NO. 20-1280

United States Court of Appeals
for the First Circuit

ALFRED MORIN,
Plaintiff-Appellant,

v.

WILLIAM LYVER, IN HIS OFFICIAL CAPACITY AS NORTHBOROUGH CHIEF OF POLICE, AND COMMONWEALTH OF MASSACHUSETTS,
Defendants-Appellees.

ON APPEAL FROM A FINAL JUDGMENT OF THE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

BRIEF OF DEFENDANT-APPELLEE COMMONWEALTH OF MASSACHUSETTS

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STATEMENT OF THE ISSUES

The appellant, Dr. Alfred Morin, is barred by Mass. Gen. Laws c. 140, §§ 131(d)(ii)(D) and 131A from obtaining a license to carry and a permit to purchase firearms in Massachusetts because of his criminal convictions for weapons-related misdemeanor offenses. He may, however, purchase and possess certain rifles and shotguns in Massachusetts because he has a firearm identification card issued pursuant to Mass. Gen. Laws c. 140, § 129B. The question presented is whether, as applied in this case, Mass. Gen. Laws c. 140, §§ 131(d)(ii)(D) and 131A comport with the Second Amendment to the United States Constitution.

JURISDICTIONAL STATEMENT

The District Court had jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the appellant's claim arises under the Constitution of the United States. This Court has jurisdiction over this appeal pursuant to 28 U.S.C. § 1291 because the appellant seeks review of a final judgment of the U.S. District Court for the District of Massachusetts that disposed of his claim. The appellant's notice of appeal, filed on March 4, 2020, was timely. *See* Fed. R. App. P. 4(a)(1)(A).

INTRODUCTION

The plaintiff-appellant, Dr. Alfred Morin, was convicted in 2004 in the District of Columbia of possession of an unregistered firearm and attempted carrying of a pistol without a license, after he sought to enter a federal government building with a loaded pistol. Although he failed to notify the Chief of Police in his

town of his criminal convictions in 2004, he applied to renew his license to carry firearms in 2008. The Northborough Chief of Police denied Dr. Morin's application pursuant to Mass. Gen. Laws c. 140, § 131(d)(ii)(D), which disqualifies anyone convicted of a violation of a law that regulates the possession of weapons or ammunition and that authorizes a term of imprisonment from obtaining a license to carry firearms. Later, the Northborough Chief of Police also denied Dr. Morin's application for a permit to purchase handguns pursuant to Mass. Gen. Laws c. 140, § 131A, but granted Dr. Morin a firearms identification card, which authorizes him to purchase and possess certain rifles and shotguns in his home and in public.

The Massachusetts Legislature's decision to disqualify individuals with convictions like Dr. Morin's from license-to-carry and permit-to-purchase eligibility accords fully with the Constitution. Sections 131(d)(ii)(D) and 131A, as applied to individuals with convictions for non-violent, weapons-related misdemeanors that authorize a term of imprisonment, do not heavily burden the core right protected by the Second Amendment—that of law-abiding, responsible citizens to possess a gun in the home for self-defense. The statutes do, however, substantially relate to the Commonwealth's important interests, achieved through its comprehensive firearms licensing scheme, in preventing crime and promoting public safety. The evidence overwhelmingly indicates that even non-violent misdemeanants, and especially non-violent misdemeanants with weapons-related

convictions, are substantially more likely to commit crime in the future than are law-abiding individuals. While the Legislature provided an avenue for misdemeanants like Dr. Morin to obtain a firearms identification card after a period of rehabilitation, it was entirely reasonable for the Legislature to conclude that such individuals should not be eligible for a license to carry a concealed handgun in public. This Court should affirm the judgment of the District Court upholding Sections 131(d)(ii)(D) and 131A as consistent with the Second Amendment.

STATEMENT OF THE CASE

Statutory Background

The purpose of firearms control legislation in Massachusetts "is to 'limit access to deadly weapons by irresponsible persons.'" *Chief of Police of the City of Worcester v. Holden*, 470 Mass. 845, 853, 26 N.E.3d 715, 723 (2015) (quoting *Ruggiero v. Police Comm'r of Boston*, 18 Mass. App. Ct. 256, 258, 464 N.E.2d 104, 106 (1984)). To lawfully possess a gun in Massachusetts, a person generally must obtain a license to carry firearms under Mass. Gen. Laws c. 140, § 131, or a firearm identification ("FID") card under Mass. Gen. Laws c. 140, § 129B. *See Hightower v. City of Boston*, 693 F.3d 61, 65-67 (1st Cir. 2012) (describing statutory framework); *Chardin v. Police Comm'r of Boston*, 465 Mass. 314, 315-17

& n.5, 989 N.E.2d 392, 395 (2013) (same).[1] Such licenses are issued by a "licensing authority," defined as either "the chief of police or the board or officer having control of the police in a city or town," Mass. Gen. Laws c. 140, § 121, or the colonel of the State police, *id.* § 131(d).

Holders of a license to carry may possess and carry large-capacity[2] and non-large-capacity "firearms," "rifles," or "shotguns," either openly or in a concealed manner, in their homes or in public. Mass. Gen. Laws c. 140, § 131.[3] A person

[1] Under current law, some licenses to carry may be designated a "Class A" or a "Class B" license. *See* Mass. Gen. Laws c. 140, § 131(a)-(b). In 2014, however, the Legislature enacted "An act relative to the reduction of gun violence," which, effective January 1, 2021, revised Mass. Gen. Laws c. 140, § 131(d) to provide for only one type of license to carry, rather than distinct Class A and Class B licenses. *See* Mass. St. 2014, c. 284 §§ 46, 47, 112; *Powell v. Tompkins*, 783 F.3d 332, 338 n.2 (1st Cir. 2015) ("[T]he new law will eliminate the category of Class B license in order to create a unitary license to carry."). Licenses to carry that have been issued or renewed since August 11, 2014, the day the Act went into effect, have not been designated "Class A" or "Class B," but rather just a "license to carry." *See* Mass. St. 2014, c. 284 § 101 (providing that, as of the effective date of the 2014 law, licensing authorities may not "issue, renew or accept [an] application for a Class B license to carry pursuant to sections 131 or 131F of said chapter 140").

[2] A "large capacity weapon" is, in general, "any firearm, rifle or shotgun" that is "semiautomatic with a fixed large capacity feeding device … or capable of accepting … any detachable large capacity feeding device." Mass. Gen. Laws c. 140, § 121. A "large capacity feeding device" is, in general, any "fixed or detachable magazine … capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five rounds of shotgun shells." *Id.*

[3] A "firearm" is a "pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged" and with a barrel less than 16 inches. Mass. Gen. Laws c. 140, § 121. A "rifle" is "a weapon having a (footnote continued)

seeking a license to carry must file an application with a licensing authority, which in turn must determine whether the applicant is disqualified by statute from obtaining the license. *See id.* § 131(d); *Chardin*, 989 N.E.2d at 395. Certain categories of applicants are ineligible for a license to carry, including (1) persons convicted of felonies, misdemeanors punishable by more than two years' imprisonment, certain violent crimes, violations of laws regulating controlled substances, or misdemeanor crimes of domestic violence; (2) persons who have been committed to a hospital or institution for mental illness or for substance or alcohol abuse disorder, unless, in certain circumstances, a court has granted the person's petition for relief or the person's physician attests that she is no longer disabled by the illness; (3) persons who are subject to an order from the probate court appointing a guardian on their behalf due to mental incapacitation, unless a court has granted the person's petition for relief from that order; (4) persons less than 21 years old; (5) non-citizens who do not maintain lawful permanent residency; (6) persons currently the subject of an abuse prevention restraining order; (7) persons subject to an outstanding arrest warrant; (8) persons who have been dishonorably discharged from the United States armed forces; (9) fugitives

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(footnote continued)
rifled bore with a barrel length equal to or greater than 16 inches." *Id.* A "shotgun" is "a weapon having a smooth bore with a barrel length equal to or greater than 18 inches with an overall length equal to or greater than 26 inches." *Id.*

from justice; and (10) persons who have renounced their United States citizenship. Mass. Gen. Laws c. 140, § 131(d)(i)-(x). As relevant here, persons who have been convicted, "in a court of the Commonwealth" or "in any other state or federal jurisdiction," of "a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed" are also ineligible for a license to carry. *Id.* §§ 131(d)(i)(D), (d)(ii)(D).

If an applicant is not disqualified, the licensing authority may issue a license to carry so long as the applicant is not "unsuitable" to be licensed. Mass. Gen. Laws c. 140, § 131(d). Suitability review "allows licensing authorities to keep firearms out of the hands of persons who are not categorically disqualified, … but who nevertheless pose a palpable risk that they would not use a firearm responsibly if allowed to carry in public." *Holden*, 26 N.E.3d at 724. The licensing authority may issue the license to carry subject to restrictions. *Id.* §§ 131(a), (b). Applicants aggrieved by the denial of a license to carry are entitled to judicial review in state court. *Id.* §§ 131(d), (f).

A licensing authority may separately issue an FID card, which is more limited than the license to carry. *See* Mass. Gen. Laws c. 140, § 129B. An FID card allows the holder to possess rifles and shotguns that are "non-large-capacity"—that is, they cannot accept more than ten rounds of ammunition or five rounds of

shotgun shells, *supra*, at 4 n.2—and to "possess a firearm [*i.e.*, a handgun] within the holder's residence or place of business, but not to carry it to or in any other place." *Commonwealth v. Powell*, 459 Mass. 572, 587, 946 N.E.2d 114, 128 (2011); *see* Mass. Gen. Laws c. 140, § 129B(6). To obtain an FID card, a person must apply to a licensing authority, which determines whether the applicant is disqualified based on a prior conviction or another factor enumerated in the statute. Mass. Gen. Laws c. 140, § 129B(1). Although the statute does not require a separate suitability determination prior to issuance of an FID card, a licensing authority that seeks to deny an FID card on the basis of suitability may file a petition in district court for a determination that an applicant is unsuitable. *Id.* § 129B(1½)(a)-(b).

Licensing authorities may also issue "permits to purchase" to individuals with FID cards under Mass. Gen. Laws c. 140, § 131A. An FID card holder with a permit to purchase can "purchase, rent or lease a firearm if it appears that such purchase, rental or lease is for a proper purpose." *Id.* To obtain a permit to purchase, an applicant must possess all the same qualifications for obtaining a license to carry under Mass. Gen. Laws c. 140, § 131. *See* Mass. Gen. Laws c. 140, § 131A ("A licensing authority under [§ 131], upon the application of a person qualified to be granted a license thereunder by such authority, may grant to such a person … a permit to purchase."). Thus, anyone who is categorically prohibited

from obtaining a license to carry under § 131 will be unable to obtain a permit to purchase under § 131A.

Unless revoked or suspended, licenses to carry and FID cards must be renewed every six years. Mass. Gen. Laws c. 140, §§ 129B(9); 131(i). Licenses to carry and FID cards must "be revoked or suspended by the licensing authority … upon the occurrence of any event that would have disqualified the holder from being issued such license or from having such license renewed." *Id.* §§ 129B(4); 131(f). A person's license to carry or FID card may also be revoked "if it appears that the holder is no longer a suitable person to possess such license." *Id.* § 131(f); *see also id.* § 129B(1½)(c).

Factual and Procedural Background

1. Dr. Morin's Criminal Convictions and the Denial of His Application to Renew His License to Carry Firearms.

Dr. Morin was issued a license to carry in Massachusetts in 1985. *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 1 (June 12, 2019).[4] He held

[4] Dr. Morin did not include in the Record Appendix the parties' exhibits supporting their motions for summary judgment or the parties' Statements of Undisputed Material Facts under Local Rule 56.1 of U.S. District Court for the District of Massachusetts. Accordingly, in setting forth the uncontested facts here, the Commonwealth cites to the version of its Local Rule 56.1 Statement of Undisputed Material Facts on the District Court's electronic docket. Dr. Morin did not file an opposition to the Commonwealth's cross-motion for summary judgment or contest any of the facts set forth in the Commonwealth's Statement of Undisputed Material Facts. *See* Record Appendix 3-4 (District Court docket); *De La Vega v. San Juan Star, Inc.*, 377 F.3d 111, 116 (1st Cir. 2004) (a party that fails (footnote continued)

that license until it expired in February 2008. *Id.* ¶ 2. On February 17, 2008, Dr. Morin applied to renew his license to carry with the Northborough Police Department. *Id.* ¶ 3. The renewal application form asked, among other things, whether Dr. Morin had, "in any state or federal jurisdiction," been convicted of "a violation of any law regulating the use, possession, ownership, sale, transfer, rental, receipt or transportation of weapons for which a term of imprisonment may be imposed." *Id.* Dr. Morin falsely answered "no." *Id.*

Following standard practice, the Northborough Police Department then ran a fingerprint check on Dr. Morin. *See id.* ¶ 4. That fingerprint check revealed that Dr. Morin had, in fact, been convicted in the District of Columbia in 2004 for violating two laws regulating the possession of weapons. *Id.* Dr. Morin had driven from his home in Massachusetts to Washington, D.C. with a Colt Pocket Lite pistol, loaded with five rounds of ammunition. *Id.* ¶ 5. At the time of his trip, Dr. Morin was only licensed to carry a firearm in Massachusetts, not in any of the states he passed through on the way to Washington. *Id.* Once in Washington, Dr. Morin brought his pistol to the American Museum of Natural History, part of the federal Smithsonian Institution. *Id.* ¶ 6. Upon noticing metal detectors at the entrance of the building,

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(footnote continued)
to oppose a motion for summary judgment "'waives the right to controvert the facts asserted by the moving party in the motion for summary judgment and the supporting materials accompanying it'" (quoting *Jaroma v. Massey*, 873 F.2d 17, 21 (1st Cir. 1989) (per curiam))).

Dr. Morin asked a security guard to check his loaded pistol. *Id.* The security guard notified the police, and Dr. Morin was arrested and charged with carrying a pistol without a license ("CPWL"), possession of unregistered ammunition, and possession of an unregistered firearm. *Id.*

Dr. Morin pleaded guilty to attempted CPWL, in violation of D.C. Code §§ 22-3204(a)(1) (2004)[5] and 22-1803 (2004), and possession of an unregistered firearm, in violation of D.C. Code § 6-2376 (2004).[6] *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 7 (June 12, 2019). The CPWL charge carried a maximum sentence of five years in prison, *see* D.C. Code § 22-3204(a)(1) (2004), but because Dr. Morin had pleaded guilty to an attempt, his maximum sentence was reduced to 180 days pursuant to D.C. Code § 22-1803. The maximum sentence for the possession of an unregistered firearm charge was one year. *See* D.C. Code § 6-2376 (2004). Dr. Morin was sentenced to 60 days, suspended, in prison on each count, to run concurrently, as well as three months' supervised probation and 20 hours of community service. *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 7 (June 12, 2019). Because of these convictions, which qualified as "violation[s] of … law[s] regulating the … possession … of weapons

[5] This provision has been renumbered and is now codified at D.C. Code § 22-4504(a).

[6] This provision has been renumbered and is now codified at D.C. Code §§ 7-2502.01 and 7-2507.06.

or ammunition for which a term of imprisonment may be imposed" under Mass. Gen. Laws c. 140, § 131(d)(ii)(D), the Chief of the Northborough Police at the time, Chief Mark Leahy, denied Dr. Morin's application to renew his license to carry firearms. *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 8 (June 12, 2019).

In February 2015, Dr. Morin submitted a new application for a license to carry firearms. *See id.* ¶ 9. This time, when asked if he had ever been convicted of a "violation of … a law regulating the … possession … of weapons or ammunition for which a term of imprisonment may be imposed," Dr. Morin correctly answered yes. *Id.* Because of Dr. Morin's prior convictions, Chief Leahy again denied his application for a license to carry. *Id.* ¶ 10.

2. Dr. Morin's First Lawsuit

In March 2015, Dr. Morin filed a lawsuit claiming that the denial of his license-to-carry application pursuant to Section 131(d)(ii)(D) violated his purported Second Amendment right to possess a firearm in his home for self-defense. *See Morin v. Leahy*, 189 F. Supp. 3d 226 (D. Mass. 2016) ("*Morin I*"). In rejecting that claim and granting judgment in favor of the Commonwealth and Chief Leahy, the District Court noted that Dr. Morin had only applied for "the least restrictive license available in Massachusetts, allowing him to carry concealed firearms in public." *Id.* at 234. Dr. Morin had not applied for an FID card, which

would have allowed him to possess a firearm in his home. *See id.* at 231. Thus, the District Court did not think it was "necessary to determine whether a complete categorical prohibition on the arms rights of individuals who have been convicted of certain weapons-related misdemeanors is constitutional, because that [wa]s not what [wa]s being challenged in th[e] case." *Id.* at 234. And the court held Section 131(d)(ii)(D) constitutional as applied to Dr. Morin's request to carry firearms in public, because the law did not implicate the "'core' Second Amendment right" and it "serve[d] the important purpose of preventing potentially dangerous individuals from carrying concealed firearms." *Id.* at 236 (citing *Hightower*, 693 F.3d at 72, 74, 76).

This Court affirmed the District Court's judgment under a slightly different rationale. *See Morin v. Leahy*, 862 F.3d 123, 126-27 (1st Cir. 2017) ("*Morin II*"). It noted that, with an FID card and a permit to purchase, Dr. Morin could obtain a firearm for self-defense in his home, but he had not applied for either of those licenses. *See id.* at 127. Because Dr. Morin had asserted only that the Commonwealth's statutory scheme violated his purported right to possess a firearm for self-defense in his home, but he had not applied for permits that would have enabled him to exercise that right, the Court concluded that the denial of his license-to-carry application did not violate the Second Amendment as applied to him. *See id.* ("[T]he denial of an application for a Class A License does not

infringe upon the Second Amendment right to possess a firearm within one's home, the only constitutional right Morin has raised.").

3. Dr. Morin's Second Lawsuit

In February 2018, after this Court's decision, Dr. Morin applied for an FID card and a permit to purchase from the Northborough Police Department. *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 11 (June 12, 2019). The current Chief of the Northborough Police, Chief William Lyver, approved Dr. Morin's application for an FID card. *See id.*[7] But Chief Lyver also denied Dr. Morin's application for a permit to purchase because Dr. Morin's "prior convictions for firearms related offenses in Washington DC constitute a statutory disqualifier under MGL Chapter 140, Section 131(d)(ii)(D) and MGL Chapter 140, Section 131A." *Id.*

Dr. Morin then filed this lawsuit against Chief Lyver, claiming that the denial of his license-to-carry application pursuant to Mass. Gen. Laws c. 140, § 131(d)(ii)(D), and permit-to-purchase application pursuant to Mass. Gen. Laws c. 140, § 131A, violate the Second Amendment, as applied to him. *See* Record

[7] Dr. Morin did not submit evidence to the District Court documenting when Chief Lyver approved his application for an FID card. Nor did he submit a copy of his application for an FID card or of the document notifying him of the approval of his application. But Dr. Morin did state, in response to an interrogatory, that he presently holds an FID card that was issued to him in May of 2018. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-2, ¶ 2 (June 12, 2019).

Appendix ("RA") 9-12, ¶¶ 25-26, 42 (Complaint). The District Court allowed the Commonwealth's motion to intervene to defend the constitutionality of those statutes pursuant to 28 U.S.C. § 2403(b) and Federal Rule of Civil Procedure 24(a)(1). *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Dkt. No. 12 (Oct. 29, 2018).

After the parties filed cross-motions for summary judgment, the District Court again rejected Dr. Morin's Second Amendment claim and granted judgment in favor of the Commonwealth and Chief Lyver. Appellant's Addendum 1, 12. The court considered the claim under the two-step approach for reviewing Second Amendment claims adopted in *Gould v. Morgan*, 907 F.3d 659, 668-69 (1st Cir. 2018). Appellant's Addendum 5-6. Assuming, without deciding, that the restrictions imposed by Mass. Gen. Laws c. 140, §§ 131(d)(ii)(D) and 131A burden conduct falling within the scope of the Second Amendment, the court proceeded to consider which level of constitutional scrutiny applied to the laws. *See* Appellant's Addendum 7. It held that intermediate, rather than strict, scrutiny was appropriate, because the laws apply only to individuals convicted of weapons-related offenses punishable by a term of imprisonment, a class of individuals that does not include the type of "law-abiding, responsible citizens" at the core of the Second Amendment's protection. *Id.* at 7-9. The court declined to consider whether, aside from his 2004 convictions, Dr. Morin is otherwise law-abiding and

responsible, because "it would be unreasonable to expect the courts to make individualized considerations for every person who is statutorily precluded from obtaining a firearms license but who nevertheless believes that he or she should be entitled to carry a weapon." *Id.* at 8 (quoting *Morin I*, 189 F. Supp. 3d at 236).

