigator, and reference checks. It is thus simply not correct to state that my "state of temperament" is "unknown." Further, if the County believes that "wonder or worry" about a legally armed permit holder is a harm, then I believe that the "wonder or worry" of me and my fellow synagogue members about "being sitting ducks" to antisemitic criminal attack is even a greater harm. Since the law passed, I have not seen a single police officer at my synagogue, and I have attended consistently three services daily. Without the ability to defend myself, the additional anxiety and worry about my physical safety is, indeed, "irreparable harm" to me.

8. The County is, understandably, attempting to curtail the number of firearm-related deaths in the U.S. The Defendant quotes the Montgomery County Police Chief Marcus Jones who stated on July 11, 2022, that "gun violence has become sort of the norm, which is not where we need to be … It is of grave concern." I agree entirely, which is why I obtained a wear and carry permit.

9. At hearing on this bill, County Council members cited the recent events of the University of Virginia shooting and the shooting outside of Clyde's restaurant in Bethesda. I conducted an online search and determined that neither of those shootings was caused by a permit-holding person. I believe that the County should understand that Bill 21-22E only affects the law-abiding person like me; I believe that it does nothing to protect the law-abiding citizen from the

criminal element who I believe will continue to illegally carry just as they illegally carried prior to the enactment of Bill 21-22E.

/s/ Allan D. Barall

Dated: January 4, 2023:
ALLAN D. BARALL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 8:21-cv-01736-TDC **(L)**
	)	Case No. 8:22-cv-01967-DLB
MONTGOMERY COUNTY, MD.,	)	
	)	
Defendant.	)	

SUPPLEMENTAL DECLARATION OF JOHN SMITH NO.1

COMES NOW, the declarant, JOHN SMITH NO.1, and hereby solemnly declares under penalties of perjury and states that based upon personal knowledge that the contents of the following declaration are true:

1. My name is JOHN SMITH NO.1, and I am member of Maryland Shall Issue, Inc., a plaintiff in the above-captioned matter. This Supplemental Declaration is for the purpose of adding to my prior declaration previously submitted. I am an adult over the age of 18, a Montgomery County Maryland resident and I am fully competent to give sworn testimony in this matter. JOHN SMITH NO. 1 is not my real name. I respectfully request that my identity remain anonymous. While I have provided armed security to my Church, I have done so anonymously and the effectiveness of that security were it occur in the future would be undermined if my role in doing so became public knowledge. Moreover, regretfully, I am concerned that my livelihood would be jeopardized should I be publicly associated with pro-Second Amendment advocacy.

2. I am a Deacon at my Church in Montgomery County and I serve (anonymously) as a volunteer plain-clothed armed security member of my Church located in Montgomery County Maryland with the permission of my pastor and other Deacons. Prior to the

EXHIBIT C

Supreme Court's decision in *NYSRPA v. Bruen* in June of 2022, I obtained a restricted Maryland wear and carry permit from the Maryland State Police for the specified purpose of providing armed security for my Church. I have since been issued an unrestricted wear and carry permit by the State Police.

3. In light of County Council and County Executive for Montgomery County, Maryland enacting bill 21.22E I am no longer able to carry a weapon to my Church in Germantown, MD. I am no longer able to provide protection to my family or other congregants due to the potential penalties related to the bill if I were found in violation of them. Potentially losing my Second Amendment rights for life is a serious threat to me and I cannot afford to take that chance. Because of bill 21-22E, our Church had no choice but to bar all members who had a carry permit from carrying a firearm on Church grounds and during Church activities taking place outside of those grounds.

4. Due to the 100-yard provision and removal of the exception of for Maryland wear and carry permit holders I do not see how I, or any person wishing to practice their Second Amendment rights to bear arms, can move around the County without violating the law. I live in the 20878 zip code. My neighborhood has several parks and an elementary school. Since the law now includes all property of the defined sensitive locations and not just the buildings 100 yards/300 feet pretty much covers any road in front of any of the listed locations.

5. There is a path to a park opposite the entrance to the street on which I live. The park path behind the homes across from my street is 100 feet from cross street to my street, so driving anywhere from my home or walking in my neighborhood puts me in violation of this law as soon as I walk to the head of my street. Since I live on a cul-de-sac I have no choice when leaving my home to go that way, forcing me to violate the law if I were to carry my firearm with

my permit. I cannot walk in approximately half of my neighborhood due to the number of parks, the elementary school and the 100 yard/300 feet exclusion zone. If I travel to some local shopping centers it is virtually impossible to carry a firearm with a permit due to the types of sensitive places the County has banned weapons on or near. For example at the Muddy Branch Square Shopping Center on Muddy Branch road, the buildings of the shopping center are roughly shaped in a U configuration with the parking lot filling in the space in front of the stores. There is an urgent care facility on the north end of the shopping center; a County liquor store on the west side; an eye doctor in the southwest corner.

6. Using Google maps measuring tool, I have determined that it is not possible to patronize any store while carrying a firearm with a permit based on the distance rule and the sensitive places as well as entering and exiting the parking lot puts one closer to the sensitive, prohibited places. If I wanted to go to the Kentland's Shopping area in Gaithersburg, MD from my home it is impossible to not violate the newly enacted law as any route I would take there has me pass by any number of parks, places of worship, schools, a library, community health centers, childcare facilities, and/or government buildings including any place owned by or under the control of the County.

/s/ John Smith No. 1

Dated: December 4, 2023
JOHN SMITH NO.1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

MARYLAND SHALL ISSUE, INC., et al.,
Plaintiffs,
v.
MONTGOMERY COUNTY, MARYLAND,
Defendant.

Case No. 8:21-cv-01736-TDC

Greenbelt, Maryland
February 6, 2023
2:59 p.m.

MOTIONS HEARING
BEFORE THE HONORABLE THEODORE D. CHUANG

A P P E A R A N C E S

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P R O C E E D I N G S

(Call to order of the Court.)

THE COURTROOM DEPUTY: All rise. The United States District Court for the District of Maryland is now in session, the Honorable Theodore D. Chuang presiding.

THE COURT: Thank you, everyone. Please be seated.

THE COURTROOM DEPUTY: The matter now pending before this Court is Civil Action No. TDC-21-1736, Maryland Shall Issue, Inc., et al. v. Montgomery County, Maryland. We are here today for the purpose of a motions hearing. Counsel, please identify yourselves for the record.

MR. PENNAK: This is Mark Pennak, counsel for plaintiffs.

THE COURT: Good afternoon.

MR. LATTNER: Good afternoon, Your Honor. Edward Lattner for Montgomery County, Maryland.

MR. JOHNSON: Your Honor, Matthew Johnson, for Montgomery County, Maryland.

MS. ASHBARRY: Good afternoon. Erin Ashbarry, for Montgomery County, Maryland.

THE COURT: Okay. Good morning -- good afternoon, everyone. Thank you for joining us. There are two pending motions in this case, the motion to remand and the motion for preliminary injunction, and we can talk about both. I have reviewed the briefs in both and have some questions, but I also

want to give the parties a chance to argue.

I generally don't set a firm time limit. I'm thinking perhaps 20 minutes a side. And we can cover both issues at the same time, although, since I may have some questions, it will take you longer -- you know, if one side gets more time to respond to my questions, then we'll try to make sure the other side has equal time if they would like to have it.

Now, in terms of -- well, and I guess there's a couple different ways to look at this, but the plaintiffs are the ones seeking the preliminary injunction at this time. The County is seeking the remand. I thought just for ease of the way I thought about this, since the plaintiffs are the plaintiffs, why don't we start with them on both issues, and then we'll hear from the County, and then if there's any need for a response from both sides on their respective motions as a brief rebuttal, I can hear that. So Mr. Pennak, you can go first.

MR. PENNAK: Thank you, Your Honor.

THE COURT: Just make sure you pull the microphone up. Sometimes those things don't stay in the same place.

MR. PENNAK: Is that better?

THE COURT: I think that's okay, yes.

MR. PENNAK: Okay. Thank you, Your Honor. Mark Pennak, counsel for the plaintiffs. So let me begin briefly with the motion for remand, and I'll move quickly on to the substantive motion.

THE COURT: Mm-hmm.

MR. PENNAK: The remand, in argue, would be beyond the scope of this Court's discretion. There is no parallel proceedings in state court at this moment. In our view, holding the case in abeyance, the federal claims in abeyance pending a remand to the state courts would basically create parallel proceedings, where none now exist, and that the Court has an affirmative obligation under controlling Supreme Court precedent to exercise its jurisdiction with respect to the federal claims.

There is no probability -- and we have outlined this in our motions, so I'm happy to take questions on it. There is no probability that the -- any sort of decision on the state claims and in state court could possibly decide all aspects of the federal claims before the Court now.

In those situations, the Supreme Court has said that there must be an obvious limiting construction of the state claims where there are parallel proceedings. That's -- and where there are no parallel proceedings, as there are right now no parallel proceedings, then the Court must -- has an affirmative obligation to proceed to decide the federal claims. And that's the Hawaii Housing Authority case.

THE COURT: So that's a diff- -- so there's two issues here. And I know the County has created sort of complicated constructs in terms of what they want and what they don't want, but I understand your point on the stay.

On the initial issue of remand of the state claims, which is, I believe -- and as I said in the first ruling of this type earlier on, it's governed by 28 U.S.C. 1367, and one of the issues -- predominate is one issue, but there's also the question of whether they're novel or complex issues of state law. So regardless of what happens with the stay, isn't it up to the Court, as a matter of that supplemental jurisdiction statute, to decide whether it's better positioned to address these claims that are here on supplemental jurisdiction or to let the state handle those?

MR. PENNAK: Well, I think the state -- the County, that is -- agrees that if the case is not held in abeyance, or at least the federal claims are not held in abeyance, then it would prefer that the state claims not be remanded for further adjudication to avoid ongoing parallel proceedings taking place at the same time. We agree with that. So there is a -- we do agree, however, that the federal claims should be adjudicated first, because they encompass relief that is broader --

THE COURT: Do you agree, or that's your position? I'm not sure that's their position.

MR. PENNAK: That's their papers, in their papers, Your Honor. So if I -- unless I've misread their papers, I think they have taken the position that they do not want a remand on the -- to create parallel proceedings and have two ongoing proceedings going on at the same time. So in that

sense, the abeyance question decides the remand question as well.

THE COURT: Well, does it or doesn't it? I mean, this is about supplemental jurisdiction. Isn't that the Court's decision, regardless of what the parties want?

MR. PENNAK: Well, ultimately, yes, Your Honor, but on the other hand, what -- the proper course in our view would be for the Court to hold onto the state claims and then dispose of them as appropriate after adjudicating the federal claims. That the Court has plenty of discretion and may do so at that time, but I don't think it would be appropriate for the Court to create two parallel proceedings going on at the same time.

THE COURT: Okay, I understand that. What about -- so when you say that the Court should resolve this -- federal claims first, I think, even if I were to agree -- if I were to agree with you that a stay is not necessary or appropriate, what would be the requirement that one look -- effectively, you're asking me to stay the state claims and to focus only on the federal claims first, including the constitutional claims, when many of these issues could be resolved, perhaps, under your theories, without even getting into constitutional issues, just looking at the state -- the County's authority. So why would I then have to effectively stay the state claims --

MR. PENNAK: You don't.

THE COURT: -- and focus only on the claims that you

want me focus on?

MR. PENNAK: You don't, Your Honor. And you could adjudicate all the claims at the same time. In our view, that's a cumbersome approach, and it would have this Court deciding state law claims, so better remedies are decided by the state courts so as to get an actual binding decision rather than what effectively --

THE COURT: Well, doesn't that counsel in favor of remand? I guess I don't understand. You want the state to decide it, but you don't want the state to have those claims.

MR. PENNAK: Well, it's a question of remand when. So the question here would be the remand after deciding the federal claims. Or you could remand them right now and the state courts can decide whether to stay its claims as well, but our point is, is that you cannot hold in abeyance the federal claims.

THE COURT: That I understand is your position. I guess I'm just having a hard time trying to figure out, if you're saying I should handle the federal claims first, are we basically keeping these away from the state if eventually they're supposed to go to the state in your view?

MR. PENNAK: I don't think you're keeping them away from the state, only because the state does not want the claims to be adjudicated in parallel proceedings, so they haven't asked for that. In fact, they've disavowed that proceeding.

So they -- as I understand, the County's position here

is that they would prefer to have all the claims adjudicated in this Court rather than have two active ongoing cases. And we agree with that. That just makes sense. Now, this Court has --

THE COURT: You've also suggested perhaps having the case -- the state claim sent to the -- what's now the Supreme Court of Maryland, certifying the questions.

MR. PENNAK: We have. We think that's a preferred way of doing it.

THE COURT: But isn't that also parallel proceedings?

MR. PENNAK: Well, it's not two trial court proceedings. So I think the Court certainly has discretion to certify the state law claims at any time, and we wouldn't object to that. I'm happy to litigate the state law questions in the Court -- Supreme Court of Maryland -- now it's called the Supreme Court. I keep calling that Court of Appeals.

THE COURT: I know, it's hard for all of us.

MR. PENNAK: But no, we wouldn't object to that. If the Court wants to certify those questions directly to the Supreme Court of Maryland, we're fine with that. And they could do so today as far as I'm concerned.

THE COURT: So is it set up for that? Obviously, they're only supposed to get pure legal questions, and on the one hand, the arguments on the state law are, to some degree -- well, I guess I'm not completely sure they're pure legal questions. Are they, or aren't they?

MR. PENNAK: There are no factual disputes in this case at all. So the pure legal questions on Count One and Count Two, and Count Three, for that matter, are whether or not, under Count One, the state has at least occupied the field, if you will, with respect to county litigation. That's a state constitutional issue. And the question on the scope of the Express Powers Act lodged in Count Two is a question of whether or not the authority granted to the County by 4-209(b)(1) of the criminal code of Maryland is that superseding all the preemption provisions otherwise set forth not only in 4-209(a) but also in a multitude of other preemption provisions set forth in county law -- I mean state law, which are all briefed in the -- in our papers -- or in the complaint, that is, and previously briefed in state claims.

Now, the County says (b)(1) trumps all these cases on all these preemption provisions. We say that, no, those -- those actually have to be interpreted in tandem, together, so they can be reconciled, and that the exceptions found in (b)(1) are to be narrowly construed under existing state law which says exceptions to an otherwise broad provision is always narrowly construed.

So this Court, in the Mora case, has always held that those are supposed to be narrowly construed, and we think that's the right view of the law, but that is a question for a state court. The Maryland Court of Appeals -- I'm sorry, the

Supreme Court can certainly decide that as a matter of law. And if it does, then the Supreme Court can then decide whether or not the County has exceeded those levels with respect to the 4-21 and 21-22E enacted by the Montgomery County Council.

So those are legal questions, and we have no problem with that. Certainly, the takings claim in Count Three is a question of state law as well, so that Court can decide --

THE COURT: Aren't there other factual issues in the takings claim, though?

MR. PENNAK: Not on the question of liability. Certainly on -- with respect to the amount of the taking to be compensated for. That can be resolved separately than whether or not there is a taking claim as a matter of law.

Now, the County has sought to dismiss that as simply not cognizable, and that's a legal question that the Supreme Court of Maryland can certainly decide. There's conflicting law in the circuits on that, and there is Supreme Court law on this, but Maryland law is decided independently of other claims, so the Court of -- I'm sorry, the Supreme Court of Maryland could then certainly decide what the Maryland Constitution requires without necessarily deciding what the federal case law decides. And that's all questions that can be appropriately presented to the Maryland Supreme Court. Those are questions of law, and those can be certified. And I'm happy to draft up particular certification questions if the Court --

THE COURT: I'm still having trouble with the idea that that's okay but not having the Circuit Court handle these issues in terms of whether there's parallel proceedings or not.

MR. PENNAK: Well, it could well dispose of those three claims. If the County prevails in the Supreme Court of Maryland, those claims are over. If the County doesn't prevail on those, they can be sent back to this Court, who then can remand it to the Court in trial court below, and in the state courts. And by that time, I would hope that we would have the federal claims fully proceeding and mostly decided.

THE COURT: Well, so am I right that -- I mean, if we could snap our fingers now and get a ruling on these state claims, I know your position is that wouldn't necessarily resolve everything in this case, but wouldn't that narrow the issues over here, because if they're right, some parts of the County's law will be invalidated, correct, in the state parts?

MR. PENNAK: Only in part, only in part. And indeed --

THE COURT: I didn't say in total, but I'm saying, at least in part, and that would narrow the issues, wouldn't it?

MR. PENNAK: Not really, Your Honor, and the reason is that there's no doubt that (b)(1) accords the County some authority. We had never disputed that. And that's creating authority to regulate possession and transporting, carry, and sales, all the items that are listed in (b) -- 4-209(a). That

includes parks, which we say they can't regulate at all under the Second Amendment. That includes places worship, which we say they can't regulate at all under the Second Amendment. That includes all other places of public assembly, very broad term, which we say they cannot regulate at all under the Second Amendment.

THE COURT: Well, with some exceptions, right, the courthouses, the legislatures, and so forth.

MR. PENNAK: Yes, with five narrow exceptions that the Supreme Court articulated in Bruen, and those five we haven't contested for purposes of this motion. But there's no doubt that the County has defined places of public assem- -- and they're up them, to define their terms, to be very, very broad, well beyond the ability of the five exceptions articulated in Bruen. But those places which they have expressly been authorized by 4-209 are certainly among the places they cannot regulate then under the Second Amendment. That is the issue before the Court right now on the motion for a PI and a TRO.

THE COURT: Okay. So why don't we move to the motion, then, your motion. So as I read it -- because again, you're asking for preliminary relief, and as I read it, there are two core issues there. One is the places of worship, another is the -- within 100 yards of a place of public assembly. Those are the two things that you're most concerned about, correct?

MR. PENNAK: Well, I wouldn't want to limit that to

just those. We don't think there's any place -- any regulations permissible for parks either. And we think a place of schools should be narrowly defined to exclude --

THE COURT: Well, I mean, maybe I misread it, but I mean, again, you know, the irreparable harm at issue here focuses on individuals going down roads, not knowing where they can or cannot carry. You have a couple plaintiffs, or several plaintiffs, who have this argument regarding their ability to provide security at a place of worship.

I mean, unfortunately, for better or for worse, as you can tell, it's taken a little time to get to this point in the case. And if I analyze those two issues, that's one piece. If you're asking me to go down the entire list of everything in the statute and basically decide this case right now, it's going to take a while. Is that really what you want?

MR. PENNAK: I think the Court could issue a TRO simply on the 100-yard exclusionary --

THE COURT: We're not doing a TRO; we're just doing a preliminary injunction here. I'm not going to do this twice.

MR. PENNAK: So we have asked for a preliminary injunction on all those elements in the County's -- what the County has regulated and certainly within 100 yards of all those individual places. Those are thousands and thousands of locations within the county. Giving us a PI on just churches won't cut it, because we're still exposed to the 100-yard

places -- of all the other places that are identified in this legislation. So for example, we don't know what a private recreational -- or privately-owned recreational facility includes, and so nobody has an idea --

THE COURT: You're basically asking me to decide the whole case right now; is that what you're asking?

MR. PENNAK: So on the preliminary injunction, yes, Your Honor. That is exactly what the parties have done in litigation pending in New Jersey and in New York; the Court has gone down every last place.

THE COURT: Well, that's fine. I guess the question is -- and I haven't focused on this, because again, maybe I misunderstood. I thought the motion itself -- and I thought this came up in the call; maybe I misunderstood, but -- that you have your whole case, but those were the two issues that were sort of underlying the motion.

Now, if you're saying that you want a preliminary injunction that -- saying that your clients -- that the statute can't be enforced as to, let's say, nursing homes, or hospitals, or things -- I forgot what the exact list of things that we haven't been talking about are -- I'm not sure I read where any of the plaintiffs really have standing on those things. I haven't heard of any of them having any reason to go to some of those facilities on the list. I heard about the places of worship, I understand the argument on the 100 yards; I haven't

heard much else on other locations.

MR. PENNAK: So the most urgent facilities are certainly the ones within 100 yards. And so if the Court were to decide the 100-yard question separately and thus include all these other places in which the 100-yard exclusion zone applies -- and there's a long list of them, and I don't have them memorized either, but they're right in the statute -- I mean, that would go a long way with preserving the right of individuals to be able to carry throughout the county, with carry permits issued by the Maryland State Police.

We would also ask the Court to address carry in churches, in churches, not within just 100 yards, because we have plaintiffs, including declarants and members of MSI, who are providing armed security, or at least did before the County enacted this law, to those places of worship that are now unable to do so, leaving those places unprotected. That's an extremely urgent issue. I agree with the Court on that. The 100-yard routine exclusionary zones basically makes carry impossible anywhere in the county because you can't go anywhere in the county without crossing into an exclusionary zone.

THE COURT: So I understood that argument. Again, I'm just trying to understand which plaintiff has provided enough facts in your motion, or in your complaint, or in evidence to show that there's any harm associated with inability to go to, let's say, a nursing home or one of those facilities, long-term

care facilities. I don't know if I've seen that.

MR. PENNAK: So in the compliant, or the verified complaint, we have allegations about going into a private school, inside a private school to pick up minor children. That's in the complaint. That's Ron David. We have Eli Shemony talking about going inside a library with a carry permit. We have other people -- those are in the complaint itself.

Now, I quite grant you, we don't have individualized allegations going to each one of these places. And if the Court were simply to address only the places where there are allegations of going inside, that would be sufficient on the current record to get rid of the 100-yard exclusionary zones. We -- the allegations of this complaint make very, very clear that all of those places, with the possible exception of places where people gather for First Amendment purposes, all of those places my plaintiffs go within 100 yards of. Every one of them.

So to that extent, the Court's going to have to address those places, because you can't drive in the county without going through an exclusionary zone measured by the parking lot of a church, or a school, or a recreational facility, whatever that means. And we have no idea what a private library is or where they're located, because we don't know what private libraries are. It could be the private libraries kept on the premises of Plaintiff Engage. They have an extensive firearms library. So they may fall within it and

have to close. So that is before the Court as well.

So we have individual plaintiffs who live within 100 yards of a county park, who walk their dogs in the county park, who walk past the county park, can't get out of their driveway or off their property without coming within 100 yards. So the park issue is presented to you because people use parks. And my plaintiffs use parks.

THE COURT: Okay. So why don't we move on to -- among the topics that come up in the briefing is this issue of -- well, I guess I'll go to this because we're on it, even though we might need to come back to some other things.

You make this argument that, to the extent -- and I know you have many arguments against their list of statutes, but one argument you make is, some of these restrictions on, in particular, parks, but other locations as well. In parks -- you know, the restriction was designed to keep people from shooting wildlife, or birds, and things like that, and so you shouldn't factor that in.

I guess I'm not sure I fully understand the argument, because the idea here is, regardless of the purpose, there is a history of preventing people from having guns in certain locations, for whatever purpose, and it would burden a right. If you have a right to walk through a park with a gun and they say, well, you can't have one because of our birds, they've still prevented you from having the gun. And just for purposes

of the historical analysis, why isn't that a legitimate example?

MR. PENNAK: Because it's directly precluded by Bruen, which enunciated quite expressly in the opinion two metrics, and the metrics are how and why. Why is the restriction imposed? Now, if you're imposing the restriction because you want to protect the flora and fauna of the park, that's not intended to restrict the exercise of Second Amendment rights. Geese don't have Second Amendment rights. So wildlife --

THE COURT: I guess I'm not -- I'm just trying to understand it, because again, let's put ourselves back a couple of hundred years. If someone is walking through a park, has a gun, and says, I want to protect my right to self-defense here in the park, and some park ranger type person says, Well, sorry, you know, we're protecting the birds here, and our duly-enacted statute says that you can't have a gun here, and you say, Well, I don't want use it for birds, I just want to use it to protect myself, it seems as if under that statute, they would have said, I'm sorry, you can't have the gun.

MR. PENNAK: Perhaps --

THE COURT: I mean, so -- I mean, if it didn't impact their rights, I could understand that, but it seems as if that was a burden that was accepted. Again, assuming that everything else about this checks out.

MR. PENNAK: And that is precisely the reason the Court articulated the two metrics that the Court commanded the

Courts to use in determining what the appropriate analogues -- and again, that metric includes why was this restriction imposed. The Court is very clear on that.

THE COURT: Okay.

MR. PENNAK: And so if the restriction -- the reason, it had nothing to do with the central right of self-protection, then, that is not an historical analogue. And it doesn't matter if there is an incidental effect on the --

THE COURT: Remind me again, which part of Bruen are you -- what reference -- maybe you can point me to the right passage in that.

MR. PENNAK: Yes, Your Honor. If you give me a moment, I will look it up.

THE COURT: Sure.

I mean, if you don't have it at the ready, I can look for it. I just thought, maybe since you were referring to that point, you would -- you would be a little closer to it than I am.

MR. PENNAK: The opinions are very big.

THE COURT: I know, I know.

MR. PENNAK: We cite -- and -- to a pincite throughout our papers, which unfortunately, the papers are pretty lengthy too, but the Court can simply do a search on metric and, you know, the Court will find it, and the how and why is a direct quote from the Bruen opinion.

THE COURT: Okay. I'm finding it on 2133, but --

MR. PENNAK: That's right.

THE COURT: -- I'm just trying to understand how -- what the "why" means.

MR. PENNAK: And this is confirmed, if I may, by several Courts who have rejected restrictions in New York and New Jersey on carry in park, precisely because they didn't satisfy that particular metric. So that metric is really important. And I take the Supreme Court at its word. I mean, that's all I can say about why they have that provision in there, but the Court took pains to talk about it.

THE COURT: I mean, is it just that line, how and why, or is there some further description of why in the opinion somewhere?

MR. PENNAK: Well, the Court went on to articulate in that context that this is a general right to carry in public, and they say it over and over and over again in different places. So the presumption is that there is -- these five particular areas are the exception to that general presumption and that, therefore, the state, in this case, the County, carries the burden of proof to show that there's other places like these five in the historical analysis.

Now, in our view, the historical analysis centers on 1791, when the Bill of Rights were adopted by the people.

