



DISCUSSION ITEMS

Agenda Item # 10

AGENDA REPORT SUMMARY

Meeting Date: April 24, 2018

Subject: Gun Control

Prepared by: Staff

Attachment(s):

1. Los Altos Municipal Code, Section 7.28 -- Weapons
2. Giffords Law Center: Annual Gun Law Scorecard
3. Giffords Law Center: “2018 Communities on the Move”
4. Giffords Law Center: “Santa Clara County Local Ordinance Project”

Initiated by:

City Council

Fiscal Impact:

None

Environmental Review:

Not Applicable

Policy Question(s) for Council Consideration:

- Does the City Council want to direct staff to initiate action associated with controlling the sale or possession of firearms in Los Altos?

Summary:

- The City Council has received requests to review actions the City may be able to take that limit the sale or possession of firearms in the community.
- The City’s regulations regarding weapons is discussed in section 7.28 of the municipal code
- Attached is information produced by the Giffords Law Center regarding gun control in the nation, state and Santa Clara County.

Action:

The City Council should determine what, if any, actions by the City are appropriate and direct staff accordingly.

- **Chapter 7.28 - WEAPONS**

Sections:

- **7.28.010 - Missile projectors.**

No person shall discharge in the city any instrument or device of any kind, character, or description which throws, discharges, propels, or hurls bullets or missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, or explosive force without first having applied for and obtained a written permit therefor from the chief of police. Except as specifically directed by the council, the chief of police shall be the sole judge as to the desirability or necessity for issuing such permit which shall be in, in his judgment, for the protection of the applicant or in the furtherance of the public welfare. Such permit shall be issued upon the payment of a fee of one dollar (\$1.00) and shall be upon such conditions and for such term as the chief of police may determine.

(Prior code § 3-6.01)

- **7.28.020 - Possession of certain propelling devices.**

It shall be unlawful for any person under the age of eighteen (18) years to have in his possession on any street or in a public place within the city any instrument or device of any nature which may throw, discharge, propel, or hurl bullets or missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, or any explosive force.

(Prior code § 3-6.03)

- **7.28.030 - Notices of sales of firearms.**

Any person having for sale any instrument or device specified in [Section 7.28.010](#) or [7.28.020](#) of this chapter shall have posted in a conspicuous place in the place of sale a copy of this chapter and shall deliver a copy of this chapter to any purchaser of such instrument or device.

(Prior code § 3-6.04)

- **7.28.040 - Confiscation.**

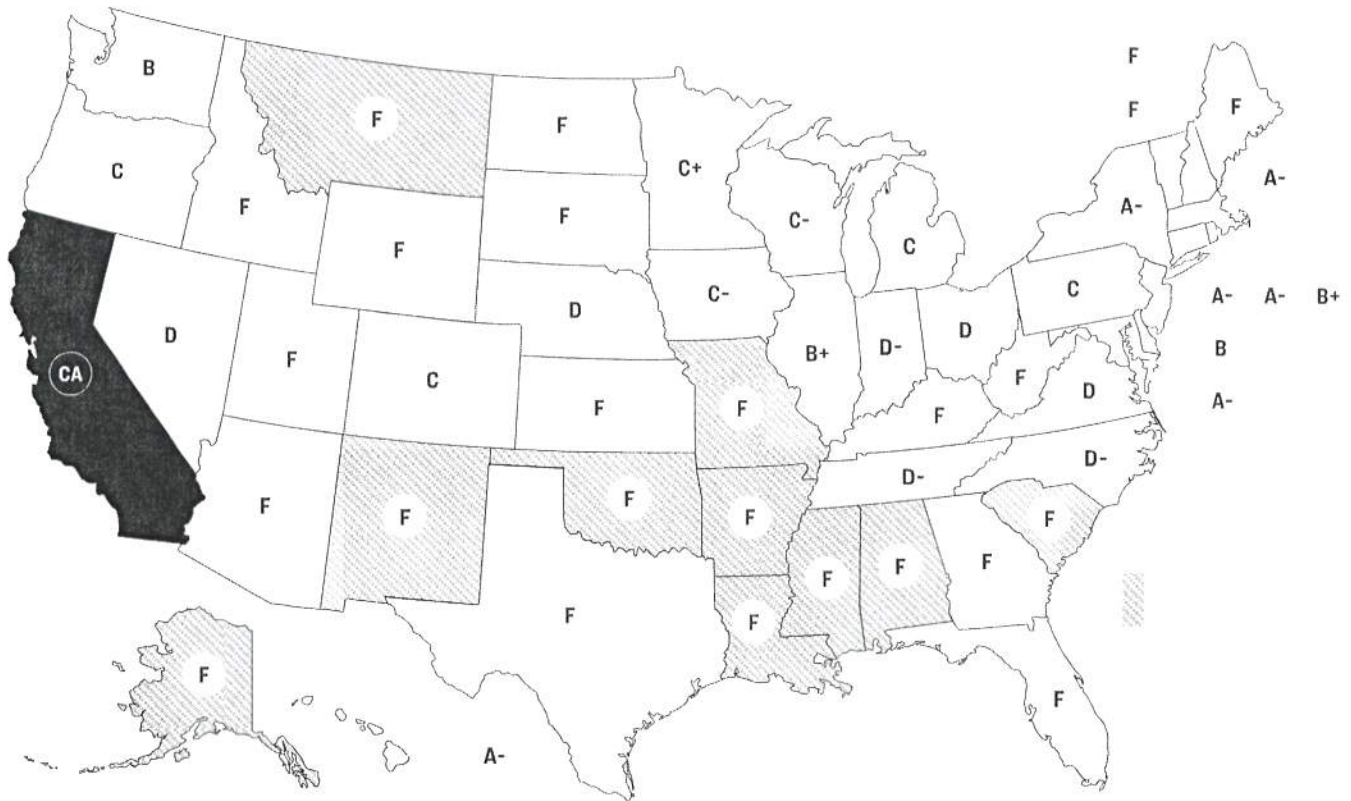
Any instrument, device, or article used or possessed in violation of the provisions of this chapter is hereby declared to be a public nuisance and may be confiscated and possessed by a police officer of the city and delivered to the custody of the chief of police. The chief of police may return, upon such conditions as he deems desirable for the public welfare, any such instrument, device, or article to the person from whose possession it was taken, or the chief of police may retain the same and destroy it after sixty (60) days.

SIGN UP

DONATE

ANNUAL GUN LAW SCORECARD

Every year, our research shows that gun laws are saving lives—but only in states with the courage to enact them.



CALIFORNIA ▾ A

GUN LAW STRENGTH:
1 OF 50 STATES

GUN DEATH RATE:
43 OF 50 STATES

ATTACHMENT 2

BACKGROUND CHECKS

CHILD ACCESS PREVENTION

CONCEALED CARRY PERMITTING

DOMESTIC VIOLENCE

EXTREME RISK PROTECTION ORDER

MILITARY-STYLE WEAPONRY

GUN LAW SCORECARD

NO LAW

PARTIAL LAW

STRONG LAW



California boasts the strongest gun laws in the nation and a correspondingly low gun death rate. The state further strengthened its gun laws in 2017 by prohibiting hate crime offenders from accessing guns and funding urban gun violence reduction programs. California should increase its investment in these lifesaving, community-based programs and pass laws that regulate the sale of dangerous home firearm assembly kits. [Learn more about California's gun laws.](#)

SHARE**DOES YOUR STATE MAKE THE GRADE?**

Gun violence is a moral crisis in America. It's also a public health crisis. Over a million people have been shot in the past decade, and 2017 saw not one but two of the deadliest mass shootings in our country's history. Unlike other epidemics, gun violence persists not because we lack solutions, but because too many of our leaders lack the courage to stand up to the corporate gun lobby.

The situation is dire, but far from hopeless. As we've done for many years now, the attorneys at Giffords Law Center graded and ranked all 50 states on

the relative strength or weakness of their gun laws in 2017. We found, like we do every year, a simple but undeniable correlation—states with strong gun safety laws have fewer gun deaths per capita than states with weak laws. In short, gun laws work. To truly address this crisis, more states must follow the example of their neighbors with high grades and pass the comprehensive gun safety laws proven to save lives.

Interested in learning more about this year's *Annual Gun Law Scorecard*?
Contact one of our experts.

FEWER PEOPLE DIE FROM GUN VIOLENCE IN STATES WITH STRONG GUN LAWS

50-STATE RANKINGS

Explore the correlation between gun laws and gun deaths, state by state.

GUN LAW STRENGTH (RANKED)	STATE	2017 GRADE	GUN DEATH RATE (RANKED)	GUN DEATH RATE (PER 100K)
36	Alabama	F	2	21.4
44	Alaska	F	1	23.0
47	Arizona	F	16	15.2
39	Arkansas	F	9	17.7
1	California	A	43	7.9
15	Colorado	C	20	14.3
3	Connecticut	A-	46	4.6
11	Delaware	B	37	10.9
26	Florida	F	26	12.6
32	Georgia	F	17	14.9
7	Hawaii	A+	47	4.5
46	Idaho	F	19	14.6
8	Illinois	B+	34	11.6
23	Indiana	D-	18	14.9
18	Iowa	C+	39	9.2
48	Kansas	F	23	13.3
42	Kentucky	F	13	17.5
43	Louisiana	F	3	21.2
35	Maine	F	42	8.2
6	Maryland	A-	32	11.8
4	Massachusetts	A+	50	3.4
16	Michigan	C	27	12.2
12	Minnesota	C+	44	7.6
50	Mississippi	F	4	19.8
48	Missouri	F	7	18.8

37	Montana	F	6	19.0
19	Nebraska	D	40	9.1
22	Nevada	D	15	16.7
31	New Hampshire	F	38	9.3
2	New Jersey	A-	45	5.5
29	New Mexico	F	8	18.2
5	New York	A-	48	4.4
25	North Carolina	D-	21	13.6
37	North Dakota	F	30	11.9
21	Ohio	D	25	12.9
27	Oklahoma	F	5	19.6
14	Oregon	C	33	11.8
13	Pennsylvania	C	31	11.9
9	Rhode Island	B+	49	4.0
29	South Carolina	F	10	17.7
40	South Dakota	F	22	13.5
24	Tennessee	D-	14	17.0
32	Texas	F	28	12.1
27	Utah	F	24	12.9
41	Vermont	F	36	11.0
20	Virginia	D	29	12.0
10	Washington	B	41	9.0
32	West Virginia	F	12	17.5
17	Wisconsin	C-	35	11.4
45	Wyoming	F	11	17.5

WEAK GUN LAWS, MORE GUN DEATHS

Annual state gun death rates per 100,000 people, in order of gun law strength and grouped by grade.

A

B

C

D

F

CONSISTENT YEAR OVER YEAR

Combined annual gun death rates per 100,000 people vs. year, sorted by gun law grade.

SUCCESS IN THE STATES

With 25 states earning an F on this year's *Scorecard*, there's a lot of work to be done. The good news is that other states have already paved the way.

testing the policies most effective at preventing gun violence and reaping lifesaving rewards. In fact, of the 10 states with the strongest gun laws, eight are also among the 10 states with the fewest gun deaths per capita. Many have only recently improved their laws—since the mass shooting at Sandy Hook Elementary in 2012, over 210 new gun safety laws have been enacted in 45 states.

