

Case No. 83999

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN SISOLAK, Governor of Nevada; AARON D. FORD, Nevada
Attorney General; GEORGE TOGLIATTI, Director of Nevada
Department of Public Safety; MINDY MCKAY, Administrator of
Records, Communications, and Compliance in the Nevada Department
of Public Safety,

Appellants,

v.

POLYMER80, INC.,

Respondent.

JOINT APPENDIX – VOLUME II

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DATED this 2nd day of June, 2022.

AARON D. FORD
Attorney General

By: /s/ Steve Shevorski
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 2nd day of June, 2022, and e-served the same on all parties listed on the Court's Master Service List.

/s/ R. Carreau _____

R. Carreau, an employee of
the office of the Nevada Attorney General

Case No. 21-CV-00690

1 Dept. No. 1

2
3 The undersigned affirms that this document
4 does not contain the social security number
of any individual.

5 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 **IN AND FOR THE COUNTY OF LYON**

7 POLYMER80, INC.,

8 Plaintiff,

9 vs.

10 STEPHEN SISOLAK, Governor of Nevada, AARON
11 FORD, Attorney General of Nevada, GEORGE
12 TOGLIATTI, Director of the Nevada Department
of Public Safety, MINDY MCKAY, Administrator
13 of the Records, Communications, and Compliance
Division of the Nevada Department of Public
14 Safety,

15 Defendants.

16 _____ /
17 **MOTION OF POLYMER80, INC. FOR SUMMARY JUDGMENT**

18 Plaintiff Polymer80, Inc. ("Polymer80" or "Company"), by and through undersigned
19 counsel, Greenspoon Marder LLP and Simons Hall Johnston PC, respectfully submits
20 this motion ("Motion"), pursuant to Rule 56 of the Nevada Rules of Civil Procedure
21 ("NRCP"), for summary judgment against defendants Nevada Governor Stephen Sisolak,
22 Nevada Attorney General Aaron Ford, Director of the Nevada Department of Public
23 Safety George Togliatti, and Administrator of the Records, Communications, and
24 Compliance Division of the Nevada Department of Public Safety Mindy McKay on (the
25 sole) Counts I and II of the pending Verified Complaint ("Complaint"). In sum, the
26 Company seeks a Declaratory Judgment that Nevada Assembly Bill 286 ("AB 286") is
27 void for vagueness and so unconstitutional under the Due Process Clause of the Nevada
28 Constitution and a Permanent Injunction forever prohibiting defendants from enforcing

1 AB 286 against anyone. The Motion is made and based upon the following Memorandum
2 Of Points And Authorities, with exhibits annexed thereto, accompanying and supporting
3 Declarations of senior Company officials Loran Kelley and Daniel Lee McCalmon, both
4 dated November 8, 2021, all other pertinent papers and pleadings on file with this Court,
5 and any oral argument that the Court may permit, which argument is hereby requested.
6 For all of the reasons set forth below and in the remainder of the record of this matter, the
7 Motion is meritorious, and the Court should grant it.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **I. INTRODUCTION**

10 This action challenges the legality of AB 286 under the Due Process Clause of the
11 Constitution of the State of Nevada ("Nevada Constitution"). That enactment could well,
12 if allowed to stand, criminalize many of Polymer80's gun-related products, drive this
13 innovative and growing Nevada enterprise out of business, and, as to both the Company
14 and all of the citizens of this State, result in arbitrary and discriminatory law enforcement
15 practices. As the record before the Court amply demonstrates, AB 286, in various ways
16 and for sundry reasons, is so vague and amorphous that it does not -- as it unquestionably
17 must to survive -- provide to Nevada citizens of ordinary intelligence the requisite "fair
18 notice" of the conduct proscribed. Moreover, the bill's demonstrable lack of clear and
19 explicable definitions and standards exacerbates its inherent and extensive murkiness
20 and thus will inevitably encourage, authorize, and/or fail to prevent arbitrary and
21 discriminatory enforcement. In short, AB 286's blatant infirmities run afoul of long
22 entrenched Nevada Constitution Due Process precepts.

23 As illustrated below, the many and remarkable defects of AB 286 include (but are
24 not limited to) the following:
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- AB 286 purports to criminalize, *inter alia*, the possession and sale of what the statute calls “unfinished frames or receivers.” However, it (as with the remainder of Nevada law) does not define or explain what *finished* frames or receivers actually are, leaving Nevada citizens of ordinary intelligence (and, in truth, all Nevadans) in the dark as to the meaning of the former and key terms.
- In addition, AB 286 provides that an “unfinished frame or receiver” means “a blank, a casting or a machined body that is intended to be turned into the frame or lower receiver of a firearm with additional machining and which has been formed or machined to the point at which most of the major machining operations have been completed to turn the blank, casting or machined body into a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or machined body is still completely solid and unmachined.” Tellingly, AB 286 (and, again, the rest of Nevada law) does not define or in any meaningful fashion clarify, among numerous other terms, what a “blank,” “casting,” “machined body,” and “additional machining” are, relegating ordinary Nevada citizens, once more, to an uninformed and unlawfully vulnerable position.
- Yet again, in the absence of any definition of “blank,” “casting,” and/or “machined body,” AB 286, which, as noted, criminalizes in certain settings mere possession of an “unfinished frame or receiver,” propounds a nebulous test for when any one of those three items has reached a sufficient stage of completion to be deemed an “unfinished frame or receiver”; that is, that each such item “has been formed or machined to the point at which most of the major machining operations have been completed.” It should come as no surprise that neither AB 286 nor Nevada law as a whole define “machining,” or that the referenced test is so turbid that no ordinary Nevada citizen can decipher and understand it.
- At bottom then, AB 286 must be adjudged to be unconstitutionally vague and void, since no Nevada citizen of ordinary intelligence -- any and all of whom could be subject to harsh criminal sanctions for violating this grievously flawed statute -- can determine what conduct AB 286 bans, *and* because the enactment’s central and crucial terms and definitions are so ambiguous and/or nonexistent that the threat of arbitrary and discriminatory enforcement thereof rises to an unacceptable level under the Nevada Constitution’s Due Process Clause.

1 Therefore, owing to the voluminous precedent from the Supreme Court of Nevada
2 set out below and in all of the circumstances at hand, this Court should grant the
3 Company's Motion and issue the two forms of equitable relief requested.

4 **II. STATEMENT OF UNDISPUTED FACTS AND PROCEDURAL HISTORY**

5 **A. The Statutory Framework**

6 On June 7, 2021, defendant Stephen Sisolak signed AB 286, a copy of which is
7 annexed as **Exhibit A**, into law. Compl. ¶ 18. AB 286 is touted as a law that "[p]rohibit[s]
8 ... certain acts relating to firearms" and declares that it is "AN ACT relating to crimes;
9 prohibiting a person from engaging in certain acts relating to unfinished frames or
10 receivers under certain circumstances" Compl. ¶ 19; Ex. A at 1. By and through AB
11 286, the Nevada Legislature amended NRS Chapter 202, adding the following provisions
12 pertinent to this lawsuit. Compl.at ¶ 20; Ex. A at 2. To these ends, AB 286 Section 3(1)
13 provides as follows:
14

15
16 A person shall not possess, purchase, transport or receive an
17 unfinished frame or receiver unless: (a) The person is a
18 firearms importer or manufacturer; or (b) The unfinished frame
19 or receiver is required by federal law to be imprinted with a
20 serial number issued by a firearms importer or manufacturer
21 and the unfinished frame or receiver has been imprinted with
22 the serial number.

23 Compl.at ¶ 21; Ex. A at 2.

24 In a similar vein, AB 286 Section 3.5(1) states as follows:

25 A person shall not sell, offer to sell or transfer an unfinished
26 frame or receiver unless: (a) The person is: (1) A firearms
27 importer or manufacturer; and (2) The recipient of the
28 unfinished frame or receiver is a firearms importer or
manufacturer; or (b) The unfinished frame or receiver is
required by federal law to be imprinted with a serial number
issued by an importer or manufacturer and the unfinished
frame or receiver has been imprinted with the serial number.

Compl.at ¶ 23; Ex. A at 2.

1 AB 286 Section 6(9), in turn, amends NRS 202 to add the term “[u]nfinished frame
2 or receiver” to Nevada law, which term NRS 202.253 now defines as follows:

3 [A] blank, a casting or a machined body that is intended to be
4 turned into the frame or lower receiver of a firearm with
5 additional machining and which has been formed or machined
6 to the point at which most of the major machining operations
7 have been completed to turn the blank, casting or machined
8 body into a frame or lower receiver of a firearm even if the fire-
9 control cavity area of the blank, casting or machined body is
10 still completely solid and unmachined.

11 Compl. ¶ 25; Ex. A at 4.

12 In drafting and passing AB 286, the Nevada legislature failed to define necessary
13 terms used in the statute, including those most material to an “[u]nfinished frame or
14 receiver.” Compl. ¶¶ 26-27. Nowhere does AB 286 or other Nevada law define the terms
15 “blank,” “casting,” “machined body,” and “additional machining.” And, although AB 286
16 Section 6(9) purports to define an *unfinished* “frame” or “receiver,” that enactment, as with
17 Nevada law as a whole, does not anywhere define what the end product -- a *finished*
18 “frame” or “receiver” -- is. Nor does AB 286 define “blank,” “casting,” or “machined body,”
19 the threshold terms used to delineate what an *unfinished* “frame” or “receiver” truly is and
20 must be to fall within the scope of the bill.¹ *Id.*; Ex. A at 4.

21 Compounding this inherent and overarching vagueness and ambiguity, AB 286
22 Section 6(9) further posits an amorphous test for determining when an entirely undefined
23 “blank,” “casting,” or “machined body” has reached a sufficient stage of completion to be
24 deemed an “[u]nfinished frame or receiver,” such that it “has been formed or machined to
25 the point at which most of the major machining operations have been completed.” Neither
26

27 ¹ Amongst the other unduly vague terms employed in Sections 3(1), 3.5, and 6(9) of AB 286 that the enactment
28 does not define, thus ensuring its inherent, continuing, and unlawful ambiguity, are “frame,” “receiver,” “lower
receiver,” and “fire control clarity area.”

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AB 286 nor Nevada law more generally provide any standards or guidelines for assessing when “most of the major machining operations have been completed.” Compl. ¶ 28; Ex. A at 4.

Nevertheless, AB 286 imposes serious criminal penalties for violations. A first offense is a gross misdemeanor, punishable by imprisonment in the County jail for up to 364 days, a fine up to \$2,000, or both. Second and subsequent violations are “Category D” felonies, punishable by imprisonment for at least one year and up to four years, as well as a fine up to \$5,000, and, of course, all of the collateral consequences of a felony conviction. And, any second or subsequent violation would also trigger a lifetime ban of an individual’s right to keep and bear arms in the United States under extant federal law. Compl. ¶¶ 29-31; Ex. A at 2.

On June 22, 2021, Polymer80 filed its Complaint (as verified by the Company’s then-Chief Executive Officer, David Borges), seeking: (i) a Declaratory Judgment stating that AB 286 is unduly vague and thus void under the Due Process Clause, Art. 1, Section 8(2), of the Nevada Constitution, and (ii) upon that basis, *inter alia*, a Permanent Injunction blocking the enforcement, forthwith and forever, of this hopelessly and unconstitutionally vague statute. Polymer80 persists in those pursuits by and through this Motion.

1 **B. This Court's Entry Of A Preliminary Injunction**

2 This Court has already granted the interim relief that the Company requested to the
3 extent of preliminarily enjoining the enforcement of "Section 3.5 of AB 286 during the
4 pendency of this lawsuit and a ruling on Polymer80, Inc.'s claims for relief." See July 16,
5 2021 Order, a copy of which is annexed as **Exhibit B**, ("July 16 Order"), at 2.² Therein, this
6 Court specifically found, as to Polymer80's likelihood of success on its two claims, as
7 follows:
8

9 Polymer80, Inc. ultimately seeks a declaratory judgment from
10 this Court, declaring that AB 286 violates the Nevada
11 Constitution's Due Process Clause because the statute is
12 unconstitutionally vague, and a permanent injunction,
13 permanently enjoining the Defendants from enforcing AB 286.
14 At this stage of the proceedings and based on the record
15 before this Court, Polymer80, Inc. has demonstrated a
16 likelihood of succeeding on these claims because AB 286 – a
17 criminal statute that under Nevada law requires a heightened
18 level of scrutiny – and particularly AB 286's definition of
19 "Unfinished Frame or Receiver" is impermissibly vague.

20 *Id.*

21 Defendants themselves have steadfastly averred, in moving for a stay pending their
22 appeal of this Court's issuance of the above-referenced Preliminary Injunction barring
23 enforcement of Section 3.5 of AB 286, that the question of AB 286's vagueness is solely
24 legal and can be resolved without resort to fact discovery, as follows:
25

26 Whether the definition is sufficiently clear, such that it must
27 necessarily survive a facial challenge of the type brought by
28 Polymer80 here, is a question of law that can be readily
addressed and finally resolved by way of Defendants' pending
appeal." ... While an as-applied challenge would typically

² This Court's Preliminary Injunction only foreclosed enforcement of Section 3.5, in that that Section was the only one at issue that became immediately effective with AB 286's enactment on June 7, 2021. See Ex. A, Section 10. However, given that Section 3 becomes effective on January 1, 2022 and contains the same constitutionally infirm "unfinished frame or receiver" construction, declaratory and permanent injunctive relief is also sought here with respect to that Section 3 as well as Section 6(9), the latter of which purports to define "unfinished frame or receiver." *Id.*

1 require a factual basis, it is not clear that a facial challenge
2 requires a factual basis. Although Defendants indicated,
3 through counsel, that expert testimony could be useful in
4 determining the actual sweep of AB 286 as it applies to the
5 niche market for unfinished frames and receivers, expert
6 testimony is a needless expense, and trial is unnecessary, if
7 Polymer80's facial challenge presents a question of law that
8 can be answered by reference to the text of the law alone.
9 Applicable case law suggests that a vagueness challenge to
10 the facial constitutionality of a statute presents such a
11 question of law.

12 Defendants' Motion For Stay Pending Appeal, dated August 17, 2021, at 3. *See also*
13 Defendants' Reply In Support Of Motion For Stay Pending Appeal, dated September 3,
14 2021, at 4 ("Accordingly, the question on appeal – whether AB 286 is unconstitutionally
15 vague on its face – is properly reviewed *be novo* as presenting purely a question of law.").

16 Nevertheless, as demonstrated herein, the record, as enhanced during the recently
17 concluded discovery process, further buttresses this Court's initial finding that AB 286 is so
18 vague as to be constitutionally defective. Indeed, the record evidence, to the extent that it
19 is pertinent to the legal question before this Court as to AB 286's vagueness, solidifies what
20 this Court already concluded nearly five months ago:

21 "A criminal statute can be invalidated for vagueness (1) if it
22 fails to provide a person of ordinary intelligence fair notice of
23 what is prohibited; or (2) if it is so standardless that it
24 authorizes or encouraged seriously discriminatory conduct."
25 *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015)
26 (quotations omitted). Here, the Court finds, at this juncture,
27 that AB 286 fails to provide a person of ordinary intelligence
28 fair notice of what AB 286 criminalizes and encourages
discriminatory, criminal enforcement because the definition of
"Unfinished Frame or Receiver" in Section 6.9 of AB 286 is
inherently vague due to the use of undefined terms, such as
"blank", "casting", and "machined body", and amorphous
words and phrases – that are similarly not defined – such as
"additional machining" and "machined to the point at which
most of the major machining operations have been
completed." In fact, it is unclear, on the current record, as to
what the Nevada Legislature meant by the words "blank",
"casting", and "machined body", as those words are used in

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AB 286. Moreover, Defendants, at the hearing on Polymer80, Inc.'s motion, made reference to a manufacturing continuum on which a "blank", "casting", or "machined body" is turned into a frame or lower receiver of a firearm, but, at the hearing, Defendants could not identify where on that continuum AB 286 comes into play (i.e., at what point during the machining process an item, such as a blank, becomes unlawful and subject to criminal prosecution). Therefore, Polymer80, Inc. has demonstrated a reasonable likelihood of success on its claim that AB 286 is unconstitutionally vague due to the ambiguities that permeate AB 286's definition of "Unfinished Frame or Receiver."

Id. at 3.

These findings echo and memorialize the findings that this Court made at the July 14, 2021 hearing upon Polymer80's motion for a Temporary Restraining Order and Preliminary Injunction, a copy of the pertinent portions of the transcript of which hearing is annexed as **Exhibit C**:

Okay. So, clearly in Nevada when a criminal statute is reviewed by a court on due process grounds for facial invalidity because of the vagueness issues in relation to the statute the standard is enhanced. Flamingo Paradise Gaming made clear that in Nevada under the Nevada Constitution, the criminal statute has a heightened test unlike a civil statute. Where in a civil statute it can certainly be "as applied" in any particular case as long as something out there in the civil statute could be deemed constitutional. But in a criminal statute that's not the case.

In criminal statute all that's required is preliminary showing for a preliminary injunction is the likelihood of success on the merits. And in this particular matter, based upon the definitions as provided for in AB 286, and most specifically Section six subsection nine, which amends NRS 202.253, the definition of -- it appears to this Court preliminarily that the definition of unfinished or receiver is vague based upon the terms and lack of definition in the statute.

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Which indicates under Nevada law that there's a likelihood of success on the merits in relation to what in fact an unfinished or receiver means. What it is. And it could be subject to arbitrary or discriminatory enforcement based upon there's a likelihood of success on that issue based upon the continuity or continuum of levels of what is or is not mostly completed in relation to a frame or a receiver.

It is also unclear as to what the legislature meant by blank casting or machine body. But in relation to those terms, they appear to the Court to potentially be general manufacturing terms. Now, if they are general manufacturing term and that's indicated in the legislative history -- nobody provided me any legislature history for the preliminary injunction. So, I have no idea what the legislature intended at all in relation to this. That may or may not be sufficiently vague.

Id. at 61-62.

Nothing adduced in discovery has in any way altered (or could alter) these conclusions. For instance, the entire Legislative History of AB 286, a copy of which is annexed as **Exhibit D**, contains zero that speaks to the vagueness problems identified by this Court. Moreover, the Legislative History fails to address in any manner the definition of "unfinished frame or receiver" set forth in Section 6(9), not to mention the undefined and amorphous concepts of, among others, "blank," "casting," "machined body," and/or "additional machining" contained therein. Likewise, that History reveals no discussion whatsoever of the proffered machining test, whereby a part purportedly becomes an unfinished frame of receiver, when "machined to the point as which most of the major machining operations have been completed." In brief, the Legislative History, far from illuminating any of these concepts and/or tests, underscores that the Nevada Legislature failed to even acknowledge or consider the exceptional vagueness permeating AB 286. As such, the Court should accord the Company the precise summary judgment it seeks for the same reasons that the Court earlier granted interim relief. Literally, nothing has changed since July of this year, except that Polymer80's entitlement to the relief sought upon the

1 Motion is founded upon a more detailed, more expansive, and ever more persuasive record
2 than that before this Court several months ago.

3 Indeed, the testimony elicited in discovery wholly supports the conclusion that AB
4 286 is unconstitutionally vague. Defendant McKay, who has been employed by the Nevada
5 Department of Public Safety for nearly twenty-five (25) years and currently serves as its
6 Division Administrator and CJIS Systems Officer, testified that she had some actual
7 familiarity with firearms, in that both her mother and a number of her friends have possessed
8 them, and she has fired handguns on a number of occasions. See Transcript of Deposition
9 of Mindy McKay, dated October 26, 2021, a copy of the pertinent portions of which is
10 annexed as **Exhibit E**, at 7-8, 15-16, 40-50, 74. Yet, despite that experience, she
11 unequivocally testified that she presently has no understanding of the meaning of AB 286's
12 undefined terms "frame," "receiver," "blank," "casting," "machined body," and "additional
13 machining." *Id.* at 41-42, 74-75, 78-84. Further, she could not elucidate what an "unfinished
14 frame or receiver" is, including in the context of Section 6(9)'s baffling "machining" test. *Id.*
15 at 74-75, 78-84. Nonetheless, she forthrightly acknowledged the importance of clarity in
16 criminal laws, so that the public can be fully informed of the conduct sought to be criminalized
17 in a new statute. *Id.* at 86-87.

18 Likewise, George Togliatti, the present and former (from 2004 to 2007) Director of
19 the Nevada Department of Public Safety (the same entity by which Ms. McCay has long
20 been employed) and an individual with some five decades worth of firearms knowledge and
21 training, was unable to shed *any* light on the meaning or mechanics of AB 286. See
22 Transcript of Deposition of George Togliatti, dated October 27, 2021, a copy of the pertinent
23 portions of which is annexed as **Exhibit F**, at 7. Director Togliatti served in the Vietnam War
24 as a United States Navy pilot and thereafter for some twenty-three (23) years as a Special
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1 Agent, and later Supervisory Special Agent, of the Federal Bureau of Investigation ("FBI").
2 **Ex. F**, at 11-18. In these roles, he was issued and carried various weapons and received
3 substantial training in the use of many guns. *Id.* at 18-24. Moreover, he has personally held
4 and/or owned a number of firearms since leaving the FBI, including two semiautomatic
5 pistols issued by the Nevada Department of Public Safety and an AR-15 rifle. *Id.* at 24-29.

6
7 Yet, despite this bountiful experience and training, Director Togliatti was unable to
8 provide workable definitions or explanations for the motley collection of terms and tests set
9 forth in AB 286. *Id.* at 119-28. However, as with his colleague Ms. McKay, Director Togliatti
10 acknowledged the importance of Nevada citizens being able to clearly understand a criminal
11 statute in order to know what is prohibited. *Id.* at 112-13; 130-31. In this vein and as the
12 Legislative History establishes, it is more than noteworthy that during the legislative process,
13 a private citizen and former Nevada law enforcement officer specifically challenged the
14 vagueness of Section 6(9)'s definition of, and test for, an "unfinished frame or receiver." **Ex.**
15 **D** at 329-30. The record reflects that his observations fell on deaf ears. The Nevada
16 Legislature literally ignored them.

17
18 Finally, Scott Stuenkel, the Rule 30(b)(6) witness voluntarily proffered and designated
19 by defendants, corroborated the unassailable conclusion that AB 286 is vague and
20 indecipherable. See Transcript of Deposition of Scott Stuenkel, dated November 4, 2021,
21 a copy of the pertinent portions of which is annexed as **Exhibit G**. Mr. Stuenkel, again the
22 individual whom defendants themselves proffered voluntarily as the person most
23 knowledgeable on the issues at bar, serves as Chief of the Training Division of the same
24 Nevada Department where he has been employed in various capacities for approximately
25 twenty-two (22) years. And, during all of that time, he has been issued a weapon. **Ex. G** at
26 90-92, 6-7. Additionally, prior to joining that Department, he served in the United States
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1 Marine Corps -- in the infantry. *Id.* at 8-12. He subsequently joined the Department, was
2 initially assigned to the Nevada Highway Patrol, and has risen through its ranks to his current
3 senior position. *Id.* at 14-16. In that post, he oversees the training of Department
4 investigators and other law enforcement personnel. *Id.* at 26-27.

5
6 Mr. Stuenkel's ties to and knowledge of guns began as a child, in the sixth grade. *Id.*
7 at 28-30. He received extensive training in their use, assembly, and maintenance during his
8 tenures in the Marine Corps and Nevada Department of Public Safety. *Id.* at 30-43, 85-88.
9 He has been trained on and has been issued and/or has owned at least ten different firearms
10 during these many years, including shotguns, rifles, and pistols. *Id.* at 30-41, 88. Yet, with
11 respect to the definitions and tests embodied in AB 286, he generally testified that he would
12 not have been able to define or understand any of them prior to the voluminous firearm
13 exposure and training outlined above, nor could he explain how a Nevadan of ordinary
14 intelligence without said training would be capable of defining or understanding them. Chief
15 Stuenkel also stated under oath that nothing in AB 286 has clarified the definitions and/or
16 tests at issue. *Id.* at 64-65, 122-46. Indeed, the Chief himself -- after realizing he was to be
17 deposed in this case -- needed to reach out to a Special Agent of the federal Bureau of
18 Alcohol, Tobacco, Firearms and Explosives for help in defining and understanding certain
19 of AB 286's terms. And even that supposedly expert Special Agent was unable to shed any
20 light on their meaning. *Id.* at 50, 54-66, 148-58. However and once more, as with Ms.
21 McKay and Director Togliatti, Chief Stuenkel reiterated the importance of a criminal statute
22 providing crystalline notice of its strictures and penalties. *See id.* at 105.