Applying intermediate scrutiny, the District Court upheld Mass. Gen. Laws c. 140, §§ 131(d)(ii)(D) and 131A as substantially related to the important government objectives advanced by the statutes—the promotion of public safety and the prevention of crime. *See* Appellant's Addendum 10. The court cited the "[a]mple empirical evidence" demonstrating that people who have been convicted of non-violent weapons-related misdemeanors "are more likely to commit a crime or threaten public safety than those who do not." *Id.* And it noted that the statutes do not bar *all* people with non-violent weapons-related offenses from obtaining a license to carry or permit to purchase, but rather apply only to those individuals with convictions under laws that authorize a term of imprisonment. *Id.* at 10-11. Thus, the court ruled, the challenged statutes are constitutional because they "avoid burdening more conduct than reasonably necessary" and substantially relate to the Commonwealth's crime-prevention and public-safety objectives. *Id.* at 11.

SUMMARY OF THE ARGUMENT

Sections 131(d)(ii)(D) and 131A comport fully with the Second Amendment. The Commonwealth can, consistent with the Second Amendment,

disqualify categories of individuals from possessing and purchasing firearms. Through Sections 131(d)(ii)(D) and 131A, the Legislature adopted one such disqualification: as part of the Commonwealth's comprehensive gun licensing scheme, the statutes restrict the possession and purchase of handguns by individuals who have a record of handling guns unlawfully and irresponsibly.

Dr. Morin purports to assert an as-applied challenge to Sections 131(d)(ii)(D) and 131A, but he does not identify the class of individuals included in his as-applied claim consistently. To the extent he challenges the statutes as applied to persons with convictions for misdemeanor offenses lacking a *mens rea* requirement, he does not have standing to press his claim because *his* underlying criminal convictions have a *mens rea* requirement. To the extent he challenges the statutes as applied to individuals with convictions for non-violent, weapons-related misdemeanors that authorize a term of imprisonment, this Court and other courts have upheld similar statutes disqualifying persons convicted of non-violent felonies and certain misdemeanors from firearms possession.

Assuming that Dr. Morin asserts the latter as-applied challenge to Sections 131(d)(ii)(D) and 131A, this Court should, in accord with its precedent, assume without deciding that the statutes implicate the Second Amendment, and then review the statutes under means-ends scrutiny. Under that approach, Sections 131(d)(ii)(D) and 131A must be evaluated under, at most, intermediate scrutiny

because they do not heavily burden the core Second Amendment right of law-abiding, responsible citizens to possess a gun in the home for self-defense. By definition, the statutes restrict only those individuals who are not law-abiding and who, as evidenced by their criminal convictions, have a record of handling guns irresponsibly. Yet at the same time, that class of individuals may, after a period of rehabilitation, be eligible an FID card, which allows for the purchase and possession of non-large-capacity rifles and shotguns. The disqualification imposed by Sections 131(d)(ii)(D) and 131A is, therefore, less burdensome to the core Second Amendment right than other categorical disqualifications that have been reviewed by this Court under intermediate scrutiny.

Sections 131(d)(ii)(D) and 131A easily withstand intermediate scrutiny because they are substantially related to the Commonwealth's important interests in promoting public safety and preventing crime. A compelling body of research demonstrates that non-violent misdemeanants with weapons-related convictions are far more likely than individuals without such convictions to engage in future criminal conduct and, in particular, violent criminal conduct. While the Legislature restricted that class of individuals from purchasing and possessing handguns, it also ensured that the statutes did not burden more conduct than necessary to protect public safety. It drafted the statutes to apply only to individuals whose convictions could give rise to a term of imprisonment, and it provided an avenue for

rehabilitated individuals in that category to later acquire FID cards.

The commonsense conclusion drawn in Sections 131(d)(ii)(D) and 131A, especially where supported by empirical studies, easily satisfies intermediate scrutiny. This Court should not, therefore, inquire further into whether Dr. Morin's personal characteristics exempt him from compliance with the statutes. Engaging in such an individualized inquiry would undermine the consistent and objective application of the Legislature's prophylactic rule, and it is settled that the government may restrict categories of individuals from firearms possession without engaging in case-by-case assessments. But even if this Court were to examine Dr. Morin's personal characteristics, they undercut his claim because they demonstrate a record of irresponsible gun ownership and a history of providing false information to the government on a firearms licensing form.

ARGUMENT

In *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), the Supreme Court held that the Second Amendment secures an individual right, incorporated against the States, for law-abiding, responsible citizens to possess a gun in the home for self-defense. *See Heller*, 554 U.S. at 635; *Powell v. Tompkins*, 783 F.3d 332, 347 (1st Cir. 2015). The Court emphasized, however, that the right "secured by the Second Amendment is not unlimited." *Heller*, 554 U.S. at 626. Indeed, many laws

restricting the possession of firearms are "presumptively lawful." *Id.* at 626-27 & n.26. Those presumptively lawful measures include, but are not limited to, "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," as well as laws that regulate the carrying of concealed weapons. *Id.*

From this precedent, this Court has drawn two key conclusions about a state's prerogative to restrict firearms possession. First, categorical restrictions on the possession of firearms by certain individuals are constitutionally permissible, and the government need not determine, on a case-by-case basis, whether a particular individual should be exempted from a categorical disqualification. *See United States v. Booker*, 644 F.3d 12, 23 (1st Cir. 2011). Second, the core right of the Second Amendment is, as *Heller* said, the right of law-abiding, responsible citizens to use arms in defense of hearth and home. Laws peripheral to that core right are subject to less rigorous constitutional scrutiny than are laws that directly burden that core right. *See Gould*, 907 F.3d at 672.

The District Court correctly applied those principles in rejecting Dr. Morin's Second Amendment claim. As applied in this case, Sections 131(d)(ii)(D) and 131A permissibly restrict a category of individuals—persons with non-violent

weapons-related misdemeanor convictions for which a term of imprisonment may have been imposed—from purchasing handguns and possessing handguns in public, though not from purchasing and possessing non-large-capacity rifles and shotguns. Because Sections 131(d)(ii)(D) and 131A affect only individuals who, by definition, are neither law-abiding citizens nor responsible firearms owners, the statutes are far removed from the core protections of the Second Amendment. Thus, even assuming Dr. Morin's claim implicates the Second Amendment, this Court should review the laws under, at most, intermediate scrutiny. And under that standard of review, Sections 131(d)(ii)(D) and 131A must be upheld, because there is a substantial relationship—supported by empirical research and plain common sense—between the particular restrictions on firearms possession and the Commonwealth's goals of preventing crime and promoting public safety.[8]

I. The Second Amendment Allows States to Adopt Categorical Restrictions on Firearms Possession.

This Court has made clear that "the Second Amendment permits categorical regulation of gun possession by classes of persons." *Booker*, 644 F.3d at 23. Dr. Morin purports to assert a Second Amendment challenge to Mass. Gen. Laws c. 140, §§ 131(d)(ii)(D) and 131A, as applied to a particular class of persons subject to disqualification under the statutes. *See* Br. of the Plaintiff-Appellant

[8] This Court reviews *de novo* the District Court's ruling on the parties' cross-motions for summary judgment. *See Gould*, 907 F.3d at 667.

("Morin Br.") 14; RA 12 (Compl.) ¶ 42. But in this Court, Dr. Morin's theory of the class of persons to whom the statutes purportedly apply impermissibly, and to which he belongs, is not entirely clear. He appears to chiefly contend that Sections 131(d)(ii)(D) and 131A are unconstitutional as applied to individuals with a conviction for a non-violent weapons-related misdemeanor that lacks a *mens rea* requirement but authorizes a term of imprisonment. *See* Morin Br. 15 ("the Plaintiff violated a statute, with absolutely no *mens rea* and does not fall under the umbra, or even penumbra, of a violent criminal"); *see also id.* at 9-10, 14. Yet at other times, he appears to omit mention of a *mens rea* requirement and contend only that Sections 131(d)(ii)(D) and 131A are unconstitutional as applied to individuals with a conviction for a non-violent weapons-related misdemeanor that authorizes a term of imprisonment. *See* Morin Br. 7 ("The Appellant challenges the regulatory scheme removing the protection of the Second Amendment due to a conviction of a non-violent misdemeanor weapons charge in Washington D.C."). Dr. Morin lacks standing to assert the former as-applied challenge to Sections 131(d)(ii)(D) and 131A, and to the extent he asserts the latter as-applied challenge, this Court has already upheld categorical restrictions based on misdemeanor and non-violent criminal convictions.

A. Dr. Morin Lacks Standing to Challenge Sections 131(d)(ii)(D) and 131A As Applied to the Category of Individuals with Convictions for Misdemeanors that Lack a *Mens Rea* Requirement.

To the extent Dr. Morin challenges Sections 131(d)(ii)(D) and 131A as applied to individuals with convictions for misdemeanors that lack a *mens rea* requirement, his claim necessarily fails for lack of standing, because the crimes to which he pleaded guilty *have* a *mens rea* requirement. Dr. Morin pleaded guilty to attempted CPWL, in violation of D.C. Code §§ 22-3204(a)(1) (2004) and 22-1803 (2004), and possession of an unregistered firearm, in violation of D.C. Code § 6-2376 (2004). Under the law of the District of Columbia, those crimes are considered general intent crimes rather than specific intent crimes. *See Bsharah v. United States*, 646 A.2d 993, 999-1000 (D.C. 1994) (possession of an unregistered firearm is a general intent crime); *McMillen v. United States*, 407 A.2d 603, 604-05 (D.C. 1979) (CPWL is a general intent crime). But general intent crimes have a *mens rea* element; they are not like strict liability statutes. *See, e.g.*, *Dauphine v. United States*, 73 A.3d 1029, 1032 (D.C. 2013) ("It is well settled that the general intent to commit a crime means the intent to do the act that constitutes the crime."); *Perry v. United States*, 36 A.3d 799, 808 (D.C. 2011) (the crimes of aggravated assault while armed and assault with a dangerous weapon are general intent crimes that require that the defendants "personally had a *mens rea* element

beyond that required for simple assault").[9]

Thus, in pleading guilty to attempted CPWL, Dr. Morin admitted that he intended to attempt to carry a pistol in the District of Columbia, and that he was not licensed to do so. *See McMillen*, 407 A.2d at 605 (under the CPWL statute, "the proscribed act is that of generally intending to carry a pistol coupled with the fact that such pistol is carried unlicensed in the District of Columbia" (quotation marks omitted)). And in pleading guilty to possession of an unregistered firearm, Dr. Morin admitted that he "'knowingly possessed a firearm … and … that firearm had not been registered as required by law.'" *Hammond v. United States*, 77 A.3d 964, 969 (D.C. 2013) (quoting *Washington v. United States*, 53 A.3d 307, 309 (D.C. 2012)) (describing the elements of possession of an unregistered firearm). Dr. Morin's principal as-applied Second Amendment challenge to Sections 131(d)(ii)(D) and 131A thus necessarily fails for lack of standing, because he is not a member of a class of individuals convicted of a non-violent weapons-related misdemeanor that lacks a *mens rea* element and authorizes a term of imprisonment. *Cf. Morin II*, 862 F.3d at 128 (plaintiff lacked standing to challenge FID card statute because he was not a member of the class of individuals who had been

[9] *See also, e.g.*, *Commonwealth v. Lopez*, 433 Mass. 722, 728, 745 N.E.2d 961, 966 (2001) (explaining the difference between general intent crimes, which require the government to prove *mens rea*, and strict liability crimes, which do not).

denied an FID card and therefore suffered no injury as a result of the statute); *Hightower*, 693 F.3d at 70-71 (same).[10]

B. This Court Has Upheld Categorical Restrictions on Firearms Possession by Persons with Misdemeanor Convictions and by Persons with Convictions for Non-Violent Offenses.

To the extent Dr. Morin instead challenges Sections 131(d)(ii)(D) and 131A as applied only to individuals with a conviction for a non-violent weapons-related misdemeanor that authorizes a term of imprisonment, this Court has made clear that "'statutory prohibitions on the possession of weapons by some persons are proper.'" *Booker*, 644 F.3d at 23 (quoting *United States v. Skoien*, 614 F.3d 638, 640 (7th Cir. 2010) (en banc)). Restrictions on the right to possess a firearm need not, therefore, "be imposed only on an individualized, case-by-case basis." *Id.* (citing *Heller*, 554 U.S. at 626).

Applying this principle, this Court has rejected a Second Amendment

[10] The statement of the issues in Dr. Morin's brief refers to his District of Columbia convictions as *malum prohibitum* crimes. *See* Morin Br. 1. But his brief does not cite authority for his categorization of D.C. Code §§ 22-3204(a)(1), 22-1803, and 6-2376 (2004) as *malum prohibitum* statutes, nor does it make any argument about that particular class of criminal convictions. Rather, his brief appears to focus on his categorization of D.C. Code §§ 22-3204(a)(1), 22-1803, and § 6-2376 (2004) as statutes that lack a *mens rea* element. *See* Morin Br. 9-10, 14, 15. Dr. Morin's failure to develop any argument that Sections 131(d)(ii)(D) and 131A impermissibly apply to persons convicted of *malum prohibitum* crimes is, accordingly, waived. *See Powell*, 783 F.3d at 348-349 (appellant's "slight advocacy" on an argument "makes his coquetry the proper candidate for appellate waiver").

challenge to 18 U.S.C. § 922(g)(1), which permanently bars all convicted felons from possessing firearms. *See United States v. Torres-Rosario*, 658 F.3d 110, 113 (1st Cir. 2011). The statute could be constitutionally applied, this Court reasoned, to a defendant who had "no prior convictions for any violent felony." *Id.* Other courts of appeals likewise recognize the government's authority to disqualify felons, even persons convicted of non-violent felonies, from firearms possession. *See, e.g.*, *Kanter v. Barr*, 919 F.3d 437, 447-51 (7th Cir. 2019); *Stimmel v. Sessions*, 879 F.3d 198, 210 (6th Cir. 2018); *United States v. Pruess*, 703 F.3d 242, 247 (4th Cir. 2012); *Skoien*, 614 F.3d at 640; *United States v. Scroggins*, 599 F.3d 433, 451 (5th Cir. 2010); *United States v. Rozier*, 598 F.3d 768, 769 & n.1 (11th Cir. 2010); *United States v. Vongxay*, 594 F.3d 1111, 1113-14 (9th Cir. 2010).

This Court has similarly upheld laws that categorically disqualify persons convicted of misdemeanors from firearms possession. For example, in *Booker*, the court rejected a Second Amendment challenge to 18 U.S.C. § 922(g)(9), which permanently disqualifies domestic violence misdemeanants from possessing guns. 644 F.3d at 22-26; *accord United States v. Chovan*, 735 F.3d 1127, 1140-41 (9th Cir. 2013); *Skoien*, 614 F.3d at 639-45; *United States v. White*, 593 F.3d 1199, 1205-06 (11th Cir. 2010). And in two subsequent cases, this Court rejected the claim that § 922(g)(9) is unconstitutional as applied when, according to the defendant, the underlying misdemeanor involved *non-violent* conduct. *See United*

States v. Carter, 752 F.3d 8, 12 (1st Cir. 2014) (rejecting the argument that "§ 922(g)(9) 'deprives a significant population of non-violent offenders from exercising a core constitutional right' protected by the Second Amendment"); *United States v. Armstrong*, 706 F.3d 1, 7-8 (1st Cir. 2013), *vacated and remanded on other grounds*, 134 S. Ct. 1759 (2014) (rejecting the argument that "if the relevant misdemeanor conviction is not based on violent behavior, the statute cannot survive intermediate scrutiny as applied").

These precedents establish that a lifetime disqualification from firearms possession based on a non-violent felony conviction is compatible with the Second Amendment. Similarly, a lifetime disqualification from firearms possession based on assertedly non-violent misdemeanor convictions can also be compatible with the Second Amendment.

II. As Applied to Individuals with Convictions for Non-Violent Weapons-Related Misdemeanors That Authorize a Term of Imprisonment, Sections 131(d)(ii)(D) and 131A Comport with the Second Amendment.

Since *Heller*, this Court, like other courts of appeals, has adopted a two-step framework for assessing Second Amendment claims. *See Worman v. Healey*, 922 F.3d 26, 33 (1st Cir. 2019); *Gould*, 907 F.3d at 668-69. Under this framework, a court must "first ask whether the challenged law burdens conduct that is protected by the Second Amendment," and if so, the court "then must determine what level

of scrutiny is appropriate and must proceed to decide whether the challenged law survives that level of scrutiny." *Worman*, 922 F.3d at 33.[11]

The District Court correctly applied this framework in rejecting Dr. Morin's Second Amendment challenge to Mass. Gen. Laws c. 140, §§ 131(d)(ii)(D) and 131A. Following a course charted by this Court's precedent on firearms licensing laws, it assumed, without deciding, that the challenged statutes burden constitutionally protected conduct and then upheld the laws under intermediate constitutional scrutiny. *See* Appellant's Addendum 7; *Gould*, 907 F.3d at 670 (assuming that firearms licensing regulation burdens the Second Amendment and upholding that law under intermediate scrutiny); *Booker*, 644 F.3d at 25-26 (upholding the domestic violence misdemeanant disqualification under intermediate scrutiny). In accord with this precedent, this Court should likewise assume, without deciding, that Sections 131(d)(ii)(D) and 131A implicate Second Amendment rights. And it should then uphold those laws under intermediate

[11] Dr. Morin does not ask this Court to reconsider the two-step framework adopted in *Gould*. Indeed, his opening argument faults the Commonwealth for purportedly failing to "justify the fit between the category and pool of offenders." Morin Br. 9. One sentence of his brief does assert that this Court should analyze Sections 131(d)(ii)(D) and 131A "through 'text, history, and tradition,'" Morin Br. 13, but he does not elaborate on what such an analysis would entail, nor does he attempt to explain how he could prevail under a "text, history, and tradition" analysis. *See id.* Given the absence of any argument whatsoever on this point, Dr. Morin has waived any challenge to the framework adopted in *Gould*. *See Powell*, 783 F.3d at 348-49.

scrutiny because the restriction imposed on criminals with non-violent, weapons-related misdemeanor convictions is substantially related to the Commonwealth's important interests in preventing crime, including violent crime, and promoting public safety.

A. This Court Should Review Sections 131(d)(ii)(D) and 131A Under, At Most, Intermediate Scrutiny.

Gould held that "the appropriate level of scrutiny must turn on how closely a particular law or policy approaches the core of the Second Amendment right and how heavily it burdens that right." 907 F.3d at 670-71. Laws that "burden the periphery of the Second Amendment right but not its core" are subject to "intermediate scrutiny," not strict scrutiny. *Id.* at 672. *Gould* further explained that the "core" right of the Second Amendment is "'the right of *law-abiding*, *responsible* citizens to use arms in defense of hearth and home.'" *Id.* (quoting *Heller*, 554 U.S. at 635) (emphasis added). Laws that affect other aspects of firearms possession are "distinct from this core interest emphasized in *Heller*." *Hightower*, 693 F.3d at 72.

Sections 131(d)(ii)(D) and 131A, as applied here, fall well outside the core of the Second Amendment. By definition, individuals with weapons-related misdemeanors, even non-violent misdemeanors, are not law-abiding, as they have been convicted of a crime. *See* Mass. Gen. Laws c. 140, § 131(d)(ii)(D). And likewise, by definition, these individuals have demonstrated that they are not

responsible to handle firearms, as they have failed to comply with criminal laws regulating the possession, transfer, or transportation of firearms. *Id.*; *see Schrader v. Holder*, 704 F.3d 980, 989 (D.C. Cir. 2013) ("common-law misdemeanants as a class cannot be considered law-abiding and responsible"). Moreover, to be disqualifying under Massachusetts' law, the violations must be punishable by a "term of imprisonment"; they therefore exclude the least serious weapons-related offenses. Mass. Gen. Laws c. 140, § 131(d)(ii)(D). Thus, like the disqualification in *Booker*, Sections 131(d)(ii)(D) and 131A do not heavily burden the core Second Amendment right of *law-abiding, responsible* citizens to possess a firearm in the home. *See Booker*, 644 F.3d at 25 n.17 (questioning whether the misdemeanant appellants, "who manifestly [we]re not 'law-abiding, responsible citizens,' fall within th[e] zone of interest" identified in *Heller*).