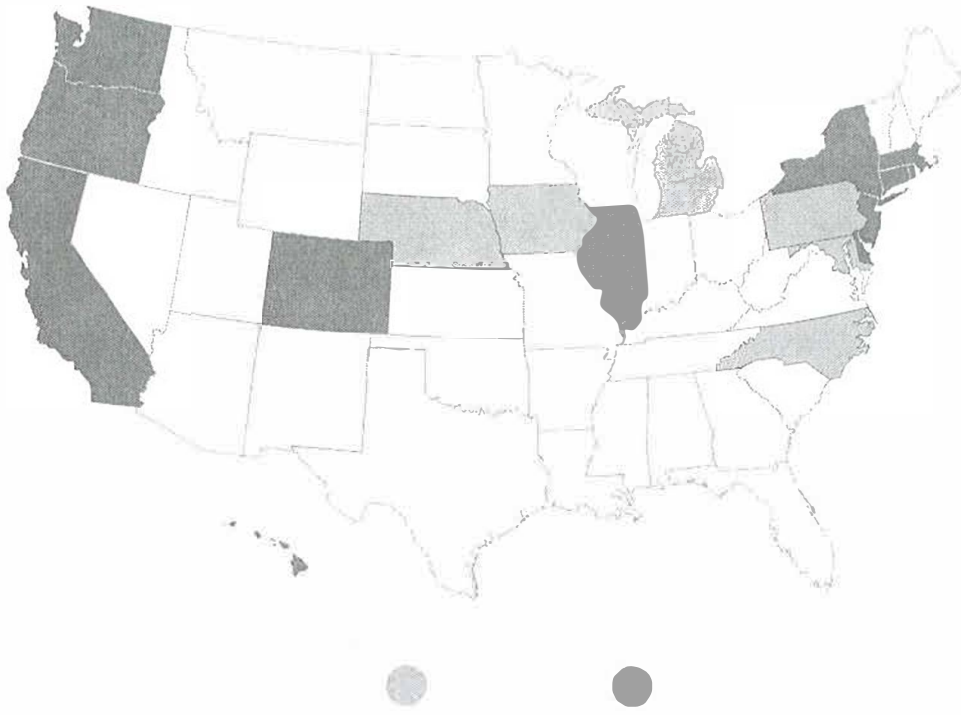
This year, 12 states increased their gun law scores over previous years. North Dakota, New Jersey, Nevada, Rhode Island, Tennessee, and Utah passed new domestic violence laws, while Oregon enacted an Extreme Risk Protection Order law. California, Connecticut, Illinois, Massachusetts, and New York earned extra points for funding **urban gun violence reduction programs**, which are remarkably effective, non-legislative approaches to preventing shootings. Many states maintained their existing grades thanks to gun safety advocates, who successfully stopped 26 permitless concealed carry bills, 20 guns on campus bills, and 11 stand your ground bills.

Interested in the latest updates on state firearm legislation? **Check out *Gun Law Trendwatch*.**

SIX KEY POLICIES TO SAVE LIVES FROM GUN VIOLENCE

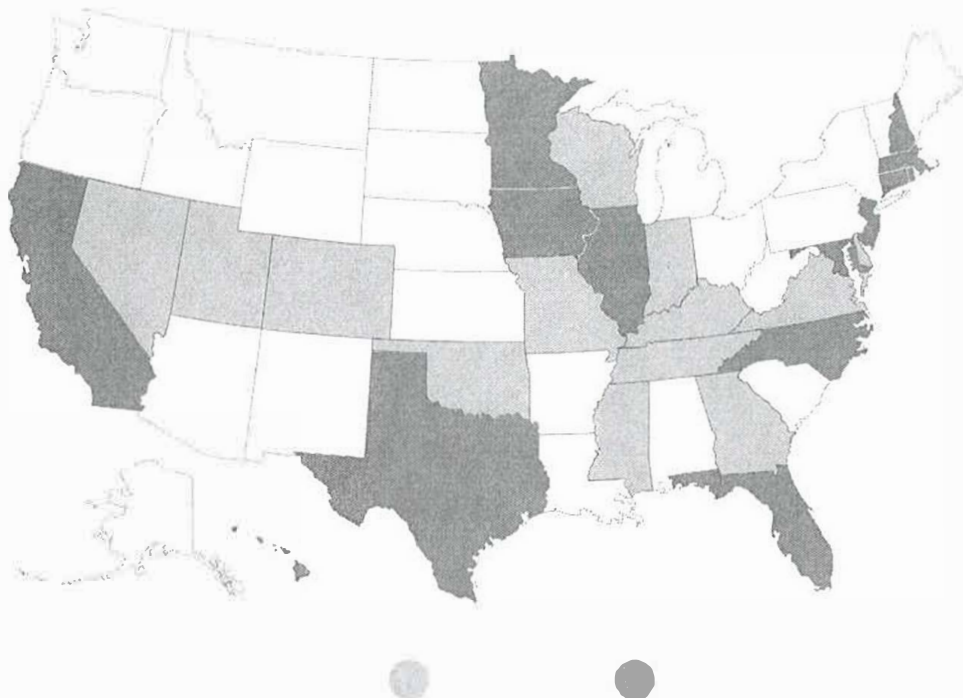
BACKGROUND CHECKS

One of the quickest ways to save lives from gun violence is to close the glaring gap in federal law that allows people to buy guns at gun shows, online, and in private sales without undergoing a background check. This deadly loophole makes it all too easy for felons, domestic abusers, and others legally prohibited from owning firearms to get their hands on a gun and do harm. Twelve states have addressed this issue by requiring a background check for all gun transfers, while six states only partially close the loophole, with background check laws that only apply to handgun sales or at gun shows. Comprehensive background checks have proven remarkably effective at preventing shootings—after Connecticut enacted its private-sale background check law, gun homicides dropped by 40%. **Learn more about background checks.**



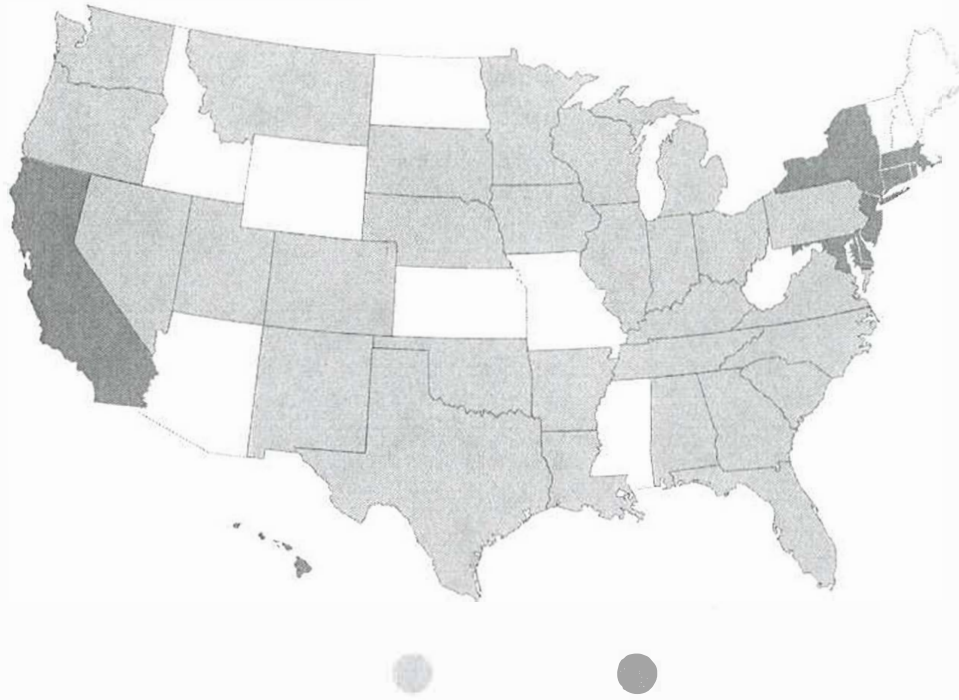
CHILD ACCESS PREVENTION

Millions of children live in homes with easily accessible guns, which too often leads to unintentional death and injury, teen suicides, and school shootings. Researchers have found that at least one-third of handguns are stored loaded and unlocked and that most children know where their parents keep their guns—even if their parents think otherwise. Fourteen states have comprehensive laws to protect children from accessing guns by imposing liability on people who negligently store firearms, with Massachusetts additionally requiring that all firearms be stored locked and unloaded. Thirteen other states only partially regulate guns in the home, imposing liability only against people who intentionally, knowingly, or recklessly store firearms so minors could, or do, gain access. **Learn more about child access prevention.**



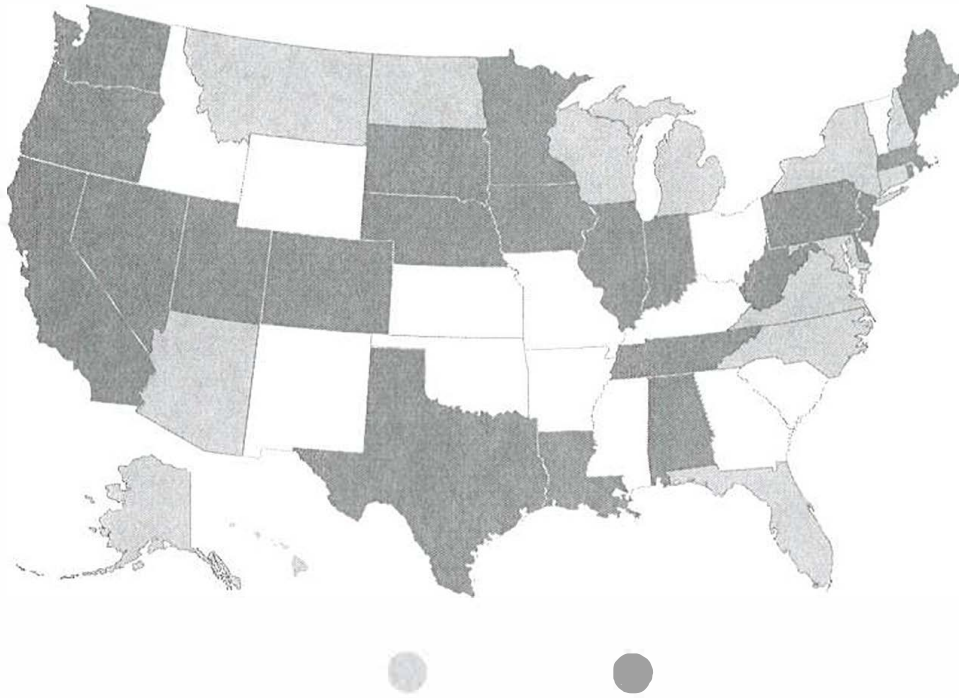
CONCEALED CARRY PERMITTING

The presence of guns in public makes it all too easy for everyday conflicts to turn deadly. While all states allow some form of carrying concealed weapons (CCW), the degree to which states regulate who can have a hidden, loaded gun in public varies widely. Nine states have strong permitting systems that grant law enforcement discretion to deny CCW permits based on factors like dangerous behavior or lack of good cause. Twenty-nine other states have laws that only partially protect the public, requiring a CCW permit but setting few qualifications to obtain one. The remaining twelve states don't require a permit at all to carry concealed. The gun lobby has made a concerted effort to weaken CCW laws in recent years, pushing for permitless carry at the state level and for a dangerous federal law that would force states with strong CCW laws to recognize the laws of states with weak or no CCW permitting. **Learn more about concealed carry.**