23
24 Such compelling and potentially dispositive testimony has not merely come from
25 defendants. Polymer80's designated Rule 30(b)(6) representative, the Company's
26 Executive Vice President Daniel Lee McCalmon, has testified that neither he nor the
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1 Company possesses an understanding of the terms “blank,” “casting,” or “machined body,”
2 as used in AB 286. See Transcript of Deposition of Daniel McCalmon, dated October 22,
3 2021, a copy of the pertinent portions of which is annexed as **Exhibit H**, at 13, 62-65.
4 Moreover, Mr. McCalmon has expanded upon this testimony in his supporting Declaration,
5 a copy of which is annexed as Exhibit I. Therein, he explains that in addition to “blank,”
6 “casting,” or “machined body,” he and Polymer80 lack any understanding of the meaning of
7 “[u]nfinished frame or receiver,” as those amorphous words are used in AB 286 Section 6(9),
8 largely because those three undefined terms are utilized in that section. Ex. I at ¶¶ 4-5. Mr.
9 McCalmon further notes that the phrases “is intended to be turned into the frame or lower
10 receiver of a firearm with additional machining,” “which has been formed or machined to the
11 point at which most of the major machining operations have been completed,” and “to turn
12 the blank, casting or machined body into a frame or lower receiver of a firearm even if the
13 fire-control cavity area of the blank, casting or machined body is still completely solid and
14 unmachined,” which further attempt to explicate what an “[u]nfinished frame or receiver” is,
15 are (from his and Polymer80’s perspectives) indecipherable. *Id.* at ¶ 5. This is particularly
16 true, where there is no way to know when “most” of the “major machining operations have
17 been completed.” *Id.* at ¶ 6.

20
21 **C. Polymer80**

22 Polymer80 is headquartered in Dayton, Nevada and a leading purveyor of gun-
23 related products, components, and aftermarket accessories. Polymer80 is in the
24 business of manufacturing and distributing innovative products, many of which are not --
25 and are not required to be -- serialized under federal law. A core principle of Polymer80’s
26 business is the empowerment of its customers to exercise their inalienable right to bear
27 arms and engage lawfully with the Company’s products. As such, a material part of
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1 Polymer80's business is the distribution of components "that provide ways for [their]
2 customer[s] to participate in the build process, while expressing their right to bear arms."

3 See Compl. ¶¶ 32-34.

4 Owing to Polymer80's prominent position in the marketplace, it has become the
5 target of an onslaught of politically expedient attacks. A fine example is AB 286, which is
6 transparently directed at Polymer80 and its products, as Nevada legislators and officials
7 have made clear. *Id.* ¶¶ 35-38. For instance, in discussing AB 286 and the purported
8 reasons for its passage during a March 17, 2021 meeting of the Assembly Committee on
9 Judiciary, Nevada Assemblywoman and co-sponsor of the legislation, Sandra Jauregui,
10 stated that: "In 2020, agents from the Bureau of Alcohol, Tobacco, Firearms and
11 Explosives (ATF) within the U.S. Department of Justice, raided a Nevada-based
12 company, Polymer80, Inc., one of the nation's largest manufacturers of ghost guns.
13 Polymer80 was illegally manufacturing and distributing firearms, failing to pay taxes,
14 shipping guns across state lines, and not conducting background checks." Compl. ¶ 36;
15 Ex. D. at 27. Assemblywoman Jauregui essentially repeated these assertions during a
16 May 11, 2021 meeting of the Senate Committee on Judiciary. Ex. D at 263. While these
17 allegations are demonstrably false and/or misleading, they illustrate that AB 286's drafters
18 designed it -- as its enforcers will undoubtedly utilize it -- with Polymer80's products
19 squarely in mind. Compl. ¶ 38.

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23 However, which of Polymer80's products, if any, are now prohibited in Nevada and
24 subject to AB 286's criminal sanctions remains unknowable and presently unknown owing
25 to the statute's unintelligible and unconstitutionally vague text. As a consequence,
26 Assemblyman Jim Wheeler, at the March 17, 2021 meeting of the Assembly Committee
27 on Judiciary, recognized that AB 286, if enforced, "basically puts a company in my district
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1 [Polymer80] out of business.” Ex. D. at 34, 35. Moreover, in response to Paragraph 45
2 of the Complaint, which alleges that Polymer80 deals in products “that Nevada legislators
3 and officials have revealed are intended to be the target of AB 286’s prohibitions,”
4 defendants themselves admitted in their September 23, 2021 Answer, a copy of which is
5 annexed as **Exhibit J**, that “[p]laintiff engages in conduct that is proscribed by AB 286.”
6 Ex. H at ¶ 45.

7
8 In fact, as set forth in the supporting Declaration of Loran Kelley, a copy of which is
9 annexed as **Exhibit K**, one of Polymer80’s founders and its current Chief Executive Officer
10 has stated that the harm to the Company that enforcement of AB 286 would engender will
11 be real and irreparable. According to Mr. Kelley, AB 286’s vague and indecipherable
12 provisions have already injured Polymer80’s business, in that it is impossible for it and other
13 industry participants (and consumers) to even attempt to conform their conduct thereto.
14 Ex. K at ¶¶ 2-5. Moreover, if AB 286 Sections 3, 3.5, and 6(9) were to be enforced against
15 Polymer80, Mr. Kelley estimates that the Company’s current annual revenue would be
16 reduced by more than fifty (50) percent, and perhaps by as much as seventy-five (75)
17 percent, cogent proof of serious and irreparable damage to Polymer80’s commercial
18 interests. *Id.* at ¶ 6.

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21 Accordingly, with the enactment of AB 286 and given the all too convenient and/or
22 erroneous remarks of Nevada legislators and officials, the Company and its management
23 have been put in an untenable position that one might aptly characterize as being
24 “between a rock and a hard place.” On the one hand, Polymer80 could cease conducting
25 the majority of its business to obviate the possibility that AB 286’s vague proscriptions
26 and serious criminal sanctions would be imposed on it, with the concomitant impact that
27 such a course would have on its many employees. On the other, the Company could
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1 continue its business -- which it staunchly and justifiably believes to be lawful -- while
2 risking prosecution under these murky mandates and possible exposure to substantial
3 criminal penalties. Compl. ¶ 39. Elementary Due Process principles flowing from the
4 Nevada Constitution, as a legion of decisions of the Supreme Court of Nevada (explicated
5 below) shows, mandate that Polymer80 not be subjected to this dilemma. And so, the
6 Court should invalidate AB 286 as unconstitutionally vague.
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8 **III. ARGUMENT**

9 **A. Legal Standards**

10 Summary judgment is appropriate when “the pleadings, depositions, answers to
11 interrogatories, and admissions on file, together with the affidavits, if any, show that there
12 is no genuine issue as to any material fact and that the moving party is entitled to a
13 judgment as a matter of law.” NRCP 56(c). While this Court must construe the evidence
14 in the light most favorable to the nonmoving party when considering a motion for summary
15 judgment, the nonmoving party “bears the burden to do more than simply show that there
16 is some metaphysical doubt as to the operative facts in order to avoid summary judgment
17 being entered in the moving party’s favor.” *Wood v. Safeway, Inc.*, 121 Nev. 724, 732,
18 121 P.3d 1026, 1031 (2005) (quotations omitted). “The nonmoving party must, by
19 affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine
20 issue for trial or have summary judgment entered against him.” *Id.* (quotations
21 omitted). And, a party opposing summary judgment cannot build a case on the
22 “gossamer threads of whimsy, speculation, and conjecture.” *Id.* (quoting *Bulbman, Inc.*
23 *v. Nev. Bell*, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992)).
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27 Here, Polymer80 is entitled to summary judgment, because the undisputed facts
28 and applicable law demonstrate that it is entitled to the Declaratory Judgment and

1 Permanent Injunction it seeks. Those same facts and law establish that unless a
2 Declaratory Judgment is entered and defendants are permanently barred from enforcing
3 AB 286, the Company will suffer great and/or irreparable injury. Finally, any balancing of
4 the equities/hardships tips decidedly in Polymer80's favor, and the public interest strongly
5 militates towards the granting of this Motion.
6

7 As to the declaratory relief sought, NRS 30.040 provides that "[a]ny person
8 interested under a deed, written contract or other writings constituting a contract, or
9 whose rights, status or other legal relations are affected by a statute, municipal ordinance,
10 contract or franchise, may have determined any question of construction or validity arising
11 under the instrument, statute, ordinance, contract or franchise and obtain a declaration of
12 rights, status or other legal relations thereunder." Here, AB 286 unequivocally "affects"
13 Polymer80's "rights, status or other legal relations," to which numerous pronouncements
14 and admissions by Nevada legislators and officials (including defendants) attest. The
15 Company, therefore, has the right to "have determined any question of construction or
16 validity arising under the ... statute." See *Falcke v. Douglas Cty.*, 116 Nev. 583, 586, 3
17 P.3d 661, 663 (2000) (holding Declaratory Judgment under NRS 30.040 proper vehicle
18 for challenging validity of statute); *Harris v. City of Reno*, 81 Nev. 256, 257, 401 P.2d 678,
19 678 (1965) (addressing validity of statute in NRS 30.040 Declaratory relief proceeding).
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21

22 With respect to Polymer80's request for a Permanent Injunction, under NRS
23 33.010, injunctive relief may be granted in the following settings:

- 24 (1) When it shall appear by the complaint that the plaintiff
25 is entitled to the relief demanded, and such relief or any
26 part thereof consists in restraining the commission or
27 continuance of the act complained of, either for a
28 limited period or perpetually.
- (2) When it shall appear by the complaint or affidavit that
the commission or continuance of some act, during the

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litigation, would produce great or irreparable injury to the plaintiff.

- (3) When it shall appear, during the litigation, that the defendant is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.

The question of the propriety of permanent injunctive relief raises the same core issues as does Injunctive relief more generally. See *Chateau Vegas Wine, Inc. v. S. Wine & Spirits of Am., Inc.*, 127 Nev. 818, 824-25, 265 P.3d 680, 684 (2012) ("Permanent injunctive relief may only be granted if there is no adequate remedy at law, a balancing of equities favors the moving party, and success on the merits is demonstrated.") (citation omitted). See also *Clark Co. Sch. Dist. v. Buchanan*, 112 Nev. 1146, 1150, 924 P.2d 716, 719 (1996) (in considering injunctive relief, "[t]he district court may also weigh the public interest and the relative hardships of the parties."); *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 32, 129 S. Ct. 365, 381(2008) (quoting *Amoco Prod. Co. v. Gambell*, 480 U.S. 531, 546 n.12, 107 S. Ct. 1396, 1404 n.12 ("The standard for a preliminary injunction is essentially the same as for a permanent injunction with the exception that the plaintiff must show a likelihood of success on the merits rather than actual success.")).

B. Polymer80 Has Standing, And The Company's Claims Are Ripe.

In their Answer, Defendants cryptically aver the Polymer80 lacks standing based upon an inapposite federal case, *Get Outdoors II, LLC v. City of San Diego*, 506 F.3d 886, 891-94 (9th Cir. 2007), in which the Court, in part, found that plaintiff did not suffer a redressable injury on the merits. See Ex. J at ¶ 16. Here, any standing challenge ignores the: (i) evidence of harm to Polymer80 (as well as all Nevadans) from the deprivation of Due Process, (ii) direct, substantial, and negative impact to Polymer80's business that

1 will be triggered by AB 286's enforcement, and (iii) repeated assertions and admissions
2 by Nevada officials and defendants themselves illustrating that AB 286 targets the
3 Company individually.

4 "To have standing, the party seeking relief [must have] a sufficient interest in the
5 litigation, so as to ensure the litigant will vigorously and effectively present his or her case
6 against an adverse party." *Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC*, 133 Nev.
7 247, 250, 396 P.3d 754, 756 (2017) (alteration in original) (citation and internal quotations
8 omitted). In Nevada, standing is not a constitutional requirement, but rather "merely a
9 judicially-created doctrine of convenience." See *Schulte v. Fafaleos*, 133 Nev. 1071, 2017
10 WL 2591346, at *2 (Nev. App. 2017) (Tao, J., concurring). See also *Babbitt v. United*
11 *Farm Workers Nat'l Union*, 442 U.S. 289, 303, 99 S. Ct. 2301, 2311 (1979) (finding that
12 party had standing to assert pre-enforcement vagueness challenge to criminal provision
13 in statute because "[i]f the provision were truly vague, appellees should not be expected
14 to pursue their collective activities at their peril."). Moreover, this Court has already found
15 that Polymer80 possesses standing. See Ex. B at 3 ("Polymer80, Inc. has sufficiently
16 demonstrated to this Court that it has standing to facially challenge AB 286 ..."); Ex. C
17 at 63 ("And the Court also finds that because of that hardship, Polymer80 has that
18 standing because they would be unable to conduct business as they commonly have in
19 the past.").

20 Furthermore, this same record evidence demonstrates that the Company's two
21 claims are ripe. See *In re T.R.*, 119 Nev. 646, 651-52, 80 P.3d 1276, 1280 (2003) ("*T.R.*")
22 (finding factors to be considered in ripeness analysis "(1) the hardship to the parties of
23 withholding judicial review, and (2) the suitability of the issues for review", and that claims
24 were ripe where application of vague statute to plaintiff was assured, uncertainty existed
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1 as to how statute would impact plaintiff, and record was sufficiently developed to allow
2 Supreme Court to “consider the legal questions” before it); *Hernandez v. Bennett-Haron*,
3 128 Nev. 580, 586, 287 P.3d 305, 310 n. 3 (2012) (“*Hernandez*”) (same).

4 **C. Polymer80 Has Established That AB 286 Is Unconstitutionally Vague.**

5
6 The Company has demonstrated that AB 286 should be declared void as
7 unconstitutionally vague under Article 1, Section 8(2), of the Nevada Constitution, which
8 states that “[n]o person shall be deprived of life, liberty, or property, without due process
9 of law,” and that its enforcement should be permanently enjoined as a result.

10 Turning to the substantive analysis underlying both forms of relief that the
11 Company is seeking, the two-prong test for determining whether a criminal statute is so
12 impermissibly vague as to run afoul of Due Process is firmly established. In actuality, a
13 long line Supreme Court of Nevada precedent has applied and implemented that test to
14 invalidate vague enactments. “A criminal statute can be invalidated for vagueness (1) if
15 it fails to provide a person of ordinary intelligence fair notice of what is prohibited or (2) if
16 it is so standardless that it authorizes or encourages seriously discriminatory
17 enforcement.” *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021, 363 P.3d 1159, 1164
18 (2015) (“*Scott*”) (striking down ordinance imposing criminal penalties for hindering
19 Sheriff’s Deputy in discharge of his duties as unconstitutionally vague) (internal quotations
20 and citations omitted)³; *Flamingo Paradise Gaming, LLC v. Chanos*, 125 Nev. 502, 510,
21 217 P.3d 546, 551-52 (2009) (“*Flamingo*”) (nullifying criminal penalties in Nevada Clean
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25 ³ Many of the cases Polymer80 cites address the Due Process Clause of the Fourteenth Amendment to
26 the United States Constitution and rely upon United States Supreme Court and other federal precedent.
27 However, as the Supreme Court of Nevada has explicitly recognized, because Article 1, Section 8(2) of the
28 State’s Constitution mirrors the Due Process Clause of the Fifth and Fourteenth Amendments to the United
States Constitution, it is wholly appropriate to rely upon federal authorities in addressing a vagueness
challenge under the Nevada Constitution. See *Hernandez*, 128 Nev. at 587, 287 P.3d at 310 (2012) (citing
Rodriguez v. Dist. Ct., 120 Nev. 798, 808 n. 22, 102 P.3d 41, 48 n. 22 (2004)).

1 Indoor Air Act as unconstitutionally vague and stating: "Under this two-factor test, an act
2 is unconstitutionally vague if it (1) fails to provide notice sufficient to enable persons of
3 ordinary intelligence to understand what conduct is prohibited and (2) lacks specific
4 standards, thereby encouraging, authorizing, or even failing to prevent arbitrary and
5 discriminatory enforcement.") (internal quotations and citation omitted); *Gallegos v. State*,
6 123 Nev. 289, 294, 163 P.3d 456, 459 (2007) ("*Gallegos*") (finding statute criminalizing
7 possession of firearm by "fugitive from justice" unconstitutionally vague; same); *Silvar v.*
8 *Eighth Jud. Dist. Court ex. rel County of Clark*, 122 Nev. 289, 293, 129 P.3d 682, 685
9 (2006) ("*Silvar*") (holding County ordinance imposing criminal penalties for loitering for the
10 purpose of prostitution unconstitutionally vague; same); *T.R.*, 119 Nev. at 652, 80 P.3d at
11 1280-81 (ruling statute that required determination as to whether juvenile sex offender
12 was rehabilitated unconstitutionally vague and stating: "[A] law must give a person of
13 ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may
14 act accordingly. The law must also provide explicit standards for those who apply them
15 to avoid arbitrary and discriminatory enforcement.") (internal quotations and citations
16 omitted); *Sheriff, Washoe Cty. v. Burd*, 118 Nev. 853, 857, 59 P.3d 484, 486-87 (2002)
17 ("*Washoe*") (finding statute criminalizing possession of ingredients to manufacture
18 controlled substance unconstitutionally vague, including under Article 1, Section 8 of the
19 Nevada Constitution, and stating: "A statute is void for vagueness if it fails to define the
20 criminal offense with sufficient definiteness that a person of ordinary intelligence cannot
21 understand what conduct is prohibited and it lacks specific standards, encouraging
22 arbitrary and discriminatory enforcement.") (citation omitted); *Cunningham v. State*, 109
23 Nev. 569, 570, 855 P.2d 125, 125 (1993) ("*Cunningham*") (deciding statute criminalizing
24 telephone solicitation unconstitutionally vague under Article 1, Section 8 of the Nevada
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1 Constitution and stating: "A statute which forbids the doing of an act in terms so vague
2 that people of common intelligence must necessarily guess as to its meaning violates the
3 first essential of due process, the notion of fair notice or warning." (citation omitted); *State*
4 *v. Richard*, 108 Nev. 626, 629, 836 P.2d 622, 624 (1992) ("*Richard*") (determining statute
5 and municipal codes criminalizing vagrancy unconstitutionally vague, including under
6 Article 1, Section 8 of the Nevada Constitution, and stating: "A vague law is one which
7 fails to provide persons of ordinary intelligence with fair notice of what conduct is
8 prohibited and also fails to provide law enforcement officials with adequate guidelines to
9 prevent discriminatory enforcement." (citations omitted); *Eaves v. Bd. of Clark Cty.*
10 *Com'rs*, 96 Nev. 921, 923, 620 P.2d 1248, 1249 (1980) ("*Eaves*") (holding ordinance
11 criminalizing provision of escort services unconstitutionally vague, including under Article
12 1, Section 8 of the Nevada Constitution, and stating: "An ordinance which either forbids
13 or requires the doing of an act in terms so vague that men of common intelligence must
14 necessarily guess at its meaning, and differ as to its application, violates the first essential
15 of due process, i.e., the notion of fair notice or warning." (citations omitted); *Applications*
16 *of Laiolo*, 83 Nev. 186, 189, 426 P.2d 726, 727 (1967) ("*Laiolo*") (finding ordinance
17 criminalizing unlicensed banking unconstitutionally vague and stating: "[A] statute which
18 either forbids or requires the doing of an act in terms so vague that men of common
19 intelligence must necessarily guess at its meaning and differ as to its application violates
20 the first essential of due process law." (internal quotations and citation omitted).

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24 In the wake of this extraordinary and unbroken litany of Supreme Court of Nevada
25 decisions, this Court should reaffirm and concretize the conclusion already reached in
26 granting Polymer80 interim relief. **AB 286 is unconstitutionally vague and hence void.**
27
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1 **1. Nevada Laws Imposing Criminal Penalties Are Plainly**
2 **Subject To A Heightened Judicial Vagueness Review.**

3 The Supreme Court of Nevada has further held that while the dual “fair notice” and
4 “discriminatory enforcement” prongs of the vagueness test apply to both criminal and civil
5 statutes, the former statutes are held to a more exacting standard and will be adjudged
6 “facially vague when vagueness permeates the text of the statute.” *Scott*, 131 Nev. at
7 1021, 363 P.3d at 1164 (citation omitted). *See also Flamingo*, 125 Nev. at 512-13, 217
8 P.3d at 554-55 (“[W]hen the statute involves criminal penalties or constitutionally
9 protected rights, the second approach involves a higher standard of whether vagueness
10 permeates the text. . . . Under the higher standard, the question becomes whether
11 vagueness so permeates the text that the statute cannot meet these requirements in most
12 applications; and thus, this standard provides for the possibility that some applications of
13 the law would not be void, but the statute would still be invalid if void in most
14 circumstances.”) (internal quotations and citations omitted); *Eaves*, 96 Nev. at 923, 620
15 P.2d at 1249 (“This court has consistently held that ordinances . . . which prescribe serious
16 penalties must be strictly construed.”) (citation omitted).

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19 When viewed through the prism of this standard, AB 286 falls far short on both
20 prongs of the controlling vagueness test. AB 286’s complete failure to define material
21 terms and the “formed or machined” continuum test -- itself devoid of any standards or
22 guidelines sufficient to enable anyone to determine when “most of the major machining
23 operations have been completed” -- render the statute facially and fatally vague. Simply
24 put, AB 286 both: “(1) fails to provide notice sufficient to enable persons of ordinary
25 intelligence to understand what conduct is prohibited and (2) lacks specific standards,
26 thereby encouraging, authorizing, or even failing to prevent arbitrary and discriminatory
27 enforcement.” *See e.g., Flamingo*, 125 Nev. at 510, 217 P.3d at 551-52. This is
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1 especially true, where the legislation's definitional and guideline deficiencies "permeate"
2 Sections 3 and 3.5, because the concepts of "unfinished frame" and "unfinished receiver,"
3 both of which are founded upon utterly opaque terms and an amorphous "machining"
4 construct, are contained in each.

5
6 **2. A Law Is Unconstitutionally Vague, When**
7 **It Fails To Adequately Define Key Terms.**

8 More specifically, as to AB 286's failure to define material terms, the Supreme
9 Court of Nevada has repeatedly held that such a failure invalidates a statute for
10 vagueness. See *Flamingo*, 125 Nev. at 514, 217 P.3d at 554 (finding criminal penalties
11 in Nevada Clean Indoor Air Act void for vagueness, where the Act failed "to define several
12 terms included in the statute that do not have a plain meaning. These terms include
13 'smoking paraphernalia' and 'large room.'"); *Gallegos*, 123 Nev. at 294, 163 P.3d at 459
14 ("We conclude that NRS 202.360(1)(b) does not survive the first prong of the vagueness
15 test because the Legislature did not define the term 'fugitive from justice.'"); *Washoe*, 118
16 Nev. at 858-859, 59 P.3d at 487-88 (statute facially vague under both prongs of
17 vagueness test, in failing to list and define "ingredients" required to manufacture
18 controlled substance); *Cunningham*, 109 Nev. at 570-71, 855 P.2d at 126 (finding statute
19 criminalizing telephone solicitation unconstitutionally vague under Article 1, Section 8 of
20 the Nevada Constitution, as it failed to adequately define "seller," "salesman," and
21 "telephone solicitation"); *Eaves*, 96 Nev. at 924, 620 P.2d at 1249-50 (determining
22 ordinance criminalizing provision of escort services unconstitutionally vague, including
23 under Article 1, Section 8 of the Nevada Constitution, where ordinance did not adequately
24 define "direct or indirect social companions" or "escorts"); *Laiolo*, 83 Nev. at 188-89, 426
25 P.2d at 727 (holding ordinance criminalizing unlicensed banking unconstitutionally vague,
26 for not defining terms, including "capitalization").
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1 If statutes failing to define, or inadequately defining, material terms such as these
2 do not pass Due Process muster under Nevada law, AB 286's palpable and indisputable
3 absence of definitions for, among others, "blank," "casting," "machined body," and/or
4 "additional machining" compels the same result.

5
6 **3. A Law Is Also Unconstitutionally Vague, When It Does
Not Provide Any Workable Standards Or Guidelines.**

7 Likewise, AB 286's "completion of machining" test, which offers no guidance for
8 figuring out when "most of the major machining operations have been completed,"
9 renders AB 286 unconstitutionally vague. Once again, the Supreme Court of Nevada has
10 concluded time and again that the lack of such standards or guidelines is fatal. See *Scott*,
11 131 Nev. at 1022, 363 P.3d at 1164 (invalidating ordinance imposing criminal penalties
12 for hindering sheriff's deputy in discharge of his duties as unconstitutionally vague, where
13 ordinance "lack[ed] specific standards" to delineate when an individual could be guilty of
14 prohibited conduct); *Silvar*, 122 Nev. at 294-95, 129 P.3d at 686 (deciding County
15 ordinance imposing criminal penalties for loitering for the purpose of prostitution
16 unconstitutionally vague under second prong of vagueness test, since ordinance provided
17 inadequate guidelines for evaluating an individual's explanation for their actions); *T.R.*,
18 119 Nev. at 653, 80 P.3d at 1281 (holding statute that required determination as to
19 whether juvenile sex offender was rehabilitated unconstitutionally vague, given that it
20 "fail[ed] to provide the district court with any standards for determining whether a child is
21 rehabilitated or poses a continuing threat to society."); *Richard*, 108 Nev. at 629, 836 P.2d
22 at 624 (ruling statute and municipal codes criminalizing vagrancy unconstitutionally
23 vague, including under Article 1, Section 8 of the Nevada Constitution, and stating:
24 "Because they lack articulable standards, these laws fail to provide law enforcement
25 officials with proper guidelines to avoid arbitrary and discriminatory enforcement.");
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1 *Eaves*, 96 Nev. at 923, n. 2, 620 P.2d at 1250, n. 2 (“If a county ordinance contains no
2 standards to govern the exercise of the discretion it grants to law enforcement officials,
3 then the ordinance permits and encourages an arbitrary and discriminatory enforcement
4 of its provisions. Such an ordinance can be a convenient but improper tool for local
5 prosecuting officials to employ against particular groups deemed to merit their
6 displeasure.”) (citations omitted).