THE COURT: Didn't Bruen say that was an open

question?

MR. PENNAK: Bruen said it wasn't going to resolve the scholarly debate, but if you read the analysis -- we set this forth in our response to the Everytown brief -- the Court actually, when it looked into the substantive areas, it looked to the 1791 era and shortly thereafter, in the early 18th century. It did not look at the post Civil War cases or statutes. And it said very expressly that the Courts are 75 years after the adoption of the First -- of the Second Amendment and the Bill of Rights and, thus, entitled to less weight.

And you'll see that again in the cases they cite for the proposition that 1791 is the central inquiry. They cite Ramos and the Timbs decision, both of which held that the scope of the Second Amendment is the same for the states and for the federal government. And for the federal government, no one's ever argued, that I know of, that the federal government is confined -- the Second Amendment means something, by reference to 1868 --

THE COURT: Yeah, but this is the state government we're dealing with here, correct?

MR. PENNAK: But the Supreme Court says it means the same.

THE COURT: Okay. So then, on the sensitive places, two questions. One is that Bruen doesn't even really give much

history, and I think this is one of the things that is a little bit curious about the opinion. It says that, "The historical record yields relatively few 18th and 19th century sensitive places where weapons were altogether prohibited, but we're also aware of no disputes regarding the lawfulness of such prohibitions."

So they don't actually cite many examples, if any, regarding schools, government buildings, legislative assemblies, polling places, and courthouses. And then it also lists this as, e.g., legislative assemblies, polling places, and courthouses. So I think -- from what -- it sounded to me like you were saying that you agree that there can be other sensitive places, it just needs to be established that there are others, and so far, it hasn't been.

MR. PENNAK: The County bears the burden to show a well established representative historical analogue, and that -- so that's a quote from the Supreme Court. Bruen says it has to be well established, it has to be representative, and it has to be an historical analogue, and in our view, the historical analogue is best resolved by the same history that the Supreme Court looked at in Bruen when it identified those five, and that's the late 1700s and the early 1800s.

Now, the County hasn't cited a single statute from that period that could possibly be analogous to the five or -- could justify any of the restrictions it has imposed in this

statute. So the -- if the Court said, as well, that if there's the absence of historical analogues for the relevant time periods, that is enough, by itself, to preclude regulation in those areas, unless there's some unusual technological change for justifying a different set of analogues. But the County's attempt here is to deal with the same historical analogue that's always been the problem in society, and that is misuse of firearms and violence in the public.

So that's -- that's the same remedy that the County has sought here. That's the same remedy that our ancestors found in the founding era, so there's no justifications to go beyond the fact that there is no historical analogue for these restrictions that the County has imposed.

THE COURT: So am I correct, though, that -- I mean, you said, and I think you're right, they haven't given us statutes from the 1700s. They have given us some from the 1800s, post -- or around the time of 1868. Are you saying that if I were to conclude that 1868 or so is -- can be considered that -- I mean, what do you make of the statutes they provided?

For example, in the places of worship, which is one of the key areas we're discussing today, they seem to have several examples in which there's a reference to keep, you know, no firearms inside, not -- you know, places of worship in the same sentence as schools or other sensitive places. So is your argument on that really just the 1791/1868 division, or is there

some other argument as to why those are insufficient?

MR. PENNAK: So there are additional requirements. And so it's -- it goes beyond the fact that they postdate the Civil War era, which the Supreme Court said in its opinion is entitled to less deference. It is -- they haven't established that there was an enduring tradition associated with those statutes that -- we don't know when they expired or whether they continue to this day, but it's the County's burden to do that. They don't establish that it was well established. Not just one or two statutes; to be well established means there is a consensus of statutes at the time.

It has to be also representative, not just of those particular jurisdictions but more broadly than those jurisdictions. For example, the laws enacted for the territories are categorically out of the question because the Supreme Court said you can't -- those laws were not instructive. Supreme Court said, in footnote 28, the laws enacted after 1900 are categorically not instructive and thus may not be considered. And as -- although it's postdating the Civil War era, those statutes are too few in number and too -- come too late in the day to be a well-established representative analogue.

Now, the Court was quite clear on that. So could you -- the Court consider post 1860 -- post Civil War statutes? Yes. But then the Court would have also say that those were

well established at the time, they were enduring, that they were comparable restrictions to those imposed by the County government, they were similarly relevant in terms that they were enacted for the purpose, under the Court's two metrics that the Court identified, the how and the why, and then I'm going to have to show that they actually are justified as an historical analogue more representative of the nation as the time it existed.

For example, they cited an 1817 City of New Orleans statute on dance halls. You know, at the time, the City of New Orleans was 27,000 people, and it was less than 1 percent of the population of the United States. The Court looked to such factors to see if they were well established and representative.

Now, every Court, every District Court to have examined this question of areas, of sensitive places areas, and those are -- right now, there's six, they have unanimously considered that the very statutes, post-Civil War statutes that the County cites are not well established and representative.

THE COURT: When you say six, I think you've cited -- you're not talking about this -- looking at these particular statutes; you're talking about analogous situations around the country?

MR. PENNAK: No, the actual statutes on which the County relies on were addressed in Koons and Siegel.

THE COURT: Oh, you're talking about their underlying

historical statutes.

MR. PENNAK: Yes.

THE COURT: Not our County bill here.

MR. PENNAK: No, no. No, I'm sorry, Your Honor.

THE COURT: Right, okay.

MR. PENNAK: So the very statutes on which the County relies as historical analogues have already been rejected in every single District Court decision to address this.

THE COURT: And has one of the circuits picked it up yet? I know some time has passed since --

MR. PENNAK: The Sec- -- New York has appealed the various decisions of the New York District Courts, and there's two circuits -- two districts there, there's the Western District and the Northern District. And on an appeal of a PI that the -- New York has prosecuted, that's set for oral argument on -- they have five different opinions set for oral argument in tandem on March 20th, 2023, next month.

THE COURT: The Second Circuit?

MR. PENNAK: Second Circuit.

THE COURT: Nobody else is ahead of that, on the --

MR. PENNAK: Nobody's ahead of that. The New Jersey cases, that's Siegel and Koons, have -- those are TROs, and those are not appealable, and so there has been no appeal of that. Now, we may get a PI on those motion- -- on those cases soon, and those are appealable. And so the -- New Jersey may

have the option of appealing that to the Third Circuit at that time.

THE COURT: Right, Mm-hmm.

MR. PENNAK: We already have one Fifth Circuit decision, the Radimi case that we cite in our papers. It just came down on the proper historical analysis, and we commanded that Court of Appeals decision to the Court's attention for the analysis it followed, not necessarily for sensitive places, but for the presumptions created by Bruen in terms of the general right of self-defense.

So we start with that. The general right means, carry in public, and everything after that can't be sufficient to actually nullify that general right. And the Court -- Supreme Court said, in Bruen, that New York's attempt to restrict the island of Manhattan, it takes the sensitive places analysis way too far, because it cannot mean wherever someone publicly assembles. And that is precisely the rationale that the County has advanced in justification of its ordinance, we're -- the County has told the Court that we're trying to ban firearms wherever people may gather, and that is precisely the analysis that the Supreme Court rejected.

THE COURT: And I understand that, and I agree with you that something as large or as broad as the island of Manhattan is not going to fly these days.

The -- two other questions I have before I turn to the

County. One is, you agree that under Bruen, the right as articulated up to this point, it had been -- before Bruen, it had been, you know, the right to -- law-abiding citizens to carry a firearm for self-defense in the home, or to have one in the home. Bruen extended it to in public, to carry it for the right of self-defense.

MR. PENNAK: Well, there was a split --

THE COURT: That's the right as it currently stands as articulated by the Supreme Court; is that correct?

MR. PENNAK: I think there was a split in the circuits on why the Court took the case. The Seventh Circuit in Moore and in the D.C. circuit in Wrenn had both said that the right fully extends to public carry outside the home. So the question before the Court in Bruen was whether the right could be confined to the home, and the Court answered that quite definitively, said no, it can't, because the right encompasses the right to self-defense in case of confrontation outside or inside the home. And that was the textual reading the Court gave to the Second Amendment right, and it was informed by the right of self-defense, which the Court said obtains just as well or if not more outside the home as opposed to inside the home.

THE COURT: But the right doesn't extend beyond self-defense, does it, in terms of saying --

MR. PENNAK: Well, yes --

THE COURT: -- if someone said, Hey, I want to be able

to, you know, threaten people because I choose to do so, that would never he -- or that would not be currently viewed as protected Second Amendment activity, would it?

MR. PENNAK: Agreed, but it doesn't just limit it to self-defense. I mean, that's the central consideration. For example, the Court said in Heller that the right extends to the use of firearms for all lawful purposes. That would include, for example, target shooting, or hunting, or other items such as that, which are perfectly lawful. So lawful purposes is a hallmark, not just self-defense, even though self-defense is at the core. So the right of self-defense informs text, and the Court was very clear on that.

THE COURT: So when Bruen talked about things outside the home, where does it take it beyond the right of self-defense? That's what I just want to understand.

MR. PENNAK: Well, the Court reaffirmed Heller, and Heller addressed the scope of the right. So what the Court held in Bruen, that the right identified in Heller extends exactly the same way, not only to inside the home but to outside the home as well. So the scope of the right is -- in the home extends, without exception, to everything outside the home. You normally don't do hunting inside the home, but the Court identified hunting in Heller. You don't do target practice inside the home, although I suppose you could, so that goes outside the home.

THE COURT: Well, so I'm just reading the first paragraph of Bruen. It says, "In Heller, we recognize the Second and Fourteenth Amendment protect the rights of an ordinary law-abiding citizen to possess a handgun in the home for self-defense." That's how they define the right. Then they say, "In this case, you know, the parties agree that ordinary law-abiding citizens have a similar right to carry handguns publicly for their self-defense," and then it says, "We do agree and now hold consistent with Heller and McDonald that the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home." So I don't see anything in there about things other than self-defense.

MR. PENNAK: So again, Your Honor, I would suggest that the Court look back to what Heller identified as lawful purposes. So certainly, the right of self-defense is at its core, and indeed, this case presents that right, because of the all the plaintiffs have carry permits, and all of those plaintiffs are now precluded from carrying in the county. Now, that includes people such as a number of my plaintiffs, Plaintiff Shemony, for example, who provides armed security and were issued permits for the very purpose of providing armed security to a synagogue, and to churches, and --

THE COURT: Okay. So I understand the argument that that's covered by Heller, but am I correct that you would agree that that's beyond self-defense, that's defending other people,

defending institutions? And I understand that you're saying that's all covered, but that's a different concept, isn't it?

MR. PENNAK: I don't think it is, because even in Maryland law -- and I've studied this law. Maryland law recognizes the right to exercise lethal force in defense of another. And that's always been the rule in common law as well. So you certainly have that right, and that's a legitimate exercise of lethal force. You certainly have a right in this state to hunt, with a hunter's safety certificate, and you have the right in this state, recognizing state law, to take your firearm to the range and shoot with it.

So those are legitimate lawful purposes, and I think to the extent the right extends beyond simply the right of self-defense, although the central -- self-defense certainly informs the scope of the text.

THE COURT: Okay.

MR. PENNAK: So yes, it's fair to say that Bruen focused on self-defense, but it's not fair to say that it's the exclusive scope of the right.

THE COURT: So can I just -- and one last question regarding -- you brought up the plaintiffs who were seeking to provide security for the places of worship, and you've identified the history of it, which is that they have these permits. That was presumably the stated reason why I need a gun, as opposed -- back in the day when you had to have a

reason, and the County's pulled that away because now the permit is a "shall issue" approach.

I believe the statute does -- the County statute, County ordinance has -- individuals are permitted to have guns, if they're -- or you can have guns if you're basically a security guard. And I'm not sure what the requirements for that are, so maybe you can tell me if you happen to know how hard it would be for someone to be designated as such under the County statute. And then relatedly, I think it also says that, you know, a business can have one employee who has a gun. And again, I don't know whether, you know, practically how difficult that would be to designated someone, let's say at a church, or a synagogue, or some other place of worship, as the employee.

Again, whether that means they have to have a W-2 form and be paid, I don't know, but what do you know about those two at least avenues to have someone provide some security at a private facility?

MR. PENNAK: So it is -- as a practical matter, it's impossible to have one person at a business like a church, which is open -- and many of these synagogues and churches are open 24/7 -- to have one person providing security. It's -- even if you concede that a church is a business -- and I'm not sure that's what's contemplated by the exception in 57-11B -- it is limited to one employee, and they're limited to one firearm. Now, some of these churches are large enough that you want to

have two people at the same time fully armed. And that's how the practice --

THE COURT: Well, as a practical matter, since I think -- and forgive me, since I don't know if it's in the affidavits already submitted, but are any of these plaintiffs who are in this position part of a group of people, or are they the only person at their place of worship with this arrangement with the leadership of the institution?

MR. PENNAK: So they're not the only persons. So declarant Barall talks about setting up a group of people setting up security in his synagogue. And as a practical matter, because the synagogue or the church is open for extended hours, you're not going to have the same person there all the time; it's simply not feasible. So you have a group of people who provide this armed security for places of worship, and that they can't do anymore. I mean, that seems to me utterly clear.

THE COURT: So taking the employee example to one side, what about the security guard example, which I think don't think is limited by numbers of people.

MR. PENNAK: That's correct, Your Honor. They could have a security guard, but there's a whole regulatory structure that I'm not intimately familiar with, about what it takes to become a security guard in Maryland. And it's a professional occupation that is licensed and regulated by the Maryland State Police; it's not trivial. And indeed, the --

THE COURT: You're saying there's like licensing requirements, et cetera?

MR. PENNAK: Yes, exactly.

THE COURT: Okay.

MR. PENNAK: So they must be licensed in Maryland as in elsewhere, but in particular, Maryland has some pretty stringent requirements for becoming a security guard. And they have indeed a different firearms course associated for security guards. So that is not, as an option, very easily accommodated here, and it's an expensive option, because they're not members of the synagogue itself.

And the synagogue members are picked because they know their community. They know who's there, who should be there, and who's a stranger. They know what's going on around them because this is their part of their lives. Hiring an external security guard is not the same protection at all. They do not have the funds to hire County police to provide the security, and the County police simply aren't there, and by the time they got there, the rampage would have been completed. So that's why these people are frightened. And they are frightened.

THE COURT: Okay. Anything else you want to offer?

MR. PENNAK: So I want to stress again that it is the County's burden, and it must be carried as a comparable burden by the reference to the metrics that the Supreme Court outlined, and that they haven't done it. And they certainly haven't done

it for the 150 -- the 100-yard exclusionary zone, which effectively nullifies the right to carry, the general right to carry that the Supreme Court articulated in Bruen.

So on that grounds, then, we believe that a PI should issue immediately to restore the status quo ante with people who already had carry permits, many of them, so that they can continue to carry what they already have. By the way, this includes people who got carry permits because their lives were in danger, people who were -- had a protective order taken out against some violent people, judges, prosecutors, people who were assigned -- presumed a risk category by the Maryland State Police and were issued permits on that basis. Since the County ordinance sweeps those people as well as ordinary citizens into its prohibition, that's -- basically, the County has stripped everybody of their right to self-defense.

THE COURT: So just -- so as I understand it -- I hadn't thought about this, but now that you're bringing it up, am I correct that all the individual plaintiffs were people in that category who had a permit before?

MR. PENNAK: There is about half and half.

THE COURT: Okay. And the other half didn't have a permit before?

MR. PENNAK: They had a restricted permit, for example, or had no permit at all.

THE COURT: So I know one of your major arguments in

terms of sort one of the main things you're looking for, at least like even if it was a narrow ruling at a minimum, you would want to have the ability of these folks who used to have permits have the same rights that they used to have or same privileges -- the same -- same authority to do what they used to do. That would solve the problem for some of your plaintiffs but not all of them.

MR. PENNAK: Correct. And that would also contravene -- such a limited ruling would contravene the Supreme Court's holding that this right belongs to the people, the law-abiding and responsible citizens who cannot be distinguished from people who have demonstrated a proper cause or, in Maryland's case, a substantial reason. So I don't think it would be legitimate for the Court to narrow a PI to just the people who had it before because that creates the very same categorization that the Supreme Court struck down.

THE COURT: Well, I'm not saying that's what I want to do, but at the same time, I don't know if I agree with you that it's legally impermissible, because on a preliminary injunction, one looks at, among other factors, balance of the equities, public interest, which -- I understand the Supreme Court says you can't do a means-end test for the overall right, but in terms those four prongs, in terms of whether we're going to make a preliminary determination now, awaiting a final ruling, of course, whether the most urgent situation isn't a fair thing to

consider, which is what those two prongs of the preliminary injunction test are designed to deal with.

MR. PENNAK: Well, I'd like address that briefly.

THE COURT: Mm-hmm.

MR. PENNAK: So what the Supreme Court said is that there's a general right to carry by all law-abiding citizens who have managed to obtain a carry permit. That's not a trivial process in Maryland, by the way; it's hard to do. I'm an instructor, I teach this course. So this is something that they now have a recognized -- Supreme Court recognized right to carry, and the deprivation of that right is itself irreparable. For every single day this ordinance remains in place, they are deprived of that right. That's irreparable by -- under any standard.

THE COURT: Okay, I understand. Okay, thank you.

MR. PENNAK: Thank you, Your Honor.

THE COURT: Mr. Lattner, is it, who's going to handle this? Okay.

MR. LATTNER: Your Honor, I was going to address the motion to remand and stay.

THE COURT: Why don't you just pull the microphone closer to you so we can all hear.

MR. LATTNER: Oh, sure, sorry. I was going to address the motion to remand or stay briefly, then Mr. Johnson was going to address the standing issue, and finally, Ms. Ashbarry to

address the Second Amendment issue, the historical -- the historical inquiry.

On the motion to remand or stay, the County's position is that if the Court is going to rule on injunctive relief under the Second Amendment, the County would request that you retain the state law claims. Having said that, I think it makes sense that the state law claims would be adjudicated first. Again, this dovetails with the reason that we are seeking the remand in the first place, because those are dispositive and would serve to avoid having to decide Second Amendment claims. So whether the federal claims are stayed and the state law claims are remanded for disposition by the state or the state law claims remain here in this Court, those are the claims that should be adjudicated first.

THE COURT: Why do we have to have a sequencing? Why can't we just look at all of them? And then again, with a typical analysis, if you start with non-constitutional arguments, you look at those. If you can solve case that way, then you do. If not, you move to the constitutional arguments. I mean, why do you need to have a stay, particularly if it all stays here? Why do we need to have a sequencing and say, You still have to do the state law claims first?

MR. LATTNER: Well, if it all stays here, I think it's logical that in order to avoid deciding on the Second Amendment issues, that decision would be made on the state law issues. I

guess it could all be briefed and argued, and then the Court, you know, in the menu of options, if it found there was no authority under state law, I think that is determinative and comprehensive, and that would be the end of it.

THE COURT: I mean, wouldn't it -- just as a practical matter, I guess -- I'm not sure I understand your position. You're the ones who filed this motion in the first instance. You didn't want the claims in the state court before, now you do, but only if they go first. I mean, as a practical matter, you're the ones who said that it was all briefed, it was ready to go -- I mean, I don't know if this is true, but that the state court could issue a ruling relatively soon, and yet you don't want to give them that opportunity, because as a practical matter -- I mean, we'll deal with the preliminary injunction, but whatever it is, it's not a final ruling.

And so the state, with whatever -- how far along they were in that process, they could give you your ruling on the state claims before this Court could get to a final resolution. I mean, so that practically would give you what you want, and yet, you're sort of trying to insist that it all happen here and to dictate the order in which things are done here.

I don't understand it. I mean, if you really want the state claims to be adjudicated first, why not just have them go back? And just as a practical matter of the resources involved, especially now that Mr. Pennak has made clear that, you know,

this can't be resolved just focusing on the worshiping, and the places of worship, and the 100 yards; we have to go through every single last piece of this. And even the Supreme Court said, and they acknowledge, it's a very complicated exercise.

The state law analysis, as complicated as it is, doesn't require that much digging through the history of the country. I mean, as a practical matter, they would do that first, I think, and yet, you don't want to be in two different places, even though -- even the plaintiffs are happy to be in two different places; they just want it to be the Supreme Court of Maryland and not the Circuit Court.

MR. LATTNER: Right, we don't want to be in two places, and if the Court is -- and I assume the Court is going to be issuing a ruling on injunctive relief, having entertained, you know, the motions, and we're here today on argument on the preliminary injunction, then the County's request would be that this Court retain, that the County is not interested in seeking a remand and a stay. But still, the state law claims should be resolved earlier in the process in accordance with the doctrine of avoiding unnecessary decisions on constitutional matters, and --

THE COURT: Well, what about the certification to the Supreme Court; what's wrong with that?

MR. LATTNER: I guess, that's up to this Court if it feels necessary, that if there's undecided issues as to state

law authority, I -- the County doesn't believe that is required. The County believes that it -- the law will be clear and doesn't require certification. That is -- I guess that is an option.

THE COURT: I think what I'm troubled by is that both sides seem to -- well, maybe you less so, but Mr. Pennak seems to think, and he said it several times, a state court should decide this; that's why he's all for the certification process. I think his big concern is that we don't leave the federal claims off to the side on ice, I think, but he has recognized, as I think I said in the first motion to remand, these are new and first impression issues of state law. There's preemption issues. There's -- it's about the relationship between the state government and the County governments. The State Constitution's involved. The states never had a chance -- state courts have never had a chance weigh in on this.

It seems to me, these are classic novel, complex issues of state law that really should be handled by a state court. And I'm not sure that Mr. Pennak's even disagreeing with that; he just -- he's concerned, and I understand it, that he doesn't want to wait forever to get to the federal claims.

And I understand that. But I also don't understand, therefore -- I mean, I guess I'm not sure, are -- you seem to also agree, this is an important state law issue, and yet, you want me to decide those instead of a state court.

MR. LATTNER: If this Court is going to entertain, and I believe it will be entertaining the Second Amendment claims, then at that point, the County is not interested in having the state law claims remanded to state court, so we then have parallel litigation.

THE COURT: But not being interested -- I mean, this is a matter of jurisdiction. Isn't it my call, with or without a motion, whether I want to exercise supplemental jurisdiction over these claims?

MR. LATTNER: Ultimately, yes, yes, it is, it is your call. I mean, this was put forth by the County's motion, and the County, you're right, originally did not seek remand of the state law claims, but that was before the County had spent and the parties had spent months in state court briefing and arguing the state law issues, which were ready for disposition by the state court. So yes, it is, ultimately. This Court could sever the state law claims, and then we would be proceeding on two tracks. The other option, as you noted, is certifying the question to the Maryland Supreme Court.

THE COURT: But you're also on two tracks at that point too, right? Maybe it's a -- it might be a different part of your office, I don't know, but as an institution, it's the same thing.

MR. LATTNER: No, it is -- it is two tracks. It's a different track, but you're right; there's a track in state

court and a track before this Court. It's just that the state law question should be resolved first, particularly if that results in avoidance of having to decide the thorny Second Amendment questions.

That is really -- I won't go through the -- you know, the sum and substance. You can read what we have in our filings. I'll just say that Count One and Count Two are determinative. I mean, in paragraph 90 of the Second Amendment -- Amended Complaint, the plaintiffs argue that Chapter 57, as amended by Bill 4-21 and Bill 21-22E, conflicts and is inconsistent with the general laws, in violation of Section 3 of Article 11A, and that's the State Constitution, the Home Rule Amendment, and is thus unconstitutional and ultra vires under the Home Rule Amendment. So that would -- even just Count One, and ditto for Count Two. If the County has no authority to have this regulation for firearms, then it has no authority even as to the Bruen five, if you will.

THE COURT: Well, I thought that was part of the argument, though, was that constitutionally, at least those five categories, schools, I think they're saying only public schools, but some kind of schools can be included, or there can be regulation, and I thought the state law does give the County authority to regulate in such -- you know, places of public assembly, at least narrowly defined, which they're since conceding can include things like schools, public schools,

courthouses, et cetera.

MR. LATTNER: That's what the --

THE COURT: So that part, regardless of what the -- I think their point is that that part's going to remain no matter what, because they're not arguing you don't have the authority to keep guns out of the courthouses, for example.

MR. LATTNER: Well, I can just tell you what the complaint says, which is that Chapter 57 is invalid, it is ultra vires and unconstitutional under Maryland law. So --

THE COURT: Okay. Well, that --

MR. LATTNER: Hence the argument.

THE COURT: That's Count One. What about Count Two?

MR. LATTNER: Similarly, paragraph 93 of the complaint, they say, "Chapter 57 is amended by Bill 4-21, and Bill 21-22E violates the foregoing provisions of the Express Powers Act and Section 3 of Article 11A in multiple ways," and then it goes on to list all of the laws that plaintiffs consider that either conflict or preempt the County's regulation. So that also would be determinative. If the County has no authority to regulate firearms under 4-209 of the criminal law article, then the Bruen five doesn't matter, and hence the argument that those claims, those issues should be addressed first, whether it's in this court or in the state court.

But apparently -- you know, it will be in this Court. This Court is taking up the First Amendment -- I'm sorry, the

Second Amendment claim, and it would make sense that those claims would -- the claims as to the authority would be taken up first in order to avoid disposition under the Second Amendment.

I'll just mention, you know, as has already been discussed, New York and New Jersey have cases dealing with those states' laws regulating firearms. Something different, I don't think either of those cases involved a state law challenge to the authority, which is what we have here, which makes a distinction, at least provides -- provides the distinction that the County is urging and the reason to take up those claims first. So unless there are any other questions --

THE COURT: You can move to the preliminary injunction motion, I think.

MR. LATTNER: Sure. Then I will turn it over to my co-counsel.

MR. JOHNSON: Good afternoon, Your Honor.

THE COURT: Good afternoon. So you just to want focus standing only?

MR. JOHNSON: Yes, I'll be talking about standing, and my colleague, Erin Ashbarry, will be talking about the historical analogues.

THE COURT: So just so I'm understanding, you would agree that at least to proceed, we only need one plaintiff with standing, correct?

