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

11 MATTHEW JONES; THOMAS FURRH;
12 KYLE YAMAMOTO; PWGG, L.P. (d.b.a.
13 POWAY WEAPONS AND GEAR and
14 PWG RANGE); NORTH COUNTY
15 SHOOTING CENTER, INC.; BEEBE
16 FAMILY ARMS AND MUNITIONS LLC
17 (d.b.a. BFAM and BEEBE FAMILY
18 ARMS AND MUNITIONS); FIREARMS
19 POLICY COALITION, INC.; FIREARMS
20 POLICY FOUNDATION; THE
21 CALGUNS FOUNDATION; and
22 SECOND AMENDMENT
23 FOUNDATION,

24 Plaintiffs,

25 v.

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

Defendants.

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

Hon. M. James Lorenz and Magistrate
Judge Barbara Lynn Major

**DECLARATION OF JOHN LOTT IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

Complaint Filed: July 1, 2019

Amended Complaint Filed: July 30, 2019

Date:

Time:

Courtroom

1 I, John R. Lott, Jr., declare as follows:

2 I am not a party to the captioned action, am over the age of 18, have personal
3 knowledge of the facts stated herein, and am competent to testify as to the matters
4 stated and the opinions rendered below.
5

6 **Background/Qualifications**

7
8 1. I reside in Burke, Virginia, and am an economist. I graduated with a
9 bachelor's degree in economics from the University of California Los Angeles
10 (UCLA) in 1980. I obtained my master's degree in economics from UCLA in 1982;
11 and my PhD in economics from UCLA in 1984. I have held research and/or teaching
12 positions at various higher education academic institutions, including the University
13 of Chicago, Yale University, the Wharton School of the University of Pennsylvania,
14 Stanford University, and Rice University; and was the chief economist at the United
15 States Sentencing Commission during 1988-1989.
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18 2. I have authored numerous academic and popular publications. For
19 example, I have authored (a) nine books, including *More Guns, Less Crime*, *The Bias*
20 *Against Guns*, and *Freedomnomics*; and (b) more than 100 articles in peer-reviewed
21 academic journals.
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24 3. I am also the founder and president of the Crime Prevention Research
25 Center (CPRC). CPRC is a research and education organization dedicated to
26 conducting academic quality research on the relationship between laws regulating the
27 ownership or use of guns, crime, and public safety; educating the public on the results
28

1 of such research; and supporting other organizations, projects, and initiatives that are
2 organized and operated for similar purposes. CPRC has section 501(c)(3) status and
3 does not accept donations from gun or ammunition makers or organizations such as
4 the National Rifle Association (NRA) or any other organizations involved in the gun
5 control debate on either side of the issue.
6

7
8 4. CPRC's goal is to provide an objective and accurate scientific evaluation
9 of both the costs and benefits of gun ownership as well as policing activities.

10 CPRC's core activities include:

- 11
- 12 (a) Conducting and publishing academic quality research on the
13 relationship between laws regulating the ownership or use of guns,
14 crime, and public safety.
 - 15 (b) Supporting affiliated academics in conducting and publishing
16 similar research by means such as providing direct financial
17 support, sharing data, and providing technical assistance.
 - 18 (c) Educating the public, journalists, and policy makers on the results
19 of research on these issues through books, public lectures,
20 newspaper columns, academic seminars, information briefings, and
21 other means.
 - 22 (d) Making research and data available to researchers, the public,
23 policy makers, and journalists by maintaining a comprehensive
24 website.
 - 25 (e) Engaging in other related activities consistent with the mission
26 and goals of CPRC.

27 5. Attached hereto as **Exhibit 1** is a true and correct copy of my
28 Curriculum Vitae. It describes my education, awards, fellowships, work experience,
research, books and publications, presentations, and legislative and court testimony.