7
8 Before this Court, *inter alia*, is AB 286’s turbid and unworkable machining test,
9 which likewise provides zero standards or guidelines for assessing when “most of the
10 major machining operations have been completed.” That test, too, should be adjudged
11 impermissibly vague on its face, in accordance with the abundant, cogent, above-cited
12 Supreme Court of Nevada precedent.

13
14 **D. Polymer80 Has Demonstrated Great And/Or Irreparable Injury.**

15 At the outset, a Permanent Injunction is appropriate here, because the violation of
16 Polymer80’s Nevada Constitutional Due Process rights necessarily occasions “great or
17 irreparable injury” to Polymer80, absent any further showing. See *Eaves*, 96 Nev. at 925,
18 620 P.2d at 1250 (reversing District Court’s decision denying request for Injunction, where
19 ordinance found void for vagueness without any analysis of irreparable injury). Indeed,
20 the loss of constitutional rights “unquestionably constitutes irreparable injury.” *Elrod v.*
21 *Burns*, 427 U.S. 347, 373, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976). See also *Nelson v.*
22 *Nat’l Aeronautics & Space Admin*, 530 F.3d 865, 882 (9th Cir.2008), *rev’d on other*
23 *grounds*, 562 U.S. 134, 131 S.Ct. 746, 178 L.Ed.2d 667 (2011) (“Unlike monetary injuries,
24 constitutional violations cannot be adequately remedied through damages and therefore
25 generally constitute irreparable harm.”); *Overstreet v. Lexington-Fayette Urban County*
26 *Government*, 305 F.3d 566, 578 (6th Cir. 2002) (“[A] plaintiff can demonstrate that a denial
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1 of an injunction will cause irreparable harm if the claim is based upon a violation of
2 plaintiff's constitutional rights.") (citing cases); *ACLU of KY v. McCreary County,*
3 *Kentucky*, 354 F.3d 438, 445 (6th Cir. 2003) ("[I]f it is found that a constitutional right is
4 being threatened or impaired, a finding of irreparable injury is mandated."); *Fyock v. City*
5 *of Sunnyvale*, 25 F.Supp.3d 1267, 1282 (N.D.Cal.2014) ("Irreparable harm is presumed
6 if plaintiffs are likely to succeed on the merits because
7 a deprivation of constitutional rights always constitutes irreparable harm.").

8
9 Moreover and in any event, Polymer80 has independently demonstrated a
10 "reasonable probability" of "great or irreparable injury." The harm to the Company's
11 business, customer relationships, and good will resulting from potential enforcement of
12 AB 286 mandates the issuance of injunctive relief. "[A]cts ... which unreasonably interfere
13 with a business or destroy its credit or profits, may do an irreparable injury and thus
14 authorize issuance of an injunction." *Sobol v. Capital Mgmt. Consultants, Inc.*, 102 Nev.
15 444, 446, 726 P.2d 335, 337 (1986) ("*Sobol*"). See also *Finkel*, 128 Nev. at 73, 270 P.3d
16 at 1263, citing *Sobol*; *Stuhlberg Int'l Sales Co. v. John D. Brush & Co., Inc.*, 240 F.3d 832,
17 841 (9th Cir. 2001) (noting that the "threatened loss of prospective customers or goodwill
18 certainly supports a finding of the possibility of irreparable harm.") (citation omitted).
19 Accordingly, permanent Injunctive relief is warranted to stop defendants from harming
20 Polymer80's business, customer relationships, and goodwill through the potential
21 enforcement of AB 286.

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24 Notably, this Court has already found for Polymer80 on exactly this point upon a
25 far more limited record:

26 Polymer80, Inc. has sufficiently demonstrated to this Court
27 that it has standing to facially challenge AB 286 and will suffer
28 irreparable harm in the absence of preliminary injunctive relief
because Section 3.5 of AB 286 renders Polymer80, Inc.

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unable to conduct its business without the threat of criminal prosecution. The inability of a company like Polymer80, Inc. to conduct its business without threat of unreasonable interference or the destruction on its business is the type of irreparable harm that warrants preliminary injunctive relief. [citing *Sobol* and *Finkel*]. The Court also notes that the harm Polymer80, Inc. would suffer due to its inability to conduct its business in the face to AB 286 is immeasurable, underscoring the Court's finding that Polymer80, Inc. has sufficiently demonstrated irreparable harm to warrant a preliminary injunction.

See Ex. B at 3-4. See also Ex. C at 63 ("So, the Court finds that there is a probable – probability of irreparable injury if they are unable to conduct business.").

Now, upon a more fully developed evidentiary backdrop, the fact that Polymer80 will suffer "great or irreparable injury" stemming from the possible enforcement of AB 286 is unassailable. As set forth above, statements by Nevada legislators made in conjunction with their consideration of AB 286, as well as admissions in Defendants' Answer, demonstrate that AB 286 is directly targeted at Polymer80 and designed to put the Company out of business.

Finally and dispositively on the issue of "harm," Polymer80 simply has no remedy at law -- full stop. In other words, the Company will never have any cognizable claim to recover meaningful damages from the State of Nevada for forcing it to effectively shut down its business owing to the fear that the Company might face criminal charges, should AB 286's vague verbiage be mobilized against Polymer80.

E. A Balancing Of The Equities And Hardships Weighs Heavily In Polymer80's Favor Here.

As elucidated above, the hardship to Polymer80 imposed by AB 286 is real and significant. The Company stands to absorb the virtual destruction of its business, insofar as it cannot properly conform its behavior to the law given AB 286's vagueness. In this

1 respect, one cannot ignore that a right arising from Nevada Constitution is at stake. And
2 to be sure, AB 286 deprives Polymer80 of Due Process under that Constitution.

3 In contrast, the hardship to defendants tied to the invalidation of AB 286 is minimal.
4 The State is always free to amend a law to cure its Constitutional maladies and promote
5 transparent and evenhanded enforcement. This *de minimis* burden cannot possibly be
6 deemed anything near equivalent to the dubious, discriminatory, and decidedly arbitrary
7 enforcement that AB 286, as written, both encourages and presages. The harm or burden
8 to defendants in defining terms and providing operable standards and guidelines cannot
9 outweigh the fundamental Due Process contravention that AB 286, as drafted, embodies,
10 as well as the ineluctable harm to the Company's business and public at large that the
11 new statute portends. In the end, defendants conveniently fail to confront a central reality
12 before this Court upon the instant Motion -- they can simply amend AB 286 to define
13 undefined terms and provide additional standards and guidelines, thereby possibly
14 providing adequate notice to Nevada residents and foreclosing the possibility of arbitrary
15 and discriminatory enforcement. Accordingly, any balancing of the equities and hardships
16 incontestably militates in favor of the Court granting the summary judgment sought here.
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1 **F. The Public Interest Calls For The Granting Of Injunctive Relief.**

2 There can be no doubt that this factor weighs heavily in Polymer80's favor. It is not
3 just Polymer80 but the public at large in Nevada that has a compelling interest in ensuring
4 that AB 286 is not employed (absent adequate notice) to impose criminal sanctions in an
5 arbitrary and discriminatory manner. The public interest simply cannot be facilitated by
6 and through the promulgation of an indefinite and imprecise criminal law that invites
7 arbitrary and discriminatory enforcement, no matter the aim of that enactment. Whatever
8 Nevada's regulatory interest may be, the State must advance that interest, particularly in
9 the criminal sphere, through legislation and/or regulation that does not flout Due Process.
10 The onus cannot and should not be put on the public to divine AB 286's meanings to avoid
11 criminal punishment. In the premises then, it cannot seriously be questioned that the
12 important Constitutional Due Process right at issue here directly implicates that public
13 interest, and that that interest tips overwhelmingly towards issuance of the Permanent
14 Injunction sought.
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IV. CONCLUSION

Based upon all of the foregoing, Polymer80 requests that this Court wholly grant the instant Motion and: (i) issue summary judgment on Counts I and II of the Complaint in favor of plaintiff; (ii) in so doing, enter a Declaratory Judgment that AB 286 is void for vagueness and unconstitutional under the Due Process Clause of the Nevada Constitution; (iii) issue a Permanent Injunction forever prohibiting defendants from enforcing AB 286 against Polymer80 or anyone else subject to the jurisdiction of the State of Nevada; and (iv) award the Company such further relief as the Court may deem just and proper.

Dated this 8th day of November, 2021

SIMONS HALL JOHNSTON PC

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CERTIFICATE OF SERVICE

I, Brad M. Johnston, hereby certify that on this date I caused the foregoing to be served via U.S. Mail and electronic mail on the following:

Gregory Zunino, Deputy Solicitor General
Craig Newby, Deputy Solicitor General
Laena St-Jules, Deputy Attorney General
100 North Carson Street.
Carson City, Nevada 89701
gzunino@ag.nv.gov
cnewby@ag.nv.gov
lstjules@ag.nv.gov

Dated this 8th day of November 2021.



Brad M. Johnston

1 Case No.: 21-CV-00690

2 Dept. No.: 1

3
4 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
5 **IN AND FOR THE COUNTY OF LYON**

6 POLYMER80, INC.,

7
8 Plaintiff,

9 vs.

10 STEPHEN SISOLAK, Governor of Nevada, AARON
11 FORD, Attorney General of Nevada, GEORGE
12 TOGLIATTI, Director of the Nevada Department of
13 Public Safety; MINDY MCKAY, Administrator
14 of the Records, Communications, and Compliance
15 Division of the Nevada Department of Public
16 Safety,

17 Defendants.

18 **DECLARATION OF BRAD M. JOHNSTON**

19 I, BRAD M. JOHNSTON, hereby declare under penalty of perjury of the laws of the State
20 of Nevada that the following is true and correct to the best of my knowledge.

21 1. I am a partner in the law firm of Simons Hall Johnston PC, counsel for Plaintiff
22 Polymer80, Inc. in the above-captioned matter. I am familiar with the facts and circumstances of
23 this case and I am competent to testify to the matters set forth herein. If called as a witness to testify,
24 I could and would testify truthfully to the matters set forth in this declaration.

25 2. I submit this declaration in support of Plaintiff Polymer80, Inc.'s motion for summary
26 judgment (the "Motion").

27 3. The document attached to the Motion as **Exhibit A** is a true and correct copy of AB
28 286.

4. The document attached to the Motion as **Exhibit B** is a true and correct copy of this
Court's Order Granting Preliminary Injunction.

1 5. The document attached to the Motion as **Exhibit C** is a true and correct copy of
2 excerpts from the transcript of proceedings from July 14, 2021 in this matter.

3 6. The thumb drive included as **Exhibit D** to the Motion contains the legislative history
4 of AB 286 as available from the Legislative Counsel Bureau.

5 7. The document attached to the Motion as **Exhibit E** is a true and correct copy of
6 excerpts from the deposition transcript of Defendant Mindy McKay.

7 8. The document attached to the Motion as **Exhibit F** is a true and correct copy of
8 excerpts from the deposition transcript of Defendant George Togliatti.

9 9. The document attached to the Motion as **Exhibit G** is a true and correct copy of
10 excerpts from the deposition transcript of Scott Stuenkel, PMK.

11 10. The document attached to the Motion as **Exhibit H** is a true and correct copy of
12 excerpts from the deposition transcript of Daniel McCalmon.

13 11. The document attached to the Motion as **Exhibit J** is a true and correct copy of
14 Defendants' Answer to Plaintiff's Complaint on file in this matter.

15 Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing is true and
16 correct to the best of my knowledge.

17 DATED this 8th day of November, 2021.

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20 Brad M. Johnston
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Exhibit A

Exhibit A

Assembly Bill No. 286—Assemblywoman Jauregui

Joint Sponsor: Senator Scheible

CHAPTER.....

AN ACT relating to crimes; prohibiting a person from engaging in certain acts relating to unfinished frames or receivers under certain circumstances; prohibiting a person from engaging in certain acts relating to firearms which are not imprinted with a serial number under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various unlawful acts relating to firearms. (Chapter 202 of NRS) Sections 3-5 of this bill create additional unlawful acts relating to firearms.

Section 3 of this bill prohibits a person from possessing, purchasing, transporting or receiving an unfinished frame or receiver unless: (1) the person is a firearms importer or manufacturer; or (2) the unfinished frame or receiver is required to be, and has been, imprinted with a serial number. Section 3 provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Similarly, section 3.5 of this bill prohibits a person from selling, offering to sell or transferring an unfinished frame or receiver unless: (1) the person is a firearms importer or manufacturer and the recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or (2) the unfinished frame or receiver is required to be, and has been, imprinted with a serial number. Section 3.5 provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Section 4 of this bill prohibits a person from manufacturing or causing to be manufactured or assembling or causing to be assembled a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless the firearm is: (1) rendered permanently inoperable; (2) an antique; or (3) a collector's item, curio or relic. Section 4 provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Similarly, section 5 of this bill prohibits a person from possessing, selling, offering to sell, transferring, purchasing, transporting or receiving a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless: (1) the person is a law enforcement agency or a firearms importer or manufacturer; or (2) the firearm is rendered permanently inoperable, was manufactured before 1969 or is an antique, collector's item, curio or relic. Section 5 provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony. Section 5.5 of this bill provides that nothing in sections 3-5 shall be deemed to prohibit the sale of an unfinished frame or receiver or firearm



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that is not imprinted with a serial number to a firearms importer or manufacturer or a licensed dealer before January 1, 2022.

Section 6 of this bill defines the terms "antique firearm," "firearms importer or manufacturer" and "unfinished frame or receiver." Section 7 of this bill makes a conforming change relating to the new definitions.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. A person shall not possess, purchase, transport or receive an unfinished frame or receiver unless:***

- (a) The person is a firearms importer or manufacturer; or***
- (b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by a firearms importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.***

2. A person who violates this section:

- (a) For the first offense, is guilty of a gross misdemeanor; and***
- (b) For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.***

Sec. 3.5. ***1. A person shall not sell, offer to sell or transfer an unfinished frame or receiver unless:***

- (a) The person is:***
 - (1) A firearms importer or manufacturer; and***
 - (2) The recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or***
- (b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.***

2. A person who violates this section:

- (a) For the first offense, is guilty of a gross misdemeanor; and***
- (b) For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.***

Sec. 4. ***1. A person shall not manufacture or cause to be manufactured or assemble or cause to be assembled a firearm that***



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is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless the firearm:

- (a) Has been rendered permanently inoperable;*
- (b) Is an antique firearm; or*
- (c) Has been determined to be a collector's item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44.*

2. A person who violates this section:

- (a) For the first offense, is guilty of a gross misdemeanor; and*
- (b) For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. As used in this section:

- (a) "Assemble" means to fit together component parts.*
- (b) "Manufacture" means to fabricate, make, form, produce or construct by manual labor or machinery.*

Sec. 5. 1. A person shall not possess, sell, offer to sell, transfer, purchase, transport or receive a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless:

- (a) The person is:*
 - (1) A law enforcement agency; or*
 - (2) A firearms importer or manufacturer; or*
- (b) The firearm:*
 - (1) Has been rendered permanently inoperable;*
 - (2) Was manufactured before 1969;*
 - (3) Is an antique firearm; or*
 - (4) Has been determined to be a collector's item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44.*

2. A person who violates this section:

- (a) For the first offense, is guilty of a gross misdemeanor; and*
- (b) For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. As used in this section, "law enforcement agency" has the meaning ascribed to it in NRS 239C.065.

Sec. 5.5. Nothing in the provisions of sections 3 to 5, inclusive, of this act shall be deemed to prohibit the sale of an unfinished frame or receiver or firearm that is not imprinted with a serial number to a firearms importer or manufacturer or a



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licensed dealer before January 1, 2022. As used in this section, "licensed dealer" has the meaning ascribed to it in NRS 202.2546.

Sec. 6. NRS 202.253 is hereby amended to read as follows:

202.253 As used in NRS 202.253 to 202.369, inclusive ~~{1}~~, and sections 2 to 5.5, inclusive, of this act:

1. "Antique firearm" has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).

2. "Explosive or incendiary device" means any explosive or incendiary material or substance that has been constructed, altered, packaged or arranged in such a manner that its ordinary use would cause destruction or injury to life or property.

~~{2}~~ 3. "Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.

~~{3}~~ 4. "Firearm capable of being concealed upon the person" applies to and includes all firearms having a barrel less than 12 inches in length.

~~{4}~~ 5. "Firearms importer or manufacturer" means a person licensed to import or manufacture firearms pursuant to 18 U.S.C. Chapter 44.

6. "Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.

~~{5}~~ 7. "Motor vehicle" means every vehicle that is self-propelled.

~~{6}~~ 8. "Semiautomatic firearm" means any firearm that:

(a) Uses a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next shell or round;

(b) Requires a separate function of the trigger to fire each cartridge; and

(c) Is not a machine gun.

9. "Unfinished frame or receiver" means a blank, a casting or a machined body that is intended to be turned into the frame or lower receiver of a firearm with additional machining and which has been formed or machined to the point at which most of the major machining operations have been completed to turn the blank, casting or machined body into a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or machined body is still completely solid and unmachined.

Sec. 7. NRS 202.2548 is hereby amended to read as follows:

202.2548 The provisions of NRS 202.2547 do not apply to:

1. The sale or transfer of a firearm by or to any law enforcement agency and, to the extent he or she is acting within the



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course and scope of his or her employment and official duties, any peace officer, security guard entitled to carry a firearm under NAC 648.345, member of the armed forces or federal official.

2. The sale or transfer of an antique firearm . ~~as defined in 18 U.S.C. § 921(a)(16)~~

3. The sale or transfer of a firearm between immediate family members, which for the purposes of this section means spouses and domestic partners and any of the following relations, whether by whole or half blood, adoption, or step-relation: parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces and nephews.

4. The transfer of a firearm to an executor, administrator, trustee or personal representative of an estate or a trust that occurs by operation of law upon the death of the former owner of the firearm.

5. A temporary transfer of a firearm to a person who is not prohibited from buying or possessing firearms under state or federal law if such transfer:

(a) Is necessary to prevent imminent death or great bodily harm; and

(b) Lasts only as long as immediately necessary to prevent such imminent death or great bodily harm.

6. A temporary transfer of a firearm if:

(a) The transferor has no reason to believe that the transferee is prohibited from buying or possessing firearms under state or federal law;

(b) The transferor has no reason to believe that the transferee will use or intends to use the firearm in the commission of a crime; and

(c) Such transfer occurs and the transferee's possession of the firearm following the transfer is exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located;

(2) At a lawful organized competition involving the use of a firearm;

(3) While participating in or practicing for a performance by an organized group that uses firearms as a part of the public performance;

(4) While hunting or trapping if the hunting or trapping is legal in all places where the transferee possesses the firearm and the transferee holds all licenses or permits required for such hunting or trapping; or

(5) While in the presence of the transferor.



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Secs. 8 and 9. (Deleted by amendment.)

Sec. 10. 1. This section and sections 1, 2, 3.5, 4, 5.5 and 6 to 9, inclusive, of this act become effective upon passage and approval.
2. Sections 3 and 5 of this act become effective on January 1, 2022.

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Exhibit B

Exhibit B

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Case No. 21-CV-00690

Dept. No. 1

The undersigned affirms that this document does not contain the social security number of any individual.

JANET BROWN
CLERK OF COURT
THIRD JUDICIAL DISTRICT

Andrea Andersen

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

POLYMER80, INC.,

Plaintiff,

vs.

STEPHEN SISOLAK, Governor of Nevada, AARON FORD, Attorney General of Nevada, GEORGE TOGLIATTI, Director of the Nevada Department of Public Safety, MINDY MCKAY, Administrator of the Records, Communications, and Compliance Division of the Nevada Department of Public Safety,

Defendants.

ORDER GRANTING PRELIMINARY INJUNCTION

This Court, having reviewed and considered Plaintiff Polymer80, Inc.'s (i) *Verified Complaint*, (ii) Plaintiff Polymer80, Inc.'s *Motion for Temporary Restraining Order and Preliminary Injunction*, (iii) *Defendants' Opposition to Application for Temporary Restraining Order*, and (iv) the *Reply Memorandum of Points and Authorities of Polymer80, Inc. in Further Support of Its Motion for Temporary Restraining Order*, and having considered the exhibits thereto and the arguments therein, and having conducted a hearing on July 14, 2021 on Plaintiff Polymer80, Inc.'s *Motion for Temporary Restraining Order and Preliminary Injunction* and having heard oral argument from counsel for Plaintiff Polymer80, Inc. and Defendants, and good cause appearing,

1 IT IS HEREBY ORDERED that Plaintiff Polymer80, Inc.'s *Motion for Temporary Restraining*
2 *Order and Preliminary Injunction* is GRANTED in PART and DENIED in PART for the reasons set forth
3 herein. Specifically, Plaintiff Polymer80, Inc.'s *Motion for Temporary Restraining Order and*
4 *Preliminary Injunction* is GRANTED as to Section 3.5 of AB 286, and for the reasons stated herein,
5 the State of Nevada and Defendants STEPHEN SISOLAK, Governor of Nevada, AARON FORD,
6 Attorney General of Nevada, GEORGE TOGLIATTI, Director of the Nevada Department of Public
7 Safety, MINDY MCKAY, Administrator of the Records, Communications, and Compliance Division of
8 the Nevada Department of Public Safety, are hereby preliminarily enjoined from enforcing Section
9 3.5 of AB 286 during the pendency of this lawsuit and a ruling on Polymer80, Inc.'s claims for relief.

10 A preliminary injunction is proper when a party can show a reasonable likelihood of success
11 on the merits of its claims and that irreparable harm will occur, for which compensatory damages
12 is an inadequate remedy, in the absence of preliminary injunctive relief. *See, e.g., Dangberg*
13 *Holdings Nevada, LLC v. Douglas County*, 115 Nev. 129, 142 (1999). Here, Plaintiff Polymer80, Inc.
14 has met this burden. Additionally, the public interests at stake and a balancing of hardships
15 between the parties warrants preliminary injunctive relief. *See Clark Co. School Dist. v. Buchanan*,
16 112 Nev. 1146, 1150 (1996) (court may weigh the public interest and relative hardships of the
17 parties in determining whether a preliminary injunction should be granted).

18 Turning first to whether Polymer80, Inc. has demonstrated a likelihood of success on the
19 merits of its claims, the Court finds that it has. Polymer80, Inc. ultimately seeks a declaratory
20 judgment from this Court, declaring that AB 286 violates the Nevada Constitution's Due Process
21 Clause because the statute is unconstitutionally vague, and a permanent injunction, permanently
22 enjoining the Defendants from enforcing AB 286. At this stage of these proceedings and based on
23 the record before this Court, Polymer80, Inc. has demonstrated a likelihood of succeeding on these
24 claims because AB 286 – a criminal statute that under Nevada law requires a heightened level of
25 scrutiny – and particularly AB 286's definition of "Unfinished Frame or Receiver" is impermissibly
26 vague.

27 "A criminal statute can be invalidated for vagueness (1) if it fails to provide a person of
28 ordinary intelligence fair notice of what is prohibited; or (2) if it is so standardless that it authorizes

1 or encouraged seriously discriminatory conduct." *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021
2 (2015) (quotations omitted). Here, the Court finds, at this juncture, that AB 286 fails to provide a
3 person of ordinary intelligence fair notice of what AB 286 criminalizes and encourages
4 discriminatory, criminal enforcement because the definition of "Unfinished Frame or Receiver" in
5 Section 6.9 of AB 286 is inherently vague due to the use of undefined terms, such as "blank",
6 "casting", and "machined body", and amorphous words and phrases – that are similarly not defined
7 – such as "additional machining" and "machined to the point at which most of the major machining
8 operations have been completed." In fact, it is unclear, on the current record, as to what the
9 Nevada Legislature meant by the words "blank", "casting", and "machined body", as those words
10 are used in AB 286. Moreover, Defendants, at the hearing on Polymer80, Inc.'s motion, made
11 reference to a manufacturing continuum on which a "blank", "casting", or "machined body" is
12 turned into a frame or lower receiver of a firearm, but, at the hearing, Defendants could not
13 identify where on that continuum AB 286 comes into play (i.e., at what point during the machining
14 process an item, such as a blank, becomes unlawful and subject to criminal prosecution).
15 Therefore, Polymer80, Inc. has demonstrated a reasonable likelihood of success on its claim that
16 AB 286 is unconstitutionally vague due to the ambiguities that permeate AB 286's definition of
17 "Unfinished Frame or Receiver."

18 The Court also finds that Nevada Legislature only adopted limited definitions from Federal
19 Law when it adopted AB 286. The Nevada Legislature presumably did so purposely, creating
20 additional ambiguity in AB 286. Thus, this Court declines the Defendants' invitation to fill holes in
21 AB 286 by looking to Federal Law when the Nevada Legislature only incorporated Federal Law into
22 AB 286 in specific limited instances.