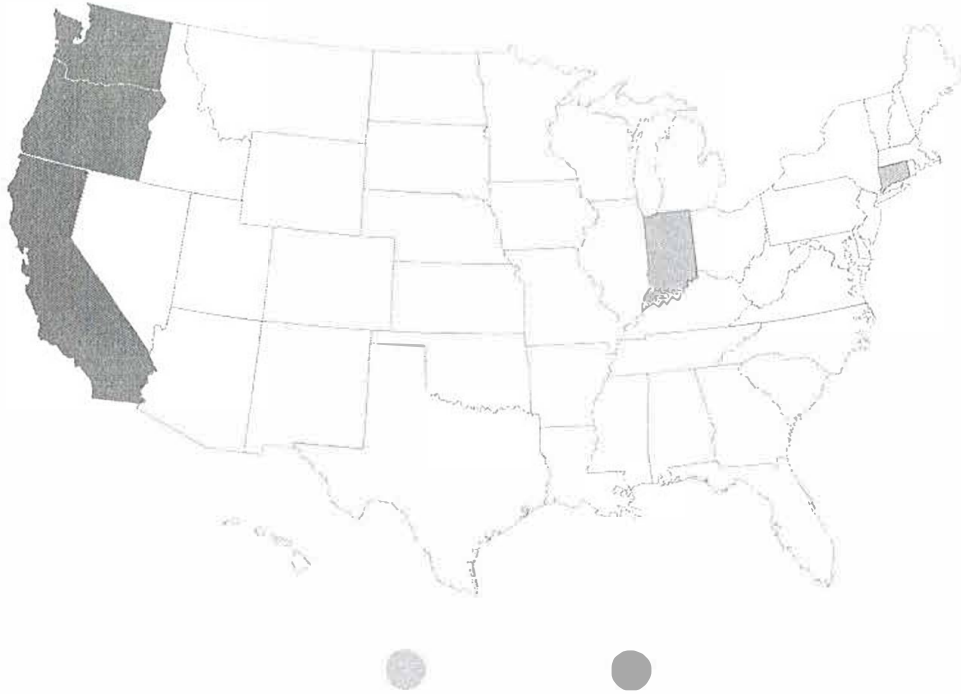
DOMESTIC VIOLENCE

Domestic violence is a staggering problem in the United States, and when a gun is involved victims are at even greater risk—abused women are five times more likely to be killed if their abuser owns a firearm. Although federal law and many states prohibit domestic abusers from purchasing guns, not all states have systems in place to ensure that abusers surrender firearms they already own. Twenty-three states comprehensively address this problem by requiring abusers to transfer firearms to law enforcement or a licensed dealer and provide proof to a court that they've done so. Fourteen states only partially address this by requiring abusers to surrender guns but not mandating that they provide proof. Policies that keep guns away from domestic abusers are among the most frequently enacted gun laws and enjoy broad popularity in states with otherwise strong gun cultures. **Learn more about domestic violence and guns.**



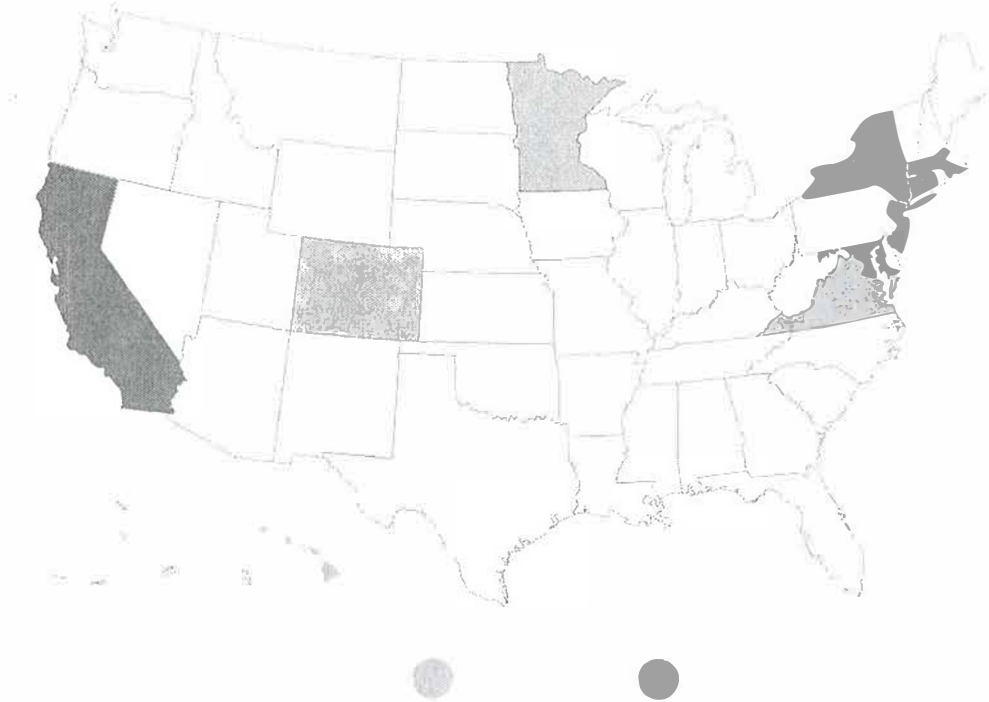
EXTREME RISK PROTECTION ORDER

An Extreme Risk Protection Order (ERPO), also known as a gun violence protective order or gun violence restraining order, provides a mechanism for family, household members, or law enforcement to petition a court to temporarily remove guns from people at proven risk of harming themselves or others. These laws can help prevent mass shootings, domestic violence incidents, and suicide, where people frequently demonstrate clear warning signs of dangerous behavior while experiencing a crisis. Three states, California, Oregon, and Washington, have strong ERPO laws that allow both families and law enforcement to petition for these orders. Connecticut and Indiana have partial ERPO laws that allow only law enforcement to petition to remove guns from at-risk individuals. ERPO laws are relatively new, but have the potential to prevent many shootings, and state lawmakers should adopt them as quickly as possible. [Learn more about Extreme Risk Protection Orders.](#)



MILITARY-STYLE WEAPONRY

For many years, the gun industry has marketed military-style firearms and accessories to civilians, including **assault weapons**, **large-capacity ammunition magazines**, and **silencers**. These products are not intended for hunting or self-defense—they are specifically designed to make it easier to efficiently kill high numbers of people in a short amount of time. Last year, a shooter used several AR-15 assault weapons equipped with **bump stocks**—devices that effectively transform semiautomatic rifles into machine guns—to kill 58 people and injure 851 in Las Vegas, firing 1,000 rounds in just 10 minutes. Six states currently have comprehensive laws in place to prohibit assault weapons, large capacity ammunition magazines, or bump stocks. Four other states have partial laws that regulate these weapons and accessories but do not prohibit them entirely. **Learn more about military-style weaponry.**



HOW WE GRADE THE STATES

Our attorneys have created a comprehensive grading rubric that assigns positive point values to gun safety policies, such as private-sale background checks and extreme risk protection orders, and negative point values to dangerous laws, such as permitless concealed carry. From there, we convert points to letter grades, rank the states, and compare our findings to the latest CDC gun death rates for each state. Every year, the same correlation emerges: high gun law grades are associated with low gun death rates and low gun law grades with high gun death rates.

Want to support our mission to research and promote solutions to gun violence? **Make a gift today.**

For nearly 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to reduce shootings. Led by former Congresswoman Gabrielle Giffords and Captain Mark Kelly, our mission is simple: save lives from gun violence.

LEGISLATION

RESEARCH

FACTSHEETS

TALK TO AN EXPERT

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2018 COMMUNITIES ON THE MOVE

Last updated July, 2017

DATA IS FROM CITIES WITH POPULATIONS OF 90,000 OR GREATER IN 2012 AND COUNTIES WITH POPULATIONS OF 500,000 OR GREATER IN 2013, AS WELL AS COUNTIES AND SMALLER CITIES THAT HAVE ENACTED SEVERAL GUN LAWS.

FIREARMS DEALER REGULATIONS

SPECIAL PERMIT REQUIRED TO BE A FIREARMS DEALER

The following 97 jurisdictions require firearms dealers to obtain a local license or permit, in addition to the minimum requirements for firearms dealer licensing outlined in the California Penal Code.

Alameda	Oxnard
Alameda County	Pacific Grove
Albany	Pacifica
Anaheim ¹	Palmdale ⁸
Antioch	Palo Alto
Berkeley	Pasadena ⁹
Beverly Hills	Piedmont
Campbell	Pinole
Carson	Pleasanton
Cathedral City	Pleasant Hill
Chino	Reedley
Chula Vista	Richmond
Commerce	Oceanside
Contra Costa County	

¹ For dealers of concealable firearms only.

⁸ For dealers of concealable firearms only.

⁹ For dealers of concealable firearms only.

Corona
Covina
Daly City
Diamonds Bar
El Cerrito
El Monte²
El Segundo
Elk Grove
Emeryville
Fremont
Fresno County
Fullerton
Glendale³
Glendora
Hayward
Hercules
Industry⁴
La Puente
Lafayette
Lawndale
Long Beach
Lonita
Los Angeles
Los Angeles County
Los Gatos
Lynwood⁵
Marin County
Maywood
Merced⁶
Millbrae
Mission Viejo
Monrovia
Monterey County

Orange¹⁰
Sacramento
Sacramento County¹¹
Salinas
San Anselmo
San Bruno¹²
San Bernardino County
San Diego
San Diego County
San Francisco City and County
San Joaquin County
San Jose
San Leandro
San Mateo County
San Pablo
San Rafael
Santa Ana
Santa Barbara
Santa Barbara County¹³
Santa Clara County
Santa Cruz
Santa Cruz County
Santa Monica
Santa Rosa
Scotts Valley
Solana Beach
Sonoma County
South El Monte
South Gate
South Pasadena
Stockton
Tiburon
Walnuts

² For dealers of concealable firearms only.

³ For dealers of concealable firearms only.

⁴ For dealers of concealable firearms only.

⁵ For dealers of concealable firearms only.

⁶ For dealers of concealable firearms only.

¹⁰ For dealers of concealable firearms only.

¹¹ For dealers of concealable firearms only.

¹² Dealers established prior to January 1, 1998 are exempt.

¹³ The permitting requirement appears to apply only to sellers of handguns.

Oakland
Orange County⁷

West Hollywood
West Lake Village

ADDITIONAL SITE SECURITY AND SAFE STORAGE

The following 30 jurisdictions require firearms dealers to meet standards for site security and safe storage of inventory that are above and beyond what is required by California Penal Code § 26890 and §17110.

Alameda
Albany
Antioch
Burbank¹⁴
Campbell
Cathedral City
Concord
Corona
El Cerrito
Emeryville
Fremont
Hayward
Hercules
Los Angeles County
Oakland

Pacifica
Palo Alto
Piedmont
Pleasant Hill
Richmond
San Bruno
San Buenaventura
San Diego
San Francisco City and County
San Jose
Santa Ana
Santa Cruz
Santa Cruz County
Santa Monica
Scotts Valley

REQUIRING FIREARMS DEALERS TO CARRY LIABILITY INSURANCE

The following 33 jurisdictions require firearms dealers to carry liability insurance, typically with a minimum coverage of \$1 million. These laws help ensure that victims of incidents involving a gun dealership are able to obtain compensation.