1 **Gun Law Bans Based on Age are not Justified**

2 6. The 19-year old’s attack at the high school in Parkland, Florida have
3 prompted states such as Florida and California to raise the minimum age for
4 purchasing or possessing firearms to 21. The two other often-cited examples are the
5 20-year-old in 2012 that shot and killed kids and adults at Sandy Hook Elementary
6 School in Newtown, Connecticut, and the 1999 shootings by two high school students
7 at Columbine High School in Colorado. Tragedies no doubt. They garner
8 considerable media attention for long press periods. As such, school shootings are
9 viewed as a widespread problem requiring legislative bodies to “do something.”
10 However, in my opinion, and based on my background, qualifications, and
11 experience, no credible evidence exists to support the proposition that raising the age
12 to purchase or acquire a firearm will make any difference in curtailing such mass
13 shootings. The reasons supporting my opinion are described below.
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18 **Criminals Buy Guns from Other Sources**

19 7. **First**, the criminals do not buy their firearms legally. In determining
20 where criminals obtain their firearms, the U.S. Bureau of Justice Statistics primarily
21 relies on surveys of state and federal prisoners who possessed a firearm during the
22 offense for which they are serving time. The surveys provide remarkably consistent
23 results over time, with *very few* guns obtained through retail sources (i.e., a gun shop,
24 pawn gun, flea market, or gun show). The latest survey in 2016 showed that among
25 the prisoners who had a gun during their offense, approximately 90% did not obtain it
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1 from retail sources, with just 0.4% from flea markets, 0.8% through gun shows, and
2 slightly more, 1.6%, from pawn shops and 7.5% from gun shops/stores.¹ Attached
3 hereto as **Exhibit 2** is a true and correct copy of Alper, et al. (2019).

4
5 8. Interestingly, among the prisoners that obtained a firearm during their
6 offense, more than half (56%) had either stolen it (6%), found it at the scene of a
7 crime (7%), or obtained it off the street or from the underground market (43%). The
8 remainder includes 1.6% obtained in theft from a family member or a friend, 1.5%
9 from burglaries, 0.2% in theft from retail sources, and 3% in other unspecified thefts.
10 (See **Exhibit 2**, Alper, et al. 2019 [Table 5].)
11

12 **Criminals are Still Going to Obtain Guns**

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14 9. **Second**, even if all sources for obtaining firearms were closed off to
15 people 18-to-20 years of age, it is unlikely that such laws would stop the vast
16 majority of criminals in that age group from acquiring guns. Take Mexico where
17 there has been only one-gun store in the country since 1972; where only about 1% of
18 Mexican adults have licenses to legally own guns, with the most powerful legally
19 owned firearms are .22-caliber rifles, hardly the type of weapon used by criminals.
20 Despite that, in 2019, Mexico has a murder rate that is more than five (5) times the
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25 ¹ See Mariel Alper and Lauren Glaze, Special Report, “Source and Use of Firearms
26 Involved in Crimes: Survey of Prison Inmates, 2016,” U.S. Department of Justice,
27 Office of Justice Programs, Jan. 2019 [Alper, et al. 2016]; and for numbers in 2001,
28 see Caroline Wolf Harlow, Special Report, “Firearm Use by Offenders,” U.S.
Department of Justice, Office of Justice Programs, November 2001
[<https://www.bjs.gov/content/pub/pdf/fuo.pdf>], last accessed Aug. 2019.)

1 U.S. rate.² The point is simple — criminals have guns and they get them illegally,
2 primarily from drug dealers; and it is just as difficult to stop criminals from obtaining
3 guns as it is to stop drug dealers from obtaining illegal drugs. The age of the criminal
4 has nothing to do with illegally obtaining firearms. Attached hereto as **Exhibit 3** are
5 a true and correct copies of the article from the Associated Press (2019) and the FBI's
6 crime report (2017) [see footnote 2, above].
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9 **Age is not a Significant Factor in Mass Public Shootings**