Nor do Sections 131(d)(ii)(D) and 131A, as applied here, necessarily prevent acquisition and possession of a gun for self-defense. Under Massachusetts law, individuals disqualified from obtaining a license to carry and a permit to purchase under Sections 131(d)(ii)(D) and 131A may, in some circumstances, obtain an FID card. The FID card statute, like the license-to-carry statute, disqualifies individuals with "a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition or which a term of imprisonment may be imposed." Mass. Gen. Laws c. 140,

§ 129B(1)(ii)(D). But it then exempts an applicant from that disqualification "if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever occurs last, for 5 or more years immediately preceding such application and the applicant's right or ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the conviction or adjudication was entered." *Id.* Thus, Massachusetts law enables some applicants with convictions for non-violent, weapons-related misdemeanors that authorize a term of imprisonment—applicants like Dr. Morin himself, who has an FID card—to obtain an FID card.

Contrary to Dr. Morin's contentions, this case does not, therefore, involve the "disarmament" of a class of individuals subject to Sections 131(d)(ii)(D) and 131A, Morin Br. 7, 10, or the "categorica[l] deni[al]" of "Second Amendment rights," *id.* at 12. With an FID card, individuals like Dr. Morin can purchase non-large-capacity rifles and shotguns, which they can lawfully possess in the home for self-defense and in public. *See* Mass. Gen. Laws c. 140, § 129B(6). And although individuals with an FID card cannot purchase a handgun from a gun retailer without a permit to purchase, *see* Mass. Gen. Laws c. 140, § 131E(b), they may be able to possess a handgun in the home for self-defense through inheritance of the weapon. *See Morin II*, 862 F.3d at 127 (explaining that, under Massachusetts law, a person with an FID card can keep a firearm in his or her home or place of

business).[12] Accordingly, the class of individuals included in the only as-applied challenge Dr. Morin has standing to press—individuals with non-violent, weapons-related misdemeanors that authorize a term of imprisonment—is not invariably barred by Sections 131(d)(ii)(D) and 131A from acquiring and using a gun for self-defense in the home.

The restriction on access to firearms at issue in this case is, consequently, less burdensome to the core Second Amendment right than the "categorical ban on gun ownership by a class of individuals" upheld in *Booker*. 644 F.3d at 25. Where this Court applied intermediate scrutiny to such a categorical restriction in *Booker*, it should likewise apply, at most, intermediate scrutiny in reviewing Dr. Morin's as-applied challenge to Sections 131(d)(ii)(D) and 131A. *See Gould*, 907 F.3d at 672 (explaining that the standard applied in *Booker* was "indistinguishable from intermediate scrutiny"); *Booker*, 644 F.3d at 25-26 (assessing whether there was a "substantial relationship" between the domestic violence misdemeanant

[12] Under Mass. Gen. Laws c. 140, § 129C(n), "upon the death of an owner" of a "firearm, rifle or shotgun" who has, through a will or other means, transferred the weapon to an "heir or legatee," the heir or legatee has 180 days from the transfer to obtain a license to carry or FID card. The person inheriting the weapon must report the inheritance to the Department of Criminal Justice Information Services Firearms Record Bureau pursuant to Mass. Gen. Laws c. 140, §§ 128A and 128B. *See* Massachusetts Firearms Registration and Transfer System, *Help & Frequently Asked Questions* 17-20, https://mircs.chs.state.ma.us/fa10/help/help_and_faq.pdf; Massachusetts Gun Transaction Portal, https://mircs.chs.state.ma.us/fa10/action/home?app_context=home&app_action=presentHome.

disqualification and "an important government objective"); *see also, e.g.*, *Schrader*, 704 F.3d at 989 (upholding common law misdemeanant disqualification under intermediate scrutiny).

B. The Disqualification of Individuals Convicted of Non-Violent Weapons-Related Misdemeanors from License-to-Carry and Permit-to-Purchase Eligibility Is Substantially Related to the Commonwealth's Important Interests in Promoting Public Safety and Preventing Crime.

In applying intermediate scrutiny, a court must ask whether the challenged enactment is "substantially related to an important governmental objective." *Clark v. Jeter*, 486 U.S. 456, 461 (1988); *accord Gould*, 907 F.3d at 672-73. The test requires "'substantial deference to the predictive judgments'" of the Legislature, and the fit between the enactment and the government's interest need not be "perfect." *Gould*, 907 F.3d at 673-74 (quoting *Turner Broadcasting Sys., Inc. v. FCC*, 520 U.S. 180, 195 (1997)). The government can justify the fit between the statute and government interest "by reference to studies and anecdotes … or even … based solely on history, consensus, and simple common sense." *Florida Bar v. Went for It, Inc.*, 515 U.S. 618, 628 (1995) (internal quotation marks and citations omitted).

Section 131(d)(ii)(D) and 131A's challenged restriction on license-to-carry and permit-to-purchase eligibility easily withstands intermediate scrutiny. As the District Court recognized, the Commonwealth's interests in enacting Sections

131(d)(ii)(D) and 131A were to prevent crime and promote public safety by "limit[ing] access to deadly weapons by irresponsible persons." *Holden*, 26 N.E.3d at 723; *see also* Appellant's Addendum 10; *Gould*, 907 F.3d at 673 (explaining that the "legislative purpose behind" Section 131(d) "is twofold: to promote public safety and to prevent crime"). Dr. Morin does not dispute that those interests are "of the utmost importance, as the statute governing who may lawfully carry a firearm directly affects the physical safety of the citizenry." *Dupont v. Chief of Police of Pepperell*, 57 Mass. App. Ct. 690, 693, 786 N.E.2d 396, 399 (2003); *see* Morin Br. 9 (referring only to "fit"). And this Court has already explained, in upholding a different subsection of Section 131, that "Massachusetts has compelling governmental interests in both public safety and crime prevention." *Gould*, 907 F.3d at 673.

As applied, Sections 131(d)(ii)(D) and 131A are substantially related to these compelling interests. First, empirical evidence demonstrates that the class of individuals regulated by Section 131(d)(ii)(D) and 131A—as applied here, misdemeanants with non-violent, weapons-related convictions—is more likely to commit crime and pose a risk to public safety than are persons without prior convictions. In one key study, researchers found that "handgun purchasers with prior misdemeanor convictions had substantially higher rates of criminal activity after handgun purchase than did purchasers with no prior criminal history." *Morin*

v. Lyver, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-9 (June 12, 2019) (G. Wintemute et al., *Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity Among Authorized Purchasers of Handguns*, 280 J. AM. MED. ASS'N 2083, 2086 (1998)). Specifically, individuals like Dr. Morin with just one prior non-violent misdemeanor conviction involving firearms were *6.4 times more likely* than persons without prior convictions to commit future criminal offenses. *Id.*, tbl. 5. Those same persons were 7.7 times more likely to commit another non-violent firearms-related offense and 4.4 times more likely to commit a *violent* offense in the future. *Id.* ("[H]andgun purchasers who had prior convictions for nonviolent firearm-related offenses such as carrying concealed firearms in public, but none for violent offenses, were at increased risk for later violent offenses."). The study concluded that "handgun purchasers with prior convictions for misdemeanor offenses, regardless of the nature of those offenses," are at "high risk" for future criminal activity. *Id.* at 2087.[13]

[13] Dr. Morin faults this study because it does not set forth the "*mens rea* in the underlying misdemeanor." Morin Br. 9-10. This argument appears to be an attempt to support Dr. Morin's assertion that because *his* underlying crimes lacked a *mens rea* requirement, Sections 131(d)(ii)(D) and 131A are not tailored as to him. As explained, that assertion is incorrect; his underlying crimes have a *mens rea* element. *See supra*, at 22-23. In any event, the study need not identify the various *mens rea* requirements for the underlying misdemeanor convictions in the dataset in order to constitute evidence that there exists a "fit between the asserted governmental interests and the means chosen by the legislature to advance those

(footnote continued)

Other research has produced similar findings. One study concluded that persons with a prior misdemeanor conviction were about four times more likely than persons without a conviction to commit future crimes that would disqualify them from firearms possession under state and federal law. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-10 (June 12, 2019) (M. Wright et al., *Felonious or Violent Criminal Activity That Prohibits Gun Ownership Among Prior Purchasers of Handguns: Incidence and Risk Factors*, 69 J. TRAUMA 948, Table 2 (2010)). A separate study demonstrated that approximately 20% of non-violent offenders released from prison in 1994 were rearrested for a violent offense within three years of release, and 28% were rearrested for a public-order offense. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-11 (June 12, 2019) (Bureau of Justice Statistics, U.S. Dep't of Justice, Fact Sheet: *Profile of Nonviolent Offenders Exiting State Prisons*, at 4 & tbl. 11 (Oct. 2004)).

Other studies show that individuals with firearms-related convictions are at a heightened risk of recidivism. The Department of Justice found, for example, that 79.5% of prisoners convicted of weapons-related offenses are rearrested within five years of their release. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-12 (June 12, 2019) (Bureau of Justice Statistics, U.S. Dep't of Justice,

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(footnote continued)
interests." *Gould*, 907 F.3d at 674. That is especially so where, "[i]n assessing th[e] fit, a perfect match is not required." *Id.*

Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010, at 8 tbl. 8 (Apr. 2014)). In a separate study examining prison inmates discharged from state prison in 2005, the Connecticut Criminal Justice Policy & Planning Division likewise found that "[o]ffenders who were sentenced to prison for weapons offenses recidivated at higher rates than offenders whose sentence histories contained no record of weapons-related crimes." State of Connecticut, Criminal Justice Policy & Planning Division, *Recidivism & Weapons* 2 (August 2010).[14] Notably, the study also found that the "recidivism rates of offenders who had served prison sentences for weapon charges were only slightly higher than the rates for offenders who had been arrested or convicted on weapons charged by had avoided prison for these offenses." *Id.*

A more recent study comparing recidivism rates for individuals arrested for firearms-offenses and those arrested for non-firearms offenses produced similar results. *See* Christine D. Westley et al., *Examining the Recidivism of Firearm Offenders Using State Criminal History and Mortality Data* (2018).[15] The study sample matched individuals arrested for the first time for firearm-related crimes with individuals arrested for the first time for non-firearm-related crimes. *Id.* at 5.

[14] This study is available at https://www.jrsa.org/pubs/forum/article-additions/recidivism-and-weapons.pdf.

[15] This study is available at http://ilfvcc.org/assets/articles/Firearm_study_report_073118.pdf.

Of the total sample, only 15% had served time in prison for their initial crimes. *Id.* at 6. Researchers found that, "holding other characteristics constant, those facing the criminal justice system for the first time as firearms offenders persisted in criminal justice involvement for firearms at a much higher rate and for a longer period than their justice system-involved peers who were not engaged with firearms." *Id.* at 13. Specifically, in the ten years after the initial arrest, 67% of individuals arrested for firearms offenses were re-arrested for any criminal offense, while only 41% of individuals arrested for non-firearms offenses were re-arrested for any criminal offense—making the individuals with firearms offenses 70% more likely to be re-arrested. *Id.* at 7, 9 (Figure 1), 10. And while 18% of individuals arrested for firearms offenses were re-arrested again on firearms-related charges, only 3% of individuals arrested for non-firearms offenses were re-arrested on firearms-related charges. *Id.* Overall, researchers concluded, "[f]or every measure of recidivism—re-arrest, re-conviction, and re-incarceration—[individuals with firearms offenses] recidivated at a higher rate than [individuals with non-firearms offenses]." *Id.* at 8; *see also id.* at 12 ("During the period studied, first arrests for gun-related offenses were highly predictive of future arrests, especially new firearm arrests."). Those "dealing with firearm-involved individuals," the researchers cautioned, "should be aware that even minor initial illegal firearm involvement can signal risk of serious long-term consequences for both public

safety and the involved individual, and should not be minimized as a risk factor." *Id.* at 12.

More generally, in assessing the Commonwealth's overall firearms licensing scheme, this Court observed in *Gould* that "Massachusetts consistently has one of the lowest rates of gun-related deaths in the nation, and the Commonwealth attributes this salubrious state of affairs to its comprehensive firearms licensing regime." 907 F.3d at 674-75. The Court noted the deference owed to the Legislature when it credited empirical evidence "indicating that states with more restrictive licensing schemes for the public carriage of firearms experience significantly lower rates of gun-related homicides and other violent crimes." *Id.* at 675-76. Section 131(d)(ii)(D) and 131A are, of course, part of the Commonwealth's "comprehensive firearms licensing regime" that keeps Massachusetts citizens safe and prevents crime. *Id.* And since *Gould* was decided, still more research has demonstrated the linkages between the Commonwealth's gun licensing regime and public safety. One recent study found that "laws requiring permits to purchase or possess firearms are associated with a lower incidence of mass public shootings," and that states like Massachusetts with such laws have 60% lower odds of experiencing a mass public shooting. *See* Michael Siegel et al., *The Relation Between State Gun Laws and the Incidence and Severity*

of Mass Public Shootings in the United States, 1976-2018, 44 LAW & HUMAN BEHAVIOR 347, 353-54 (2020) (Commonwealth's Addendum 24-25).

The nature of the restriction in Sections 131(d)(ii)(D) and 131A also demonstrates that it is substantially related to crime prevention and public safety. Section 131(d)(ii)(D) disqualifies only those persons who have been convicted of a weapons-related offense "for which a term of imprisonment may be imposed." Not all weapons- and ammunition-related offenses authorize a term of imprisonment; many states, including Massachusetts, impose only a fine or forfeiture for lower-level weapons- or ammunition-related criminal offenses and civil infractions. *See* Mass. Gen. Laws c. 140, §§ 131C(a), (b) (individuals with licenses to carry who fail to comply with rules for transporting firearms subject to a fine); *see also*, *e.g.*, Conn. Gen. Stat. § 53-202g (first failure to report lost or stolen firearm results in fine); Ky. Rev. Stat. § 244.125 (possession of loaded firearm in establishments selling alcoholic beverages results in forfeiture of firearm); Mich. Code § 28.425f (failure to have license to carry and personal identification while carrying concealed pistol results in fine); Minn. Stat. § 624.7162 (firearms dealer that fails to post prescribed warning "is guilty of a petty misdemeanor" and subject to a fine); N.C. Gen. Stat. § 14-415.21 (person with permit who carries concealed handgun without the permit is subject to a fine); Wash. Rev. Code § 9.41.050(1)(b) (person with license who carries concealed handgun without the license is subject

to a fine). In specifying that a disqualifying conviction must be punishable by a term of imprisonment, Sections 131(d)(ii)(D) and 131A ensure that only criminals with more serious weapons- and ammunition-related convictions are restricted from firearms possession in Massachusetts. The Legislature reasonably concluded that such persons are at risk for future criminal conduct.

Nevertheless, the Legislature did not disqualify *all* individuals with non-violent weapons-related misdemeanors authorizing a term of imprisonment from acquiring and possessing guns. Such applicants may, as described, be eligible for FID cards. *See supra*, at 29-30. The category of persons that can qualify for an FID card includes those individuals who have five or more years since their date of release from confinement, probation, or parole supervision, indicating a lower risk of recidivism. *See* Mass. Gen. Laws c. 140, § 129B(1)(ii). In contrast, persons with a felony conviction or a conviction for "a misdemeanor crime of domestic violence, a violent crime or a crime involving the trafficking of weapons or controlled substances" can never regain eligibility for an FID card. *Id.* The Legislature's nuance in authorizing only certain categories of persons with criminal convictions to regain eligibility for FID cards likewise demonstrates a substantial fit between the gun licensing scheme in Massachusetts—including the disqualifications in Sections 131(d)(ii)(D) and 131A—and the Commonwealth's crime prevention and public safety objectives.

Taken together, the empirical research, the narrowly-drawn statutory language, and plain common sense all establish a substantial fit between the Commonwealth's goals of preventing crime and promoting public safety, on the one hand, and Section 131(d)(ii)(D) and 131A's disqualification of persons with non-violent weapons-related misdemeanor convictions that authorize a term of imprisonment from license-to-carry and permit-to-purchase eligibility, on the other. Sections 131(d)(ii)(D) and 131A are therefore constitutional as applied to persons who have been convicted of non-violent weapons-related misdemeanors that authorize a term of imprisonment.

III. The Second Amendment Does Not Require the Commonwealth to Exempt Dr. Morin from Statutory Disqualification, Despite His Prior Convictions, Based on His Individual Circumstances.

Rather than make any serious argument to contest the fit between Sections 131(d)(ii)(D) and 131A and the Commonwealth's goals of promoting public safety and preventing crime, Dr. Morin instead urges this Court, in effect, to exempt him from the statutory disqualifications based on the particular facts of his personal background. *See* Morin Br. 13. He contends that Section 131(d)(ii)(D) and 131A cannot constitutionally be applied to him because, despite his prior convictions, *he* is otherwise a "law-abiding responsible citizen" who "has lived a successful and productive life and contributed to society." *Id.* The District Court correctly determined that Dr. Morin's entreaty is inconsistent with this Court's precedent,

and with the holdings of other courts of appeals, that a plaintiff's personal circumstances are irrelevant to a Second Amendment claim. *See* Appellant's Addendum 8. But to the extent this Court nevertheless considers Dr. Morin's individual circumstances, those circumstances cannot aid him because they undercut, rather than support, his claim.

A. Where Dr. Morin Has Been Convicted of Disqualifying Offenses, His Individual Circumstances Are Not Relevant to His As-Applied Second Amendment Claim.

This Court made clear in *Booker* that "the Second Amendment permits categorical regulation of gun possession by classes of persons … rather than requiring that restrictions on the right be imposed only on an individualized, case-by-case basis." 644 F.3d at 23. Thus, in reviewing Second Amendment claims challenging a statute that regulates a class of individuals, this Court has considered application of the statute to a sub-category of individuals, but it has not regarded individual circumstances as relevant to the analysis.

Consider two examples. *Armstrong* involved an as-applied Second Amendment challenge to the federal domestic violence misdemeanant disqualification. *See* 706 F.3d at 7-8. This Court upheld the statute as applied to misdemeanants who could have been convicted under Maine law for causing "offensive physical contact" to another person, but not for causing "bodily injury" to another person. *Id.* at 4, 8 ("Appellant's arguments fail as an 'as-applied'

challenge because a sufficient nexus exists here between the important government interest and the disqualification of domestic violence misdemeanants like Appellant."). In reaching that conclusion, the Court did not consider the misdemeanant's individual characteristics or the particular facts underlying his conviction. *See id.* Similarly, in *Hightower*, this Court declined to consider personal circumstances in reviewing an as-applied Second Amendment challenge to Mass. Gen. Laws c. 140, § 131(d). *See* 693 F.3d at 71-76. The plaintiff had urged the Court to consider her background in evaluating her claim that revoking her license to carry violated the Second Amendment. *See* Reply Brief of Appellant at 32, 35, *Hightower v. City of Boston*, No. 11-2281, 2012 WL 1572549 (1st Cir. May 1, 2012). But the Court confined its analysis to the question whether revoking the license to carry of people in the plaintiff's class—that is, individuals who fill out firearms licensing forms untruthfully—violates the Second Amendment. *See Hightower*, 693 F.3d at 74-76. The plaintiff's record of military and police service did not factor in this Court's analysis or in its rejection of her claim. *See id.*

There is good reason for confining the analysis to class-wide characteristics, rather than individual characteristics. Permitting personal circumstances to bear on as-applied Second Amendment claims would contravene the Legislature's judgment that a particular type of conviction is sufficient to warrant disqualification from license-to-carry eligibility. *See Gould*, 907 F.3d at 676

("Institutionally, a legislative body is better equipped than a court to assess the compendium of data bearing upon a particular issue and to reach predictive judgments about what those data portend."). And it would open up federal courts to countless lawsuits by persons who are disqualified from firearms possession, but who nevertheless believe that their personal circumstances entitle them to possess firearms. This would force individual federal judges, on an *ad hoc* basis, to draw lines between those persons who are sufficiently rehabilitated to possess firearms and those who are not. "[S]uch an approach, applied to countless variations in individual circumstances, would obviously present serious problems of administration, consistency, and fair warning," this Court has explained. *Torres-Rosario*, 658 F.3d at 113. As the District Court put it in the decision below, "'[i]t would be unreasonable to expect the courts to make individualized considerations for every person who is statutorily precluded from obtaining a firearms license but who nevertheless believes that he or she should be entitled to carry a weapon." Appellant's Addendum 8 (quoting *Morin I*, 189 F. Supp. 3d at 236). For these reasons, other courts of appeals have rejected attempts to inject individual circumstances into Second Amendment claims. *See, e.g.*, *Kanter*, 919 F.3d at 450-51 ("the highly-individualized approach Kanter proposes raises serious institutional and administrative concerns"); *Tyler v. Hillsdale Cty. Sheriff's Dept.*, 837 F.3d 678, 699 n.18 (6th Cir. 2016) (en banc) ("We will not read *Heller* to

require an individualized hearing to determine whether the government has made an improper categorization, and we question the institutional capacity of the courts to engage in such determinations.").