23 Turning to the issue of irreparable harm, the Court first notes that Section 3.5 of AB 286
24 criminalizes the sale or transfer of an "unfinished frame or receiver" and this portion of AB 286 is
25 currently in effect. Polymer80, Inc. has sufficiently demonstrated to this Court that it has standing
26 to facially challenge AB 286 and will suffer irreparable harm in the absence of preliminary injunctive
27 relief because Section 3.5 of AB 286 renders Polymer80, Inc. unable to conduct its business without
28 the threat of criminal prosecution. The inability of a company like Polymer80, Inc. to conduct its

1 business without the threat of unreasonable interference or the destruction of the business is the
2 type of irreparable harm that warrants preliminary injunctive relief. *See Sobol v. Capital Mgmt.*
3 *Consultants, Inc.*, 102 Nev. 444, 446 (1986); *see also Finkel v. Cashman Prof'l, Inc.*, 128 Nev. 68, 73
4 (2012). The Court also notes that the harm Polymer80, Inc. would suffer due to its inability to
5 conduct its business in the face of AB 286 is immeasurable, underscoring the Court's finding that
6 Polymer80, Inc. has sufficiently demonstrated irreparable harm to warrant a preliminary
7 injunction.

8 Defendants maintain that Polymer80, Inc. can simply serialize its products to avoid the
9 harm it claims it will suffer as a result of the enactment of AB 286. The Court finds this argument
10 unconvincing initially because the Nevada Legislature did not include any such language or
11 provision in AB 286. Moreover, the argument is belied by the plain language that the Nevada
12 Legislature did include in AB 286. Section 3.5 of AB 286 criminalizes the sale of an "unfinished
13 frame or receiver unless ... [t]he unfinished frame or receiver *is required by federal law* to be
14 imprinted with a serial number." (emphasis added). Thus, unless Federal Law requires the
15 unfinished frame or receiver (whatever that may be) to be imprinted with a serial number,
16 Polymer80, Inc. can find no safe haven under AB 286 by simply placing a serial number on its
17 products that Federal Law does not require.

18 Finally, the Court finds that public interests weigh in favor of issuing a preliminary injunction
19 pending the trial in this matter due to the ambiguity in AB 286, which is, once again, a criminal
20 statute. Additionally, the balance of hardships weighs decidedly in favor of Polymer80, Inc.
21 because the Defendants will only be preliminary enjoined from enforcing Section 3.5 of AB 286
22 during the pendency of this matter and until this matter proceeds to verdict, during which time
23 Polymer80, Inc., as explained above, will face irreparable harm in the absence of a preliminary
24 injunction.

25 Based on the foregoing and good cause appearing, IT IS HEREBY ORDERED that Plaintiff
26 Polymer80, Inc.'s *Motion for Temporary Restraining Order and Preliminary Injunction* is GRANTED
27 in PART and DENIED in PART.

28

1 IT IS HEREBY FURTHER ORDERED that the State of Nevada and Defendants STEPHEN
2 SISOLAK, Governor of Nevada, AARON FORD, Attorney General of Nevada, GEORGE TOGLIATTI,
3 Director of the Nevada Department of Public Safety, MINDY MCKAY, Administrator of the Records,
4 Communications, and Compliance Division of the Nevada Department of Public Safety, and their
5 respective officers, agents, servants, and employees and anyone acting in concert with them,
6 individually or collectively, are hereby preliminarily enjoined from enforcing Section 3.5 of AB 286
7 during the pendency of this lawsuit.

8 The Court declines to enter a preliminary injunction with respect to the enforcement of
9 Section 3 of AB 286 because that portion of AB 286 does not take effect until January 1, 2022.
10 However, to the extent this matter does not proceed to trial as scheduled before January 1, 2022,
11 Polymer80, Inc. may renew its request for a preliminary injunction with respect to the enforcement
12 of Section 3 of AB 286.

13 IT IS HEREBY FURTHER ORDERED that this Order only applies to the enforcement of Section
14 3.5 of AB 286 and shall not preclude or prohibit the enforcement of other sections of AB 286 that
15 are now in effect or may take effect in the future.

16 IT IS HEREBY FURTHER ORDERED, pursuant to NRCP 65(c), that Plaintiff Polymer80, Inc. shall
17 post security with the Court in the amount of \$20,000.00 (Twenty Thousand Dollars) on or before
18 July 16, 2021, and that this Order shall only take effect upon the posting of this security. The Court
19 finds that security in the amount of \$20,000.00 (Twenty Thousand Dollars) is sufficient to pay the
20 costs and damages that may be sustained, if any, by the Defendants if it is ultimately determined
21 they have been wrongfully enjoined pending trial.

22
23 DATED this 16th day of July, 2021.



JOHN P. SCHLEGELMILCH
DISTRICT JUDGE

28

Exhibit C

Exhibit C

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CASE NO. 21-CV-00690

DEPT. I

THE THIRD JUDICIAL DISTRICT COURT - THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

THE HONORABLE JOHN P. SCHLEGELMILCH, DISTRICT JUDGE

POLYMER80, INC.,

PLAINTIFF,

v.

STEPHEN SISOLAK, Governor of Nevada;
AARON FORD, Attorney General of Nevada;
GEORGE TOGLIATTI, Director OF Nevada
Department of Public Safety;
MINDY MCKAY, Administrator of the Records,
Communications, and Compliance, Division
Of the Nevada Department of Public Safety,

DEFENDANTS.

----- /

TRANSCRIPT OF PROCEEDINGS

MOTION FOR TEMPORARY RESTRAINING ORDER

JULY 14, 2021

COURTHOUSE

YERINGTON, NEVADA

Reported by:

KATHY TERHUNE, CCR #209

1 they mean, and what the, you know. So, but I don't
2 anticipate it would take a great deal of time to
3 prepare for trial and to get it on. You know?

4 THE COURT: Okay. All right.

5 Okay. So, clearly in Nevada when a criminal
6 statute is reviewed by a court on due process grounds
7 for facial invalidity because of the vagueness issues
8 in relation to the statute the standard is enhanced.
9 Flamingo Paradise Gaming made clear that in Nevada
10 under the Nevada Constitution, the criminal statute has
11 a heightened test unlike a civil statute. Where in a
12 civil statute it can certainly be "as applied" in any
13 particular case as long as something out there in the
14 civil statute could be deemed constitutional. But in a
15 criminal statute that's not the case.

16 In a criminal statute all that's required is
17 preliminary showing for a preliminary injunction is the
18 likelihood of success on the merits. And in this
19 particular matter, based upon the definitions as
20 provided for in AB 286, and most specifically
21 Section six subsection nine, which amends NRS 202.253,
22 the definition of -- it appears to this Court
23 preliminarily that the definition of unfinished frame
24 or receiver is vague based upon the terms and lack of

1 definition in the statute.

2 Which indicates under Nevada case law that
3 there's a likelihood of success on the merits in
4 relation to what in fact an unfinished frame or
5 receiver means. What it is. And it could be subject
6 to arbitrary or discriminatory enforcement based upon
7 there's a likelihood of success on that issue based
8 upon the continuity or continuum of levels of what is
9 or is not mostly completed in relation to a frame or a
10 receiver.

11 It is also unclear as to what the legislature
12 meant by blank casting or machine body. But in
13 relation to those terms, they appear to the Court to
14 potentially be general manufacturing terms. Now, if
15 they are general manufacturing terms and that's
16 indicated in the legislative history -- nobody provided
17 me any legislature history for the preliminary
18 injunction. So, I have no idea what the legislature
19 intended at all in relation to this. That may or may
20 not be sufficiently vague.

21 The Court does not believe in relation to this
22 preliminary injunction that a frame or receiver is
23 so -- a frame or lower receiver is so unclear as to be
24 vague. I think they're common terms in relation to

1 firearms. So, that in and of itself I don't believe is
2 vague. But I believe unfinished frame or receiver is
3 vague at this point. So, specifically that's my
4 statement of specifics in relation to entering a
5 preliminary injunction.

6 The Court believes there's a reasonable
7 probability of success on the merits in relation to
8 this matter. And also because of the current enactment
9 of Section 3.5 of AB 286, which deals specifically with
10 selling unfinished frames or receivers, the Court finds
11 that clearly the business may be impacted. Their
12 ability to mail and sell frames and receivers or offer
13 them for sale in the State of Nevada will be impacted,
14 so there's a substantial hardship on the parties, on
15 Polymer80.

16 And the Court also finds that because of that
17 hardship, Polymer80 has that standing because they
18 would be unable to conduct business as they commonly
19 have in the past. So, the Court finds that there is a
20 probable -- probability of irreparable injury if they
21 are unable to conduct business.

22 Court also finds that the legislature, you
23 know, in relation to this, only used limited
24 definitions from the Gun Control Act, and at this point

Exhibit D
Legislative History of AB 286

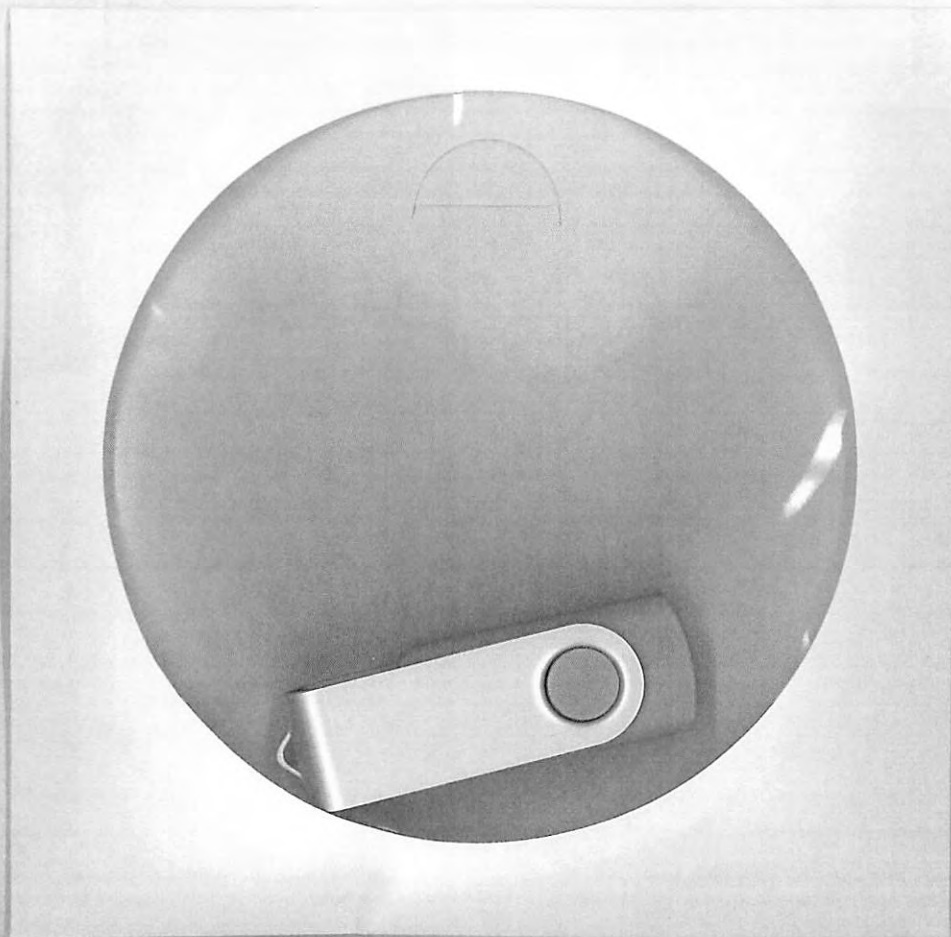


Exhibit D
Legislative History of AB 286

Exhibit E

Exhibit E

1 THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

2 IN AND FOR THE COUNTY OF LYON

3 -oOo-

4

5 POLYMER80, INC.,

Case 21-CV-00690

6 Plaintiff,

Dept. No. I

7 vs.

8 STEVE SISOLAK, Governor of Nevada,
9 AARON FORD, Attorney General of
10 Nevada, GEORGE TOGLIATTI, Director
11 of the Nevada Department of Public
12 Safety, MINDY MCKAY, Administrator
13 of the Records, Communications,
14 and Compliance Division of the
15 Nevada Department of Public
16 Safety,

17 Defendants.

18 =====

19

20

21

22 VIDEOTAPED DEPOSITION OF MINDY MCKAY

23 TUESDAY, OCTOBER 26, 2021

24 RENO, NEVADA

25

26

27

28 Job No. 814788

29 Reported By: Peggy B. Hoogs, CCR #160, RDR, CRR
30 CALIFORNIA CSR #5958

Page 2	Page 3
1 -oOo- APPEARANCES -oOo-	1 INDEX
2	2 Examination by Page
3 FOR THE PLAINTIFF:	3 Mr. McGuire 5
4 GREENSPOON MARDER LLP	Mr. Ireland 122
5 By: JAMES J. MCGUIRE, ESQ.	4
6 590 Madison Avenue, Suite 1800	5 EXHIBITS
7 New York, New York 10022	6 Exhibit No. Description Page
8	7 Exhibit 1 Verified Complaint 65
9	8 Exhibit 2 Defendants' Responses to
10 SIMONS HALL JOHNSON PC	Plaintiff's First Requests for
11 By: BRAD M. JOHNSTON, ESQ.	Documents
12 22 State Route 208	9
13 Yerington, Nevada 89447	10 Exhibit 3 Handwritten document prepared by 118
14	Mr. McGuire and Mr. Johnston
15	11
16	12
17	13
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19	15
20	16
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23	19
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Page 4	Page 5
1 -oOo-	1 MINDY MCKAY,
2 RENO, NEVADA; TUESDAY, OCTOBER 26, 2021; 10:01 A.M.	2 having been first duly sworn,
3 -oOo-	3 was examined and testified as follows:
4	4
5 THE VIDEOGRAPHER: This is the beginning of	5 MR. MCGUIRE: May I proceed?
6 Media Number 1 in the deposition of Mindy McKay in the	6 MR. IRELAND: Yes, sir.
7 matter of Polymer80 vs. Sisolak held at Litigation	7 MR. MCGUIRE: Thank you.
8 Services on October 26, 2021, at 10:01 a.m.	8
9 The court reporter is Peggy Hoogs. I am David	9 EXAMINATION
10 Fleming, the videographer, an employee of Litigation	10 BY MR. MCGUIRE:
11 Services. This deposition is being videotaped at all	11 Q Good morning, Ms. McKay.
12 times unless specified to go off the video record.	12 A Good morning.
13 Would all present please identify themselves	13 Q My name is Jim McGuire. I'm here with my
14 beginning with the witness.	14 co-counsel, Brad Johnston. We represent the plaintiff in
15 THE WITNESS: Mindy McKay.	15 this case, Polymer80.
16 MR. IRELAND: Kiel Ireland on behalf of	16 I ask you, please, to state your full name for
17 Defendants.	17 the record and spell your last name.
18 MR. MCGUIRE: James McGuire and Brad Johnston	18 A Mindy Renee McKay, M-c-K-a-y.
19 on behalf of the plaintiff, Polymer80, Inc.	19 Q Have you had your deposition taken before,
20 THE VIDEOGRAPHER: Will the court reporter	20 Ms. McKay?
21 please swear in the witness.	21 A No.
22	22 Q Do you have some understanding of what is
23	23 generally going to happen here today, or would you like
24	24 me to explain it to you?
25	25 A I would like you to explain it to me.

Page 6

1 Q Okay. A deposition, I think, can be fairly
 2 characterized as a question-and-answer session under oath
 3 with both sides, if you will, represented by counsel.
 4 The purpose of the deposition is to develop
 5 information that's relevant to the case and perhaps to
 6 lead to the uncovering or discovery of other possibly
 7 relevant and admissible evidence in the case. So I'm
 8 going to be asking you a variety of questions that I
 9 believe are all relevant to our allegations in the
 10 complaint, which I will mark as an exhibit and show you,
 11 and all I would ask is that you do your best to answer
 12 the questions truthfully.
 13 And if at any time I ask you a question that
 14 for any reason you don't understand my Brooklyn accent is
 15 hard for you to decipher or I use a term that you're not
 16 familiar with, would you let me know that and I'll try to
 17 make the question better?
 18 A Yes.
 19 Q Thank you.
 20 The other thing that I probably should point
 21 out to you is that the court reporter is here
 22 transcribing literally everything that's said on the
 23 record. Obviously we have a videographer here to capture
 24 your testimony, and in order for the court reporter to
 25 make an accurate record, which I think we all want,

Page 8

1 hired January 27th of 1997.
 2 Q And what is the retirement date? I'm sorry?
 3 A My last day worked will be February 2nd of
 4 2022.
 5 Q I see that you have those dates clearly in
 6 mind. Congratulations.
 7 A Thank you.
 8 Q Would you describe for us briefly if you can
 9 your educational background beginning with high school.
 10 A Graduated high school in 1993 and took a few
 11 semesters of college and that's it.
 12 Q And what college did you attend during those
 13 semesters?
 14 A At the time it was the Western Nevada Community
 15 College, WNCC.
 16 Q Okay. And when did you finish up your last
 17 course or semester, if you will, at that college?
 18 A Approximately 1996.
 19 Q Okay. So if I'm doing the math correctly, you
 20 joined your current office and department in 1997?
 21 A Correct.
 22 Q Did you have a full-time job between your
 23 graduation from high school and your joining your current
 24 office?
 25 A Yes.

Page 7

1 truthful, accurate, and clear, if an answer is yes or no,
 2 you can't shake your head or say, "uh-huh" or "no" or
 3 "nah," as we sometimes do in common parlance. I would
 4 ask you to articulate your answer so the reporter can get
 5 it down. Okay?
 6 A Okay.
 7 Q Also, your counsel will have the right to
 8 object to any question that I ask. It might be best,
 9 again, for the reporter, if after I ask a question to
 10 pause for a moment to see if your counsel has an
 11 objection, so that if he does have one, the reporter can
 12 transcribe it, because if we're all talking over each
 13 other at the same time, Ms. Hoogs is going to have a hard
 14 time getting everything down. Okay?
 15 A Okay.
 16 Q Are you taking any medication or any
 17 supplements or anything of that nature that affects your
 18 ability to testify truthfully and accurately here today?
 19 A No.
 20 Q Are you employed?
 21 A Yes.
 22 Q By whom?
 23 A Nevada Department of Public Safety.
 24 Q And for how long have you had that position?
 25 A Approximately 24 years and 9 months. I was

Page 9

1 Q What was that, please?
 2 A Prior to being hired on with the Department of
 3 Public Safety, I worked for Gilson Auto Body.
 4 Q And what was your title or position there?
 5 A I don't recall my title.
 6 Q What did you do every day?
 7 A Opened the shop, took care of the owners if
 8 they needed coffee, did estimates for car damage,
 9 assisted with running errands, things like that.
 10 Q And for how long did you hold that position?
 11 A Only a few months. I had been hired on with
 12 Gilson Auto Body November of the year prior, in 1996.
 13 Q And then do I take it you left that post to
 14 join the Department of Public Safety?
 15 A Correct.
 16 Q With respect to your educational background, do
 17 you have any degrees or certificates beyond your high
 18 school diploma?
 19 A Only the professional certificates that are
 20 required for my job.
 21 Q And what are they, please?
 22 A We are required to be certified within six
 23 months of employment and every two years thereafter in
 24 NCJIS/NCIC pursuant to the FBI CJIS security policy.
 25 Q Can I ask you to slow down just so that both

Page 14

1 **What years did you hold the position as the**
2 **management analyst, if you can recall?**
3 A Approximately 2005 to 2013. It was about eight
4 years.
5 **Q Okay. Prior to being a management analyst,**
6 **what was your position, please?**
7 A I was the -- oh, my goodness -- I believe that
8 I was -- prior to being the management analyst, I believe
9 that I was the NCJIS/NCIC instructor.
10 **Q Does that mean you provided the training to**
11 **other employees of the sort that you described earlier in**
12 **the deposition?**
13 A Correct.
14 **Q And for how long did you hold that post?**
15 A Approximately three and a half years.
16 **Q From 2002 to 2005, approximately?**
17 A Approximately.
18 **Q I know we're all doing our best with the dates.**
19 **Thank you.**
20 **Is there anything further you can tell us,**
21 **beyond what you've already said, as to what your duties**
22 **and responsibilities were in that job?**
23 A Going back to the management analyst or --
24 **Q No. Just to the NJSIC [sic] instructor.**
25 **You already told us about the training. Other**

Page 16

1 **administrator.**
2 A As the division administrator, my
3 responsibilities are similar to that of the records
4 bureau chief that I explained earlier, only on a larger
5 scale with respect to the entire division, whereas I
6 oversee all of the staff activities; I assist with
7 hiring, training, onboarding, disciplinary, and
8 termination of staff. I also oversee the budget building
9 for the division, contract activities for the division.
10 I oversee the legislative aspect. During every
11 legislative session, I track the bills that may impact my
12 division as well as I draft my own bill draft requests
13 and present them during legislative session. I present
14 my budget during legislative session. Again, I represent
15 the department on multiple bodies at multiple venues
16 nationwide, statewide and nationwide.
17 **Q That's quite a bit. Is there anything else?**
18 A There's probably a lot more I'm not thinking
19 of.
20 I assist customers if they contact me directly,
21 so customer service.
22 **Q Did I hear you say that in your role as**
23 **division administrator, you track bills that are being**
24 **considered or are before the Nevada State Assembly?**
25 A Correct.

Page 15

1 **than dispensing the sort of training that you've**
2 **described, did you have any further duties and**
3 **responsibilities in that job?**
4 A No.
5 **Q Again, your current title is what?**
6 A Division administrator, and I'm also the CJIS
7 systems officer, C-J-I-S systems officer.
8 **Q Are those two separate positions within the**
9 **department?**
10 A They can be.
11 **Q Is it that one person holds both positions now?**
12 A Correct.
13 **Q Is that a fair statement?**
14 A Yes.
15 **Q And am I correct in thinking that you've held**
16 **those positions for approximately two years, since 2019?**
17 A Since January of 2019.
18 **Q So coming up on three years now?**
19 A Correct.
20 **Q Am I correct in thinking that you have**
21 **different duties and responsibilities as the division**
22 **administrator than you do as the CJIS officer?**
23 A You are correct.
24 **Q Would you describe for us, please, what your**
25 **duties and responsibilities are as a division**

Page 17

1 **Q Did you track Assembly Bill 286 while it was**
2 **before the assembly?**
3 A Correct.
4 **Q Could you tell me what you did specifically in**
5 **as much detail as you can recall in that respect.**
6 A Yes. So it's normal practice for the
7 legislature or someone else -- it could be someone
8 outside of the legislature -- to request a fiscal note on
9 certain bills through the department.
10 So at the director's office, they will receive
11 the fiscal note request, and then they will distribute
12 them out to the respective divisions to request that
13 fiscal note. So then we review the bill, and we
14 determine if there's going to be a fiscal impact or not,
15 and then we submit our fiscal note back to our director's
16 office for review before it goes back to the legislature.
17 **Q Do I understand from that answer that it is the**
18 **legislature who requests a fiscal note from the**
19 **department?**
20 A That's my understanding. I don't get those
21 requests so...
22 **Q Who does, if you know?**
23 A The director's office.
24 **Q I just want to make clear that so far as you**
25 **know, it is not the department itself who issues a fiscal**

Page 38

1 A Yes.

2 Q Are you at such a level now -- and I mean that

3 in the most complimentary sense -- are you at such a

4 level now that you, yourself, don't field individual

5 requests for James McGuire's criminal record? Someone

6 who reports to you or who works under you fields those

7 specific requests? Or do you, yourself, get involved

8 with respect to those today?

9 A Sometimes.

10 Q Okay. Is there a typical scenario in which you

11 get involved in the provision of that information?

12 A Yes.

13 Q What is that, please?

14 A If someone reaches out to, say, my director and

15 requests that we expedite fingerprint processing for a

16 Nevada criminal record for employment, volunteer, or

17 licensing purposes, the director will contact me directly

18 and give me the information so that then I can work with

19 my staff to locate the fingerprint card, process it, get

20 that criminal history record back to the entity in an

21 expedited manner as requested.

22 Q If a company or a corporation or a nonhuman

23 being, if you will, has a criminal record in the state of

24 Nevada, does your division within the department have

25 access to that information?

Page 40

1 Q Are you familiar with Polymer80?

2 A No.

3 Q Do you know anything about Polymer80?

4 A They manufacture gun parts is all I think I

5 know.

6 Q May I push you a little bit on that?

7 You say they manufacture gun parts. What

8 information do you have that they manufacture gun parts?

9 A Just from what I've read in articles.

10 Q Are you aware that the vast majority of the

11 items that Polymer80 sells are manufactured by other

12 people or entities?

13 A I'm not aware of that.

14 Q When you use the term "gun parts," what do you

15 mean?

16 A I don't know.

17 Q When you use -- you said that Polymer80, to

18 your knowledge -- based upon a review of articles, if I

19 heard you correctly -- to your knowledge, manufactures

20 gun parts.

21 When you used the term "gun parts," what did

22 you mean?

23 A Parts of guns. I'm not familiar with guns, so

24 gun parts that make up guns.

25 Q Can you identify any part of any gun that

Page 39

1 A No.

2 Q Can you tell me why you don't?

3 A We have people records, so it has to be based

4 on a specific person.

5 Q Is it not true that companies or nonhuman

6 people can be convicted of crimes in the state of Nevada?

7 A I don't know that.

8 Q But you're not aware that either the department

9 or your division has access to records regarding criminal

10 records of companies or corporations; is that right?

11 A Correct. I'm not aware of that.

12 Q Just to complete the record so we can move on,

13 have you had any communications at all regarding AB 286

14 in any respect at any time with Governor Sisolak?