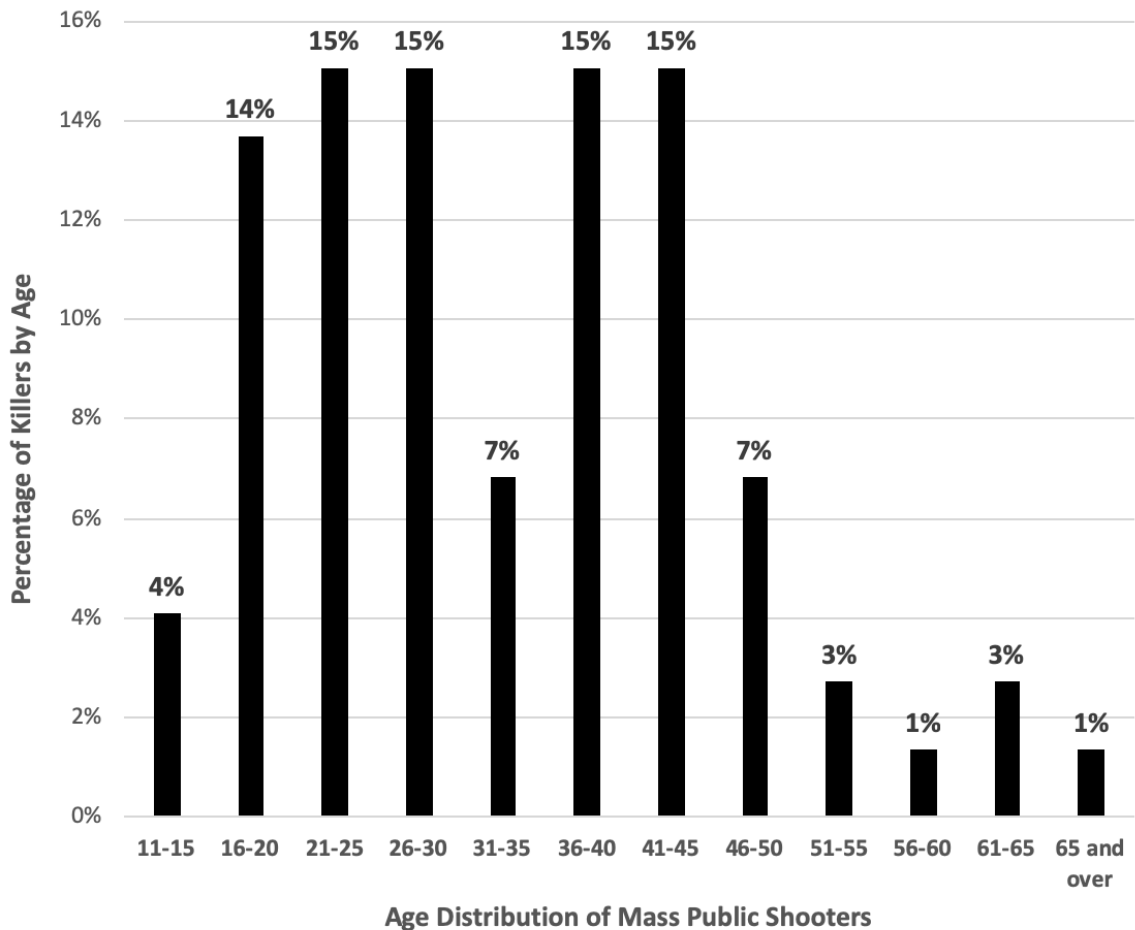
10 10. **Third**, of all the mass public shootings over that past 21 years, the
11 average age of the shooters is approximately 33.5 years. Thirty-three (33) years of
12 age is also the median age for shooters; therefore, more than half the shooters were
13 over the age of 30 and 80% were at least 21 years of age.³ So, age is not
14 determinative. Our CPRC research is substantiated by the Rockefeller Institute of
15 Government. It recently found that the average age of mass shooters in the past 50
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19 ² Associated Press, "Mexico sets 1st half murder record, up 5.3%," July 22, 2019
20 (<https://www.apnews.com/c197a3ee34834ea69f745975fa632ea2>). Compare these
21 numbers to the FBI Uniform Crime Report for 2017 (<https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/topic-pages/tables/table-1>).

