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Michael B. Reynolds, Bar No. 174534  
mreynolds@swlaw.com  
Colin R. Higgins, Bar No. 268364  
chiggins@swlaw.com  
Cameron J. Schlagel, Bar No. 320732  
cschlagel@swlaw.com  
SNELL & WILMER L.L.P.  
600 Anton Blvd., Suite 1400  
Costa Mesa, California 92626-7689  
Telephone: 714.427.7000  
Facsimile: 714.427.7799

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

Case No. '22CV0010 W DEB

JANE DOE, an individual; JOHN  
DOE NO. 1, an individual; JOHN  
DOE NO. 2, an individual; JOHN  
DOE NO. 3, an individual; and  
JOHN DOE NO. 4, an individual,

Plaintiffs,

v.

ROB BONTA, in his official  
capacity as Attorney General of the  
State of California; and DOES 1-25,  
inclusive,

Defendants.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**Snell & Wilmer**  
L.L.P.  
LAW OFFICES  
1920 Main Street, Suite 1200  
Irvine, California 92614-7230  
(949) 253-2700

1 Plaintiffs Jane Doe, John Doe No.1, John Doe No. 2, John Doe No. 3, and  
2 John Doe No. 4 (jointly, “Plaintiffs”), through their counsel, bring this action  
3 against Defendant Rob Bonta, in his official capacity as Attorney General of the  
4 State of California, and make the following allegations.

5  
6 **INTRODUCTION**

7 1. This Complaint seeks declaratory and injunctive relief to prevent  
8 Defendant Attorney General Rob Bonta from enforcing Assembly Bill 173 (“AB  
9 173”), 2021 Cal. Stat., Ch. 253, which is unconstitutional under Sections 9 and 12  
10 of Article IV of the California Constitution, and the specific amendments made  
11 therein that violate Plaintiffs’ rights under the Supremacy Clause of and the Second  
12 and Fourteenth Amendments to the United States Constitution, Sections 1 and 7 of  
13 Article I of the California Constitution, the Information Practices Act of 1977, Cal.  
14 Civ. Code §§ 1798, *et seq.*, *as amended*, and California Penal Code section 3.

15 2. The State of California’s firearm-related laws are among the strictest  
16 in the nation.<sup>1</sup> Those laws, which the California Department of Justice (the “Cal  
17 DOJ”) enforces, consist of a comprehensive scheme of statutes and regulations  
18 governing, *inter alia*, the sale, transfer, possession, and ownership of firearms and  
19 ammunition.

20 3. As a condition on the exercise of Plaintiffs’ fundamental right to keep  
21 and bear arms under the Second Amendment of the United States Constitution,  
22 Plaintiffs and millions of other law-abiding California residents provided the Cal  
23  
24

25 \_\_\_\_\_  
26 <sup>1</sup> Office of Governor Gavin Newsom, *Governor Newsom Statement on*  
27 *President Biden’s Executive Actions Addressing Gun Violence*,  
28 <https://www.gov.ca.gov/2021/04/08/governor-newsom-statement-on-president-bidens-executive-actions-addressing-gun-violence/> (last visited Dec. 14, 2021), attached hereto as **Exhibit 1**.

1 DOJ with highly sensitive personal information<sup>2</sup>—including their name, address,  
 2 place of birth, telephone number, occupation, California driver’s license or ID  
 3 number, race, sex, height, weight, hair color, eye color, and, in some instances,  
 4 social security number (the “Personal Information”)—which the Attorney General  
 5 and Cal DOJ maintain in a registry called the “Automated Firearms System” (the  
 6 “AFS”).<sup>3</sup>

7 4. The United States Constitution, the California Constitution, and  
 8 California statutory law protect Plaintiffs’ right to privacy in the Personal  
 9 Information that they provided to the Cal DOJ as a condition to Plaintiffs’ lawful  
 10 exercise of their Second Amendment rights in the first instance. Plaintiffs disclosed  
 11 their Personal Information in reliance on the government’s assurance that their  
 12 information would be used only for law enforcement purposes.

13 5. On September 23, 2021, the California Legislature passed, and  
 14 Governor Newsom signed into law, AB 173, as a budget trailer bill.<sup>4</sup> AB 173  
 15 amends certain provisions of California’s firearm laws to authorize the Attorney  
 16 General to disclose Plaintiffs’ Personal Information to the California Firearm  
 17 Violence Research Center at UC Davis and any other “bona fide research

18 <sup>2</sup> See, e.g., Cal. Penal Code §§ 26150, 26155, 26170, 26215, 26225, 26700,  
 19 26710, 26715, 28050; Cal. Code Regs. § 4030, *et seq.*

20 <sup>3</sup> Cal. Penal Code § 11106(b)(1); Cal. Code Regs. § 4281(d).

21 <sup>4</sup> California Courts have used the term “trailer bill” to describe a bill that  
 22 follows the passage of the annual budget bill and implements the main budget act  
 23 by enacting corresponding changes to state law. See, e.g., *Harbor v. Deukmejian*,  
 24 43 Cal. 3d 1078, 1097 (1987) (examining a bill stating that it provided “necessary  
 25 statutory adjustments to implement the Budget Act of 1984”); *Mission Hosp.*  
 26 *Regional Medical Center v. Shewry*, 168 Cal. App. 4th 460, 481 (2008) (referring to  
 27 “the omnibus health trailer bill for the Budget Act of 2004. It contains necessary  
 28 changes to implement the Budget Act of 2004.”). “Trailer Bill Language” is the  
 implementing language of the California State Budget Bill. State of California  
 Department of Finance, *Trailer Bill Language*,  
<https://esd.dof.ca.gov/dofpublic/trailerBill.html> (last visited Dec. 14, 2021),  
 attached hereto as **Exhibit 2**.

1 institution.” Those amendments violate and infringe on the rights of Plaintiffs and  
2 millions of other law-abiding citizens under the federal and state constitutions, and  
3 state statutes.

4  
5 **JURISDICTION AND VENUE**

6 6. This Court has federal question subject matter jurisdiction under 28  
7 U.S.C. § 1331 because Plaintiffs’ First, Second, and Fifth Claims for Relief arise  
8 under the Constitution and laws of the United States and, thus, present federal  
9 questions. This Court also has jurisdiction under 28 U.S.C. § 1343(a)(3) and 42  
10 U.S.C. § 1983 because this action seeks to redress the deprivation, under color of  
11 the laws, statutes, ordinances, regulations, customs and usages of the State of  
12 California and political subdivisions thereof, of rights, privileges or immunities  
13 secured by the United States Constitution.

14 7. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over  
15 Plaintiffs’ remaining claims for relief because the state law claims are so related to  
16 the federal claims that they form part of the same case or controversy and derive  
17 from a common nucleus of operative facts under Article III of the United States  
18 Constitution.

19 8. Plaintiffs’ claims for declaratory and injunctive relief are authorized by  
20 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys’ fees is  
21 authorized by 42 U.S.C. § 1988.

22 9. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2)  
23 because the events giving rise to Plaintiffs’ claims for relief occurred in this district  
24 and Plaintiffs Jane Doe, John Doe No. 1, and John Doe No. 2 reside in the County  
25 of San Diego. Venue is also proper in this district under 28 U.S.C. §§ 1391 because  
26 the venue rules of the State of California specifically would permit this action to be  
27 filed in San Diego County since the Attorney General and the Cal DOJ maintain an  
28 office within San Diego County. *See* Cal. Civ. Proc. Code § 401(1).

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Irvine, California 92614-7230  
(949) 253-2700

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**PARTIES**

***Plaintiff Jane Doe***

10. Plaintiff Jane Doe is a natural person, a resident of the County of San Diego, California, and is not legally prohibited from possessing firearms. Mrs. Doe is a licensed vocational nurse.

11. Mrs. Doe owns a handgun, which was legally transferred to her through a duly licensed firearms dealer located in California pursuant to California Penal Code sections 28050, *et seq.* In connection with that transaction, pursuant to California Penal Code sections 28050, *et seq.*, and 28200, *et seq.*, Mrs. Doe provided to the licensed firearms dealer her personal information, including her name, address, California driver’s license number, telephone number, place of birth, race, sex, height, weight, hair color, and eye color. Mrs. Doe is informed and believes, and thereon alleges, that pursuant to California Penal Code section 28200, *et seq.*, the licensed firearms dealer transmitted Mrs. Doe’s Personal Information to the Cal DOJ. Mrs. Doe is further informed and believes, and thereon alleges, that pursuant to California Penal Code section 11106, the Cal DOJ keeps and maintains records consisting of Mrs. Doe’s Personal Information in the AFS.

12. Mrs. Doe has legally purchased ammunition from licensed ammunition vendors located in California. In connection with those purchases, pursuant to California Penal Code section 30352(a), Mrs. Doe provided to the licensed ammunition vendors her personal information, including her name, address, California driver’s license number, telephone number, and date of birth. Mrs. Doe is informed and believes, and thereon alleges, that pursuant to California Penal Code section 30352(b)(1), the licensed ammunition vendors transmitted Mrs. Doe’s Personal Information to the Cal DOJ. Mrs. Doe is further informed and believes, and thereon alleges, that pursuant to California Penal Code sections 11106 and 30352(b), the Cal DOJ keeps and maintains records consisting of Mrs. Doe’s Personal Information in the AFS and Ammunition Purchase Records File databases.



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1 California Penal Code section 28200, *et seq.*, the licensed firearms dealer  
2 transmitted Mr. Doe No. 1’s Personal Information to the Cal DOJ. Mr. Doe No. 1  
3 is further informed and believes, and thereon alleges, that pursuant to California  
4 Penal Code section 11106, the Cal DOJ keeps and maintains records consisting of  
5 Mr. Doe No. 1’s Personal Information in the AFS.

6 17. Mr. Doe No. 1 has legally purchased ammunition from licensed  
7 ammunition vendors located in California. In connection with those purchases,  
8 pursuant to California Penal Code section 30352(a), Mr. Doe No. 1 provided to the  
9 licensed ammunition vendors his personal information, including his name, address,  
10 California driver’s license number, telephone number, and date of birth. Mr. Doe  
11 No. 1 is informed and believes, and thereon alleges, that pursuant to California  
12 Penal Code section 30352(b)(1), the licensed ammunition vendors transmitted Mr.  
13 Doe No. 1’s Personal Information to the Cal DOJ. Mr. Doe No. 1 is further  
14 informed and believes, and thereon alleges, that pursuant to California Penal Code  
15 sections 11106 and 30352(b), the Cal DOJ keeps and maintains records consisting  
16 of Mr. Doe No. 1’s Personal Information in the AFS and Ammunition Purchase  
17 Records File databases.

18 18. Mr. Doe No. 1 keeps his handgun in his home for protection of himself  
19 and his family. When Mr. Doe No. 1 purchased his handgun, he understood that  
20 his Personal Information would be used only for law enforcement purposes and that  
21 the Cal DOJ would otherwise keep his Personal Information confidential. Mr. Doe  
22 No. 1 believes that his status as a handgun owner is a private, personal matter, and  
23 that public disclosure of his Personal Information and status as a handgun owner  
24 will subject him to unwanted public attention, harassment, threats, and physical  
25 violence by individuals and groups including former inmates of State correctional  
26 facilities and other persons in the community who are hostile to guns and gun  
27 owners. Mr. Doe No. 1 further believes that disclosure of his Personal Information  
28



1 will greatly increase the risk that he will be a target of criminal efforts to steal his  
2 lawfully owned firearms.

3  
4 ***Plaintiff John Doe No. 2***

5 19. Plaintiff John Doe No. 2 is a natural person, a resident of the County  
6 of San Bernardino, California, and is not legally prohibited from possessing  
7 firearms.

8 20. Mr. Doe No. 2 is retired. Before his retirement, Mr. Doe No. 2 served  
9 as a full-time Deputy with the San Bernardino County Sherriff’s Department.  
10 Before that, Mr. Doe No. 2 served as a Reserve Deputy with the San Bernardino  
11 County Sherriff’s Department.

12 21. Mr. Doe No. 2 owns a handgun, which he legally purchased from a  
13 duly licensed firearms dealer located in California. In connection with that  
14 purchase, pursuant to California Penal Code sections 28100, *et seq.* and 28200, *et*  
15 *seq.*, Mr. Doe No. 2 provided to the licensed firearms dealer his personal  
16 information, including his name, address, California driver’s license number,  
17 telephone number, place of birth, race, sex, height, weight, hair color, and eye  
18 color. Mr. Doe No. 2 is informed and believes, and thereon alleges, that pursuant to  
19 California Penal Code section 28200, *et seq.*, the licensed firearms dealer  
20 transmitted Mr. Doe No. 2’s Personal Information to the Cal DOJ. Mr. Doe No. 2  
21 is further informed and believes, and thereon alleges, that pursuant to California  
22 Penal Code section 11106, the Cal DOJ keeps and maintains records consisting of  
23 Mr. Doe No. 2’s Personal Information in the AFS.

24 22. Mr. Doe No. 2 has legally purchased ammunition from licensed  
25 ammunition vendors located in California. In connection with those purchases,  
26 pursuant to California Penal Code section 30352(a), Mr. Doe No. 2 provided to the  
27 licensed ammunition vendors his personal information, including his name, address,  
28 California driver’s license number, telephone number, and date of birth. Mr. Doe

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1 No. 2 is informed and believes, and thereon alleges, that pursuant to California  
2 Penal Code section 30352(b)(1), the licensed ammunition vendors transmitted Mr.  
3 Doe No. 2's Personal Information to the Cal DOJ. Mr. Doe No. 2 is further  
4 informed and believes, and thereon alleges, that pursuant to California Penal Code  
5 sections 11106 and 30352(b), the Cal DOJ keeps and maintains records consisting  
6 of Mr. Doe No. 2's Personal Information in the AFS and Ammunition Purchase  
7 Records File databases.