MR. JOHNSON: As to each of the sensitive -- or the

places of public assembly, yes. And I'm happy to discuss --

THE COURT: Okay.

MR. JOHNSON: -- how the plaintiffs have not met the burden as of standing for any of those locations.

THE COURT: Well, and you may -- because you seem -- this is your core issue, you may be better positioned than Mr. Pennak and I were to answer that question about, for purposes of at least where we stand now, which is the preliminary injunction motion, but as of now, you know, do we have somebody who's actually articulated facts showing that they're burdened by those particular parts of the various sub-locations?

And I think it's pretty obvious that at least there's someone who is alleging a harm associated with the places of worship, the 100-yard issue. Maybe you have different issues on standing beyond that, but just in terms of people who have shown that those are places that they are going to or likely to go to.

MR. JOHNSON: I'd say no -- no, Your Honor, not based upon the case law in the -- in the supplemental briefings and the additional authorities.

THE COURT: Can you just push the microphone a little bit more. Thank you.

MR. JOHNSON: I'm sorry, could you say that again, Your Honor?

THE COURT: Just use the micro- -- stay close to the

microphone, please.

MR. JOHNSON: Sure. So I believe the first thing here, Your Honor, this is an extraordinary remedy. You know, we're not saying that the plaintiffs cannot prevail through the ultimate course of this litigation. What we're saying, the here and the now on this quasi summary judgment standard, a pre-enforcement PI, they haven't met that as to any of the sensitive locations.

Now, that's for two reasons, Your Honor. And I think you hit the nail on the head early on in the argument when you talked about how the plaintiffs have focused on the 100-yard -- what they're calling a ban, and we're calling a buffer zone, and which has existed, Your Honor, since 1997. And the second is as to places of worship. That was our reading as well, too, Your Honor, and that's borne out by their affidavits, which, on the issue of standing, the plaintiffs bear the burden of that, not the County. We don't have to disprove standing, Mr. Pennak said a number of times, and he may have been referring to the historical analogue, but they have the burden of proof on standing. They haven't met that, Your Honor.

Now, one of the issues, too, you discussed, Your Honor, was the issue of self-defense. And I think that's extremely important in this case based on the relief requested by the plaintiffs for their -- their first alternative relief is, they -- (1) TRO and preliminary relief should be granted,

restrain the County from enforcing Section 57-11A of the County Code as to permit holders who provide armed security to places of worship and/or to private schools and thus allow them to continue to do so. Who provide armed security to places, that's not about self-defense.

If you do a word search through Bruen, you'll find that self-defense comes up 128 times, Your Honor. If you do the same search for others, and similar words such as that, you come up with 12 hits, and none of that talk about the defense of others, which is -- if you view the affidavits as a whole, and the precise language in that affidavits of certain individuals, it's very much about standing in the place of the church and trying to assert standing on their behalf. There's no affidavit on behalf of any place of worship or a private school that says, We want to employ these people or put forward these people as armed security.

And if you look at the affidavits --

THE COURT: Well, I mean, why would you need that? I mean, they're just trying to say -- I'm not sure what the argument is. Your argument is that the proper plaintiff is the institution, or you're saying that this isn't a self-defense theory, this is some other theory?

MR. JOHNSON: Both, Your Honor. And that it's -- that if -- Thomas Paine, number one, an affidavit submitted in this case, "We strip churches of armed protection, leaving churches

open to attack." This is the following line, "The urgency and need for such protection cannot be overstated." It's not about self-defense, that's not about carrying a weapon outside the home for your self-defense; it's about self-defense of others. And they're asserting the right of a church, and none of the affidavits say that -- or the declarations say that the plaintiffs have the authority to do so. So I think as to a personal case in controversy, which this has to be, Bruen is a -- it's an individual private right.

THE COURT: Okay, I understand that point, but what about the 100-yard --

MR. JOHNSON: Sure.

THE COURT: I seem to recall there were some descriptions of people saying, Look, I want to drive down the street, I don't know if I'm -- I probably -- I inevitably am going to go within 100 yards of one of these locations, so when I'm on that street, walking or driving, when I want to protect myself, I'm in violation. So what about those individuals?

MR. JOHNSON: So Your Honor, I agree that there -- there were allegations -- and I don't think those have to be pled with the specificity as required by the Siegel Court in terms of how often they go out. Just say you go out into the County and you're within a 100 yards, fine, we would accept that, but if you look at the Siegel Court, Your Honor, talking about going to specific locations, Turtle Back Zoo, Van Saun

Zoo, those plaintiffs specifically named the places they were going to. None of the plaintiffs here have done that, Your Honor. And --

THE COURT: Didn't one of them talk about their house being within 100 yards of something?

MR. JOHNSON: Sure, Your Honor, but again, to prove standing, it's not just saying, I have a constitutional -- there's a constitutional infringement upon my actions, therefore I have standing. You also --

THE COURT: No, no, I'm saying, if someone says -- and maybe I -- maybe I misread it, but if someone says, My house is 100 yards from one of these locations, if I'm in my house with a gun, I'm in violation. Whether they specifically say, I'm going to be in my house or not, I mean, it's pretty clear that they're going to spend time in their own house. So why isn't someone like that --

MR. JOHNSON: I think the plaintiffs' argument is, if they go outside their house, they would be within --

THE COURT: Well, either way, whether it's in the driveway or what have you, or the street in front, I mean, it's pretty clear, someone's going to go outside their house at some point, right?

MR. JOHNSON: Yes, Your Honor, it is, but again, you have to show a credible threat of prosecution, right? As I've stated, the --

THE COURT: So 100 -- okay, I understand -- I read that part, and I wasn't sure -- admittedly, I don't know whether the arguments worked in other jurisdictions, but you pass a statute, you're -- I mean, I haven't seen any kind of statements from the County, the Police Department or anybody else, saying, Well, we're not enforcing this against former permit holders, which I guess is some percentage of the plaintiffs, or people in -- I mean, any of the scenarios. I mean, you're just saying trust us, we're not going prosecute you?

MR. JOHNSON: Your Honor, but that's not -- that's not the burden here. And I think, respectfully, I believe that's a legal fallacy, is to say that no jurisdiction's ever required a Court to say, We're not going to enforce our laws. So any- --

THE COURT: Okay, but what is enough? Because, I mean, you pass a law and the person says, I have a gun, I'm going to do something or go somewhere where I would be in violation; what do they need to show, that they actually have been arrested? I don't think that's the standard. So --

MR. JOHNSON: No, it's not, but it's not -- it's not to prove that you would be but it's imminent. And Your Honor, I think, to that point, having a plaintiff say, I'm going to do this, those statements are made by some of the declarants in this very lawsuit. So if the argument is, as of November 28, 2022, you have to stop this law because we don't know if we could be arrested, we're concerned about that. You have

Mr. Shemony, you have -- is it Mr. Wilson, I believe, stating, I carry a loaded firearm in a library, I carry it when I go pick my child up at a private school. Their addresses are listed on the front of the complaint. I'd submit to the Court, Your Honor, that probable cause exists to arrest those people right now. It hasn't happened. And if you go back to this law, Your Honor --

THE COURT: Give me an example of a case where that sort of argument has worked, where one says, Look, they stated not just that they would do something illegal under this law but that they've got some facts showing it is the kind of thing they might do. They might pick up their child, they might go to the church or the synagogue to provide whatever security. I understand the other argument. And the answer is like, Well, they haven't been arrested yet so there's no standing. I mean, again, doesn't that basically make the requirement that you have to get arrested?

MR. JOHNSON: No, it doesn't, but it --

THE COURT: Does it have to be that some officer goes up to them and says, I'm going to arrest you, I'm not going to do it today, but I'm going to arrest you tomorrow, and then you can file your complaint? I don't understand, how do you show the imminent threat without actually having it go to completion, under your theory?

MR. JOHNSON: Well, Your Honor, you have to put

forward some kind of facts.

THE COURT: Well, give me an example of something that's worked in another case.

MR. JOHNSON: So not necessarily something that's worked in a case, but I'll bring it right to this case, Your Honor. And again, you have a law on the books from 1997 where there was a 100-yard buffer zone. That's 25 years of data as to how that was enforced, what the arrest rate was, who was arrested. There's been absolutely no -- no evidence put forward about -- that there would be any kind of corollary or any kind of, you know, comparative argument as to what happened before this amendment and what happened afterwards.

THE COURT: So again, what case says you look at the arrest rate to decide this? Is there such a case --

MR. JOHNSON: No, but I think that's --

THE COURT: -- historically? I mean, there are all these other gun cases, which, again, I haven't looked at this exact issue on, including Bruen, including Heller, other cases like that. Then you have other categories of things. I think there used to be historically, you know, some these cases regarding things that were challenged constitutionally, you know, private conduct, sexual relations, so forth. I mean, has anyone succeeded with the argument that you don't have standing because the arrest rate isn't high enough?

MR. JOHNSON: I don't think it's specifically to here

but --

THE COURT: I mean, I'm not saying it's a terrible argument, I'm just saying give me something that supports your argument other than just the idea. Is there a case that supports that concept?

MR. JOHNSON: Your Honor, there's no specific case on point, but the idea is --

THE COURT: How about not on point? How about that says vaguely that arrest rates -- without a significant enough arrest rate, you don't have standing?

MR. JOHNSON: It's not specifically arrest rates, but if you look at Susan B. Anthony, if you look at Barall, you look at any of these cases, it talks about prior arrest. They weigh that heavily. All of those cases do, they discuss it. And it's not the burden of the state to say we're not going to enforce our laws, ergo, standing exists. That would make it --

THE COURT: So why was this law put in place then, if you're not going to enforce it?

MR. JOHNSON: Your Honor, why would any law with a criminal component be put in place? I think it -- the main point is that -- and when I talk about the historical significance of the law being in place since 1997, it's still yet to be seen. You know, jaywalkings's on the books, and speeding's on the books, and don't cheat on your taxes, those are on the books, right. Now, what -- what kind of time,

effort, resources has the County put into for County officials, Police Department, Police Department and the State's Attorney, who would ultimately make the decision as to whether these are prosecuted.

THE COURT: Okay. Give me the case that tells me that I look at all those things, how many times the State's Attorney has done something, how many police officers write tickets for jaywalking. Where is the case that says all of those things factor into this, and if you don't have enough arrests or tickets for jaywalking, you know, there's no imminent risk. I mean, again, I'm not saying it's a bad argument, I just don't know where this is coming from. Give me a case.

MR. JOHNSON: Well, the -- sure -- Your Honor --

THE COURT: What's your best case on this whole topic, or do you even have one, or is this just trying to --

MR. JOHNSON: So in terms of like prior arrests records, no, but the case -- the Supreme Court cases are replete, including the SBA list case, talking about prior arrests. Also, the case involving the pamphleting, I believe that was it. I can't remember the case right now, but they all talk about prior arrests. They all go into -- they all go into analysis on that. And I don't think that the absence of it means that there's standing. And if that's the case and Plaintiffs' argument is that We have a standing because there's a law on the books, then anybody who's the target of a law --

THE COURT: What was the pamphleting case?

MR. JOHNSON: That was -- they talk about that, Your Honor, in ... that's Steffel, Your Honor, I believe, S-T-E-F-F-E-L.

THE COURT: Is it in your brief?

MR. JOHNSON: Yes, Your Honor.

THE COURT: Okay.

MR. JOHNSON: Yeah, it was -- it's the Steffel case, Your Honor. So the plaintiffs have to show something in terms of -- you can't just say there's a law targeting us, the Supreme Court case law. And these ideas -- and just because there's not case law backing it to say that if you find an arrest record, therefore, that can prove you have standing; these are ideas. These are the ways that the plaintiffs could prove standing, and which they haven't; they're just saying --

THE COURT: So what was shown -- what was sufficient in Bruen itself; do you know?

MR. JOHNSON: Sufficient to show that there was standing?

THE COURT: Yes.

MR. JOHNSON: I'd say off the top of my head, I do not know, Your Honor.

THE COURT: I mean, isn't that the best marker for -- it's the exact same fact pattern. Someone challenging a state ordinance on Second Amendment grounds. And I don't know the

answer either, because frankly, I didn't think that you were going to lean on this that hard, but since you are, again, I definitely don't remember reading about how, Well, the arrest rate was high enough. Now -- but there must have something. According to you, you need to show something. So what did they show in that case that got them over the top?

MR. JOHNSON: What did they show in Bruen, Your Honor, to get them over top?

THE COURT: Right.

MR. JOHNSON: They looked at the historical analogue and decided that the actions that they were taking --

THE COURT: No, no, to say that they had standing, that there was a potential that they could get arrested for walking around with a gun.

MR. JOHNSON: Oh, yeah, they applied for permits, Your Honor. That's what it was.

THE COURT: Okay. So it's a permits situation, slightly different than this.

MR. JOHNSON: Yeah. And if you think about it, how would -- if you're going to establish that you have a credible threat -- and some of these plaintiffs said they're doing it, right? If you're going to establish a credible threat of traveling around the County, how would that occur? How would an arrest occur where a police officer pulls you over for some other reason, sees a gun in your car --

THE COURT: That happens all the time.

MR. JOHNSON: True.

THE COURT: Have you seen my criminal docket?

MR. JOHNSON: I'm sure.

THE COURT: I mean, almost every case is someone who got pulled over for a broken taillight and then they find a gun.

MR. JOHNSON: Sure.

THE COURT: I mean, that's most of the cases.

MR. JOHNSON: But take it further than that, here, Your Honor, because we're not just talking about finding a gun. It would have to be someone with a wear and carry permit, and the officer would have stop on the Beltway and say, Oh, we're near Holy Cross; I'm going to choose to issue you a criminal citation over --

THE COURT: Okay. If this is really so unlikely, why don't you just resolve this motion by just agreeing that you're not going to enforce it on these individuals until the case is over? We could short-circuit this entire motion process if you said, Look, there's no potential harm, because we're going commit -- I mean, again, it doesn't have to be because you filed this case, but the people who had permits before, who had these legitimate reasons that were accepted by the County under the old system, I assume you didn't mean to say that you didn't think those reasons were legitimate anymore, it's just that you didn't like the fact that the permit requirement is so broad now

that you weren't comfortable exempting permit holders the way you used to.

And I understand that, but again, if this is so remote, why not just put it on paper and say, at least during the life of this case, we're not going to do anything against these individuals, you know, we'll accept effectively an injunction on this point, temporary as it is, until the final ruling in the case. I mean, why wouldn't you just do that, if you're so certain that no one's going to get prosecuted?

MR. JOHNSON: Two reasons, Your Honor, is, one, I'd like to keep my job, and I don't really -- I can't speak on that. The County --

THE COURT: Well, no, I think it's a very legitimate position; we've seen it in other cases before. A motion for preliminary injunction, everyone says, There's no need to adjudicate this, we all -- we can all agree that at least during the life of this case, no action's going to be taken so that the Court can take -- you know, give it the time and attention it deserves rather than coming to a rush to judgment. Attorneys agree to that all the time.

MR. JOHNSON: Sure. Yeah, there's -- I will say I do not have authority, as I sit here, to agree with that. But number two, more importantly, Your Honor, that's not the burden, on the County to say, We're not going enforce our laws. And the Supreme Court --

THE COURT: Well, I'm just saying you're trying to convince me that there's just no basis to think that anybody would ever -- the County would do anything to anybody over this law, which again, why have the law, then?

MR. JOHNSON: I understand your point --

THE COURT: I think we need to move on from that area.

MR. JOHNSON: Okay, that is --

THE COURT: I mean, honestly, that's where I think the crux of the issue is. I hadn't given much thought to the standing issue. You've given me a few things to think about, but I think we've covered enough ground that I can think about them.

MR. JOHNSON: Thank you. Your Honor, if I can just look over and see if there's just anything else that -- that I think that the -- would help the Court here in looking at the standing issue.

(Pause.)

MR. JOHNSON: No. Thank you, Your Honor.

THE COURT: Okay. Ms. Ashbarry, thank you for waiting.

MS. ASHBARRY: Yes. Good afternoon, Your Honor.

THE COURT: So we're on to I think the preliminary injunction motion itself, the merits of it.

MS. ASHBARRY: Correct.

THE COURT: And I know that you heard some of my

discussion with the -- with Mr. Pennak about this. So -- and I don't know where we should start, but even though I understand Mr. Pennak's motion's broader than this, I thought it would be helpful to start a little -- with the places of worship and the 100-yard zone in particular. Starting with the 100-yard zone, I think Mr. Johnson said it's been around for a long time, but it wasn't -- it was an exception, if I'm not -- correct, for the permit holders, correct?

MS. ASHBARRY: That's correct, Your Honor, that's correct.

THE COURT: So are you aware of any authority out there on buffer zones, any recent cases that have addressed that specific issue?

MS. ASHBARRY: Yes, Your Honor. Just as an initial matter, the state law that authorizes the County to regulate firearms includes this 100-yard buffer zone.

THE COURT: Yeah, I'm asking more about -- I mean, you could tell, I have a huge appetite to do the state law preemption/authority issue.

MS. ASHBARRY: Right.

THE COURT: I'm just looking from a constitutional standpoint.

MS. ASHBARRY: Right.

THE COURT: Are there any cases that say they are constitutional, these buffer zones? Or not, that they're not.

MS. ASHBARRY: Well, I have -- I -- we cite three cases in our brief -- in our opposition, Your Honor, which admittedly all precede Bruen and so therefore have to be viewed under -- with that in mind. But the main case that comes to mind is United States v. Class case, which was a D.C. Circuit case. And the defendant in that case was contesting his conviction for having a firearm in a parking lot that was 1,000 yards away from the U.S. Capitol. And the D.C. circuit determined that that parking lot, 1,000 yards -- pardon me, 1,000 feet away from the U.S. Capitol was a sensitive place and that the Second Amendment did not attach and did not protect his right to carry firearms there.

Additionally, there are two other cases that were cited, also pre-Bruen, but they are federal cases in which defendants who had firearms in the parking lots of postal service property were challenging their convictions under the Second Amendment, and both Courts held that those areas around the postal service were sensitive enough and were considered to be essentially part of the U.S. Postal Service because Postal Service transactions were taking place in those parking lots. And similar to Class, people coming to and from those buildings essentially were entitled to the same protections nearby as they were in the actual buildings themselves.

So those -- there were three cases that we were able to find that essentially validated the concept of having a

buffer zone, if you will, around these sensitive locations.

THE COURT: So they weren't decided based on the fact that Heller doesn't go beyond the home?

MS. ASHBARRY: No, Your Honor.

THE COURT: You know, they were decided on the sensitive places and how far that takes you?

MS. ASHBARRY: Correct, correct.

THE COURT: But am I right, I mean, under your statute, the parking lots are part of the sensitive place, so --

MS. ASHBARRY: Yes.

THE COURT: -- they're just talking about 100 yards beyond that.

MS. ASHBARRY: Yes, yes.

THE COURT: So under that -- and what were the last two cases called, the parking lot cases?

MS. ASHBARRY: Your Honor, one was called Bonidy, B-O-N-I-D-Y, and the other one was called Dorosan, D-O-R-O-S-A-N.

THE COURT: And these are in the brief, or not?

MS. ASHBARRY: Yes, Your Honor, those are in the brief.

THE COURT: Okay.

MS. ASHBARRY: And then also, Your Honor, we had numerous historical examples of buffer zones. I think that one was in Somerset County in Maryland in 1837. There is a 50-yard

buffer zone around lines for waterfowl, essentially, to protect the waterfowl from hunting. Additionally, in Maryland, historically, a person could not have a weapon within 1 mile of a polling place, a mile of a polling place.

THE COURT: So what about -- and the polling place might be different, but you heard my discussion with Mr. Pennak about the waterfowl-type cases, and I wanted to get your perspective on that because his argument -- my question was, well, why is it that -- why does is it matter what the purpose was, the point is, someone with a gun who otherwise would think they have a Second Amendment right to carry it at or near the park is told no, you can't, and that infringes on their right. Now, he points us to the language in Bruen about you look at why this provision was enacted. So what's your response to that point?

MS. ASHBARRY: My response to that is the how and why for the regulation was not the only factor that the Court said should be examined as far as the scope of the government's ability to regulate. The Court was very clear in Bruen that this historical analogue analysis is not meant to be a straitjacket. Ultimately, whether we're talking about Somerset County in 1837 or the numerous municipal statutes banning weapons and guns, all of them have buffer zones, Your Honor, that limit or restrict the right to carry in a certain area. And the County's position is, these are sufficient analogues to

support its argument that within these areas of public assembly identified by the County, there's a buffer zone that historically is supported.

And furthermore, Your Honor, there are state laws presently that incorporate the concept of buffer zones. You can't have them, again, at polling places, within 100 feet of a polling place on election day. At the state level, within 1,000 feet of a public demonstration, you cannot have a firearm if you have been advised by a law enforcement officer to move away.

THE COURT: Aren't you just kind of identifying things for Mr. Pennak's next case? I mean, I'm not sure the fact that the state passed it but it hasn't been put through the Bruen analysis, it only takes us so far, doesn't it?

MS. ASHBARRY: Yes and no, Your Honor. I think that -- again, the County has established that we have historical examples to support -- numerous historic examples to support this concept of a buffer zone to protect the people or the activity in these sensitive locations.

THE COURT: So in this case, why was it that the County used this 100-yard zone? I know you said you can under the state statute, but that doesn't mean that you should or that that's the right policy answer. What was the rationale for doing that, given that, as has been said in the briefs, I mean, this may be different from 100 years ago or 200 years ago, where you would have your park or your post office, and there would be

a lot of space around it. I mean, we are in a densely populated area now. 100 yards can take you several blocks away from a building, and there's a lot of things people want to do in those areas, or can do, and now they can't, including the former permit holder.

So where do the 100 yards come from, just as a matter of how this is defined effectively as the equivalent of a sensitive place, given how densely populated these areas are? And you could be, again, several blocks away from one of these locations where the whole point -- everything you're around is not technically sensitive and yet you're swept in by this law.

MS. ASHBARRY: You know, Your Honor, I don't want to speculate as to why 100 yards was included in the legislation. I can tell the Court that with respect to Bill 21-22 at issue here, the main focus of the Council -- and I think Exhibit 2 to our opposition is essentially the packet that the Council received ahead of the bill, and the focus was Bruen and ensuring that our law complied with Bruen in the sensitive location definition.

I think that that 100-yard buffer zone has been there essentially because it was in the state law. I think -- I would be speculating at this point -- I think it essentially would be there because of the power of firearms today and their ability -- the distance with which they could fire. But, you know, Your Honor, I don't think that there's anything in the

record before the Court today that answers that question, and I would not, again, want to speculate on that issue.

THE COURT: Okay. So then can you -- well, you said you're not aware of any Courts that have analyzed and either upheld or struck down buffer zone legislation since Bruen?

MS. ASHBARRY: Correct.

THE COURT: Okay. So let me ask for some clarification both on the 100-yard issue and -- well, on the places of worship, really all the areas. Are you arguing that these locations that are deemed public places of public assembly are sensitive places in the sense that if they're not explicitly listed, like the schools, they are -- fall into that category, they just weren't listed in the case because the case said these are examples, or are you saying that these are not sensitive places, but they meet the last part of the Bruen test, where you do the historical analysis, there's a tradition of regulation in those locations? It doesn't matter to you either way?

MS. ASHBARRY: You know, I'm not -- you know, I'm not sure I follow your question, Your Honor.

THE COURT: Well, the question is -- so the way I look at it is, the sensitive places have sort of a favored spot in this area, at least under the case. And again, it's always been curious to me, at least since this case came out, that they give virtually no examples of statutes and the like regarding these sensitive places, they just say, Well, no one ever complained

about these areas, even though we can't really find very many examples, but everyone knows they're sensitive, so it's okay. And on the other hand, as Mr. Pennak points out, when you just get to the last level of the historical record, there's at least ways to read the case, as he has read it, that you need a lot of examples, you need a really deep tradition, which, frankly, hasn't been set forth for those sensitive places.

So to me, I look at something like schools -- and it's in that list -- you don't need to find that many cases because they pretty much said if you can qualify as a sensitive place, you're okay. We can get into this question of the definition of schools that he's raised, but if it's something that's not in that area, then you do need to have this historical showing. And I understand that they're sort of related because how you know it's something sensitive requires some sense of history, but I think -- to me, I'm looking at them as two different categories, and I don't know which ones are on which side of that or the other.

MS. ASHBARRY: I think I understand what Your Honor is saying, and you know, the County agrees with your point of view with respect to Bruen, that the Court declared these five zones to be -- or five areas to be sensitive without doing a detailed look at the historical record as part of its declaration. But what's key from the County's perspective is, again, none of the Courts that have -- or neither Bruen -- Bruen did not say that

those examples are exhaustive; they are examples.

THE COURT: So how do I decide that something else is a sensitive place, that has this favored status, and how do I decide whether some of these are not really sensitive places in the same category, but then we look at your -- the question of whether you've shown enough of a historical tradition separate and apart from whether they're sensitive places?

MS. ASHBARRY: Right. And Your Honor, from the County's perspective, there's two ways you can get there. One is to say that an area or a sensitive location is analogous to one of these five sensitive places in Bruen. And that's expressly stated in Bruen at -- Court's indulgence -- page 2133, "Courts can use analogies to those historical regulations of sensitive places" -- and this is in the paragraph where it's listing the five sensitive places -- "to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible." And I think, Your Honor, with respect to childcare facilities, that would be a prime example where the County would say those are analogous to schools, one of the five sensitive locations identified in Bruen, where governments may constitutionally regulate firearms.

With respect to locations that are not analogous to the existing five approved locations for regulation, that's when you have to look to the historical tradition. So with respect

to places of worship, for example, the County would suggest that the Court, under Bruen, would need to look to the statutory analogues identified by the County that prohibited firearms in places of worship. And the County did identify a number of states that had laws prohibiting firearms at places of worship on the books in excess of a decade. A couple of those statutes were considered by the Supreme Courts of the day and approved, expressly approved by those courts.

THE COURT: Which ones are those?

MS. ASHBARRY: Your Honor, I believe that that is the Georgia and Texas Supreme Court cases, which I believe are Hill and English.