22
23 ³ The Crime Prevention Research Center's website contains the Excel file with
24 our detailed information on mass public shootings
25 (<https://crimeresearch.org/2019/07/breaking-down-mass-public-shooting-data-from-1998-though-june-2019-info-on-weapons-used-gun-free-zones-racial-age-and-gender-demographics/>). Mass public shootings are defined as those cases where four
26 or more people are killed at one point in time in a public place and not involving
27 some other type of crime such as a gang fight or a robbery. This definition follows
28 the traditional FBI definition. Our Excel file is incorporated by this reference.

1 years is 33.4 years old,⁴ confirming that age is not determinative. Attached hereto as
2 **Exhibit 4** is a true and correct copy of Formica, et al. (2018). Our age distribution
3 statistics are shown graphically below.
4

Age Distribution of Killers in Mass Public Shootings: 1998 to June 2019



4 Jaclyn Schildkraut, Margaret K. Formica, Jim Malatros. Rockefeller Institute of Government, Regional Gun Violence Research Consortium, “Can Mass Shootings be Stopped? To Address the Problem, We Must Better Understand the Phenomenon,” May 22, 2018 (Formica, et al. 2018) (<https://rockinst.org/wp-content/uploads/2018/05/5-22-18-Mass-Shootings-Brief.pdf>).

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Comparisons to Crime Statistics are Skewed

11. **Fourth**, while persons 18-to-20 commit murders at a higher rate comparatively, the same can be said of persons 21-to-25, who commit murders at a higher rate than people in the 26-30 age range. Persons 36-45 commit crimes at a considerably higher rate than those 46-50. (This finding does *not* mean we ought to ban firearms purchased or acquired by people 36 through 45.) The same is true for persons 51-55, who commit crimes at a higher rate than do persons over 56. Same for persons 61-to-65 — they commit crimes at a higher rate than do persons over 65. Similar findings were made by other researchers.⁵ Attached hereto as **Exhibit 5** is a true and correct copy of Lott and Whitley (2006) and FBI UCR (2018).⁶

12. The same point also can be made based on race. For example, the claim that these shooters are overwhelmingly white is misleading. While white males (excluding those from Middle Eastern descent) make up the majority of mass public shootings, that is 6.4% below their share of the U.S. population. Hispanics are even much lower than their percentage of the U.S. population. By contrast, those of Middle Eastern descent, Asians, blacks, and American Indians are all above their shares of the population.

⁵ John R. Lott, Jr., Freedomnomics.
⁶ John R. Lott, Jr. and John E Whitley, Abortion and Crime: Unwanted children and out-of-wedlock births,” Economic Inquiry, 2006. FBI, Uniform Crime Report. Crime in the United States, 2017, Table 3 (<https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/expanded-homicide-data-table-3.xls>).