8 23. Mr. Doe No. 2 keeps his handgun in his home for protection of himself  
9 and his family. When Mr. Doe No. 2 purchased his handgun, he understood that  
10 his Personal Information would be used only for law enforcement purposes and that  
11 the Cal DOJ would otherwise keep his Personal Information confidential. Mr. Doe  
12 No. 2 believes that his status as a handgun owner is a private, personal matter, and  
13 that public disclosure of his Personal Information and status as a handgun owner  
14 will subject him to unwanted public attention, harassment, threats, and physical  
15 violence by individuals and groups including criminals who are hostile to Mr. Doe  
16 No. 2 as a former law enforcement officer and other persons in the community who  
17 are hostile to guns and gun owners. Mr. Doe No. 2 further believes that disclosure  
18 of his Personal Information will greatly increase the risk that he will be a target of  
19 criminal efforts to steal his lawfully owned firearms.

20  
21 ***Plaintiff John Doe No. 3***

22 24. Plaintiff John Doe No. 3 is a natural person, a resident of the County  
23 of San Diego, California, and is not legally prohibited from possessing firearms.

24 25. Mr. Doe No. 3 was an enlisted member of the United States Air Force.  
25 After being honorably discharged from the Air Force, Mr. Doe No. 3 moved to San  
26 Diego County where he currently resides. Mr. Doe No. 3 works for a large  
27 company as a service technician.

1           26. Mr. Doe No. 3 owns multiple firearms, which he legally purchased  
2 from duly licensed firearms dealers located in California. In connection with those  
3 purchases, pursuant to California Penal Code sections 28100, *et seq.* and 28200, *et*  
4 *seq.*, Mr. Doe No. 3 provided to the licensed firearms dealers his personal  
5 information, including his name, address, California driver's license number,  
6 telephone number, place of birth, race, sex, height, weight, hair color, and eye  
7 color. Mr. Doe No. 3 is informed and believes, and thereon alleges, that pursuant to  
8 California Penal Code section 28200, *et seq.*, the licensed firearms dealers  
9 transmitted Mr. Doe No. 3's Personal Information to the Cal DOJ. Mr. Doe No. 3  
10 is further informed and believes, and thereon alleges, that pursuant to California  
11 Penal Code section 11106, the Cal DOJ keeps and maintains records consisting of  
12 Mr. Doe No. 3's Personal Information in the AFS.

13           27. Mr. Doe No. 3 has legally purchased ammunition from licensed  
14 ammunition vendors located in California. In connection with those purchases,  
15 pursuant to California Penal Code section 30352(a), Mr. Doe No. 3 provided to the  
16 licensed ammunition vendors his personal information, including his name, address,  
17 California driver's license number, telephone number, and date of birth. Mr. Doe  
18 No. 3 is informed and believes, and thereon alleges, that pursuant to California  
19 Penal Code section 30352(b)(1), the licensed ammunition vendors transmitted Mr.  
20 Doe No. 3's Personal Information to the Cal DOJ. Mr. Doe No. 3 is further  
21 informed and believes, and thereon alleges, that pursuant to California Penal Code  
22 sections 11106 and 30352(b), the Cal DOJ keeps and maintains records consisting  
23 of Mr. Doe No. 3's Personal Information in the AFS and Ammunition Purchase  
24 Records File databases.

25           28. Mr. Doe No. 3 is informed and believes, and thereon alleges, that he is  
26 eligible to be licensed to carry a concealed weapon pursuant to California Penal  
27 Code sections 26150, *et seq.* Mr. Doe No. 3 desires to obtain a license to carry a  
28 concealed weapon for his personal protection, but Mr. Doe No. 3 is dissuaded from

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1 doing so due to his fear that the Cal DOJ will publicly disclose his Personal  
2 Information.

3 29. Mr. Doe No. 3 keeps his firearms in his home for protection of himself  
4 and his family. When Mr. Doe No. 3 purchased his firearms, he understood that his  
5 Personal Information would be used only for law enforcement purposes and that the  
6 Cal DOJ would otherwise keep his Personal Information confidential. Mr. Doe No.  
7 3 believes that his status as a firearms owner is a private, personal matter, and that  
8 public disclosure of his Personal Information and status as a firearms owner will  
9 subject him to unwanted public attention, harassment, threats, and physical violence  
10 by individuals and groups in the community who are hostile to guns and gun  
11 owners. Mr. Doe No. 3 further believes that disclosure of his Personal Information  
12 will greatly increase the risk that he will be a target of criminal efforts to steal his  
13 lawfully owned firearms.

14  
15 ***Plaintiff John Doe No. 4***

16 30. Plaintiff John Doe No. 4 is a natural person, a resident of the County  
17 of Orange, California, and is not legally prohibited from possessing firearms. Mr.  
18 Doe No. 4 is married.

19 31. Mr. Doe No. 4 is retired. Prior to his retirement, Mr. Doe No. 4  
20 worked in construction management. Mr. Doe No. 4 is also a licensed firearms  
21 instructor and teaches courses in firearms safety and proficiency.

22 32. Mr. Doe No. 4 owns multiple firearms, which he legally purchased  
23 from duly licensed firearms dealers located in California. In connection with those  
24 purchases, pursuant to California Penal Code sections 28100, *et seq.* and 28200, *et*  
25 *seq.*, Mr. Doe No. 4 provided to the licensed firearms dealers his personal  
26 information, including his name, address, California driver's license number,  
27 telephone number, place of birth, race, sex, height, weight, hair color, and eye  
28 color. Mr. Doe No. 4 is informed and believes, and thereon alleges, that pursuant to

1 California Penal Code section 28200, *et seq.*, the licensed firearms dealers  
2 transmitted Mr. Doe No. 4's Personal Information to the Cal DOJ. Mr. Doe No. 4  
3 is further informed and believes, and thereon alleges, that pursuant to California  
4 Penal Code section 11106, the Cal DOJ keeps and maintains records consisting of  
5 Mr. Doe No. 4's Personal Information in the AFS.

6 33. Mr. Doe No. 4 has legally purchased ammunition from licensed  
7 ammunition vendors located in California. In connection with those purchases,  
8 pursuant to California Penal Code section 30352(a), Mr. Doe No. 4 provided to the  
9 licensed ammunition vendors his personal information, including his name, address,  
10 California driver's license number, telephone number, and date of birth. Mr. Doe  
11 No. 4 is informed and believes, and thereon alleges, that pursuant to California  
12 Penal Code section 30352(b)(1), the licensed ammunition vendors transmitted Mr.  
13 Doe No. 4's Personal Information to the Cal DOJ. Mr. Doe No. 4 is further  
14 informed and believes, and thereon alleges, that pursuant to California Penal Code  
15 sections 11106 and 30352(b), the Cal DOJ keeps and maintains records consisting  
16 of Mr. Doe No. 4's Personal Information in the AFS and Ammunition Purchase  
17 Records File databases.

18 34. Mr. Doe No. 4 is duly licensed to carry a concealed firearm pursuant to  
19 California Penal Code sections 26150, *et seq.* In connection with that license, Mr.  
20 Doe No. 4 provided to the licensing authority his personal information including his  
21 name, date of birth, age, social security number, California driver's license or ID  
22 number, occupation, residence, height, weight, color of eyes and hair, business  
23 address, and reason for desiring a license to carry the firearm, and personal  
24 information of his spouse, including her name and address. Mr. Doe No. 4 is  
25 informed and believes, and thereon alleges, that pursuant to California Penal Code  
26 section 26225(b), the licensing authority transmitted Mr. Doe No. 4's Personal  
27 Information to the Cal DOJ. Mr. Doe No. 4 is further informed and believes, and  
28 thereon alleges, that pursuant to California Penal Code section 11106, the Cal DOJ

1 keeps and maintains records consisting of Mr. Doe No. 4's Personal Information,  
2 including his social security number, in the AFS.

3 35. Mr. Doe No. 4 keeps his firearms in his home and on his person, as  
4 legally permitted, for protection of himself and his family. When Mr. Doe No. 4  
5 purchased his firearms, he understood that his Personal Information would be used  
6 only for law enforcement purposes and that the Cal DOJ would otherwise keep his  
7 Personal Information confidential. Mr. Doe No. 4 believes that his status as a  
8 firearms owner and concealed carry license holder is a private, personal matter, and  
9 that public disclosure of his Personal Information and status as a firearms owner  
10 will subject him to unwanted public attention, harassment, threats, and physical  
11 violence by individuals and groups in the community who are hostile to guns and  
12 gun owners. Mr. Doe No. 4 further believes that disclosure of his Personal  
13 Information will greatly increase the risk that he will be a target of criminal efforts  
14 to steal his lawfully owned firearms.

15  
16 ***Defendant Attorney General Rob Bonta***

17 36. Defendant Rob Bonta is the Attorney General of the State of  
18 California. He is the chief law enforcement officer of California. As Attorney  
19 General, Defendant Bonta is charged by Section 13 of Article V of the California  
20 Constitution with the duty to see that the laws of the state are uniformly and  
21 adequately enforced. Attorney General Bonta is the head of the Cal DOJ. As head  
22 of the Cal DOJ, Defendant Bonta is responsible for the creation, implementation,  
23 execution, and administration of the laws, regulations, customs, practices, and  
24 policies of the Cal DOJ. Plaintiffs are informed and believe that Defendant Bonta  
25 is presently enforcing the laws, regulations, customs, practices, and policies  
26 complained of in this action. Defendant Bonta is sued in his official capacity.

27 37. Plaintiffs do not know the true names or capacities of the defendants  
28 sued herein as DOES 1-25, inclusive, and will amend this Complaint to allege such

1 facts as soon as they are ascertained. Plaintiffs are informed and believe that Bonta  
2 and the defendants named herein as DOES 1-25, and each of them, are and acted as  
3 the agents of each other with respect to the actions alleged herein.

4  
5 **GENERAL ALLEGATIONS**

6 38. Plaintiffs incorporate herein by this reference all preceding paragraphs  
7 of this Complaint as if set forth in full.

8  
9 ***Firearms Transactions in California***

10 39. Firearm transactions include any event where a firearm is transferred  
11 between two individuals. Transactions can occur when an individual purchases a  
12 firearm from a licensed firearms dealer, or when an individual sells or transfers one  
13 of the firearms they own to another individual.<sup>5</sup>

14 40. Under California law, every sale, loan, or transfer of a firearm in  
15 California must be processed through a licensed firearms dealer. *See* Cal. Penal  
16 Code § 28050. The sale of ammunition is, likewise, closely regulated and must be  
17 processed through a licensed ammunition vendor. *See* Cal. Penal Code § 30312.  
18 The Cal DOJ maintains detailed records of all such transactions, including records  
19 containing Personal Information. *See* Cal. Penal Code § 11106.

20 41. The State of California began keeping records of handgun sales in  
21 1996 and long gun sales in 2014.<sup>6</sup>

22  
23 <sup>5</sup> Open Justice, *Gun Sales in California, 1996-2020*,  
24 <https://openjustice.doj.ca.gov/data-stories/gunsales-2020> (last visited Dec. 14,  
25 2021), attached hereto as **Exhibit 3**. Numerous charts on that webpage are  
26 interactive and, thus, did not fully populate in the .pdf file attached hereto as  
27 Exhibit 3. Those interactive charts may be viewed at:  
28 <https://openjustice.doj.ca.gov/data-stories/gunsales-2020> (last visited Dec. 14,  
2021).

<sup>6</sup> *See* Open Justice, *supra* note 5, and accompanying text.



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1           42.    Between 1996 and 2020, there were approximately **7.2 million** firearm  
2 transactions involving handguns in California.<sup>7</sup>

3           43.    Between 2014 and 2020, there were approximately **3 million** firearm  
4 transactions involving long guns in California.<sup>8</sup>

5           44.    In connection with every sale, loan, or transfer of a firearm,<sup>9</sup> and  
6 before any sale can be completed, every firearm purchaser<sup>10</sup> is required to provide  
7 to the licensed firearms dealer the purchaser’s Personal Information, including  
8 name, address, and age. *See* Cal. Penal Code §§ 28210(a) & 28215(a).<sup>11</sup> The  
9 licensed firearms dealer, in turn, is required by statute to report the firearm  
10 purchaser information to the Cal DOJ. *See* Cal. Penal Code §§ 28210(c) &  
11 28215(d).<sup>12</sup>

12           45.    The Cal DOJ utilizes firearm purchaser information to determine  
13 whether the purchaser is prohibited by state or federal law from possessing,

14 <sup>7</sup> *See id.* (chart entitled “Total Firearm Transactions Each Year,” data for  
15 handguns); *see also id.* (chart entitled “Firearm Transaction Statistics Table”).

16 <sup>8</sup> *See id.* (chart entitled “Total Firearm Transactions Each Year,” data for long  
17 guns); *see also id.* (chart entitled “Firearm Transaction Statistics Table”).

18 <sup>9</sup> “Sale” is defined to mean “the sale, loan, or transfer of a firearm.” Cal. Penal  
Code § 28200(a).

19 <sup>10</sup> “Purchaser” is defined to mean “the purchaser or transferee of a firearm or  
20 the person being loaned a firearm.” Cal. Penal Code § 28200(b).

21 <sup>11</sup> Before January 1, 1998, licensed firearms dealers submitted firearm  
22 purchaser information to the DOJ in the form of a register. *See* Cal. Penal Code §  
23 28205(a). Beginning January 1, 1998, licensed firearms dealers submitted firearm  
24 purchaser information to the DOJ via electronic or telephone transfer. *See* Cal.  
25 Penal Code § 28205(b). Beginning January 1, 2003, electronic transfer became the  
exclusive means for submission of firearm purchaser information to the DOJ. *See*  
Cal. Penal Code § 28205(c).

26 <sup>12</sup> *See also* State of California Department of Justice, *DES Firearms and*  
27 *Ammunition Dealer User Guide* 42 (Jan. 15, 2020) (listing firearm transactions for  
28 which a report of purchaser information is required),  
<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/pdf/dros-des-firearms-ammunition-dealer-user-guide.pdf>?, attached hereto as **Exhibit 4**.