15 A No.

16 Q Same question with regard to Attorney General

17 Ford.

18 A No.

19 Q And same question, finally, with Mr. Togliatti.

20 A No.

21 Q Have you ever at any point encountered or done

22 any work with respect to Polymer80 in your role -- strike

23 that -- in your work at the Department of Public Safety

24 at any time?

25 A No.

Page 41

1 you're familiar with?

2 A Yes.

3 Q Okay. What would that part or parts be?

4 A The trigger.

5 Q Anything else?

6 A The barrel.

7 Q Anything else?

8 A I don't know if I'm saying the name right. The

9 handle.

10 Q Anything else?

11 A The bullets.

12 Q Would you characterize the bullets as part of

13 the gun or as parts separate from the gun?

14 A Not part of the gun. Separate from.

15 Q Let's just focus if we can -- and please take

16 your time -- as with me, this is not an everyday

17 occurrence to handle a gun, I'm sure.

18 You mentioned the trigger, the barrel, and the

19 handle. Are there any other parts of the gun that you

20 personally are familiar with?

21 A The safety.

22 Q Safety.

23 Anything else?

24 A No.

25 Q Do you know what a frame is?

Page 42

1 A No.
 2 Q Do you know what a receiver is?
 3 A No.
 4 Q Do you know what a blank is?
 5 A No.
 6 Q Do you know what a casting is?
 7 A No.
 8 Q Do you know what a machined body is?
 9 A No.
 10 Q Do you know what a grip is in the context of a
 11 gun?
 12 A No. I could guess, but no.
 13 Q Do I take it, then, you have not had any
 14 training or education of any kind with respect to
 15 firearms?
 16 A Correct.
 17 Q Have you ever fired a gun in your life?
 18 A Yes.
 19 Q Many times?
 20 A No.
 21 Q How many times?
 22 A Less than five.
 23 Q May I just ask if that was not in self-defense
 24 in any of those five times?
 25 A That was not in self-defense.

Page 44

1 Q What is your understanding of what a pistol is?
 2 A A smaller gun as well, like an older-type gun
 3 that has the bullets in the barrel that you spin, like an
 4 older type of weapon.
 5 Q Like a six-shooter?
 6 A Yes.
 7 Q Going back to probably both of our days
 8 watching westerns on TV?
 9 A Yes. That's what I think of.
 10 Q Thank you.
 11 Have you had any training or do you have any
 12 understanding about the manufacture of firearms?
 13 A No.
 14 Q Do you have any training or understanding with
 15 regard to the assembly of firearms?
 16 A No.
 17 Q Do you have any training or understanding with
 18 regard to injection molding?
 19 A No.
 20 Q Do you know what injection molding is?
 21 A No.
 22 Q Do you know what polymer is?
 23 A No.
 24 Q I don't mean Polymer80. I mean a substance
 25 called polymer.

Page 43

1 Q On any of those five occasions, it was not in
 2 self-defense?
 3 A It was not.
 4 Q Okay. Can you tell me the context in which you
 5 fired guns on those five or so occasions?
 6 A At a firing range and out in the desert.
 7 Q And what kind of guns did you fire on those
 8 occasions, if you recall?
 9 A Handguns. And that's all I recall.
 10 Q When you say, "handguns," could you also be
 11 referring to pistols?
 12 A I don't know if there's a difference.
 13 Q What I'm asking you is, in your mind, a pistol
 14 a synonym or another name for a handgun?
 15 A Can you ask the question again?
 16 Q You used the term "handgun" --
 17 A Yes.
 18 Q -- or "handguns."
 19 Could you explain to me what you mean by a
 20 handgun or handguns?
 21 A It's a smaller weapon that fits in your hand,
 22 and it's not -- it's not -- doesn't have a long barrel on
 23 it. It's not like a shotgun or a rifle.
 24 Q Are you familiar with the term "pistol"?
 25 A I am.

Page 45

1 Do you know what that is?
 2 A No.
 3 Q Now, you've used the term "guns," and I
 4 appreciate that, but are you also familiar with the term
 5 "firearm"?
 6 A Yes.
 7 Q In your mind, is there a difference between a
 8 gun and a firearm?
 9 A I would not be able to answer that correctly,
 10 probably.
 11 Q Are you familiar at all with legal definitions
 12 or descriptions of "firearms"?
 13 A No.
 14 Q Do you know what comprises a firearm under
 15 Nevada law?
 16 A No.
 17 Q Do you know what comprises a firearm under
 18 federal law?
 19 A No.
 20 Q You mentioned some parts before that you're
 21 familiar with with regard to guns.
 22 Are you familiar in any way with the
 23 manufacture, assembly, or creation of any of those
 24 individual parts?
 25 A No.

Page 46

1 Q Are you familiar with something known as a kit
 2 in the context of the business of Polymer80?
 3 A No.
 4 Q Are you familiar with the fact that they sell
 5 and distribute kits comprising various parts of guns and
 6 sell those kits and parts together in what are called
 7 kits?
 8 A I'm familiar with that based on the articles
 9 that I've read.
 10 Q Have you, yourself, ever seen a Polymer80 kit?
 11 A No.
 12 Q Have you ever purchased a Polymer80 kit?
 13 A No.
 14 Q Are you familiar with anyone who's ever
 15 purchased or possessed a Polymer80 kit?
 16 A No.
 17 Q Are you familiar with how a kit could be
 18 assembled in whole or in part?
 19 A No.
 20 Q Did you have any role, Ms. McKay, in the
 21 drafting of Assembly Bill 286?
 22 A No.
 23 Q Did you have any role in the passing of AB 286?
 24 A No.
 25 Q Did you have any role in the enactment or

Page 48

1 Q Has anyone ever asked you, other than in
 2 connection with the fiscal note, for information related
 3 to AB 286, to your knowledge?
 4 A No.
 5 Q Either inside the department or from outside
 6 the department?
 7 A No.
 8 Q Did you personally support the passage of
 9 AB 286?
 10 A I'm not at liberty to have an opinion.
 11 Q I'm not sure what you mean by that. I'm sorry.
 12 A We are not allowed to support or oppose, so we
 13 are always in neutral on legislation.
 14 Q I realize that is for public pronouncements,
 15 but I'm asking you here under oath, do you personally
 16 have a view as to whether or not that bill should have
 17 been passed?
 18 A No.
 19 Q You don't have an opinion?
 20 A I don't.
 21 Q Have you ever owned a gun?
 22 A No.
 23 Q Anyone in your family ever owned a gun?
 24 A Yes.
 25 Q Would you tell me who that is, please.

Page 47

1 devising the effective date or dates for AB 286?
 2 A No.
 3 Q If you recall, can you tell me whom within the
 4 Nevada Department of Public Safety you discussed AB 286
 5 with?
 6 A I can't recall exactly whom.
 7 Q But you did speak to folks within the
 8 department about AB 286?
 9 A Yes.
 10 Q Was that in connection with the work on the
 11 fiscal note?
 12 A Yes.
 13 Q In any other connection, have you had
 14 discussions with anyone within the department regarding
 15 AB 286?
 16 A No.
 17 Q Have you had any discussions with anyone
 18 outside the department other than Mr. Ireland -- and I
 19 don't want to hear about those. He's your lawyer, and
 20 those conversations are privileged. I'm not entitled to
 21 learn about those, and I'm not asking about those.
 22 Leaving aside Mr. Ireland, have you had
 23 conversations with anyone outside the department about
 24 AB 286?
 25 A No.

Page 49

1 A My mother.
 2 Q Is your mother still alive?
 3 A No.
 4 Q So during her life she owned a gun?
 5 A She did.
 6 Q Can you tell me what kind of a gun she owned?
 7 A A handgun.
 8 Q Was that the handgun that on a few occasions
 9 you said you might have fired, or was it a different gun?
 10 A No, that is not the same handgun.
 11 Q Other than your mom owning a handgun, has
 12 anyone else in your family ever owned a handgun or --
 13 excuse me -- a gun of any kind?
 14 A Not that I'm aware of. Not that I'm aware of.
 15 Q Do you have any friends who owns guns?
 16 A Yes.
 17 Q How many, approximately?
 18 MR. IRELAND: Objection to form.
 19 BY MR. MCGUIRE:
 20 Q How many friends of yours --
 21 Forgive me, and a fair objection. Thank you
 22 for that.
 23 Can you give me the number of friends that you
 24 have whom, to your knowledge, own guns.
 25 A Approximately four.

Page 50

1 Q Have you discussed with any of them AB 286?

2 A No.

3 Q And of those four friends, do any of them own

4 anything other than what you would call a handgun, to

5 your knowledge?

6 A Not to my knowledge.

7 MR. MCGUIRE: We've been going for about an

8 hour. Why don't we take our first break. Five or seven

9 minutes, whatever is useful to you.

10 MR. IRELAND: Okay.

11 THE VIDEOGRAPHER: Going off the video record

12 at 11:00 a.m.

13 (A recess was taken.)

14 THE VIDEOGRAPHER: Back on the video record at

15 11:13 a.m.

16 BY MR. MCGUIRE:

17 Q Ms. McKay, at the break, my colleague and I

18 checked the court records of the lawsuit that is pending

19 in the United States District Court for the District of

20 Nevada here in Reno, and you were named as a defendant in

21 that case and are named as a defendant in that case.

22 Are you unaware of that?

23 A I can't name specifically which cases I'm named

24 in because there's a lot. So I have a pile on my desk,

25 and it's probably in the pile.

Page 52

1 represented, which is that you are a named defendant in a

2 current federal action, you're not aware of that?

3 A I'm not aware of that.

4 Q Are you aware that papers have been filed on

5 your behalf in that case?

6 A No. I'm not aware of that case.

7 Q Am I correct in thinking, then, that you've had

8 no contact with anybody whatsoever about that case?

9 A Not that I'm aware of.

10 Q I take it, then, that you are unaware of what

11 the allegations are in that case?

12 A Correct.

13 Q I'd like to go back and explore in a little

14 more detail your testimony in our first session this

15 morning about criminal codes. Let's just talk generally

16 if we can.

17 Is it your department or your division within

18 the department that typically creates codes for crimes?

19 A Yes.

20 Q Okay. And which division within the

21 department, if I'm using the right terminology, is

22 responsible for coming up with or creating codes for

23 crimes?

24 A Which division is the records, communications,

25 and compliance division.

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1 Q Then I have to revisit what I asked you before

2 because I must have misunderstood your testimony.

3 To begin with, there have been a number of

4 cases in which you've been named as a defendant brought

5 by registered sex offenders; correct?

6 A Yes.

7 Q And to your knowledge, one of them is still

8 alive or pending?

9 A Yes.

10 Q We talked about that.

11 You've been named in this case; correct?

12 A Yes.

13 Q And is it now your testimony that you're named

14 in a pending federal -- excuse me -- lawsuit challenging

15 AB 286?

16 A I'm not aware of that.

17 Q Well, what other lawsuits of that pile that you

18 mentioned a moment ago, other than the registered sex

19 offender case that you mentioned and this case, are you

20 name as a defendant in?

21 A Just those two. It's just those two that I'm

22 aware of.

23 Q This one and the registered sex offender case?

24 A Yes.

25 Q And despite my representing to you what I

Page 53

1 Q Is that the division that you head now?

2 A Correct.

3 Q And, again, you've been the head of it for

4 about three years, coming up on three years now?

5 A Correct.

6 Q Would you just describe, if possible, the

7 typical process for the creation of a code with regard to

8 a crime.

9 A I cannot describe that process.

10 Q Why not?

11 A I don't perform those tasks. I have staff that

12 do that.

13 Q What is your understanding of what your staff

14 does when a code for a crime is created?

15 A I can't speak on behalf of them.

16 Q You have no understanding whatsoever of how

17 codes are created?

18 A No.

19 Q Who would be the person most knowledgeable

20 within the department to tell me how a code is created?

21 A The staff within that unit.

22 Q Can you give me the name or names of any people

23 who would have that knowledge?

24 A Judy Christensen.

25 Q Judy Christensen?

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1 remember right now?

2 A That's as much as I can remember.

3 Q Okay. Thank you.

4 Are you aware that this lawsuit alleges that

5 the term "unfinished frame or receiver," quote/unquote,

6 is unconstitutionally vague?

7 A No, I don't -- I'm not aware of that.

8 Q Do you have an understanding of what the term

9 "unfinished frame" means?

10 A No.

11 Q Do you have an understanding of the term --

12 what the term -- excuse me -- "unfinished receiver"

13 means?

14 A No.

15 Q Yet you are someone who has fired a gun on

16 several occasions; correct?

17 A Not several. Less than five, years ago.

18 Q Okay. But you are a person who has fired a gun

19 on less than five occasions in her life?

20 A Yes.

21 Q And whose mother owned a gun?

22 A Yes.

23 Q And at least four of whose friends own guns;

24 correct?

25 A Yes.

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1 A Yes.

2 Q It says, does it not, "This section and

3 sections 1, 2, 3.5, 4, 5.5 and 6 to 9, inclusive, of this

4 act become effective upon passage and approval"?

5 A I see that.

6 Q Does that refresh your recollection as to

7 whether or not substantial parts, indeed most of this

8 bill, became effective earlier this year?

9 A No.

10 Q Is it your testimony that most of this bill did

11 not become effective earlier this year?

12 A That is not my testimony.

13 Q You're just not aware that it did; is that

14 right?

15 A That is correct.

16 Q And with that testimony being given, can you

17 shed any more light on why the code that has been created

18 for this bill has not been disseminated to law

19 enforcement?

20 A No, I cannot.

21 Q Do you know if prior to a code being

22 disseminated to law enforcement and after the passage of

23 a bill, whether law enforcement can actually enforce that

24 provision or that bill?

25 A I don't know what law enforcement does.

Page 75

1 Q Do you know what the term "machining" means in

2 the context of the manufacture or assembly of a gun?

3 A No.

4 Q May I ask you, please, to take a look at what I

5 believe is marked as Exhibit A to Exhibit 1. It is an

6 attachment or an exhibit to the Complaint. It arises

7 physically at the end of the Complaint.

8 And I will represent to you that Exhibit A is a

9 copy of Assembly Bill 286 that was passed by the Nevada

10 Legislature.

11 Do you see at the top "Assembly Bill Number" or

12 "No. 286 - Assemblywoman" -- and I won't even try to

13 pronounce her last name.

14 Do you see that?

15 A Yes.

16 Q Is that the assemblywoman that you referred to

17 earlier that I asked you some questions about?

18 A Yes.

19 Q Have you ever heard any of her public comments

20 outside of the halls of the legislature about this bill?

21 A No.

22 Q Could I ask you to take a look at what I

23 believe is page 6 of Exhibit A to Exhibit 1, in other

24 words, page 6 of AB 286.

25 Do you see a reference to Section 10?

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1 Q Could I ask you to take a look at Section 10,

2 Subsection 2.

3 Now, you would agree that what we just read

4 into the record a few moments ago was Section 10,

5 Subsection 1, with regard to those sections becoming

6 effective upon passage and approval?

7 A Yes.

8 Q And Subsection 2 reads, does it not, "Sections

9 3 and 5 of this act become effective on January 1, 2022"?

10 A Yes.

11 Q Is it your expectation that sometime shortly

12 after January 1, 2022, the code that has been created for

13 this bill would be disseminated to the law enforcement

14 community?

15 A It would be before, but, yes, it would be

16 disseminated.

17 Q Before January 1, 2022?

18 A Yes. They'd have it available before the

19 effective date.

20 Q Is there a particular time before the effective

21 date when the code goes out, whatever code it might be,

22 for whatever bill?

23 A I don't know.

24 Q Could I ask you, please, to take a look at the

25 first page of section -- I'm sorry. Strike that.

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1 May I ask you to take a look at page 2 of
 2 Exhibit A to Exhibit 1 to this deposition where the
 3 actual sections of the bill begin to be set forth under
 4 the heading "THE PEOPLE OF THE STATE OF NEVADA,
 5 REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS
 6 FOLLOWS:"?
 7 A Yes.
 8 Q Could you take a look at Section 3, please.
 9 "A person shall not possess, purchase,
 10 transport or receive an unfinished frame or receiver
 11 unless:"
 12 And then there is verbiage after that.
 13 I just want to make sure, is it your testimony
 14 that you do not know the meaning of the term "unfinished
 15 frame or receiver" as used in this provision?
 16 A That is correct.
 17 Q Are you aware of any definition of "unfinished
 18 frame or receiver" within this bill?
 19 A I am not aware of any definition of that.
 20 Q I'm going to show it to you in a moment, but as
 21 you sit here today, you're not aware of any such
 22 definition; is that right?
 23 A I'm not aware of it.
 24 Q Could I ask you to cast your eye further down
 25 that page -- excuse me, I've got a bit of a cold -- to

Page 80

1 with a serial number issued by a firearms importer or
 2 manufacturer in accordance with federal law and any
 3 regulations adopted thereunder unless the firearm:"
 4 And then there's additional verbiage.
 5 Do you see that?
 6 A I do.
 7 Q Do you have an understanding in your own mind
 8 as you sit here today as to what the word "firearms"
 9 means in Section 4(1)?
 10 A Do I have an understanding of what a "firearm"
 11 means?
 12 Q Within the terms of this bill, yes.
 13 MR. IRELAND: Objection to form.
 14 THE WITNESS: Yeah, I'm not sure about the
 15 terms of the bill. Generally, I know what a firearm is.
 16 BY MR. MCGUIRE:
 17 Q But within the terms of this bill, do you know
 18 what a "firearm" means or the definition of a "firearm"?
 19 A No.
 20 MR. IRELAND: Same objection.
 21 BY MR. MCGUIRE:
 22 Q May I ask you, please, to cast your eye to what
 23 I believe is page 4 of the bill that is Exhibit A to
 24 Exhibit 1 to this deposition and specifically to Section
 25 6 (9), which, as I see it, arises towards the bottom of

Page 79

1 Section 3.5, Subsection 1.
 2 Do you see that?
 3 A I do.
 4 Q "A person shall not sell, offer to sell or
 5 transfer an unfinished frame or receiver unless:"
 6 Again, you don't know the meaning of that term
 7 "unfinished frame or receiver" as utilized in Section
 8 3.5; correct?
 9 A Correct.
 10 Q You do not have any understanding of that term
 11 in mind as you sit here today; correct?
 12 A Correct.
 13 Q May I ask you to take a look, please, at
 14 Section 4, which begins at the bottom of the second page
 15 of Exhibit A to Exhibit 1 to this deposition? I believe
 16 there are two lines of Section 4, Sub 1 there at the
 17 bottom.
 18 Do you see that?
 19 A I do.
 20 Q "A person shall not manufacture or cause to be
 21 manufactured or assemble" -- I'm sorry, let me reread
 22 that.
 23 Section 4(1) provides: "A person shall not
 24 manufacture or cause to be manufactured or assemble or
 25 cause to be assembled a firearm that is not imprinted

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1 page 4 of the bill and is bolded and begins, "9
 2 'Unfinished frame or receiver.'"
 3 Do you see that?
 4 A I do.
 5 Q Would you agree with me that Section 6(9) reads
 6 as follows: "'Unfinished frame or receiver' means a
 7 blank, a casting or a machined body that is intended to
 8 be turned into the frame or lower receiver of a firearm
 9 with additional machining and which has been formed or
 10 machined to the point at which most of the major
 11 machining operations have been completed to turn the
 12 blank, casting or machined body into a frame or lower
 13 receiver of a firearm even if the fire-control cavity
 14 area of the blank, casting or machined body is still
 15 completely solid and unmachined."
 16 Did I read that correctly?
 17 A I believe so.
 18 Q Now, just so that I don't unnecessarily repeat,
 19 but I do want the record to be clear.
 20 You've already testified today that you don't
 21 know what a frame is or a receiver; correct?
 22 A That is correct.
 23 Q And you do not know what an unfinished frame
 24 is; correct?
 25 A Correct.

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1 Q And/or what an unfinished receiver is; correct?

2 A Correct.

3 Q And you don't know what a blank is?

4 A No.

5 Q And you don't know what a casting is?

6 A No.

7 Q And you don't know what a machined body is?

8 A No.

9 Q Okay. Let me ask you to take a look at the

10 language after the words "machined body that is intended

11 to be turned into the frame or lower receiver of a

12 firearm with additional machining."

13 Now, is it correct to conclude that since you

14 don't know the meaning of the term "frame or receiver,"

15 you don't know the meaning of the term "frame or lower

16 receiver"?

17 A That's correct.

18 Q Okay. And, again, in the third line, since

19 earlier you did not know what "firearm" meant within the

20 terms of this statute, you don't know what the use of the

21 term "firearm" means here in this portion of the statute;

22 correct?

23 A That's correct.

24 Q You see the terms "with additional machining"?

25 A Yes.

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1 Q Continuing towards the end of the definition

2 are the words "even if the fire-control cavity area of

3 the blank, casting or machined body is still completely

4 solid and unmachined."

5 Do you know the meaning of the term

6 "fire-control cavity area of a blank, casting or machined

7 body"?

8 A No, I do not.

9 Q And do you know anything about whether a

10 fire-control cavity area of such an item is ever

11 completely solid or unmachined?

12 A I do not know that.

13 Q Having just looked briefly at some of the terms

14 of AB 286, do any of them refresh your recollection as to

15 the intent or purpose of AB 286?

16 A No.

17 Q Do any of them refresh your recollection as to

18 whether or not AB 286 was directed at or targeted

19 Polymer80?

20 A No.

21 Q Do any of those terms refresh your recollection

22 as to whether or not AB 286 was meant to injure or damage

23 or harm Polymer80 in its business?

24 A No.

25 Q Are you aware of any language in the statute or

Page 83

1 Q You've earlier said you don't know what the

2 term "machining" means; correct?

3 A Correct.

4 Q So do you have any understanding of what

5 "additional machining" might be within the terms of this

6 provision?

7 A No.

8 Q Then continuing -- and it's conjunctive in the

9 sense that an additional part of the definition of

10 "unfinished frame or receiver" within Section 6(9) is

11 that the item "has been formed or machined to the point

12 at which most of the major machining operations have been

13 completed to turn the blank, casting or machined body

14 into a frame or lower receiver of a firearm."

15 Let me stop there. That's not all of the

16 language, but that's some of it.

17 Can I ask you to give me any explanation that

18 you have of your understanding of what those terms that I

19 just read into the record mean?

20 A I have no idea.

21 Q So you don't know the point at which most of

22 the major machining operations have been completed to

23 turn a blank, casting or machined body into a frame or

24 lower receiver of a firearm might be; correct?

25 A That's correct.

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1 elsewhere that would shed light on the point at which

2 most of the major machining operations have been

3 completed to turn the blank, casting or machined body

4 into the frame or lower receiver of a firearm?

5 MR. IRELAND: Objection to form.

6 You can answer.

7 BY MR. MCGUIRE:

8 Q Are you aware of any -- just so we're clear in

9 light of the objection, with respect to the language that

10 I just read, are you aware of any provisions in AB 286 or

11 anywhere in Nevada law or elsewhere that would shed light

12 on what those words mean?

13 MR. IRELAND: Same objection.

14 THE WITNESS: No.

15 BY MR. MCGUIRE:

16 Q Are you aware of anything in the statute or

17 anywhere else in Nevada law or, indeed, anywhere in the

18 literature relating to guns, anywhere, that would shed

19 light on the meaning of any of the terms that I've asked

20 you about today that are within AB 286?

21 A No.

22 Q Have you ever heard the term "80 percent frame"

23 or "80 percent receiver" or "80 percent kit" or

24 "80 percent product"?

25 A No.

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1 Q So you don't know what is meant in any of those
 2 respects with regard to the term "80 percent"; is that
 3 right?
 4 A Correct. I do not.
 5 Q Do you have any understanding of the fact that
 6 certain guns have serial numbers on them?
 7 A Yes.
 8 Q What is your awareness or understanding in that
 9 respect?
 10 A Exactly what you just said, that some firearms
 11 have a serial number on them.
 12 Q Is there anything more you can say about
 13 serialization than what you just mentioned with respect
 14 to your knowledge of such serialization?
 15 A No.
 16 Q In your capacity as a senior official of the
 17 Nevada Department of Public Safety, do you believe that a
 18 criminal statute should fairly inform the public of what
 19 it means?
 20 MR. IRELAND: Objection. My apologies.
 21 Objection to form.
 22 BY MR. MCGUIRE:
 23 Q Do you want me to have the question read back
 24 to you?
 25 A Please.