1 13. One thing is clear — mass public shooters are overwhelmingly male,
2 with 96% of the shooters being male. See data from the Crime Prevention Research
3 Center’s website ([https://crimeresearch.org/2019/07/breaking-down-mass-public-
4 shooting-data-from-1998-through-june-2019-info-on-weapons-used-gun-free-zones-
5 racial-age-and-gender-demographics/](https://crimeresearch.org/2019/07/breaking-down-mass-public-shooting-data-from-1998-through-june-2019-info-on-weapons-used-gun-free-zones-racial-age-and-gender-demographics/)).⁷ However, the rights of such groups by age,
6 race, and sex should not be forfeited because of the unlawful behavior by other
7 persons of the same age, race, or sex. This is particularly the case when young
8 adults’ use or possession of firearms is made criminal even where they have a
9 legitimate purpose for their use or possession. Indeed, the State of California has not
10 banned the purchase, sale, or transfer of a firearm based on race or sex; it should not
11 do so on the basis of age. Below is the breakdown by race of mass public shooters
12 from 1998 to November 2018. Also presented is our gender-based demographics.⁸
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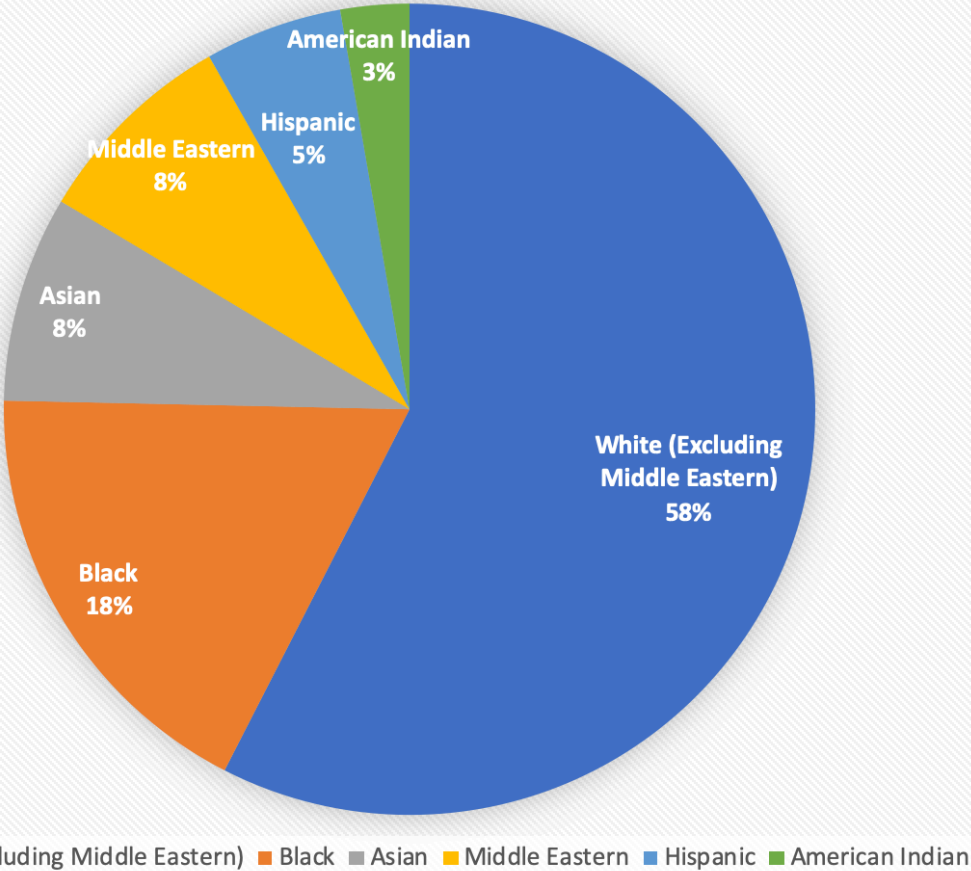
26 ⁷ See also Alper, et al. (2019).

27 ⁸ And see [https://crimeresearch.org/2018/11/the-racial-and-gender-demographics-of-
28 mass-public-shooters-middle-eastern-people-asians-blacks-and-american-indians-
overrepresented-hispanics-most-underrepresented/](https://crimeresearch.org/2018/11/the-racial-and-gender-demographics-of-mass-public-shooters-middle-eastern-people-asians-blacks-and-american-indians-overrepresented-hispanics-most-underrepresented/)