1 receiving, owning, or purchasing a firearm. Cal. Penal Code § 28220(a). Once the  
2 Cal DOJ makes an eligibility determination, the Cal DOJ must notify the licensed  
3 firearms dealer of its final determination, subject to a statutorily prescribed waiting  
4 period. *See* Cal. Penal Code § 28220(f).

5 46. This process is completed through submission of the official form  
6 entitled “Dealers’ Record of Sale” to the Cal DOJ. A true and correct copy of the  
7 Dealers’ Record of Sale Form (“DROS”) is attached hereto as **Exhibit 5**.

8 47. Submission of the DROS typically is completed through the Cal DOJ’s  
9 “DROS Entry System” (“DES”).<sup>13</sup> According to the Cal DOJ, the DES “is a web-  
10 based application used by Firearms Dealers to report the sale, loan, transfer,  
11 redemption, and the acquisition of handguns and long guns to the [Cal DOJ],  
12 Bureau of Firearms (BOF).”<sup>14</sup>

### 13 *Licensing in California: Firearm Transactions*

14 48. California’s firearm laws include strict regulation of licenses. All sales  
15 of firearms and ammunition must be processed through a licensed firearms dealer  
16 or ammunition vendor.<sup>15</sup> The Cal DOJ maintains a central database of all firearms  
17 dealers and ammunition vendors licensed in the State.  
18

19 49. California Penal Code sections 26700, *et seq.*, prescribe the  
20 requirements to obtain a license to sell, lease, or transfer firearms at retail;  
21 California Penal Code section 30385 authorizes the Cal DOJ to issue ammunition  
22 vendor licenses; and California Penal Code section 3042 (effective July 1, 2022)  
23 sets forth the requirements for firearm precursor part vendor licenses.

24 <sup>13</sup> *See id.* at 6; *see also* 11 Cal. Code Regs. §§ 4200, *et seq.*

25 <sup>14</sup> *Id.*

26 <sup>15</sup> The licensing requirement also applies to manufacturers, certified instructors,  
27 gun show promoters, and explosive permit holders. *See* State of California  
28 Department of Justice, *Becoming A Firearm Dealer And/Or Ammunition Vendor In California*, <https://oag.ca.gov/firearms/dealer-vendor> (last visited Oct. 5, 2021).

1           50. To obtain a license under California’s firearm-related licensing laws, a  
2 prospective licensee must provide, among other things, a certificate of eligibility  
3 (“COE”) issued by the Cal DOJ. *See* Cal. Penal Code §§ 26705(b), 26710,  
4 30347(a), 30385(a)–(b), & 30395(a).

5           51. A COE, which must be renewed annually, certifies that the Cal DOJ  
6 has checked its records and determined the recipient is not prohibited from  
7 acquiring or possessing firearms at the time the firearms eligibility criminal  
8 background check was performed. A COE is a pre-requisite licensing requirement  
9 for all prospective licensed firearms dealers, licensed ammunition vendors,  
10 manufacturers, certified instructors, gun show promoters, explosive permit holders,  
11 and other firearm related employment activities, including any agent or employee  
12 of a vendor who handles, sells, or delivers firearms and ammunition.<sup>16</sup>

13           52. The COE application is governed by rules promulgated in the  
14 California Code of Regulations. *See* Cal. Penal Code § 26710(d); 11 Cal. Code  
15 Reg. § 4030, *et seq.* Under those regulations, initial COE applicants are  
16 compelled<sup>17</sup> to provide Personal Information to the Cal DOJ including the  
17 applicant’s full name; driver license type and number or California identification  
18 number; date of birth; residence street address; phone number; gender; ATI  
19 number;<sup>18</sup> business type(s); United States citizenship; if not a United States citizen,  
20

21 \_\_\_\_\_  
22 <sup>16</sup> State of California Department of Justice, *Certificate of Eligibility*,  
23 <https://oag.ca.gov/firearms/cert-eligibility> (last visited Dec. 14, 2021), attached  
hereto as **Exhibit 6**.

24 <sup>17</sup> Applicants are required under the regulations to submit all personal  
25 information requested. 11 Cal. Code Reg. § 4035(b)(2)(B).

26 <sup>18</sup> ATI refers to the Applicant Transaction Identifier number that is generated  
27 by the live scan device that scans fingerprints for background checks. *See* State of  
28 California Department of Justice, *Fingerprint Background Checks*,  
<https://oag.ca.gov/fingerprints> (last visited Dec. 14, 2021), attached hereto as  
**Exhibit 7**.

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1 the country of citizenship and the federal Alien Registration Number or federal I-94  
2 number. 11 Cal. Code Reg. § 4035(b)(1).

3 53. COE applicants must also agree to the “Department Privacy Notice”  
4 which provides, among other things, the following:

5 (A) Collection and Use of Personal Information: the Division of Law  
6 Enforcement, Bureau of Firearms in the Department of Justice collects  
7 the information requested as authorized by Penal Code Section 26710.  
8 The Bureau of Firearms uses this information to establish grounds for  
9 the issuance of the license or permit indicated on this application. In  
10 addition, any personal information collected by state agencies is subject  
11 to the limitations in the Information Practices Act and state policy. The  
12 Department of Justice’s general privacy policy is available at  
13 <http://oag.ca.gov/privacy-policy>.

14 \* \* \*

15 (D) Possible Disclosure of Personal Information: in order to establish  
16 grounds for the issuance of the certificate, we may need to share the  
17 information you provide us with any Bureau of Firearms representative  
18 or other person designated by the Attorney General upon request. The  
19 information provided may also be disclosed in the following  
20 circumstances:

- 21 (i) With other persons or agencies when necessary to perform  
22 their legal duties, and their use of your information is compatible  
23 and complies with state law, such as for investigations, licensing,  
24 certification, or regulatory purposes;
- 25 (ii) To another government agency as required by state or federal  
26 law.

27 11 Cal. Code Reg. § 4035(b)(2)(A) & (D).

28 54. California law requires the Cal DOJ to establish and maintain a  
centralized list of all persons licensed to sell, lease, or transfer firearms at retail, *see*  
Cal. Penal Code § 26715(a), and a registry of all licensed ammunition vendors, *see*  
Cal. Penal Code § 30395(b).

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***California License to Carry a Concealed Firearm***

1  
2 55. California Penal Code sections 26150, *et seq.*, prescribe the  
3 requirements to obtain a license to carry a concealed firearm.

4 56. An applicant for a license to carry a concealed firearm must prove that:  
5 the applicant is of good moral character; good cause exists for issuance of the  
6 license; the applicant is a resident of the county, or the applicant’s principal place of  
7 employment is in the county where the applicant is applying; and the applicant has  
8 completed the statutorily required firearm training course. *See* Cal. Penal Code §  
9 26150(a).

10 57. Applications for licenses to carry a concealed firearm must be made on  
11 the form prescribed by the Attorney General. Cal. Penal Code § 26175(a). The  
12 standard application form requires information from the applicant including the  
13 applicant’s: name, date of birth, age, social security number, California driver’s  
14 license or ID number, occupation, residence, height, weight, color of eyes and hair,  
15 business address of the applicant, and reason for desiring a license to carry the  
16 weapon, and personal information of the applicant’s spouse, including name and  
17 address. A true and correct copy of the form entitled “Standard Initial and Renewal  
18 Application for License to Carry A Concealed Weapon” is attached hereto as  
19 **Exhibit 8**. *See also* Cal. Penal Code § 26175(c). Finally, applications must be  
20 filed in writing and signed by the applicant. Cal. Penal Code § 26175(d).

21 58. Every license to carry a concealed weapon issued must set forth: “the  
22 licensee’s name, occupation, residence and business address, the licensee’s age,  
23 height, weight, color of eyes and hair, and the reason for desiring a license to carry  
24 the weapon, and shall, in addition, contain a description of the weapon or weapons  
25 authorized to be carried, giving the name of the manufacturer, the serial number,  
26 and the caliber.” Cal. Penal Code § 26175(i).

27 59. The authority issuing a license to carry a concealed weapon must  
28 report and provide copies to the Cal DOJ of each of the following: the denial of a

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1 license; the denial of an amendment to a license; the issuance of a license; the  
2 amendment of a license; and the revocation of a license. Cal. Penal Code §  
3 26225(b).

4 60. The Cal DOJ maintains copies of all licenses to carry a concealed  
5 weapon, *see* Cal. Penal Code § 11106(a), and all information reported to the Cal  
6 DOJ pursuant to California Penal Code sections 26150, *et seq.*, *see* Cal. Penal Code  
7 § 11106(b)(I).<sup>19</sup>

8  
9 ***Firearm Transaction Information Reported to the Cal DOJ***

10 61. All of the information that is collected during a firearm transaction—  
11 including Personal Information—is reported to the to the Cal DOJ. *See* Cal. Penal  
12 Code §§ 28210(c) & 28215(d); *id.* § 11106.

13 62. California Penal Code section 30352 prohibits licensed ammunition  
14 vendors from selling or otherwise transferring ownership of any ammunition  
15 without recording and submitting the following information to the Cal DOJ:

- 16 (1) The date of the sale or other transfer.
- 17 (2) The purchaser’s or transferee’s driver’s license or other  
18 identification number and the state in which it was issued.
- 19 (3) The brand, type, and amount of ammunition sold or otherwise  
20 transferred.
- 21 (4) The purchaser’s or transferee’s full name and signature.
- 22 (5) The name of the salesperson who processed the sale or other  
23 transaction.
- 24 (6) The purchaser’s or transferee’s full residential address and  
25 telephone number.
- 26 (7) The purchaser’s or transferee’s date of birth.

25 Cal. Penal Code § 30352(a).

26  
27 <sup>19</sup> *See also* State of California Department of Justice, *Automated Firearms*  
28 *System Personal Information Update*, <https://oag.ca.gov/firearms/afspi> (last visited  
Dec. 14, 2021), attached hereto as **Exhibit 9**.





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1 Concealed Weapons Permit records, or records entered by law enforcement  
2 agencies.”<sup>20</sup>

3 67. The AFS consists of extensive Personal Information that law-abiding  
4 residents are compelled to submit to the Cal DOJ as a condition to the exercise of  
5 their Second Amendment rights. California Penal Code section 11106 mandates  
6 that the AFS shall consist of all of the following information:

7 (A) The name, address, identification of, place of birth (state or  
8 country), complete telephone number, occupation, sex, description, and  
9 all legal names and aliases ever used by the owner or person being  
10 loaned the particular firearm as listed on the information provided to the  
11 department on the Dealers’ Record of Sale, the Law Enforcement  
Firearms Transfer (LEFT), as defined in former Section 12084, or  
reports made to the department pursuant to any provision listed in  
subdivision (a) of Section 16585, Section 28255 or 29180, or any other  
law.

12 (B) The name and address of, and other information about, any person  
13 (whether a dealer or a private party) from whom the owner acquired or  
14 the person being loaned the particular firearm and when the firearm was  
15 acquired or loaned as listed on the information provided to the  
department on the Dealers’ Record of Sale, the LEFT, or reports made  
to the department pursuant to any provision listed in subdivision (a) of  
Section 16585 or any other law.

16 (C) Any waiting period exemption applicable to the transaction which  
17 resulted in the owner of or the person being loaned the particular firearm  
acquiring or being loaned that firearm.

18 (D) The manufacturer’s name if stamped on the firearm, model name  
19 or number if stamped on the firearm, and, if applicable, the serial  
20 number, other number (if more than one serial number is stamped on the  
firearm), caliber, type of firearm, if the firearm is new or used, barrel  
21 length, and color of the firearm, or, if the firearm is not a handgun and  
does not have a serial number or any identification number or mark  
assigned to it, that shall be noted.

22 Cal. Penal Code § 11106(b)(2).

23  
24  
25  
26

***Research into Firearm-Related Violence***

27 <sup>20</sup> State of California Department of Justice, *Automated Firearms System*  
28 *Personal Information Update*, <https://oag.ca.gov/firearms/afspi> (last visited Dec.  
14, 2021), attached hereto as **Exhibit 9**.





1 firearm-related laws and maintained in the DOJ Registry to researchers  
 2 affiliated with the California Firearm Violence Research Center at UC  
 3 Davis and, “at the department’s discretion,” to “any other nonprofit  
 4 bona fide research institution accredited by the United States  
 5 Department of Education or the Council for Higher Education  
 6 Accreditation for the study of the prevention of violence and following  
 7 approval by the institution’s governing institutional review board or  
 8 human subjects committee when required.” *See* 2021 Cal. Stat. Ch.  
 9 253, §§ 2 & 2.5.

10 b. Cal. Penal Code § 14231 is amended to add subdivisions (c)(1)–  
 11 (3), (f), and (g). *See* 2021 Cal. Stat., Ch. 253, § 5; Cal. Penal Code §  
 12 14231 (eff. Sept. 23, 2021). Those amendments: name the center the  
 13 “California Firearm Violence Research Center at UC Davis”; express  
 14 the intent of the State Legislature that the California Firearm Violence  
 15 Research Center be provided with access to the data and information  
 16 collected and maintained by state agencies, including the Cal DOJ; and  
 17 appropriate \$10,000 from the General Fund to the Cal DOJ to  
 18 implement Cal. Penal Code § 14231. *See* 2021 Cal. Stat., Ch. 253, § 5;  
 19 Cal. Penal Code § 14231 (eff. Sept. 23, 2021).