Berkeley
Beverly Hills
Campbell
Carson¹⁵
Cathedral City
Emeryville
Fremont
Hayward
Lafayette
Los Angeles

Pasadena
Pinole
Pleasant Hill
Pleasanton
Richmond
Salinas
San Anselmo
San Bruno
San Francisco City and County
San Pablo

⁷ For dealers of concealable firearms only.

¹⁴ Only applies to grandfathered dealers operating home occupations.

¹⁵ Applies to ammunition dealers only.

Los Angeles County
Los Gatos
Marin County
Maywood
Oakland
Palo Alto

San Rafael
Santa Cruz
Santa Cruz County
Santa Monica
Tiburon

EXPLICITLY PROHIBITING FIREARMS DEALERS FROM OPERATING AS A HOME OCCUPATION

The following 65 jurisdictions explicitly prohibit firearms dealers from operating out of a residence. They either prevent firearms dealers from being located in residential areas or prohibit firearms sales as a “home occupation” (i.e., a home business). These laws help prevent crime associated with gun dealers from entering residential neighborhoods, and allows law enforcement and community members to have greater oversight of gun dealers in their communities.

Alameda County
Albany
Antioch
Artesia
Berkeley
Beverly Hills
Burbank
Calistoga
Campbell
Cathedral City
Carson¹⁶
Chino
Contra Costa County
Daly City
El Cerrito
Elk Grove
Emeryville
Fairfield
Fontana
Fremont

Piedmont
Oakland
Ontario
Orange¹⁹
Oxnard
Pacifica
Palo Alto
Pasadena
Piedmont
Pinole
Pleasant Hill²⁰
Pleasanton
Rialto
Roseville
Salinas²¹
San Bruno
San Carlos
San Francisco City and County
San Jose
San Pablo

¹⁶ Only applies to ammunition dealers.

¹⁹ Only applies to concealable firearms.

²⁰ Federal firearms licensees who were doing business as of February 3, 2016, are exempt from the general ban on residential dealers

²¹ Federal firearms licensees who were doing business prior to 1994 and meet several requirements are exempt from the general ban on residential dealers.

Hayward
Hercules¹⁷
Hollister
Inglewood
La Puente
Lafayette
Lancaster
Long Beach
Los Angeles
Los Angeles County
Los Gatos
Monterey County¹⁸
Mission Viejo

San Rafael
Santa Clarita
Santa Cruz²²
Santa Cruz County
Santa Monica
Santa Rosa
Sonoma County
Stockton
Tiburon
Vacaville
Vallejo
Victorville
Westminster

INDIRECTLY PROHIBITING FIREARMS DEALERS FROM OPERATING AS A HOME OCCUPATION²³

The following 62 jurisdictions indirectly prohibit firearms dealers from operating out of a residence. These jurisdictions typically either prohibit retail sales entirely as a “home occupation” (i.e., home business) or prohibit retail sales of products not manufactured in the residence where they are sold.

Alameda
Arroyo Grande
Bakersfield
Baldwin Park
Calimesa
Carlsbad
Carson
Clovis
Colma
Compton
Corona
Costa Mesa
Danville
Downey

Orange County
Pacific Grove
Palm Desert
Pomona
Porterville
Port Hueneme
Rancho Cucamonga
Redding
Reedley
Richmond
Riverside
San Benito County
San Bernardino
San Diego

¹⁷ Not permitted in zones where residential use is the principal permitted or maintained use.

¹⁸ Not permitted in residential-only zones.

²² Dealers are only prohibited from operating in the single-family residence zoning districts. Dealers are not prohibited from other residential districts, such as mixed commercial-residential districts.

²³ Some cities and counties prohibit the sale of goods from the premises of a home occupation. These “indirect prohibitions” also act to prevent gun dealers from selling guns to customers who visit the home occupation to complete the transaction.

Dunsmuir
El Cajon
El Monte
Elk Grove
Escondido
Fresno
Garden Grove
Glendale
Hesperia
Menlo Park
Merced
Millbrae
Modesto
Moreno Valley²⁴
Murrieta
Norwalk
Orange

San Joaquin County
Santa Ana
Santa Barbara
Santa Clara
Santa Maria
Solana Beach
South Gate
Sunnyvale
Temecula
Tiburon
Torrance
Visalia
Vista
Walnut Creek
West Covina
West Hollywood
Yountville

PROHIBITING DEALERS FROM OPERATING NEAR “SENSITIVE AREAS”

The following 24 jurisdictions prohibit firearms dealers from operating within certain distances of “sensitive areas,” such as schools, day care centers, and parks. These laws help ensure that criminal activity associated with firearms dealers is not near areas where there are high concentration of children, and that exposure to guns is left at the discretion of parents.

Alameda County
Albany
Burbank²⁵
Cathedral City
Contra Costa County
Diamonds Bar
El Cerrito
Emeryville
Hercules
Los Gatos
Monterey County

Palo Alto
Pinole
Pleasant Hill²⁶
Salinas
San Bruno
San Francisco City and County
San Pablo
San Rafael
Santa Cruz
Santa Cruz County
West Hollywood²⁷

²⁴ Explicitly bans home sales of ammunition but only indirect prohibition of firearm sales.

²⁵ Grandfathered home dealers are the only dealers subject to these restrictions.

²⁶ Federal firearms licensees who were doing business as of February 3, 2016, and meet several requirements are exempt from the specified distance limitations.

²⁷ Federal firearms licensees who were doing business as of May 4, 1994, and meet several requirements are exempt from the specified distance limitations.

Oakland
Pacifica

REQUIRING DEALERS TO REPORT THEIR INVENTORY

The following 10 jurisdictions require firearms dealers to periodically report their inventory to law enforcement. Inventory reporting helps law enforcement solve crimes, and deters dealers from trafficking firearms.

Berkeley	Los Angeles
Beverly Hills	Oakland
Campbell	San Francisco City and County
Emeryville	Santa Monica
Inglewood ²⁸	West Hollywood

REQUIRING DEALERS TO VIDEOTAPE SALES

The following 6 jurisdictions require firearms dealers to have a camera system in place that videotapes all firearms sales. These laws provide law enforcement with critical tools to solve certain gun crimes such as straw purchases and robberies. Videotaping sales also deters illegal activity at gun stores.

Campbell	Pleasant Hill
El Cerrito	Santa Cruz County
Emeryville	San Francisco City and County

OTHER TYPES OF FIREARMS REGULATIONS

REGULATING OR PROHIBITING POSSESSION OF FIREARMS AND/OR AMMUNITION ON PUBLIC PROPERTY

The following 124 jurisdictions regulate or prohibit the possession of firearms and/or ammunition on certain types of public property, such as in parks, recreation areas, and municipal buildings. Laws prohibiting firearms on government property are similar to sensitive area restrictions and serve to keep guns out of spaces where the freedom of expression is particularly important, where children and schools frequent, and where disagreements are likely, such as a courthouse.

Alameda County	Murrieta
Albany	Norwalk
Anaheim	Oakland
Antioch	Oceanside
Bakersfield	Ontario
Baldwin Park	Orange
Berkeley	Orange County

²⁸ Only applies to ammunition sales.

Calimesa
Calistoga
Campbell
Carlsbad
Chino
Chula Vista
Claremont
Clovis
Colma
Commerce
Concord
Corona
Costa Mesa
Covina
Culver City
Daly City
Diamonds Bar
Dunsmuir
El Cajon
El Monte
Elk Grove
Fairmont
Fremont
Fresno
Fresno County
Fullerton
Garden Grove²⁹
Glendale
Glendora
Hercules
Hermosa Beach
Hollister
Huntington Beach
Imperial Beach
Inglewood
Irvine
Irwindale
Jurupa Valley
La Canada Flintridge
La Puente

Orinda
Oxnard
Pasadena
Pomona
Redding
Rialto
Palo Alto
Pasadena
Pleasanton
Pomona
Richmond
Riverside County
Reedley
Rolling Hills Estates
Roseville
Sacramento
Sacramento County
Salinas
San Benito County
San Bernardino County
San Carlos
San Diego
San Diego County
San Francisco City and County
San Gabriel
San Joaquin County
San Jose
San Mateo³⁰
San Mateo County
San Rafael
Santa Ana
Santa Barbara County
Santa Clara County
Santa Clarita
Santa Cruz County
Santa Monica
Scotts Valley
Simi Valley
Solana Beach
South Gate

²⁹ City may grant consent to carry.

³⁰ Limited to property on which business is conducted.

Lancaster
Long Beach
Los Angeles
Los Angeles County
Los Gatos
Madera
Marin County
Menlo Park
Merced
Mission Viejo
Modesto
Monterey County
Monrovia
Moreno Valley

South Pasadena
Stanislaus County
Stockton
Temecula
Vacaville
Vallejo
Ventura County
Victorville
Vista
Walnut Creek
West Covina
Whittier³¹
Yountville

REQUIRING OWNERS TO SAFELY STORE OR DISABLE THEIR FIREARMS WHEN NOT BEING CARRIED

The following 9 jurisdictions require gun owners to store their firearms in a locked container or disable them with a trigger lock when not being carried. These laws help prevent accidental shootings, teen suicides, and firearm thefts from homes during burglaries.

Belvedere
Los Angeles
Oakland
Palm Springs
San Francisco City and County

San Jose³²
Santa Cruz
Sunnyvale
Tiburon

ABOUT GIFFORDS LAW CENTER

For nearly 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence.

³¹ City may grant consent to carry, however.

³² Only applies when the gun owner leaves the home.

MEMORANDUM

TO MARISA MCKEOWN, SANTA CLARA COUNTY
FROM ALLISON ANDERMAN, MANAGING ATTORNEY
DATE APRIL 13, 2018
RE SANTA CLARA COUNTY LOCAL ORDINANCE PROJECT

THE IMPACT OF LOCAL GUN SAFETY LAWS IN CALIFORNIA

Giffords Law Center to Prevent Gun Violence (Giffords Law Center)ⁱ has been tracking local gun ordinances in California since 1995,ⁱ at which time 25 cities and zero counties had a total of 45 innovative firearms regulations in place.ⁱⁱ For the past twenty-two years, Giffords Law Center and other anti-violence organizations have worked with local jurisdictions in California to enact evidence-based, safer gun laws. Largely due to these efforts, as of September 2017, 158 cities and 21 counties have a total of 556 firearms regulations in place that advance gun safety in their communities.ⁱⁱⁱ

While Giffords Law Center has also tirelessly advanced legislative reform at the state level, we have operated on the theory that local governments are incubators for novel policy solutions, and that creating momentum at the local level can lead to change at the state level. This theory has proved accurate. Numerous policies that originated in local California jurisdictions inspired legislators to make these policies a matter of state law, such as laws limiting handgun purchases to one gun a month, banning the sale of “Saturday Night Specials” or “junk guns,” requiring that a locking device be included with every gun sale, and requiring guns in unattended vehicles be safely stored. In 2016, California Lieutenant Governor Gavin Newsom partnered with Giffords Law Center to sponsor Proposition 63, a gun safety ballot initiative that elevated a number of additional local policies to state law. These local policies treat ammunition sales like gun sales, require background checks on gun dealer employees, and ban the possession of large capacity ammunition magazines, among others. Voters passed Proposition 63 with overwhelming support.^{iv}

Critically, the California local and state laws that legislators and voters have passed over the past 24 years have reduced the state’s gun death rate by nearly 60%. Though the nation’s gun death rate also fell over this period, California’s gun death rate has fallen almost twice as much. As a result, California’s gun death rate is now 26% lower than the national average. In 1993, California had the

ⁱ The Law Center to Prevent Gun Violence recently changed its name to Giffords Law Center to Prevent Gun Violence to reflect our merger with Americans for Responsible Solutions, the gun violence prevention organization led by former Congresswoman and gun violence survivor Gabrielle Giffords.