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1 the public of what it means?
 2 MR. IRELAND: Objection to form.
 3 THE WITNESS: I don't know.
 4 BY MR. MCGUIRE:
 5 Q In your opinion, does Assembly Bill 286 allow
 6 the average Nevadan to understand what is covered and
 7 what is meant by AB 286?
 8 MR. IRELAND: Objection to form.
 9 THE WITNESS: I don't know.
 10 BY MR. MCGUIRE:
 11 Q In your opinion, does AB 286 allow each and
 12 every citizen of the state of Nevada to understand what
 13 it is that that statute criminalizes?
 14 MR. IRELAND: Same objection.
 15 THE WITNESS: I don't know.
 16 MR. MCGUIRE: I think we've done about another
 17 hour. Could we go off the record for a moment.
 18 THE VIDEOGRAPHER: Going off the video record
 19 at 12:10 p.m.
 20 (The midday recess was taken.)
 21
 22
 23
 24
 25

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1 MR. MCGUIRE: Ms. Reporter -- I think it was a
 2 fair question -- could you please reread it for the
 3 witness.
 4 (The record was read by the reporter.)
 5 THE WITNESS: Yes.
 6 BY MR. MCGUIRE:
 7 Q Again, in your capacity as a senior official of
 8 the Nevada Department of Public Safety, do you think that
 9 it is important for the average citizen to understand
 10 what the statutes and laws passed by the state of Nevada
 11 mean?
 12 MR. IRELAND: Objection to form.
 13 You can answer.
 14 THE WITNESS: Yes.
 15 BY MR. MCGUIRE:
 16 Q With regard to criminal statutes passed by the
 17 Nevada Legislature, do you, in your capacity as a senior
 18 official of the Nevada Department of Public Safety,
 19 believe that it is important for the public to understand
 20 what activity or what conduct is criminalized by each and
 21 every criminal statute?
 22 MR. IRELAND: Objection to form.
 23 THE WITNESS: Yes.
 24 BY MR. MCGUIRE:
 25 Q In your opinion, does Assembly Bill 286 inform

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1 -oOo-
 2 RENO, NEVADA; TUESDAY, OCTOBER 26, 2021; 12:48 P.M.
 3 -oOo-
 4
 5 THE VIDEOGRAPHER: This is the beginning of
 6 Media Number 2 in the continuing deposition of Mindy
 7 McKay. Back on the video record at 12:48 p.m.
 8 MR. MCGUIRE: I'll ask the reporter, please, to
 9 mark this next document as Exhibit 2, I believe, to this
 10 deposition.
 11 (Exhibit 2 was marked.)
 12 MR. MCGUIRE: We're done with 1, so you can put
 13 it aside, if that's helpful, Ms. McKay.
 14
 15 EXAMINATION
 16 (Resumed)
 17 BY MR. MCGUIRE:
 18 Q I've placed or caused to be placed before you
 19 an item marked now as Exhibit 2 to this deposition.
 20 I'll represent to you it is entitled
 21 "Defendants' Responses to Plaintiff's First Request for
 22 Documents" in this action, and I believe that it was
 23 served pursuant to law on or about October 22 of this
 24 year.
 25 Why don't you take a moment, if you would, just

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1 THE VIDEOGRAPHER: Back on the video record at
 2 1:51 p.m.
 3 MR. MCGUIRE: We have no further questions of
 4 Ms. McKay at this time.
 5 Thank you very much.
 6 THE WITNESS: Thank you.
 7
 8 EXAMINATION
 9 BY MR. IRELAND:
 10 Q Hello. Kiel Ireland, for the record.
 11 I have a couple questions for you, very
 12 briefly.
 13 Do you recall earlier today you testified about
 14 a federal court action somewhat similar to this case? Do
 15 you recall that testimony?
 16 A I do.
 17 Q And I'm paraphrasing so this isn't exact, but
 18 do you recall testifying to the fact that no one had
 19 communicated with you about that case?
 20 A Yes.
 21 Q As you sit here now, do you recall that members
 22 of the AG's office communicated with you about that case,
 23 without getting into any privileged specifics?
 24 A Yes.
 25 Q So that testimony earlier where you said no one

Page 123

1 had communicated with you, that was incorrect?
 2 A Correct. Incorrect. Yes, it was incorrect.
 3 Q It is --
 4 A Sorry.
 5 MR. IRELAND: I think I asked a bad question,
 6 but I think your answer suffices.
 7 That's all the questions I have. Opposing
 8 counsel may have a couple questions within that narrow
 9 scope.
 10 MR. MCGUIRE: I do not. Thank you again for
 11 your time and your patience.
 12 THE VIDEOGRAPHER: So that's everything. We're
 13 done?
 14 MR. MCGUIRE: I think we can close the record
 15 today with Mr. Ireland's consent.
 16 MR. IRELAND: Yes.
 17 THE VIDEOGRAPHER: One moment.
 18 This concludes the deposition of Mindy McKay on
 19 October 26, 2021.
 20 Off the video record at 1:52 p.m.
 21 (The deposition concluded at 1:52 p.m.)
 22
 23
 24
 25

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1 REPORTER'S CERTIFICATION
 2 I, PEGGY B. HOOGS, a Certified Shorthand
 3 Reporter in and for the State of California, do hereby
 4 certify:
 5 That on Tuesday, the 26th day of October, 2021,
 6 at Sunshine Litigation Services, 151 Country Estates
 7 Circle, Reno, Nevada, personally appeared MINDY MCKAY,
 8 who was duly sworn by me and deposed in the matter
 9 entitled herein;
 10 That I am not a relative, employee or
 11 independent contractor of counsel for any of the parties,
 12 or a relative, employee or independent contractor of any
 13 of the parties to the proceedings, or a person
 14 financially interested in the proceedings;
 15 That said deposition was taken in verbatim
 16 stenographic notes by me, a Certified Court Reporter, and
 17 transcribed into typewriting as herein appears;
 18 That the foregoing transcript, consisting of
 19 pages 1 through 123 of the deposition, is a full, true
 20 and correct transcription of my stenographic notes of
 21 said deposition.
 22 Dated this 2nd day of November, 2021.
 23 *Peggy B. Hoogs*
 24 _____
 25 Peggy B. Hoogs
 CSR #5958, RDR, CRR

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1 ERRATA SHEET
 2
 3
 4 I declare under penalty of perjury that I have read the
 5 foregoing _____ pages of my testimony, taken
 6 on _____ (date) at
 7 _____ (city), _____ (state),
 8
 9 and that the same is a true record of the testimony given
 10 by me at the time and place herein
 11 above set forth, with the following exceptions:
 12
 13 Page Line Should read: Reason for Change:
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

Exhibit F

Exhibit F

1 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
2 IN AND FOR THE COUNTY OF LYON

3
4 POLYMER80, INC.,)
5)
6 Plaintiff,)

7 vs.)

8 STEPHEN SISOLAK, Governor of)
9 Nevada, AARON FORD, Attorney)
10 General of Nevada, GEORGE)
11 TOGLIATTI, Director of the)
12 Nevada Department of Public)
13 Safety, MINDY MCKAY,)
14 Administrator of the Records,)
15 Communications, and Compliance)
16 Division of the Nevada)
17 Department of Public Safety,)

18 Defendants.)

) CASE NO.: 21-CV-00690
) DEPT. NO.: 1

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25

VIDEOTAPED DEPOSITION OF

GEORGE TOGLIATTI

LAS VEGAS, NEVADA

WEDNESDAY, OCTOBER 27, 2021

REPORTED BY: JOHANNA VORCE, CCR NO. 913

Job No.: 815511

Page 2

1 VIDEOTAPED DEPOSITION OF GEORGE TOGLIATTI, held at
 2 Greenspoon Marder, LLP, located at 3993 Howard Hughes
 3 Parkway, Suite 400, Las Vegas, Nevada 89169, on Wednesday,
 4 October 27, 2021, at 10:04 a.m., before Johanna Vorce,
 5 Certified Court Reporter, in and for the State of Nevada.
 6
 7 APPEARANCES:
 8 For the Plaintiff:
 9 GREENSPOON MARDER LLP
 10 JAMES J. MCGUIRE, ESQ.
 590 Madison Avenue
 11 Suite 1800
 New York, New York, 10022
 12 (212) 524-5000
 james.mcguire@gnlaw.com
 13
 14 SIMONS HALL JOHNSTON PC
 15 BRAD M. JOHNSTON, ESQ.
 22 State Route 208
 16 Yerington, Nevada 89447
 (775) 463-9500
 17 bjohnston@shjnevada.com
 18
 19 For the Defendants:
 20 NEVADA OFFICE OF ATTORNEY GENERAL
 21 CRAIG A. NEWBY, Deputy Solicitor General
 100 N. Carson Street
 22 Carson City, Nevada 89701
 (775) 684-1237
 23 cnewby@ag.nv.gov
 24
 25 Also Present: Nicholas Aparo, The Videographer

Page 4

1 LAS VEGAS, NEVADA; WEDNESDAY, OCTOBER 27, 2021
 2 10:04 A.M.
 3 -o-o-

4 (The Court Reporter was relieved of her duties
 5 under NRCPC 30(b)(5)(A)(i)-(iii).)
 6 THE VIDEOGRAPHER: This is the beginning of Media
 7 No. 1 in the deposition of George Togliatti, in the matter
 8 of Polymer80 Inc., versus Sisolak, held at Greenspoon
 9 Marder, LLP, on October 27th, 2021, at 10:04 a.m.
 10 The court reporter is Johanna Vorce. I am
 11 Nicholas Aparo, the videographer, an employee of Litigation
 12 Services. This deposition is being videotaped at all times
 13 unless specified to go off the video record.
 14 Would all present please identify themselves
 15 beginning with the witness.
 16 THE WITNESS: George Togliatti.
 17 MR. NEWBY: Craig Newby, Nevada Office of the
 18 Attorney General, representing Defendants.
 19 MR. MCGUIRE: James McGuire, Greenspoon Marder,
 20 and Brad Johnston of Simons Hall Johnston --
 21 MR. JOHNSTON: Hall Johnston.
 22 MR. MCGUIRE: -- representing Plaintiff,
 23 Polymer80, Inc.
 24 THE VIDEOGRAPHER: Okay. Will the court reporter
 25 please swear in the witness.

Page 3

I N D E X

1
 2
 3 WITNESS: GEORGE TOGLIATTI
 4
 5 EXAMINATION PAGE
 6 By Mr. McGuire 5
 7
 8
 9
 10 EXHIBITS
 11
 12 NUMBER MARKED
 13
 14 Exhibit 1 Verified Complaint 96
 15 Exhibit 2 Defendants' Responses to Plaintiff's 134
 16 First Requests for Documents
 17
 18
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 20
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 23
 24
 25

Page 5

1 Whereupon,
 2 GEORGE TOGLIATTI,
 3 having been first duly sworn to testify to the truth, was
 4 examined and testified as follows:
 5
 6 EXAMINATION
 7 MR. MCGUIRE: May I proceed, Mr. Newby?
 8 MR. NEWBY: Please. Go ahead.
 9 BY MR. MCGUIRE:
 10 Q. Good morning, Mr. Togliatti. My name is Jim
 11 McGuire. I represent the plaintiff in this case, Polymer80.
 12 The formal name of Polymer80 is Polymer80, comma, Inc. And
 13 with your and your counsel's permission, for ease of
 14 description, I'm just going to be calling it Polymer80
 15 today.
 16 Is that agreeable to you?
 17 A. That's fine.
 18 Q. Thank you.
 19 Would you spell your last name for the record,
 20 please.
 21 A. Togliatti, T-o-g-l-i-a-t-t-i.
 22 Q. Your counsel has advised that you've had your
 23 deposition taken on a number of prior occasions, so I take
 24 it, unless you wish, you don't need a description from me
 25 about what a deposition is or what might generally take

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1 place here today; is that right?
 2 A. Correct.
 3 Q. Okay. May I ask if I ask a question of you today
 4 that for whatever reason you don't follow, you don't
 5 understand, or you find difficult to answer, that you tell
 6 me that?
 7 A. Um-hmm.
 8 Q. And I will try to make the question better. Will
 9 you do that for me, sir?
 10 A. Sure.
 11 Q. Thank you.
 12 Also, just a matter of caution -- I think this is
 13 worthy and worth while for all of us -- the reporter can
 14 only take down one person speaking at a time. And I'll do
 15 my very best not to interrupt you or speak over you. Also,
 16 your counsel's got the clear right to interpose objections
 17 after my question is finished, so all I would ask is we all
 18 try to speak one person at a time so the reporter can get
 19 down an accurate record, which benefits all of us.
 20 Is that agreeable to you?
 21 A. Yes.
 22 Q. Thank you.
 23 Also, if at any time today -- and I mean this
 24 sincerely. I know you are an important and busy person. If
 25 you need to take a break today to attend to anything you

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1 A. That's correct.
 2 Q. And your deposition was never taken in your
 3 capacity as director during those years?
 4 A. I -- I don't recall. I know I'm -- I'm retired
 5 FBI, so I've had my deposition there, and that's the best I
 6 can recall.
 7 Q. Okay. Very good.
 8 Would you describe briefly, sir, your educational
 9 background beginning with high school?
 10 A. Went to -- graduated from high school.
 11 Q. Where?
 12 A. Forest Hills, New York; Forest Hills High School.
 13 Went to college in Iona College in New Rochelle. Became a
 14 Navy pilot when I got out after --
 15 Q. Just your education.
 16 A. Okay.
 17 Q. We'll come to your professional --
 18 A. Golden Gate University.
 19 Q. In San Francisco?
 20 A. In San Francisco.
 21 Going for an MBA in accounting. And Detroit
 22 Mercy, University of Detroit, master of arts in criminal
 23 justice administration.
 24 Q. Okay. What year did you graduate from Forest
 25 Hills?

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1 need to attend to, whether it's the call of nature or -- or
 2 other business, we will take as many breaks as you need to
 3 take. Okay?
 4 A. Thank you.
 5 Q. Are you taking any medication or supplements or
 6 any substance that would affect your ability to testify
 7 truthfully and accurately here today?
 8 A. No.
 9 Q. Approximately, how many times before today have
 10 you been deposed?
 11 A. Two or three.
 12 Q. Have any of those occurred while you were or in
 13 connection with your duties, if I understand it, as the
 14 direct -- director, excuse me, of the Nevada Department of
 15 Public Safety?
 16 A. Not to my knowledge.
 17 Q. So this is the first deposition you've had in
 18 connection with your service in that regard; is that right?
 19 A. Correct.
 20 Q. And if I'm right, you not only are the current
 21 director of the Nevada Department of Public Safety, but
 22 you've served in that role previously, correct?
 23 A. Correct.
 24 Q. And that was roughly from 2004 to 2007; is that
 25 right?

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1 A. Sixty -- a million years ago.
 2 Sixty-two. Yeah.
 3 Q. And --
 4 A. College, '64, '66.
 5 Q. And graduation from Iona?
 6 A. Sixty-six.
 7 Q. And what was your degree at Iona in, please?
 8 A. Economics.
 9 Q. Graduation, if I understood correctly, from Golden
 10 Gate?
 11 A. Didn't graduate. I got recruited by the FBI.
 12 Just got accounting courses for an MBA and then transferred
 13 them to University of Detroit, Detroit Mercy.
 14 Q. Okay. During what year or years were you a
 15 student of Golden Gate?
 16 A. (Inaudible.)
 17 THE COURT REPORTER: I'm sorry. Try not to mumble
 18 because I'm trying to write everything you're saying.
 19 THE WITNESS: All right. Going into ancient
 20 times, so give me a break.
 21 Seventy-one to seventy-three.
 22 BY MR. MCGUIRE:
 23 Q. Okay. And then, if I understood correctly, you
 24 later attended Detroit Mercy, or maybe it was then called
 25 University of Detroit?

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1 A. Correct. Seventy-four to seventy-six is my best
 2 recollection.
 3 Q. And just so the record's clear, when you attended
 4 it, as I recall, it was called The University of Detroit; is
 5 that right?
 6 A. Correct.
 7 Q. The Jesuit --
 8 A. Jesuit University, correct.
 9 Q. -- institution.
 10 I -- I inquire of you, as a native of the flatland
 11 section of Brooklyn, New York, graduate of Brooklyn Prep,
 12 Jesuit High School in Brooklyn, am very proud of all that,
 13 so you and I may speak some of the same language.
 14 A. There you go.
 15 Q. Or you might even understand my accent.
 16 A. From Greenpoint originally.
 17 Q. We'll talk about that at the break.
 18 Okay. Did you get a degree from the University of
 19 Detroit?
 20 A. Yes.
 21 Q. And what was that?
 22 A. Master of arts in criminal justice administration.
 23 Q. Now forgive me. Were you studying or beginning to
 24 study towards an MBA at Golden Gate?
 25 A. Yes.

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1 A. (Inaudible.) There we go again.
 2 Just about five years.
 3 Q. What years were they, please, if you can recall?
 4 A. I was a navy pilot. Got my wings in 1968. I
 5 got -- went to Vietnam. Got back in '71, 1971.
 6 Q. You said you got your wings in '68.
 7 Does that mean that you joined the Navy in '68 or
 8 did you join before?
 9 A. No. I joined the Navy in 19 -- as soon as I
 10 graduated from college. Well, I was in the reserves. I
 11 can't tell you exactly when. I believe -- as soon as I was
 12 17, 18 years old, I joined the reserves, so while I was
 13 going to Iona for four years. If I got out in '66, that
 14 means I probably swore in the Navy in '64; went on active
 15 duty in '66; went to Pensacola, Florida; got my Navy wings
 16 in '68 and went -- shipped to there to San Diego and then to
 17 Vietnam in 1968.
 18 Q. Do I take it you were discharged from the Navy in
 19 '71?
 20 A. Seventy-one.
 21 Q. Honorably so?
 22 A. Correct.
 23 Q. Did you take up full-time employment after you
 24 were discharged from the Navy?
 25 A. Yes.

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1 Q. Did you ever obtain your MBA?
 2 A. No. I had transferred out.
 3 Q. Okay. Thank you for that.
 4 And have you had any formal university or academic
 5 training after you obtained your master's degree from the
 6 University of Detroit?
 7 A. Adjunct professor at UNLV now. Have been for
 8 about 12 years.
 9 Q. You teach there, but you -- you take -- or -- or
 10 have you taken any courses there?
 11 A. None there.
 12 Q. Have you taken courses at other university since
 13 getting your degree at the University of Detroit?
 14 A. Not universities.
 15 Q. So then, just to summarize, if I understand
 16 correctly, you have a bachelor's degree and a master's
 17 degree and you've been an adjunct professor at UNLV; is that
 18 right?
 19 A. Um-hmm. Yes.
 20 Q. After you graduated from Iona in 1966, did you
 21 take up full-time employment?
 22 A. In the military.
 23 Q. What branch of the military were you in?
 24 A. Navy.
 25 Q. And for how long did you serve in the U.S. Navy?

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1 Q. What was that please?
 2 A. I flew in the reserves, but my full-time job was
 3 with an organization then called Litton, L-i-t-t-o-n,
 4 Industries or --
 5 Q. What was the business of Litton?
 6 A. -- Litton -- Litton Automated Business Systems.
 7 Litton Automated Business Systems.
 8 It was, in those days, computers.
 9 Q. Okay. And for how long did you work with Litton,
 10 if we may shorten it to that?
 11 A. Till May of -- wait. My God. Forget May. Yeah,
 12 May --
 13 Q. I'm just looking for years.
 14 A. May 13th, 1973 is when I started with the FBI,
 15 went to Quantico, Virginia.
 16 Q. So does that mean you worked for Litton from
 17 approximately 1971 to 1973 --
 18 A. That's correct.
 19 Q. -- roughly speaking?
 20 A. Um-hmm.
 21 Q. What was your job there, please?
 22 A. Computer sales.
 23 Q. And then, do I understand, you joined the FBI in
 24 May of 1973?
 25 A. Um-hmm. Correct.

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1 Q. As a special agent?
 2 A. Correct.
 3 Q. Again, too much information, but I was a former
 4 assistant United States Attorney under Rudy Giuliani --
 5 A. Oh.
 6 Q. -- from 1987. He left in '90, and I was still in
 7 the office till 1992. So, again, we may know of the same --
 8 same folks. Jim Fox was the head of the FBI when I was in
 9 New York --
 10 A. In New York.
 11 Q. -- when I was a -- when I was a prosecutor.
 12 A. Know the name. Um-hmm.
 13 Q. Okay. For how long thereafter were you employed
 14 by the FBI?
 15 A. Year -- the year I left or the years --
 16 I left in 1996.
 17 Q. So for approximately 23 years you were --
 18 A. Um-hmm.
 19 Q. -- employed by the FBI?
 20 A. Correct.
 21 January of '96.
 22 Q. And for how many of those years were you a special
 23 agent?
 24 A. All of them, but I became a supervisor, a
 25 supervisory -- what they call SSA --

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1 A. Yes.
 2 Q. Now, my understanding from my time as a
 3 prosecutor, and that would have been from 1987 to 1992, that
 4 different offices of the FBI had so-called squads within
 5 them that focused on different forms of criminal activity.
 6 A. Um-hmm.
 7 Q. Was that the case during your years with the FBI?
 8 A. Yes.
 9 Q. I don't -- I want us to move on. But can you
 10 summarize the -- either the squads or the types of criminal
 11 activity that you focused on during your tenure with the
 12 FBI? And if it's easier to break it down from your service
 13 in different offices, please go ahead and do that, whatever
 14 is easiest for you.
 15 A. Okay. Boise, Idaho, and Butte and Boise would
 16 have been what they call "reactive crimes," fugitives, bank
 17 robberies, crimes on various government reservations.
 18 Boise, Idaho, I had responsibility for Mountain Home Air
 19 Force Base. Detroit, Michigan was organized crime. I also
 20 started the flight program for them in Detroit. I worked
 21 principally organized crime and then some undercover. Moved
 22 to Las Vegas because they needed a pilot, principally.
 23 Started the flight program in Las Vegas and worked
 24 undercover for two years, organized crime again. Started my
 25 first supervisory position with white-collar crime, managing

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1 Q. Yeah.
 2 A. -- supervisory special agent --
 3 Q. Yes.
 4 A. -- in probably the last eight years of it.
 5 Q. So from '73 till about '88 you were a special
 6 agent, and then an SSA, or a supervisory special agent
 7 thereafter?
 8 A. Could have been closer to even ten years, between
 9 eight and ten years, yeah.
 10 Q. So sometime between 1986 and 1988 you became a
 11 so-called SSA?
 12 A. Um-hmm. Yes.
 13 Q. Where did you serve in the FBI?
 14 A. First office of assignment was Butte, Montana, for
 15 just a -- maybe months, till they transferred me to their
 16 satellite office, which was in Boise, Idaho. And from
 17 there, right around, I would say, 1975-ish, they moved me to
 18 Detroit, Michigan. Stayed in Detroit, Michigan for
 19 approximately five years and transferred to Las Vegas. Got
 20 to Las Vegas in 1979.
 21 Q. And did you serve in Las Vegas from 1979 until
 22 1996?
 23 A. Correct.
 24 Q. And whilst you were in Las Vegas, you were
 25 elevated to become a supervisory special agent?

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1 that, and property crime. And then transferred back to
 2 organized crime for the remainder of my career.
 3 Q. When you say "organized crime," again this may be
 4 dating both of us, but do you mean to say Italian organized
 5 crime or all forms of organized crime?
 6 A. All forms. It depends on what your office's
 7 assignment was. So in Ve- -- Las Vegas, at that time, it
 8 was principally the La Cosa Nostra, LCN.
 9 Q. And was that because of the existence of the
 10 casinos out here?
 11 A. Correct.
 12 Q. Just briefly, you mentioned, if I understood
 13 correctly, the FBI flight program.
 14 A. Um-hmm.
 15 Q. Or an FBI flight program.
 16 A. It was a collateral duty, at the time, for me.
 17 Q. What was the flight program, if you could describe
 18 it?
 19 A. In other words, engage, set up a -- either a
 20 purchase or a rental of an aircraft to be used for
 21 surveillance purposes, transportation purposes, whatever.
 22 Q. And when you worked undercover, were you working
 23 undercover in connection with organized crime investigations
 24 or other types of investigations?
 25 A. Principally, organized crime. The -- more

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1 extensive was organized crime.
 2 Q. Am I correct in thinking that from 1973, when you
 3 joined the FBI, until you left in 1996, you were provided
 4 with a firearm?
 5 A. Correct.
 6 Q. Did you have, prior to your joining the FBI in
 7 1973, any training with respect to firearms?
 8 A. Yes.
 9 Q. Prior to your time at the FBI, what training in
 10 firearms did you receive, please?
 11 A. In the United States Navy, as a pilot, we carried
 12 a revolver in our life vest, and I trained on that revolver,
 13 .38.
 14 Q. It was a .38 caliber revolver?
 15 A. Correct.
 16 Q. So if I'm understanding correctly -- well, strike
 17 that.
 18 Did you only carry a .38 revolver after you earned
 19 your wings, or did you carry one before that?
 20 A. No. It was when you were on active duty as a
 21 pilot in the war zone, was the only time. So in San Diego,
 22 I didn't carry a weapon. In Pensacola, I didn't carry a
 23 weapon. But once I was moved into the war zone --
 24 Q. Into Vietnam?
 25 A. -- into Vietnam, I was issued a weapon. And you

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1 revolver and perhaps a rifle?
 2 A. Yeah. Very basic.
 3 Q. And you may have had some basic training with
 4 respect to both such --
 5 A. Right.
 6 Q. -- items?
 7 A. Correct. And the revolver that I carried had also
 8 what they call "flare rounds."
 9 Q. What is that, please?
 10 A. Flare rounds, where you shoot in the air in case
 11 you were shot down.
 12 Q. Was that one of the reasons why they issued the --
 13 the -- the firearm to you?
 14 A. That and you -- for self defense as well, if you
 15 need it.
 16 Q. When you left the Navy, did you own a firearm?
 17 A. No.
 18 Q. During your time with Litton, did you carry or own
 19 a firearm?
 20 A. No.
 21 Q. Did there come a time after you joined the FBI
 22 when you were issued a firearm?
 23 A. Yes.
 24 Q. Would that have been in 1973?
 25 A. Correct.