20 c. Cal. Penal Code § 30352 is amended to add subdivisions (b)(1)–  
 21 (2). *See* 2021 Cal. Stat., Ch. 253, § 11; Cal. Penal Code § 30352 (eff.  
 22 Sept. 23, 2021). Those amendments modify language in the prior  
 23 statute providing that information provided in connection with the  
 24 purchase and sale of ammunition would remain confidential and would  
 25 be used only for law enforcement purposes, to provide that the  
 26 information reported under that section shall be available to  
 27 researchers affiliated with the California Firearm Violence Research  
 28 Center at UC Davis and, “[a]t the department’s discretion,” to “any

1 other nonprofit bona fide research institution accredited by the United  
2 States Department of Education or the Council for Higher Education  
3 Accreditation for the study of the prevention of violence, following  
4 approval by the institution’s governing institutional review board or  
5 human subjects committee when required, for academic and policy  
6 research purposes.” See 2021 Cal. Stat., Ch. 253, § 11; Cal. Penal  
7 Code § 30352 (eff. Sept. 23, 2021).

8 73. The amendments listed in the preceding paragraph are referred to  
9 herein jointly as the “AB 173 Amendments.”

10  
11 *Effects of the AB 173 Amendments*

12 74. As a condition upon the lawful exercise of Plaintiffs’ Second  
13 Amendment rights, Plaintiffs’ Personal Information was reported to the Cal DOJ.  
14 Plaintiffs are informed and believe, and based thereon allege, that Plaintiffs’  
15 Personal Information is kept and maintained in the AFS.

16 75. When Plaintiffs disclosed their Personal Information to the Cal DOJ,  
17 Plaintiffs relied on the government’s representation that Plaintiffs’ Personal  
18 Information would remain confidential and would be used only for law enforcement  
19 purposes.<sup>21</sup>

20  
21  
22  
23 <sup>21</sup> See, e.g., State of California Department of Justice, *Privacy Policy Statement*,  
24 <https://oag.ca.gov/privacy-policy> (last visited Dec. 14, 2021), attached hereto as  
25 **Exhibit 11**; State of California Department of Justice Bureau of Firearms, *Personal*  
26 *Firearm Eligibility Check Application* (Rev. Jan. 2020),  
27 <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/pfecapp.pdf>, attached  
28 hereto as **Exhibit 12**; State of California Department of Justice Bureau of Firearms,  
*Firearm Ownership Report* (Rev. Jan. 2020),  
<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/volreg.pdf>, attached  
hereto as **Exhibit 13**.

1 76. Prior law expressly precluded the Cal DOJ from disseminating  
 2 Plaintiffs’ Personal Information outside of government for non-law enforcement  
 3 purposes. *See, e.g.*, Cal. Penal Code § 11106 (eff. Jan. 1, 2021 to Sept. 22, 2021).<sup>22</sup>

4 77. In an abrupt change, the AB 173 Amendments authorize the Attorney  
 5 General and the Cal DOJ to share Plaintiffs’ Personal Information, and the Personal  
 6 Information of millions of California residents who have engaged in firearm  
 7 transactions in furtherance of their Second Amendment rights, with unidentified  
 8 non-governmental researchers at the California Firearm Violence Research Center  
 9 and other nonprofit accredited research centers for purposes unrelated to law  
 10 enforcement—the purpose for which Plaintiffs’ Personal Information was  
 11 submitted to, and collected by, the Cal DOJ in the first instance. Even worse, the  
 12 AB 173 Amendments do not adequately restrict the California Firearm Violence  
 13 Research Center or “other nonprofit bona fide institution[s]” from further

14 \_\_\_\_\_  
 15 <sup>22</sup> Multiple versions of California Penal Code section 11106 were effective  
 16 between December 31, 1999 and September 22, 2021. During that period, all  
 17 effective versions of the statute required the California Attorney General to  
 18 maintain firearm-related Personal Information in the AFS. *Compare* Cal. Penal  
 19 Code § 11106 (eff. to Dec. 31, 1999), *with* Cal. Penal Code § 11106 (eff. Jan. 1,  
 20 2021 to Sept. 22, 2021). And, furthermore, all effective versions of the statute  
 21 authorized the Cal DOJ to disclose Personal Information to other government  
 22 agencies only for law enforcement-related purposes. The legislative history of  
 23 California Penal Code section 11106 is as follows: Stats. 1997, c. 462 (A.B.991), §  
 24 2 (eff. to Dec. 31, 1999); Stats.1999, c. 571 (A.B.491), § 1 (eff. Jan. 1, 2000); Stats.  
 25 2002, c. 916 (S.B.1490), § 2 (eff. Jan. 1, 2002); Stats. 2003, c. 541 (A.B.1044), § 1  
 26 (eff. Jan. 1, 2004); Stats. 2005, c. 715 (A.B.1060), § 1.5 (eff. Jan. 1, 2006); Stats.  
 27 2006, c. 901 (S.B.1422), § 9 (eff. Jan. 1, 2007); Stats. 2010, c. 178 (S.B.1115), § 89  
 28 (eff. Jan. 1, 2012); Stats. 2014, c. 103 (A.B.1798), § 1 (eff. Jan. 1, 2015), *and* Stats.  
 2014, c. 878 (A.B.1609), § 2 (eff. Jan. 1, 2015); Stats.2016, c. 60 (A.B.857), § 1  
 (eff. Jan. 1, 2017); Stats.2017, c. 561 (A.B.1516), § 194 (eff. Jan. 1, 2018);  
 Stats.2018, c. 898 (S.B.1200), § 2 (eff. Jan. 1, 2019); Stats.2019, c. 738 (S.B.376),  
 § 2 (eff. Jan. 1, 2020); Stats.2020, c. 289 (A.B.2699), § 1 (eff. Jan. 1, 2021);  
 Stats.2021, c. 253 (A.B.173), § 2 (eff. Sept. 23, 2021); Stats.2021, c. 250 (S.B.715),  
 § 3 (eff. Jan. 1, 2022); Stats.2021, c. 253 (A.B.173), § 2.5 (eff. Sept. 23, 2021,  
 operative Jan. 1, 2022).

1 disseminating Plaintiffs’ Personal Information, nor do the AB 173 Amendments  
 2 provide for an enforcement mechanism to assure the confidentiality of Personal  
 3 Information once in the hands of California Firearm Violence Research Center or  
 4 “other nonprofit bona fide institution[s].”

5 78. Plaintiffs are informed and believe, and based thereon allege, that as  
 6 the AB 173 Amendments require, and consistent with Defendants’ policies,  
 7 practices, and customs, Attorney General Bonta has disclosed, and will continue to  
 8 disclose, Plaintiffs’ Personal Information to unidentified non-governmental  
 9 researchers at the California Firearm Violence Research Center and other nonprofit  
 10 accredited research centers for purposes unrelated to law enforcement.

11 79. The public release of Plaintiffs’ Personal Information threatens  
 12 Plaintiffs’ personal privacy and physical security. When the identities of firearms  
 13 owners are known, those owners often encounter concerted harassment, sometimes  
 14 including violence.<sup>23</sup> Indeed, firearm owners are frequent targets of criminal efforts  
 15 to steal firearms from homes and businesses.<sup>24</sup> In 2017, it was estimated that an  
 16  
 17  
 18

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19 <sup>23</sup> See, e.g., Timothy O’Connor and Meghan E. Murphy, *Journal News gun*  
 20 *permit map used by burglars to target White Plains home?*, NEWSDAY, Jan. 13,  
 21 2013 (describing burglary and attempted gun theft after a gun owner’s name and  
 22 address were published online), attached hereto as **Exhibit 14**; *Lessons Learned in*  
 23 *Database Incident*, ROANOKE TIMES & WORLD NEWS, Mar. 25, 2007 (editorial  
 24 expressing regret for publishing concealed handgun permit database containing  
 addresses of “crime victims, law enforcement officers and domestic violence  
 victims”), attached hereto as **Exhibit 15**.

25 <sup>24</sup> See, e.g., *Burglars Break Into Garden Grove Gun Store, Steal About 40*  
 26 *Firearms*, ABC7.COM, Dec. 9, 2021, [https://abc7.com/garden-grove-gun-store-](https://abc7.com/garden-grove-gun-store-burglary-guns-stolen/11315630/)  
 27 *burglary-guns-stolen/11315630/*, attached hereto as **Exhibit 16**; Betsy Woodruff  
 28 Swan, *Gun Store Robberies Alarm Law Enforcement Officials*, POLITICO, June 23,  
 2020, [https://www.politico.com/news/2020/06/23/gun-store-robberies-law-](https://www.politico.com/news/2020/06/23/gun-store-robberies-law-enforcement-336104)  
 enforcement-336104, attached hereto as **Exhibit 17**.

1 average of 8,000 firearms are stolen from California homes each year.<sup>25</sup> That trend  
 2 is consistent with data collected by the Federal Bureau of Investigation showing  
 3 that, between 2012 and 2015, an estimated 1.2 million guns were stolen from  
 4 individuals nationwide.<sup>26</sup>

5 80. Turning over Plaintiffs' Personal Information to the University of  
 6 California Davis or other accredited research institutions, within or without  
 7 California, would greatly increase the risk of unauthorized and unwarranted  
 8 dissemination of Plaintiffs' protected Personal Information to the public, putting  
 9 Plaintiffs and their families at great personal risk.

10 81. Universities, including the University of California and other  
 11 accredited research institutions, are frequent targets of hacking attacks that have  
 12 resulted in the Personal Information of tens of thousands of students and faculty  
 13 being stolen and/or publicly exposed.<sup>27</sup>

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14  
 15 <sup>25</sup> *Burglars Target Guns in Residential Break-Ins, Fresno Police Say*,  
 16 ABC30.COM, Nov. 30, 2017, <https://abc30.com/gun-burglary-fresno-police-jerry-dyer/2719933/>, attached hereto as **Exhibit 18**.

17 <sup>26</sup> *See Chelsea Parsons and Eugenio Weigend Vargas, Stolen Guns in America*,  
 18 CENTER FOR AMERICAN PROGRESS, Jul. 25, 2017,  
 19 <https://www.americanprogress.org/article/stolen-guns-america/>, attached hereto as  
**Exhibit 19**.

20 <sup>27</sup> *See, e.g., Christopher Ying, UC Data Breach Leaks Students' Personal*  
 21 *Information to Dark Web*, THE DAILY CALIFORNIAN, Apr. 27, 2021 (describing  
 22 third-party Accellion hack targeting University of California and resulting exposure  
 23 of personal information), <https://www.dailycal.org/2021/04/27/uc-data-breach-leaks-students-personal-information-to-dark-web/>, attached hereto as **Exhibit 20**;  
 24 Michael Sessa, *SU Data Breach Exposes Nearly 10,000 Names, Social Security*  
 25 *Numbers*, THE DAILY ORANGE, Feb. 10, 2021 (describing data breach at Syracuse  
 26 University), <http://dailyorange.com/2021/02/names-social-security-numbers-of-syracuse-university-students-exposed-in-data-breach/>, attached hereto as **Exhibit 21**;  
 27 Eric Stirgus, *AJC Continuing Coverage Georgia Tech Data Breach; Data*  
 28 *Breach Began in December School Says*, ATLANTA JOURNAL CONSTITUTION, Apr. 4, 2019 (describing data breach at Georgia Tech University), attached hereto as  
**Exhibit 22**.



1           82. Under the AB 173 Amendments, there are no express statutory  
 2       proscriptions concerning the scope of disclosure. It is therefore possible that  
 3       partisan and/or ideological activists or organizations, with established political and  
 4       ideological bias against the rights guaranteed under the Second Amendment, may  
 5       obtain access to Plaintiffs' Personal Information by associating themselves and  
 6       their researchers with the California Firearm Violence Research Center or any other  
 7       accredited nonprofit bona fide research institution. Such activists or organizations  
 8       could obtain such association by, for example, endowing a chair at the California  
 9       Firearm Violence Research Center or any other accredited nonprofit bona fide  
 10      research institution, and thereby obtain access to Plaintiffs' Personal Information.

11          83. Faced with such risks, Plaintiffs are understandably afraid that having  
 12      their identities disclosed will put them and their families at risk.

13          84. There is no interest served by the disclosure of Plaintiffs' Personal  
 14      Information, particularly in view of the heightened risks of harassment and loss of  
 15      personal privacy that Plaintiffs will face if their Personal Information is disclosed.

### INJUNCTIVE RELIEF ALLEGATIONS

18          85. Plaintiffs are presently and continuously injured by Defendants'  
 19      enforcement of California Penal Code sections 11106, 14231, and 30352, as  
 20      amended by AB 173, insofar as those provisions violate and infringe upon the  
 21      rights of Plaintiffs under the Supremacy Clause of and the Second and Fourteenth  
 22      Amendments to the United States Constitution, Sections 1 and 7 of Article I of the  
 23      California Constitution, the Information Practices Act of 1977, Cal. Civ. Code §§  
 24      1798, *et seq.*, and California Penal Code section 3.

25          86. In the absence of an injunction, Defendants will begin to implement  
 26      and enforce California Penal Code sections 11106, 14231, and 30352, as amended  
 27      by AB 173, in derogation of the constitutional rights of Plaintiffs and similarly  
 28      situated, law-abiding people. Plaintiffs have no plain, speedy, and adequate remedy



1 at law. Damages are indeterminate or unascertainable and, in any event, would not  
2 fully redress the harm suffered by Plaintiffs.

3  
4 **FIRST CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**

5 **RELIEF**

6 **Right to Privacy**

7 **(U.S. Const., amend. XIV; 42 U.S.C. § 1983)**

8 87. Plaintiffs incorporate herein by this reference all preceding paragraphs  
9 of this Complaint as if set forth in full.

10 88. The Fourteenth Amendment to the United States Constitution protects  
11 the right to privacy, which includes “the individual interest in avoiding disclosure  
12 of personal matters.” *Nixon v. Adm’r of General Servs.*, 433 U.S. 425, 457 (1977)  
13 (quoting *Whalen v. Roe*, 429 U.S. 589, 599 (1977)).

14 89. Generally, the right of privacy involves “those personal rights that can  
15 be deemed fundamental or implicit in the concept of ordered liberty.” *Roe v. Wade*,  
16 410 U.S. 113, 152 (1973); *Palko v. Connecticut*, 302 U.S. 319, 325 (1937).