16th highest rate of gun deaths among the 50 states; twenty-two years later, it had the 8th lowest. Even though the state's population has grown by nearly 7.9 million between 1993 and 2015, 2,405 fewer Californians were killed by guns in 2015 than in 1993.^v Tens of thousands of Californians are able, productive, and alive today because of smart, proactive gun safety legislation in this state.

The following report will provide (1) an overview of the types of innovative gun regulations currently in place in Santa Clara County and jurisdictions within the county which had a population of 90,000 or greater in 2012 (The jurisdictions reviewed for this report are Campbell, Los Gatos, Palo Alto, San Jose, Santa Clara, and Sunnyvale)^{vi}; (2) recommendations for county-wide reform based on an analysis of the data in section 1; and (3) a discussion of what role Giffords Law Center could play in achieving the objectives identified in section 2.

SECTION 1: GUN LAWS IN SANTA CLARA JURISDICTIONS

Most of the innovative local gun laws in California jurisdictions analyzed in this report regulate gun dealers. This is because many local laws that regulate gun owners or users have been enacted at the state level. This section will first discuss the various regulations of gun dealers in place in California jurisdictions, explaining the type of regulation broadly, and whether each type of regulation is currently in place in Santa Clara County and/or areas within the county. If jurisdictions within the county are identified as having a particular regulation, the jurisdiction will be listed in the Addendum. Next, the section will discuss local laws that regulate gun owners, such as laws requiring gun owners to keep unattended firearms safely stored and prohibiting firearms on certain types of government property.

GUN DEALER ORDINANCES

California imposes regulations on individuals and businesses engaged in gun sales, transfers, or loans in the state. Dealers must obtain approval from the California Department of Justice which, among other things, verifies whether the dealer is eligible to sell firearms under federal and state law and has any required local licenses.^{vii} State law, therefore, envisions that local governments will establish licensing schemes for dealers operating in their communities and allows local governments to impose license conditions above and beyond what's required by state law.^{viii}

Santa Clara County has heeded this call to action and currently regulates gun dealers operating in the unincorporated areas of the county in several ways over and above state law. Four of the cities or towns within Santa Clara County analyzed in this report have also imposed additional regulations on gun dealers, to be discussed in more detail below (See Addendum). These regulations include requiring gun dealers to obtain law enforcement permits, liability insurance, and increased premises security; zoning them out of homes and residential zones, and away from sensitive areas; requiring them to videotape gun transfers; and prohibiting them from selling firearms on government-owned property.

Law Enforcement Permits: This type of local regulation requires gun dealers, and in some cases ammunition sellers, engaged in the business of selling firearms or ammunition to obtain an additional license to operate. Most often, these types of permits are issued by local law enforcement. Requiring gun dealers operating in a community to obtain a local license allows law enforcement to have greater oversight of the dealer, and ensure its compliance with local, state, and federal laws.

Four of the jurisdictions in Santa Clara County analyzed in this report currently have this requirement (See Addendum). Santa Clara County also requires gun dealers (defined as a person or business engaged in the business of selling or transferring firearms to the public) to obtain a permit from the County Sheriff.^{ix}

Liability Insurance: As a condition of license eligibility, many California jurisdictions require firearms dealers to carry liability insurance, typically with a minimum coverage of \$1 million. These laws help ensure that victims of incidents involving a gun dealership are able to obtain compensation.

Three jurisdictions in Santa Clara County, but not the county itself, currently require gun dealers to maintain an insurance policy for damage to property, or for injury or death of any person as a result of the theft, sale, lease or transfer, or offering for sale, lease or transfer of a firearm, firearm component or ammunition, or any other operations of the business. In 2005, Congress passed the federal Protection of Lawful Commerce in Arms Act (PLCAA) which, generally speaking, prohibits civil lawsuits against gun dealers for harms resulting from the criminal or lawful misuse of firearms or ammunition. There are exceptions to PLCAA's immunity for gun dealers, including when gun dealers knowingly or negligently sell to individuals who intend to use the gun illegally. Accordingly, the liability insurance requirement in these three localities allows for compensation to a victim when the victim can legally recover under PLCAA.

Premises Security: California Penal Codes §§ 26890 and 17110 require gun dealers to take certain measures to secure their premises to prevent theft of firearms when the business is closed. Local governments may impose stricter security standards on gun dealers to prevent burglaries and theft, and to help law enforcement solve crimes committed at the dealership.

While Santa Clara County has not implemented its own site security standards, three cities in the county have enacted ordinances requiring all dealers to secure their premises beyond what is required by state law.

Prohibitions on Dealers Operating as Home Occupations and/or in Residential Zones: Local zoning laws that prevent gun dealers from operating out of residences, or residential zones, help prevent crime associated with gun dealers entering residential neighborhoods. These laws also allow law enforcement and community members to have greater oversight of gun dealers in their communities.

All six jurisdictions within Santa Clara County analyzed in this report either explicitly or indirectly prohibit gun dealers from operating in residential zones, though Santa Clara County has no such restrictions.

Sensitive Area Restrictions: Jurisdictions can prohibit firearms dealers from operating within certain distances of “sensitive areas,” such as schools, day care centers, and parks. These laws help ensure that criminal activity associated with firearms dealers is not near areas where there are high concentrations of children, and that exposure to guns is left to the discretion of parents.

Two jurisdictions in the county currently zone dealers away from sensitive areas. Santa Clara County does not impose this requirement on gun dealers operating in the unincorporated areas of the county.

Videotaping Sales Activity: Laws that require gun dealers to videotape transactions at the sales counter provide law enforcement with critical tools to solve certain gun crimes such as straw purchases. While laws that require videotaping of transfers are the most effective at solving gun crimes, laws that require gun dealers to have video surveillance of the premises also aid law enforcement in solving crimes such as robberies. Videotaping also acts as a deterrence to illegal activity at gun stores.

The city of Campbell requires gun dealers to videotape all firearm and ammunition sales or transfers, and the town of Los Gatos requires on-site security cameras to monitor the premises. However, the county does not impose any such requirement on gun dealers operating in unincorporated areas.

Inventory Reporting: Laws that require gun dealers to periodically report their inventories to law enforcement agencies help those agencies solve crimes by allowing law enforcement to compare dealer inventories with sales records and detect unlawful sales or trafficking. These laws also act as a deterrent to illegal behavior before it occurs.

Campbell is the only city in Santa Clara County that requires gun dealers to report their inventories. The county does not have this requirement.

Regulate the Sale of Firearms on Government-Owned Property: Local governments in California may restrict or prohibit the possession or sale of firearms on their property. In particular, county fairgrounds are a popular venue for gun shows. Research has demonstrated that gun shows are attractive places for illegal gun sales.*

Neither the county nor any areas reviewed for this report within the county regulate the sale of firearms on government-owned property.

SAFE STORAGE REQUIREMENTS

Safe storage laws require gun owners to keep their firearms in a locked container or disabled with a trigger lock when they are not carrying them.

Within Santa Clara County, San Jose and Sunnyvale both have ordinances requiring gun owners to safely store firearms in the home. San Jose's ordinance differs materially, however, from Sunnyvale's ordinance, and the ordinances of the other seven communities in California with safe storage ordinances, by only requiring safe storage when a gun owner leaves the home.

Santa Clara County does not impose a safe storage requirement. Seven other jurisdictions in California have this ordinance, including San Francisco. In 2009, the National Rifle Association sued San Francisco, claiming its safe storage law violated the Second Amendment to the United States Constitution. The Ninth Circuit Court of Appeals upheld the city's law and the U.S. Supreme Court declined to review the case.⁴¹ None of the other jurisdictions' safe storage laws have been challenged.

GOVERNMENT PROPERTY PROHIBITIONS

Laws prohibiting firearms on government property are similar to sensitive area restrictions and serve to keep guns out of certain spaces where guns are particularly threatening or dangerous. These areas may be places where government meetings are held, public parks, or courthouses. These laws do not make exception for individuals with concealed carry permits.

Four of the jurisdictions reviewed in Santa Clara County, as well as the county itself, prohibit the possession of firearms on some type of government property such as parks, city halls, libraries, council meetings, and hiking trails.

PROVISIONS NOW COVERED BY STATE LAW

In November 2016, California voters enacted Proposition 63, the comprehensive gun safety ballot initiative that closed several loopholes in state law. Many of the laws enacted by Proposition 63 were already in effect in local California jurisdictions, including Santa Clara County.

Gun Dealer Employee Background Checks: As of January 1, 2018, any individual who handles, sells, or delivers firearms at a gun dealership must obtain a certificate of eligibility demonstrating that he or she is not prohibited from purchasing or possessing firearms.

Three localities in Santa Clara County, but not the county, had this requirement in place prior to the passage of Proposition 63 by prohibiting dealers from obtaining a local license if they employ individuals who have been convicted of certain crimes, such as any crime that would prohibit the employee from purchasing or possessing firearms.

Ammunition Sales Record Keeping and Reporting: Between January 1, 2018, and January 1, 2019, California will begin to treat ammunition sales like gun sales. Among other things, ammunition sellers will be required to obtain a state license and record, maintain, and report to DOJ records of

ammunition sales. DOJ will be required to maintain a database of ammunition sale records, similar to the DOJ's database for firearms.

Two cities in Santa Clara County, but not the county, require ammunition sellers to record information about sales and report them to local agencies.

Bans on Possession of Large Capacity Ammunition Magazines (LCMs): As of July 1, 2017, Proposition 63 makes the possession of large capacity ammunition magazines unlawful.

Sunnyvale is the only city in Santa Clara County that prohibits the possession of LCMs.^{xiii} The county does not have this ban.

Lost and Stolen Reporting: Beginning July 1, 2017, firearms owners are required to report the loss or theft of a firearm to the local law enforcement agency in the jurisdiction in which the loss or theft occurred. The owner must report within five days after he or she discovered or reasonably should have discovered the loss or theft.

Two cities in Santa Clara County require gun owners to report the loss or theft of a firearm to local law enforcement. The county does not have this requirement.

The jurisdictions mentioned above with laws in place that are now covered by Proposition 63 may wish to reevaluate these ordinances. Giffords Law Center is available to assist the county and other jurisdictions with an analysis of the effectiveness of these ordinances and other options they may consider taking in light of the new state laws.