Thus, this Court need not, and should not, consider Dr. Morin's contention that he, in particular, is a law-abiding, responsible citizen who should be entitled to a license to carry and permit to purchase.

B. Should This Court Consider Dr. Morin's Personal Circumstances, the Specific Facts of His Case Undermine His Second Amendment Claim.

Nevertheless, to the extent this Court were to consider Dr. Morin's personal circumstances, his circumstances undercut, rather than support, his Second Amendment claim.

There are no facts in the record tending to show that Dr. Morin is a law-abiding, responsible citizen, or that he poses no risk to public safety. While his brief asserts that he "has lived a successful and productive life and contributed to society" and that he "has no other disqualifying criminal convictions," Morin Br. 13, he failed to support those assertions with competent evidence when he moved for summary judgment in the District Court. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. Nos. 19-22 (April 25, 2019); Fed. R. Civ. P. 56(c)(1)(A) (party moving for summary judgment must support factual assertions with "depositions, documents, electronically stored information, affidavits or

declarations, stipulations …, admissions, interrogatory answers, or other materials"). Accordingly, he cites no such record evidence to this Court.

What the available facts *do* demonstrate is that Dr. Morin has been unwilling to comply with laws that promote firearms safety and preserve the integrity of the firearms licensing process. First, in 2004, Dr. Morin drove from Massachusetts to Washington, D.C. with a loaded pistol, even though he was not licensed to carry a firearm in any state he drove through except Massachusetts. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 5 (June 12, 2019). Although some of the states he passed through may have recognized his Massachusetts license to carry, other states, including Connecticut, New York, New Jersey, and Maryland, did not. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-13 (June 12, 2019) (U.S. Govt. Accountability Office, STATES' LAWS AND REQUIREMENTS FOR CONCEALED CARRY PERMITS VARY ACROSS THE NATION 80-82 (July 2012)). In each of those states, it was illegal in 2004 to carry a handgun without a license to carry or permit issued by that state. *See* Conn. Gen. Stat. § 29-28 (2004) (permits for out-of-state residents); Conn. Gen. Stat. § 29-35 (2004) (criminal prohibition); Md. Code, Crim. § 4-203(a) (2004) (criminal prohibition); Md. Code, Public Safety § 5-303 (2004) (requiring a permit to carry a handgun); N.J. Stat. Ann. § 2C:39-5(b) (2004) (criminal prohibition); N.J. Stat. Ann. § 2C:58-4 (2004) (process for obtaining a permit); N.Y. Penal Law, § 265.01 (2004) (criminal

prohibition); 1997 N.Y. Op. Att'y Gen. 14 (1997) ("New York law does not recognize or give effect to licenses to carry firearms issued by the State of Georgia or any other state."). Dr. Morin therefore violated several states' firearms laws in 2004, in addition to the laws he violated in Washington, D.C.

Second, once he was in Washington, Dr. Morin approached a federal government building with a loaded pistol. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 6 (June 12, 2019). It is common knowledge that civilians cannot bring firearms into federal government buildings, whether Smithsonian museums or federal courthouses. *See* 18 U.S.C. §§ 930(a), (e)(1); *Heller v. District of Columbia*, 801 F.3d 264, 283 (D.C. Cir. 2015) (Henderson, J., concurring in part and dissenting in part) (noting "the unique security risks presented by a city full of high-level government officials, diplomats, monuments, parades, protests and demonstrations and, perhaps most pertinent, countless government buildings where citizens are almost universally prohibited from possessing firearms"). In approaching a federal government building with a loaded pistol, Dr. Morin disregarded the laws protecting the security of federal officials and the public.

Third, four years after his convictions, Dr. Morin falsely stated on his 2008 license-to-carry renewal application that he had not been convicted of any law regulating the possession of weapons for which a term of imprisonment could be imposed. *See Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 27, ¶ 3 (June

12, 2019). He made that representation even though he signed the application under the "penalties of perjury" and after receiving notice that "any false answer(s) will be just cause for denial or revocation" of the license to carry "and may be used in a criminal proceeding" pursuant to Mass. Gen. Laws c. 140, §§ 129 and 131(h). *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-3, at 3 (June 12, 2019). In answering that question, Dr. Morin, like the plaintiff in the *Hightower* case, "completed the application form untruthfully." 693 F.3d at 68. This Court held that revoking the *Hightower* plaintiff's license to carry based on her false answer was consistent with the Second Amendment. *Id.* at 74-75. The requirement that firearms license applicants provide truthful information, the Court explained, "helps ensure the integrity of the system of keeping prohibited persons from possessing firearms." *Id.* It also promotes public safety: data from the Bureau of Alcohol, Tobacco, and Firearms shows that individuals who make false statements on gun forms are "far more likely to go on to commit a gun crime than even many experts recognize." *Morin v. Lyver*, No. 4:18-cv-40121-TSH, ECF Doc. No. 25-14 (June 12, 2019) (Jose Pagliery, *Gun Form Liars May Go on to Commit Gun Crimes, Internal ATF Research Suggests*, CNN Investigates, at 2 (Dec. 21, 2018) (10-21% of this group are later arrested for a crime involving guns)). If it did not violate the Second Amendment to revoke a license to carry based on the plaintiff's submission of false information in *Hightower*, it cannot violate the Second

Amendment to withhold a license to carry from Dr. Morin, who engaged in the same underlying conduct.

Thus, while the specific facts of Dr. Morin's particular case should be deemed irrelevant to his as-applied Second Amendment claim, those facts offer no assistance to his claim. Sections 131(d)(ii)(D) and 131A, as applied to Dr. Morin, comport fully with the Second Amendment.

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment of the District Court.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS,

By its attorney,

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Date: November 20, 2020

Certificate of Compliance with Rule 32(a)

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), this brief contains 11,737 words.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

/s/ Julia E. Kobick
Julia E. Kobick
Assistant Attorney General

Dated: 11/20/2020

Certificate of Service

I hereby certify that on November 20, 2020, the foregoing document will be filed and served electronically through the CM/ECF system on the following counsel, who are registered as ECF filers:

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Assistant Attorney General

Dated: 11/20/2020

ADDENDUM

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Morin,

Plaintiff,

v.

Lyver, et al.,

Defendants,

CIVIL ACTION

NO. 18-40121-TSH

JUDGMENT

HILLMAN, D. J.

In accordance with the Court's Memorandum and Order dated 3/4/20, granting defendants' motions for summary judgment in the above-entitled action, it is hereby ORDERED:

Judgment for the Defendants

By the Court,

3/4/20
Date

/s/ Martin Castles
Deputy Clerk

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XX. Public Safety and Good Order (Ch. 133-148a)
Chapter 140. Licenses (Refs & Annos)

M.G.L.A. 140 § 129B

§ 129B. Firearm identification cards; conditions and restrictions

Effective: August 17, 2018 to December 31, 2020
Currentness

A firearm identification card shall be issued and possessed subject to the following conditions and restrictions:

(1) Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority an application for a firearm identification card, or renewal of the same, which the licensing authority shall issue if it appears that the applicant is not a prohibited person. A prohibited person shall be a person who:

(i) has ever, in a court of the commonwealth, been convicted or adjudicated a youthful offender or delinquent child, or both as defined in section 52 of chapter 119, for the commission of: (A) a felony; (B) a misdemeanor punishable by imprisonment for more than 2 years ; (C) a violent crime as defined in section 121; (D) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (E) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C, including, but not limited to, a violation under said chapter 94C; or (F) a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33); provided, however, that, except for the commission of a felony, a misdemeanor crime of domestic violence, a violent crime or a crime involving the trafficking of controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever occurs last, for 5 or more years immediately preceding such application, then the applicant's right or ability to possess a non-large capacity rifle or shotgun shall be deemed restored in the commonwealth with respect to such conviction or adjudication and that conviction or adjudication shall not disqualify the applicant for a firearm identification card;

(ii) has, in any other state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of: (A) a felony; (B) a misdemeanor punishable by imprisonment for more than 2 years; (C) a violent crime as defined in section 121; (D) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (E) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C, including, but not limited to, a violation under said chapter 94C; or (F) a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33); provided, however, that, except for the commission of felony, a misdemeanor crime of domestic violence, a violent crime or a crime involving the trafficking of weapons or controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever occurs last, for 5 or more years immediately preceding such application and the applicant's right or ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the conviction or adjudication was entered, then the conviction or adjudication shall not disqualify such applicant for a firearm identification card;

(iii) is or has been: (A) except in the case of a commitment pursuant to sections 35 or 36C of chapter 123, committed to any hospital or institution for mental illness, alcohol or substance abuse, unless after 5 years from the date of the confinement, the applicant submits with the application an affidavit of a licensed physician or clinical psychologist attesting that such physician or psychologist is familiar with the applicant's mental illness, alcohol or substance abuse and that in the physician's or psychologist's opinion the applicant is not disabled by a mental illness, alcohol or substance abuse in a manner that should prevent the applicant from possessing a firearm, rifle or shotgun; (B) committed by an order of a court to any hospital or institution for mental illness, unless the applicant was granted a petition for relief of the court's order pursuant to said section 36C of said chapter 123 and submits a copy of the order for relief with the application; (C) subject to an order of the probate court appointing a guardian or conservator for a incapacitated person on the grounds that that applicant lacks the mental capacity to contract or manage affairs, unless the applicant was granted a petition for relief pursuant to section 56C of chapter 215 and submits a copy of the order for relief with the application; or (D) found to be a person with an alcohol use disorder or substance use disorder or both and committed pursuant to said section 35 of said chapter 123, unless the applicant was granted a petition for relief of the court's order pursuant to said section 35 of said chapter 123 and submits a copy of the order for relief with the application;

(iv) is at the time of the application younger than 14 years of age; provided however that the applicant shall not be issued the card until the applicant reaches the age of 15.

(v) is at the time of the application more than 14 but less than 18 years of age, unless the applicant submits with the application a certificate of a parent or guardian granting the applicant permission to apply for a card;

(vi) is an alien who does not maintain lawful permanent residency;

(vii) is currently subject to: (A) an order for suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; (B) a permanent or temporary protection order issued pursuant to chapter 209A, a similar order issued by another jurisdiction, including an order described in 18 U.S.C. 922(g)(8); or (C) an extreme risk protection order issued pursuant to sections 131R to 131X, inclusive, or a similar order issued by another jurisdiction;

(viii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction;

(ix) has been discharged from the armed forces of the United States under dishonorable conditions;

(x) is a fugitive from justice; or

(xi) having been a citizen of the United States, has renounced that citizenship.

(1 ½)(a) Notwithstanding paragraph (1) to the contrary, the licensing authority may file a petition to request that an applicant be denied the issuance or renewal of a firearm identification card, or to suspend or revoke such a card in the district court of jurisdiction. If the licensing authority files any such petition it shall be accompanied by written notice to the applicant describing the specific evidence in the petition. Such petition shall be founded upon a written statement of the reasons for supporting a finding of unsuitability pursuant to subsection (d).

(b) Upon the filing of a petition to deny the issuance or renewal of a firearm identification card, the court shall within 90 days hold a hearing to determine if the applicant is unsuitable under subsection (d) of this paragraph. Such a petition shall serve to stay the issuance or renewal of the firearm identification card pending a judicial determination on such petition.

(c) Upon the filing of a petition to suspend or revoke a firearm identification card, the court shall within 15 days determine whether there is sufficient evidence to support a finding that the applicant is unsuitable. Such petition shall serve to effect the suspension or revocation pending a judicial determination on the sufficiency of evidence. If a court determines that insufficient evidence exists to support a finding of unsuitability, the licensing authority shall not file a petition under this subsection for the same applicant within 75 days of the licensing authority's previous petition for that applicant. If a court determines that sufficient evidence exists to support a finding of unsuitability, the court shall within 75 days hold a hearing to determine if the applicant is unsuitable under subsection (d); provided, however, that such initial suspension or revocation shall remain in effect pending a judicial determination thereon.

(d) A determination of unsuitability shall be based on a preponderance of evidence that there exists: (i) reliable, articulable, and credible information that the applicant has exhibited or engaged in behavior to suggest the applicant could potentially create a risk to public safety; or (ii) existing factors that suggest that the applicant could potentially create a risk to public safety. If a court enters a judgment that an applicant is unsuitable the court shall notify the applicant in a writing setting forth the specific reasons for such determination. If a court has not entered a judgment that an applicant is unsuitable under this clause within 90 days for petitions under clause (ii) or within 75 days under clause (iii), the court shall enter a judgment that the applicant is suitable for the purposes of this paragraph.

(2) Within seven days of the receipt of a completed application for a card, the licensing authority shall forward one copy of the application and one copy of the applicant's fingerprints to the colonel of state police, who shall, within 30 days, advise the licensing authority, in writing, of any disqualifying criminal record of the applicant arising from within or without the commonwealth and whether there is reason to believe that the applicant is disqualified for any of the foregoing reasons from possessing a card; provided, however, that the taking of fingerprints shall not be required in issuing the renewal of a card if the renewal applicant's fingerprints are on file with the department of state police. In searching for any disqualifying history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of mental health, department of probation and statewide and nationwide criminal justice, warrant and protection order information systems and files including, but not limited to, the National Instant Criminal Background Check System. If the information available to the colonel does not indicate that the possession of a non-large capacity rifle or shotgun by the applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the licensing authority within such 30 day period. The licensing authority shall provide to the applicant a receipt indicating that it received the applicant's application. The receipt shall be provided to the applicant within 7 days by mail if the application was received by mail or immediately if the application was made in person; provided, however, that the receipt shall include the applicants' name, address, current firearm identification card number, if any, the current card's expiration date, if any, the date when the application was received by the licensing authority, the name of the licensing authority and its agent that received the application, the licensing authority's address and telephone number, the type of application and whether it is an application for a new card or for renewal of an existing card; and provided further, that a copy of the receipt shall be kept by the licensing authority for not less than 1 year and a copy shall be furnished to the applicant if requested by the applicant.

(3) The licensing authority may not prescribe any other condition for the issuance of a firearm identification card and shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such card shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a rifle or shotgun by the applicant would be in violation of state or federal law.

(4) A firearm identification card shall be revoked or suspended by the licensing authority or his designee upon the occurrence of any event that would have disqualified the holder from being issued such card or from having such card renewed or for a violation of a restriction provided under this section. Any revocation or suspension of a card shall be in writing and shall state the reasons therefor. Upon revocation or suspension, the licensing authority shall take possession of such card and receipt for fee paid for such card, and the person whose card is so revoked or suspended shall take all action required under the provisions of section 129D. No appeal or post-judgment motion shall operate to stay such revocation or suspension. Notices of revocation and suspension shall be forwarded to the commissioner of the department of criminal justice information services and the commissioner of probation and shall be included in the criminal justice information system. A revoked or suspended card may be reinstated only upon the termination of all disqualifying conditions.

(5) Any applicant or holder aggrieved by a denial, revocation or suspension of a firearm identification card, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receipt of notice of such denial, revocation or suspension or within 90 days after the expiration of the time limit in which the licensing authority is required to respond to the applicant, file a petition to obtain judicial review in the district court having jurisdiction in the city or town wherein the applicant filed for or was issued such card. A justice of such court, after a hearing, may direct that a card be issued or reinstated to the petitioner if the justice finds that such petitioner is not prohibited by law from possessing such card.

(6) A firearm identification card shall not entitle a holder thereof to possess: (i) a large capacity firearm or large capacity feeding device therefor, except under a Class A license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a Class A license issued to an individual under section 131 at an incorporated shooting club or licensed shooting range; or (ii) a non-large capacity firearm or large capacity rifle or shotgun or large capacity feeding device therefor, except under a Class A license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a Class A or Class B license issued to an individual under section 131 at an incorporated shooting club or licensed shooting range. A firearm identification card shall not entitle a holder thereof to possess any rifle or shotgun that is, or in such manner that is, otherwise prohibited by law. A firearm identification card issued pursuant to subclause (vi) of clause (1) of section 122D [1] shall be valid for the purpose of purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate. Except as otherwise provided herein, a firearm identification card shall not be valid for the use, possession, ownership, transfer, purchase, sale, lease, rental or transportation of a rifle or shotgun if such rifle or shotgun is a large capacity weapon as defined in section 121.

(7) A firearm identification card shall be in a standard form provided by the commissioner of the department of criminal justice information services in a size and shape equivalent to that of a license to operate motor vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall contain an identification number, name, address, photograph, fingerprint, place and date of birth, height, weight, hair color, eye color and signature of the cardholder and shall be marked “Firearm Identification Card” and shall provide in a legible font size and style the phone numbers for the National Suicide Prevention Lifeline and the Samaritans Statewide Helpline. If a firearm identification card is issued pursuant to clause (vi) of section 122D for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, such card shall clearly state that such card is valid for such limited purpose only. The application for such card shall be made in a standard form provided by the commissioner of the department of criminal justice information services which shall require the applicant to affirmatively state, under the pains and penalties of perjury, that he is not disqualified on any of the grounds enumerated in clauses (i) to (ix), inclusive, from being issued such card.

(8) Any person who knowingly files an application containing false information shall be punished by a fine of not less than $500 nor more than $1,000 or by imprisonment for not less than six months nor more than two years in a house of correction, or by both such fine and imprisonment.

(9) A firearm identification card shall be valid, unless revoked or suspended, for a period of not more than 6 years from the date of issuance, except that if the cardholder applied for renewal before the card expired, the card shall remain valid after the expiration date on the card for all lawful purposes, until the application for renewal is approved or denied; provided, however, if the cardholder is on active duty with the armed forces of the United States on the expiration date of the card, the card shall remain valid until the cardholder is released from active duty and for a period of not less than 180 days following such release, except that if the cardholder applied for renewal prior to the end of such period, the card shall remain valid after the expiration date on the card for all lawful purposes, until the application for renewal is approved or denied. A card issued on February 29 shall expire on March 1. The commissioner of criminal justice information services shall send electronically or by first class mail to the holder of a firearm identification card, a notice of the expiration of the card not less than 90 days before its expiration and shall enclose with the notice a form for the renewal of the card. The form for renewal shall include an affidavit whereby the applicant shall verify that the applicant has not lost a firearm or had a firearm stolen from the applicant's possession since the date of the applicant's last renewal or issuance. The commissioner of criminal justice information services shall include in the notice all pertinent information about the penalties that may be imposed if the firearm identification card is not renewed. The commissioner of criminal justice information services shall provide electronic notice of expiration only upon the request of a cardholder. A request for electronic notice of expiration shall be forwarded to the department on a form furnished by the commissioner. Any electronic address maintained by the department to provide electronic notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in section 10 of chapter 66.

(9A) Except as provided in paragraph (9B), the fee for an application for a firearm identification card shall be $100, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain $25 of the fee; $50 of the fee shall be deposited in the General Fund; and $25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

(9B) The application fee for a firearm identification card issued pursuant to clause (vi) of section 122D for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall be $25, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain 50 per cent of the fee and the remaining portion shall be deposited in the General Fund. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year. There shall be no application fee for the renewal of a firearm identification card issued under this paragraph.

A firearm identification card issued under this paragraph shall display, in clear and conspicuous language, that the card shall be valid only for the purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate.

(9C) Except as provided in paragraph (9B), the fee for an application for a firearm identification card for any person under the age of 18 shall be $25, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain 50 per cent of the fee and the remaining portion shall be deposited into the General Fund. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly that

portion of the firearm identification card application fee which is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

(10) Any person over the age of 70 shall be exempt from the requirement of paying a renewal fee for a firearm identification card.

(11) A cardholder shall notify, in writing, the licensing authority that issued such card, the chief of police into whose jurisdiction such cardholder moves and the executive director of the criminal history systems board of any change of address. Such notification shall be made by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for revocation or suspension of such card.