THE COURT: Okay. So am I correct, from the way you describe this, you want me to make the analogy that a childcare facility is a sensitive place. Are you asking me to do that for any other of the listed places of public assembly, or are you leaning only on the historical record for all of those? Understanding that, I think to some degree, the sensitive place determination does require a look at history as well.

MS. ASHBARRY: Correct, Your Honor. The County would point to childcare facilities as well as private schools, to the extent that those are challenged by plaintiffs here. The County's argument there is that the Bruen Court did not say only public schools in its ruling, never did. Neither it Heller, which also referred to schools as a sensitive location.

THE COURT: Would you agree, though, that that doesn't necessarily cover colleges and universities?

MS. ASHBARRY: Your Honor, the County's law, before its recent amendments, was limited to I believe primary and secondary schools -- is that correct -- but as revised by 21-22, it's schools. And so the County would argue that it's a broad interpretation of that term, and it would encompass universities and colleges, to the extent there are any in Montgomery County.

THE COURT: Well, we have Montgomery College, to start with.

MS. ASHBARRY: Yes, yes.

THE COURT: But you're saying that -- the statute covers that, but does -- are you saying that colleges and universities are sensitive places, under the Bruen construct?

MS. ASHBARRY: Yes.

THE COURT: So what is the analogy that you're drawing, then, because when I think of -- is it that these are places of educational teaching, or is it that this is a place where children are frequently found in large numbers? What is the thing that makes it sensitive, and what's the basis for that position?

MS. ASHBARRY: I would say both of those. In other words, not only has the County -- well, schools today, with respect to childcare facilities for children who are younger than kindergarten age frequently combine both preschool and

childcare, Your Honor. And so to the extent -- ultimately, a school for those individuals, for that group, they're minors, they're away from the protection of their parents, and therefore are -- and that's very similar to a school, historically, Your Honor.

And with respect to institutions of higher education, the County would argue that falls under the definition of a school in Bruen. And also, we would point to there are numerous historical statutes that ban weapons at places of -- for education or literary purposes.

THE COURT: No, I understand that argument. I'm just trying to understand, what is your definition of sensitive places and which parts of the statute fit within that, and I think you're trying to argue colleges and universities fit within that because they're analogous to schools.

MS. ASHBARRY: Yes.

THE COURT: And I'm just trying to understand -- honestly, I don't know if there is any source you can tell me that helps define sensitive places better than just the case itself and that one word, "schools," but you're saying it's anyplace there's a lot of children, anyplace involving learning.

MS. ASHBARRY: Yes.

THE COURT: Not "and" but "or," one or the other.

MS. ASHBARRY: Yes.

THE COURT: And the basis for that is just your own

analysis; there's no further elucidation of the term "schools" in this case other than the word itself.

MS. ASHBARRY: Correct, Your Honor.

THE COURT: Or is there? Because I haven't found anything easy to focus on, but --

MS. ASHBARRY: That's correct, Your Honor, and furthermore, you know, the statute authorizing the County -- again, the state statute authorizing the County -- authorizes the County to ban weapons at schools. It's a very broad term in the state statute as well.

THE COURT: Is schools defined anywhere? Again, I don't know what the Bruen Court meant by that, and I'm not going to say they were necessarily thinking about either a federal statute or something else, but I'm not sure it's the most natural reading of the term to say that it includes colleges and universities. I think your argument that it would include private schools is probably stronger between those two. But is there some sort of textual or definition-based argument you can make that colleges and universities are covered by schools?

MS. ASHBARRY: Not within Bruen, Your Honor, no, but with respect to the spirit of the other historical analogues that have been presented to the Court in our filing, that locations for educational or literary purposes are historically locations where firearms were banned or prohibited.

THE COURT: Okay. So any other categories you're

saying you have an argument on how it's a sensitive place, as opposed to just something I should just look at the history of?

MS. ASHBARRY: Well, you know -- yes, Your Honor. Essentially, for -- we're very clear in our papers which provisions of the law we view as falling under the exist- -- the existing five areas identified in Bruen. Private school -- buffer zones in private schools, we make our arguments and provide analogues to the Court. And similar with respect to places of worship. And I don't -- all of the -- in other words, all of the areas in the County's defin- -- definition of public assembly are either analogous to these five sensitive locations in Bruen or have an historical tradition to support a finding that the County may constitute --

THE COURT: I'm just trying to understand. I thought just a moment ago you said places of worship was not a sensitive place, and now I just heard you say it was, so which one is it?

MS. ASHBARRY: Yes. Yes, it is, Your Honor, it is, it is. My apologies; I did not mean to confuse the Court. It is a sensitive location where the County could -- may constitutionally ban firearms.

THE COURT: And what's the reasoning behind that theory? It's analogous to which of the five, or how do you get it into that category?

MS. ASHBARRY: That -- the County does not argue it's analogous to one of the Bruen five. Instead, the County argues

that there is an historical tradition for regulation of firearms at places of worship. And in fact, we provide numerous statutes where firearms were banned at places of worship. Additionally, as mentioned, the Georgia and Texas Supreme Courts considered statutes that were in effect at the same time and agreed that --

THE COURT: I mean, I'm still having trouble, because, I mean, I admit that there's perhaps a lot of overlap in the analysis, but what you've just described is, it is one for which the historical record supports this, not that it's analogous to one of the five categories.

MS. ASHBARRY: Correct. And either it's acceptable under the Court's analysis of Bruen --

THE COURT: Well, I'm just trying to understand which bucket you're putting it in, or at least are you putting it in the category, you have an argument on how it's analogous to one of the five?

MS. ASHBARRY: The County's not arguing that churches are analogous to the five -- to government buildings.

THE COURT: Okay. Or that it's a sensitive place in some other way that is the same concept, as opposed to just, again, meaning outside this sensitive place doctrine at this point.

MS. ASHBARRY: Well, again, under Bruen, there's two ways something can qualify as a sensitive place: One, it's analogous to the five locations identified, or there's an

historical tradition.

THE COURT: Oh, okay. I guess, maybe we're just -- it's semantics, because again, I think of the sensitive places as those five or things that are equivalent, and the other part is the core of the analysis, which is how they look at everything now. But I think I understand your point.

MS. ASHBARRY: Okay.

THE COURT: So the only ones that you have an analogy to the five are schools, colleges, private schools, universities, and childcare facilities.

MS. ASHBARRY: Yes, yes, yes.

THE COURT: Not parks, not assisted living facilities, things like that.

MS. ASHBARRY: Correct, Your Honor, that's correct.

THE COURT: Okay. So what's the -- again, I was hoping to kind of stay within the core of things for purposes of the motion, but what's the argument on how these assisted living facilities fit within your -- you know, meet the test of Bruen?

MS. ASHBARRY: Ultimately, Your Honor, the County identified various statutes that essentially protect vulnerable populations, and so -- that are gathered in large areas. So to the extent an assisted living facility falls in that same bucket, so to speak, the County would argue that the statutes identified support a finding of an historical tradition of regulation of firearms at those locations.

THE COURT: And what are the vulnerable populations protected by the historical statutes besides children, or are you just using the children part from schools and otherwise?

MS. ASHBARRY: Well, in the assisted living arena, it would be, you know, those individuals that are in need of assisted living services or -- and the Court's indulgence.

THE COURT: No, I'm just saying that -- what historical examples and statutes that protected certain locations with vulnerable populations are you referring to when you're saying that you can fairly say that these assisted living facilities fall within that -- it is a fair analogy there.

MS. ASHBARRY: Your Honor, the County pointed to that healthcare facilities, hospitals could fall under the protection or be analogized to those statutes that prohibited firearms at places where persons were assembled for educational, literary, or scientific purposes. Additionally, the County pointed out that historically, individuals with mental illnesses were not eligible to serve in the militia, state militias, and we attached two statutes to that effect. And ultimately, these are a reflection of the fact that individuals of, you know, perhaps less than 100 percent physical or mental health should not be around firearms, and firearms around them may be prohibited. And in fact, in Heller, the Supreme Court identified individuals with mental illnesses as a category of persons that may be prohibited constitutionally from firearms.

THE COURT: Okay. My last question on these categories is whether -- are there examples of cases that have ruled on this issue of the places of worship -- possession in places of worship under the Bruen theory, whether it's sensitive places or otherwise?

MS. ASHBARRY: There are, Your Honor, pending in federal court in New York State. I believe that that's -- Antonyuk is one, and that's the one that is presently before the Second Circuit. Additionally, Goldstein v. Hochul, but I don't think that there is a decision yet in that case. And to the extent that the Court in Antonyuk held that a place of worship was not a sensitive location, the County would simply argue it's not binding precedent for this Court and that the County's analysis under Bruen is correct.

THE COURT: And what about this larger debate that Mr. Pennak has pointed out, the 1791 versus the 1868; what's your best argument or authority for the idea that I can and should rely on your examples which are largely from the 19th century and not the 18th century?

MS. ASHBARRY: Well, Your Honor, as indicated in Bruen, that debate has not been resolved. The County would argue that 1791 should not be the sole focus for the Court and that later years are an appropriate era for the Court to consider and are the -- is the appropriate era for the Court to consider with respect to the regulation of firearms. This is a

very thorny area, and frankly, we did not get into it in our brief, given our page limits, because there are law review articles on this issue alone.

And additionally, it's a very thorny area in that, you know, the Supreme Court said in 1830 in the Barron case that the Bill of Rights does not apply to the states, and so therefore, a lot of the law interpreting the right to bear arms in the 1800s is not necessarily under the Second Amendment, but the -- it's under the comparable second amendments in the state constitutions in place. But you know, Your Honor, the County would urge the Court to consider the statutes that we've put forth, the numerous statutes that we've attached as evidence of firearm regulations historically.

THE COURT: Okay, thank you. Anything else you want to offer that I didn't get to?

MS. ASHBARRY: Your Honor, the County would simply just point out -- and this is in our brief -- that, you know, there are a number of parallels between the County's prohibition against public carry and state law. So for instance, state law prohibits the carry of weapons at day cares. So even if the Court were to enter an injunction on that, it would not necessarily cure the alleged irreparable harm that plaintiffs assert that they would experience. And again, that is in our papers, and I won't go into it at length, but --

THE COURT: That's an interesting point to focus on

just as we -- I mean, on the key issues that are most focused on the places of worship and the 100-yard buffer zone, does the state have any laws that overlay what the County does on those topics?

MS. ASHBARRY: No, Your Honor. The state does have prohibitions at day cares, public schools, state parks, state museums, Ravens Stadium, Camden Yards, et cetera. So again, the County's position is that its law is very same similar -- is either the same or similar to those laws. And so to the extent plaintiffs have been able to carry and comply with those state laws without suffering irreparable harm, it begs the question how, by virtue of the County's law, is irreparable harm generated, given the similarities between the two?

THE COURT: Okay. Thank you.

MS. ASHBARRY: Thank you, Your Honor.

THE COURT: So Mr. Pennak, we've been going quite a while. I think both sides had quite a bit of time. I think, because I had you go first, even though the other side filed a motion for remand, I'm not really sure it's appropriate to give you rebuttal on that topic, but I can give you a little rebuttal on the motion for preliminary injunction, which is your motion. But I'd ask you to keep it very limited to sort of the one or two points that you have something directly to say in response to what any of counsel say, just so that we keep this relatively fair among the sides.

MR. PENNAK: That's fine, Your Honor, and I will be very brief. So on the question of standing, there is a case on point with respect to the likelihood of a case -- of a statute being enforced. That's the Fourth Circuit's decision in Bryant. That's cited repeatedly in our brief. And the Court said there is a presumption that there is -- a statute will be enforced. Indeed, in that case, it was a 50-year-old statute that had never been enforced, and yet the Court said, Nonetheless, we're going to entertain a challenge to it. So that's on point, it's controlling authority, disposes of the matter. Each of the plaintiffs here have said that they have engaged in this conduct in the past, they -- that's now prohibited, they intend to engage in it in the future, and that they would be arrested if they did, that they fear arrest. And that's enough, under all the case law.

So let me move on to where these matters arise in individual places. On paragraph 72 of the Second Amendment claim, we have allegations by plaintiff Ronald David, and he says, "regularly carries a loaded firearm with him while attending services at his place of worship in the county, at healthcare facilities during appointments with healthcare professionals in the county, at fairgrounds in the county, at recreational facilities in the county, at a park in the county, and he intends to do so in the future." So those particular subjects have already been particularly identified.

Now, you have the declarations that are already of record that show that people are carrying not just for the self-defense of others in their congregations but for their own self-defense, and you have -- that's pretty clear, because you hardly can defend others if you're not defending yourself as well. So it's not simply a matter of whether or not there's an historical justification for defending others. At the very time you're defending others, you're also defending yourself. And that's why Plaintiff Eli Shemony says that he carries for himself. That's in the declaration as well, and it's also in his affidavit -- or I mean his allegations in the complaint on -- in the complaint itself.

So you have very specific allegations here with respect to churches, and synagogues, and places of worship, and other facilities. Now, we don't know what a recreational facility means. Some of it's obvious, but it can certainly include your backyard playground, because -- and I want to stress this. This statute the County has enacted does not limit it to any place which are open to the public. So that a private library in a private home is covered. The private library at Engage, which says in the complaint that they had maintained a library, is covered. So it's extraordinarily broad. So they've defined public assembly by taking out "public," to include expressly all privately-owned property and without regard to their relieving public access to it. Now, how in the world are

you supposed to figure out that? That goes into the irreparable injury part, because the irreparable injury, part of that analysis is whether or not you have any means of avoiding an arrest, if you even know what you're doing is actually a violation of the County law.

The County law does not contain a mens rea requirement, just like the state law does not contain a mens rea requirement. So you don't even have to know that what you're doing is illegal; they can still arrest you for it. And again, if you're arrested for a violation of this County law, you're likely to also be arrested for a violation of state law because the carry permit that we've asked for relief on says on the very back of it that it's not valid where firearms are prohibited by law. And the State Police construe that to mean that that includes County laws or regulations. So that's a three-year disqualifier and a lifetime disqualifier. That's a three-year sentence with a lifetime disqualifier. So that's a huge interim effect associated with that because you lose your access to firearms for life and can spend three years in prison.

THE COURT: Okay. So I understand.

MR. PENNAK: So --

THE COURT: That was the standing issue. Anything else, or ...

MR. PENNAK: As to places of worship, the statute that they're -- the County is citing take place in the late 1800s,

1870, 1888. There's some of which go all the way into the 1900s. Our whole point here is that those cannot be deemed to be analogous, much less representative, to the right as it was established in 1791 because they have not pointed to anything. Now, they acknowledged as well, the places of worship -- there were statutes at the time in the Colonial period which required people to bring their firearms to church. No one disputes that. That carried forward to 1791. So there has to be something to do to negate that, and they pointed to nothing until they get all the way up to 1870s. That's not good enough. That's our whole point.

Now, I've looked back on our motion, and we've asked for preliminary relief as to all permit holders without regard to when they got their permit, and that we think is completely appropriate because it restores --

THE COURT: All permit holders?

MR. PENNAK: All permit holders, period, full stop.

THE COURT: And just to clarify, though, you're saying that -- because maybe I misread this the first time. You're not saying people who had a permit under the old system.

MR. PENNAK: That's correct.

THE COURT: But people who may have just gotten one now under a "shall issue" type --

MR. PENNAK: Those people are certainly encompassed within that relief request.

THE COURT: Okay, I understand. Maybe I wasn't clear on that before. I understand.

MR. PENNAK: So I wanted to clarify that for the Court. If you look back to our motion itself, it makes that very clear, that you -- includes all permit holders, which are the very people that are affected by 21-22E, because they were previously exempted from the County law. In 21-22E --

THE COURT: Well, really, people who had a permit under the old system were exempted.

MR. PENNAK: Well, no, it doesn't say that, Your Honor.

THE COURT: The -- we don't need to argue about it, it's late, but I just -- you know, we can agree to disagree on that point, that it's -- I don't think it's the same thing to say that someone who just got a permit yesterday is in the same spot as someone who had a permit three years ago under the system where they had to have a reason and they were exempted. I mean, if they just got a permit since the passage of this bill, there's no way you can say they were exempted before, right? I mean, I don't know any of your plaintiffs fall into that category, maybe they don't, but I do think it's different in terms of saying they were exempted before.

MR. PENNAK: Some had permits prior to the passage of this, some did not. But I would say as a matter of law, the Supreme Court has abolished the distinction between people who

had them before under a good and substantial reason requirement and people who simply don't have that requirement now.

THE COURT: Mm-hmm, Mm-mm, yeah.

MR. PENNAK: So I think that distinction is now put to rest by Bruen itself. So those people suffered the same irreparable injury that anyone else does as a matter of constitutional law.

THE COURT: Okay, I understand.

MR. PENNAK: So I appreciate the Court's attention today. I'm happy to entertain any further questions.

THE COURT: I think I'm fine for now. Obviously, if there's a need for any additional briefing or otherwise, we'll let you know. I will take this matter under advisement. I think the argument was important for me to fully understand each side's positions and their bests arguments, so I appreciate everyone's time and energy today.

Obviously, I know that -- well, on the one hand, the motion for preliminary injunction obviously needs to be dealt with quickly. I assure you, I have other similar motions in other cases that are also -- I'm moving to try to get through. And part of the issue is not just giving you an answer but giving you the right one, at least as best as I can do, and that's -- in an area such as this, with these -- the historical analysis that comes up, it's not an easy exercise. And so I'll do my best to get it to you as soon as possible. And the motion

to remand, obviously, while not entirely a prerequisite, is something that we should resolve in the same time frame.

So is there anything else about this case that I should know about, any new developments, factually, legally, not things that could have come up in the argument but just -- you know, sometimes there's, you know, potential changes in the statute for some reason, because there was a change during the life cycle of all our litigation here, discussions among the sides about some sort of accommodations that might be reached, anything like that, or is it just -- you're just waiting for a ruling?

MR. PENNAK: There have been no settlement discussions, Your Honor, certainly not. I think the County has adhered to that position throughout. We're certainly not backing off.

THE COURT: Okay. And the County's -- there's no imminent changes in the law like there -- occurred in the last -- during the life cycle of this case?

MR. LATTNER: Not that I know of, Your Honor.

THE COURT: Okay. Okay, well, thank you very much.

MR. PENNAK: Thank you, Your Honor.

THE COURTROOM DEPUTY: All rise. This Honorable Court now stands adjourned.

(The proceedings were adjourned at 4:56 p.m.)

CERTIFICATE OF OFFICIAL REPORTER

I, Patricia Klepp, Registered Merit Reporter, in and for the United States District Court for the District of Maryland, do hereby certify, pursuant to 28 U.S.C. § 753, that the foregoing is a true and correct transcript of the stenographically-reported proceedings held in the above-entitled matter and the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 23rd day of February, 2023.

/s/
PATRICIA KLEPP, RMR
Official Court Reporter

Chapter 680

(Senate Bill 1)

AN ACT concerning

Criminal Law – Wearing, Carrying, or Transporting Firearms – Restrictions (Gun Safety Act of 2023)

FOR the purpose of prohibiting a person from knowingly wearing, carrying, or transporting a firearm *in certain locations; prohibiting a person from wearing, carrying, or transporting a firearm onto certain property unless the owner or the owner's agent has given certain permission; altering certain provisions of law relating to the authority of the Secretary of State Police to limit the wearing, carrying, or transporting of a handgun at certain times and locations;* ~~onto the real property of another unless the other has given certain permission; prohibiting a person from knowingly wearing, carrying, or transporting a firearm within a certain distance of a certain place of public accommodation prohibiting a person from wearing, carrying, or transporting a firearm under certain circumstances and in certain locations; altering the circumstances under which a person is prohibited from possessing a regulated firearm; altering provisions of law relating to obtaining and revoking a permit to wear, carry, or transport a firearm;~~ and generally relating to restrictions on wearing, carrying, or transporting firearms.

BY adding to
Article – Criminal Law
Section 4–111 and ~~4–112~~ 6–411
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–203(b)
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – State Government~~
~~Section 20–301~~
~~Annotated Code of Maryland~~
~~(2021 Replacement Volume and 2022 Supplement)~~

~~BY repealing and reenacting, without amendments,~~
~~Article – Public Safety~~
~~Section 5–301(a), (b), (c), and (e), 5–303, and 5–309~~
~~Annotated Code of Maryland~~
~~(2022 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Public Safety~~
~~Section 5–306, 5–307, and 5–310 through 5–312~~
~~Annotated Code of Maryland~~
~~(2022 Replacement Volume)~~

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–307
Annotated Code of Maryland
(2022 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

~~**4–111.**~~

~~**(A) IN THIS SECTION, "FIREARM" HAS THE MEANING STATED IN § 4–104 OF THIS SUBTITLE.**~~

~~**(B) THIS SECTION DOES NOT APPLY TO:**~~

~~**(1) THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT–OF–WAY, A SERVITUDE, OR ANY OTHER INTEREST THAT ALLOWS PUBLIC ACCESS ON OR THROUGH THE REAL PROPERTY;**~~

~~**(2) THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT–OF–WAY, A SERVITUDE, OR ANY OTHER INTEREST ALLOWING ACCESS ON OR THROUGH THE REAL PROPERTY BY:**~~

~~**(I) THE HOLDER OF THE EASEMENT, RIGHT–OF–WAY, SERVITUDE, OR OTHER INTEREST; OR**~~

~~**(II) A GUEST OR ASSIGNEE OF THE HOLDER OF THE EASEMENT, RIGHT–OF–WAY, SERVITUDE, OR OTHER INTEREST; OR**~~

~~**(3) PROPERTY OWNED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.**~~

~~(C) A PERSON MAY NOT KNOWINGLY WEAR, CARRY, OR TRANSPORT A FIREARM ONTO THE REAL PROPERTY OF ANOTHER UNLESS THE OTHER HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM ON THE REAL PROPERTY.~~

~~(D) A PERSON WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR.~~

~~4–112.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "FIREARM" HAS THE MEANING STATED IN § 4–104 OF THIS SUBTITLE.~~

~~(3) "PLACE OF PUBLIC ACCOMMODATION" HAS THE MEANING STATED IN § 20–301 OF THE STATE GOVERNMENT ARTICLE.~~

~~(B) A PERSON MAY NOT KNOWINGLY WEAR, CARRY, OR TRANSPORT A FIREARM WITHIN 100 FEET OF A PLACE OF PUBLIC ACCOMMODATION.~~

~~(C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR.~~

~~**Article – State Government**~~

~~20–301.~~

~~In this subtitle, "place of public accommodation" means:~~

~~(1) an inn, hotel, motel, or other establishment that provides lodging to transient guests;~~

~~(2) a restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food or alcoholic beverages for consumption on or off the premises, including a facility located on the premises of a retail establishment or gasoline station;~~

~~(3) a motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;~~

~~(4) a retail establishment that:~~

~~(i) is operated by a public or private entity; and~~

~~(ii) offers goods, services, entertainment, recreation, or transportation; or~~

~~(5) an establishment:~~

~~(i) 1. that is physically located within the premises of any other establishment covered by this subtitle; or~~

~~2. within the premises of which any other establishment covered by this subtitle is physically located; and~~

~~(ii) that holds itself out as serving patrons of the covered establishment.~~

4–111.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "AREA FOR CHILDREN AND VULNERABLE INDIVIDUALS" MEANS:

(I) A PRESCHOOL OR PREKINDERGARTEN FACILITY *OR THE GROUNDS OF THE FACILITY*;

(II) A PRIVATE PRIMARY OR SECONDARY SCHOOL *OR THE GROUNDS OF THE SCHOOL*; *OR*

(III) ~~A YOUTH CAMP, AS DEFINED IN § 14–401 OF THE HEALTH – GENERAL ARTICLE;~~

~~(IV)~~ A HEALTH CARE FACILITY, AS DEFINED IN ~~§ 15–10B–01~~ *§ 15–10B–01(G)(1), (2), (3), AND (4)* OF THE INSURANCE ARTICLE~~; OR~~

~~(V) A LOCATION THAT IS BEING USED AS A SHELTER FOR RUNAWAY YOUTH.~~

(3) "FIREARM" HAS THE MEANING STATED IN § 4–104 OF THIS SUBTITLE.

(4) "GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA" MEANS:

(I) A BUILDING *OR ANY PART OF A BUILDING* OWNED OR LEASED BY A UNIT OF STATE OR LOCAL GOVERNMENT;

(II) A BUILDING OF A PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE;

(III) A LOCATION THAT IS CURRENTLY BEING USED AS A POLLING PLACE IN ACCORDANCE WITH TITLE 10 OF THE ELECTION LAW ARTICLE OR FOR CANVASSING BALLOTS IN ACCORDANCE WITH TITLE 11 OF THE ELECTION LAW ARTICLE; ~~OR~~

(IV) AN ELECTRIC PLANT OR ELECTRIC STORAGE FACILITY, AS DEFINED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE;

(V) A GAS PLANT, AS DEFINED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE; OR

(VI) A NUCLEAR POWER PLANT FACILITY.

(5) "LAW ENFORCEMENT OFFICIAL" HAS THE MEANING STATED IN § 4–201 OF THIS ARTICLE.

(6) "POLICE OFFICER" HAS THE MEANING STATED IN § 3–201 OF THE PUBLIC SAFETY ARTICLE.

~~(5) "ORGANIZED SPORTING OR ATHLETIC ACTIVITY" MEANS AN ACTIVITY IN WHICH THREE OR MORE INDIVIDUALS WHO ARE PART OF THE SAME LEAGUE OR ASSOCIATION ARE COMPETING IN A SPORT OR ATHLETIC ACTIVITY TOGETHER AS PART OF THE SAME LEAGUE.~~

~~(6)~~ *(7)* "ROTC" MEANS RESERVE OFFICER TRAINING CORPS.