SECTION 2: RECOMMENDATIONS FOR COUNTY-WIDE REFORM

As discussed in Section 1 of the report, Santa Clara County has several ordinances in place that regulate gun dealers operating in the unincorporated areas of the county. The county also regulates the possession of firearms on certain types of government property. While the gun death rate in Santa Clara County has declined over the past nearly two decades,^{xiii} the county could continue its efforts to address and prevent gun violence by taking action in several areas.

This section of the report will discuss Gifford's recommendations to strengthen gun violence prevention in Santa Clara County. While this section analyzes Santa Clara County's laws and provides recommendations where additional regulations may be enacted, these recommendations apply equally to cities within the county that have similar gaps in their laws. As with the county, Giffords Law Center is available to help cities implement the smarter gun safety laws we recommend.

GUN DEALER ORDINANCES

Gun dealers, who are the link between gun manufacturers and the general public, are subject to very little federal oversight. Federal law requires firearms dealers to obtain a license from the Bureau of Alcohol, Tobacco, Firearms & Explosives ("ATF"),^{xiv} but ATF does not have the resources or

authority to properly oversee the more than 137,000 firearms dealers, manufacturers, collectors, and others that it licenses (“FFLs”).^{xv} In 2004, the Office of the Inspector General (“OIG”) found that inspections by ATF are not fully effective for ensuring that FFLs comply with federal firearms laws.^{xvi} A Washington Post investigation in 2010 found that, as a result of inadequate staffing, ATF was able to inspect less than 10% of FFL’s in 2009 and, on average, dealers are inspected only once a decade.^{xvii} A 2013 report by OIG found that, between 2004 and 2011, FFLs reported 174,679 firearms missing from their inventories and only 62% of FFLs inspected in 2011 were found to be in compliance with federal gun laws.^{xviii}

Firearms dealers are a high-value target for criminals, and have often been magnets for break-ins, theft, and destruction of property.^{xix} In 2017, ATF issued a report demonstrating that between the last two years (measured 2015 to 2016), gun thefts from California federally licensed dealers increased by a staggering 173.8%.^{xx} The number of firearms stolen from California licensed dealers in 2015 was 252; in 2016, that number increased dramatically to 690.^{xxi} A growing number of these incidents have been so-called “smash-and grab” robberies, where perpetrators drive their car into a gun store’s doors, front windows, or gates to gain entry. A sampling of these incidents from 2016 includes:

- 18 handguns stolen from Independence Armory in Petaluma, CA. March 2016.^{xxii}
- Handguns and rifles stolen from Red Seal Arms Guns and Ammo in Ventura, CA. March 2016.^{xxiii}
- 107 guns stolen from Nor Cal Gun Vault, Rocklin, CA. May 2016.^{xxiv}
- Attempted smash-and-grab robberies from Laguna Guns and Accessories and CS Tactical/MTG Firearms in Elk Grove, CA. No guns stolen. May 2016.^{xxv}
- 30 handguns stolen from American Firearms in Fresno, CA. June 2016.^{xxvi}
- Rifle stolen from Rocklin Armory in Rocklin, CA. July 2016.^{xxvii}
- More than 15 guns stolen from STS Guns in Folsom, CA. July 2016.^{xxviii}
- Approximately 20 handguns stolen from Mustang Firearms, Grass Valley, CA. August 2016. At least 12 similar incidents have taken place in the greater Sacramento area in the six months prior, resulting in between 230 and 240 stolen firearms.^{xxix}

Furthermore, at least one academic study suggests that firearms dealers may attract individuals engaged in criminal activity to the communities in which they are located, not only because they are a high-value target for theft, but also because of firearms dealers’ willingness to sell to “straw purchasers” who illegally buy for others.^{xxx} A 2009 study analyzed ATF data showing that guns “are often found to have been used for criminal purposes not far from the gun dealer where they were first obtained, and “almost one-third (32.2%) of traced crime guns are recovered by police within 10 miles of the [dealer] where they were first purchased.”^{xxxi} ATF also found that dealers and pawnbrokers were associated with the largest number of trafficked guns – over 40,000 – and

concluded that “FFLs’ access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law.”^{xxxii}

Because of the risks discussed above, the International Association of Chiefs of Police recommends that local governments impose requirements on gun dealers in order to respond to specific community concerns.^{xxxiii} Including the jurisdictions mentioned in Section 1 of the report, a total of 170 jurisdictions in California have gone above and beyond state law in their regulation of gun dealers.

As discussed in Section 1, Santa Clara County regulates gun dealers operating in the unincorporated areas of the county by requiring gun dealers to obtain a local permit that includes a background check of the applicant.

The county could further improve its regulation of gun dealers, however, by enacting the following regulations:

(1) Require gun dealers to carry liability insurance: Firearms dealers would be required to carry liability insurance with limits of at least \$1 million per incident. This provision would not create any new liability for gun dealers; instead, this requirement ensure that victims who are injured by a firearm dealer in violation of an existing law establishing the dealer’s liability, receive the compensation to which they are legally entitled.

Because insurance is generally cheaper for responsible businesses, this requirement would also incentivize responsible behavior over time. Thirty-three other California jurisdictions, including Campbell, Los Gatos, and Palo Alto require gun dealers to maintain a liability insurance policy.

(2) Prohibition on operating near sensitive areas: Firearms dealers and ammunition sellers would be prohibited from operating within certain distances of residential neighborhoods or other sensitive areas, such as schools, daycare centers, playgrounds, and parks.

Neither federal nor state law prohibits gun dealers from operating within certain distances of so-called “sensitive areas” such as schools, pre-schools, day-care facilities, parks, community centers, places of worship, youth centers, or residentially zoned districts or areas. Such zoning decisions are usually left to the discretion of local jurisdictions, as they are in the best position to determine which specific distance limitations achieve the desired objectives in their community. Twenty-three California jurisdictions, including Los Gatos, Palo Alto, San Francisco, and Oakland, prohibit gun dealers from operating near sensitive areas. (See Addendum) West Hollywood prohibits a gun dealer from operating within 1,000 feet of a school, daycare, or public park.^{xxxiv}

Currently, Santa Clara County does not prohibit gun dealers from operating within certain distances of sensitive areas. Santa Clara County does, however, regulate certain other businesses away from sensitive areas. For example, the county prohibits retailers of tobacco products from operating within 1,000 feet of a school.^{xxxv}

Santa Clara County should carefully review its zoning map to determine what distance limitations it could place between gun dealers and sensitive areas such as schools and day cares while still maintaining areas where gun dealers can operate safely. Doing so will ensure that any risk posed by potential criminal activity is minimized, and the decision whether to expose children to guns is left to the discretion of parents

(3) Land use permit: Gun dealers and ammunition sellers would be required to obtain a land use permit to ensure that the location of the business complies with the jurisdiction’s zoning requirements and general plan, and to ensure that the business operations will not be detrimental to the public health and safety of those nearby.

Even if a gun dealer is proposing to open in a location that meets the other zoning requirements of the jurisdiction, the county should still require the dealer to obtain a land use permit so it can evaluate the wisdom of the specific proposed location. Doing so will allow the county to ensure that the dealer’s location does not pose any risks to the community that are not otherwise addressed by the licensing requirements. Furthermore, this requirement will likely require the Planning Commission to conduct a public hearing on the land use application, allowing community members to express their support of, or concerns regarding, the specific location of a gun dealer.

(4) Additional premises and videotaping security requirements: Security standards for firearm dealer premises would include the maintenance of an alarm system and surveillance cameras, and requirements for the safe storage of firearms when the store is both open and closed for business that go above and beyond state law.

Security standards for firearm dealer premises should include the maintenance of an alarm system and surveillance cameras, and requirements for the safe storage of firearms when the store is both open and closed for business. As noted above, gun dealer burglaries have skyrocketed in recent years, allowing thousands of guns to enter the criminal marketplace. Requiring guns to be safely stored when the business is open and closed deters and prevents thefts and burglaries.

Videotaping security can also aid law enforcement in solving gun crimes. In two academic studies, undercover researchers found that at least 20% of California gun dealers were willing to conduct an illegal “straw purchase,”^{xxxvi} even when dealers knew the gun was being purchased for a prohibited person such as a felon.^{xxxvii} Though straw purchases are a leading source of crime guns, they often appear legal on paper without security cameras to visibly capture the sale.

California gun dealers also reported 1,797 firearms “missing” from their inventories from 2012-2015.^{xxxviii} Without security cameras monitoring dealers’ premises and sales counters, law enforcement has few tools to investigate whether these firearms were misplaced, stolen, or illegally trafficked to criminals. Also worth noting is that 74% of Americans favor requiring gun retailers to videotape all gun sales.^{xxxix} Wal-Mart, the largest gun retailer in the United States, began videotaping all gun sales in 2008.^{xl}

Six other California jurisdictions, including Santa Cruz County and San Francisco, require gun dealers to videotape sales. Campbell and Los Gatos require videotaping security of a gun dealer's premises and 28 other California jurisdictions require dealers to meet standards for premises security and safe storage of inventory that are above and beyond what is required by California state law.

(5) Law enforcement inspections: Local law enforcement would be required to inspect a gun dealer for compliance with local, state, and federal laws within a particular time period, for example, once every six or twelve months.

Law enforcement inspections allow agencies to ensure that gun dealers are complying with federal, state, and local laws, and deter illegal activity. A September 2010 report by Mayors Against Illegal Guns concluded that routine inspections of gun dealers provide law enforcement with more opportunities to "detect potential indications of illegal gun activity, including improper recordkeeping or a dealer whose gun inventory does not match their sales records."^{xii} The report presented data showing that states that do not permit or require inspections of gun dealers are the sources of crime guns recovered in other states at a rate that is 50% greater than states that do permit or require such inspections.

While California does permit such inspections,^{xiii} as discussed previously, the California Department of Justice is underfunded and overburdened and cannot adequately inspect the approximately 3,100 gun dealers operating in California.^{xiii} Accordingly, it is more efficient and effective to have local law enforcement conduct the inspection of the gun dealers currently operating in Santa Clara County.^{xiv} A 2009 study supports this recommendation, indicating that when local jurisdictions regularly inspect gun dealers for compliance with state and local laws, levels of gun trafficking were significantly lower.^{xv}

Currently, Santa Clara County does not require gun dealers to furnish all records pertaining to the dealers' transactions upon request by a sheriff's representative or any peace officer, nor does it permit an inspection of the licensed premises where firearms and firearm accessories are located.

(6) Inventory reports: As a requirement of obtaining a local license, firearms dealers and ammunition sellers would be required to submit a report to law enforcement detailing their inventory no more frequently than every six months.

Inventory reporting to local law enforcement can provide important evidence to help the agency solve crimes. It also deters sellers from engaging in illegal sales. The September 2010 report by Mayors Against Illegal Guns discussed in the previous section also concluded that when dealers are required to report their inventories to law enforcement, it allows agencies more opportunity to detect illegal activity.^{xvi} Inspections of gun dealers' records and inventory reporting are tools that work in conjunction to root out gun dealers who are violating laws.

Ten California jurisdictions, including the City of Campbell, require dealers to report their inventory to law enforcement (See Addendum).

(7) Restricted admittance: No one ineligible to purchase or possess firearms based on age or other criteria would be allowed to enter the firearms' dealers' premises. Minors may enter the premises only if they are accompanied by a parent or guardian.