17 90. The Supreme Court has expressly recognized the “threat to privacy  
18 implicit in the accumulation of vast amounts of personal information in  
19 computerized data banks or other massive government files.” *Whalen*, 429 U.S. at  
20 605; *see also NASA v. Nelson*, 562 U.S. 134, 155 (2011).

21 91. An “informational privacy” interest is an interest in precluding the  
22 disclosure, dissemination, or misuse of personal matters or sensitive personal  
23 confidential information. *See Whalen*, 429 U.S. at 605 (1977); *Roe*, 410 U.S. at  
24 152.

25 92. “[I]nformation may be classified as ‘private’ if it is ‘intended for or  
26 restricted to the use of a particular person or group or class of persons: not freely  
27 available to the public.’” *U.S. Dep’t of Just. v. Reps. Comm. For Freedom of Press*,  
28 489 U.S. 749, 763 (1989) (citation omitted). Indeed, “a strong privacy interest

1 inheres in the nondisclosure of compiled computerized information . . . .” *Id.* at  
 2 766. The fact that “an event is not wholly private does not mean that an individual  
 3 has no interest in limiting disclosure or dissemination of the information.” *Id.* at  
 4 770 (internal quotation marks omitted).

5 93. Plaintiffs disclosed their Personal Information to Defendants only  
 6 because Plaintiffs were required by law to do so as a condition on Plaintiffs’  
 7 constitutionally protected right to purchase firearms. *See Teixeira v. Cty. of*  
 8 *Alameda*, 873 F.3d 670, 678 (9th Cir. 2017); *Bauer v. Becerra*, 858 F.3d 1216,  
 9 1222–23 (9th Cir. 2017); *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir.  
 10 2011).

11 94. Plaintiffs have not otherwise publicly disclosed their Personal  
 12 Information, nor is Plaintiffs’ Personal Information otherwise publicly available.

13 95. “[T]he right to informational privacy applies both when an individual  
 14 chooses not to disclose highly sensitive information to the government and when an  
 15 individual seeks assurance that such information will not be made public.” *Planned*  
 16 *Parenthood of Southern Arizona v. Lawall*, 307 F.3d 783, 789–90 (9th Cir. 2002)  
 17 (citations omitted).

18 96. Plaintiffs are and were entitled to a reasonable expectation of privacy  
 19 and confidentiality in their Personal Information.

20 97. Before Plaintiffs disclosed their Personal Information, Defendants  
 21 represented that Plaintiffs’ Personal Information would be used for law  
 22 enforcement purposes only.<sup>28</sup>

23 98. Plaintiffs disclosed their Personal Information in reliance on  
 24 Defendants’ representations that Plaintiffs’ Personal Information would be used for  
 25 law enforcement purposes only and would remain confidential.

26 \_\_\_\_\_  
 27 <sup>28</sup> *See, e.g.,* State of California Department of Justice, *Privacy Policy Statement*,  
 28 <https://oag.ca.gov/privacy-policy> (last visited Dec. 21, 2021), attached hereto as  
**Exhibit 23.**

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1           99. Plaintiffs reasonably expected that their Personal Information would  
2 be kept confidential within the government and would be used for law enforcement  
3 purposes only.

4           100. “To decide if the government may seek or use private information,  
5 courts balance the government’s interest in having or using the information against  
6 the individual’s interest in denying access.” *Doe v. Attorney General of U.S.*, 941  
7 F.2d 780, 796 (9th Cir. 1991), *disapproved on other grounds by Lane v. Pena*, 518  
8 US 187, 191–93 (1996). The government may use information covered by the right  
9 to privacy only if it can show “that its use of the information would advance a  
10 legitimate state interest and that its actions are narrowly tailored to meet the  
11 legitimate interest.” *Id.* (citing *Thorne v. City of El Segundo*, 726 F.2d 459, 469–71  
12 (9th Cir. 1983), *cert. denied*, 469 U.S. 979 (1984)).

13           101. By engaging in the conduct set forth herein, Defendants have  
14 committed, and will continue to commit, serious invasions of Plaintiffs’ privacy  
15 interests, including their informational privacy.

16           102. Disclosing Plaintiffs’ Personal Information to non-government  
17 researchers at the California Firearm Violence Research Center and other nonprofit  
18 accredited research centers under the permissive regime established by the AB 173  
19 Amendments does not advance any legitimate state interest and, even if it did,  
20 disclosure of Plaintiffs’ Personal Information is not a necessary nor narrowly-  
21 tailored means of achieving such state interest.

22           103. Therefore, to the extent that California Penal Code sections 11106,  
23 14231, and 30352, as amended by AB 173, authorize or compel disclosure of  
24 Plaintiffs’ Personal Information to researchers at the California Firearm Violence  
25 Research Center and other nonprofit bona fide accredited research centers, those  
26 sections violate and infringe upon Plaintiffs’ constitutionally protected right to  
27 privacy under the Fourteenth Amendment to the United States Constitution.  
28

1 104. Accordingly, there is an actual and present controversy between the  
2 parties. Plaintiffs seek a declaration that California Penal Code sections 11106,  
3 14231, and 30352, as amended by AB 173, violate the Fourteenth Amendment to  
4 the United States Constitution, to the extent those sections authorize disclosure of  
5 Personal Information to researchers at the California Firearm Violence Research  
6 Center and any other nonprofit bona fide accredited research centers.

7 105. Plaintiffs also seek an injunction prohibiting Defendants from  
8 enforcing California Penal Code sections 11106, 14231, and 30352, as amended by  
9 AB 173, to the extent those sections authorize disclosure of Personal Information to  
10 researchers at the California Firearm Violence Research Center and any other  
11 nonprofit bona fide accredited research centers.

12  
13 **SECOND CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**

14 **RELIEF**

15 **Right to Keep and Bear Arms**

16 **(U.S. Const., amends. II and XIV; 42 U.S.C. § 1983)**

17 106. Plaintiffs incorporate herein by this reference all preceding paragraphs  
18 of this Complaint as if set forth in full.

19 107. The Second Amendment to the United States Constitution declares:  
20 “the right of the people to keep and bear arms shall not be infringed.” U.S. Const.  
21 amend. II.

22 108. The Second Amendment protects the people’s fundamental, individual  
23 right to keep and bear—and thus to acquire, possess, transport, and use—arms for  
24 lawful purposes.

25 109. The Second Amendment “guarantee[s] the individual right to possess  
26 and carry” arms and “elevates above all other interests the right of law-abiding  
27 responsible citizens to use arms in defense of hearth and home.” *District of*  
28 *Columbia v. Heller*, 554 U.S. 570, 635 (2008).

1           110. The United States Supreme Court has also held that the Second  
2 Amendment right to keep and bear arms is a fundamental right, incorporated into  
3 the Due Process Clause of the Fourteenth Amendment and, thus, may not be  
4 infringed by state governments. *McDonald v. City of Chicago*, 561 U.S. 742, 750,  
5 778 (2010).

6           111. The text, history, and tradition of the Second Amendment dictate that  
7 the Second Amendment protects the right to purchase firearms. The fundamental  
8 right to possess firearms for protection necessarily implies a corresponding right to  
9 purchase firearms—the core right to possess firearms wouldn’t mean anything  
10 without the ability to purchase firearms in the first instance. *See Heller*, 554 U.S. at  
11 616–19; *Bauer*, 858 F.3d at 1222–23; *Ezell*, 651 F.3d at 704. Restrictions that limit  
12 or condition the ability of law-abiding citizens to purchase a firearm, thus,  
13 necessarily burden the Second Amendment rights of those citizens.

14           112. When a law burdens a fundamental right, under any standard of  
15 scrutiny, the government must show that the law furthers a governmental interest  
16 and the law is tailored in a manner that avoids unnecessary infringement on that  
17 fundamental right.

18           113. The tailoring requirement is of crucial importance in cases involving a  
19 compelled disclosure: “even a ‘legitimate and substantial’ government interest  
20 ‘cannot be pursued by means that broadly stifle fundamental personal liberties  
21 when the end can be more narrowly achieved.’” *Ams. for Prosperity Foundation v.*  
22 *Bonta*, 141 S. Ct. 2373, 2384 (2021) (quoting *Shelton v. Tucker*, 364 U.S. 479, 488  
23 (1960)).

24           114. Plaintiffs are law-abiding citizens who exercised their Second  
25 Amendment rights to purchase firearms from a licensed firearms dealer in the State  
26 of California and, as a condition of doing so, complied with California’s firearms-  
27 related laws.

28

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1           115. Plaintiffs disclosed their Personal Information to Defendants only  
2 because Plaintiffs were required by law to do so as a condition on Plaintiffs’  
3 exercise of their Second Amendment right to purchase firearms.

4           116. In taking Plaintiffs’ Personal Information, Defendants affirmatively  
5 assured Plaintiffs that their Personal Information would be kept private and  
6 confidential and would be used only for law enforcement purposes.

7           117. Under the AB 173 Amendments, Plaintiffs are informed and believe,  
8 and based thereon allege, that Cal DOJ has and will continue to disclose Plaintiffs’  
9 Personal Information to unaccountable and unidentified non-governmental actors,  
10 including researchers at the California Firearm Violence Research Center and other  
11 nonprofit bona fide accredited research centers.

12           118. As a result of those disclosures, Plaintiffs legitimately fear for their  
13 privacy and physical security.

14           119. Disclosure of Plaintiffs’ Personal Information to non-governmental,  
15 unaccountable, third-party researchers at the California Firearm Violence Research  
16 Center and any other nonprofit accredited research centers, as is required under the  
17 AB 173 Amendments, does not advance or relate to any legitimate state interest.

18           120. Under California law, including the AB 173 Amendments, Plaintiffs  
19 must either agree to the disclosure of their Personal Information to third-party non-  
20 governmental researchers, which gives rise to the risks to Plaintiffs’ privacy and  
21 physical security, or relinquish their constitutionally protected right to purchase  
22 firearms. Either way, under the AB 173 Amendments, Plaintiffs stand to lose their  
23 constitutional freedoms—and thus suffer irreparable harm.

24           121. The AB 173 Amendments impermissibly burden Plaintiffs’ exercise of  
25 their constitutionally protected rights to keep and to bear arms. The AB 173  
26 Amendments are intended to have the effect of discouraging California residents  
27 from exercising their constitutionally protected rights to keep and to bear arms.  
28 The AB 173 Amendments will have the effect of chilling the exercise of the rights



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1 to keep and to bear arms that are protected by the Second Amendment of the United  
2 States Constitution.

3 122. Furthermore, any legitimate, important or compelling government  
4 interests to be advanced by the AB 173 Amendments can be met without the  
5 disclosure of Personal Information as authorized by the AB 173 Amendments.

6 123. Accordingly, there is an actual and present controversy between the  
7 parties. Plaintiffs seek a declaration that California Penal Code sections 11106,  
8 14231, and 30352, as amended by AB 173, violate the Second Amendment to the  
9 United States Constitution, to the extent those sections authorize disclosure of  
10 Personal Information to researchers at the California Firearm Violence Research  
11 Center and any other nonprofit accredited research centers.

12 124. Plaintiffs also seek an injunction prohibiting Defendants from  
13 enforcing California Penal Code sections 11106, 14231, and 30352, as amended by  
14 AB 173, to the extent those sections authorize disclosure of personal identifying  
15 information to researchers at the California Firearm Violence Research Center and  
16 any other nonprofit bona fide accredited research centers.

17  
18 **THIRD CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**

19 **RELIEF**

20 **Right to Privacy**

21 **(Cal. Const., Art. I, § 1)**

22 125. Plaintiffs incorporate herein by this reference all preceding paragraphs  
23 of this Complaint as if set forth in full.

24 126. Section 1 of Article I of the California Constitution states:

25 All people are by nature free and independent and have inalienable  
26 rights. Among these are enjoying and defending life and liberty,  
27 acquiring, possessing, and protecting property, and pursuing and  
obtaining safety, happiness, and privacy.

28 Cal. Const., Art. I, § 1.

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1           127. The right to privacy set forth in Section 1 of Article I of the California  
2 Constitution prevents the government and its agencies from stockpiling  
3 unnecessary information about California citizens and disclosing that information  
4 to non-governmental persons and institutions for non-law enforcement purposes.

5           128. The California Supreme Court has made clear that the right of privacy  
6 guaranteed under Section 1 of Article I of the California Constitution “is broader  
7 and more protective of privacy than the federal constitutional right of privacy as  
8 interpreted by the federal courts.” *American Academy of Pediatrics v. Lungren*, 16  
9 Cal. 4th 307, 325–26 (1997).

10           129. An “informational privacy” interest is an interest in precluding the  
11 dissemination or misuse of sensitive and confidential information.

12           130. Informational privacy is a core value furthered by the right of privacy  
13 set forth in Section 1 of Article I of the California Constitution.

14           131. Plaintiffs reasonably expected that their constitutionally protected  
15 Personal Information would be kept confidential within the government and would  
16 be used only for law enforcement purposes.

17           132. Plaintiffs are and were entitled to a reasonable expectation of privacy  
18 and confidentiality in their constitutionally protected Personal Information that  
19 Plaintiffs disclosed to the Cal DOJ as mandated by law.

20           133. Plaintiffs disclosed their constitutionally protected Personal  
21 Information in reliance on Defendants’ representations that Plaintiffs’ Personal  
22 Information would be used only for law enforcement purposes and would otherwise  
23 remain confidential.

24           134. Plaintiffs reasonably expected that their constitutionally protected  
25 Personal Information would be kept confidential within the government and would  
26 be used only for law enforcement purposes.

27           135. Defendants cannot show that the invasion of Plaintiffs’ privacy by  
28 disclosing Plaintiffs’ Personal Information furthers “legitimate and important

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1 competing interests,” and that there are no “feasible and effective alternatives” that  
2 have “a lesser impact on privacy interests.” *Hill v. National Collegiate Athletic*  
3 *Ass’n*, 7 Cal. 4th 1, 37–40 (1994).