~~(7)~~ *(8)* "SPECIAL PURPOSE AREA" MEANS:

(I) A LOCATION LICENSED TO SELL OR DISPENSE ALCOHOL OR CANNABIS FOR ON–SITE CONSUMPTION;

(II) A STADIUM;

(III) A MUSEUM;

(IV) ~~A LOCATION BEING USED FOR:~~

~~1. AN ORGANIZED SPORTING OR ATHLETIC ACTIVITY;~~

~~2. A LIVE THEATER PERFORMANCE;~~

~~3. A MUSICAL CONCERT OR PERFORMANCE FOR WHICH MEMBERS OF THE AUDIENCE ARE REQUIRED TO PAY OR POSSESS A TICKET TO BE ADMITTED; OR~~ *AN AMUSEMENT PARK;*

~~4. A FAIR OR CARNIVAL;~~

(V) A RACETRACK; *OR*

(VI) A VIDEO LOTTERY FACILITY, AS DEFINED IN § 9–1A–01 OF THE STATE GOVERNMENT ARTICLE~~; OR~~

~~(VII) WITHIN 100 YARDS OF A PLACE WHERE A PUBLIC GATHERING, A DEMONSTRATION, OR AN EVENT WHICH REQUIRES A PERMIT FROM THE LOCAL GOVERNING BODY IS BEING HELD, IF SIGNS POSTED BY A LAW ENFORCEMENT AGENCY CONSPICUOUSLY AND REASONABLY INFORM MEMBERS OF THE PUBLIC THAT THE WEARING, CARRYING, AND TRANSPORTING OF FIREARMS IS PROHIBITED.~~

(B) THIS SECTION DOES NOT APPLY TO:

(1) A LAW ENFORCEMENT OFFICIAL *OR A POLICE OFFICER* ~~OF THE UNITED STATES, THE STATE, OR A LOCAL LAW ENFORCEMENT AGENCY OF THE STATE~~;

(2) AN ON–DUTY EMPLOYEE OF A LAW ENFORCEMENT AGENCY AUTHORIZED BY THE AGENCY TO POSSESS FIREARMS ON DUTY OR WHOSE DUTY ASSIGNMENT INVOLVES THE POSSESSION OF FIREARMS;

~~(2)~~ *(3)* A MEMBER OF THE ARMED FORCES OF THE UNITED STATES, ~~OR~~ THE NATIONAL GUARD, *OR THE UNIFORMED SERVICES* ON DUTY OR TRAVELING TO OR FROM DUTY;

~~(3)~~ *(4)* A MEMBER OF AN ROTC PROGRAM WHILE PARTICIPATING IN AN ACTIVITY FOR AN ROTC PROGRAM;

~~(4) A LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE OR SUBDIVISION OF ANOTHER STATE TEMPORARILY IN THIS STATE ON OFFICIAL BUSINESS;~~

(5) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE;

~~**(6) A SHERIFF OR FULL–TIME ASSISTANT OR DEPUTY SHERIFF OF THE STATE;**~~

(6) A RAILROAD POLICE OFFICER APPOINTED UNDER TITLE 3, SUBTITLE 4 OF THE PUBLIC SAFETY ARTICLE;

(7) AN EMPLOYEE OF AN ARMORED CAR COMPANY, IF THE PERSON IS ACTING WITHIN THE SCOPE OF EMPLOYMENT AND HAS A VALID PERMIT TO WEAR, CARRY, OR TRANSPORT A HANDGUN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE;

~~**(7)**~~ ***(8)*** **SUBJECT TO SUBSECTION (I) OF THIS SECTION, ~~AN OFF–DUTY LAW ENFORCEMENT OFFICIAL OR~~ A PERSON WHO HAS RETIRED AS A LAW ENFORCEMENT OFFICIAL IN GOOD STANDING FROM A LAW ENFORCEMENT AGENCY OF THE UNITED STATES, THE STATE *OR ANOTHER STATE*, OR A LOCAL UNIT IN THE STATE *OR ANOTHER STATE*, WHO POSSESSES A FIREARM, IF:**

(I) 1. THE ~~OFFICIAL OR~~ PERSON IS ~~DISPLAYING~~ *CARRYING* THE ~~OFFICIAL'S OR~~ PERSON'S BADGE OR CREDENTIAL *IN COMPLIANCE WITH THE REQUIREMENTS OF THE BADGE OR CREDENTIAL*;

2. THE FIREARM CARRIED OR POSSESSED BY THE ~~OFFICIAL OR~~ PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE ~~OFFICIAL'S OR~~ PERSON'S CLOTHING; AND

3. THE ~~OFFICIAL OR~~ PERSON IS AUTHORIZED TO CARRY A HANDGUN UNDER THE LAWS OF THE STATE OR THE UNITED STATES; OR

(II) 1. THE ~~OFFICIAL OR~~ PERSON POSSESSES A VALID PERMIT TO WEAR, CARRY, OR TRANSPORT A HANDGUN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE; AND

2. THE FIREARM CARRIED OR POSSESSED BY THE ~~OFFICIAL OR~~ PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE ~~OFFICIAL'S OR~~ PERSON'S CLOTHING;

~~**(8)**~~ ***(9)*** **FOR A LOCATION THAT IS NOT OWNED BY, LEASED BY, OR OTHERWISE UNDER THE CONTROL OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE:**

(I) THE OWNER OR LESSEE OF THE LOCATION; OR

(II) A PERSON WHO IS AUTHORIZED BY THE OWNER OR LESSEE OF THE LOCATION TO WEAR, CARRY, OR TRANSPORT A FIREARM AT THE LOCATION FOR THE PURPOSE OF:

1. EMPLOYMENT AS A SECURITY GUARD LICENSED UNDER TITLE 19 OF THE BUSINESS OCCUPATIONS ARTICLE; OR

2. PROTECTING ANY INDIVIDUAL OR PROPERTY AT THE LOCATION ~~WITHOUT~~ *WITH AN EXPRESS AGREEMENT BETWEEN THE PARTIES*, REMUNERATION, OR COMPENSATION; ~~*OR*~~

~~(9)~~ *(10)* A LOCATION BEING USED WITH THE PERMISSION OF THE PERSON OR GOVERNMENTAL UNIT THAT OWNS, LEASES, OR CONTROLS THE LOCATION FOR:

(I) AN ORGANIZED SHOOTING ACTIVITY FOR EDUCATIONAL PURPOSES;

(II) A HISTORICAL DEMONSTRATION USING A FIREARM; OR

(III) HUNTING OR TARGET SHOOTING*; OR*

(11) A FIREARM THAT IS CARRIED OR TRANSPORTED IN A MOTOR VEHICLE IF THE FIREARM IS:

(I) LOCKED IN A CONTAINER; OR

(II) A HANDGUN WORN, CARRIED, OR TRANSPORTED IN COMPLIANCE WITH ANY LIMITATIONS IMPOSED UNDER § 5–307 OF THE PUBLIC SAFETY ARTICLE, BY A PERSON TO WHOM A PERMIT TO WEAR, CARRY, OR TRANSPORT THE HANDGUN HAS BEEN ISSUED UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE~~; OR~~

~~**(10) A FIREARM THAT IS CARRIED OR TRANSPORTED IN A MOTOR VEHICLE IF THE FIREARM IS:**~~

~~**(I) UNLOADED; AND**~~

~~**(II) LOCKED IN A CONTAINER THAT IS SEPARATE FROM ANY AMMUNITION THAT IS SUITABLE FOR USE IN THE FIREARM.**~~

(C) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN AN AREA FOR CHILDREN OR VULNERABLE INDIVIDUALS.

~~(D)~~ *(D) (1)* A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN A GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA.

(2) A GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA SPECIFIED UNDER SUBSECTION (A)(4)(I) OF THIS SECTION MUST DISPLAY A CLEAR AND CONSPICUOUS SIGN AT THE MAIN ENTRANCE OF THE BUILDING OR THE PART OF A BUILDING THAT IS OWNED OR LEASED BY THE UNIT OF STATE OR LOCAL GOVERNMENT INDICATING THAT IT IS NOT PERMISSIBLE TO WEAR, CARRY, OR TRANSPORT A FIREARM IN THE BUILDING OR THAT PART OF THE BUILDING.

(E) ~~(1) THIS SUBSECTION DOES NOT APPLY TO AN ORGANIZED SPORTING OR ATHLETIC ACTIVITY FOR WHICH THE WEARING, CARRYING, TRANSPORTING, OR USE OF A FIREARM IS A CUSTOMARY PART OF THE SPORT OR ATHLETIC ACTIVITY.~~

~~(2)~~ A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN A SPECIAL PURPOSE AREA.

~~(F) A PERSON MAY NOT VIOLATE SUBSECTION (C), (D), OR (E) OF THIS SECTION WITH INTENT TO CAUSE DEATH OR INJURY TO ANOTHER.~~

~~(G) (1)~~ *(F)* A PERSON WHO *WILLFULLY* VIOLATES SUBSECTION (C), ~~(D)~~ *(D)(1)*, OR (E) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO~~:~~

~~(I)~~ ~~FOR A FIRST CONVICTION,~~ IMPRISONMENT NOT EXCEEDING ~~90 DAYS~~ *1 YEAR* OR A FINE NOT EXCEEDING ~~$3,000~~ *$1,000* OR BOTH~~;~~ ~~AND~~

~~(II) FOR A SECOND OR SUBSEQUENT CONVICTION, IMPRISONMENT NOT EXCEEDING 15 MONTHS OR A FINE NOT EXCEEDING $7,500 OR BOTH.~~

~~(2) A PERSON WHO VIOLATES SUBSECTION (F) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 MONTHS OR A FINE NOT EXCEEDING $7,500 OR BOTH.~~

~~(II)~~ *(G)* (1) A CONVICTION UNDER THIS SECTION MAY NOT MERGE WITH A CONVICTION FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

~~(H)~~ *(H)* FOR PURPOSES OF THIS SECTION, A REQUIREMENT TO KEEP A HANDGUN CONCEALED IS NOT VIOLATED BY:

(1) THE MOMENTARY AND INADVERTENT EXPOSURE OF A HANDGUN; OR

(2) THE MOMENTARY AND INADVERTENT EXPOSURE OF THE IMPRINT OR OUTLINE OF A HANDGUN.

(I) NOTHING IN THIS SECTION LIMITS THE POWER OF AN ADMINISTRATIVE HEAD OF A MARYLAND COURT TO PUNISH FOR CONTEMPT OR TO ADOPT RULES OR ORDERS REGULATING, ALLOWING, RESTRICTING, OR PROHIBITING THE POSSESSION OF WEAPONS IN ANY BUILDING HOUSING THE COURT OR ANY OF ITS PROCEEDINGS, OR ON ANY GROUNDS APPURTENANT TO THE BUILDING.

4–203.

(b) This section does not prohibit:

(1) the wearing, carrying, or transporting of a handgun by a person who is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person's official equipment, and is:

(i) a law enforcement official of the United States, the State, or a county or city of the State;

(ii) a member of the armed forces of the United States or of the National Guard on duty or traveling to or from duty;

(iii) a law enforcement official of another state or subdivision of another state temporarily in this State on official business;

(iv) a correctional officer or warden of a correctional facility in the State;

(v) a sheriff or full–time assistant or deputy sheriff of the State; or

(vi) a temporary or part–time sheriff's deputy;

*(2) the wearing, carrying, or transporting of a handgun**[**, in compliance with any limitations imposed under § 5–307 of the Public Safety Article,**]** by a person to*

whom a permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3 of the Public Safety Article;

(3) the carrying of a handgun on the person or in a vehicle while the person is transporting the handgun to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(4) the wearing, carrying, or transporting by a person of a handgun used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources–sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(5) the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(6) the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases;

(7) the wearing, carrying, or transporting of a handgun by a supervisory employee:

(i) in the course of employment;

(ii) within the confines of the business establishment in which the supervisory employee is employed; and

(iii) when so authorized by the owner or manager of the business establishment;

(8) the carrying or transporting of a signal pistol or other visual distress signal approved by the United States Coast Guard in a vessel on the waterways of the State or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed case, in a vehicle; or

(9) the wearing, carrying, or transporting of a handgun by a person who is carrying a court order requiring the surrender of the handgun, if:

(i) the handgun is unloaded;

(ii) the person has notified the law enforcement unit, barracks, or station that the handgun is being transported in accordance with the court order; and

(iii) the person transports the handgun directly to the law enforcement unit, barracks, or station.

6–411.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "DWELLING" MEANS A BUILDING OR PART OF A BUILDING THAT PROVIDES LIVING OR SLEEPING FACILITIES FOR ONE OR MORE INDIVIDUALS.

(II) "DWELLING" DOES NOT INCLUDE:

1. COMMON ELEMENTS OF A CONDOMINIUM, AS DEFINED IN § 11–101 OF THE REAL PROPERTY ARTICLE;

2. PROPERTY OF A COOPERATIVE HOUSING CORPORATION OTHER THAN A UNIT AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; OR

3. COMMON AREAS OF A MULTIFAMILY DWELLING AS DEFINED IN § 12–203 OF THE PUBLIC SAFETY ARTICLE.

(3) "FIREARM" HAS THE MEANING STATED IN § 4–104 OF THIS ARTICLE.

(4) "LAW ENFORCEMENT OFFICIAL" HAS THE MEANING STATED IN § 4–201 OF THIS ARTICLE.

(5) "POLICE OFFICER" HAS THE MEANING STATED IN § 3–201 OF THE PUBLIC SAFETY ARTICLE.

(6) (I) "PROPERTY" MEANS A BUILDING.

(II) "PROPERTY" DOES NOT INCLUDE THE LAND ADJACENT TO A BUILDING.

(B) THIS SECTION DOES NOT APPLY TO:

(1) A LAW ENFORCEMENT OFFICIAL *OR POLICE OFFICER* ~~OF THE UNITED STATES, THE STATE, OR A LOCAL LAW ENFORCEMENT AGENCY OF THE STATE~~;

(2) AN ON–DUTY EMPLOYEE OF A LAW ENFORCEMENT AGENCY AUTHORIZED BY THE AGENCY TO POSSESS FIREARMS ON DUTY OR WHOSE DUTY ASSIGNMENT INVOLVES THE POSSESSION OF FIREARMS;

~~(2)~~ *(3)* A MEMBER OF THE ARMED FORCES OF THE UNITED STATES, ~~OR OF~~ THE NATIONAL GUARD, *OR THE UNIFORMED SERVICES* ON DUTY OR TRAVELING TO OR FROM DUTY;

~~(3) A LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE OR SUBDIVISION OF ANOTHER STATE TEMPORARILY IN THIS STATE ON OFFICIAL BUSINESS;~~

(4) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE;

~~(5) A SHERIFF OR FULL–TIME ASSISTANT OR DEPUTY SHERIFF OF THE STATE;~~

~~(6)~~ *(5)* THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT–OF–WAY, A SERVITUDE, OR ANY OTHER PROPERTY INTEREST THAT ALLOWS PUBLIC ACCESS ON OR THROUGH THE REAL PROPERTY; OR

~~(7)~~ *(6)* THE WEARING, CARRYING, OR TRANSPORTING OF A FIREARM ON A PORTION OF REAL PROPERTY SUBJECT TO AN EASEMENT, A RIGHT–OF–WAY, A SERVITUDE, OR ANY OTHER PROPERTY INTEREST ALLOWING ACCESS ON OR THROUGH THE REAL PROPERTY BY:

(I) THE HOLDER OF THE EASEMENT, RIGHT–OF–WAY, SERVITUDE, OR OTHER PROPERTY INTEREST; OR

(II) A GUEST OR ASSIGNEE OF THE HOLDER OF THE EASEMENT, RIGHT–OF–WAY, SERVITUDE, OR OTHER PROPERTY INTEREST.

(C) A PERSON WEARING, CARRYING, OR TRANSPORTING A FIREARM MAY NOT *ENTER OR TRESPASS IN THE DWELLING OF ANOTHER UNLESS THE OWNER OR THE OWNER'S AGENT HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM INSIDE THE DWELLING.*

(D) A PERSON WEARING, CARRYING, OR TRANSPORTING A FIREARM MAY NOT:

(1) ENTER OR TRESPASS ON PROPERTY ~~THAT IS POSTED CONSPICUOUSLY AGAINST WEARING, CARRYING, OR TRANSPORTING A FIREARM ON THE PROPERTY;~~ *UNLESS THE OWNER OR THE OWNER'S AGENT HAS POSTED A CLEAR AND CONSPICUOUS SIGN INDICATING THAT IT IS PERMISSIBLE TO WEAR, CARRY, OR TRANSPORT A FIREARM ON THE PROPERTY; OR*

(2) ENTER OR TRESPASS ON PROPERTY ~~AFTER HAVING BEEN NOTIFIED BY THE OWNER OR THE OWNER'S AGENT THAT THE PERSON MAY NOT~~ *UNLESS THE OWNER OR THE OWNER'S AGENT HAS GIVEN THE PERSON EXPRESS PERMISSION TO* WEAR, CARRY, OR TRANSPORT A FIREARM ON THE PROPERTY~~; OR~~.

~~***(3) ENTER OR TRESPASS IN THE DWELLING OF ANOTHER UNLESS THE OTHER HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM INSIDE THE DWELLING.***~~

~~(D)~~ *(E)* A PERSON WHO *WILLFULLY* VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO~~:~~

~~(1) FOR A FIRST CONVICTION,~~ IMPRISONMENT NOT EXCEEDING ~~90 DAYS~~ *1 YEAR* OR A FINE NOT EXCEEDING ~~$500~~ *$1,000* OR BOTH~~:~~

~~***(2) FOR A SECOND CONVICTION OCCURRING WITHIN 2 YEARS AFTER THE FIRST CONVICTION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH; AND***~~

~~***(3) FOR EACH SUBSEQUENT CONVICTION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING CONVICTION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $2,500 OR BOTH.***~~

(F) (1) A CONVICTION UNDER THIS SECTION MAY NOT MERGE WITH A CONVICTION FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

Article – Public Safety

5–307.

~~[~~*(a)*~~]~~ *A permit is valid for each handgun legally in the possession of the person to whom the permit is issued.*

(B) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERMIT ISSUED UNDER THIS SUBTITLE SHALL RESTRICT THE WEARING, CARRYING, AND TRANSPORTING OF A HANDGUN BY THE PERSON TO WHOM THE PERMIT IS ISSUED TO WEARING, CARRYING, OR TRANSPORTING A HANDGUN CONCEALED FROM VIEW:

(I) UNDER OR WITHIN AN ARTICLE OF THE PERSON'S CLOTHING; OR

(II) WITHIN AN ENCLOSED CASE.

(2) THE REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION TO KEEP A HANDGUN CONCEALED IS NOT VIOLATED BY:

(I) THE MOMENTARY AND INADVERTENT EXPOSURE OF A HANDGUN; OR

(II) THE MOMENTARY AND INADVERTENT EXPOSURE OF THE IMPRINT OR OUTLINE OF A HANDGUN.

(C) A PERSON IS NOT SUBJECT TO THE REQUIREMENT IN SUBSECTION (B) OF THIS SECTION TO KEEP A HANDGUN CONCEALED IF THE PERSON IS AUTHORIZED AT THE TIME AND UNDER THE CIRCUMSTANCES TO WEAR, CARRY, OR TRANSPORT THE HANDGUN AS PART OF THE PERSON'S OFFICIAL EQUIPMENT, AND IS:

(1) A PERSON EXEMPTED UNDER § 4–203(B)(1) OF THE CRIMINAL LAW ARTICLE;

(2) A SECURITY GUARD LICENSED UNDER TITLE 19 OF THE BUSINESS OCCUPATIONS ARTICLE ACTING WITHIN THE SCOPE OF EMPLOYMENT;

(3) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE ACTING WITHIN THE SCOPE OF EMPLOYMENT;

(4) A RAILROAD POLICE OFFICER APPOINTED UNDER TITLE 3, SUBTITLE 4 OF THIS ARTICLE ACTING WITHIN THE SCOPE OF EMPLOYMENT; OR

(5) AN EMPLOYEE OF AN ARMORED CAR COMPANY ACTING WITHIN THE SCOPE OF EMPLOYMENT.

[*(b) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.****]***

~~5–301.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Handgun" has the meaning stated in § 4–201 of the Criminal Law Article.~~

~~(c) "Permit" means a permit issued by the Secretary to carry, wear, or transport a handgun.~~

~~(e) "Secretary" means the Secretary of State Police or the Secretary's designee.~~

~~5–303.~~

~~A person shall have a permit issued under this subtitle before the person carries, wears, or transports a handgun.~~

~~5–307.~~

~~(a) A permit is valid for each handgun legally in the possession of the person to whom the permit is issued.~~

~~(b) (1) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL RESTRICT THE WEARING, CARRYING, AND TRANSPORTING OF A HANDGUN BY THE PERSON TO WHOM THE PERMIT IS ISSUED TO WEARING, CARRYING, OR TRANSPORTING A HANDGUN CONCEALED FROM VIEW:~~

~~(1) (I) UNDER OR WITHIN AN ARTICLE OF THE PERSON'S CLOTHING; OR~~

~~(2) (II) WITHIN AN ENCLOSED CASE.~~

~~(2) THE REQUIREMENT IN PARAGRAPH (1) OF THIS SUBSECTION TO KEEP A HANDGUN CONCEALED IS NOT VIOLATED BY:~~

~~(I) THE MOMENTARY AND INADVERTENT EXPOSURE OF A HANDGUN; OR~~

~~(II) THE MOMENTARY AND INADVERTENT EXPOSURE OF THE IMPRINT OR OUTLINE OF A HANDGUN.~~

~~(C) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.~~

~~5–309.~~

~~(a) Except as provided in subsection (d) of this section, a permit expires on the last day of the holder's birth month following 2 years after the date the permit is issued.~~

~~(b) Subject to subsection (c) of this section, a permit may be renewed for successive periods of 3 years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee stated in this subtitle.~~

~~(c) A person who applies for a renewal of a permit is not required to be fingerprinted unless the Secretary requires a set of the person's fingerprints to resolve a question of the person's identity.~~

~~(d) The Secretary may establish an alternative expiration date for a permit to coincide with the expiration of a license, certification, or commission for:~~

~~(1) a private detective under Title 13 of the Business Occupations and Professions Article;~~

~~(2) a security guard under Title 19 of the Business Occupations and Professions Article; or~~

~~(3) a special police officer under § 3–306 of this article.~~

~~5–310.~~

~~(a) The Secretary [may revoke a permit on a finding that the holder] SHALL:~~

~~(1) REVOKE A PERMIT ON A FINDING THAT THE HOLDER does not meet the qualifications described in § 5–306 of this subtitle; [or] AND~~

~~(2) REGULARLY REVIEW INFORMATION REGARDING ACTIVE PERMIT HOLDERS USING THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO DETERMINE WHETHER ALL PERMIT HOLDERS CONTINUE TO MEET THE QUALIFICATIONS DESCRIBED IN § 5–306 OF THIS SUBTITLE.~~

~~(B) THE SECRETARY MAY REVOKE A PERMIT ON A FINDING THAT THE HOLDER violated § 5–308 of this subtitle.~~

(C) IF THE SECRETARY REVOKES A PERMIT UNDER THIS SECTION FROM A PERSON THE SECRETARY DETERMINES IS PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5–133 OF THIS TITLE, THE SECRETARY SHALL TAKE REASONABLE STEPS TO ENSURE THE SURRENDER OF ANY REGULATED FIREARMS IN THE PERSON'S POSSESSION.

~~(b)~~ **(D)** ~~A holder of a permit that is revoked by the Secretary shall return the permit to the Secretary within 10 days after receipt of written notice of the revocation.~~

~~5–311.~~

(A) IF THE SECRETARY DENIES A PERMIT OR RENEWAL OF A PERMIT OR REVOKES OR LIMITS A PERMIT, THE SECRETARY SHALL PROVIDE WRITTEN NOTICE OF THAT INITIAL ACTION TO THE APPLICANT, INCLUDING A DETAILED EXPLANATION OF THE REASON OR REASONS FOR THE INITIAL ACTION.

~~(a)~~ **(B)** ~~A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of~~ **THE** ~~written notice of the Secretary's initial action~~ **UNDER SUBSECTION (A) OF THIS SECTION.**

~~(b)~~ **(C)** ~~An informal review:~~

~~(1) may include a personal interview of the person who requested the informal review; and~~

~~(2) is not subject to Title 10, Subtitle 2 of the State Government Article.~~

~~(c)~~ **(D)** **(1)** ~~In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.~~

(2) THE WRITTEN NOTICE OF THE RESULTS OF THE SECRETARY'S INFORMAL REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A DETAILED EXPLANATION OF THE REASON OR REASONS FOR THE SECRETARY'S DECISION TO SUSTAIN, REVERSE, OR MODIFY THE INITIAL ACTION.