(12) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a non-large capacity rifle or shotgun whose firearm identification card issued under this section is invalid for the sole reason that it has expired, not including licenses that remain valid under paragraph (9) because the licensee applied for renewal before the license expired, but who shall not be disqualified from renewal upon application therefor under this section, shall be subject to a civil fine of not less than $100 nor more than $5,000 and the provisions of said section 10 of said chapter 269 shall not apply; provided, however, that the exemption from the provisions of said section 10 of said chapter 269 provided herein shall not apply if: (i) such firearm identification card has been revoked or suspended, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such firearm identification card is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such firearm identification card has been denied. Any law enforcement officer who discovers a person to be in possession of a rifle or shotgun after such person's firearm identification card has expired, meaning after 90 days beyond the stated expiration date on the card, or has been revoked or suspended solely for failure to give notice of a change of address shall confiscate any rifle or shotgun and such expired or suspended card then in possession, and such officer shall forward such card to the licensing authority by whom it was issued as soon as practicable. Any confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such expired or suspended card within one year of such confiscation or such weapon may be otherwise disposed of in accordance with the provisions of section 129D. Pending the issuance of a renewed firearm identification card, a receipt for the fee paid, after five days following issuance, shall serve as a valid substitute and any rifle or shotgun so confiscated shall be returned, unless the applicant is disqualified. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms issued under section 131 or 131F.

(13) Upon issuance of a firearm identification card under this section, the licensing authority shall forward a copy of such approved application and card to the executive director of the criminal history systems board, who shall inform the licensing authority forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a firearm identification card under this section.

(14) Nothing in this section shall authorize the purchase, possession or transfer of any weapon, ammunition or feeding device that is, or in such manner that is, prohibited by state or federal law.

(15) The secretary of the executive office of public safety, or his designee, may promulgate regulations to carry out the purposes of this section.

Credits

Added by St.1968, c. 737, § 7. Amended by St.1969, c. 799, § 7; St.1971, c. 225; St.1972, c. 312, §§ 1, 2; St.1976, c. 239; St.1989, c. 339; St.1994, c. 24, §§ 1, 2; St.1996, c. 151, § 317; St.1996, c. 200, § 27; St.1998, c. 180, § 29; St.1998, c. 358, §

4; St.2000, c. 159, § 233; St.2000, c. 236, §§ 18, 19; St.2002, c. 513, § 1; St.2003, c. 26, § 428, eff. July 1, 2003; St.2003, c. 46, § 102, eff. July 31, 2003; St.2003, c. 140, § 34, eff. Nov. 26, 2003; St.2004, c. 65, §§ 23, 24, eff. Apr. 5, 2004; St.2004, c. 150, §§ 4 to 8, eff. Sept. 13, 2004; St.2010, c. 256, § 93, eff. Nov. 4, 2010; St.2010, c. 466, § 1, eff. Apr. 14, 2011; St.2011, c. 9, §§ 14, 15, eff. Apr. 11, 2011; St.2011, c. 68, § 93, eff. July 1, 2011; St.2014, c. 284, §§ 30, 31, 34, 36, 38, 39, eff. Jan. 1, 2015; St.2014, c. 284, §§ 32, 35, 37, eff. Aug. 13, 2014; St.2018, c. 123, §§ 9, 10, eff. Aug. 17, 2018.

Footnotes

1 So in enrolled bill; probably should read, "pursuant to clause (vi) of section 122D".

M.G.L.A. 140 § 129B, MA ST 140 § 129B
Current through Chapter 113 of the 2020 Second Annual Session of the General Court.

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XX. Public Safety and Good Order (Ch. 133-148a)
Chapter 140. Licenses (Refs & Annos)

M.G.L.A. 140 § 131

§ 131. Licenses to carry firearms; Class A and B; conditions and restrictions

Effective: August 17, 2018 to December 31, 2020
Currentness

All licenses to carry firearms shall be designated Class A or Class B, and the issuance and possession of any such license shall be subject to the following conditions and restrictions:

(a) A Class A license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) firearms, including large capacity firearms, and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of firearms as the licensing authority deems proper; and (ii) rifles and shotguns, including large capacity weapons, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as it deems proper. A violation of a restriction imposed by the licensing authority under the provisions of this paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than $1,000 nor more than $10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

The colonel of state police may, after an investigation, grant a Class A license to a club or facility with an on-site shooting range or gallery, which club is incorporated under the laws of the commonwealth for the possession, storage and use of large capacity weapons, ammunition therefor and large capacity feeding devices for use with such weapons on the premises of such club; provided, however, that not less than one shareholder of such club shall be qualified and suitable to be issued such license; and provided further, that such large capacity weapons and ammunition feeding devices may be used under such Class A club license only by such members that possess a valid firearm identification card issued under section 129B or a valid Class A or Class B license to carry firearms, or by such other persons that the club permits while under the direct supervision of a certified firearms safety instructor or club member who, in the case of a large capacity firearm, possesses a valid Class A license to carry firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B license to carry firearms. Such club shall not permit shooting at targets that depict human figures, human effigies, human silhouettes or any human images thereof, except by public safety personnel performing in line with their official duties.

No large capacity weapon or large capacity feeding device shall be removed from the premises except for the purposes of: (i) transferring such firearm or feeding device to a licensed dealer; (ii) transporting such firearm or feeding device to a licensed gunsmith for repair; (iii) target, trap or skeet shooting on the premises of another club incorporated under the laws of the commonwealth and for transporting thereto; (iv) attending an exhibition or educational project or event that is sponsored by, conducted under the supervision of or approved by a public law enforcement agency or a nationally or state recognized entity that promotes proficiency in or education about semiautomatic weapons and for transporting thereto and therefrom; (v) hunting in accordance with the provisions of chapter 131; or (vi) surrendering such firearm or feeding device under the provisions of section 129D. Any large capacity weapon or large capacity feeding device kept on the premises of a lawfully incorporated shooting club shall, when not in use, be secured in a locked container, and shall be unloaded during any lawful transport. The clerk or other corporate officer of such club shall annually file a report with the colonel of state police and the commissioner of the department of criminal justice information services listing all large capacity weapons and large capacity feeding devices

owned or possessed under such license. The colonel of state police or his designee, shall have the right to inspect all firearms owned or possessed by such club upon request during regular business hours and said colonel may revoke or suspend a club license for a violation of any provision of this chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons or large capacity feeding devices.

(b) A Class B license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as the licensing authority deems proper; provided, however, that a Class B license shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way or place; and provided further, that a Class B license shall not entitle the holder thereof to possess a large capacity firearm, except under a Class A club license issued under this section or under the direct supervision of a holder of a valid Class A license at an incorporated shooting club or licensed shooting range; and (ii) rifles and shotguns, including large capacity rifles and shotguns, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as he deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed by the licensing authority under the provisions of this paragraph, shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than $1,000 nor more than $10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

A Class B license shall not be a valid license for the purpose of complying with any provision under this chapter governing the purchase, sale, lease, rental or transfer of any weapon or ammunition feeding device if such weapon is a large capacity firearm or if such ammunition feeding device is a large capacity feeding device for use with a large capacity firearm, both as defined in section 121.

(c) Either a Class A or Class B license shall be valid for the purpose of owning, possessing, purchasing and transferring non-large capacity rifles and shotguns, and for purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, consistent with the entitlements conferred by a firearm identification card issued under section 129B.

(d) Any person residing or having a place of business within the jurisdiction of the licensing authority or any law enforcement officer employed by the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority or the colonel of state police, an application for a Class A license to carry firearms, or renewal of the same, which the licensing authority or the colonel may issue if it appears that the applicant is not a prohibited person, as set forth in this section, to be issued a license and has good reason to fear injury to the applicant or the applicant's property or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to the restrictions expressed or authorized under this section.

A prohibited person shall be a person who:

(i) has, in a court of the commonwealth, been convicted or adjudicated a youthful offender or delinquent child, both as defined in section 52 of chapter 119, for the commission of (A) a felony; (B) a misdemeanor punishable by imprisonment for more than 2 years ; (C) a violent crime as defined in section 121; (D) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (E) a violation of any law regulating the use, possession or sale of a controlled substance as defined in section 1 of chapter 94C including, but not limited to, a violation of said chapter 94C; or (F) a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33);

(ii) has, in any other state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of (A) a felony; (B) a misdemeanor punishable by imprisonment for more than 2 years; (C) a violent crime as defined in section 121; (D) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; (E) a violation of any law regulating the use, possession or sale of a controlled substance as defined in said section 1 of said chapter 94C including, but not limited to, a violation of said chapter 94C; or (F) a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(a)(33);

(iii) is or has been (A) committed to a hospital or institution for mental illness, alcohol or substance abuse, except a commitment pursuant to sections 35 or 36C of chapter 123, unless after 5 years from the date of the confinement, the applicant submits with the application an affidavit of a licensed physician or clinical psychologist attesting that such physician or psychologist is familiar with the applicant's mental illness, alcohol or substance abuse and that in the physician's or psychologist's opinion, the applicant is not disabled by a mental illness, alcohol or substance abuse in a manner that shall prevent the applicant from possessing a firearm, rifle or shotgun; (B) committed by a court order to a hospital or institution for mental illness, unless the applicant was granted a petition for relief of the court order pursuant to said section 36C of said chapter 123 and submits a copy of the court order with the application; (C) subject to an order of the probate court appointing a guardian or conservator for a incapacitated person on the grounds that the applicant lacks the mental capacity to contract or manage the applicant's affairs, unless the applicant was granted a petition for relief of the order of the probate court pursuant to section 56C of chapter 215 and submits a copy of the order of the probate court with the application; or (D) found to be a person with an alcohol use disorder or substance use disorder or both and committed pursuant to said section 35 of said chapter 123, unless the applicant was granted a petition for relief of the court order pursuant to said section 35 and submits a copy of the court order with the application;

(iv) is younger than 21 years of age at the time of the application;

(v) is an alien who does not maintain lawful permanent residency;

(vi) is currently subject to: (A) an order for suspension or surrender issued pursuant to sections 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; (B) a permanent or temporary protection order issued pursuant to said chapter 209A or a similar order issued by another jurisdiction, including any order described in 18 U.S.C. 922(g)(8); or (C) an extreme risk protection order issued pursuant to sections 131R to 131X, inclusive, or a similar order issued by another jurisdiction;

(vii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction;

(viii) has been discharged from the armed forces of the United States under dishonorable conditions;

(ix) is a fugitive from justice; or

(x) having been a citizen of the United States, has renounced that citizenship.

The licensing authority may deny the application or renewal of a license to carry, or suspend or revoke a license issued under this section if, in a reasonable exercise of discretion, the licensing authority determines that the applicant or licensee is unsuitable to be issued or to continue to hold a license to carry. A determination of unsuitability shall be based on: (i) reliable and credible

information that the applicant or licensee has exhibited or engaged in behavior that suggests that, if issued a license, the applicant or licensee may create a risk to public safety; or (ii) existing factors that suggest that, if issued a license, the applicant or licensee may create a risk to public safety. Upon denial of an application or renewal of a license based on a determination of unsuitability, the licensing authority shall notify the applicant in writing setting forth the specific reasons for the determination in accordance with paragraph (e). Upon revoking or suspending a license based on a determination of unsuitability, the licensing authority shall notify the holder of a license in writing setting forth the specific reasons for the determination in accordance with paragraph (f). The determination of unsuitability shall be subject to judicial review under said paragraph (f).

(e) Within seven days of the receipt of a completed application for a license to carry or possess firearms, or renewal of same, the licensing authority shall forward one copy of the application and one copy of the applicant's fingerprints to the colonel of state police, who shall within 30 days advise the licensing authority, in writing, of any disqualifying criminal record of the applicant arising from within or without the commonwealth and whether there is reason to believe that the applicant is disqualified for any of the foregoing reasons from possessing a license to carry or possess firearms. In searching for any disqualifying history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of probation and statewide and nationwide criminal justice, warrant and protection order information systems and files including, but not limited to, the National Instant Criminal Background Check System. The colonel shall inquire of the commissioner of the department of mental health relative to whether the applicant is disqualified from being so licensed. If the information available to the colonel does not indicate that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the licensing authority within said 30 day period.

The licensing authority may also make inquiries concerning the applicant to: (i) the commissioner of the department of criminal justice information services relative to any disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons or ammunition concerning the applicant; (ii) the commissioner of probation relative to any record contained within the department of probation or the statewide domestic violence record keeping system concerning the applicant; and (iii) the commissioner of the department of mental health relative to whether the applicant is a suitable person to possess firearms or is not a suitable person to possess firearms. The director or commissioner to whom the licensing authority makes such inquiry shall provide prompt and full cooperation for that purpose in any investigation of the applicant.

The licensing authority shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such license shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or federal law.

The licensing authority shall provide to the applicant a receipt indicating that it received the application. The receipt shall be provided to the applicant within 7 days by mail if the application was received by mail or immediately if the application was made in person; provided, however, that the receipt shall include the applicant's name and address; current license number and license expiration date, if any; the date the licensing authority received the application; the name, address and telephone number of the licensing authority; the agent of the licensing authority that received the application; the type of application; and whether the application is for a new license or a renewal of an existing license. The licensing authority shall keep a copy of the receipt for not less than 1 year and shall furnish a copy to the applicant if requested by the applicant.

(f) A license issued under this section shall be revoked or suspended by the licensing authority, or his designee, upon the occurrence of any event that would have disqualified the holder from being issued such license or from having such license renewed. A license may be revoked or suspended by the licensing authority if it appears that the holder is no longer a suitable person to possess such license. Any revocation or suspension of a license shall be in writing and shall state the reasons therefor. Upon revocation or suspension, the licensing authority shall take possession of such license and the person whose license is so revoked or suspended shall take all actions required under the provisions of section 129D. No appeal or post-judgment motion shall operate to stay such revocation or suspension. Notices of revocation and suspension shall be forwarded to the

commissioner of the department of criminal justice information services and the commissioner of probation and shall be included in the criminal justice information system. A revoked or suspended license may be reinstated only upon the termination of all disqualifying conditions, if any.

Any applicant or holder aggrieved by a denial, revocation, suspension or restriction placed on a license, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receiving notice of the denial, revocation or suspension or within 90 days after the expiration of the time limit during which the licensing authority shall respond to the applicant or, in the case of a restriction, any time after a restriction is placed on the license pursuant to this section, file a petition to obtain judicial review in the district court having jurisdiction in the city or town in which the applicant filed the application or in which the license was issued. If after a hearing a justice of the court finds that there was no reasonable ground for denying, suspending, revoking or restricting the license and that the petitioner is not prohibited by law from possessing a license, the justice may order a license to be issued or reinstated to the petitioner or may order the licensing authority to remove certain restrictions placed on the license.

(g) A license shall be in a standard form provided by the executive director of the criminal history systems board in a size and shape equivalent to that of a license to operate motor vehicles issued by the registry of motor vehicles pursuant to section 8 of chapter 90 and shall contain a license number which shall clearly indicate whether such number identifies a Class A or Class B license, the name, address, photograph, fingerprint, place and date of birth, height, weight, hair color, eye color and signature of the licensee. Such license shall be marked “License to Carry Firearms” and shall clearly indicate whether the license is Class A or Class B. The application for such license shall be made in a standard form provided by the executive director of the criminal history systems board, which form shall require the applicant to affirmatively state under the pains and penalties of perjury that such applicant is not disqualified on any of the grounds enumerated above from being issued such license.

(h) Any person who knowingly files an application containing false information shall be punished by a fine of not less than $500 nor more than $1,000 or by imprisonment for not less than six months nor more than two years in a house of correction, or by both such fine and imprisonment.

(i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period of not more than 6 years from the date of issue and shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years nor more than 6 years from the date of issue; provided, however, that, if the licensee applied for renewal before the license expired, the license shall remain valid after its expiration date for all lawful purposes until the application for renewal is approved or denied. If a licensee is on active duty with the armed forces of the United States on the expiration date of the license, the license shall remain valid until the licensee is released from active duty and for a period not less than 180 days following the release; provided, however, that, if the licensee applied for renewal prior to the end of that period, the license shall remain valid after its expiration date for all lawful purposes until the application for renewal is approved or denied. An application for renewal of a Class B license filed before the license has expired shall not extend the license beyond the stated expiration date; provided, that the Class B license shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years nor more than 6 years from the date of issue. Any renewal thereof shall expire on the anniversary of the licensee's date of birth occurring not less than 5 years but not more than 6 years from the effective date of such license. Any license issued to an applicant born on February 29 shall expire on March 1. The fee for the application shall be $100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain $25 of the fee; $50 of the fee shall be deposited into the general fund of the commonwealth and not less than $50,000 of the funds deposited into the General Fund shall be allocated to the Firearm Licensing Review Board, established in section 130B, for its operations and that any funds not expended by said board for its operations shall revert back to the General Fund; and $25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. For active and retired law enforcement officials, or local, state, or federal government entities acting on their behalf, the fee for the application shall be set at $25, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall

retain $12.50 of the fee, and $12.50 of the fee shall be deposited into the general fund of the commonwealth. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit such portion of the license application fee into the Firearms Record Keeping Fund quarterly, not later than January 1, April 1, July 1 and October 1 of each year. Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the license application fee as is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year. For the purposes of section 10 of chapter 269, an expired license to carry firearms shall be deemed to be valid for a period not to exceed 90 days beyond the stated date of expiration, unless such license to carry firearms has been revoked.

Any person over the age of 70 and any law enforcement officer applying for a license to carry firearms through his employing agency shall be exempt from the requirement of paying a renewal fee for a Class A or Class B license to carry.

(j)(1) No license shall be required for the carrying or possession of a firearm known as a detonator and commonly used on vehicles as a signaling and marking device, when carried or possessed for such signaling or marking purposes.

(2) No license to carry shall be required for the possession of an unloaded large capacity rifle or shotgun or an unloaded feeding device therefor by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the Internal Revenue Service, or by the members of any such organization when on official parade duty or during ceremonial occasions. For purposes of this subparagraph, an "unloaded large capacity rifle or shotgun" and an "unloaded feeding device therefor" shall include any large capacity rifle, shotgun or feeding device therefor loaded with a blank cartridge or blank cartridges, so-called, which contain no projectile within such blank or blanks or within the bore or chamber of such large capacity rifle or shotgun.

(k) Whoever knowingly issues a license in violation of this section shall be punished by a fine of not less than $500 nor more than $1,000 or by imprisonment for not less than six months nor more than two years in a jail or house of correction, or by both such fine and imprisonment.

(*l*) The executive director of the criminal history systems board shall send electronically or by first class mail to the holder of each such license to carry firearms, a notice of the expiration of such license not less than 90 days prior to such expiration and shall enclose therein a form for the renewal of such license. The form for renewal shall include an affidavit in which the applicant shall verify that the applicant has not lost any firearms or had any firearms stolen from the applicant since the date of the applicant's last renewal or issuance. The taking of fingerprints shall not be required in issuing the renewal of a license if the renewal applicant's fingerprints are on file with the department of the state police. Any licensee shall notify, in writing, the licensing authority who issued said license, the chief of police into whose jurisdiction the licensee moves and the executive director of the criminal history systems board of any change of address. Such notification shall be made by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for revocation or suspension of said license. The commissioner of criminal justice information services shall provide electronic notice of expiration only upon the request of a cardholder. A request for electronic notice of expiration shall be forwarded to the department on a form furnished by the commissioner. Any electronic address maintained by the department for the purpose of providing electronic notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in section 10 of chapter 66.

(m) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that it has expired, not including licenses that remain valid under paragraph (i) because the licensee applied for renewal before the license expired, but who shall not be disqualified from renewal upon application therefor pursuant to this section, shall be subject to a civil fine of not less than $100 nor more than $5,000 and the provisions of section 10 of chapter 269 shall not apply; provided, however, that the exemption from the provisions of said section 10 of said chapter 269 provided herein shall not apply if: (i) such license has been revoked or suspended, unless

such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such license is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such license has been denied. Any law enforcement officer who discovers a person to be in possession of a firearm, rifle or shotgun after such person's license has expired, meaning after 90 days beyond the stated expiration date on the license, has been revoked or suspended, solely for failure to give notice of a change of address, shall confiscate such firearm, rifle or shotgun and the expired or suspended license then in possession and such officer, shall forward such license to the licensing authority by whom it was issued as soon as practicable. The officer shall, at the time of confiscation, provide to the person whose firearm, rifle or shotgun has been confiscated, a written inventory and receipt for all firearms, rifles or shotguns confiscated and the officer and his employer shall exercise due care in the handling, holding and storage of these items. Any confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such expired or suspended license within one year of such confiscation or may be otherwise disposed of in accordance with the provisions of section 129D. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms issued under section 131F.