4 136. There is no legitimate interest for Defendants to disclose Plaintiffs’  
5 Personal Information to third-party researchers. To the extent any countervailing  
6 state interest exists (there is none), there are other feasible alternatives that do not  
7 require disclosure of Plaintiffs’ Personal Information.

8 137. California Penal Code sections 11106, 14231, and 30352, as amended  
9 by AB 173, to the extent those sections permit disclosure of Plaintiffs’ Personal  
10 Information to researchers at the California Firearm Violence Research Center and  
11 any other nonprofit bona fide accredited research center, violate Plaintiffs’  
12 constitutionally protected right to privacy under Section 1 of Article I of the  
13 California Constitution.

14 138. By engaging in the conduct set forth herein, Defendants have  
15 committed, and will continue to commit, serious invasions of Plaintiffs’ privacy  
16 interests, including their informational privacy.

17 139. Accordingly, there is an actual and present controversy between the  
18 parties. Plaintiffs seek a declaration that California Penal Code sections 11106,  
19 14231, and 30352, as amended by AB 173, violate Section 1 of Article I of the  
20 California Constitution, to the extent those sections authorize disclosure of Personal  
21 Information to researchers at the California Firearm Violence Research Center and  
22 any other nonprofit bona fide accredited research centers.

23 140. Plaintiffs also seek an injunction prohibiting Defendants from  
24 enforcing California Penal Code sections 11106, 14231, and 30352, as amended by  
25 AB 173, to the extent those sections authorize disclosure of personal identifying  
26 information to researchers at the California Firearm Violence Research Center and  
27 any other nonprofit bona fide accredited research centers.

28

**FOURTH CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**  
**RELIEF**

**Right to Privacy**

**(Cal. Civ. Code §§ 1798, *et seq.*)**

141. Plaintiffs incorporate herein by this reference all preceding paragraphs of this Complaint as if set forth in full.

142. The California Legislature codified the right to privacy in the Information Practices Act of 1977 (the “IPA”), Cal. Civ. Code §§ 1798, *et seq.*

143. In enacting the IPA, the California Legislature specifically declared that “the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them.”

Cal. Civ. Code § 1798.1. The IPA was enacted based upon the California Legislature’s findings that:

(a) The right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies.

(b) The increasing use of computers and other sophisticated information technology has greatly magnified the potential risk to individual privacy that can occur from the maintenance of personal information.

(c) In order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits.

*Id.*

144. In view of those legislative findings, the California Legislature enacted the IPA, which prohibits state agencies<sup>29</sup> from disclosing Personal Information in a manner linking the information disclosed to the individual to whom it pertains unless the disclosure of the information is covered by specified exemptions. Cal. Civ. Code § 1798.24.

<sup>29</sup> Cal. Civ. Code § 1798.3(b) (defining “state agency”).

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1           145. The IPA defines personal information as “any information that is  
2 maintained by an agency that identifies or describes an individual, including, but  
3 not limited to, his or her name, social security number, physical description, home  
4 address, home telephone number, education, financial matters, and medical or  
5 employment history. It includes statements made by, or attributed to, the  
6 individual.” Cal. Civ. Code § 1798.3(a).

7           146. An individual may bring a civil action against an agency whenever the  
8 agency fails to comply with any provision of the IPA or any rule promulgated  
9 thereunder, in a way that has an adverse effect on the individual. Cal. Civ. Code §  
10 1798.45(c).

11           147. Any agency that fails to comply with any provision of the IPA may be  
12 enjoined from using or employing any practices that violate the IPA. Cal. Civ.  
13 Code § 1798.47.

14           148. The IPA does not authorize the Attorney General or the Cal DOJ to  
15 disclose Plaintiffs’ protected Personal Information to the California Firearm  
16 Violence Research Center, or to any other third-party “bona fide research  
17 institution.”

18           149. Plaintiffs reasonably expected that their Personal Information would  
19 be kept confidential within the government and would be used only for law  
20 enforcement purposes.

21           150. Plaintiffs are and were entitled to a reasonable expectation of  
22 confidentiality in their Personal Information disclosed to the Cal DOJ as mandated  
23 by law. Plaintiffs disclosed that information in reliance on Defendants’  
24 representations that Plaintiffs’ Personal Information would be used only for law  
25 enforcement purposes and would remain confidential.

26           151. Accordingly, there is an actual and present controversy between the  
27 parties. Plaintiffs seek a declaration that California Penal Code sections 11106,  
28 14231, and 30352, as amended by AB 173, violate the IPA, Cal. Civ. Code §§

1 1798, *et seq.*, to the extent those sections authorize disclosure of personal  
2 identifying information to researchers at the California Firearm Violence Research  
3 Center and other nonprofit bona fide accredited research centers.

4 152. Plaintiffs also seek an injunction prohibiting Defendants from  
5 implementing and enforcing California Penal Code sections 11106, 14231, and  
6 30352, as amended by AB 173, to the extent those sections authorize disclosure of  
7 personal identifying information to researchers at the California Firearm Violence  
8 Research Center and other nonprofit bona fide accredited research centers, in  
9 violation of the IPA, Cal. Civ. Code §§ 1798, *et seq.*

10  
11 **FIFTH CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**  
12 **RELIEF**

13 **Due Process – Unconstitutional Retroactive Application**  
14 **(U.S. Const. amend. XIV; 42 U.S.C. § 1983)**

15 153. Plaintiffs incorporate herein by this reference all preceding paragraphs  
16 of this Complaint as if set forth in full.

17 154. The Fourteenth Amendment provides that no State shall “deprive any  
18 person of life, liberty, or property, without due process of law . . . .” U.S. Const.,  
19 Amend. XIV.

20 155. The antiretroactivity principle finds expression in several provisions of  
21 the United States Constitution, including the Due Process Clauses of the Fifth and  
22 Fourteenth Amendments. *See Landgraf v. Usi Film Prods.*, 511 U.S. 244, 266  
23 (1994). The Due Process Clause “protects the interests in fair notice and repose  
24 that may be compromised by retroactive legislation; a justification sufficient to  
25 validate a statute’s prospective application under the Clause ‘may not suffice’ to  
26 warrant its retroactive application.” *Id.* (quoting *Usery v. Turner Elkhorn Mining*  
27 *Co.*, 428 U.S. 1, 17 (1976)).  
28

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1           156. The Supreme Court has described the general antiretroactivity  
2 principle as follows:

3           [The] first rule of construction is that legislation must be considered as  
4 addressed to the future, not to the past. . . . The rule has been expressed  
5 in varying degrees of strength but always of one import, that a  
6 retrospective operation will not be given to a statute which interferes  
with antecedent rights . . . unless such be “the unequivocal and inflexible  
import of the terms, and the manifest intention of the legislature.”

7 *United States v. Sec. Indus. Bank*, 459 U.S. 70, 79 (1982) (quoting *Union Pacific R.*  
8 *Co. v. Laramie Stock Yards Co.*, 231 U.S. 190, 199 (1913) (citations omitted)).

9           157. “[T]he presumption against retroactive legislation is deeply rooted in  
10 [the Supreme Court’s] jurisprudence, and embodies a legal doctrine centuries older  
11 than our Republic. Elementary considerations of fairness dictate that individuals  
12 should have an opportunity to know what the law is and to conform their conduct  
13 accordingly; settled expectations should not be lightly disrupted.” *Landgraf*, 511  
14 U.S. at 265 (footnotes omitted). Statutory construction thus favors prospective  
15 application, absent clear legislative language to the contrary. *Id.*

16           158. AB 173 amends California Penal Code section 11106 to add  
17 subdivision (d) which provides, in part, as follows: “All information collected  
18 pursuant to this section shall be maintained by the department and shall be available  
19 to researchers affiliated with the California Firearm Violence Research Center at  
20 UC Davis for academic and policy research purposes upon proper request and  
21 following approval by the center’s governing institutional review board when  
22 required.” 2021 Cal. Stat., Ch. 253, §§ 2 & 2.5; Cal. Penal Code § 11106(d) (eff.  
23 Sept. 23, 2021).

24           159. AB 173 also amends California Penal Code section 30352(b).  
25 Whereas, before AB 173’s amendments, section 30352(b) expressly limited the Cal  
26 DOJ’s use of Personal Information to law enforcement purposes only, AB 173  
27 amends California Penal Code section 30352(b) to add subdivisions (b)(1) and (2),  
28 which require the Cal DOJ to make Plaintiffs’ Personal Information available to

1 researchers affiliated with the California Firearm Violence Research Center at UC  
 2 Davis and, subject to the Cal DOJ’s discretion, any other nonprofit bona fide  
 3 accredited research institution. *Compare* 2016 Cal. Legis. Serv. Prop. 63, § 8.13,  
 4 *and* Cal. Penal Code § 3052(b) (eff. Jan. 1, 2017 to Sept. 22, 2021), *with* 2021 Cal.  
 5 Stat., Ch. 253, § 11, *and* Cal. Penal Code § 3052(b) (eff. Sept. 23, 2021).

6 160. Plaintiffs have a constitutionally protected privacy interest in their  
 7 Personal Information. *See Whalen*, 429 U.S. at 605 (1977); *Roe*, 410 U.S. at 152;  
 8 *Planned Parenthood of Southern Arizona*, 307 F.3d at 789–90 (“the right to  
 9 informational privacy applies both when an individual chooses not to disclose  
 10 highly sensitive information to the government and when an individual seeks  
 11 assurance that such information will not be made public”) (citations omitted).

12 161. Application of California Penal Code sections 11106 and 30352, as  
 13 amended by AB 173, retroactively to Plaintiffs and their Personal Information—  
 14 which was disclosed and reported to the Cal DOJ prior to the passage of AB 173—  
 15 would be an unlawful retroactive application, without valid justification,  
 16 constituting a deprivation of liberty or property without due process of law, in  
 17 violation of the Fourteenth Amendment of the United States Constitution.

18 162. Prior to the passage of AB 173, California Penal Code section 11106  
 19 expressly limited disclosure of Plaintiffs’ Personal Information collected pursuant  
 20 to that section only to a limited class of statutorily defined governmental actors and  
 21 agencies, and only for law enforcement purposes. *Compare* Cal. Penal Code §§  
 22 11106(a)(2) & (c) (eff. Jan. 1, 2021 to Sept. 22, 2021), *with* Cal. Penal Code §  
 23 11106 (eff. Sept. 23, 2021).

24 163. Prior to the passage of AB 173, California Penal Code section 30352  
 25 expressly limited disclosure of Plaintiffs’ Personal Information collected pursuant  
 26 to that section only to a limited class of statutorily defined governmental actors and  
 27 agencies, and only for law enforcement purposes. *Compare* 2016 Cal. Legis. Serv.  
 28 Prop. 63, § 8.13, *and* Cal. Penal Code § 3052(b) (eff. Jan. 1, 2017 to Sept. 22,

1 2021), *with* 2021 Cal. Stat., Ch. 253, § 11, *and* Cal. Penal Code § 3052(b) (eff.  
2 Sept. 23, 2021).

3 164. Plaintiffs disclosed their Personal Information to Defendants only  
4 because Plaintiffs were required by law to do so as a condition on Plaintiffs’  
5 constitutionally protected right to purchase firearms. *See Teixeira*, 873 F.3d at 678;  
6 *Bauer*, 858 F.3d at 1222–23; *Ezell*, 651 F.3d at 704.

7 165. When Plaintiffs disclosed their Personal Information, Plaintiffs did so  
8 because Defendants represented that Plaintiffs’ Personal Information would be used  
9 only for law enforcement purposes and would remain confidential.

10 166. Plaintiffs further relied on prior law which expressly proscribed the  
11 Cal DOJ’s authority to disseminate Plaintiffs’ Personal Information for law  
12 enforcement purposes only.

13 167. Plaintiffs have not otherwise publicly disclosed their Personal  
14 Information, nor is Plaintiffs’ Personal Information otherwise publicly available.

15 168. Plaintiffs were and are entitled to a reasonable expectation of privacy  
16 and confidentiality in their Personal Information.

17 169. Plaintiffs reasonably expected that their Personal Information would  
18 be kept confidential within the government and would be used only for law  
19 enforcement purposes.

20 170. The Due Process Clause also protects against retroactive legislation  
21 that is arbitrary or irrational, and a justification adequate for prospective legislation  
22 might be insufficient to satisfy due process for retroactive aspects of the legislation.  
23 *Usery*, 428 U.S. at 16–17; *see also E. Enters. v. Apfel*, 524 U.S. 498, 548 (1998)  
24 (Kennedy, J., concurring) (concurring opinion would have invalidated statute on  
25 due process grounds because it did not bear any “legitimate relation to the interest  
26 which the Government asserts in support of the statute”).

27 171. There is no legitimate interest for Defendants to disclose Plaintiffs’  
28 Personal Information to third-party researchers. To the extent any countervailing

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1 state interest exists (there is none), there are other feasible alternatives that do not  
2 require disclosure of Plaintiffs’ Personal Information.

3 172. Accordingly, there is an actual and present controversy between the  
4 parties. Plaintiffs seek a declaration that retroactive application of California Penal  
5 Code sections 11106 and 30352, as amended by AB 173, violate the Fourteenth  
6 Amendment to the United States Constitution.

7 173. Plaintiffs also seek an injunction prohibiting Defendants from  
8 implementing California Penal Code section 11106 and 30352, as amended by AB  
9 173, to the extent those sections authorize disclosure of Plaintiffs’ personal  
10 identifying information, obtained under prior law, to researchers at the California  
11 Firearm Violence Research Center and any other nonprofit bona fide accredited  
12 research centers.

13  
14 **SIXTH CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**  
15 **RELIEF**

16 **Unlawful Retroactive Application**

17 **(Cal. Const., Art. I, §§ I & VII; Cal. Penal Code § 3)**

18 174. Plaintiffs incorporate herein by this reference all preceding paragraphs  
19 of this Complaint as if set forth in full.