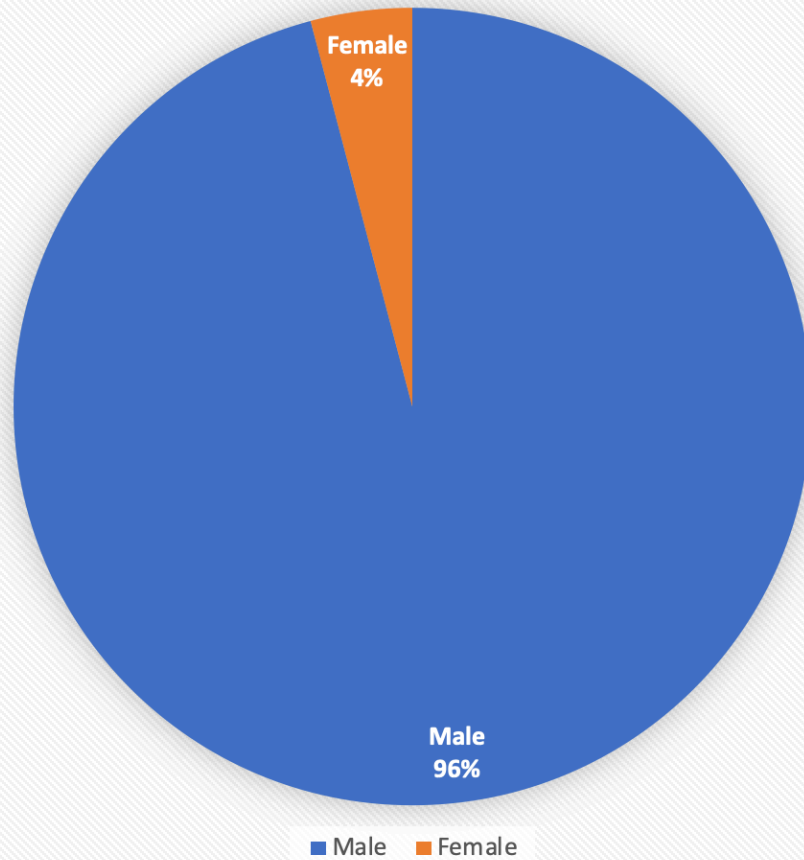
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The Racial Demographics of Mass Public Shooters from 1998 to November 1, 2018			
	Share of Mass Public Shooter	Share of the US population in 2010	Difference
White (Excluding Middle Eastern)	58.0%	64.4%	-6.4%
Black	15.9%	12.8%	3.1%
Asian	8.7%	4.8%	3.9%
Middle Eastern	8.7%	0.4%	8.3%
Hispanic	5.8%	16.6%	-10.8%
American Indian	2.9%	1.0%	1.9%

**The Racial Demographics of Mass Public Shooters:
1998 to June 2019**



1 **Gender Demographics of Mass Public Shooters:**
2 **1998 to June 2019**



17 **Unsupported Justifications for the Age-Based Gun Ban**

18
19 14. California's age-based gun ban is justified by reference to other
20 legislation where law makers have limited the ability of persons under the age of 21
21 to engage in activities that are otherwise lawful such as the use of alcohol or
22 marijuana; or renting a car. However, these laws do not cause a forfeiture of an
23 enumerated right conferred to individuals under the Second Amendment. So, in my
24 opinion, the legislative comparisons are unsupported.
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1 15. Further, California’s age-based gun ban will not result in less crime. In
2 fact, based on my research, every place that has banned guns (either all guns or all
3 handguns) has seen murder rates go up. Examples include Chicago, Illinois,
4 Washington D.C., and island nations such as England, Jamaica, Ireland, Venezuela,
5 and obscure places like the Solomon Islands. Support for my opinion is found at
6 [https://crimeresearch.org/2016/04/murder-and-homicide-rates-before-and-after-gun-](https://crimeresearch.org/2016/04/murder-and-homicide-rates-before-and-after-gun-bans/)
7 [bans/](https://crimeresearch.org/2016/04/murder-and-homicide-rates-before-and-after-gun-bans/).

10 16. Supporters of California’s age-based gun ban have stated that mass
11 public shootings carried out at schools are generally committed by people “under 21.”
12 This is misleading and inaccurate. Of the 74 people who have committed mass
13 public shootings since 1998, 10 were under the age of 21. Five were under 18,
14 making them too young to purchase a gun under already existing law. Further, even
15 in the five cases where raising the age limit could conceivably have made an impact,
16 it is likely that the shooters would have illegally obtained the firearm like so many
17 other attackers do (see results of research, above). Additionally, if one separates out
18 school shootings, there were *eight K-12* mass public shootings where at least four
19 people were killed, but only three of those involved killers between the ages of 18
20 and 20 (Columbine, 1999; Newtown, 2012; and Parkland, 2018). There was one of
21 these on average every 2.7 years, and before this period, they were much rarer. The
22 *college* mass public shooters were 23 years-old (Virginia Tech, 2007); 27 (Northern
23 Illinois University, 2008); 40 (near the University of Washington, 2012); and 43

1 (Oikos University, 2012). As stated above, of all the mass public shooters, the
2 average age is 33.5 years-old; and the median age 33.