~~(d)~~ **(E)** ~~A person need not file a request for an informal review under this section before requesting review under § 5–312 of this subtitle.~~

~~5–312.~~

~~(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request to appeal the decision of the Secretary to the Office of~~

~~Administrative Hearings by filing a written request with the Secretary and the Office of Administrative Hearings within 10 days after receipt of written notice of the Secretary's final action.~~

~~(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the Office of Administrative Hearings by filing a written request with the Secretary and the Office of Administrative Hearings.~~

~~(b) (1) Within 60 days after the receipt of a request under subsection (a) of this section from the applicant or the holder of the permit, the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the matter, at which witness testimony and other evidence may be provided.~~

~~(2) Within 90 days after the conclusion of the last hearing on the matter, the Office of Administrative Hearings shall issue a **WRITTEN** finding of facts and a decision.~~

~~(3) A party that is aggrieved by the decision of the Office of Administrative Hearings may appeal the decision to the circuit court.~~

~~(c) (1) Subject to subsection (b) of this section, any hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.~~

~~(d) **(1)** On or before **[**January 1, 2019, 2020, 2021, and 2022,**]** **JANUARY 1 EACH YEAR,** the **SECRETARY SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE FOLLOWING INFORMATION DISAGGREGATED BY AN APPLICANT'S COUNTY OF RESIDENCE, RACE, ETHNICITY, AGE, AND GENDER:~~

~~**(I) THE TOTAL NUMBER OF PERMIT APPLICATIONS MADE UNDER § 5–304 OF THIS SUBTITLE WITHIN THE PREVIOUS YEAR;**~~

~~**(II) THE TOTAL NUMBER OF PERMIT APPLICATIONS THAT THE SECRETARY GRANTED IN THE PREVIOUS YEAR;**~~

~~**(III) THE TOTAL NUMBER OF PERMIT APPLICATIONS THAT THE SECRETARY DENIED IN THE PREVIOUS YEAR;**~~

~~**(IV) THE TOTAL NUMBER OF PERMITS THAT WERE REVOKED IN THE PREVIOUS YEAR; AND**~~

~~(V) THE TOTAL NUMBER OF PERMITS THAT ARE PENDING BEFORE THE SECRETARY.~~

~~(2) ON OR BEFORE JANUARY 1 EACH YEAR, THE Office of Administrative Hearings shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly THE FOLLOWING INFORMATION DISAGGREGATED BY AN APPLICANT'S COUNTY OF RESIDENCE, RACE, ETHNICITY, AGE, AND GENDER:~~

~~[(1)] (I) the number of appeals of decisions by the Secretary that have been filed with the Office of Administrative Hearings within the previous year;~~

~~[(2)] (II) the number of decisions by the Secretary that have been sustained, modified, or reversed by the Office of Administrative Hearings within the previous year;~~

~~[(3)] (III) the number of appeals that are pending; and~~

~~[(4)] (IV) the number of appeals that have been withdrawn within the previous year.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Public Safety**~~

~~5–306.~~

~~(a) Subject to [subsection] SUBSECTIONS (C) AND (D) of this section, the Secretary shall issue a permit within a reasonable time to a person who the Secretary finds:~~

~~(1) (I) is [an adult] AT LEAST 21 YEARS OLD; OR~~

~~(II) IS AN ADULT WHO:~~

~~1. IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD; OR~~

~~2. IS REQUIRED TO WEAR, CARRY, OR TRANSPORT A HANDGUN IN THE REGULAR COURSE OF THE PERSON'S EMPLOYMENT;~~

~~(2) (i) has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or~~

~~(ii) if convicted of a crime described in item (i) of this item, has been pardoned or has been granted relief under 18 U.S.C. § 925(c);~~

~~(3) has not been convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance;~~

~~(4) is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance unless the habitual use of the controlled dangerous substance is under legitimate medical direction;~~

~~(5) DOES NOT SUFFER FROM A MENTAL DISORDER AS DEFINED IN § 10–101(I)(2) OF THE HEALTH – GENERAL ARTICLE AND HAVE A HISTORY OF VIOLENT BEHAVIOR AGAINST THE PERSON OR ANOTHER;~~

~~(6) IS NOT A RESPONDENT AGAINST WHOM:~~

~~(I) A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4–506 OF THE FAMILY LAW ARTICLE;~~

~~(II) A CURRENT EXTREME RISK PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 5–601 OF THIS TITLE; OR~~

~~(III) ANY OTHER TYPE OF CURRENT COURT ORDER HAS BEEN ENTERED PROHIBITING THE PERSON FROM PURCHASING OR POSSESSING FIREARMS;~~

~~[(5)] (7) except as provided in subsection (b) of this section, has successfully completed prior to application and each renewal, a firearms training course approved by the Secretary that [includes:~~

~~(i) 1. for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor; or~~

~~2. for a renewal application, 8 hours of instruction by a qualified handgun instructor;~~

~~(ii) classroom instruction on:~~

~~1. State firearm law;~~

~~2. home firearm safety; and~~

~~3. handgun mechanisms and operation; and~~

~~(iii) a firearms qualification component that demonstrates the applicant's proficiency and use of the firearm;~~ **] MEETS THE MINIMUM CRITERIA SPECIFIED IN SUBSECTION (A–1) OF THIS SECTION;** ~~and~~

~~[(6)]~~ **(8)** ~~based on an investigation:~~

~~(i) has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a handgun a danger to the person or to another; and~~

~~(ii)~~ **[**~~has good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger~~**] IS NOT PROHIBITED BY STATE OR FEDERAL LAW FROM PURCHASING OR POSSESSING A HANDGUN.**

~~(A–1)~~ **THE FIREARMS TRAINING COURSE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:**

~~(1) (I)~~ **FOR AN INITIAL APPLICATION, A MINIMUM OF 16 HOURS OF INSTRUCTION BY A QUALIFIED HANDGUN INSTRUCTOR; OR**

~~(II)~~ **FOR A RENEWAL APPLICATION, 8 HOURS OF INSTRUCTION BY A QUALIFIED HANDGUN INSTRUCTOR;**

~~(2) CLASSROOM INSTRUCTION ON:~~

~~(I) STATE AND FEDERAL FIREARM LAWS, INCLUDING LAWS RELATING TO:~~

~~1. SELF–DEFENSE;~~

~~2. DEFENSE OF OTHERS;~~

~~3. DEFENSE OF PROPERTY;~~

~~4. THE SAFE STORAGE OF FIREARMS;~~

~~5. THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL BECOMES PROHIBITED FROM POSSESSING A FIREARM UNDER STATE AND FEDERAL LAW, INCLUDING BECOMING A RESPONDENT AGAINST WHOM:~~

~~A. A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4–506 OF THE FAMILY LAW ARTICLE;~~

~~**B.** AN ORDER FOR PROTECTION, AS DEFINED IN § 4–508.1 OF THE FAMILY LAW ARTICLE, HAS BEEN ISSUED BY A COURT OF ANOTHER STATE OR A NATIVE AMERICAN TRIBE AND IS IN EFFECT; OR~~

~~**C.** A CURRENT EXTREME RISK PROTECTIVE ORDER HAS BEEN ENTERED UNDER SUBTITLE 6 OF THIS TITLE;~~

~~**6.** THE REQUIREMENTS AND OPTIONS FOR SURRENDERING, TRANSFERRING, OR OTHERWISE DISPOSING OF A FIREARM AFTER BECOMING PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW;~~

~~**7.** THE REQUIREMENTS FOR REPORTING A LOSS OR THEFT OF A FIREARM TO A LAW ENFORCEMENT AGENCY AS REQUIRED BY § 5–146 OF THIS TITLE;~~

~~**8.** THE FIREARMS AND FIREARM ACCESSORIES WHICH ARE BANNED UNDER STATE AND FEDERAL LAW;~~

~~**9.** THE TYPES OF FIREARMS THAT REQUIRE A SPECIAL PERMIT OR REGISTRATION TO ACQUIRE OR POSSESS UNDER STATE OR FEDERAL LAW;~~

~~**10.** THE LAW PROHIBITING STRAW PURCHASES;~~

~~**11.** THE LAW CONCERNING ARMED TRESPASS UNDER § 6–411 OF THE CRIMINAL LAW ARTICLE; AND~~

~~**12.** THE LOCATIONS WHERE A PERSON IS PROHIBITED FROM POSSESSING A FIREARM REGARDLESS OF WHETHER THE PERSON POSSESSES A PERMIT ISSUED UNDER THIS SUBTITLE;~~

~~**(II)** HOME FIREARM SAFETY;~~

~~**(III)** HANDGUN MECHANISMS AND OPERATION;~~

~~**(IV)** CONFLICT DE–ESCALATION AND RESOLUTION;~~

~~**(V)** ANGER MANAGEMENT; AND~~

~~**(VI)** SUICIDE PREVENTION; AND~~

~~(3) A FIREARMS QUALIFICATION COMPONENT THAT INCLUDES LIVE–FIRE SHOOTING EXERCISES ON A FIRING RANGE AND REQUIRES THE APPLICANT TO DEMONSTRATE:~~

~~(I) SAFE HANDLING OF A HANDGUN; AND~~

~~(II) SHOOTING PROFICIENCY WITH A HANDGUN.~~

~~(b) An applicant for a permit is not required to complete a certified firearms training course under subsection (a) of this section if the applicant:~~

~~(1) is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;~~

~~(2) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;~~

~~(3) is a qualified handgun instructor; or~~

~~(4) has completed a firearms training course approved by the Secretary.~~

~~(c) An applicant under the age of 30 years is qualified only if the Secretary finds that the applicant has not been:~~

~~(1) committed to a detention, training, or correctional institution for juveniles for longer than 1 year after an adjudication of delinquency by a juvenile court; or~~

~~(2) adjudicated delinquent by a juvenile court for:~~

~~(i) an act that would be a crime of violence if committed by an adult;~~

~~(ii) an act that would be a felony in this State if committed by an adult; or~~

~~(iii) an act that would be a misdemeanor in this State that carries a statutory penalty of more than 2 years if committed by an adult.~~

~~(D) (1) THE SECRETARY MAY NOT ISSUE A PERMIT TO A PERSON IF THE PERSON:~~

~~(I) HAS BEEN CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF § 4–104 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(II) HAS BEEN CONVICTED OF A VIOLATION OF § 4–104 OF THE CRIMINAL LAW ARTICLE IF THE VIOLATION RESULTED IN THE USE OF A LOADED FIREARM BY A CHILD CAUSING DEATH OR SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER PERSON.~~

~~(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY MAY NOT ISSUE A PERMIT TO A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 4–104 OF THE CRIMINAL LAW ARTICLE FOR 5 YEARS FOLLOWING THE DATE OF THE CONVICTION.~~

~~[(d)] (E) The Secretary may issue a handgun qualification license, without an additional application or fee, to a person who:~~

~~(1) meets the requirements for issuance of a permit under this section; and~~

~~(2) does not have a handgun qualification license issued under § 5–117.1 of this title.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be construed to apply only to an initial application or renewal application for a permit to wear, carry, or transport a handgun that is submitted to the Secretary of State Police on or after the effective date of this Act. Section 2 may not be construed to affect the requirements to maintain a permit to wear, carry, or transport a handgun that was issued by the Secretary of State Police before the effective date of this Act until the permit is subject to renewal.~~

SECTION ~~4.~~ *2.* AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~2.~~ ~~5.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

Approved by the Governor, May 16, 2023.

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC.,
ENGAGE ARMAMENT, LLC,
ANDREW RAYMOND,
CARLOS RABANALES,
BRANDON FERRELL,
DERYCK WEAVER,
JOSHUA EDGAR,
I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC,
RONALD DAVID,
NANCY DAVID and
ELIYAHU SHEMONY,

Plaintiffs,

v.

MONTGOMERY COUNTY, MARYLAND,

Defendant.

Civil Action No. TDC-21-1736

MEMORANDUM OPINION

Plaintiffs Maryland Shall Issue, Inc. ("MSI"), Engage Armament, LLC, I.C.E. Firearms & Defensive Training, LLC, and eight individuals ("the Individual Plaintiffs") have filed suit against Defendant Montgomery County, Maryland ("the County") challenging recent amendments to Chapter 57 of the Montgomery County Code ("Chapter 57"), which imposes regulations and restrictions relating to the possession and use of weapons in the County. Presently pending before the Court is Plaintiffs' Motion for a Temporary Restraining Order and a Preliminary Injunction, which is fully briefed. On February 6, 2023, the Court held a hearing on the Motion. For the reasons set forth below, the Motion will be DENIED.

BACKGROUND

Prior relevant factual background and procedural history is set forth in the Court's February 7, 2022 Memorandum Opinion on Plaintiffs' Motion to Sever and Remand All State Law Claims and to Hold in Abeyance, and the Court's May 5, 2023 Memorandum Opinion on the County's Motion to Remand Counts I, II, and III and Stay Counts IV through VIII, which are incorporated by reference. *Md. Shall Issue, Inc. v. Montgomery Cnty.*, No. TDC-21-1736, 2022 WL 375461 (D. Md. Feb. 7, 2022) ("*MSI I*"); *Md. Shall Issue, Inc. v. Montgomery Cnty.*, No. TDC-21-1736, 2023 WL 3276497 (D. Md. May 5, 2023). Additional facts and procedural history are provided below as necessary.

On May 28, 2021, Plaintiffs filed the original Complaint in this case in the Circuit Court for Montgomery County, Maryland ("the Circuit Court") challenging Bill No. 4-21, a provision to amend Chapter 57 that was passed by the Montgomery County Council in April 2021. Among other amendments, Bill No. 4-21 added provisions to regulate ghost guns, undetectable guns, 3D-printed guns, and major components of such guns. Bill No. 4-21 also expanded the definition of "place of public assembly," which identifies locations at which it is unlawful to "sell, transfer, possess, or transport" firearms. Montgomery Cnty. Code, § 57-11(a) (2022); Bill No. 4-21 at 4, Second Am. Compl. ("SAC") Ex. A, ECF No. 49-1. While the prior definition consisted of a specific list of locations, including a "government owned park," a "place of worship," an "elementary or secondary school," a "public library," a "government-owned or -operated recreational facility," and a "multipurpose exhibition facility, such as fairgrounds or a conference center," the new definition generally included any "place where the public may assemble, whether the place is publicly or privately owned" and listed as examples "a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multi-

purpose exhibition facility." Bill No. 4-21 at 4–5. Bill No. 4-21 also expanded the area at or near a place of public assembly in which firearm possession is restricted to include areas "within 100 yards of a place of public assembly." *Id.* at 4.

Plaintiffs alleged four counts, numbered as follows: (I) that by expanding the "place of public assembly" definition, the County exceeded its authority under Article XI-E of the Maryland Constitution to enact local laws; (II) that Bill No. 4-21's amendments are inconsistent with and preempted by existing state law, in violation of the Maryland Express Powers Act, Md. Code Ann., Local Gov't § 10–206 (LexisNexis 2013); (III) that Bill No. 4-21 violates the Takings Clause of the Maryland Constitution, Md. Const. art. III, § 40 ("the Maryland Takings Clause"), and the Due Process Clause in Article 24 of the Maryland Declaration of Rights ("the Maryland Due Process Clause") by depriving gun owners of property without legal process or compensation; and (IV) that Bill No. 4-21's definitions of "place of public assembly," "ghost gun," "major component," and other terms are unconstitutionally vague, in violation of the Maryland Due Process Clause and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

On July 12, 2021, the County removed the case to this Court. On February 7, 2022, the Court granted in part and denied in part Plaintiffs' Motion to Sever and Remand in that it severed and remanded the state law claims in Counts I–III to the Circuit Court and stayed Count IV. *MSI I*, 2022 WL 375461, at *6. On June 23, 2022, the United States Supreme Court issued its opinion in *New York State Rifle and Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), which found unconstitutional a New York statute requiring a showing of a special need to obtain a license to carry firearms. *Id.* at 2122. On July 22, 2022, Plaintiffs filed a First Amended Complaint in the Circuit Court, which added Count V, a claim in which they alleged that, in light of *Bruen*, the provisions of Section 57-11 of the Montgomery County Code ("Section 57-11") restricting the

carrying of firearms in places of public assembly violate the Second Amendment to the United States Constitution. On August 8, 2022, the County removed the First Amended Complaint to this Court, which was docketed as Civil Action No. 22-1967. On September 1, 2022, this Court consolidated that newly removed case with the original case, No. 21-1736, which remained with this Court for resolution of the federal claim.

On November 15, 2022, in response to *Bruen*, the Montgomery County Council passed Bill No. 21-22E, signed into law by the County Executive on November 28, 2022, which further amended Chapter 57's firearm restrictions that were the subject of the original Complaint. As relevant here, Bill No. 21-22E returned the definition of a "place of public assembly" to an enumerated list of facilities, which now consists of:

> (1) a publicly or privately owned (A) park; (B) place of worship; (C) school; (D) library; (E) recreational facility; (F) hospital; (G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health; (H) long-term facility, including any licensed nursing home, group home, or care home; (I) multipurpose exhibition facility, such as a fairgrounds or conference center; or (J) childcare facility.
>
> (2) government building, including any place owned by or under the control of the County;
>
> (3) polling place;
>
> (4) courthouse;
>
> (5) legislative assembly; or
>
> (6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

Bill No. 21-22E at 3–4, SAC Ex. B, ECF No. 49-2; Montgomery Cnty. Code § 57-1. A "place of public assembly" includes "all property associated with the place, such as a parking lot or grounds of a building." Bill No. 21-22E at 4; Montgomery Cnty. Code § 57-1. Bill No. 21-22E retained

Bill No. 4-21's provision restricting firearm possession within 100 yards of a "place of public assembly," such that the present prohibition contained in Section 57-11 states that:

> (a) In or within 100 yards of a place of public assembly, a person must not:
>
> (1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or
>
> (2) sell, transfer, possess, or transport a firearm created through a 3D printing process.

Montgomery Cnty. Code § 57-11(a).

In light of *Bruen*'s holding that state firearm permits generally must be issued without requiring a showing of "special need," *see Bruen*, 142 S. Ct. at 2138, which effectively invalidated Maryland's prior permit regime which required applicants to make such a showing, *see* Md. Code Ann., Pub. Safety § 5–306(a)(6)(ii) (LexisNexis 2018), Bill No. 21-22E also removed a provision that had previously exempted from the prohibition on firearm possession within 100 yards of a "place of public assembly" "the possession of a handgun by a person who has received a permit to carry the handgun under State law." Bill No. 21-22E at 5. The effective date of Bill No. 21-22E was November 28, 2022.

On November 29, 2022, Plaintiffs filed a Second Amended Complaint in the present case to add challenges to the provisions of Bill No. 21-22E. Generally, Counts I, II, and III continue to assert the same state law claims as in the earlier complaints, consisting of challenges under the Maryland Constitution, the Express Powers Act, and the Maryland Takings Clause and Maryland Due Process Clause, respectively, but they have been expanded to apply also to the provisions of Bill No. 21-22E. Count IV of the Second Amended Complaint asserts that certain terms used in Chapter 57's definition of "place of public assembly," including the terms "library," "recreational facility," "community health center," "school," "park," and "long-term facility" are

unconstitutionally vague in violation of the federal and state constitutional rights to due process of law. Count V alleges that the restrictions relating to "major components" of firearms violate due process rights because they are arbitrary, irrational, and fail to serve a legitimate governmental objective. Count VI asserts that certain provisions in Bill No. 4-21 and Bill No. 21-22E that restrict activities relating to firearms in the presence of a minor or in locations accessible to minors violate the due process rights of parents of minor children to care for their children and to instruct them in the safe use and handling of firearms and components, in violation of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights. Count VII alleges that the restrictions in Bill No. 4-21 and Bill No. 21-22E, particularly those prohibiting the carrying of firearms in or near places of public assembly, unconstitutionally infringe on the Second Amendment right to armed self-defense in public as articulated in *Bruen*. Finally, Count VIII asserts that the restrictions on ghost guns and privately made firearms and components infringe on Plaintiffs' Second Amendment rights.

DISCUSSION

Plaintiffs have now filed a Motion for a Temporary Restraining Order and a Preliminary Injunction in which they request that the County be preliminarily enjoined from enforcing the ban on handgun possession at or within 100 yards of a place of public assembly against individuals who have been issued permits to carry a handgun by the Maryland State Police, specifically, as to the prohibition on carrying a handgun within 100 yards of a private school, public institution of higher education, childcare facility, place of worship, library, park, recreational facility, multipurpose exhibition facility, hospital, community health center, or long-term facility. Plaintiffs assert that in light of *Bruen*, these provisions violate their Second Amendment right to

carry a firearm in public for self-defense purposes, and that they face an imminent likelihood of irreparable harm in the absence of a preliminary injunction.

In opposing the Motion, the County argues that (1) Plaintiffs lack standing to assert their claims; (2) Plaintiffs have not demonstrated a likelihood of success on the merits of their claim that the prohibition on carrying a firearm at or within 100 yards of a place of public assembly, as set forth in Section 57-11 as amended by Bill No. 4-21 and Bill No. 21-22E, violates the Second Amendment; (3) Plaintiffs will not suffer irreparable harm if the Court does not issue an injunction; and (4) the balance of equities and the public interest are not in Plaintiffs' favor.

In considering the Motion, the Court construes all of the identified "places of public assembly" to be locations modified by that term itself. Specifically, while Plaintiffs argue that Section 57-11 prohibits the carrying of a firearm in purely private locations because a backyard pool could be construed as a "recreational facility," or an in-house library at Engage Armament LLC or a room with books in a private home could be construed as a "library," the Court disagrees. Based on the plain language of Bill No. 21-22E and Section 57-11, all identified locations, even those that are privately owned, necessarily are modified by the term "place of public assembly," so privately owned libraries, recreational facilities, and other locations referenced in the definition of "place of public assembly" meet the definition only if they are actually open to members of the public. The Court therefore need not and does not address the claim that Section 57-11 infringes on the right to armed self-defense by prohibiting carrying firearms in such purely private locations, or that it is unconstitutionally vague because it arguably could include such locations.

I. Legal Standard

To obtain a preliminary injunction, moving parties must establish that (1) they are likely to succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of preliminary

relief; (3) the balance of equities tips in their favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see Dewhurst v. Century Aluminum Co.*, 649 F.3d 287, 290 (4th Cir. 2011). A moving party must satisfy each requirement as articulated. *Pashby v. Delia*, 709 F.3d 307, 320 (4th Cir. 2013). Because a preliminary injunction is "an extraordinary remedy," it "may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

II. Standing

As a threshold matter, the County argues that Plaintiffs lack standing to assert their claims primarily because they have not shown that there is a sufficiently "credible threat of imminent prosecution." Opp'n Mot. Preliminary Inj. ("Opp'n") at 10, ECF No. 59-2. Because Article III of the United States Constitution limits the jurisdiction of federal courts to "Cases" and "Controversies," plaintiffs in federal civil actions must demonstrate standing to assert their claims. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). The "irreducible constitutional minimum" requirements of standing consist of three elements: (1) the plaintiff must have suffered an "injury in fact"; (2) the injury must be fairly traceable to the actions of the defendant; and (3) it must be "likely" that the injury will be "redressed by a favorable decision." *Id.* at 560–61 (citations omitted). An injury in fact must be "an invasion of a legally protected interest" that is "concrete and particularized" and "actual or imminent, not conjectural or hypothetical." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016). Standing must be established for each claim and form of relief sought. *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352 (2006). For purposes of the Motion, the claims at issue are the Second Amendment claims asserted in Count VII. When there are multiple plaintiffs, the Court need only determine that there is at least one plaintiff with standing

for a particular claim in order to consider the claim. *Town of Chester v. Laroe Ests., Inc.*, 581 U.S. 433, 439 (2017).

In asserting a concrete injury necessary to establish standing to assert the Second Amendment claims in Count VII, Plaintiffs allege that because most of the Individual Plaintiffs have Maryland firearm permits and regularly travel to, or come within 100 yards of, one or more of the "places of public assembly" while carrying a firearm, they face a risk of prosecution during such activities, in violation of their Second Amendment right to carry a firearm for self-defense. The County, however, argues that there is no injury in fact because Plaintiffs have not demonstrated a likelihood that they would actually be prosecuted for carrying a firearm in or within 100 yards of a place of public assembly.

A plaintiff may challenge the prospective operation of a statute when there is "a realistic danger of sustaining a direct injury as a result of the statute's operation or enforcement." *Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289, 298 (1979). When challenging a criminal statute, it is not necessary that the plaintiff first be exposed "to actual arrest or prosecution to be entitled to challenge [the] statute" that the plaintiff "claims deters the exercise of . . . constitutional rights." *Id.* (quoting *Steffel v. Thompson*, 415 U.S. 452, 459 (1974)). A plaintiff can satisfy the injury-in-fact requirement by alleging "an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder.'" *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014) (quoting *Babbitt*, 442 U.S. at 298.

The County argues that there is no credible threat of prosecution because Plaintiffs have not actually been threatened with prosecution, and they have not established that anyone else has been prosecuted for violations of the amendments to Section 57-11. Although courts have found

standing when there was an actual threat of prosecution, they have not required such a threat. *See, e.g.*, *Steffel v. Thompson*, 415 U.S. 452, 459 (1974) (finding standing to challenge a criminal trespass law as violating First Amendment rights where the plaintiff was warned that he would likely be prosecuted if he continued to distribute handbills at a shopping center). Rather, in *Babbitt*, the Supreme Court held only that "[w]hen plaintiffs do not claim that they have ever been threatened with prosecution, that a prosecution is likely, or even that a prosecution is remotely possible" they have failed to "allege a dispute susceptible to resolution by a federal court." *Babbitt*, 442 U.S. at 298-99. Thus, a plaintiff whose prosecution is at least "remotely possible," and whose fear of prosecution is not "imaginary or speculative," can demonstrate a credible threat of prosecution. *Id.*

In *Virginia v. American Booksellers Association, Inc.*, 484 U.S. 383 (1988), several organizations of booksellers brought a First Amendment challenge to a Virginia law prohibiting the commercial display of sexually explicit material that is "harmful to juveniles." *Id.* at 386. The Supreme Court held that the booksellers established an injury in fact for purposes of standing even in the absence of any specific threat to prosecute the plaintiffs or anyone else, because the Virginia law was aimed directly at the booksellers, and they would either have to take significant and costly compliance measures or risk criminal prosecution. *Id.* at 392. Moreover, where the state government did not suggest that the newly enacted law would not be enforced, the plaintiffs had a "well-founded fear that the law will be enforced against them." *Id.* at 393.

Likewise, the firearm restrictions in Section 57-11 relating to places of public assembly are plainly targeted at gun owners who, like Plaintiffs, must either forgo the asserted constitutional right to carry a firearm in such locations or risk criminal prosecution. Plaintiffs have stated that their past conduct would violate the present version of Section 57-11 and have expressed a concrete

intention to continue to engage in conduct that would violate Section 57-11. *Cf. Md. Shall Issue, Inc. v. Hogan*, 971 F.3d 199, 218 (4th Cir. 2020) (finding a lack of a credible threat of prosecution where the state had not threatened prosecution, there was no evidence of the law being enforced as feared, *and* the plaintiffs had not alleged any "concrete intention" to take actions to violate the law at issue). Notably, at the hearing on the Motion, counsel for the County declined to commit to refraining from prosecuting Plaintiffs or others for violations of these restrictions. Indeed, the County has not explained why it would enact firearms laws such as Section 57-11 if it does not intend to enforce them. Where, as in *American Booksellers Association*, the Individual Plaintiffs have alleged that in the course of their regular activities they will take actions that would violate Section 57-11, and the relevant governmental authority has not disavowed prosecuting them for such a violation, Plaintiffs have sufficiently alleged "an actual and well-founded fear that the law will be enforced against them" and thus an imminent, impending injury based on a reasonable fear of prosecution. *See Am. Booksellers Ass'n*, 484 U.S. at 393.