20 175. Section 1 of Article I of the California Constitution states:

21 All people are by nature free and independent and have inalienable  
22 rights. Among these are enjoying and defending life and liberty,  
23 acquiring, possessing, and protecting property, and pursuing and  
obtaining safety, happiness, and privacy.

24 Cal. Const., Art. I, § 1.

25 176. Section 7 of Article I of the California Constitution states, in part, the  
26 following:

27 A person may not be deprived of life, liberty, or property without due  
28 process of law or denied equal protection of the laws; provided, that  
nothing contained herein or elsewhere in this Constitution imposes upon

1 the State of California or any public entity, board, or official any  
2 obligations or responsibilities which exceed those imposed by the Equal  
3 Protection Clause of the 14th Amendment to the United States  
4 Constitution with respect to the use of pupil school assignment or pupil  
5 transportation.

6 Cal. Const., Art. I, § 7(a).

7 177. California adheres to the “time-honored principle” that “in the absence  
8 of an express retroactivity provision, a statute will not be applied retroactively  
9 unless it is very clear from extrinsic sources that the Legislature or the voters must  
10 have intended a retroactive application.” *Evangelatos v. Superior Court*, 44 Cal. 3d  
11 1188, 1208–09 (1988).

12 178. The California Supreme Court has adopted the following description  
13 of the general antiretroactivity principle by the United States Supreme Court:

14 “[The] first rule of construction is that legislation must be considered as  
15 addressed to the future, not to the past. . . . The rule has been expressed  
16 in varying degrees of strength but always of one import, that a  
17 retrospective operation will not be given to a statute which interferes  
18 with antecedent rights . . . unless such be “the unequivocal and inflexible  
19 import of the terms, and the manifest intention of the legislature.”

20 *Id.* at 1207 (quoting *Sec. Indus. Bank*, 459 U.S. at 79).

21 179. California Penal Code section 3, one of the general statutory  
22 provisions governing the interpretation of all the provisions of the Penal Code—  
23 including the provisions amended by AB 173—represents a specific legislative  
24 codification of the antiretroactivity principle, declaring that “No part of it is  
25 retroactive, unless expressly so declared.” Cal. Penal Code § 3; *see also*  
26 *Evangelatos*, 44 Cal. 3d at 1207–08 (construing a similar provision of the  
27 California Civil Code).

28 180. Application of California Penal Code sections 11106 and 30352, as  
amended by AB 173, retroactively to Plaintiffs and their Personal Information—  
which was disclosed and reported to the Cal DOJ prior to the passage of AB 173—  
would be an unlawful retroactive application, without valid justification,  
constituting a deprivation of liberty or property without due process of law, in

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1 violation of the California Constitution, and in violation of California Penal Code  
2 section 3.

3 181. Prior to the passage of AB 173, California Penal Code section 11106  
4 expressly limited disclosure of Plaintiffs' Personal Information collected pursuant  
5 to that section only to a limited class of statutorily defined governmental actors and  
6 agencies, and only for law enforcement purposes. *Compare* Cal. Penal Code §§  
7 11106(a)(2) & (c) (eff. Jan. 1, 2021 to Sept. 22, 2021), *with* Cal. Penal Code §  
8 11106 (eff. Sept. 23, 2021).

9 182. Prior to the passage of AB 173, California Penal Code section 30352  
10 expressly limited disclosure of Plaintiffs' Personal Information collected pursuant  
11 to that section only to a limited class of statutorily defined governmental actors and  
12 agencies, and only for law enforcement purposes. *Compare* 2016 Cal. Legis. Serv.  
13 Prop. 63, § 8.13, *and* Cal. Penal Code § 3052(b) (eff. Jan. 1, 2017 to Sept. 22,  
14 2021), *with* 2021 Cal. Stat., Ch. 253, § 11, *and* Cal. Penal Code § 3052(b) (eff.  
15 Sept. 23, 2021).

16 183. Plaintiffs disclosed their Personal Information to Defendants only  
17 because Plaintiffs were required by law to do so as a condition on Plaintiffs'  
18 constitutionally protected right to purchase firearms. *See Teixeira*, 873 F.3d at 678;  
19 *Bauer*, 858 F.3d at 1222–23; *Ezell*, 651 F.3d at 704.

20 184. When Plaintiffs disclosed their Personal Information, Plaintiffs did so  
21 because Defendants represented that Plaintiffs' Personal Information would be used  
22 only for law enforcement purposes and would remain confidential.

23 185. Plaintiffs further relied on prior law which expressly proscribed the  
24 Cal DOJ's authority to disseminate Plaintiffs' Personal Information for law  
25 enforcement purposes only.

26 186. Plaintiffs have not otherwise publicly disclosed their Personal  
27 Information, nor is Plaintiffs' Personal Information otherwise publicly available.  
28



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1 187. Plaintiffs are and were entitled to a reasonable expectation of privacy  
2 and confidentiality in their Personal Information.

3 188. Plaintiffs reasonably expected that their Personal Information would  
4 be kept confidential within the government and would be used only for law  
5 enforcement purposes.

6 189. There is no legitimate interest for Defendants to disclose Plaintiffs’  
7 Personal Information to third-party researchers. To the extent any countervailing  
8 state interest exists (there is none), there are other feasible alternatives that do not  
9 require disclosure of Plaintiffs’ Personal Information.

10 190. Accordingly, there is an actual and present controversy between the  
11 parties. Plaintiffs seek a declaration that retroactive application of California Penal  
12 Code sections 11106 and 30352, as amended by AB 173, violate the California  
13 Constitution and California Penal Code section 3.

14 191. Plaintiffs also seek an injunction prohibiting Defendants from  
15 implementing California Penal Code sections 11106 and 30352, as amended by AB  
16 173, to the extent those sections authorize disclosure of Plaintiffs’ personal  
17 identifying information, obtained under prior law, to researchers at the California  
18 Firearm Violence Research Center and any other nonprofit bona fide accredited  
19 research centers.

20  
21 **SEVENTH CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**

22 **RELIEF**

23 **Supremacy Clause – Privacy Act Preemption**

24 **(U.S. Const., Art. VI, § 2)**

25 192. Plaintiffs incorporate herein by this reference all preceding paragraphs  
26 of this Complaint as if set forth in full.

27 193. The Supremacy Clause, Article VI, Section 2, of the United States  
28 Constitution provides:

1 This Constitution, and the Laws of the United States which shall be  
2 made in Pursuance thereof; and all Treaties made, or which shall be  
3 made, under the Authority of the United States, shall be the supreme  
4 Law of the Land; and the Judges in every State shall be bound thereby,  
5 any Thing in the Constitution of Laws of any State to the Contrary  
6 notwithstanding.

7 194. The Supremacy Clause mandates that federal law preempts state law in  
8 any area over which Congress expressly or impliedly has reserved exclusive  
9 authority or which is constitutionally reserved to the federal government, or where  
10 state law conflicts or interferes with federal law.

11 195. “A plaintiff who seeks injunctive relief from state regulation, on the  
12 ground that such regulation is pre-empted by a federal statute which, by virtue of  
13 the Supremacy Clause of the Constitution, must prevail, thus presents a federal  
14 question which the federal courts have jurisdiction under 28 U.S.C. § 1331 to  
15 resolve.” *Shaw v. Delta Airlines, Inc.*, 463 U.S. 85, 96 n.14 (1983) (internal  
16 citations omitted). Indeed, “[a] party may seek injunctive relief under the  
17 Supremacy Clause regardless of whether the federal statute at issue confers any  
18 substantive rights on would-be plaintiffs.” *Indep. Living Ctr. of S. California, Inc.*  
19 *v. Shewry*, 543 F.3d 1050, 1062 (9th Cir. 2008).

20 196. Section 7(b) of the Privacy Act of 1974, Pub. L. No. 93–579, 88 Stat.  
21 1909 (1974), *reprinted in* 5 U.S.C § 552a note, provides as follows:

22 Any Federal, State, or local government agency which requests an  
23 individual to disclose his social security account number shall inform  
24 that individual whether that disclosure is mandatory or voluntary, by  
25 what statutory or other authority such number is solicited, and what uses  
26 will be made of it.

27 197. Under California law, applications for licenses to carry a concealed  
28 firearm must be made on the form prescribed by the Attorney General. Cal. Penal  
Code § 26175(a). The standard application form requires information from the  
applicant including the applicant’s social security number. *See Exhibit 8* at 9 (§ 7);  
*see also id.* at 2, ¶¶ 2–3 (“Important Instructions”).

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1           198. In order to obtain, and subsequently to renew, his license to carry a  
2 concealed firearm, John Doe No. 4 provided his social security number to the  
3 licensing authority. John Doe No. 4 is informed and believes, and thereon alleges,  
4 that the licensing authority transmitted his Personal Information, including his  
5 social security number, to the Cal DOJ.

6           199. The standard application form prescribed by the Attorney General did  
7 not specify whether disclosure of the social security number is mandatory or  
8 voluntary, by what statutory or other authority the number was requested, or what  
9 uses would be made of the number, or the specific consequences of not providing  
10 the number, or the possible dissemination of the number, nor was John Doe No. 4  
11 notified of these facts before he applied for, or when he renewed, his license to  
12 carry a concealed firearm.

13           200. California Penal Code section 26175 is therefore preempted to the  
14 extent that statute compels disclosure of a social security number and Defendant  
15 may not enforce that statute.

16           201. California Penal Code section 11106 is therefore preempted to the  
17 extent that statute authorizes disclosure of a concealed firearm licensee’s social  
18 security number to researchers at the California Firearm Violence Research Center  
19 and any other nonprofit bona fide accredited research centers and Defendant may  
20 not enforce that statute.

21  
22           **EIGHTH CLAIM FOR RELIEF – DECLARATORY AND INJUNCTIVE**

23                           **RELIEF**

24                           **Unconstitutional Amendment to Voter Initiative**

25                           **(Cal. Const., Art. II, § 10)**

26           202. Plaintiffs incorporate herein by this reference all preceding paragraphs  
27 of this Complaint as if set forth in full.

28

1           203. Through Section 8 of Article II of the California Constitution, citizens  
2 reserved to themselves the power to “propose statutes and amendments to the  
3 Constitution and to adopt or reject them.” Cal. Const., Art. II, § 8(a). The  
4 California Constitution thus limits the authority of the legislature to amend or  
5 repeal an initiative passed by California voters: “[t]he Legislature . . . may amend or  
6 repeal an initiative statute by another statute that becomes effective only when  
7 approved by the electors unless the initiative statute permits amendment or repeal  
8 without their approval.” Cal. Const., Art. II, § 10(c).

9           204. The constitutional limitation on the Legislature’s power to amend  
10 initiative statutes is designed to “protect the people’s initiative powers by  
11 precluding the Legislature from undoing what the people have done, without the  
12 electorate’s consent.” *Proposition 103 Enforcement Project v. Quackenbush*, 64  
13 Cal. App. 4th 1473, 1484 (1998) (internal quotation marks omitted) (citations  
14 omitted).

15           205. The power vested in the voters to decide whether the Legislature can  
16 amend or repeal initiative statutes “is absolute and includes the power to enable  
17 legislative amendment subject to conditions attached by the voters.” *Amwest Surety*  
18 *Ins. Co. v. Wilson*, 11 Cal. 4th 1243, 1251 (1995). A proposition’s limitation on  
19 legislative authority “must be given the effect the voters intended it to have.” *Id.* at  
20 1255–56.

21           206. On November 8, 2016, California voters approved Proposition 63 –  
22 Safety for All Act, 2016 Cal. Legis. Serv. Prop. 63 (WEST) (“Prop 63”). Under  
23 prior law, background checks were not required to purchase firearm ammunition.  
24 Among other things, Prop 63 amended the California Penal Code to require  
25 ammunition vendors to be licensed, to require background checks for purchases of  
26 ammunition, and to add requirements for the reporting of ammunition purchaser  
27 information, including Personal Information, to the Cal DOJ. *See* 2016 Cal. Legis.  
28 Serv. Prop. 63, §§ 2, 8.6, 8.13.

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1           207. Prop 63 states that its purpose is to implement “common-sense  
2 reforms” to: keep guns and ammunition out of the hands of prohibited persons,  
3 2016 Cal. Legis. Serv. Prop. 63, § 3(1)–(2); ensure that persons purchasing  
4 ammunition are subject to a background check, *id.* § 3(3); and require reporting of  
5 lost or stolen ammunition and firearms, *id.* § 3(4), 3(6).

6           208. Prop 63 amended California Penal Code section 30352 to add  
7 subdivision (b), among other amendments to that section. *See* 2016 Cal. Legis.  
8 Serv. Prop. 63, § 8.13.

9           209. As amended by Prop 63—the language California voters approved—  
10 California Penal Code section 30352(b) provided the following:

11           (b) Commencing July 1, 2019, an ammunition vendor shall elec-  
12 tronically submit to the department the information required by  
13 subdivision (a) for all sales and transfers of ownership of ammunition.  
14 The department shall retain this information in a database to be known  
15 as the Ammunition Purchase Records File. This information shall  
16 remain confidential and may be used by the department and those  
17 entities specified in, and pursuant to, subdivision (b) or (c) of Section  
11105, through the California Law Enforcement Telecommunications  
System, only for law enforcement purposes. The ammunition vendor  
shall not use, sell, disclose, or share such information for any other  
purpose other than the submission required by this subdivision without  
the express written consent of the purchaser or transferee.

18 2016 Cal. Legis. Serv. Prop. 63, § 8.13; *see also* Cal. Penal Code § 3052(b)  
19 (eff. Jan. 1, 2017 to Sept. 22, 2021).

20           210. Regarding legislative amendments, Prop 63 provides that the measure  
21 “may be amended by a vote of 55 percent of the members of each house of the  
22 Legislature and signed by the Governor so long as such amendments are consistent  
23 with and further the intent of this Act.” 2016 Cal. Legis. Serv. Prop. 63, § 13; *see*  
24 *also Amwest*, 11 Cal. 4th at 1255–56 (a proposition’s limitation on legislative  
25 authority “must be given the effect the voters intended it to have”).