Persons ineligible to purchase or possess firearms based on age or other criteria should be prohibited from entering a firearm dealer's premises. Barring individuals prohibited by law from purchasing guns from gun dealer premises is commonsense and can lessen the risk of a gun dealer robbery or straw purchase. Excluding minors who are ineligible to possess guns from gun dealer premises without a parent or guardian ensures that exposure to guns is left at the discretion of parents. While we include this policy in our model gun dealer regulation law, Giffords Law Center does not specifically track which jurisdictions prohibit unaccompanied minors or other prohibited individuals from entering a gun dealership.

(8) Posted notices and warnings: Dealers would be required to post information about local gun laws and suicide prevention resources.

Firearms dealers and ammunition sellers should be required to post warnings about failures to comply with state firearms laws and information about suicide prevention resources. Public safety is stronger when well-intentioned gun owners are informed about the obligations and responsibilities associated with ownership of lethal weapons. Giffords Law Center recommends specific warning language that does not conflict with or duplicate state law in our model dealer ordinance for California jurisdictions. While we also include this policy in our model law, Giffords Law Center does not specifically track which jurisdictions require gun dealers to post notices and warnings.

(9) Apply existing and new permitting and zoning requirements to ammunition sellers: All requirements imposed on gun dealers, such as the requirement that dealers obtain a local permit and liability insurance, would be applied to ammunition sellers as well.

Because without ammunition guns are no more lethal than any blunt object, ammunition sellers pose the same risks to public safety discussed in this report as gun dealers. In recognition of these risks, Proposition 63 changed state law to treat ammunition sales like gun sales and require ammunition sellers to obtain a state license. Beginning January 1, 2018, individuals who sell more than 500 rounds of ammunition in any month must obtain a state-issued ammunition vendor license and conduct ammunition sales only at specified business locations.

Currently, the county only requires individuals engaged in the business of selling firearms to obtain a local license. It does not require ammunition sellers to obtain a local license or liability insurance, nor does it prohibit ammunition sellers from operating in areas zoned for residential use. In fact, the county currently does not regulate ammunition sellers in any substantive way.

After Proposition 63's regulations go into effect, it will be important for local law enforcement to ensure that ammunition sellers are complying with state and local laws and maintain oversight of these individuals in the community. Accordingly, the county should require ammunition sellers to

obtain a local permit and be subject to the same regulations that are imposed on gun dealers to ensure that these sellers are operating safely and responsibly.

SAFE STORAGE

People who keep guns in the home would be required to keep them in a locked container or disabled with a trigger lock when an authorized user is not carrying them.

Safe storage ordinances address the very real risks posed by unsecured guns in the home. Unsecured guns may be accessed by minors, suicidal teens, and thieves. Research indicates that when people keep their unattended guns locked up or disabled with a trigger lock, these risks are minimized.^{xlvii}

A recent study by researchers at the Center for Disease Control and Prevention stated that youth suicide with guns has risen dramatically between 2007 and 2014.^{xlviii} In fact, ***gun suicides by minors 10 years old and older increased 60 percent*** in that period. The authors noted that safe storage of firearms would likely reduce this alarming number. Studies have demonstrated that the risk of suicide—particularly amongst children and teens—is significantly higher in homes where a firearm is kept loaded and/or unlocked.^{xlix} Additionally, a study of mass shootings demonstrated that in over half of shootings perpetrated by minors in elementary or secondary schools, the shooter used guns obtained from home that were likely unsecured.^l

Children and teens are also at risk of death or injury from unintentional shootings. Children as young as three-years-old are strong enough to fire some types of handguns.^{li} An analysis published by Everytown for Gun Safety in 2014 found that 70% of shooting deaths involving children could have been prevented if the firearm had been stored locked and unloaded.

While California has a “child access prevention” law at the state level, this law does not go far enough to protect children from unsecured guns. Under the law, individuals may be criminally liable if they negligently store or leave, on premises within their custody or control, a loaded firearm in a location where the person knows, or reasonably should know, that the child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian.^{lii} No liability is imposed in this situation if reasonable action is taken to secure the firearm against access by a child. The law also does not apply if the firearm was kept in a locked container or in a location that a reasonable person would believe to be secure, or the firearm was locked with a locking device that rendered the firearm inoperable.^{liii}

A close reading of California state law demonstrates that it does not go far enough to prevent access to firearms by minors because it does not affirmatively require any particular behavior. So long as a person does not “negligently” store or leave a loaded firearm on his or her premises, or takes “reasonable” action to “secure” the firearm, he or she may not be liable even if a minor gets ahold of the firearm. Furthermore, if the person stores the firearm in a locked container or with a locking device, he or she escapes liability in the event a child does gain access to the firearm. These

subjective standards only provide an out for individuals when a child actually gains access to a firearm. The law does not dictate what responsible storage is or require that gun owners abide by it.

Safe storage laws, on the other hand, require gun owners to keep their guns in locked safes or with trigger locks; these laws are preventative measures with objective standards. In addition to providing clarity on what, exactly, constitutes reasonable gun storage, safe storage laws can also help to change and shift social norms.

Furthermore, safe storage laws can reduce gun thefts from residences. A study by Harvard and Northeastern researchers shows that hundreds of thousands of guns are stolen each year; gun theft is an important way that guns enter the illegal market.^{liv} The ATF estimates that about 10-15% of stolen guns are used in subsequent crimes.^{lv} According to the researchers, gun owners who safely store their firearms experience gun thefts at a lower rate than those who do not. The study also concludes that promoting safer storage of guns may help to reduce gun thefts and reduce the number of guns entering the illegal market.^{lvi}

Safe storage ordinances are in effect in nine California communities—Los Angeles, Palm Springs, San Francisco, Sunnyvale, Oakland, Santa Cruz, Tiburon, and Belvedere—and the City of San Jose recently enacted a modified version of safe storage, requiring gun owners to lock up or disable the firearm when the gun owner leaves his or her residence.^{lvii} Additionally, as of the date of this report, the Town of Moraga was in the process of drafting a safe storage ordinance.

COUNTY PROPERTY RESTRICTIONS

Santa Clara County could prohibit the possession of guns by licensed individuals on more areas of county property.

Currently, Santa Clara County generally prohibits the possession of guns in parks,^{lviii} county airports,^{lix} certain trails,^{lx} and the water district.^{lxi} Recognizing that the presence of guns allows every day conflicts to escalate into shootouts, the county could expand this prohibition to other parts of county property such as, courthouses, administrative buildings, and meetings of the Board of Supervisors, among others. The county could also prohibit the sale of guns on county property so that county fairgrounds cannot be used to host gun shows.

SECTION 3: HOW THE LAW CENTER CAN HELP

For nearly a quarter century, the Law Center has been working with local governments in California and around the country to draft and enact evidence-based, safer gun laws. Though the level of our involvement varies depending on the needs of the jurisdiction, what follows is a list of potential ways we could facilitate a local ordinance effort in Santa Clara County or in cities within the county.

- (1) Work with community members: A critical component to the success of local gun safety legislation is often the involvement of individuals in the community who want their elected

representative to act on a specific gun violence prevention issue, or the issue more broadly. Residents of a jurisdiction are in the best position to advocate for their communities, and mobilize support. Giffords Law Center attorneys are able to meet with community members to educate them on the issues and provide resources to help them advocate for ordinances with their legislators.

- (2) Meet with members of the Board of Supervisors: Giffords Law Center frequently meets with and answers questions from elected officials considering gun safety legislation in their jurisdiction. Because we've been working in this space for nearly 25 years, we are able to provide valuable insight to local legislators about these efforts historically and in other communities. We can also serve as expert intermediaries between representatives and community members.
- (3) Work directly with county counsel: When assisting with local legislation, we frequently provide legal background and information to the jurisdiction's attorney. Often, elected officials will direct their counsel to confer with Giffords Law Center experts on issues related to gun laws.
- (4) Provide pro bono research support: During the process of drafting local legislation, legal questions often arise. We have an army of dedicated pro bono attorneys from top law firms who are willing and able to help Giffords Law Center attorneys research these issues at no cost to the jurisdiction.
- (5) Provide drafting assistance: Giffords Law Center attorneys have been helping legislators write gun violence prevention bills and laws at the local, state, and federal level for nearly 25 years. Specifically, we have experience drafting the policies recommended in Section 2 of this report and would be happy to work with county counsel and staff to craft the evidence-based, defensible policies we recommend.
- (6) Testify orally and in writing in support of ordinances: Our attorneys frequently testify in support of local, state, and federal policies. Particularly when we work with a jurisdiction to craft a gun safety law, we commit to provide oral and/or written testimony at all subsequent legislative hearings.
- (7) Provide pro bono defense: The Giffords Law Center board of directors is made up of partners of major national and international law firms, as well as prestigious boutique firms headquartered in the Bay Area. When the gun lobby sues cash-strapped local governments, we have been able to call upon our board and other pro bono partners to provide pro bono litigation defense to the jurisdiction.
- (8) Speak to the media about the proposed or enacted ordinances: Giffords Law Center attorneys

frequently speak to the press to discuss gun law and policy. In particular, when a jurisdiction is considering a law, local news outlets contact Giffords Law Center looking for an expert to discuss the policy. Through these contacts, we will help educate the public and provide context about the new gun law.

ABOUT GIFFORDS LAW CENTER

For nearly 25 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence.

ⁱ In 1995, the Law Center collected data via a survey distributed to all cities and counties in California. One-hundred and seventy-three cities and 23 counties responded to the survey.

ⁱⁱ Giffords Law Center tracks certain types of local gun laws that, in our expertise, have the greatest potential to reduce gun violence. There may be other local laws in the jurisdictions covered in this report that regulate guns in some capacity but are not discussed in this report. These laws are typically matters covered at the state level, such as the prohibition on the unlawful discharge of firearms, or regulate a very narrow category of firearm ownership or use, such as imposing additional requirements on secondhand firearm sales.

ⁱⁱⁱ In 2017, Giffords Law Center collected data from cities with populations of 90,000 or greater in 2012 and counties with populations of 500,000 or greater in 2013. Additionally, we collected data from all cities in Santa Clara County that did not fit the aforementioned criteria, as well as smaller cities and counties that have enacted innovative gun laws.

^{iv} California Secretary of State, Statement of Vote, November 8, 2016 General Election, <http://elections.cdn.sos.ca.gov/sov/2016-general/sov/2016-complete-sov.pdf>, last visited Sept. 20, 2017.

^v Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Data,” last accessed September 1, 2017, <https://www.cdc.gov/injury/wisqars>.

^{vi} While we did not review the ordinances of the following towns, we are happy to do so upon request: Cupertino, Gilroy, Los Altos, Los Altos Hills, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Saratoga.

^{vii} Laws regulating gun dealers in California are discussed on our website at Dealer Regulations in California, <http://lawcenter.giffords.org/dealer-regulations-in-california/>.

^{viii} See Penal Code § 26705.

^{ix} Santa Clara County Code § B19-2.

^x Giffords Law Center to Prevent Gun Violence, “Gun Shows,” last visited September 25, 2017, available at <http://lawcenter.giffords.org/gun-laws/policy-areas/gun-sales/gun-shows/#federal>.

^{xi} *Jackson v. City and County of San Francisco*, 746 F.3d 953 (9th Cir. 2014).

^{xii} Sunnyvale Code § 9.44.050.