The County, however, has also argued that Plaintiffs have not alleged sufficient facts to assert standing for the Second Amendment challenges to firearm restrictions relating to specific categories of places of public assembly. Because, as discussed below, the challenge to a particular location category requires a different legal analysis, the Court construes each such challenge to be a separate claim for which standing must be established. *DaimlerChrysler Corp.*, 547 U.S. at 352. Indeed, courts considering similar Second Amendment challenges to firearm restrictions on specific sensitive places or places of public assembly have conducted a standing analysis relating to each specific location category. *See Antonyuk v. Hochul*, No. 22-0986(GTS/CFH), 2022 WL 16744700, at *11–*37 (N.D.N.Y. Nov. 7, 2022); *Koons v. Platkin*, No. 22-7463(RMB/AMD), 2023 WL 3478604, at *44–*48 (D.N.J. May 16, 2023). Considering the categories of places of

public assembly referenced in Chapter 57-11, Plaintiffs have specifically alleged facts demonstrating that an Individual Plaintiff would regularly carry a firearm in some of the identified locations in the future, which in turn supports standing to challenge the restriction on carrying at or near those locations.

As to private schools and public libraries, the Second Amended Complaint alleges that Plaintiff Eliyahu Shemony regularly carries a firearm with him and intends to continue doing so while "going to and inside a public library" and while "picking up minor children at their private school." SAC ¶ 74. As to places of worship, MSI members David Sussman and Allan Barall submitted declarations stating that they serve as volunteer armed security personnel for their synagogues and that they previously obtained Maryland permits to carry a firearm in order to provide such security. As to places of worship, recreational facilities, and multipurpose exhibition facilities, the Second Amended Complaint alleges that Plaintiff Ronald David regularly carries a firearm with him and intends to continue doing so while at his place of worship, recreational facilities, and fairgrounds, which are part of the definition of "multipurpose exhibition facility." SAC ¶ 72. Although these allegations do not identify the specific locations that David intends to visit, for purposes of the Motion the Court finds them sufficient. Based on multiple allegations that certain Plaintiffs regularly travel within 100 yards of a "place of public assembly," they have also alleged facts sufficient to challenge the part of the definition of "place of public assembly" that includes such a buffer zone.

In contrast, however, the Court finds that Plaintiffs have failed to allege facts demonstrating standing to challenge the firearm restrictions relating to public institutions of higher education, such as colleges and universities. The Second Amended Complaint lacks allegations that any Plaintiff intends to visit a college or university in Montgomery County while carrying a firearm.

Plaintiffs therefore have failed to allege an injury in fact sufficient to challenge the application of Section 57-11 to institutions of higher education. Likewise, the allegations are insufficient to establish standing to challenge restrictions on private libraries. While the Second Amended Complaint references libraries on multiple occasions, and on some occasions specifically references public libraries, it does not assert that a Plaintiff regularly carries a firearm in a privately owned library, by name or otherwise. Where public libraries are prevalent in Montgomery County, and Plaintiffs have not even identified any specific private library in Montgomery County, much less one regularly visited by a Plaintiff, the Court will not stretch the general allegations relating to libraries beyond the breaking point to establish an injury in fact relating to carrying firearms in a private library. The Court therefore finds that Plaintiffs have not established standing to challenge the restriction on carrying firearms in private libraries.

As to public and private parks, David asserts that he regularly carries a loaded firearm with him "at a park within the County" and intends to continue to do so. SAC ¶ 72. Neither this allegation nor any other allegations in the Second Amended Complaint identifies any particular park, and while some allegations specifically reference public parks, none asserts that a Plaintiff regularly carries a firearm in a privately owned park, by name or otherwise. Where the term "park" ordinarily refers to public parks, which are prevalent in Montgomery County, and Plaintiffs have not even identified any specific private park in Montgomery County, much less one regularly visited by a Plaintiff, the Court will not unreasonably stretch the general allegations relating to parks to establish an injury in fact relating to carrying firearms in a private park, particularly when the analysis relating to private parks differs from that relating to public parks to the point that it effectively relates to a different claim. *See infra* Part III.E. The Court therefore finds that Plaintiffs

have established standing to challenge the restrictions on carrying firearms in public parks, but not those relating to private parks.

As to hospitals, community health centers, and long-term care facilities such as a "licensed nursing home, group home, or care home," Bill No. 21-22E at 3-4, there are no allegations that a Plaintiff regularly visits or intends to visit a hospital or other identified health care facility while carrying a firearm. Indeed, there are no references of any kind in the Second Amended Complaint to community health centers or facilities licensed by the Maryland Department of Health. *See Antonyuk*, 2022 WL 16744700, at *23, *25 (finding a lack of standing to challenge New York firearm restrictions relating to "[t]he location of any program licensed, regulated, certified, operated, or funded by the office for people with developmental disabilities" and relating to "[r]esidential settings licensed, certified, regulated, funded, or operated by the department of health"). While the Second Amended Complaint generally references visits to "health care facilities" and mentions travel near facilities for "assisted living," *e.g.*, SAC ¶¶ 59, 62, Plaintiffs do not identify any specific facilities, and the Court does not construe these general terms to fall within the categories referenced in Bill No. 21-22E, which consist of licensed community health centers or the equivalent and long-term care facilities akin to licensed nursing homes, group homes, or care homes, not assisted living facilities which typically do not involve communal living and do not necessarily include the provision of health care. *See Koons*, 2023 WL 3478604, at *47 (finding that allegations that the plaintiffs frequented certain specific types of health care facilities did not establish standing to challenge firearm restrictions relating to numerous other types of health care facilities). Accordingly, the Court finds that Plaintiffs have not provided sufficient allegations to establish standing to challenge the restrictions on carrying firearms at these types of facilities.

The Second Amended Complaint contains a single reference to a hospital: Plaintiff Carlos Rabanales alleges that he carries a loaded firearm and intends to continue doing so on his daily commute to work, during which he passes within 100 yards of a hospital, and that there is no practical way for him to avoid coming within 100 yards of a hospital during his commute. Rabanales does not identify the hospital at issue and does not allege that he has carried or will likely carry a firearm into a hospital. This allegation arguably could establish that Rabanales faces a concrete injury relating to the prohibition on carrying firearms within a 100-yard buffer zone around a "place of public assembly," Montgomery Cnty. Code § 57-11, but it does not support standing to challenge the bar on carrying a firearm inside a hospital itself and thus could not provide a basis to support an injunction against enforcement of that ban. Nevertheless, because Rabanales's potential injury from the 100-yard buffer zone may indirectly derive from the bar on carrying a firearm in a hospital, the Court will address the likelihood of success on the merits of the challenge to that provision as implicated by proximity to a hospital.

As for the remaining requirements for standing, Plaintiffs have sufficiently alleged that the injury is fairly traceable to the actions of the County, in the form of potential prosecution by the County, and that the injury would be redressable through the injunctive relief sought. The Court therefore finds standing as to the Second Amendment claims relating to the prohibitions on carrying a firearm at a private school, a childcare facility, a place of worship, a public park, a recreational facility or multipurpose exhibition facility, a public library, and within 100 yards of any place of public assembly. Montgomery Cnty. Code § 57-11. It does not find standing as to the claims relating to the rest of the identified locations.

III. Likelihood of Success on the Merits

The first requirement for a preliminary injunction is that the moving party demonstrate a likelihood of success on the merits of its claims, which for purposes of the Motion, and based on the Court's findings relating to standing, consist of the Second Amendment challenge to the prohibition on Maryland firearm permit holders carrying a firearm in the following "places of public assembly": a private school, a childcare facility, a place of worship, a public park, a recreational facility or multipurpose exhibition facility, a public library, and within 100 yards of a place of public assembly. The Court will analyze each of these categories separately.

A. Legal Standards

In *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), the Supreme Court held that the Second Amendment protects "an individual's right to carry a handgun for self-defense outside the home." *Id.* at 2122. However, "the right secured by the Second Amendment is not unlimited." *Id.* at 2128 (quoting *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008)).

In *Bruen*, the Supreme Court considered the two-step test that Courts of Appeals had generally adopted for assessing Second Amendment claims after *District of Columbia v. Heller*, 554 U.S. 570 (2008). At the first step, the Government could justify a firearm regulation by showing that the challenged law regulates activity outside the scope of the Second Amendment right as originally understood, and if it successfully does so, "then the analysis can stop there; the regulated activity is categorically unprotected." *Bruen*, 142 S. Ct. at 2126. At the second step, courts engaged in a means-end analysis, applying either strict or intermediate scrutiny to assess whether the governmental interest underlying the law justified the restriction. *Id.*

The *Bruen* Court generally reaffirmed the first step by stating that it "is broadly consistent with *Heller*," but it rejected the means-end second step. *Id.* at 2127. It then adopted a Second Amendment test of considering, first, whether the "Second Amendment's plain text covers an individual's conduct," and if so, "the Constitution presumptively protects that conduct." *Id.* at 2129–30. Notably, the Supreme Court identified certain "sensitive places," including schools, government buildings, legislative assembles, polling places, and courthouses, for which it is "settled" that "arms carrying could be prohibited consistent with the Second Amendment," even in the absence of a significant historical record from the 1700s or 1800s of such restrictions. *Id.* at 2133. If the regulation covers Second Amendment conduct, rather than engaging in a means-end inquiry, "[t]he government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Id.* at 2130. This historical inquiry considers whether there is "historical precedent" from before, during, and after the enactment of the Second Amendment that "evinces a comparable tradition of regulation" in the same manner as the present day restriction. *Id.* at 2131–32.

Present-day firearm regulations that were "unimaginable at the founding," such as those that relate to "unprecedented societal concerns or dramatic technological changes," may still be upheld as consistent with the historical tradition of firearm regulation based on "reasoning by analogy." *Id.* at 2130, 2132. The Supreme Court stated that two primary metrics are relevant for determining whether such a modern regulation is "relevantly similar" to a historical regulation: "how and why the regulations burden a law-abiding citizen's right to armed self-defense." *Id.* at 2132–33. "[C]entral" to this inquiry is "whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified." *Id.* "[A]nalogical reasoning under the Second Amendment is neither a regulatory

straightjacket nor a regulatory blank check." *Id.* at 2133. Although "courts should not 'uphold every modern law that remotely resembles a historical analogue,' . . . analogical reasoning requires only that the government identify a well-established and representative historical *analogue*, not a historical *twin*." *Id.* (quoting *Drummond v. Robinson*, 9 F.4th 217, 226 (3d Cir. 2021)). "So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster." *Id.*

In addressing the types of historical sources to be considered when analyzing this second prong in relation to a state law restriction on firearms, the Supreme Court "acknowledge[d] that there is an ongoing scholarly debate on whether courts should primarily rely on the prevailing understanding of an individual right when the Fourteenth Amendment was ratified in 1868 when defining its scope." *Id.* at 2138. However, the Court declined to take a position on this issue and thus left open the question whether courts may consider only historical sources from the time period of the ratification of the Second Amendment in 1791, or whether they may, and perhaps should primarily consider, historical sources from the time period of the ratification of the Fourteenth Amendment in 1868, at which point the protections of the Second Amendment became applicable to state firearm restrictions. *Id.*

Upon consideration of this issue, the Court concludes that historical sources from the time period of the ratification of the Fourteenth Amendment are equally if not more probative of the scope of the Second Amendment's right to bear arms as applied to the states by the Fourteenth Amendment. "[T]he Second Amendment[] originally applied only to the Federal Government." *McDonald v. City of Chicago*, 561 U.S. 742, 754 (2010). Indeed, in 1833, the Supreme Court so held and rejected the proposition that the first eight constitutional amendments operated as limitations on the States. *See Barron ex rel. Tiernan v. Mayor of Balt.*, 32 U.S. (7 Pet.) 243, 250–

51 (1833). However, after the ratification of the Fourteenth Amendment, the Court "eventually incorporated almost all of the provisions of the Bill of Rights" as applying to the States. *McDonald*, 561 U.S. at 764. In *McDonald*, the Supreme Court held that the Fourteenth Amendment makes the Second Amendment right to keep and bear arms fully applicable to the States. *Id.* at 750. Thus, as the *Bruen* Court noted, "[s]trictly speaking," states are "bound to respect the right to keep and bear arms because of the Fourteenth Amendment, not the Second." *Bruen*, 142 S. Ct. at 2137.

Relying in part on this point, the United States Court of Appeals for the Eleventh Circuit recently held that "[h]istorical sources from the Reconstruction Era are more probative of the Second Amendment's scope than those from the Founding Era" when considering state law firearm restrictions. *Nat'l Rifle Ass'n v. Bondi*, 61 F.4th 1317, 1322 (11th Cir. 2023). The court reasoned that "because the Fourteenth Amendment is what caused the Second Amendment to apply to the States, the Reconstruction Era understanding of the right to bear arms—that is, the understanding that prevailed when the States adopted the Fourteenth Amendment—is what matters." *Id.* This conclusion is necessary "to be faithful to the principle that '[c]onstitutional rights are enshrined with the scope they were understood to have *when the people adopted them*,'" because "it makes no sense to suggest that the States would have bound themselves to an understanding of the Bill of Rights—including that of the Second Amendment—that they did not share when they ratified the Fourteenth Amendment." *Id.* at 1323–24 (quoting *Bruen*, 142 S. Ct. at 2136). The Court agrees with the Eleventh Circuit's reasoning and will consider historical sources from the time period of the ratification of the Fourteenth Amendment.

B. Schools

Plaintiffs challenge certain aspects of Section 57-11's prohibition on the carrying of firearms at "schools" within the County. Montgomery Cnty. Code §§ 57-1, 57-11. Where the Supreme Court has specifically deemed "schools" and "government buildings" to be "sensitive places" at which the carrying of firearms could be prohibited consistent with the Second Amendment, *Bruen*, 142 S. Ct. at 2133, Plaintiffs do not challenge the restriction relating to public elementary and secondary schools. Rather, they assert that private schools or public institutions of higher education are not "sensitive places" under *Bruen*, such that to the extent that the firearm restrictions relating to schools apply to those locations, they are barred by the Second Amendment.

The Court finds that Plaintiffs' challenge on this point is unlikely to succeed. *Bruen* did not distinguish between public schools and private schools or limit the term "schools" based on the age of the students. *See Bruen*, 142 S. Ct. at 2133. Nor did *Heller*, which first designated "schools" as "sensitive places" for purposes of the Second Amendment. *Heller*, 554 U.S. at 626. Particularly where public school education was not mandatory in a single state until 1852 or throughout the country until 1918, *see* Michael S. Katz, *A History of Compulsory Education Laws* 5 (Donald W. Robinson ed. 1976), to limit schools deemed to be "sensitive places" to public schools is likely inconsistent with the relevant history that underlies Second Amendment analysis. Where no distinction between different kinds of schools exists in *Bruen*, and where Plaintiffs have pointed to no authority warranting such a distinction, the Court declines to create one and finds that Plaintiffs are unlikely to succeed on their challenge to Section 57-11's restriction on the carrying of firearms in "schools" as applied to private schools. *Cf. Antonyuk*, 2022 WL 16744700, at *68 (finding that restrictions on carrying arms in nursery schools and preschools were permissible in light of historical analogues to laws forbidding arms in schools).

As for public institutions of higher education, as discussed above, Plaintiffs lack standing to challenge the restriction as applied to such institutions. *See supra* part II. Even if the Court were to consider the merits of this issue, it would also find that Plaintiffs are unlikely to succeed on the merits because *Bruen* made no distinction among schools based on the age of the students, a restriction relating to a public college is analogous to the undisputedly lawful prohibitions on carrying firearms at public elementary or secondary schools, and the only institutions of higher education in the County—Montgomery College and the Universities at Shady Grove, which is part the University System of Maryland—are public institutions consisting of government buildings which are themselves "sensitive places" under *Bruen* and *Heller*. *Bruen*, 142 S. Ct. at 2133; *Heller*, 554 U.S. at 626. Finally, as discussed below, restrictions on carrying firearms in such an institution are also consistent with the historical tradition of firearm regulations in places of learning. *See infra* part III.F.

C. Childcare Facilities

Although childcare facilities are not listed among the "sensitive places" identified in *Bruen*, the Court finds that they are properly deemed to be sensitive places because they are analogous to schools. In *Bruen*, the Supreme Court instructed that "courts can use analogies to those historical regulations of 'sensitive places' to determine that modern regulations prohibiting the carry of firearms in *new* and analogous sensitive places are constitutionally permissible." *Bruen*, 142 S. Ct. at 2133. Although childcare facilities likely did not exist in any significant numbers at the time of the ratification of the Second and Fourteenth Amendments, the facilities are sufficiently analogous to schools to be deemed sensitive places for purposes of Second Amendment analysis. First, the burden imposed on the right to self-defense is the same between prohibitions on carrying firearms into schools and prohibitions on carrying arms into childcare facilities. Second, the

burdens are comparably justified, because schools, like childcare facilities, are tasked with providing education and socialization to attendees, purposes furthered by prohibitions on bringing firearms into those locations. Moreover, prohibitions on firearms in both schools and childcare facilities are meant to protect the same or similar vulnerable populations, consisting of students and children. Indeed, childcare facilities often provide care for school-age children immediately before or after the school day, or they provide care for children below school age. Under these circumstances, the Court finds that childcare facilities are "sensitive places" by analogy to schools, such that restrictions on carrying firearms in childcare facilities are consistent with the Second Amendment. *See Antonyuk*, 2022 WL 16744700, at *68 (finding that restrictions on carrying arms in nursery schools and preschools were permissible in light of historical analogues to laws forbidding arms in schools). Plaintiffs are therefore unlikely to succeed on the merits of their challenge to Section 57-11 as it relates to childcare facilities.

D. Places of Worship

Plaintiffs are not likely to succeed on the merits of their claim that the County's restriction on carrying a firearm at a place of worship violates the Second Amendment. The historical record in the years following the ratification of the Fourteenth Amendment, as presented by the County, demonstrates a well-established and representative number of statutes that prohibited firearms in places of worship.

For example, in 1870, only two years after the ratification, Georgia enacted an amendment to the Georgia Penal Code that prohibited a person from carrying "any dirk, bowie-knife, pistol or revolver, or any kind of deadly weapon" to "any . . . place of public worship." 1870 Ga. Acts & Resolutions, tit. XVI, § 1, Opp'n Ex. 18, ECF No. 59-22. Also in 1870, Texas enacted a statute that prohibited any person from going "into any church or religious assembly" while having "about

his person . . . fire-arms, whether known as a six shooter, gun or pistol of any kind." 1870 Tex. Gen. Laws, ch. XLVI, § 1, Opp'n Ex. 21, ECF No. 59-25. In 1875, Missouri prohibited individuals from "go[ing] into any church or place where people have assembled for religious worship" while "having upon or about his person any kind of fire arms." 1875 Missouri Gen. and Local Laws at 50, § 1, Opp'n Ex. 23, ECF No. 59-27. In 1878, Virginia prohibited "carrying any gun, pistol . . . or other dangerous weapon" to "any place of worship while a meeting for religious purposes is being held at such place." 1878 Va. Acts and Joint Resolutions, ch. VII, § 21, Opp'n Ex. 24, ECF No. 59-28. In 1889, the Territory of Arizona prohibited the carrying in "any church or religious assembly" of "a pistol or other firearm." 1889 Ariz. Session Laws of the Fifteenth Legislative Assembly of the Territory of Arizona at 17, § 3, ECF No. 59-38. In 1890, in Columbia, Missouri, an ordinance was adopted which prohibited any person who enters "any church, or place where people have assembled for religious worship" from carrying "any fire arms or other deadly or dangerous weapon." 1890 Columbia, Mo. Gen. Ordinances, ch. XV11, § 163, Opp'n Ex. 35, ECF No. 59-39. In 1890, the Territory of Oklahoma banned the carrying of a "pistol" or "revolver," or certain other dangerous weapons, "into any church or religious assembly." 1890 Okla. Statutes, art. 47, §§ 1–2, 7, ECF No. 59-40. Finally, in 1894, the City of Huntsville, Missouri prohibited the carrying of "any kind of fire-arms" into "any church or place where people have assembled for religious worship." 1894 Huntsville, Mo. Revised Ordinances at 58–59, § 1, Opp'n Ex. 42, ECF No. 59-46.

These historical statutes and ordinances demonstrate that there is "historical precedent" from the time period of the ratification of the Fourteenth Amendment that "evinces a comparable tradition of regulation" of firearms at places of worship. *Bruen*, 142 S. Ct. at 2131–32. Where the historical record provides a strong basis upon which to conclude that Section 57-11's bar on

carrying a firearm in a place of worship is "consistent with the Nation's historical tradition of firearm regulation," *id.* at 2130, the Court finds that Plaintiffs are not likely to succeed on the merits of their Second Amendment claim relating to the carrying of firearms in places of worship.

E. Public Parks, Recreational Facilities, and Multipurpose Exhibition Facilities

In considering Plaintiffs' challenge to Section 57-11's restrictions on carrying firearms in public parks, recreational facilities, and multipurpose exhibition facilities, the Court finds that the historical record provided by the County demonstrates a history of restricting firearm possession and carrying in public parks and at locations where large numbers of people engaged in recreation.

As to public parks, numerous historical statutes and ordinances from the time period before and following the ratification of the Fourteenth Amendment imposed such restrictions in relation to parks. First, during that time period, numerous local governments similarly situated to Montgomery County, in states all over the United States, prohibited firearms in parks. These restrictions included prohibitions on carrying firearms in parks in major American cities, such as an 1857 ordinance stating that "[a]ll persons are forbidden . . . [t]o carry firearms or to throw stones or other missiles" within Central Park in New York City, *see* First Annual Report on the Improvement of the Central Park, New York at 106 (1857), Opp'n Ex. 13, ECF No. 59-17; an 1870 law enacted by the Commonwealth of Pennsylvania stating that "[n]o persons shall carry fire-arms" in Fairmount Park in Philadelphia, Pennsylvania, *see* Acts of Assembly Relating to Fairmount Park at 18, § 21.II (1870), Opp'n Ex. 20, ECF No. 59-24; an 1895 Michigan state law providing that "No person shall fire or discharge any gun or pistol or carry firearms, or throw stones or other missiles" within a park in the City of Detroit, *see* 1895 Mich. Local Acts at 596, § 44, Opp'n Ex. 43, ECF No. 59-47; and a 1905 ordinance in Chicago, Illinois stating that "all persons are forbidden to carry firearms or to throw stones or other missiles within any of the Parks

. . . of the City," 1905 Chi. Revised Mun. Code, ch. XLV, art. I, § 1562, Opp'n Ex. 49, ECF No. 59-53. Similar restrictions were enacted to bar the carrying of firearms in (1) Saint Paul, Minnesota, *see* Annual Reports of the City Officers and City Boards of the City of Saint Paul at 689 (1888), Opp'n Ex. 32, ECF No. 59-36; (2) Williamsport, Pennsylvania, *see* 1891 Williamsport, Pa. Laws and Ordinances at 141, § 1, Opp'n Ex. 37, ECF No. 59-41; (3) Wilmington, Delaware, *see* 1893 Wilmington, Del. Charter, Part VII, § 7, Opp'n Ex. 39, ECF No. 59-43; (4) Reading, Pennsylvania, *see* A Digest of the Laws and Ordinances for the Government of the Municipal Corporation of the City of Reading, Pennsylvania at 240, § 20(8) (1897), Opp'n Ex. 44, ECF No. 59-48; (5) Boulder, Colorado, *see* 1899 Boulder, Colo. Revised Ordinances at 157, § 511, Opp'n Ex. 45, ECF No. 59-49; (6) Trenton, New Jersey, *see* 1903 Trenton, N.J. Charter and Ordinances at 390, Opp'n Ex. 48, ECF No. 59-52; (7) Phoenixville, Pennsylvania, *see* A Digest of the Ordinances of Town Council of the Borough of Phoenixville at 135, § 1 (1906), Opp'n Ex. 52, ECF No. 59-56; (8) Oakland, California, *see* 1909 Oakland, Cal. Gen. Mun. Ordinances at 15, § 9, Opp'n Ex. 53, ECF No. 59-57; (9) Staunton, Virginia, *see* 1910 Staunton, Va. Code, ch. II, § 135, Opp'n Ex. 54, ECF No. 59-58; and (10) Birmingham, Alabama, *see* 1917 Birmingham, Ala. Code, ch. XLIV, § 1544, Opp'n Ex. 55, ECF No. 59-59.

On a state level, in 1905, Minnesota prohibited the possession of firearms within state parks unless they were unloaded and sealed by a park commissioner. 1905 Minn. Laws, ch. 344, § 53, Opp'n Ex. 50, ECF No. 59-54. In 1917, Wisconsin prohibited bringing a "gun or rifle" into any "wild life refuge, state park, or state fish hatchery lands" unless it was unloaded and in a carrying case. 1917 Wis. Sess. Laws, ch. 668, § 29.57(4), Opp'n Ex. 56, ECF No. 59-60. In 1921, North Carolina enacted a law prohibiting the carrying of firearms in both private and public parks without

the permission of the owner or manager of that park. *See* 1921 N.C. Sess. Laws 53–54, Pub. Laws Extra Sess., ch. 6, §§ 1, 3, Opp'n Ex. 57, ECF No. 59-61.