(n) Upon issuance of a license to carry or possess firearms under this section, the licensing authority shall forward a copy of such approved application and license to the executive director of the criminal history systems board, who shall inform the licensing authority forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a license under this section.

(*o*) No person shall be issued a license to carry or possess a machine gun in the commonwealth, except that a licensing authority or the colonel of state police may issue a machine gun license to:

(i) a firearm instructor certified by the municipal police training committee for the sole purpose of firearm instruction to police personnel;

(ii) a bona fide collector of firearms upon application or upon application for renewal of such license.

<[Second sentence of paragraph (o) applicable as provided by 2017, 110, Sec. 53.]>

Clauses (i) and (ii) of this paragraph shall not apply to bump stocks and trigger cranks.

(p) The executive director of the criminal history systems board shall promulgate regulations in accordance with chapter 30A to establish criteria for persons who shall be classified as bona fide collectors of firearms.

(q) Nothing in this section shall authorize the purchase, possession or transfer of any weapon, ammunition or feeding device that is, or in such manner that is, prohibited by state or federal law.

(r) The secretary of the executive office of public safety or his designee may promulgate regulations to carry out the purposes of this section.

Credits

Amended by St.1936, c. 302; St.1951, c. 201; St.1953, c. 319, § 20; St.1953, c. 454; St.1957, c. 688, § 15; St.1959, c. 296, § 6; St.1960, c. 293; St.1969, c. 799, § 11; St.1972, c. 415; St.1973, c. 138; St.1973, c. 892, § 7; St.1974, c. 312; St.1974, c. 649,

§ 1; St.1975, c. 4, § 1; St.1975, c. 113, § 1; St.1984, c. 420, § 2; St.1986, c. 481, § 2; St.1987, c. 465, § 33; St.1994, c. 24, § 3; St.1996, c. 151, §§ 325 to 329; St.1996, c. 200, § 28; St.1998, c. 180, § 41; St.1998, c. 358, §§ 6 to 9; St.2002, c. 196, § 22; St.2002, c. 513, § 2; St.2003, c. 26, § 429, eff. July 1, 2003; St.2003, c. 46, § 103, eff. July 31, 2003; St.2004, c. 150, §§ 10 to 16, eff. Sept. 13, 2004; St.2008, c. 224, eff. Oct. 29, 2008; St.2010, c. 256, § 97, eff. Nov. 4, 2010; St.2010, c. 466, § 3, eff. Apr. 14, 2011; St.2011, c. 9, §§ 16, 17, eff. Apr. 11, 2011; St.2014, c. 284, §§ 48, 50, 51, 53, 56, 57, eff. Jan. 1, 2015; St.2014, c. 284, § 55, eff. Aug. 13, 2014; St.2017, c. 110, § 21, eff. Feb. 1, 2018; St.2018, c. 123, §§ 11, 12, eff. Aug. 17, 2018.

M.G.L.A. 140 § 131, MA ST 140 § 131
Current through Chapter 113 of the 2020 Second Annual Session of the General Court.

End of Document

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XX. Public Safety and Good Order (Ch. 133-148a)
Chapter 140. Licenses (Refs & Annos)

M.G.L.A. 140 § 131A

§ 131A. Permits to purchase, rent or lease firearms, or to purchase ammunition; fee; penalties

Effective: November 4, 2010
Currentness

A licensing authority under section one hundred and thirty-one, upon the application of a person qualified to be granted a license thereunder by such authority, may grant to such a person, other than a minor, a permit to purchase, rent or lease a firearm if it appears that such purchase, rental or lease is for a proper purpose, and may revoke such permit at will. The colonel of the state police or a person authorized by him, upon the application of a person licensed under section one hundred and thirty-one F, may grant to such licensee, other than a minor, a permit to purchase, rent or lease a firearm, rifle or shotgun, or to purchase ammunition therefor, if it appears that such purchase, rental or lease is for a proper purpose, and may revoke such permit at will. Such permits shall be issued on forms furnished by the commissioner of the department of criminal justice information services shall be valid for not more than ten days after issue, and a copy of every such permit so issued shall within one week thereafter be sent to the said executive director. The licensing authority may impose such restrictions relative to the caliber and capacity of the firearm to be purchased, rented or leased as he deems proper. Whoever knowingly issues a permit in violation of this section shall be punished by a fine of not less than five hundred nor more than one thousand dollars and by imprisonment for not less than six months nor more than two years in a jail or house of correction.

The fee for the permits shall be $100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain $25 of the fee; $50 of the fee shall be deposited into the general fund of the commonwealth; and $25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

Credits
Amended by St.1957, c. 688, § 16; St.1959, c. 296, § 7; St.1965, c. 95; St.1972, c. 312, § 4; St.1973, c. 135; St.1973, c. 892, §§ 7A, 8; St.1996, c. 151, §§ 330 to 332; St.1998, c. 180, §§ 42, 43; St.2003, c. 26, § 430, eff. July 1, 2003; St.2010, c. 256, § 99, eff. Nov. 4, 2010.

M.G.L.A. 140 § 131A, MA ST 140 § 131A
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The Relation Between State Gun Laws and the Incidence and Severity of Mass Public Shootings in the United States, 1976–2018

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Objective: In this study, we analyzed the relationship between state firearm laws and the incidence and severity (i.e., number of victims) of mass public shootings in the United States during the period 1976–2018. ***Hypotheses:*** We hypothesized that states requiring permits to purchase firearms would have a lower incidence of mass public shootings than states not requiring permits. We also hypothesized that states banning large-capacity ammunition magazines would experience a lower number of victims in mass public shootings that did occur than states without bans. ***Method:*** We developed a panel of annual, state-specific data on firearm laws and mass public shooting events and victim counts. We used a generalized estimating equations logistic regression to examine the relationship between eight state firearm laws and the likelihood of a mass public shooting. We then used a zero-inflated negative binomial model to assess the relationship between these laws and the number of fatalities and nonfatal injuries in these incidents. ***Results:*** State laws requiring a permit to purchase a firearm were associated with 60% lower odds of a mass public shooting occurring (95% confidence interval [CI: −32%, −76%]). Large-capacity magazine bans were associated with 38% fewer fatalities (95% CI [−12%, −57%]) and 77% fewer nonfatal injuries (95% CI [−43%, −91%]) when a mass shooting occurred. ***Conclusion:*** Laws requiring permits to purchase a gun are associated with a lower incidence of mass public shootings, and bans on large capacity magazines are associated with fewer fatalities and nonfatal injuries when such events do occur.

Public Significance Statement
We cannot definitively conclude that implementing a specific law would lead to a change in the incidence or severity of mass public shootings. However, laws that limit potential shooters' access to firearms by requiring permits may reduce the incidence of mass shootings, and laws that limit the number of shots that can be fired before reloading may reduce the severity of mass public shootings when they do occur. Such laws must be balanced with citizens' right to bear arms under the Second Amendment of the U.S. Constitution.

Keywords: firearms, mass public shootings, homicide, state laws, policy

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The recent occurrence of high-profile mass shootings, such as the tragedies in Parkland (Florida), Las Vegas (Nevada), El Paso (Texas), and Dayton (Ohio), has led to growing frustration and vigorous debate regarding policies intended to prevent these events (Nagin, Koper, & Lum, 2020; Wintemute, 2018). Although mass public shootings are a rare form of violence, there is general agreement—based on combined data from both the supplementary homicide reports and searches of online newspaper databases—that both the incidence and the severity of these events have increased in recent years (Duwe, 2020). Given this increase in morbidity and mortality, and the fear these incidents instill, it has never been more important to identify laws that will help curtail the incidence and/or severity of mass public shootings in the United States. However, there is scant research into the effectiveness of gun laws in preventing mass public shootings or reducing the number of victims in such incidents.

In this study, we analyzed the relationship between state firearm laws and the incidence and severity (i.e., number of victims) of mass public shootings in the United States during the period 1976–2018. We proceed by: (a) presenting the theoretical basis for believing that certain firearm laws may reduce the incidence or severity of mass public shootings; (b) reviewing the existing literature on the effect of state firearm laws on mass shootings; (c) discussing the limitations of the existing research in terms of both the predictor variable (i.e., definition of firearm laws) and outcome variable (quantification of mass shootings); and (d) providing an overview of the present study and how it advances the literature by addressing these limitations.

Conceptual Basis for Hypothesizing a Potential Impact of Specific State Firearm Laws on Mass Shooting Incidence or Severity

We used a theoretical model that was derived from studies of the relationship between gun availability and violent crime (Cook, 1983). This model combines criminological and economic theories to posit that laws that restrict criminals' access to guns deter firearm violence by reducing the availability of guns, both through legal and illicit markets, and therefore increase the effective cost of obtaining a highly lethal weapon. Cook argued that "despite the vast arsenal of guns in private hands, guns remain a scarce commodity. This scarcity surely prevents some criminals from obtaining them or using them in violent crime . . ." (pp. 76–77). This theory suggests not only that limiting the availability of firearms will make it more difficult to purchase a gun legally but that it will also limit the supply of or increase the costs of obtaining guns through illicit markets (Cook, 1983). Detailed study of a sample of mass murderers revealed that specific precipitating events are extraordinarily common (Hempel, Meloy, & Richards, 1999). If a potential perpetrator does not already own a firearm, the cost of obtaining one might be a critical factor in his ability to commit a mass shooting.

At the population level, several studies have documented a relationship between increased access to firearms and higher rates of violent crime, both for access to legal (Miller, Azrael, & Hemenway, 2002; Siegel, Ross, & King, 2013) and illegal firearms (Stolzenberg & D'Alessio, 2000). At the individual level, a recent study demonstrated that neighborhood firearm availability was related to more than a doubling of the odds for the commission of gun violence among adolescents with a previous history of conviction for a felony or a gun-related misdemeanor (Gonzales & McNiel, 2020). A previous study had shown that the availability of guns in the home was a significant risk factor for adolescent gun violence, regardless of whether the youth had a history of gun possession or violent crime (Ruback, Shaffer, & Clark, 2011). Thus, even among offenders with a history of gun-related crime, the availability of guns may be a significant factor in whether they carry out future acts of firearm violence.

This study focused on eight state firearm laws for which there is a conceptual basis for believing that they may impact either the incidence of mass shootings or the number of casualties resulting from such an event by limiting the availability of highly lethal firearms and/or ammunition. Each of these laws, described below, may increase the effective cost of obtaining any firearm, a specific type of firearm (e.g., an assault weapon), or a specific type of ammunition (e.g., high-capacity magazines). The laws either limit access to these weapons by people who are at high risk of violence or restrict the sale of particular types of guns or ammunition.

Assault Weapon Bans

Assault weapons are military-style weapons typically defined as semiautomatic firearms that accept a detachable magazine and have one or more military features such as flash suppressors, bayonet lugs, grenade launchers, pistol grips, and barrel shrouds. A survey of experts in public health, law, and criminology revealed that they ranked bans on assault weapons as an effective strategy to prevent mass shootings (Sanger-Katz & Bui, 2017). The first conceptual basis for the hypothesis that bans on military-style assault weapons may help prevent mass shootings or limit their severity is the finding that assault weapons have been used in a large proportion of such events. Although definitive data are not available, among mass shooting incidents in which weapon information was sufficient, 36% involved the use of an assault weapon (Koper, Johnson, Nichols, Ayers, & Mullins, 2018). The second conceptual basis for an effect of assault weapon bans is the finding that attacks in which the assailant uses a military-style weapon, such as an assault rifle, result in a greater number of shots fired, victims wounded, and severe or multiple wounds (de Jager et al., 2018; Koper, 2020; Reedy & Koper, 2003). Thus, reducing the stock of assault weapons could decrease the likelihood that a shooting incident results in enough fatalities to be classified as a mass shooting (de Jager et al., 2018; Koper, 2020).

Bans on Large-Capacity Ammunition Magazines

The conceptual basis behind restricting the size of ammunition magazines as a strategy to confront mass shootings is that large-capacity magazines "increase the ability to fire large numbers of bullets without having to pause to reload. Any measure that can force a pause in an active shooting—creating opportunities for those in the line of fire to flee, take cover, or physically confront a gunman—offers a possibility of reducing the number of victims in such an attack" (Klarevas, Conner, & Hemenway, 2019, p. 1,761). Nearly 20% of mass shootings during the period 2009–2016 involved weapons with a large-capacity magazine (Koper et al., 2018), whereas two thirds of high-fatality mass shootings (i.e., six or more fatal victims) between 2006 and 2015 involved this

type of magazine (Klarevas, 2016). Restrictions on the size of magazines are conceptually more likely to be effective than banning assault weapons because these weapons are not functionally different from other semiautomatic firearms but are typically equipped with high-capacity magazines (Koper, 2020). Moreover, large-capacity ammunition magazine bans pertain to a much larger number of firearms because there is a sizable class of semiautomatic weapons that are not assault weapons but that accept high-capacity magazines (Koper, 2020).

Extreme-Risk Protection Orders

Also called red flag laws or gun violence restraining orders, these statutes allow law enforcement officers, family members, or both to petition a court for an emergency order to disarm a person who is judged to be a danger to themselves or others following a due-process hearing. The conceptual basis for their potential in averting mass shootings is the finding that nearly four fifths of those who committed mass shootings had either implicitly or explicitly expressed an intent to carry out such an attack (Laqueur & Wintemute, 2020; United States Secret Service National Threat Assessment Center, 2018). Investigators in California have identified at least 21 cases in which an extreme-risk protection order was used to disarm an individual who had been planning a mass shooting (Wintemute et al., 2019).

Limiting Firearm Access for High-Risk Individuals

Nagin et al. (2020) have put forth recommendations for a general approach to curtailing mass shootings. In addition to restricting high-capacity magazines, they recommend policies that restrict firearm access for people who are at a high risk for violence. States have taken a number of approaches to accomplish this.

Permit requirements. One of the most basic approaches is to require a permit or license to purchase or possess a firearm (Webster, McCourt, Crifasi, Booty, & Stuart, 2020). Seven states (e.g., Massachusetts, New Jersey) currently have permit requirements in place.

"May-issue" laws. A related approach is one that allows law enforcement officials discretion in deciding whether or not to approve an application for a concealed carry license. This is called a may-issue law and stands in contrast from shall issue laws that give no discretion to police; unless the applicant has been convicted of a specified offense, jis or her application must be approved. Nine states (e.g., California, Connecticut) currently have may-issue laws in place.

Violent misdemeanor laws. Another approach is to prohibit firearm possession by people who are at the highest risk of violence, namely those who have a history of violence. Federal law prohibits gun possession only by those convicted of a felony or certain misdemeanors (i.e., domestic violence and gun offenses). Some states, however, have enacted violent misdemeanor laws that extend the federal prohibition to include all violent crimes. Four states (e.g., Hawaii, Maryland) currently have violent misdemeanor laws in place.

Relinquishment laws. Approximately 46% of the assailants in mass shootings during the period 2014–2017 were legally prohibited from purchasing or possessing a firearm (Zeoli & Paruk, 2020). This is the rationale behind relinquishment laws that provide for the confiscation of firearms from all individuals who become prohibited from possessing them, even if they initially acquired the gun legally. Seven states (e.g., Illinois, Pennsylvania) currently have relinquishment laws in place.

Universal background checks. Firearm ownership prohibitions may not work unless a state has a system of universal background checks, requiring that every gun purchaser be screened at the point of sale to determine whether they meet any criterion that would disqualify them from gun purchase under federal and/or state law (Webster et al., 2020). Eleven states (e.g., Colorado, Oregon) currently have universal background check laws in place.

Research on the Impact of Firearm Laws on Mass Shootings

The early research in this area focused on assessing the impact of the 1994 federal ban on assault weapons and large-capacity ammunition magazines, yielding inconsistent results (Morral et al., 2018). These studies are difficult to interpret in the absence of a comparison group and therefore limited evidence upon which to identify the counterfactual. More recently, research has focused on studying the effects of state firearm laws, which allows multiple group or panel study designs because there is indeed a wide variation in the adoption of firearm laws across states and across time (Siegel, et al., 2017).

Whereas research remains limited, there is some evidence that more permissive state gun laws are associated with higher rates of mass shootings (Reeping et al., 2019). Reeping et al. (2019) reported that for each 10-unit increase in the permissiveness of state gun laws (measured on a 100-point scale), the rate of mass shootings in a state increased by 11.5%. However, this study did not examine the impact of any specific firearm laws. In addition, it relied on a travel guide to assess state laws and did not independently verify the validity of the database. Also, in contrast, Lin, Fei, Barzman, and Hossain (2018) failed to find a statistically significant relationship between the permissiveness of state gun laws and the rate of mass shootings, although it is not clear what laws were included in their gun law index.

In 2015, Gius (2015) reported the results of the first study to examine the impact of state laws on mass shootings. He found that during the period 1982–2011, state-level assault weapons bans were associated with a significantly lower number of fatalities in mass shootings. In a more recent state-level study using a panel design, Klarevas et al. (2019) investigated the relationship between the incidence and number of deaths in high-fatality mass shootings (those with at least six fatalities, not including the perpetrator) and state-level large-capacity magazine bans. They found that these policies were associated with a significantly lower incidence of these mass shooting events and with a significantly lower death count. Unfortunately, this study considered the impact of only one type of firearm law and by virtue of the high-victim threshold was based on a particularly small number of cases.

Most recently, Webster et al. (2020) advanced the literature by examining the impact of a number of specific state laws on the incidence of fatal mass shootings from 1984 through 2017. They found that two laws—required licenses for handgun purchase and large-capacity magazine bans—were associated with fewer mass

shootings. Additionally, required licenses reduced the number of fatalities in mass shootings.

Limitations of the Predictor Variable in Existing Research: Classification of State Firearm Laws

The primary limitation of the previous studies in terms of their classification of state firearm laws is that none of them provide clearly defined criteria to determine what counts as having a particular law and what does not. State firearm laws often have various exemptions, exceptions, and differences in application of restrictions. Without a clear definition of what is meant by a particular law, there is ambiguity in how that law should be coded (Siegel, et al., 2017). Thus, for any particular study, it is not precisely clear what is meant by the presence or absence of a particular law.

For example, Gius (2015) classified Hawaii as having enacted an assault weapons ban in 1992. However, Hawaii's statute restricts only the sale of assault pistols; the law does not apply to assault rifles. Without having clearly defined the meaning of an assault weapons ban, most readers would probably assume that assault rifles are banned in Hawaii, but that is not the case (Hawaii Revised Statutes, 2020). This law would not be expected to affect the incidence or severity of mass shootings, but it is included in the treatment group in the study. Similarly, Klarevas et al. (2019) classified Hawaii as having a ban on large-capacity magazines. However, this ban applies only to detachable magazines for pistols. There is no limit to the magazine capacity for rifle ammunition (Hawaii Revised Statutes, 2020).

Reeping et al. (2019) obtained their state firearm law data from the *Traveler's Guide to the Firearms Laws of the Fifty States*. The book focuses almost exclusively on laws governing where one can carry a concealed firearm. Thus, the gun permissiveness scale is relevant only to one small subset of firearm laws. Lin et al. (2018) do not even describe how they derived their gun law permissiveness index, although it appears that it may have been solely based on the state's concealed carry permitting law.

Limitations of the Outcome Variable in Existing Research: Methods Used to Quantify Mass Shootings

Most of the existing research is limited because it relies on one of two sources to quantify mass shootings: (a) the Federal Bureau of Investigation (FBI)'s Supplementary Homicide Reports; or (b) news coverage (Duwe, 2020). Each of these approaches to identify mass shootings has serious flaws.

Studies relying on the Supplementary Homicide Reports. At least three studies used the FBI's Supplementary Homicide Reports (SHR) as the main basis of their analyses, identifying those incidents in which four or more victims are fatally shot (Gius, 2015; Reeping et al., 2019; Webster et al., 2020). In addition to its limited range of variables, the SHR unfortunately presents a number of pitfalls for analytic efforts of this sort. There are situations in which separate and unrelated homicides are reported by a law enforcement agency on the same record giving the false appearance of a mass killing. In addition, occasionally a record will include an injured victim along with three fatalities also wrongly suggesting a mass killing. On the other hand, there are many mass shootings that for various reasons are omitted from the SHR. Some states are excluded from the SHR entirely for certain years because of issues with their data collection or reporting, and some jurisdictions fail to report all their homicides to the FBI (Fox, 2004).