^{xiii} In 1999, the gun death rate in Santa Clara County was 5.088. By 2016, it had dropped to 4.056. Centers for Disease Control and Prevention, Wide-ranging Online Data for Epidemiologic Research (WONDER), “Underlying Cause of Death, 1999-2016 Request,” last accessed Feb. 1, 2018.

^{xiv} 18 U.S.C. § 922(a)(1)(A).

^{xv} U.S. Dep't of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, *Downloadable Lists of Federal Firearms Licensees (FFLs)*, available at <http://www.atf.gov/about/foia/ffl-list.html>. Total number of Federal Firearms Licensees as of December 10, 2016.

^{xvi} Office of the Inspector General, Evaluation and Inspections Division, U.S. Dep't of Justice, *Inspection of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives* (July 2004), available at <http://www.usdoj.gov/oig/reports/ATF/e0405/exec.htm>

^{xvii} Sari Horwitz and James V. Grimaldi, *ATF's Oversight Limited in Face of Gun Lobby*, WASH. POST, Oct. 26, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/25/AR2010102505823.html>.

^{xviii} Office of the Inspector General, Evaluation and Inspections Division, U.S. Dep't of Justice, *Review of ATF's Federal Firearms Licensee Inspection Program*, pp. 1-2 (Apr. 2013), available at <http://www.justice.gov/oig/reports/2013/e1305.pdf>.

^{xix} According to the Special Agent in Charge of ATF's Sacramento office, "When people break into homes or businesses, guns are often the target. ... [O]f the commodities that we find that people that are involved in criminal activity are looking for, guns are very high on the list." Lynn Walsh, Dave Manoucheri and Mari Payton, *Stolen Guns Fuel Underground Market For Criminals in California*, NBC7 SAN DIEGO, (Aug. 9, 2016), available at <http://www.nbcsandiego.com/investigations/Stolen-Guns-Fuel-Underground-Market-For-Criminals-in-California-389352802.html>.

^{xx} See Bureau of Alcohol, Tobacco and Firearms, *Federal Firearms Licensees (FFL) Burglary and Robbery Statistics - Calendar Year 2015*, available at: <https://www.atf.gov/firearms/docs/report/2015-summary-firearms-reported-lost-and-stolen/download>; Bureau of Alcohol, Tobacco and Firearms, *Federal Firearms Licensees (FFL) Burglary and Robbery Statistics - Calendar Year 2016*, available at: <https://www.atf.gov/news/pr/atf-releases-2016-summary-firearms-reported-lost-and-stolen-ffls>.

^{xxi} *Id.*

^{xxii} Paul Payne, *Burglars ram Petaluma gun store, steal 18 handguns*, THE PRESS DEMOCRAT, Mar. 5, 2016.

^{xxiii} *Burglary suspects crash car into front of gun store in Ventura*, KABC-TV L.A., Mar. 27, 2016.

^{xxiv} Andrew Westrope, *Rocklin gun robbery followed by 2 attempts in Elk Grove*, THE PLACER HERALD, May 11, 2016.

^{xxv} *Id.*

^{xxvi} Sontaya Rose, *30 handguns stolen from Fresno County gun store*, KFSN-ABC FRESNO, June 21, 2016.

^{xxvii} Libby Rainey and Kimberly Veklerov, *Suspects arrested in gun store thefts*, S.F. CHRONICLE, D6, July 14, 2016.

^{xxviii} Sarah Heise, *Several detained in connection with Rocklin gun store burglary*, KCRA-NBC, July 13, 2016.

^{xxix} Bill Lindelof, *Another gun shop is burglarized, this time Grass Valley*, SACRAMENTO BEE, Aug. 3, 2016) (noting that [t]he incidents added to a growing trend of such burglaries in the greater Sacramento area.).

^{xxx} See Garen Wintemute, *Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase*, 87 J. Urb. Health 865, 867, 872 (2010), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2937134/>. In a survey of handgun dealers in California, that 20.1% agreed to assist a potential handgun buyer with a transaction that had many attributes of a straw purchase.

^{xxxi} *Id.* at 7 (emphasis added).

^{xxxii} *Id.* at p. x.

^{xxxiii} International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities*, p. 14 (Sept. 2007), available at http://www.theiacp.org/Portals/0/pdfs/GVR_A-page-iii_IACP-Taking-A-Stand.pdf.

^{xxxiv} West Hollywood Municipal Code § 5.60.030(6)(a).

^{xxxv} Santa Clara County Code § A18-370 (d).

^{xxxvi} Wintemute, Garen, *Firearm Retailers' Willingness to Participate in an Illegal Gun Purchase*, J. OF URBAN HEALTH 865-78 (2010).

^{xxxvii} Sorenson SB, Vittes K, *Buying a Handgun for Someone Else: Firearm Dealer Willingness to Sell*, 9 INJ. PREV. 147-50 (2003).

^{xxxviii} Office of Strategic Intelligence and Information, U.S. Department of Justice, *2015 FFL Loss/Theft Report*, (Mar. 4, 2016), at <https://www.atf.gov/firearms/docs/report/2015-summary-firearms-reported-lost-and-stolen/download>; *2014 Loss/Theft Report* (Apr. 7, 2015), at <https://www.atf.gov/resource-center/docs/2014-summary-firearms-reported-lost-and-stolenpdf/download>; *2013 FFL Loss/Theft Report* (Apr. 8, 2014), at <https://www.atf.gov/resource-center/docs/2013summary-firearmsreportedlostandstolenpdf/download>; *2012 FFL Loss/Theft Report*, (Jun. 7, 2013), at <https://www.atf.gov/file/11851/download>.

^{xxxix} Greenberg Quinlan Rosner Research & the Tarrance Group for the Mayors Against Illegal Guns, *Americans Support Common Sense Measures to Cut Down on Illegal Guns* 3, 6 (Apr. 10, 2008), available at http://www.mayorsagainstillegalguns.org/downloads/pdf/polling_memo.pdf.

^{xl} Katie Masters, *Walmart Has Tougher Policies for Background Checks Than the U.S. Government Does*, THE TRACE, July 15, 2016,

<https://www.thetrace.org/2015/07/walmart-background-checks-ffl-rifles-ammo-shotguns-fbi-nics/>

^{xli} Mayors Against Illegal Guns, *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* 26-27 (Sept. 2010), at <http://www.tracetheguns.org/report.pdf>.

^{xlii} Cal. Penal Code § 26720(a).

^{xliii} Bureau of Alcohol, Tobacco and Firearms, Listing of Federal Firearms Licensees (FFL), California, as of October, 2017. Available at <https://www.atf.gov/firearms/listing-federal-firearms-licensees-ffls-2017>.

^{xliv} Gun dealers operating in Santa Clara County can be found at the website of the Bureau of Alcohol, Tobacco and Firearms, *Federal Firearms Licensees (FFL) 2017*, as of September, 2017, available at <https://www.atf.gov/firearms/listing-federal-firearms-licensees-ffls-2017>.

^{xlv} Daniel W. Webster et al., *Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking*, J. URB. HEALTH (July 2009), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2704273/>.

^{xlvi} Mayors Against Illegal Guns, *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* 26-27 (Sept. 2010), at <http://www.tracetheguns.org/report.pdf>.

^{xlvii} The research supporting the efficacy of safe storage laws is discussed on our website: <http://smartgunlaws.org/gun-laws/policy-areas/child-consumer-safety/safe-storage/>.

^{xlviii} Elizabeth Van Brocklin, *19 Children Are Shot in America Every Day*, THE TRACE, June 19, 2017.

^{xlix} Matthew Miller & David Hemenway, *The Relationship Between Firearms and Suicide: A Review of the Literature*, 4 AGGRESSION & VIOLENT BEHAVIOR 59, 62–65 (1999) (summarizing the findings of multiple studies).

^l See Analysis of School Shootings, December 31, 2015, available at <http://everytownresearch.org/reports/analysis-of-school-shootings/>.

^{li} Sarah Kaplan, *3-year-old picks up great-grandpa's pistol from nightstand, fatally shoots sister*, WASHINGTON POST, February 8, 2016, available at https://www.washingtonpost.com/news/morning-mix/wp/2016/02/08/3-year-old-picks-up-great-grandpas-pistol-from-nightstand-fatally-shoots-sister/?utm_term=.ff15814149fa.

^{lii} Cal. Penal Code § 25100(c).

^{liii} Cal. Penal Code § 25105(b), (d).

^{liv} David Hemenway, Deborah Azrael, and Matthew Miller, *Whose guns are stolen? The epidemiology of Gun theft*, INJURY EPIDEMIOLOGY, January 13, 2017, at [victimshttps://inpejournal.springeropen.com/articles/10.1186/s40621-017-0109-8](https://inpejournal.springeropen.com/articles/10.1186/s40621-017-0109-8)

^{lv} Dan Noyes, *How Criminals Get Guns*, FRONTLINE, available at <http://www.pbs.org/wgbh/pages/frontline/shows/guns/procon/guns.html>.

^{lvi} David Hemenway, Deborah Azrael, and Matthew Miller, *Whose guns are stolen? The epidemiology of Gun theft*, INJURY EPIDEMIOLOGY, January 13, 2017, at [victimshttps://inpejournal.springeropen.com/articles/10.1186/s40621-017-0109-8](https://inpejournal.springeropen.com/articles/10.1186/s40621-017-0109-8).

^{lvii} San Jose Municipal Code § 10.32.170.

^{lviii} Santa Clara County Code § B14-31.1(a)

^{lix} Santa Clara County Code § B13-17

^{lx} Santa Clara County Code § B32-9

^{lxi} Santa Clara County Code § B13-7.

- **Chapter 7.28 - WEAPONS**

Sections:

- **7.28.010 - Missile projectors.**

No person shall discharge in the city any instrument or device of any kind, character, or description which throws, discharges, propels, or hurls bullets or missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, or explosive force without first having applied for and obtained a written permit therefor from the chief of police. Except as specifically directed by the council, the chief of police shall be the sole judge as to the desirability or necessity for issuing such permit which shall be in, in his judgment, for the protection of the applicant or in the furtherance of the public welfare. Such permit shall be issued upon the payment of a fee of one dollar (\$1.00) and shall be upon such conditions and for such term as the chief of police may determine.

(Prior code § 3-6.01)

- **7.28.020 - Possession of certain propelling devices.**

It shall be unlawful for any person under the age of eighteen (18) years to have in his possession on any street or in a public place within the city any instrument or device of any nature which may throw, discharge, propel, or hurl bullets or missiles of any kind to any distance from such instrument or device by means of elastic force, air pressure, vacuum, or any explosive force.

(Prior code § 3-6.03)

- **7.28.030 - Notices of sales of firearms.**

Any person having for sale any instrument or device specified in [Section 7.28.010](#) or [7.28.020](#) of this chapter shall have posted in a conspicuous place in the place of sale a copy of this chapter and shall deliver a copy of this chapter to any purchaser of such instrument or device.

(Prior code § 3-6.04)

- **7.28.040 - Confiscation.**

Any instrument, device, or article used or possessed in violation of the provisions of this chapter is hereby declared to be a public nuisance and may be confiscated and possessed by a police officer of the city and delivered to the custody of the chief of police. The chief of police may return, upon such conditions as he deems desirable for the public welfare, any such instrument, device, or article to the person from whose possession it was taken, or the chief of police may retain the same and destroy it after sixty (60) days.