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1 had it in your breast.
 2 Q. Prior to your time in the war zone and prior to
 3 the issuance to you of that revolver that you've mentioned,
 4 with regard to your service in the United States Navy, did
 5 you have any training in firearms?
 6 A. I can't recall any.
 7 Q. Prior to your joining the Navy in 1966, did you
 8 own a firearm?
 9 A. No.
 10 Q. Had you ever fired one before you joined the Navy
 11 in 1966?
 12 A. No.
 13 Q. So your first acquaintance, if you will, with
 14 firearms came during your service with the Navy?
 15 A. Correct.
 16 Q. And whether in combat or in self defense or in any
 17 other capacity, after you were issued that revolver, did you
 18 fire it?
 19 A. No. I -- I was just trying to recall if at some
 20 time in one of these boot camps we had some sort of rifles
 21 training, and we may have, but I just -- I just don't
 22 recall.
 23 Q. Okay. That was going to be my next question.
 24 So am I correct in thinking that in your years
 25 with the Navy, you may have physically handled certainly a

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1 Q. And forgive me for not knowing this, but I
 2 honestly don't.
 3 Is an FBI agent who is issued a firearm required
 4 to carry it at all times?
 5 A. No.
 6 Q. Only during active --
 7 A. On duty.
 8 Q. -- work hours?
 9 A. On duty.
 10 Q. I'm sorry?
 11 A. When you're on duty.
 12 Q. On duty.
 13 And am I correct in thinking that you were issued
 14 a firearm from some point in 1973 until 1996?
 15 A. Correct.
 16 Q. And even when you were a spe- -- supervisory
 17 special agent, you carried a firearm while you were on duty?
 18 A. At times, yes.
 19 Q. Were there times when you didn't carry the --
 20 A. I would not have it, my attache case or something,
 21 but I --
 22 Q. You would have it in your possession?
 23 A. I'd have it in my possession.
 24 Q. Thank you.
 25 And the firearm that you were issued by the FBI or

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1 firearms that you were issued by the FBI, could you describe
 2 those, please?
 3 A. First one would be a .38 caliber revolver, Smith &
 4 Wesson. And then when I retired, it was a SIG Sauer 22- --
 5 THE COURT REPORTER: It was a what?
 6 THE WITNESS: SIG, S-I-G S-a-u-e-r. S-a -- no.
 7 THE COURT REPORTER: Thank you.
 8 THE WITNESS: It's S-a -- yeah, it's a S-I-G, SIG,
 9 u-e-r.
 10 I think it was a 226, I believe. That's -- it was
 11 a while --
 12 BY MR. MCGUIRE:
 13 Q. Was that a handgun as well?
 14 A. It's -- it's a hand pistol.
 15 Q. Was the revolver that you had during some of your
 16 years with the FBI similar to the one that you carried
 17 during your Navy service?
 18 A. Yes.
 19 Q. And if you can, tell me briefly, please.
 20 What training did you received -- did you receive
 21 from the FBI or any government affiliated person or entity
 22 with respect to firearms relating to the firearm or firearms
 23 that you carried during your service with the FBI?
 24 A. Initial qualifications in Quantico, you fired
 25 shotguns, believe we fired rifles. You fired that weapon,

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1 A. No.
 2 Q. And when you received that training, both with the
 3 Navy and with the FBI, did you receive any training
 4 regarding the formation, manufacture, or machining of
 5 firearms?
 6 A. No.
 7 Q. Were you required, when you resigned or retired --
 8 forgive me, I'm not sure exactly what the proper term is --
 9 from the FBI, were you required to surrender or turn over
 10 your firearm?
 11 A. I retired, and I turned my firearm in.
 12 Q. Have you owned a firearm or a gun of any kind
 13 since 1996 when you retired from the FBI?
 14 A. Yes.
 15 Q. Do you own one today?
 16 A. Yes.
 17 Q. Okay. How many different guns have you owned
 18 since 1996? And if it's a lot, you can tell me it's a lot.
 19 A. Since 1996?
 20 Q. That would be in the last 25 years.
 21 A. Yeah. How many I've owned?
 22 Q. Yes, sir.
 23 A. Half a dozen. I'm guessing now. You can give or
 24 take --
 25 Q. Just to be safe, can we say approximately six?

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1 the Smith & Wesson, in my era. And then once you were
 2 issued that firearm -- firearm, you would have to qualify
 3 periodically.
 4 Same thing when we transitioned to the auto pistol
 5 with the SIG Sauer. I had a SIG. You had to qualify with
 6 that periodically. And they took back the Smith & Wesson.
 7 Q. If I heard you correctly, at some point during
 8 your FBI service, you fired a shotgun?
 9 A. Correct.
 10 Q. And that was in -- in a training mode --
 11 A. In training.
 12 Q. -- correct?
 13 A. Correct.
 14 Q. And you fired a pistol in a training mode --
 15 A. Correct.
 16 Q. -- is that right?
 17 Did you fire any other type of guns?
 18 A. I believe I fired some rifle.
 19 Q. In your training mode?
 20 A. In my training mode.
 21 Q. Anything else other than rifles, pistols,
 22 shotguns?
 23 A. No.
 24 Q. Did you ever have to shoot or fire your weapon
 25 during your FBI service while you were on duty?

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1 A. Approximately six to eight.
 2 Q. Okay.
 3 MR. NEWBY: And just so it's clear, counsel's
 4 entitled for your best estimate, but no one here today wants
 5 you making guesses. So just so it's clear, that's one of
 6 the deposition dos and don'ts.
 7 THE WITNESS: Okay.
 8 MR. NEWBY: So to the extent that's your estimate,
 9 that's great, but I'm just providing that admonishment now
 10 so that we have a clear record moving forward.
 11 BY MR. MCGUIRE:
 12 Q. And I'm not asking you to guess. All I can ask is
 13 for your best recollection. And I would suggest that we use
 14 the terms like approximately or roughly --
 15 A. Approximately. Okay.
 16 Q. -- so that you are properly protected in the
 17 record.
 18 A. Approximately four to six.
 19 Q. Okay. I don't need to know each one. But could
 20 you tell me the types of guns that would comprise that
 21 approximately four-to-six group that you have owned since
 22 1996?
 23 A. Revolver, auto pistol, and rifle.
 24 Q. What type of a rifle, please?
 25 A. AR-15.

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1 Q. Of the four or six guns, if you will, that you
 2 have owned in the last 25 years, how many of those do you
 3 own today?
 4 A. Issued to me or owned?
 5 Q. I will ask you owned first, and then I'll go to
 6 issue.
 7 This -- this line of questions is meant to explore
 8 your private ownership of guns since 1996.
 9 A. Sure.
 10 Owned would be -- just making sure I was
 11 correct -- four.
 12 Q. And would those four guns fall into the categories
 13 of either revolver or auto pistol or --
 14 A. Take that back.
 15 Q. -- AR-15 rifle?
 16 A. I change that.
 17 Q. Okay. Let's go back --
 18 A. Okay. Here --
 19 Q. -- and just ask you.
 20 A. This is what's confusing me, just to clarify.
 21 Q. I don't mean to confuse you. I'm sorry.
 22 A. No, it's not.
 23 I have a shotgun that's a FBI memorial that will
 24 never be shot. It's a collector's thing. I've got a FBI
 25 auto pistol .22 that has never been fired. That's, again, a

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1 Q. And in what context or connection have you fired
 2 them?
 3 A. Qualifying for concealed weapon when I was not in
 4 law enforcement and just for practice.
 5 Q. And am I correct in thinking that in those
 6 connections you have fired all five of those guns, the two
 7 auto pistols --
 8 A. Possibly not --
 9 Q. -- the two revolvers, and the AR-15?
 10 A. No. I think there's -- AR-15's not been fired and
 11 an auto pistol has not been fired.
 12 Q. One of the auto pistols?
 13 A. I believe, yeah.
 14 Q. So then three of the five guns that you own today
 15 have been fired?
 16 A. Have been fired.
 17 Q. In the connections that you mentioned?
 18 A. For qualifying for --
 19 Q. Yes, sir.
 20 Could you tell me, if you're able, with respect to
 21 the five guns that you personally own, who are the
 22 manufacturers of those guns?
 23 A. Ruger, Smith & Wesson, and Beretta.
 24 Q. And who is the manufacturer, if you haven't
 25 already told me, of the AR-15?

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1 collector thing. So that's where my -- all right.
 2 Q. Okay.
 3 A. I have two issued auto pistols, Department of
 4 Public Safety.
 5 I have two auto pistols I own and two revolvers,
 6 and I already mentioned the 15.
 7 Q. And do you still own that?
 8 A. Correct.
 9 Q. So just to summarize, and if I'm messing this up,
 10 please tell me. Today you possess two auto pistols that
 11 have been issued to you by the Department of Public Safety?
 12 A. Correct.
 13 Q. And you also have two collectors' items, a
 14 shotgun, and an FBI .22 caliber pistol?
 15 A. They're the ones with seals on it, and they're
 16 collectible, yes.
 17 Q. Collectibles.
 18 And then you also own, in addition to what I just
 19 mentioned, yourself personally two auto pistols, two
 20 revolvers, and an AR-15 rifle?
 21 A. Correct.
 22 Q. With regard to the two auto pistols, two
 23 revolvers, and the AR-15 rifle, have you ever fired those
 24 guns?
 25 A. Some.

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1 A. I don't remember.
 2 Q. It's not Polymer80, though?
 3 A. I have no clue.
 4 Q. Could it be Polymer80?
 5 A. I don't know they make -- make them. I don't know
 6 what they make.
 7 Q. Okay.
 8 A. Quite frankly, it's in a safe in a box.
 9 Q. And when did you obtain that?
 10 A. It had to have been four or five years ago.
 11 Q. Since you left the FBI in 1996, have you
 12 received -- and I don't mean to suggest that you need it,
 13 but I'm asking if you've received any further training in
 14 the operation of handguns.
 15 A. Not training, per se. Just qualification.
 16 Q. And at any point during that period, did you
 17 receive any training or education regarding the formation,
 18 manufacture, or machining of guns?
 19 A. No.
 20 Q. Okay. If we could go back to your employment
 21 history, please.
 22 After you left the FBI, if I understand correctly,
 23 in 1996 -- and I should say retired from the FBI -- did you
 24 take up full-time employment?
 25 A. Yes.

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1 paragraph 37 that, quote, sadly, Nevada is home to one of
 2 the largest dealers of ghost guns in the U.S., Polymer80,
 3 end quote.
 4 Are you aware of any dealers of ghost guns who
 5 call -- or which call Polymer80 home -- that which call
 6 Nevada -- please forgive me. Let me repeat the question. I
 7 misspoke.
 8 Are you aware of any dealers of ghost guns --
 9 A. No.
 10 Q. -- in the state of Nevada?
 11 A. No.
 12 Q. Based upon everything that you read and learned up
 13 to today, when you've appeared for the deposition, do you
 14 have a view as to what the purpose of AB 286 is?
 15 A. My -- the simple interpretation would be to ban
 16 guns that don't have serial numbers on them, I believe.
 17 Q. What about parts of guns that don't have serial
 18 numbers on them?
 19 A. Do I believe that that's part of this? It's part
 20 of it. but what are you asking me?
 21 Q. Well, do you believe that the purpose of AB 286,
 22 based upon everything you've learned prior to today, is to
 23 ban component parts of firearms or of guns that do not have
 24 serial numbers on them?
 25 A. Not being -- technically, not being a gun expert,

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1 statute means or what it covers, it would be wise for the
 2 company to seek some clarification of what that statute
 3 means?
 4 A. That would be logical.
 5 Q. And would you see anything objectionable about the
 6 company seeking that clarification from a court of law since
 7 what we're dealing with here is a law passed by the
 8 legislature of the State of Nevada?
 9 A. I'm seeing if -- I think that's due process,
 10 right.
 11 THE COURT REPORTER: I'm sorry, I think that's due
 12 process?
 13 THE WITNESS: I think it's, again, logical.
 14 BY MR. MCGUIRE:
 15 Q. You mentioned due process a moment ago.
 16 Are you familiar with the due process clause of
 17 the Nevada State Constitution?
 18 A. Not fully.
 19 Q. Have you ever read the Nevada State Constitution?
 20 A. No.
 21 Q. Would you agree that it is appropriate for
 22 citizens, subject to a Nevada state statute statewide,
 23 understand and be clear in their own mind what the statute
 24 says and what it prohibits?
 25 A. Yes.

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1 I think it's to ultimately ban the guns without serial
 2 numbers. I can't -- not being an expert in it, I can't tell
 3 you whether they're trying to limit certain pieces or parts,
 4 bolts or whatever. But I think the ultimate effort is to
 5 ban the guns.
 6 Q. Have you yourself ever attempted to make a gun?
 7 A. No.
 8 Q. Do you know anyone who has?
 9 A. No.
 10 Q. And I -- I didn't mean that in an inappropriate or
 11 criminal context.
 12 You are aware there are people in the United
 13 States who make -- try to make or make their own guns?
 14 A. I'm sure I've heard that.
 15 Q. But you're not one of them; is that right?
 16 A. I am not one of them.
 17 Q. Okay. After reading this document -- albeit
 18 briefly today, and I don't mean to suggest you've had a lot
 19 of time to digest it -- are you aware or familiar with the
 20 relief that Polymer80 is seeking in this complaint?
 21 A. I know you are, but I'm not familiar with
 22 different orders and stuff like that.
 23 Q. Well, would you agree that if a statute passed by
 24 the State of Nevada arguably applies to and affects a
 25 company, but the company really doesn't understand what the

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1 MR. NEWSBY: Objection; form, to the extent it
 2 calls for a legal conclusion.
 3 You can state your understanding.
 4 THE WITNESS: No, as a citizen, I would think
 5 everyone has the right to understand the law, correct.
 6 BY MR. MCGUIRE:
 7 Q. I'm not asking for a legal conclusion.
 8 Just as a matter of commonsense, would you think
 9 it would be appropriate for any Nevada citizen, subject to a
 10 new law which covers him or her and all of the citizens of
 11 Nevada, to be able to understand the meaning and the
 12 applicability of that statute?
 13 A. Yes.
 14 Q. Okay. I'll represent to you that attached to the
 15 complaint, which is a part of Exhibit 1, is what's called
 16 "Exhibit A" to the complaint, or Exhibit A to Exhibit 1 to
 17 this deposition, which is a copy, I'll represent to you, of
 18 AB 286.
 19 A. Which I had juxtaposed, and that's why I didn't
 20 recognize this. I had that on top of this when I read it.
 21 Q. I'm going to ask you some very, very direct --
 22 A. Excuse me.
 23 Q. -- and very specific questions about AB 286, and
 24 I -- I'm happy to pause and have you reread it, if you'd
 25 like to. I'm happy to proceed however you believe it is

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1 Q. Okay. I'm going to ask you a similar line of
 2 questions about the term "receiver."
 3 Do you have an understanding, in your own mind, as
 4 a nonlawyer, as a nonexpert in firearms --
 5 A. A nonexpert.
 6 Q. -- what a receiver is?
 7 A. I believe that's where the slide is on an auto
 8 pistol. That's my best guess.
 9 MR. NEWBY: Instruct you -- he wants your best
 10 estimate, not guesses.
 11 THE WITNESS: Okay. My best estimate.
 12 BY MR. MCGUIRE:
 13 Q. So -- just so we're clear, you're not guessing.
 14 You have some understanding or thinking about what a
 15 receiver is; is that fair?
 16 A. In my mind, yes.
 17 Q. Yes, that's what I mean.
 18 A. Yeah.
 19 Q. And if I understand you correctly, in your mind,
 20 as you understand the term, that term is meant to reflect
 21 the slide on an automatic pistol?
 22 A. That's what I think it is.
 23 Q. That's all I'm asking from you, sir.
 24 A. That's all I'm -- yeah.
 25 Q. I'm not being critical. I'm just trying to find

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1 quote, A person shall not sell, offer to sell, or transfer
 2 an unfinished frame or receiver unless, end quote, and then
 3 the statute proceeds? Did I read that correctly?
 4 A. Yes.
 5 Q. Does that provision give you any further insight
 6 or understanding into the meaning of the term "frame" or
 7 "receiver" or "unfinished frame" or "unfinished receiver"?
 8 A. No.
 9 Q. Okay. I'm going to represent to you, sir, that AB
 10 286 contains a definition of unfinished frame or receiver,
 11 as used within this bill. And in that connection, can I
 12 call your attention to what I think is designated at the top
 13 page 4 of this exhibit, or this exhibit to Exhibit 1, AB
 14 286. And it's section 6.9. At the top of the page, there's
 15 the No. 4, you might see. And then down --
 16 A. Um-hmm.
 17 Q. -- you'll see section 6, and then subsection 9
 18 under 6. Do you see that?
 19 A. Correct. Yeah.
 20 Q. Okay. I'm going to read that into the record and
 21 ask you a few questions about it, please. And I will
 22 represent to you this is the definition of unfinished frame
 23 or receiver that is contained within AB 286.
 24 Quote, and again a sub quote, unfinished frame or
 25 receiver, closed quote, means a blank, a casting, or a

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1 out what it is your understanding is.
 2 A. As long as you know --
 3 Q. I got it.
 4 A. -- I'm not a gun expert.
 5 Q. I got it.
 6 Is there any other further or additional
 7 description that you could provide us with as -- as to what
 8 your nonexpert, nonlegal understanding of what a receiver
 9 is?
 10 A. I'll leave it at that.
 11 Q. Okay. Can you tell me, sir, in your own mind, if
 12 you know, whether you have an understanding of what an
 13 unfinished frame is?
 14 A. No.
 15 Q. Can you tell me if you have an understanding in
 16 your mind, as a nonexpert, nonlawyer, of what an unfinished
 17 receiver is?
 18 A. No.
 19 Q. Could I ask you, please, to take a look at
 20 section 3.5. It's another -- maybe an inch, if you will,
 21 down the page, under section 3, sub 1.
 22 A. Um-hmm.
 23 Q. And it's section 3.5, sub 1. Do you see that?
 24 A. Got it.
 25 Q. Would you agree with me that that section begins,

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1 machined body that is intended to be turned into the frame
 2 or lower receiver of a firearm with additional machining,
 3 end quote.
 4 That's only part of the definition, but I'd like
 5 to ask you some questions about that language now.
 6 A. Sure.
 7 Q. Is that okay?
 8 A. Um-hmm. Yes.
 9 Q. Sir, do you have an understanding of the meaning
 10 of the term "blank"?
 11 A. Term which?
 12 Q. Blank, b-l-a-n-k.
 13 A. Can mean a bunch of things, yeah. But I know what
 14 blank means.
 15 Q. Could you tell me what those bunch of things are,
 16 as you understand it?
 17 A. Well, I understand blank is empty, blank page.
 18 Q. In the context of a gun or a firearm --
 19 A. In the context of a -- of a machine casting, no, I
 20 have no clue.
 21 Q. Please bear with me. I know that you're trying to
 22 be helpful. I'm just trying to make the record clear.
 23 A. Okay.
 24 Q. You've given us a couple of your definitions or
 25 understandings of the word blank, and I think you said empty

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1 or a blank page. Thank you for that testimony.
 2 A. All right.
 3 Q. My question now is: In the context of a gun or a
 4 firearm, do you have an understanding of what the term blank
 5 means?
 6 A. Only in the term of a -- as recently in the news,
 7 a blank round would be my only term for a blank.
 8 Q. Would that mean a round that would seem to be
 9 fired --
 10 A. (Inaudible.)
 11 Q. -- but could not cause harm to anyone?
 12 A. Correct.
 13 Q. Would that be a fair definition of that?
 14 A. That would be it.
 15 Q. So a blank round that could not cause harm to
 16 someone, that would be one of your understandings of a blank
 17 in connection with firearms?
 18 A. Correct.
 19 Q. Do you have any other understanding of the term
 20 blank in connection with guns or firearm?
 21 A. No.
 22 Q. Do you see the term "casting"?
 23 A. Yes.
 24 Q. Do you have an understanding of what a casting is?
 25 A. Not really, no.

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1 and it's used in this definition, and I just want to
 2 clarify. You're not a lawyer or an expert and you've never
 3 studied such an issue. But my question to you is: Do you
 4 have a layman's understanding of what today constitutes a
 5 firearm under federal law?
 6 A. My definition?
 7 Q. If you have one, yes. If you could give that to
 8 us, that would be helpful.
 9 A. Do you want from just a --
 10 A firearm -- a firearm is -- I couldn't give you
 11 the legal definition of it.
 12 Q. Okay. Very good.
 13 Okay. Can I then continue and call your attention
 14 back, please, to that subsection 9 of section 6.
 15 Do you see after "machining" there is the word
 16 "and," and the provision continues?
 17 A. (Inaudible reading.)
 18 Oh, "additional machining and which" . . .
 19 Q. And. Okay. So if we can take my questioning now
 20 about this section from that point forward.
 21 Do you see what I'm pointing to --
 22 A. Um-hmm.
 23 Q. -- within the subsection?
 24 A. Um-hmm.
 25 Q. And would you agree --

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1 Q. Moving on to the next term on the second line, "a
 2 machined body."
 3 Do you have an understanding of what a machined
 4 body is?
 5 A. Made by a machine. I have -- really have no
 6 knowledge of that.
 7 Q. Other than that it is a -- something, an item,
 8 made by a machine, do you have any further understanding of
 9 what machined body is?
 10 A. No.
 11 Q. Continuing, "that is intended to be turned into
 12 the frame or lower receiver of a firearm with additional
 13 machining," end quote.
 14 And I've already asked you about frame.
 15 A. Um-hmm.
 16 Q. I'm not going to repeat. But I am going to ask
 17 you whether you have an understanding of the term "lower
 18 receiver"?
 19 A. I don't understand the phrase right now.
 20 Q. Continuing, "lower receiver of a firearm with
 21 additional machining."
 22 Do you know what the term "additional machining"
 23 means?
 24 A. No.
 25 Q. Now, the term "firearm" is used throughout AB 286,

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1 A. Yes.
 2 Q. -- you see the word "and," which means that the
 3 definition is what comes before "and" and what comes after
 4 "and"? Would you agree with that?
 5 MR. NEWBY: Objection to the extent that calls for
 6 a legal conclusion.
 7 MR. MCGUIRE: Not asking for a legal conclusion.
 8 MR. NEWBY: Subject to that, go ahead.
 9 BY MR. MCGUIRE:
 10 Q. As you read that, do you see that the definition
 11 includes what comes before the "and" and what comes after
 12 the "and"?
 13 A. Yeah. Yes.
 14 Q. Okay. Now, after the "and," it reads, quote,
 15 which has been formed or machined to the point at which most
 16 of the major machining operations have been completed to
 17 turn the blank casting or machined body into a frame or
 18 lower receiver of a firearm. I'll stop there. End quote.
 19 Can you tell me, sir, if you know from your --
 20 what I feel, respectfully, is vast experience in law
 21 enforcement and in government, what point it is at which
 22 most of the machining operations of a gun have been
 23 completed to turn a blank casting or machined body into the
 24 frame of a lower -- into a frame or a lower receiver of a
 25 firearm?

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1 A. Something that shoots.

2 Q. Okay. But what I mean is: At what point? If you

3 could, tell me, if you know. What point is it that the item

4 being formed or machined reaches the point where the major

5 machining operations related to that item have been

6 completed to turn a blank casting or machined body into a

7 frame or receiver of a firearm?

8 A. I don't know what that part would be.

9 Q. Do you find that particularly clear, sir, as you

10 look at it as a layman?

11 A. No.

12 Q. Do you think the average Nevedan can understand

13 what that language means?

14 A. In my opinion?

15 Q. In your opinion.

16 A. You'd probably have to know more about weapons

17 than the average person.

18 Q. So an average person would have to have a fair bit

19 of knowledge about weapons to have any understanding about

20 what that term means, correct?

21 A. I believe so.

22 Q. And, respectfully, as you sit here today, you

23 don't know what those words mean, correct?

24 A. I just think it got -- whatever machining occurred

25 and other manipulation caused the thing to be completed and

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1 of a casting is?

2 A. No.

3 Q. And given the multiple definitions of blank that

4 you have helpfully given us, can you tell me what the fire

5 control cavity area of a blank is?

6 A. No.

7 Q. Sir, do you know what polymer is?

8 A. Form of a plastic, nonmetal.

9 Q. Do you have any understanding or experience with

10 respect to injection molding of polymer or related to

11 polymer?

12 A. None.

13 Q. And do I understand correctly that you don't have

14 any personal experience with the machining of guns?

15 A. No.

16 Q. I asked you before, but in light of these

17 questions, I -- I'd like to ask you again. And I apologize

18 if I'm duplicating, and I'm happy to accept counsel's form

19 objection.

20 But I think earlier you said that you were not

21 familiar with the term "80 percent" in connection with the

22 firearms business or industry; is that right?

23 A. Correct.

24 Q. Are you aware that certain companies in that

25 business, including Polymer90, sell or distribute what are

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1 turned into a weapon/firearm and being able to shoot. I

2 just think it -- that's the point they're trying to make out

3 of that sentence. Is --

4 Q. Okay. But in your lay understanding, you don't

5 know what a lower receiver is, correct?