These laws which, like Section 57-11, categorically bar the carrying of firearms in parks, demonstrate that there is "historical precedent" from before, during, and after the ratification of the Fourteenth Amendment that "evinces a comparable tradition of regulation" of firearms in parks. *See Bruen*, 142 S. Ct. at 2131–32. Although Plaintiffs argue that some of these historical statutes should be discounted because their purpose may have been to protect waterfowl or wildlife, this argument is unpersuasive for two reasons. First, the considerations of "how and why" historical regulations burden rights relating to firearms are applicable not when there is clear historical example of the exact same type of regulation—in this instance, restrictions on carrying firearms in parks—but are instead applicable only when the Court is asked to reason by analogy in order to uphold a new form of restriction that did not exist at the time of the ratification. *See Bruen*, 142 S. Ct. at 2132–33. Second, even if these considerations must be examined, these provisions restrict the carrying of firearms in the exact same way, by barring the carrying of a firearm in a park regardless of what self-defense concerns might exist, and they do so for apparently similar reasons. Though some of the historical statutes may have prohibited firearms from parks in order to protect wildlife and property, many plainly served to advance public safety and the peaceful enjoyment of parks, such as those that also prohibited the throwing of objects in parks, including the laws that applied to parks in densely populated urban areas, such as New York, Philadelphia, Detroit, and Chicago. The Court therefore finds that Plaintiffs are unlikely to succeed on the merits of their challenge to Section 57-11's restriction on carrying firearms in parks in Montgomery County, which is also a densely populated area.

As for Section 57-11's restriction on carrying firearms in recreational facilities and multipurpose exhibition facilities, the historical statutes applicable to parks are fairly deemed to be well-established and representative historical analogues because such facilities, like parks, are locations at which large numbers of people gather to engage in recreation. In addition, there are historical statutes and regulations from states and territories that directly restricted the carrying of firearms in recreational facilities and multipurpose exhibition facilities. In the early 1800s, New Orleans, Louisiana prohibited individuals from entering "into a public ballroom with any cane, stick, sword, or any other weapon." General Digest of the Ordinances and Resolutions of the Corporation of New Orleans at 371, art. 1 (1831), Opp'n Ex. 7, ECF No. 59-11. Similarly, in 1852, the Territory of New Mexico prohibited firearms or other deadly weapons at balls or dances. 1852 N.M. Laws at 67–68, § 3, Opp'n Ex. 12, ECF No. 59-16. In 1870, Tennessee prohibited the carrying of a pistol or other "deadly or dangerous weapon" at "any fair, race course, or other public assembly of the people." 1870 Tenn. Acts, ch. XXII, § 2, Opp'n Ex. 17, ECF No. 59-21. In 1870, Texas prohibited firearms, including "a six shooter, gun or pistol of any kind" in "a ball room, social party or other social gathering composed of ladies and gentlemen." 1870 Tex. Gen. Laws, ch. XLVI, § 1. In 1889, the Territory of Arizona banned firearms in any "place where persons are assembled for amusement . . . or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering." 1889 Ariz. Session Laws at 17 § 3. In 1890, the Territory of Oklahoma prohibited arms in any "place where persons are assembled . . . for amusement . . . or any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering." Okla. Statutes, art. 47, § 7 (1890).

Whether viewed as direct historical precedent or historical analogues, these statutes and ordinances demonstrate a historical tradition of restricting the carrying of firearms in places where

individuals gather for recreation or social activities such as the recreational facilities and multipurpose exhibition facilities covered by Section 57-11. Because these provisions, like Section 57-11, generally prohibit the carrying of firearms in these locations, with no exception relating to possible self-defense needs, they impose a comparable burden on the right to bear arms as Section 57-11. The reasons for these historical restrictions, which appear to be to protect individuals engaged in these recreational and social activities from confrontations and encounters involving firearms or other dangerous weapons, are comparable to the reason for the prohibitions of Section 57-11, which is to address possible gun violence in or near places of public assembly. *See* Legislative Request Report, Opp'n Ex. 2 at 17, ECF No. 59-6.

Where there is a distinct foundation of historical precedent demonstrating that prohibitions on carrying firearms in public parks, places of recreation, and social gatherings are part of the "Nation's historical tradition of firearm regulation," *Bruen*, 142 S. Ct. at 2130, the Court finds that Plaintiffs are not likely to succeed on the merits of their challenges to Section 57-11's prohibitions on carrying firearms in public parks, recreational facilities, and multipurpose exhibition facilities.

F. Public Libraries

Plaintiffs are also not likely to succeed on the merits of their claim as to public libraries. First, all public libraries in Montgomery County are in government buildings, which are "sensitive places" where arms carrying can be prohibited consistent with the Second Amendment. *Bruen*, 142 S. Ct. 2133. Second, as presented by the County, there is a representative number of historical statutes that demonstrate a historical tradition of firearm regulation in places of gathering for literary or educational purposes, including public libraries.

For example, in 1870, Texas enacted a law prohibiting the carrying of firearms in "any school room or other place where persons are assembled for educational, literary or scientific

purposes." 1870 Tex. Gen. Laws, ch. XLVI, § 1. In 1879, Missouri prohibited the carrying on one's person of "any kind of firearms" in "any school room or place where people are assembled for educational, literary or social purposes." 1879 Mo. Revised Statutes, ch. 24, art. II, § 1274, Opp'n Ex. 25, ECF No. 59-29. In 1889, the Territory of Arizona prohibited the carrying of a "pistol or other firearm" into any "place where persons are assembled for . . . educational or scientific purposes." 1889 Ariz. Session Laws at 17, § 3. Similarly, in 1893, the Territory of Oklahoma outlawed bringing a pistol, revolver, or any other instrument manufactured "for the purpose of defense" into any "place where persons are assembled for . . . educational or scientific purposes." 1893 Okla. Statutes, ch. 25, art. 45, § 7, Opp'n Ex. 40, ECF No. 59-44. Finally, in 1903 Montana prohibited the carrying of "a pistol or other firearm" in "any school room or other place where persons are assembled for . . . educational or scientific purposes." 1903 Mont. Gen. Laws, ch. XXXV, § 3, Opp'n Ex. 47, ECF No. 59-51. Based on a straightforward reading of the language of these provisions, they necessarily apply to public libraries. Although the Court has found a lack of standing to challenge firearm restrictions relating to private libraries, the Court notes that none of these laws limits its prohibitions to public facilities where people were assembled for educational, literary, or scientific purposes, so they also demonstrate a historical tradition of firearm regulation in privately operated libraries open to the public.

These historical provisions imposed comparable burdens on the right to bear arms as Section 57-11's restriction on carrying firearms in a library. Where these historical laws apparently were aimed at preventing disruption of educational and literary activities and ensuring safety during those activities, the burdens imposed by them and by Section 57-11 are comparably justified. Accordingly, the Court finds that Plaintiffs are unlikely to succeed on the merits of their challenge to Section 57-11 as to libraries.

Finally, the Court notes that while it has found that Plaintiffs lack standing to challenge to Section 57-11 as applied to public institutions of higher education, to the extent that it were to consider the merits of that challenge, the same historical examples, based on their plain language, encompass restrictions on carrying firearms at such institutions and thus provide a basis to find a lack of a likelihood of success on that claim.

G. 100-Yard Buffer Zones

Finally, as to all of the specific locations constituting "places of public assembly," Plaintiffs argue that Section 57-11's prohibition on carrying a firearm within 100 yards of a place of public assembly violates the Second Amendment right to bear arms for self-defense. Because the definition of "place of public assembly" includes "all property associated with the place, such as a parking lot or grounds of a building," Bill No. 21-22E at 4; Montgomery Cnty. Code § 57-1, the 100-yard buffer zone necessarily includes land outside the boundary of a parking lot or grounds associated with a school, library, or other place of public assembly.

The historical record provided by the County includes numerous examples of laws prohibiting firearms in buffer zones of a certain distance around a "sensitive place" or other location at which the government could prohibit the carrying of firearms. For example, in the years following the ratification of the Fourteenth Amendment, Maryland prohibited the carrying of a gun or pistol within 300 yards of polling places in Calvert County and in any location on Election Day in Kent County, Queen Anne's County, and Montgomery County. 1886 Md. Laws, ch. 189, § 1 (Calvert County), Opp'n Ex. 30, ECF No. 59-34; 1874 Md. Laws, ch. 250, § 1 (Kent, Queen Anne's, and Montgomery Counties), Opp'n Ex. 22, ECF No. 59-26. Similarly, in 1870, Louisiana prohibited the carrying of any gun, pistol, or other dangerous weapon within "one-half mile of any place of registration" for elections. 1870 La. Acts, No. 100, § 73, Opp'n Ex. 19, ECF

No. 59-23. In Mississippi, an 1892 law prohibited students from carrying, bringing, receiving, owning, or having a concealed weapon "within two miles" of "any university, college, or school." 1892 Miss. Code Ann. at 327, § 1030, Opp'n Ex. 38, ECF No. 59-42.

Similarly, many municipalities prohibited the carrying of firearms within 50 or 100 yards of their parks, squares, or common areas, including: (1) Philadelphia, Pennsylvania, *see* Acts of Assembly Relating to Fairmount Park at 18, § 21.II (1870) (50 yards); (2) St. Paul, Minnesota, *see* Annual Reports of the City Officers and City Boards of the City of Saint Paul at 689 (1888) (50 yards); (3) Pittsburgh, Pennsylvania, *see* A Digest of the Acts of Assembly Relating to and the General Ordinances of the City of Pittsburgh, from 1804 to Jan. 1, 1897, at 496, § 5 (1893), Opp'n Ex. 41, ECF No. 59-45 (100 yards); (4) Reading, Pennsylvania, *see* A Digest of the Laws and Ordinances for the Government of the Municipal Corporation of the City of Reading, Pennsylvania at 240, § 20(8) (1897) (50 yards); and (5) Trenton, New Jersey, *see* 1903 Trenton, N.J. Charter and Ordinances at 390 (50 yards). There is thus a historical tradition of firearm regulation consisting of restrictions on carrying a firearm within a certain reasonable buffer zone around "sensitive places" and other locations at which firearms could be restricted.

Plaintiffs argue that these historical buffer zone laws are not relevantly similar historical analogues because they were not necessarily enacted to restrict the right to self-defense. In particular, they reference buffer zones around parks, which they argue were enacted to protect wildfowl and other wildlife. This argument is unpersuasive for two reasons. First, as noted above, many of the buffer zone statutes cited by the County focused on increasing the restricted area around sensitive places or other places at which the carrying of firearms was prohibited that have nothing to do with hunting, such as those relating to polling places, election registration locations, and schools. Such restrictions were plainly enacted to further presumptively valid restrictions on

the right to self-defense in the area immediately adjacent to such locations for purposes of public safety and to allow the activity at issue, such as voting or the education of children, to occur without concern for violence or other interruption. They are therefore "comparably justified" to Section 57-11's 100-yard buffer zone. *Bruen*, 142 S. Ct. at 2133.

Second, the Court disagrees that the laws restricting the carrying of firearms in parks, and the corresponding buffer zone provisions, were enacted solely to prevent poaching or hunting. Where several apply to parks in distinctly urban settings, and many specifically refer to prohibitions on both carrying a firearm and throwing any projectile or missile without regard to whether the action endangers birds or wildlife, it is clear that these laws were enacted in whole or in part to promote public safety and the ability of visitors to use the park for recreation without the potential for violence or other disturbances. *See, e.g.*, Acts of Assembly Relating to Fairmount Park (Philadelphia) at 18, § 21.II (1870); Annual Reports of the City Officers and City Boards of the City of Saint Paul at 689 (1888); A Digest of the Laws and Ordinances for the Government of the Municipal Corporation of the City of Reading, Pennsylvania at 240, § 20(8) (1897); 1903 Trenton, N.J. Charter and Ordinances at 390. Thus, "why" the buffer zones burden the right to armed self-defense is similar. *Bruen*, 142 S. Ct. at 2133. Finally, beyond the purpose of the statutes, these restrictions impose a "comparable burden" in that "how" they burden the right to armed self-defense is the same. *Id.* Under the plain language of these statutes, individuals were prohibited from bringing a firearm into a park or carrying one within the identified buffer zone distance regardless of whether they had any intention to hunt or poach in the park, so they, like Section 57-11, imposed absolute restrictions on the right to carry a firearm for self-defense in such areas. Thus, where numerous historical examples of buffer zone statutes exist, and where they impose the same burden on Second Amendment rights and are comparably justified, the Court

finds that Plaintiffs are unlikely to succeed on the merits of their challenge to Section 57-11's 100-yard buffer zones.

H. Buffer Zones Near Hospitals

Finally, to the extent that Plaintiffs' argument relating to the buffer zones may include a claim that restrictions on firearms within 100 yards of a hospital fail not because of the existence of a buffer zone, but because of a lack of a basis to restrict firearms from the hospitals on which the buffer zone is based, the Court finds that the County has sufficiently demonstrated a historical basis for such restrictions. While the County has not presented historical examples of specific restrictions on the carrying of firearms at hospitals, that fact is not remarkable, because hospitals did not exist in their modern form at the time of the ratification of the Second or Fourteenth Amendments. As noted in *Bruen*, "cases implicating unprecedented societal concerns or dramatic technological changes may require a more nuanced" historical analysis. *Bruen*, 142 S. Ct. at 2132. It was not until the late nineteenth century, "as society became increasingly industrialized and mobile and as medical practices grew in their sophistication and complexity," that there was a shift from the norm of medical care at home to "the professionalization of health care practices that eventually included the development of a full and competitive commercial market for medical services that increasingly took place in hospitals." Barbra Mann Wall, *History of Hospitals*, Univ. of Pa. School of Nursing, https://www.nursing.upenn.edu/nhhc/nurses-institutions-caring/history-of-hospitals/ (last visited July 5, 2023). "Between 1865 and 1925 in all regions of the United States, hospitals transformed into expensive, modern hospitals of science and technology." *Id.* Thus, hospitals were only beginning to become prevalent at the time of the ratification of the Fourteenth Amendment, developed because of advances in modern medicine, and did not resemble

their modern counterparts until the twentieth century. The Court thus considers whether there are historical analogues for firearm regulation at hospitals.

The County has identified historical statutes demonstrating a history of firearm restrictions at locations operated for scientific purposes. For example, in 1870, two years after the ratification of the Fourteenth Amendment, Texas enacted a statute prohibiting the carrying of firearms into "any school room or other place where persons are assembled for educational, literary or scientific purposes." 1870 Tex. Gen. Laws, ch. XLVI, § 1. In 1890, the Territory of Oklahoma prohibited carrying a pistol or firearm into "any school room or other place where persons are assembled for . . . educational or scientific purposes." 1890 Okla. Statutes, ch. 25, art. 47, § 7. In 1901, the Territory of Arizona similarly prohibited carrying a firearm into "any school room, or other place where persons are assembled for . . . educational or scientific purposes." 1901 Arizona Revised Statutes, tit. 11, § 387, Opp'n Ex. 46, ECF No. 59-50. Finally, in 1903, the state of Montana prohibited the carrying of firearms into "any school room or other place where persons are assembled . . . for educational or scientific purposes." 1903 Mont. Gen. Laws, ch. XXXV, § 3. These almost identical laws passed in the years following the ratification of the Fourteenth Amendment imposed bans on the carrying of firearms in both schools and places of scientific activity.

Although not a "historical twin" or a "dead ringer," these statutes can be fairly construed as providing "historical analogue[s]" for Section 57-11's restrictions on the possession of firearms at hospitals. *Bruen*, 142 S. Ct. at 2133. Hospitals are certainly locations at which people are engaged in scientific activities, including medical care. Moreover, specifically as to Montgomery County, most of the hospitals in the County are also involved in teaching or clinical research that constitutes educational or scientific activities, including the National Institutes of Health Clinical

Center, which conducts clinical research, *see* Welcome from the Clinical Center, NIH Clinical Center, https://clinicalcenter.nih.gov/welcome.html (last visited June 27, 2023); Suburban Hospital, which is a member of Johns Hopkins Medicine and has a "vibrant and growing research program," *see* Research and Discovery at Suburban Hospital, Johns Hopkins Medicine, https://www.hopkinsmedicine.org/suburban_hospital/research/index.html (last visited June 27, 2023); Walter Reed National Military Medical Center, which engages in medical research, *see* Department of Research Programs, Walter Reed National Military Medical Center, https://walterreed.tricare.mil/About-Us/Department-of-Research-Programs (last visited June 27, 2023); MedStar Montgomery Medical Center, which is engaged in clinical trials and research studies, *see* At a Glance, MedStar Montgomery Medical Center, https://www.medstarhealth.org/-/media/project/mho/medstar/pdf/at-a-glance-flyer_022822.pdf (last visited June 27, 2023) ("Our culture encourages clinicians and associates to test new ideas to improve care and experiences [and] to participate in clinical trials and research studies . . . ."); and Holy Cross Health and Holy Cross Germantown Hospital, which have academic partnerships and a location on Montgomery College's Germantown campus for the purposes of educational training and development, *see* About Us, Holy Cross Health, https://www.holycrosshealth.org/about-us/ (last visited June 27, 2023) ("With a commitment to education, Holy Cross Health has numerous academic partnerships and Holy Cross Germantown Hospital is the first hospital in the nation located on a community college campus to advance educational training and development.").

Where the historical laws generally prohibited firearms at locations used for educational or scientific purposes, they imposed an equal burden on the right to bear arms as does Section 57-11 in relation to these hospitals. They are also "relevantly similar" to Section 57-11 because they all apparently "burden a law-abiding citizen's right to armed self-defense" for the same reason:

providing public safety so as to allow significant scientific activity to be conducted properly and successfully. *Bruen*, 142 S. Ct. at 2132–33. Section 57-11's prohibition of firearms in hospitals is therefore analogous to historical statutes prohibiting arms in locations of scientific activity.

Lastly, the Court notes that some of the hospitals in Montgomery County, such as Walter Reed National Military Medical Center and the National Institutes of Health Clinical Center, are public facilities located in government buildings and therefore also qualify as "sensitive places." *Bruen*, 142 S. Ct. at 2133.

Because there are persuasive arguments that Section 57-11's restriction on carrying firearms at hospitals is consistent with the Nation's historical tradition of firearm regulations, the Court cannot conclude at this early stage that Plaintiffs' challenge to the 100-yard buffer zone restriction as applied to areas within that distance of a hospital is likely to succeed on the merits of that particular claim.

I. Sufficiency of the Historical Record

As to all of the locations, in response to the County's arguments based on the historical record it has submitted, Plaintiffs argue that the County has not identified a sufficient number of historical statutes in support of its argument, and that the statutes come from states or territories that encompass a low percentage of the total population of the United States. As to the number of statutes cited, *Bruen* did not establish a minimum threshold for the number of statutes that must be identified as part of the historical analysis to support the conclusion that a present firearm restriction is "consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 142 S. C.t at 2130. Indeed, the Supreme Court has acknowledged that certain locations are properly construed as "sensitive places" at which the carrying of firearms may be prohibited based on only a limited number of historical examples. As to legislative assemblies, identified in *Bruen* as

"sensitive places," the Supreme Court acknowledged that there are "relatively few" relevant historical statutes, *id.* at 2133, and the secondary source upon which it relied includes citations to only two laws, both from the same state. *See* David B. Kopel & Joseph G.S. Greenlee, *The "Sensitive Places" Doctrine: Locational Limits on the Right to Bear Arms*, 13 Charleston L. Rev. 205, 235 (2019). Similarly, the sources cited by the Supreme Court to support the designation of courthouses as "sensitive places" include only two state statutes, one from Georgia and one from Virginia. *See id.* at 246 (Georgia statute); Brief of *Amicus Curiae* the Independent Institute in Support of Petitioners at 12, *Bruen*, 142 S. Ct. 2111 (No. 20-843) (Virginia statute). Under these circumstances, and where the Court's analysis as to many of the "places of public assembly" covered by Section 57-11 is whether they are, or are analogous to, "sensitive places," the Court concludes that the number of statutes and ordinances identified by the County is sufficient.

Moreover, the *Bruen* Court, while discussing the breadth of the historical examples and their reach and disfavoring the historical examples presented in that case that came from territories rather than states, *Bruen*, 142 S. Ct. at 2154–55, did not impose any specific requirement that the historical statutes considered must have applied to a certain number of states or a certain percentage of the relevant population. Notably, its criticism of the limited number of statutes presented and of territorial statutes was based in part on its conclusion that the proffered examples were countered by the weight of historical evidence. Here, the examples from territories merely reinforce and supplement the historical tradition based on laws from the states, and the record does not demonstrate that the examples cited by the County are outliers or contradicted by a more substantial historical record. The only location on which Plaintiffs offer meaningful counterexamples is places of worship, as to which Plaintiffs cited an article referencing pre-Second Amendment laws requiring individuals to carry firearms in places of worship or to public meetings.

See Kopel & Greenlee, *supra*, at 233 & n. 108. However, the only specific statutes referenced in that article were from states—Virginia and Georgia—which later changed their laws around the time of the ratification of Fourteenth Amendment to prohibit firearms at places of worship. *See id.* at 249 (stating that "Virginia in 1877 . . . forbade all arms carrying at places of worship where religious meetings were being conducted"); *see supra* part III.D (1870 Georgia statute). Finally, the Court notes that the record lacks any evidence that during the relevant historical time period, restrictions or proposed restrictions on carrying firearms such as those cited by the County were "rejected on constitutional grounds." *Bruen*, 142 S. Ct. at 2131.

Accordingly, the Court finds that Plaintiffs have not established a likelihood of success on the merits of the claims at issue on the Motion.

IV. Remaining Factors

Because the Court does not find a likelihood of success on the merits of Plaintiffs' claims relating to the Motion, the Court need not address the remaining factors. *See Pashby*, 709 F.3d at 320. The Court notes that even if they were considered, the remaining factors collectively weigh against a preliminary injunction. As to the likelihood of irreparable harm, Plaintiffs correctly assert that as a legal matter, the denial of a constitutional right, if established, would qualify as irreparable harm. *Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987); *see also Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion) (finding that infringement on a First Amendment right, even for "minimal periods of time, unquestionably constitutes irreparable injury"). However, the likelihood of irreparable harm on this basis is dependent on the likelihood of success on the merits of the claim. *See Miranda v. Garland*, 34 F.4th 338, 365 (4th Cir. 2022).

Plaintiffs have not shown that the other asserted forms of irreparable harm are likely to occur. To establish irreparable harm, a plaintiff "must make a 'clear showing' that it will suffer

harm that is 'neither remote nor speculative, but actual and imminent.'" *Mountain Valley Pipeline, LLC v. 6.56 Acres of Land*, 915 F.3d 197, 216 (4th Cir. 2019) (quoting *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991)). Though an arrest and conviction for a felony firearm offense may permanently prevent a plaintiff from possessing a firearm, Plaintiffs have not shown a likelihood of this outcome. While the Court has found a sufficient possibility that the County would enforce Chapter 57 to establish standing, Plaintiffs have not provided any examples of prosecutions against permit holders for possessing a firearm in the scenarios they have referenced, such as a prosecution for possessing a firearm on a public street or area that happens to be within 100 yards of a place of public assembly, or for carrying a firearm at a place of worship with the permission of the leadership of that institution. Nor have they established that a specific incident of violence for which a firearm would be necessary for self-defense is imminent or likely.

Even to the extent that the irreparable harm prong could be deemed to be satisfied, the Court finds that the balance of the equities and the public interest weigh against a preliminary injunction. When one party is the Government, these two factors merge and are properly considered together. *Nken v. Holder*, 556 U.S. 418, 435 (2009). *Bruen* expressly prevents a Court from considering the public interest, including considerations such as the sharp increase in the number of mass shootings in American communities, in assessing whether a firearm restriction is unconstitutional under the Second Amendment. *Bruen*, 142 S. Ct. at 2129–30. Whether a preliminary injunction should be entered relating to the time period before a final determination on constitutionality is made, however, is a different question for which the public interest must expressly be considered. *See Winter*, 555 U.S. at 20, 26. Here, the County argues that the amendments in Bill No. 21-22E serve the public interest of reducing the risk of gun violence in

places where vulnerable populations are found and cites statistics demonstrating that deaths from gun violence in 2020 were the highest of any year with recorded data, and that gun violence in the County increased significantly from 2021 to 2022. Opp'n at 42. Thus, there is a public interest in not prematurely enjoining Section 57-11 before a final determination on constitutionality is made.

Although Plaintiffs allege that there is a particular need at the present time for individual members of religious congregations to carry firearms while attending services to protect against attacks based on religious discrimination, Section 57-11 does not prohibit the carrying of firearms by security guards at places of worship, nor does it limit the number of security guards that a place of worship may have. Plaintiffs also have not persuasively demonstrated how the Second Amendment right to armed self-defense extends to a right to act as an armed security guard for private institutions. Thus, in considering the balance of the equities and the public interest, the Court finds that these factors weigh against a preliminary injunction, as the County's interest in protecting public safety warrants permitting the relevant parts of Section 57-11 to remain in effect until a final determination is made on their constitutionality.

CONCLUSION

For the foregoing reasons, Plaintiffs' Motion for a Temporary Restraining Order and a Preliminary Injunction, ECF No. 54, will be DENIED. A separate Order shall issue.

Date: July 6, 2023

THEODORE D. CHUANG
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

MARYLAND SHALL ISSUE, INC., ENGAGE ARMAMENT, LLC, ANDREW RAYMOND, CARLOS RABANALES, BRANDON FERRELL, DERYCK WEAVER, JOSHUA EDGAR, I.C.E. FIREARMS & DEFENSIVE TRAINING, LLC, RONALD DAVID, NANCY DAVID and ELIYAHU SHEMONY, Plaintiffs, v. MONTGOMERY COUNTY, MARYLAND, Defendant.	Civil Action No. TDC-21-1736

ORDER

For the reasons set forth in the accompanying Memorandum Opinion, Plaintiffs' Motion for a Temporary Restraining Order and a Preliminary Injunction, ECF No. 54, is DENIED.

Date: July 6, 2023

THEODORE D. CHUANG
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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ELIYAHU SHEMONY
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Rockville, MD 20852
Plaintiffs,

v.

MONTGOMERY COUNTY, MARYLAND
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Rockville, Maryland 20850
Defendant.

NOTICE OF APPEAL

Pursuant 28 U.S.C. § 1292(a)(1), all the plaintiffs, including each plaintiff captioned above, hereby appeal, to the United States Court of Appeals for the Fourth Circuit, the district court's order (Docket # 83) and memorandum opinion (Docket # 82), dated and filed on July 06, 2023, denying plaintiffs' motion for a preliminary injunction, which was filed on December 6, 2022 (Docket ## 53, 54).

Respectfully submitted,

/s/ Mark W. Pennak

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Dated: July 7, 2023

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