Beyond these validity concerns, one must approach the SHR carefully with respect to particularly large-scale shootings. Because each data record is limited to 11 victims, certain mass shootings necessarily span several records, falsely suggesting multiple events. In Reeping et al.'s (2019) data, for example, Virginia is recorded as having 13 mass shootings when in fact several of these are just additional records needed to cover all the victims killed at Virginia Tech in 2007. At least one study indicated that the accuracy rate of the SHR in identifying mass shootings is only 61% (Overberg, Upton, & Hoyer, 2013).

Studies relying on media reports. Two studies relied on news reports compiled by *Mother Jones* (Gius, 2015; Lin et al., 2018). One combined data from *Mother Jones* with information from the SHR (Gius, 2015), whereas the other relied on *Mother Jones* as the sole data source (Lin et al., 2018). The *Mother Jones* list of mass shootings missed more than 40% of the incidents that occurred during the period 1982–2013, and its underreporting was particularly severe for the earlier 2 decades (Duwe, 2020). Although most mass shootings receive media attention, many are covered only in local media (Duwe, 2020). Moreover, accuracy is dependent on the extensiveness of media outlet coverage by a news media database and by the precise search terms used (Duwe, 2020). For example, a search for the term mass shooting will miss incidents described by a reporter as a quadruple shooting (Duwe, 2020). In addition, because the term mass shooting is relatively new, searches relying only on that phrase will likely undercount incidents from before the 2000s (Duwe, 2020).

Study Overview and Hypotheses

In this study, we took advantage of two new databases to further the existing research on the association between state firearm laws and mass public shootings by addressing limitations in both the predictor and outcome variables. First, we used a novel database that coded the status of 89 different state gun laws from 1976 to the present, using clearly defined criteria for identifying each law. Second, we used a comprehensive database of mass public shooting incidents from 1976 through 2018 assembled by combining all existing mass shooting databases and extensively evaluating each identified case. This triangulated data collection strategy incorporated information from the SHR, from existing databases that utilized news media reports, and from original searches of the entire database of news stories at multiple media resource websites. Institutional review board approval was not needed for this study because the data were obtained from secondary, publicly available sources.

Mass shootings have typically been defined as events in which four or more victims are fatally shot during a short period of time (Duwe, 2020). Whereas the public tends to envision mass shootings as incidents in which a shooter indiscriminately fires into a crowd of people in a public place, prior research indicates the majority of mass murders—about 70%—are actually familicides or felony-related killings, which are types of events less likely to be covered by the media (Duwe, 2020). The term, mass public shootings, is used to connote the former incidents: gun-related

incidents in which strangers are killed in a public location absent other criminal activity (Duwe, 2020).

There are a few reasons that, in this paper, we focused exclusively on mass public shootings. Studies have previously examined the relationship between gun laws and shooting events with at least four fatalities, regardless of where the shooting took place. A large number of these mass shootings are domestic incidents involving the killing of family members that may have occurred in a private home rather than in a public place, as was the case with the Reeping et al. (2019) and Webster et al. (2020) studies. A second large subset of these mass shootings consists of those committed as part of an underlying criminal activity in which the killing is not the primary intended purpose but is necessary or becomes necessary to carry out the planned crime. Although hardly unimportant, these are not the types of events that typically receive widespread media coverage and may not be consistent with the public's and policymakers' conception of a mass shooting. They are also not the shootings that drive the campaign for stronger gun-control legislation (Duwe, 2020).

Our two major hypotheses were as follows: (a) States requiring permits to purchase firearms will have a lower incidence of mass public shootings than states not requiring permits and (b) states that ban large-capacity ammunition magazines will experience a lower number of victims in mass public shootings that do occur than states without bans.

Method

Data Sources

To examine the association between state-level gun laws and the incidence and severity of mass public shootings from 1976 to 2018, we relied on two primary data sets. The first includes a recently developed comprehensive list of mass public shootings using strict definitional criteria, and the second includes a comprehensive list of state laws from a publicly available dataset on all 50 states starting in 1991 that we extended back to 1976.

Mass public shootings. We assembled a database of mass public shootings using a variety of sources to capture all possible events and then researching each in detail to identify those that met our predetermined definition of a mass public shooting. Specifically, we defined a mass public shooting as an incident in which four or more victims are fatally shot in a public location within a 24-hr period in the absence of other criminal activity, such as robberies, drug deals, and gang conflict.

The process by which we collected data on mass public shootings consisted of three main phases. First, the vast majority of the cases in our sample were derived from the data set compiled by Duwe (2020), who used both the SHR and news reports as data sources. Despite its limitations, the SHR is still the most comprehensive source of U.S. homicide data that contain information on the year and month when murders occurred as well as the state and city (or county) where they took place. After relying on the SHR to identify when and where gun-related mass murders occurred in the United States, Duwe searched online newspaper databases to collect additional information not included in the SHR, such as the number of injured victims and the specific location in which the incident took place. As a result of using this triangulated data collection strategy, which was also adopted by *U.S.A. Today* (Overberg et al., 2013) and the Congressional Research Service (Krause & Richardson, 2015), Duwe was able to correct errors in the SHR data while also identifying cases that were either not reported to the SHR or were unlikely to be captured through sole reliance on news coverage.

Second, to help ensure inclusion of every mass public shooting that occurred in the United States between 1976 and 2018, we also consulted unpublished data sets (Brot, 2016; Krause and Richardson, 2015) as well as publicly available ones such as those published by Louis Klarevas (Klarevas et al., 2019); *U.S.A. Today* (2018); *Washington Post* (Berkowitz & Alcantara, 2019); Stanford University (2020); Mother Jones (2020); Everytown for Gun Safety (2020); and FBI active-shooter events (Federal Bureau of Investigation, 2020).

Finally, we conducted a consensus review to determine whether cases qualified as a mass public shooting by our operational definition. More specifically, three of the authors for this study reviewed whether the cases identified through the first two phases met the following criteria: (a) at least four of all victims were killed by gunfire; (b) at least four of the victims were killed in a public place or else at least half of all fatalities occurred in a public place; and (c) the shooting did not occur in a private residence, although those that occurred in a nonprivate residence (e.g., group home or motel) were retained. If all three authors agreed these criteria had been satisfied, the incident was included in this study as a mass public shooting. If there was any disagreement, the coders discussed the case until they reached agreement on the classification.

For each case, the coders classified the incident as yes, no, or maybe. Of the 188 possible cases identified, all three coders agreed on the classification being yes or being no for 175 of the cases (93.1%). In an additional three cases, two coders agreed on the classification and the third was not sure. There was disagreement or uncertainty for 10 cases. The interrater reliability was assessed using an extension of Cohen's kappa for more than two raters (Stata Base Reference Manual, 2017). Cohen's kappa was 0.82, which indicates very good agreement between coders (Altman, 1999).

As a result of this rigorous data-collection methodology, we assembled a comprehensive database, consisting of 156 mass public shootings from 1976 through 2018 that involved 2,839 victims, of which 1,090 were fatally shot, another 41 died by other means, and the remaining 1,708 were injured. We omitted one incident, the fatal shooting of 12 victims in Washington, DC, from the analyses, given the focus on the laws enacted by the 50 states, leaving the final counts of 155 incidents and 2,827 victims for this study. We developed a panel by calculating the number of events, killings, and nonfatal shootings by year and state. With data for 50 states across 43 years, the panel consisted of 2,150 observations in total.

State firearm laws. We relied on the State Firearm Law Database, a publicly available database of the presence or absence of 134 state firearm law provisions across 14 categories in all 50 states for the period 1991 to the present that was developed by individual examination of state statutes and historical session laws with detailed criteria defining each provision (Siegel, 2020a, 2020b; Siegel, et al., 2017). For 89 of these law provisions, we extended the database back to 1976 by examination of historical state statutes and session laws using the Hein Online and Westlaw

Edge databases. We focused on these 89 provisions because they represent the policies most commonly considered by state lawmakers to reduce intentional firearm violence (Morral et al., 2018). The provisions we excluded from the extended database were either minor policies or those designed to reduce unintentional injuries or to help identify offenders once crimes have already been committed. For example, we excluded laws such as record-keeping requirements for gun stores, ballistic fingerprinting of guns, gun storage liability laws, and personalized gun technology.

Measures

Predictor variables. From the expanded state firearm law database, we selected eight specific laws for analysis based on two criteria: (a) laws that were analyzed in previous studies of mass shootings and (b) laws for which we could identify published literature providing a conceptual basis to believe they may be effective in averting mass shootings or reducing casualties in such events. The laws were: (a) assault weapons bans; (b) large-capacity magazine bans; (c) laws requiring a permit to purchase or possess a gun; (d) extreme-risk protection order laws; (e) universal background checks; (f) may-issue concealed-carry laws; (g) relinquishment of guns required when people become disqualified from ownership; and (h) laws prohibiting gun possession by people with a history of a violent misdemeanor crime. Online Supplemental Table A displays the laws analyzed, their definitions, and the states that had these laws in effect in 2018. Laws were lagged by 1 year in the analysis; that is, we considered the potential effect of a law only in the full first year after its enactment.

Outcome variables. There were three major outcome variables that measured the incidence and severity of mass public shootings.

Incidence of mass public shootings. Because this outcome variable was dichotomous (the presence or absence of a mass public shooting in a given state during a given year), we used a logistic regression model for this analysis. To account for clustering by state, we used a generalized estimating equations (GEE) approach with an exchangeable working correlation matrix. We included both linear and quadratic trend variables. We generated standard errors that accounted for state clustering and were robust to the correlation structure assumptions (White, 1980). There were a few cases in which a state experienced more than one event in the same year (e.g., California experienced three mass public shootings in 1993). However, these were so few that modifying the outcome variable was not warranted.

Number of fatalities per shooting event. Because of the small number of events, our data set contained a great majority of zero counts (2,007 of 2,150 observations). For this reason, we used a zero-inflated negative binomial model (Yau, Wang, & Lee, 2003). In this approach, we modeled the likelihood of an event occurring separately from the number of fatalities assuming that an event did occur. We used logistic regression to model the likelihood of an event and negative binomial regression to model the number of fatalities when an event did occur. As above, we included linear and quadratic time trends and generated cluster robust standard errors.

One advantage of the zero-inflated model is that the factors associated with event occurrence and with the number of victims given that an event took place can be analyzed separately and with different predictor variables. For the logistic regression of event occurrence, we used all of the same control variables specified above. However, we did not anticipate that these demographic variables would influence the fatal victim count, assuming that an event occurs. For example, the divorce rate might impact the likelihood of a mass shooting, but there is no conceptual reason to believe that the divorce rate influences the number of fatalities resulting from a shooting. Therefore, the only predictors used for the count part of the model were the time trends (included to capture secular trends in the severity of mass public shootings), population, population density, and the state laws, which were the variables of interest.

As a sensitivity analysis, we performed negative binomial GEE regressions on the number of deaths per event using the same limited set of regressors but restricting the analysis to observations when an event occurred ($N = 143$). In this way, the model assessed the relationship between state laws and the number of fatalities in a mass shooting event, independent of any association between these laws and the likelihood of an event occurring in the first place.

Number of nonfatal injuries per shooting event. We conducted a post hoc analysis to investigate whether large-capacity magazine bans are associated with the number of nonfatal injuries when an event occurs. To do this, we performed a zero-inflated negative binomial regression but used only the time trends, population, population density, and large-capacity magazine ban laws to predict the number of injuries per event. Finally, we executed a sensitivity analysis, repeating the above model specification using a negative binomial regression restricted to observations in which an event occurred.

Control variables. We compiled an annual, state-specific panel of data on variables that might be related to both mass shooting rates and the adoption of firearm laws, therefore confounding the results. Because of the limited literature on predictors of mass shooting incidence and severity at the state level, we selected control variables based on their demonstrated association with state rates of overall firearm violence in previous studies. The variables included and the studies documenting their association with firearm violence at the state level were: (a) state population (Knopov et al., 2019; Siegel & Boine, 2019); (b) population density (Knopov et al., 2019; Siegel, Pahn, Xuan, Fleegler, & Hemenway, 2019); (c) proportion identified as Black (Campbell, Siegel, Shareef, & Rothman, 2019; Siegel et al., 2020); (d) proportion of males among young adults (ages 15–29 years) (Knopov et al., 2019; Siegel, Pahn, et al., 2019); (e) poverty rate (Powell & Tanz, 1999; Siegel, Pahn, et al., 2019); (f) unemployment rate (Campbell et al., 2019; Siegel, Pahn, et al., 2019); (g) per-capita alcohol consumption (Siegel, Pahn, et al., 2019, Siegel et al., 2020); (h) divorce rate (Díez et al., 2017); (i) incarceration rate (Campbell et al., 2019; Siegel et al., 2013); (j) household gun ownership (Campbell et al., 2019), using a commonly used proxy: the proportion of suicides committed with a firearm (Azrael, Cook, & Miller, 2004); and (k) the violent crime rate (Campbell et al., 2019; Siegel, Pahn, et al., 2019). We also included the firearm homicide rate and the suicide rate because these are direct measures of the overall magnitude of firearm violence in a state. We linearly interpolated missing years of data. Online Supplemental Table B shows the variables, definitions, data sources, and years with missing data.

Multicollinearity assessment. A unique contribution of this study is its ability to examine a wide range of firearm laws and to isolate the independent effect of laws by controlling for the presence of the others. A potential drawback of this approach is the possibility of multicollinearity. We assessed the potential for high multicollinearity and thus inflated standard error terms by computing variance inflation factors.

We estimated all models using Stata/SE version 15 (StataCorp, College Station, TX). Online Supplemental Table C provides the command syntax for the analyses. The data set, methods, and code used in this research are available online at https://osf.io/mucsh/.

Results

Descriptive Findings

During the period 1976–2018, there were a total of 155 mass public shootings resulting in 1,078 deaths and an additional 1,694 nonfatal injuries in the United States, excluding one event that occurred in nation's capital because it does not fall under the jurisdiction of any state (see Table 1, Figure 1, and Figure 2). The average mass public shooting rate ranged from a high of 0.1963 per million population in Idaho to a low of zero in nine states (see Table 1). California had the greatest number of events (25) and deaths (164), whereas Nevada had the greatest number of overall victims (915) as a result of the massive shooting in Las Vegas in 2017. The number of mass public shootings remained stable or slightly elevated between 1976 and 2002, but there was a sharp increase from 2002 through 2018 (see Figure 1). The number of mass shootings waned during the period 2013–2016 but rose sharply in 2017 and 2018. The trend in deaths followed a similar pattern (see Figure 2).

Table 1
Average Mass Public Shooting Rate and Total Number of Events and Deaths—By State, 1976–2018

State	Average rate	Events	Deaths	Nonfatal injuries	Total victims
Alaska	0.1963	4	25	2	27
Idaho	0.0405	2	8	1	9
Mississippi	0.0331	4	20	11	31
Oregon	0.0309	4	23	55	78
Nevada	0.0283	3	66	849	915
Colorado	0.0265	5	37	104	141
Washington	0.0249	7	34	33	67
Rhode Island	0.0244	1	4	0	4
Kentucky	0.0243	4	22	18	40
Connecticut	0.0199	3	39	4	43
New Hampshire	0.0196	1	4	4	8
Hawaii	0.0192	1	7	0	7
Arkansas	0.0189	2	9	13	22
Texas	0.0189	16	134	128	262
Florida	0.0182	12	123	101	224
California	0.0175	25	164	161	325
Wisconsin	0.0165	4	23	9	32
Pennsylvania	0.0132	7	37	15	52
Nebraska	0.0130	1	8	4	12
Missouri	0.0124	3	14	3	17
North Carolina	0.0118	4	20	15	35
South Carolina	0.0108	2	13	4	17
Louisiana	0.0106	2	9	5	14
Georgia	0.0102	4	21	15	36
New York	0.0099	8	46	34	80
Utah	0.0090	1	5	4	9
Minnesota	0.0089	2	15	7	22
Kansas	0.0085	1	5	2	7
Iowa	0.0083	1	5	1	6
Maryland	0.0080	2	9	2	11
Illinois	0.0076	4	19	27	46
Michigan	0.0071	3	14	10	24
Oklahoma	0.0071	1	14	6	20
Tennessee	0.0070	2	9	6	15
Arizona	0.0068	2	12	14	26
Alabama	0.0052	1	4	1	5
Ohio	0.0042	2	8	7	15
Indiana	0.0038	1	4	2	6
Massachusetts	0.0037	1	7	0	7
New Jersey	0.0032	1	6	0	6
Virginia	0.0030	1	32	17	49
Delaware	0	0	0	0	0
Maine	0	0	0	0	0
Montana	0	0	0	0	0
New Mexico	0	0	0	0	0
North Dakota	0	0	0	0	0
South Dakota	0	0	0	0	0
Vermont	0	0	0	0	0
West Virginia	0	0	0	0	0
Wyoming	0	0	0	0	0
All states	0.0129	155	1,078	1,694	2,772

State Firearm Laws and the Likelihood of a Mass Public Shooting

In the logistic regression GEE model, one law—permit requirements—was associated with 60% lower odds of a mass public shooting (95% confidence interval [CI: −32%, −76%]) as shown in Table 2. No other laws were related to the likelihood of a mass public shooting. Other factors associated with the occurrence of a mass public shooting were population, unemployment rate, divorce rate, firearm homicide rate, and suicide rate.

In the logistic regression portion of the zero-inflated negative binomial model, one law—permit requirements—was associated with 59% lower odds of a mass public shooting (95% CI [−31%, −76%]) as displayed in Table 3. Other factors related to the likelihood of a mass public shooting were population, divorce rate, firearm homicide rate, and suicide rate. These results were consistent with that of the logistic regression.

State Firearm Laws and the Number of Fatalities in a Mass Public Shooting

In the count part of the zero-inflated negative binomial model, one law—large-capacity magazine bans—was associated with fewer deaths when a mass public shooting occurred (see Table 3). A large-capacity magazine ban was associated with 38% fewer fatalities (95% CI [−12%, −57%]). No other laws were significantly associated with a lower number of deaths in a mass public shooting.

In the sensitivity analysis in which we modeled the number of fatalities resulting from mass public shootings using a GEE negative binomial model restricted to only those observations for which an event occurred, large-capacity magazine bans were associated with 37% fewer fatalities (95% CI [−10%, −57%]), as shown in Table 4. No other laws were significantly associated with a lower number of deaths in a mass public shooting. These results

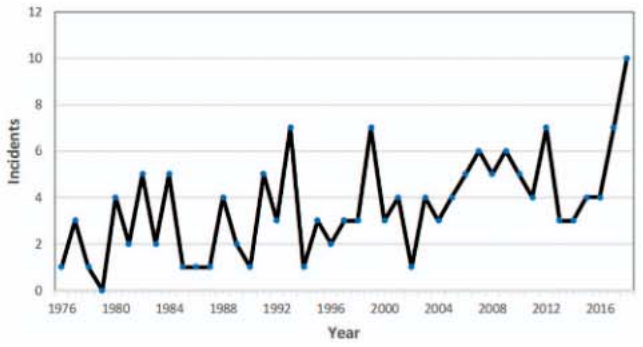

Figure 1. Number of mass public shootings by year—United States, 1976–2018. See the online article for the color version of this figure.

were almost identical to those from the zero-inflated negative binomial model.

Large-Capacity Magazine Bans and the Number of Nonfatal Injuries in a Mass Public Shooting

Large-capacity magazine bans were associated with 77% fewer nonfatal injuries (95% CI [−43%, −91%]), as shown in Table 5. In the sensitivity analysis in which we modeled the number of fatalities resulting from mass public shootings using a GEE negative binomial model restricted to only those observations for which an event occurred, large-capacity magazine bans were associated with 70% fewer nonfatal injuries (95% CI [−29%, −87%]), also shown in Table 5.

Multicollinearity Assessment

Whether we included all regressors or just those pertaining to guns, none of the gun law variables revealed a variance inflation factor above four, a conventional benchmark for concern.

Discussion

To our knowledge, this is the first paper to examine state firearm laws and their separate relationship with the likelihood of a mass public shooting and with the number of fatalities when such an event occurs. We found a robust relationship between state laws that require permits for the purchase and/or possession of guns and the incidence of mass public shootings and between large-capacity magazine bans and the number of deaths resulting from a mass public shooting if one does occur. However, we did not find any significant association between assault weapons bans or other firearm laws and either of these outcomes. Additionally, we found that large-capacity magazine bans are also associated with a lower number of nonfatal injuries when a mass public shooting occurs.