3
4 17. Another justification for California’s age-based gun ban is that 18 to 20-
5 year old adults should not be allowed to purchase a firearm due to their “immaturity”
6 and “impulsive or reckless behavior.” This justification is often cited in conjunction
7 with the claim that young adults in California cannot buy alcohol or rent a car due to
8 their “maturity” and “impulsive behavior.”⁹ The above-referenced committee report
9 cites no supporting evidence for the claim. Further, these same young adults are
10 considered mature enough to vote and register to train and serve in the U.S. armed
11 forces.
12

13
14 18. One way to look at this is the behavior of 18 to 20-year-old concealed
15 handgun permit holders. Michigan and Texas grant to 18-to-20-year-olds and provide
16 data by year of age of permit holders, though relatively few permits are granted (for
17 2018, 322 permits).¹⁰ For 18-to-20-year-olds in Texas who were granted such a
18 permit in 2018, only 5 of 322 were revoked (0.015%) and zero were suspended. See
19 **Exhibit 7**, which is a true and correct copy of the 2018 Texas Department of Public
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26 ⁹ See **Exhibit 6**, which is a true and correct copy of a portion of SB 1100’s
27 legislative history (Senate Committee on Public Safety, Bill No. 1100, Author:
28 Portantino, Hearing Date: April 17, 2018, p. 7).

1 Safety, Regulatory Services Division, Handgun Licensing Program, Demographic
2 Information by Age, Licenses: Issued, Revoked, and Suspended.¹¹
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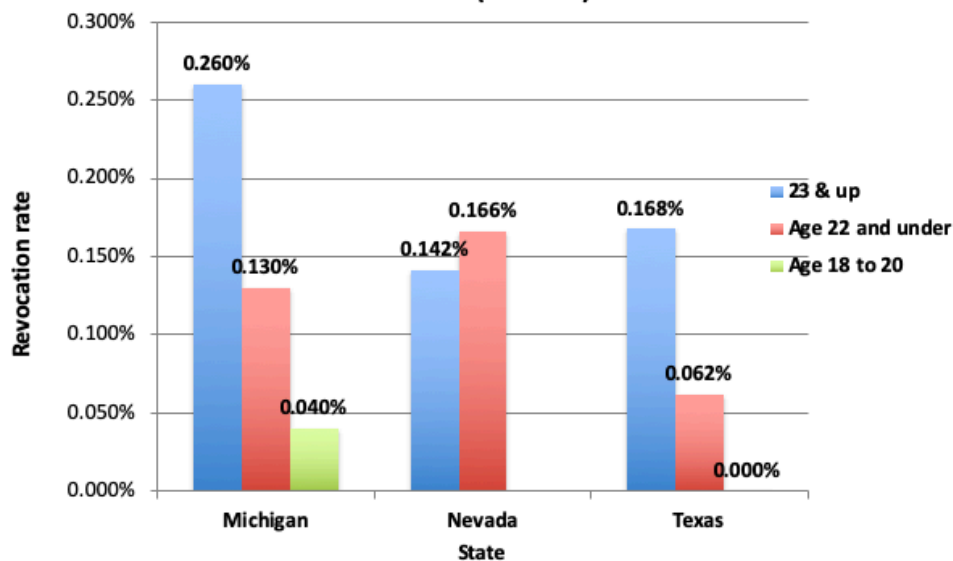
4 19. Nevada doesn't grant permits to 18 to 20-year-olds, but it is still possible
5 to make a comparison between 21 and 22-year-olds and those who are older. To
6 make things comparable with Michigan and Texas, the data for all three states are
7 reported the same way. Unlike Michigan and Texas, the revocation rate for college
8 age permit holders is higher than it is for those who are older than college students,
9 but the difference is very small – just 0.025% and only about a fifth to the differences
10 that go the other way for Michigan and Texas. Yet, even though the revocation rate
11 for college age permit holders in Nevada is higher than for other states, it is still
12 lower than the revocation rate for older adults in Michigan and Texas.
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27 ¹¹ See also 2018 Texas Department of Public Safety, Regulatory Services Division,
28 Handgun Licensing Program, Conviction Rates for Handgun License Holders
(<https://www.dps.texas.gov/RSD/LTC/Reports/ConvictionRatesReport2018.pdf>).