26           211. AB 173 amends California Penal Code section 30352(b) to remove the  
27 confidentiality protections that California voters expressly approved in Prop 63.  
28

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1           212. Whereas, before AB 173’s amendments, California Penal Code section  
2 30352(b) expressly proscribed the Cal DOJ’s use of Personal Information to law  
3 enforcement purposes only, AB 173 amends California Penal Code section  
4 30352(b) to add subdivisions (b)(1) and (2), which require the Cal DOJ to make  
5 Plaintiffs’ Personal Information available to researchers affiliated with the  
6 California Firearm Violence Research Center at UC Davis and, subject to the Cal  
7 DOJ’s discretion, any other nonprofit bona fide accredited research institution.  
8 *Compare* 2016 Cal. Legis. Serv. Prop. 63, § 8.13, *and* Cal. Penal Code § 3052(b)  
9 (eff. Jan. 1, 2017 to Sept. 22, 2021), *with* 2021 Cal. Stat., Ch. 253, § 11, *and* Cal.  
10 Penal Code § 3052(b) (eff. Sept. 23, 2021).

11           213. AB 173’s amendments to California Penal Code section 30352 to  
12 authorize dissemination of Personal Information to non-governmental researchers  
13 for non-law enforcement purposes is inconsistent with the will of the voters who  
14 voted to approve Proposition 63, which, in stark contrast, expressly proscribed the  
15 Cal DOJ’s authority to disseminate Personal Information within the government  
16 and only for law enforcement purposes.

17           214. Accordingly, there is an actual and present controversy between the  
18 parties. Plaintiffs seek a declaration that AB 173’s amendments to California Penal  
19 Code section 30352 are unconstitutional under Section 10 of Article II of the  
20 California Constitution.

21           215. Plaintiffs also seek an injunction prohibiting Defendants from  
22 enforcing California Penal Code section 30352, as amended by AB 173.

23 ///  
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1 relating to fiscal matters addressed in the budget bill violates the single-subject  
2 rule).

3 221. The Budget Act of 2021, Cal. Assembly Bill No. 128, appropriated  
4 funds for, among other items, “Support of the University of California.” Budget  
5 Act of 2021, § 2. That section provides, in relevant part, the following:

6 Of the funds appropriated in this item, \$1,000,000 shall be used for the  
7 University of California Firearm Violence Research Center. It is the  
8 intent of the Legislature that these funds be directly allocated by the  
9 University of California to the University of California Firearm  
Violence Research Center, and that the University of California and the  
University of California Davis campus shall not assess administrative  
costs or charges against these funds.

10 Budget Act of 2021, § 2, Item 6440-001-0001(13).

11 222. AB 173 exceeds the scope of the Budget Act of 2021 because AB 173  
12 expands the Cal DOJ’s authority under the California Penal Code to provide  
13 information not only to the California Firearm Violence Research Center, but to any  
14 other “bona fide research institution.”

15 223. AB 173 is an impermissible “substantive policy change masquerading  
16 as [a] Budget Act provision[.]” *Professional Engineers in California Government*  
17 *v. Schwarzenegger*, 50 Cal. 4th 989, 1049–50 (2010) (internal quotation marks  
18 omitted); *see also Harbor*, 43 Cal. 3d at 1100; *Homan v. Gomez*, 37 Cal. App. 4th  
19 597, 600–02 (1995) (budget bill that amended existing regulations regarding family  
20 leave for qualified prisoners constituted an amendment to substantive law in  
21 violation of the single-subject rule); *Planned Parenthood Affiliates*, 173 Cal. App.  
22 3d at 1199 (a section of a budget bill that restricted family planning funds for  
23 organizations that provided abortion-related services violated the single-subject rule  
24 because that section substantively amended existing law).

25 224. Accordingly, there is an actual and present controversy between the  
26 parties. Plaintiffs seek a declaration that AB 173 is an unconstitutional budget bill  
27 under Section 9 of Article IV of the California Constitution.  
28

1 225. Plaintiffs also seek an injunction prohibiting Defendants from  
2 enforcing the amendments made under AB 173 because AB 173 was enacted in  
3 violation of Section 9 of Article IV of the California Constitution.

4  
5 **TENTH CLAIM FOR RELIEF – DECLARATORY AND**  
6 **INJUNCTIVE RELIEF**

7 **Unconstitutional Budget Bill**  
8 **(Cal. Const., Art. IV, § 12)**

9 226. Plaintiffs incorporate herein by this reference all preceding paragraphs  
10 of this Complaint as if set forth in full.

11 227. In 2010, voters passed Proposition 25 allowing the Legislature to enact  
12 a budget and budget-related bills by a simple majority. *Howard Jarvis Taxpayers*  
13 *Ass’n v. Weber*, 67 Cal. App. 5th 488, 502 (2021).

14 228. “Proposition 25 adopted article IV, section 12, subdivision (e)(1),  
15 which exempts from the two-thirds requirement ‘the budget bill and other bills  
16 providing for appropriations related to the budget bill . . . .’” *Id.* (quoting Cal.  
17 Const., Art. IV, § 12(e)(1)). Other bills must be “identified as related to the budget  
18 in the budget bill passed by the Legislature.” Cal. Const., Art. IV, § 12(e)(2).

19 229. California courts have held that the phrase “other bills providing for  
20 appropriations related to the budget bill” include trailer bills, if those trailer bills  
21 contain appropriations and are identified as being related to the budget in the budget  
22 bill. *Weber*, 67 Cal. App. 4th at 502; *City of Cerritos v. State of California*, 239  
23 Cal. App. 4th 1020, 1053–1054, 1056 (2015). That interpretation also applies to  
24 trailer bills containing substantive revisions to existing law. *Weber*, 67 Cal. App.  
25 4th at 502.

26 230. The Budget Act of 2021, Cal. Assembly Bill No. 128, appropriated  
27 funds for, among other items, “Support of the University of California.” Budget  
28 Act of 2021, § 2. That section provides, in relevant part, the following:

1 Of the funds appropriated in this item, \$1,000,000 shall be used for the  
2 University of California Firearm Violence Research Center. It is the  
3 intent of the Legislature that these funds be directly allocated by the  
4 University of California to the University of California Firearm  
5 Violence Research Center, and that the University of California and the  
6 University of California Davis campus shall not assess administrative  
7 costs or charges against these funds.

8 Budget Act of 2021, § 2, Item 6440-001-0001(13).

9 231. That language was unaffected by subsequent amendments. *See* Cal.  
10 Assembly Bill No. 161 § 3(13).

11 232. AB 173 does not bear any rational, reasonable, or legitimate  
12 relationship to the budget appropriations made in the Budget Act of 2021.

13 233. AB 173’s substantive amendments to existing law are not related to the  
14 appropriations made under the Budget Act of 2021.

15 234. Accordingly, there is an actual and present controversy between the  
16 parties. Plaintiffs seek a declaration that AB 173 is an unconstitutional budget bill  
17 under Section 12 of Article IV of the California Constitution.

18 235. Plaintiffs also seek an injunction prohibiting Defendants from  
19 enforcing the amendments made under AB 173 because AB 173 was enacted in  
20 violation of Section 12 of Article IV of the California Constitution.

21 **ELEVENTH CLAIM FOR RELIEF – DECLARATORY RELIEF**

22 **(U.S. Const., amend. XIV; U.S. Const., amends. II and XIV; U.S. Const., Art.**  
23 **VI, § 2; Cal. Const., Art. I, § 1; Cal. Civ. Code §§ 1798, *et seq.*; Cal. Const.,**  
24 **Art. I, §§ 1 & 7; Cal. Const., Art. II, § 10; Cal. Const., Art. IV, § 9; Cal. Const.,**  
25 **Art. IV, § 12)**

26 236. Plaintiffs incorporate herein by this reference all preceding paragraphs  
27 of this Complaint as if set forth in full.

28 237. There is an actual and present controversy between the parties.  
Plaintiffs contend that California Penal Code sections 11106, 14231, and 30352, as  
amended by AB 173, infringe on the rights of Plaintiffs under the Second and

1 Fourteenth Amendments to the United States Constitution, Section 1 of Article I of  
2 the California Constitution, and the Information Practices Act of 1977, Cal. Civ.  
3 Code §§ 1798, *et seq.*, by, *inter alia*, unlawfully disclosing Plaintiffs' Personal  
4 Information to non-governmental third-parties for impermissible purposes, which  
5 information was disclosed in furtherance of, and attendant to, Plaintiffs' exercise of  
6 their Second Amendment rights. Plaintiffs also contend that California Penal Code  
7 section 26175 is preempted to the extent that statute compels disclosure of a social  
8 security number and that California Penal Code section 11106, as amended by AB  
9 173, is preempted to the extent that statute authorizes disclosure of a concealed  
10 firearm licensee's social security number to researchers at the California Firearm  
11 Violence Research Center and any other nonprofit bona fide accredited research  
12 centers. Plaintiffs further contend that AB 173 is an unconstitutional budget bill  
13 under Sections 9 and 12 of Article IV of the California Constitution. Finally,  
14 Plaintiffs contend that AB 173's amendments to California Penal Code section  
15 30352 constitute an unconstitutional amendment to a voter initiative under Section  
16 10 of Article II of the California Constitution.

17 238. Plaintiffs, therefore, seek a judicial declaration that:

- 18 a. California Penal Code sections 11106, 14231, and 30352, as  
19 amended by AB 173, infringe upon the rights of Plaintiffs under the  
20 Second and Fourteenth Amendments to the United States Constitution,  
21 Section 1 of Article I of the California Constitution, and the  
22 Information Practices Act of 1977, Cal. Civ. Code §§ 1798, *et seq.*
- 23 b. California Penal Code section 11106, as amended by AB 173,  
24 retroactively applied to Plaintiffs and Plaintiffs' Personal Information,  
25 violates the rights of Plaintiffs under the Fourteenth Amendment to the  
26 United States Constitution, Sections 1 and 7 of Article I of the  
27 California Constitution, and California Penal Code section 3.
- 28

1 c. California Penal Code section 26175 is preempted to the extent  
2 that statute compels disclosure of a social security number and  
3 California Penal Code section 11106, as amended by AB 173, is  
4 preempted to the extent that statute authorizes disclosure of a  
5 concealed firearm licensee’s social security number to researchers at  
6 the California Firearm Violence Research Center and any other  
7 nonprofit bona fide accredited research centers.

8 d. AB 173 is an unconstitutional budget bill under Sections 9 and  
9 12 of Article IV of the California Constitution.

10 e. AB 173’s amendments to California Penal Code section 30352  
11 constitute an unconstitutional amendment to a voter initiative under  
12 Section 10 of Article II of the California Constitution.

13  
14 **PRAYER FOR RELIEF**

15 Wherefore, Plaintiff prays that the Court grant relief as follows:

16 1. Entering a judgment declaring that:

17 a. California Penal Code sections 11106, 14231, and 30352, as  
18 amended by AB 173, are unconstitutional on their face or,  
19 alternatively, to the extent such can be segregated from the rest of  
20 those statutes, that any provision of sections 11106, 14231, and 30352  
21 that permits the disclosure of the personal identifying information to  
22 researchers at the California Firearm Violence Research Center and  
23 any other unaccountable and unidentified non-governmental actors,  
24 including any nonprofit bona fide accredited research center, violates  
25 the Second and Fourteenth Amendments to the United States  
26 Constitution, Section 1 of Article I of the California Constitution, and  
27 the Information Practices Act of 1977, Cal. Civ. Code §§ 1798, *et seq.*  
28



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1           b. California Penal Code section 11106, as amended by AB 173,  
2 retroactively applied to Plaintiffs and Plaintiffs’ Personal Information,  
3 violates the rights of Plaintiffs under the Fourteenth Amendment to the  
4 United States Constitution, Sections 1 and 7 of Article I of the  
5 California Constitution, and California Penal Code section 3.

6           c. California Penal Code section 26175 is preempted to the extent  
7 that statute compels disclosure of a social security number and  
8 California Penal Code section 11106, as amended by AB 173, is  
9 preempted to the extent that statute authorizes disclosure of a  
10 concealed firearm licensee’s social security number to researchers at  
11 the California Firearm Violence Research Center and any other  
12 unaccountable and unidentified non-governmental actors, including  
13 any nonprofit bona fide accredited research center.

14           d. AB 173 is an unconstitutional budget bill under Sections 9 and  
15 12 of Article IV of the California Constitution.

16           e. AB 173’s amendments to California Penal Code section 30352  
17 constitute an unconstitutional amendment to a voter initiative under  
18 Section 10 of Article II of the California Constitution.

19           2. Issuing an injunction enjoining Defendants and their officers from  
20 enforcing California Penal Code sections 11106, 14231, and 30352, as amended by  
21 AB 173, in their entirety or, alternatively, to the extent such can be segregated from  
22 the rest of those statutes, any provision of sections 11106, 14231, and 30352 that  
23 permits the disclosure of personal identifying information to researchers at the  
24 California Firearm Violence Research Center and any other nonprofit bona fide  
25 accredited research center.

26           3. Awarding remedies available under 42 U.S.C. § 1983 and all  
27 reasonable attorneys’ fees, costs, and expenses under 42 U.S.C. § 1988, and Cal.  
28 Civ. Code § 1798.48(b).

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4. Granting such other and further relief as the Court deems just and proper.

Dated: January 5, 2022

Respectfully submitted,  
SNELL & WILMER L.L.P.

By:



Michael B. Reynolds  
Collin R. Higgins  
Cameron J. Schlagel  
Attorneys for Plaintiffs

4858-5774-3875

**Snell & Wilmer**  
L.L.P.  
LAW OFFICES  
1920 Main Street, Suite 1200  
Irvine, California 92614-7230  
(949) 253-2700