Incidence of Mass Public Shootings

Our finding that laws requiring permits to purchase or possess firearms are associated with a lower incidence of mass public shootings is consistent with those of Webster et al. (2020), who reported that laws requiring handgun permits were associated with a lower number of mass shooting incidents. This supports the theoretical framework that we adapted from Cook (1983), which posits that limiting the availability of firearms may reduce the incidence of mass public shootings by increasing the costs of obtaining a gun in both the legal and illegal markets and that this increased cost could be enough to deter a potential mass shooter. State gun permit requirements have been shown to decrease firearm homicide rates (Crifasi et al., 2018; Webster, Crifasi, & Vernick, 2014) and to reduce straw purchasing or trafficking of guns that diverts them into the illegal market (Collins et al., 2018; Crifasi, Buggs, Choksy, & Webster, 2017).

Similar to Webster et al. (2020), we did not find that universal background check laws are related to the likelihood of mass public shootings. Background checks are typically conducted through the FBI National Instant Criminal Background Check System, which consults only national databases. State mental health, drug use, and criminal databases are not searched, and several studies have documented severe limitations of state reporting to the National Instant Criminal Background Check System database (Goggins & Gallegos, 2016; Mayors Against Illegal Guns, 2011). In contrast to the federal background check system, states that require their own gun permits typically have detailed procedures that involve a check of multiple state databases and often require fingerprints rather than relying solely on self-reported information (Webster et al., 2020). Also, states that conduct their own background checks or delegate this responsibility to local authorities have lower firearm homicide rates than states that rely solely on federal background checks (Sumner, Layde, & Guse, 2008). Requiring permits to purchase or possess firearms is an effective mechanism for conducting effective criminal background checks at the local level.

Severity of Mass Shootings

Our finding that state laws prohibiting large-capacity ammunition magazines are associated with fewer fatalities and nonfatal injuries in mass public shootings is consistent with that of Klarevas et al. (2019), who reported that state-level large-capacity magazine bans were associated with a reduction in the number of deaths in high-fatality (six or more victims shot to death) mass shootings and that of Webster et al. (2020), who observed that laws banning large-capacity magazines were associated with a lower number of deaths from mass shootings. It is plausible that a ban on large-capacity magazines would not stop mass shootings per se but could

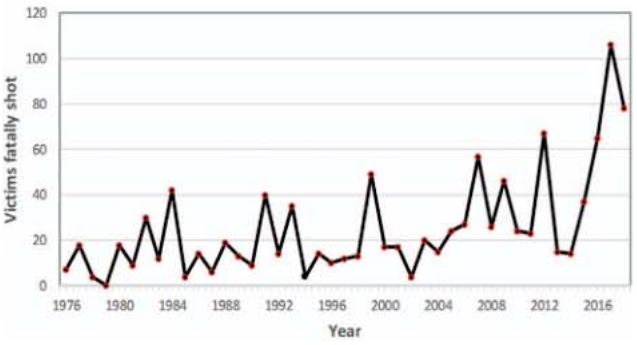

Figure 2. Number of deaths from mass public shootings by year—United States, 1976–2018. See the online article for the color version of this figure.

Table 2
Logistic Regression Model Results: Factors Affecting Occurrence of a Mass Public Shooting, 1976–2018[a]

Factor	*OR* [95% CI]	Statistical significance
Population (in millions)	**1.11**[b] **[.09, 1.14]**	$p < .001$
Population density (in people per .01 square miles)	0.96 [0.84, 1.08]	$p = .47$
Percent Black	0.97 [0.93, 1.02]	$p = .23$
Percent male of young adults	1.22 [0.93, 1.61]	$p = .15$
Poverty rate	0.98 [0.92, 1.05]	$p = .57$
Unemployment rate	**1.10**[b] **[1.00, 1.22]**	$p = .05$
Per-capita alcohol consumption	1.45 [0.93, 2.26]	$p = .10$
Divorce rate	**1.15**[b] **[1.00, 1.32]**	$p = .05$
Incarceration rate (per 1,000 population)	0.99 [0.83, 1.18]	$p = .93$
Household gun ownership	1.00 [0.96, 1.04]	$p = .93$
Age-adjusted firearm homicide rate	**1.20**[b] **[1.02, 1.41]**	$p = .03$
Age-adjusted total suicide rate	**0.85**[b] **[0.74, 0.98]**	$p = .02$
Violent crime rate	0.96 [0.82, 1.12]	$p = .59$
Assault weapons ban	1.36 [0.38, 4.86]	$p = .64$
Large-capacity ammunition magazine ban	0.44 [0.13, 1.44]	$p = .18$
Permit requirement	**0.40**[b] **[0.24, 0.68]**	$p = .001$
Extreme-risk protection order law	1.08 [0.22, 5.19]	$p = .93$
Universal background checks at point of sale	0.51 [0.18, 1.43]	$p = .20$
May-issue concealed-carry law	1.26 [0.76, 2.08]	$p = .37$
Relinquishment law	1.05 [0.52, 2.11]	$p = .90$
Violent misdemeanor law	0.64 [0.23, 1.79]	$p = .40$

Note. *OR* = odds ratio; CI = confidence interval.
[a] Outcome variable is whether or not a mass public shooting occurred in a given state in a given year. State clustering was accounted for using generalized estimating equations. All models include linear and quadratic trends. Standard errors are robust and adjusted for state-level clustering. [b] Coefficient is statistically significant from zero ($p < .05$), also shown in bold type.

at least reduce the number of fatalities and nonfatal injuries in such events because the shooter can fire fewer rounds before having to reload (Klarevas et al., 2019; Koper, 2020; Webster et al., 2020). This is consistent with a body of literature demonstrating that fatality counts in mass shootings are higher when a large-capacity magazine is used by an assailant (Koper, 2020; Koper et al., 2018).

In contrast to high-capacity magazine bans, we did not find support for the often-claimed association between assault weapon bans and mass public shootings. This conflicts with Gius' (2015) contention but is in accord with that of Webster et al. (2020). Our failure to identify an association of assault weapons bans and the incidence of, or fatalities in, mass public shootings could be explained by the fact that assault weapons are typically defined by cosmetic features rather than characteristics that directly affect the lethality of the firearm (Siegel & Boine, 2019) or by the relative infrequency of assault weapon use in mass public shootings (Duwe, 2007). Most semiautomatic firearms are not assault weapons as defined by state laws but are functionally equivalent. They are manufactured without the accessories, such as bayonet lugs, flash suppressors, and grenade launchers, that characterize assault weapons. Moreover, the firing rate of all semiautomatic weapons is the same, regardless of whether they are military-style assault weapons or just handguns, namely the speed at which the shooter can squeeze the trigger. What makes assault weapons so lethal is not any particular functional feature but simply the fact that these firearms are designed to accommodate high-capacity magazines. This may explain our finding that large-capacity magazine bans, but not assault weapon bans, were related to the number of casualties in mass public shootings.

Our finding that only two policies—permit requirements and large capacity magazine bans—were related to mass public shootings is consistent with that of Webster et al. (2020), who reported a similar result. Like Webster et al. (2020), we failed to find a relation between may-issue laws or violent misdemeanor laws and mass public shootings. Because may-issue laws affect only the ability to carry a concealed gun not the ability to purchase a firearm, one might not expect these policies to affect mass public shootings. Violent misdemeanor laws are designed to prevent adjudicated violent criminals from possessing firearms; however, in a substantial proportion of mass shootings, there is no history of a criminal conviction for a violent crime or the crime involves domestic violence (Hempel et al., 1999). Studies have documented serious loopholes in the confiscation of firearms from domestic violence offenders (Mascia, 2015). Strengthening the procedures for the surrender of firearms by persons adjudicated for domestic violence or served with restraining orders may be necessary to observe a measurable effect of these policies on rare mass public shooting events. Similarly, our failure to find a relationship between relinquishment laws and mass public shootings could have more to do with the lack of enforcement of these laws than with a conceptual problem with the idea of limiting potential shootings by making sure that people who become prohibited from possessing a firearm are disarmed.

Perhaps the most surprising negative finding was that extreme-risk protection orders were not related to the incidence of mass public shootings. However, our definition of extreme-protection order laws included those in which law enforcement personnel are authorized to initiate a proceeding, regardless of whether family

Table 3
Zero-Inflated Negative Binomial Model Results: Factors Affecting Occurrence of a Mass Public Shooting and Number of Deaths if a Mass Shooting Occurs, 1976–2018[a]

Factor	Logistic model		Negative binomial model	
	OR [95% CI]	Statistical significance	Incidence rate ratio [95% CI]	Statistical significance
State population (in millions)	**1.11**[b] **[1.09, 1.14]**	$p < .001$	1.01 [1.00, 1.03]	$p = .07$
Population density (per .01 square miles)	0.96 [0.85, 1.08]	$p = .49$	0.99 [0.91, 1.09]	$p = .90$
Percentage Black	0.97 [0.93, 1.02]	$p = .23$		
Percentage male (of young adults)	1.22 [0.93, 1.61]	$p = .15$		
Poverty rate	0.98 [0.92, 1.05]	$p = .57$		
Unemployment rate	1.10 [1.00, 1.22]	$p = .05$		
Per-capita alcohol consumption	1.45 [0.93, 2.26]	$p = .10$		
Divorce rate	**1.15**[b] **[1.00, 1.33]**	$p = .05$		
Incarceration rate (per 1,000 population)	0.99 [0.83, 1.19]	$p = .94$		
Household gun ownership	1.00 [0.96, 1.04]	$p = .93$		
Age-adjusted firearm homicide rate	**1.20**[b] **[1.02, 1.42]**	$p = .03$		
Age-adjusted total suicide rate	**0.85**[b] **[0.75, 0.98]**	$p = .03$		
Violent crime rate	0.96 [0.82, 1.12]	$p = .57$		
Assault weapons ban	1.36 [0.36, 5.11]	$p = .65$	1.04 [0.57, 1.90]	$p = .89$
Large-capacity ammunition magazine ban	0.45 [0.13, 1.55]	$p = .21$	**0.62**[b] **[0.43, 0.88]**	$p = .008$
Permit requirement	**0.41**[b] **[0.24, 0.69]**	$p = .001$	0.80 [0.50, 1.30]	$p = .37$
Extreme-risk protection order law	1.04 [0.21, 5.07]	$p = .96$	1.55 [0.65, 3.69]	$p = .32$
Universal background checks at point of sale	0.51 [0.17, 1.53]	$p = .23$	0.83 [0.41, 1.68]	$p = .61$
May-issue concealed-carry law	1.23 [0.74, 2.04]	$p = .42$	1.21 [0.90, 1.63]	$p = .20$
Relinquishment law	1.04 [0.51, 2.14]	$p = .91$	1.13 [0.47, 2.69]	$p = .79$
Violent misdemeanor law	0.67 [0.24, 1.88]	$p = .45$	0.80 [0.37, 1.74]	$p = .58$

Note. *OR* = odds ratio; CI = confidence interval.
[a] Models include linear and quadratic trends. Standard errors are robust and adjusted for state-level clustering. [b] Coefficient is statistically significant from zero ($p < .05$), also shown in bold type.

members can do so. We could not examine extreme-risk protection order laws that allow family members to intervene because only two states had such laws in place for more than 1 year during the study period. It may be that family members are in the best position to recognize people with access to guns who are at great risk of harming others or themselves. If this were the case, it could explain our failure to find any significant association between mass public shootings and laws that rely on law enforcement officials to identify at-risk individuals.

Policy and Research Implications

Because of the cross-sectional nature of this study, we cannot definitively conclude that implementing a specific law would lead to a change in the incidence or severity of mass public shootings. Nevertheless, our research suggests three potential policy implications that must be balanced with citizens' right to bear arms under the Second Amendment of the U.S. Constitution. First, to reduce the incidence of mass shootings, the primary objective

Table 4
Negative Binomial GEE Model Results: Factors Affecting the Number of Fatalities in a Mass Public Shooting, 1976–2018[a]

Factor	Negative binomial model incidence rate ratio [95% CI]	Statistical significance
State population (in millions)	**1.01**[b] **[1.00, 1.03]**	$p = .03$
Population density (per .01 square miles)	1.00 [0.92, 1.08]	$p = .92$
Assault weapons ban	1.08 [0.63, 1.85]	$p = .78$
Large capacity ammunition magazine ban	**0.63**[b] **[0.43, 0.90]**	$p = .01$
Permit requirement	0.83 [0.54, 1.29]	$p = .41$
Extreme-risk protection order law	1.65 [0.74, 3.70]	$p = .22$
Universal background checks at point of sale	0.79 [0.45, 1.38]	$p = .41$
May-issue concealed-carry law	1.15 [0.88, 1.52]	$p = .31$
Relinquishment law	1.07 [0.53, 2.15]	$p = .85$
Violent misdemeanor law	0.86 [0.44, 1.69]	$p = .66$

Note. CI = confidence interval; GEE = generalized estimating equations.
[a] This model is restricted to observations when a mass shooting event occurred. It includes linear and quadratic trends. Standard errors are robust and adjusted for state-level clustering. [b] Coefficient is statistically significant from zero ($p < .05$), also shown in bold type.

Table 5
Zero-Inflated Negative Binomial Model and Negative Binomial GEE Model Results: Factors Affecting the Number of Nonfatal Injuries in a Mass Public Shooting if a Mass Shooting Occurs, 1976–2018[a]

Factor	Incidence rate ratio [95% CI] [statistical significance]	
	Zero-inflated negative binomial model	Negative binomial GEE model
State population (in millions)	**1.04**[b] **[1.01, 1.06]** [$p = .001$]	**1.02 [1.02, 1.06]** [$p = .32$]
Population density (per .01 square miles)	**0.65**[b] **[0.62, 0.85]** [$p < .001$]	**0.70**[b] **[0.53, 0.92]** [$p = .01$]
Large-capacity ammunition magazine ban	**0.23**[b] **[0.09, 0.57]** [$p = .002$]	**0.30**[b] **[0.13, 0.71]** [$p = .006$]

Note. CI = confidence interval; GEE = generalized estimating equations.
[a] The negative binomial regression is restricted to observations in which an event occurred. Both models include linear and quadratic trends. Standard errors are robust and adjusted for state-level clustering. Nevada was excluded from the models because of outlying data that prevented model convergence. [b] Coefficient is statistically significant from zero ($p < .05$), also shown in bold type.

should be to limit potential shooters' access to firearms generally. One interpretation of our findings is that requiring permits to purchase or possess a firearm may limit potential shooters' access to firearms. Furthermore, laws requiring permits to purchase or possess firearms may be more effective than universal background checks because they rely on state or local officials, who have the most direct access to criminal, mental health, and drug- and alcohol-related records. In contrast, universal background checks rely on FBI data, which are often incomplete.

Second, to reduce the severity of mass public shootings when they do occur, the primary goal should be to limit the number of shots that can be fired before the shooter has to reload. This can be accomplished by restricting ammunition magazines to no more than 10 rounds. The 1994 Assault Weapons Ban is an example of a policy that sought to limit the severity of mass shootings. Included in that legislation was a ban on magazines that could hold more than 10 rounds (United States Congress, 1994). Recently several prominent voices have called for a renewal of the Assault Weapons Ban (Ingraham, 2018). Because our results did not show any association between assault weapons bans and mass public shootings, it may be more effective to focus on magazine capacity rather than trying to define assault weapons in general.

Third, our failure to find a relationship between laws that prohibit people with a history of violence from possessing firearms and that require relinquishment of firearms by people who do become prohibited from possessing them may indicate weaknesses in the practical application of these laws. Few states have statutory-based procedures for confiscating firearms from people who are adjudicated for violent misdemeanors—such as domestic violence offenses—or who are served with protection orders (Zeoli et al., 2020). Future studies should examine not only the enactment of laws but also their enforcement.

The methods and findings of this paper have implications for future research in the area of state firearm laws and mass public shootings. First, we used clearly defined and explicit criteria to categorize both our predictor and outcome variables. The public availability of both our mass public shooting data set and the extended State Firearm Law Database will allow researchers to conduct their own analyses to further the work described here. Second, we have demonstrated the use of the zero-inflated negative binomial model to simultaneously but separately identify factors associated with the incidence of mass public shootings and with the number of victims when such an event occurs. Our results suggest that there are separate laws associated with the incidence and severity of mass public shootings; thus, modeling the effect of firearm laws in a simple count regression may not be sensitive enough to distinguish these relationships.

Limitations

By far, the most notable limitation of this study stems from the fact that we sought to investigate mass public shootings, a small subset of all mass shootings. The sample size for analysis was therefore unavoidably small ($N = 155$ events), resulting in fairly wide confidence intervals on many of our point estimates and making it difficult to conclude that laws we found to be unassociated with mass public shootings do not affect these events. The number of events in our analysis was considerably less than the 604 mass shootings examined by Webster et al. (2020) and the 344 mass shootings studied by Reeping et al. (2019) but was higher than the 69 high-fatality mass shootings examined by Klarevas et al. (2019), the 57 in Gius (2015), and the 44 in DiMaggio et al. (2019).

Compounding this problem is the fact that some of the state laws were enacted in a small number of states, further limiting the effective sample size and reducing our power to detect an effect of these laws if one exists. This is particularly true for the violent misdemeanor laws, which were in effect in only four states in 2018.

Finally, because we were unable to control fully for confounding factors that could explain the observed results, we cannot infer causality from this study. Nevertheless, we did control for a wide range of variables known to be associated with rates of firearm violence, including sociodemographic factors, household gun ownership, violent crime rate, firearm homicide rate, and suicide rate. Any unrecognized confounding variable would have to be not only associated with both the enactment of permit or magazine capacity laws and with mass public shootings but would also have to be not strongly associated with any of the above variables.

Conclusion

Despite these limitations, our estimates of the association between state permit requirements and the incidence of mass public shooting events and between large-capacity magazine bans and fatalities and injuries occurring in such events were robust to different model specifications and are consistent with the findings of previous research. In particular: (a) our GEE logistic regression estimates and zero-inflated negative binomial estimates of the association between gun permit laws and the incidence of mass shootings were nearly identical and (b) our estimates of the association between large-capacity magazine bans and the number of fatalities as well as number of nonfatal injuries were also nearly identical when modeled using a zero-inflated negative binomial model and when modeled using a negative binomial regression model restricted to observations in which a mass public shooting occurred.

This study provides evidence that state laws requiring permits to purchase a gun are related to a lower incidence of mass public shootings and that state bans on large capacity magazines are related to fewer fatal and nonfatal injuries when such events do occur. Policymakers wanting to address specifically the morbidity and mortality from mass shootings would be prudent to adopt permit-to-purchase laws and large-capacity ammunition magazine bans to reduce both the incidence of mass public shootings and the number of casualties if such events do occur. They should take these findings into account in combination with the substantial body of research on the effect of state firearm laws on other types of firearm violence (Morral et al., 2018; Siegel, Pahn, et al., 2019) and with consideration of citizens' right to bear arms under the Second Amendment of the U.S. Constitution (*McDonald v. City of Chicago,* 2010).

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LHB Special Issue on Technology in the Legal and Criminal Justice Systems

Technology plays an important role in modern life. Increasingly, the legal system is incorporating and adapting technological advances to improve efficiency of the adjudication process. Similarly, clinical practitioners and law enforcement have incorporated digital technologies (e.g., telehealth assessment, virtual reality, body cameras) into daily practice to enhance quality of care and increase accountability. *Law and Human Behavior* is soliciting submissions for a forthcoming special issue that focuses on the application of digital technology to the fields of mental health, law, and criminal justice, broadly construed. We will consider clinical and experimental research that empirically examines original or secondary data.

Although not exhaustive, the following represent general topic areas that would be of interest for the special issue:

- Mental health treatment with forensic populations delivered via electronic communication including telephone, video-conferencing, email, interactive websites, software applications, and social media
- Utility and practical impacts of digital technology during the criminal or civil adjudication process (e.g., video testimony, remote pretrial hearings)
- Forensic mental health assessment, broadly defined, via electronic means including telephone, video-conferencing and remote test administration, interactive websites, and software applications.
- Digital technology to assess and improve law enforcement practices (e.g., body cameras, virtual reality training)

We request that authors interested in contributing a manuscript for this special issue submit a nonbinding letter of intent by **October 15, 2020.** This letter should include: (1) tentative title, (2) brief description of the manuscript in 500 words or less, and (3) all authors and affiliations. However, this letter is not required for final submission. The deadline to submit a manuscript for this special issue is **February 1, 2021.**

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