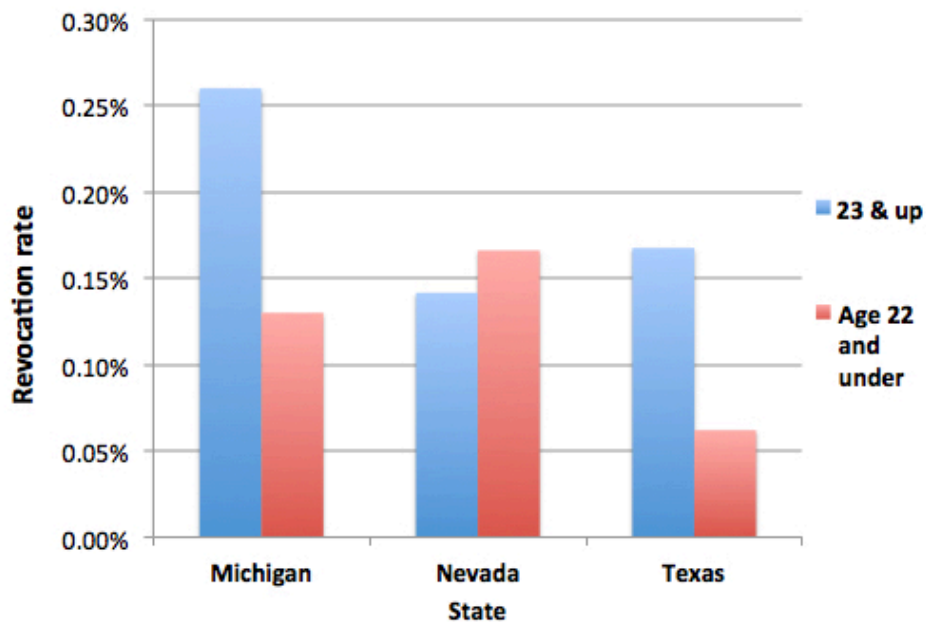
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Revocation rates for any reason for college age students versus older people

Michigan (2010-14), Nevada (2014, only data of 21 and older), and Texas (2009-13)



Revocation rates for any reason for college age students versus older people

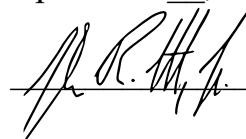


1 20. A further justification is that California’s age-based gun ban is needed
2 because young adults “under 21” are disproportionately linked to crime. Above, I
3 have already addressed why this data is skewed. Also, this comparison is grossly
4 overbroad. Is the next step for the state of California to ban gun ownership for blacks
5 based on blacks committing crime at relatively high rates?
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7
8 21. While some young people commit crimes at relatively high rates, the
9 victims of crime also tend to be relatively young and thus would benefit from the
10 ability to defend themselves. See, attached hereto as **Exhibit 8**, which is a true and
11 correct copy of the FBI, Uniform Crime Report. Crime in the United States, 2017,
12 Table 2.
13

14 22. The basic premise of our laws is that a democratic society prefers to
15 punish the few that commit crimes *after* they violate the law, instead of punishing the
16 few *and* all others beforehand. Those “others” also may indeed have good and lawful
17 reasons for desiring to own or possess a firearm, but the ban’ net includes them as
18 well.
19
20

21 I declare under penalty of perjury that the foregoing is true and correct.
22 Executed within the United States on September 15, 2019.
23

24 
25 _____
26 John R. Lott, Jr.
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28