6 A. I'm -- I'm not clear on -- on the nomenclature at

7 all.

8 Q. And you don't know what a blank is, correct?

9 A. After -- probably something without a number on

10 it, as I'm guessing now.

11 Q. Okay. And you don't know what a casting is,

12 correct?

13 A. Something that's -- I used to think a casting was

14 something that was stamped by a machine.

15 Q. Okay.

16 A. Something like that.

17 Q. You don't know what a machine body is, correct?

18 A. No.

19 Q. Then continuing after the word "firearm," quote,

20 even if the fire control cavity of the blank casting or

21 machined body is still completely solid and un-machined.

22 Can you tell me, sir, what the fire control cavity

23 area of a machine body is?

24 A. I could only guess.

25 Q. Can you tell me what the fire control cavity area

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1 called "kits"?

2 A. In -- in the -- in the -- in what business?

3 Firearms business?

4 Q. In the gun business or the firearms business.

5 A. Kits. Yeah, I've heard of kits, people making

6 weapons.

7 Q. What is your understanding of -- of what a -- such

8 a kit is?

9 A. It allows somebody to buy a kit and put it

10 together and make a weapon.

11 Q. Are you aware that Polymer80 makes kits that

12 enables the consumer who purchases the kit to assemble a

13 part or parts of the firearm or the gun, but not the

14 entirety of the gun?

15 A. I wasn't aware of the specifics of what they do.

16 Q. Given the questions I asked this morning about the

17 training issues and the need sometimes for direction and

18 guidance in your role in your department's work with -- from

19 the attorney general's office in regard to a new piece of

20 legislation and what it might mean and how it should be

21 applied, would you agree with me that your department would

22 benefit from clarification from the attorney general's

23 office or from district attorneys' offices as to the meaning

24 of this statute and how it should be applied?

25 A. I think that we would be getting some guidelines,

1 probably. But there's -- and so many laws there's -- and
2 the reason I alluded to this before is you need to get a
3 prosecutor's opinion. So even though, for example, fraud of
4 some sort, say for the FBI, interstate fraud, one U.S.
5 attorney's office may have a standard of a certain amount,
6 and another U.S. attorney's office it may be higher. Not
7 all the laws we have are being enforced 24/7 as all the laws
8 on the books. So I think prosecutorial guidelines would
9 probably be set in some way, shape, or form along the way.

10 Q. My question to you is, though, having -- and,
11 again, I realize you only looked at it briefly.

12 A. Right.

13 Q. But with respect to my questions to you regarding
14 these specific provisions, including the terms frame,
15 receiver, finished frame --

16 A. Yeah.

17 Q. -- unfinished receiver, lower receiver, blank,
18 casting, machined body, et cetera, do you think the -- at
19 this point, at this early stage, that the Department of
20 Public Safety would benefit from getting some guidelines and
21 clarification either from the attorney general's office or
22 from a district attorney's office as to what those
23 provisions mean and how they should be applied?

24 A. Yes.

25 Q. Do -- do you agree with me that a Nevada criminal

1 Polymer gun or -- other than that, it would probably be not
2 so clear.

3 Q. So would --

4 A. Nor would it matter to them.

5 Q. Forgive me for interrupting.

6 Have you finished your answer?

7 A. So I would say it would be clear enough for the
8 person that would have enough knowledge to be building these
9 guns to start with.

10 THE COURT REPORTER: To be building these guns?

11 THE WITNESS: To begin with.

12 BY MR. MCGUIRE:

13 Q. So --

14 A. So somebody like me who wouldn't be building the
15 gun, I would sit there and say maybe I -- I am not as --
16 wouldn't be as clear because I don't know the nomenclature.
17 But to the marketing public that they're -- this is intended
18 for, I would like to think probably that they understand
19 this better than I would because they're gun people.

20 Q. So the yes part of your answer, where you said yes
21 and no, the yes part of it would be directed to people
22 who --

23 A. The affect- --

24 Q. -- have some familiarity with guns and maybe are
25 building their own guns?

1 statute should fairly inform -- inform the public on its
2 face, that is by virtue of its language, as to what conduct
3 is prohibited?

4 MR. NEWBY: Objection; form, asked and answered.
5 Go ahead.

6 THE WITNESS: So in my opinion?

7 BY MR. MCGUIRE:

8 Q. In your opinion.

9 A. The more informed that you can be, the better off
10 you are.

11 Q. So in short, the answer to my question would be
12 yes?

13 A. Yes.

14 Q. Do you believe that Polymer80 provides that
15 clarity, that information, to the public?

16 I'm sorry.

17 A. I don't know --

18 Q. Does AB 286 -- forgive me.

19 Do you believe AB 286 fairly informs the public of
20 what conduct is prohibited by AB 286? And I apologize for
21 misspeaking.

22 A. I think my answer would be yes and no. No,
23 because if you're dealing with a specific marketplace, a
24 specific end user, they will probably -- this will be clear
25 as a bell. To the average person that would never have a

1 A. I would think the affected parties who could
2 potentially be in receipt of what is now prohibited, these
3 items, those people who would buy them, manufacturer them,
4 build them, use them, all that, would understand this, and
5 it would be clear to them. To somebody who is maybe an
6 antigun person, it would be not clear at all, but it
7 wouldn't be pertinent.

8 Q. So for an average Nevadan who didn't have any
9 experience with guns, you would agree with me that this
10 statute would not be clear to them, correct?

11 A. Probably, yeah.

12 Q. You would agree with that?

13 A. I would probably agree, if you didn't know
14 anything about guns, this wouldn't be as clear.

15 Q. Excuse me for a moment.

16 Would you gentlemen like to take a break? I'm not
17 sure --

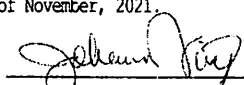
18 A. No. No.

19 Q. -- interrupt.

20 Okay. Okay. Could I ask the reporter, please, to
21 mark this next document as it was yesterday at Ms. McKay's
22 deposition as Exhibit 2 to this deposition.

23 For the record, Exhibit 2, which has been marked
24 and I believe provided to the witness, is a Defendants', S
25 apostrophe, Responses to Plaintiff's, apostrophe S, First

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1 REPORTER'S CERTIFICATE
 2 STATE OF NEVADA)
) SS
 3 COUNTY OF CLARK)
 4 I, Johanna Vorce, Certified Court Reporter, do
 5 hereby certify:
 6 That I reported the taking of the deposition of
 7 the witness, GEORGE TOGLIATTI, commencing on Wednesday,
 8 October 27, 2021, at 10:04 a.m.
 9 That prior to being examined, the witness was by
 10 me duly sworn to testify to the truth.
 11 That I thereafter transcribed my shorthand notes,
 12 and the typewritten transcript of said deposition is a
 13 complete, true, and accurate transcription of said shorthand
 14 notes.
 15 That a request has been made to review the
 16 transcript.
 17 I further certify that I am not a relative or
 18 employee of an attorney or counsel of any party involved in
 19 said action, nor a relative or employee of the parties
 20 involved, nor a person financially interested in said
 21 action.
 22 Dated this 3rd day of November, 2021.
 23
 24 
 Johanna Vorce, CCR No. 913
 25

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1 ERRATA SHEET
 2
 3
 4 I declare under penalty of perjury that I have read the
 5 foregoing _____ pages of my testimony, taken
 6 on _____ (date) at
 7 _____ (city), _____ (state),
 8
 9 and that the same is a true record of the testimony given
 10 by me at the time and place herein
 11 above set forth, with the following exceptions:
 12
 13 Page Line Should read: Reason for Change:
 14 _____
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Page 164

1 ERRATA SHEET
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 19 Date: _____
 Signature of Witness
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 Name Typed or Printed
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1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE
 2 Litigation Services is committed to compliance with applicable federal
 3 and state laws and regulations ("Privacy Laws") governing the
 4 protection and security of patient health information. Notice is
 5 hereby given to all parties that transcripts of depositions and legal
 6 proceedings, and transcript exhibits, may contain patient health
 7 information that is protected from unauthorized access, use and
 8 disclosure by Privacy Laws. Litigation Services requires that access,
 9 maintenance, use, and disclosure (including but not limited to
 10 electronic database maintenance and access, storage, distribution/
 11 dissemination and communication) of transcripts/exhibits containing
 12 patient information be performed in compliance with Privacy Laws.
 13 No transcript or exhibit containing protected patient health
 14 information may be further disclosed except as permitted by Privacy
 15 Laws. Litigation Services expects that all parties, parties'
 16 attorneys, and their HIPAA Business Associates and Subcontractors will
 17 make every reasonable effort to protect and secure patient health
 18 information, and to comply with applicable Privacy Law mandates,
 19 including but not limited to restrictions on access, storage, use, and
 20 disclosure (sharing) of transcripts and transcript exhibits, and
 21 applying "minimum necessary" standards where appropriate. It is
 22 recommended that your office review its policies regarding sharing of
 23 transcripts and exhibits - including access, storage, use, and
 24 disclosure - for compliance with Privacy Laws.
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Exhibit G

Exhibit G

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DISTRICT COURT
CLARK COUNTY, NEVADA

POLYMER80, INC.,)
)
Plaintiff,)
)
vs:)
)
STEVE SISOLAK, Governor of)
Nevada, AARON FORD,)
Attorney General of Nevada,)
GEORGE TOGLIATTI, Director)
of the Nevada Department of)
Public Safety, MINDY MCKAY,)
Administrator of the)
Records, Communications,)
and Compliance Division of)
the Nevada Department of)
Public Safety,)
)
Defendants.)
_____)

CASE NO: 21-CV-00690
DEPT NO: I

VIDEO DEPOSITION OF SCOTT STUENKEL, PMK
Las Vegas, Nevada
Thursday, November 4, 2021

REPORTED BY: Kailey R. Castrejon, RPR, NV CCR #983
JOB NO: 816493

Page 2

1 VIDEO DEPOSITION OF SCOTT STUENKEL held at
 2 Greenspoon Marder LLP, located at 3993 Howard Hughes
 3 Parkway, Suite 400, Las Vegas, Nevada 89169, on
 4 Thursday, November 4, 2021, at 12:06 p.m., before
 5 Kailey Castrejon, Certified Court Reporter, in and for
 6 the State of Nevada.
 7
 8
 9 APPEARANCES:
 10 For Plaintiff:
 11 GREENSPOON MARDER LLP
 12 BY: JAMES MCGUIRE, (Pro Hac Vice)
 13 590 Madison Avenue, Suite 1800
 14 New York, New York 10022
 15 (212) 524-5000
 16 james.mcguire@gmlaw.com
 17
 18 For Defendants:
 19 OFFICE OF THE ATTORNEY GENERAL
 20 BY: STEVEN SHEVORSKI
 21 555 East Washington Avenue, Suite 3900
 22 Las Vegas, Nevada 89101
 23 (702) 486-3783
 24 sshevorski@ag.nv.gov
 25
 26 Also Present: Nicholas Aparo, videographer

Page 4

1 LAS VEGAS, NEVADA; Thursday, November 4, 2021
 2 12:06 p.m.
 3 -oOo-
 4 THE VIDEOGRAPHER: Okay. This is the
 5 beginning of Media Number 1 in the deposition of
 6 Scott Stuenkel. In the matter of Polymer80, Inc.,
 7 versus Sisolak. Held at Greenspoon Marder, LLP, on
 8 November 4, 2021, at 12:06.
 9 The court reporter is Kailey Castrejon. I
 10 am Nicholas Aparo, the videographer, an employee of
 11 Litigation Services.
 12 This deposition is being videotaped at all
 13 times unless specified to go off the video record.
 14 Would all present please identify
 15 themselves, beginning with the witness?
 16 THE WITNESS: Scott Stuenkel.
 17 MR. SHEVORSKI: Good afternoon. Steve
 18 Shevorski of the Attorney General's Office on behalf of
 19 Mr. Stuenkel -- or Captain Stuenkel, excuse me, and the
 20 defendants.
 21 MR. MCGUIRE: James McGuire.
 22 Greenspoon Marder, LLP. We are counsel to
 23 plaintiff Polymer80, Inc.
 24 THE VIDEOGRAPHER: Will the court reporter
 25 please swear in the witness?

Page 3

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Page 5

1 SCOTT STUENKEL,
 2 having been first duly sworn by the court reporter to
 3 testify to the truth, the whole truth, and nothing but
 4 the truth, was examined and testified under oath as
 5 follows:
 6 MR. MCGUIRE: May I proceed, Counsel?
 7 MR. SHEVORSKI: Yes. Please do so.
 8 MR. MCGUIRE: Thank you.
 9 EXAMINATION
 10 BY MR. MCGUIRE:
 11 Q. Sir, would you state your full name for the
 12 record and spell your last name, please?
 13 A. My name is Scott Stuenkel. Spelling of my last
 14 name is S-t-u-e-n-k-e-l.
 15 Q. Sir, have you ever had a deposition taken before?
 16 A. Yes. I have.
 17 Q. How many times?
 18 A. Couple dozen.
 19 Q. Okay. So you're familiar with the general
 20 process --
 21 A. Yes. I am.
 22 Q. -- at a deposition and what happens typically at
 23 a deposition; is that right?
 24 A. Yes, sir.
 25 Q. So you don't need me to go over that with you

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1 today?
 2 A. No.
 3 Q. Very good.
 4 I would ask, sir, though, if I ask you a question
 5 or questions as to what you have some uncertainty, you
 6 don't understand what I meant, the question was not
 7 clear, whatever, I would ask you to tell me that, and
 8 I'll try to make the question better.
 9 Would you do that for me, sir?
 10 A. Yes. I will.
 11 Q. Thank you.
 12 Are you taking any medication, supplement, or
 13 other substance that effects your ability, physically
 14 and mentally, to provide truthful and accurate testimony
 15 here today?
 16 A. No. I am not.
 17 Q. Are you employed, sir?
 18 A. Yes. I am.
 19 Q. By whom?
 20 A. I work for the State of Nevada Department of
 21 Public Safety.
 22 Q. And what division of the Department of Public
 23 Safety are you employed by?
 24 A. I work for the training division.
 25 Q. What is your current title or position?

Page 8

1 Is Clark in the Las Vegas area?
 2 A. Yes, sir. It is.
 3 Q. Okay. What, if any, full-time employment did you
 4 have between 1993, when you obtained your high school
 5 diploma, and 2000, if I understand correctly, the year
 6 in which you started working with the department?
 7 A. Sure. Well, I was a Marine for six years. Of
 8 the six years, approximately seven months of it was
 9 active duty. The rest was as a reserve on -- in the
 10 reserves. I was employed at a -- Falconi's Tropicana
 11 Car Dealership. I worked -- let's see. What was that?
 12 '93 -- I know I worked at Sizzler for a little while as
 13 well.
 14 Q. I didn't hear that last bit for --
 15 A. Sizzler. It's a restaurant.
 16 Q. Yep. Thank you.
 17 A. You bet.
 18 For a couple years. I -- I just can't off the
 19 top of my head remember the dates.
 20 Q. Okay.
 21 A. But -- that was about it. I mean, the -- the
 22 chunk of -- of my post high school to law enforcement
 23 was mostly at the car dealership.
 24 Q. You mentioned, I believe, that you were in the
 25 Marines for six years?

Page 7

1 A. I'm the chief of the training division.
 2 Q. And for how long have you held that post?
 3 A. March of this year. So -- March 27th was my
 4 report date.
 5 Q. So a little over seven months, would that be
 6 fair?
 7 A. Yes.
 8 Q. For how long have you worked for the Department
 9 of Public Safety?
 10 A. January 10th will be my 22nd year.
 11 Q. So if I'm doing my math correctly, you started
 12 working for the department in the year 2000?
 13 A. Yes, sir.
 14 Q. And you've been continuously employed on a
 15 full-time basis by the department since 2000?
 16 A. Yes.
 17 Q. What is your educational background, beginning
 18 with high school, please?
 19 A. Outside of any education in the police
 20 department, I just have a high school diploma.
 21 Q. Okay. And when did you obtain that diploma?
 22 A. 1993.
 23 Q. What high school did you attend?
 24 A. Clark.
 25 Q. And forgive me, I'm a foreigner here.

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1 A. Yes.
 2 Q. Did you enlist?
 3 A. Yes.
 4 Q. And when was it that you enlisted?
 5 A. October of '93.
 6 Q. And, I believe, you said you were in the Marines
 7 for six years --
 8 A. Yes, sir.
 9 Q. Would that have taken you up to 1999?
 10 A. So I technically went to boot camp. I was in --
 11 considered a Poolee, I think, after swearing in. So I
 12 went to boot camp in January -- excuse me. January of
 13 '94 and was in the active reserve until January of 2000.
 14 MR. MCGUIRE: Sam -- I'm sorry.
 15 THE WITNESS: That's okay.
 16 Did you need me to repeat the dates?
 17 MR. MCGUIRE: I apologize to everyone.
 18 Could I ask the witness to just reread the
 19 witness's answer that I interrupted, and I sincerely
 20 apologize.
 21 (The last question was read back by the
 22 reporter.)
 23 (Cross-talk.)
 24 BY MR. MCGUIRE:
 25 Q. So you were in boot camp in January of '94?

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1 A. That's correct, sir.

2 Q. And did I understand you to say you thereafter

3 you were in the active reserve?

4 A. So in -- in the --

5 Q. Yes or no, sir?

6 A. Oh, sorry. Yes.

7 Q. Okay. And what is active reserve? Forgive me.

8 I don't know.

9 A. That's quite all right. So my enlistment was

10 actually eight years in total. So active reserve means

11 you have to actively drill or pretty much go to work,

12 for lack of a better term. Inactive reserve means you

13 still have an obligation to your country and could be

14 called up in -- in the -- the time of war, if need be,

15 if you were to be reactivated. So you're contractually

16 obligated for eight years, but I only had to go to work

17 for six years. I don't know if that makes sense, sir.

18 Q. Well, let me try to explore that a bit, please.

19 A. Okay.

20 Q. Were you ever on what in common parlance many

21 people call active duty?

22 A. Yes.

23 Q. And is it your understanding as it is mine that

24 active duty means essentially the Marines, while you're

25 on active duty, was your full-time job?

Page 12

1 you located?

2 A. So I lived in -- in Las Vegas. And then I would

3 report to the drill center one weekend a month. So

4 Friday, and then we would travel to whatever training

5 destinations; if it was going to be to Camp Pendleton,

6 if it were going to be a different base in California,

7 or wherever. And then we would do annually -- annual

8 training for two weeks a year.

9 Q. So am I correct, based on your last answer, in

10 thinking that the bulk of your service in the Marines,

11 during the six or so years you were on active reserve,

12 meant that one weekend each month you reported for duty

13 and also you had two weeks of training annually, in

14 addition to that weekend service?

15 A. That's correct. Yes, sir.

16 Q. And was that the regimen pretty much from the

17 summer of 1994 until you joined the department in 2000?

18 A. Yes.

19 Q. Did I also understand your earlier testimony to

20 state that in that period, whilst you were on active

21 reserve, you for a time worked for a car dealership and

22 for another period of time worked at the Sizzler -- or

23 at a Sizzler restaurant?

24 A. Yes.

25 Q. For how long did you work at the car dealership?

Page 11

1 A. That's correct. Yes, sir.

2 Q. Okay. After January of 1994, after boot camp, in

3 between the time that you started at the Department of

4 Public Safety, for how much of that period were you on

5 active duty with the Marines?

6 A. Seven months.

7 Q. And which seven months were they?

8 A. From January of '94 to July of '94.

9 Q. And then do I understand that you were on active

10 reserve from the summer of 1994 until you joined the

11 department in 2000?

12 A. Yes, sir.

13 Q. Okay. If you could explain briefly, what were

14 your days like when you were on active duty during those

15 seven months?

16 A. It was all training. So the first -- the first

17 half of that was for boot camp and the second portion of

18 that was at the school of infantry.

19 Q. And where was boot camp?

20 A. MCRD San Diego.

21 Q. And where was the infantry training that you

22 mentioned?

23 A. Camp Pendleton. Also in San Diego.

24 Q. And then when you ceased to be on active duty and

25 began your time on active reserve, where physically were

Page 13

1 A. The car dealership was pretty close to five

2 years.

3 Q. And was that before or after the tenure at

4 Sizzler?

5 A. After.

6 Q. Okay. Let's start with Sizzler then.

7 When did you commence work there?

8 A. I believe, I was still in high school when I

9 started there.

10 Q. Okay. And when did you cease to work at Sizzler?

11 A. Let's see. Probably the latter portion of --

12 must have been early '95, because I think I was just

13 short of five years at the car dealership before I went

14 to work for the highway patrol.

15 Q. Am I correct in thinking that after your

16 graduation from high school in 1993 you worked more or

17 less full-time at Sizzler?

18 A. Yes.

19 Q. Okay. And what was your job or jobs there during

20 that one to two year period?

21 A. I was a cook.

22 Q. And then I take it you left Sizzler to join a car

23 dealership here in the Las Vegas area?

24 A. Yes.

25 Q. The name of that, please?

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1 A. It was Falconi's Tropicana Honda.
 2 Q. And what was your title or position there?
 3 A. I started off just as, like, a lot -- lot porter,
 4 and then eventually became a service advisor.
 5 Q. And what -- what did you do when you were a
 6 service advisor?
 7 A. If a customer would bring their car in for
 8 service, I would greet them, write up a repair order,
 9 and send it to the shop for their car to be repaired.
 10 And any recommendations that the mechanics would have, I
 11 would contact the customer and -- and make those
 12 recommendations.
 13 Q. And do I understand that you worked for Falconi's
 14 for approximately five years?
 15 A. Yes.
 16 Q. From about 1995 until about 2000?
 17 A. Yes, sir.
 18 Q. Could you explain the circumstances, please,
 19 briefly under which you left Falconi's and you joined
 20 the department?
 21 A. The -- it was pretty much a goal of mine from
 22 a -- a young man was to join a police department, and I
 23 applied for various police departments, and the Nevada
 24 Highway Patrol was the first one to offer me the
 25 position.

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1 I stayed in that position until my promotion to
 2 Lieutenant in March of 2016. As a Lieutenant, I was
 3 over the highway patrol's risk management section. As
 4 the risk management deputy commander, my
 5 responsibilities were the oversight for officers
 6 involved in vehicle pursuits, uses of force, if our
 7 officers were involved in crashes.
 8 In March of 2018, I was promoted to the rank of
 9 Captain. As a Captain, I was over our commercial
 10 operations, our rural operations -- so our outlying
 11 areas, other than the urban Las Vegas -- and then our --
 12 also our special Ops; so the motors, the fatal team, our
 13 K-9 section.
 14 In March of this year, I was selected to be the
 15 Captain over the training division, where I've been
 16 in -- in that position since -- I believe, March 27th
 17 was my report date. As the -- as the training captain,
 18 it's my responsibility -- I have the oversight of our
 19 two academies. We have an academy in the north and
 20 academy in the south. And I'm also responsible to
 21 ensure that our officers get the required annual
 22 training, as long as -- continued -- facilitating
 23 continued education classes, such as basic instructor
 24 development, first line supervisor, and any other type
 25 of continued education classes.

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1 Q. Okay. And having been extended that offer, do I
 2 understand that you accepted it in the here 2000?
 3 A. It was actually the -- the latter part of 1999,
 4 but, yes. I started work January 10th of 2000.
 5 Q. So, I guess, the millennium was a good time for
 6 you then?
 7 A. It was wonderful. Thank you.
 8 Q. Good. What titles or positions have you held
 9 between your joining the department in January of 2000
 10 and today?
 11 A. So initially, after completion of the police
 12 academy, I was just assigned to traffic operations at
 13 the Nevada Highway Patrol, where I worked various
 14 shifts -- day shifts, swing shift, and graveyard.
 15 Q. And for how long did you hold that position?
 16 A. Well, in January of 2000 is when I went to motor
 17 school and became a motor officer, and I held that
 18 position until January of 2005, when I joined our fatal
 19 investigation team as one of the fatal detectives.
 20 I stayed in that position until my promotion to
 21 Sergeant in February of 2010. As a Sergeant, I held
 22 various positions -- overseeing traffic operations at
 23 various shifts -- until I was selected to supervise as
 24 the Sergeant the fatal team once again in the latter
 25 part of 2014.

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1 Q. Thank you for that.
 2 A. Mm-hmm.
 3 Q. To whom do you report directly?
 4 A. I report directly to the Deputy Director
 5 Sheri Brueggemann.
 6 Q. And I take it she reports directly to
 7 Mr. Togliatti?
 8 A. Yes, sir.
 9 Q. You do not report to Mr. Togliatti?
 10 A. He is in my chain of command, but my direct
 11 supervisor is the deputy director.
 12 Q. Is the deputy director, for a lack of a better
 13 term, a police officer?
 14 A. The -- the position is -- yes, of a sworn
 15 officer.
 16 Q. And what is a sworn officer?
 17 A. A sworn officer is -- is a commission police
 18 officer.
 19 Q. And what is a commission police officer?
 20 A. A person -- a person that's taken the oath of
 21 office.
 22 Q. And is a commission police officer and/or a sworn
 23 officer entitled under the law to carry a gun?
 24 A. Yes.
 25 Q. Do you have any training in law or legal studies?

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1 Q. Have you ever discussed the passage of any piece
 2 of legislation, a bill, an assembly bill or otherwise,
 3 with anyone you understood to be a legislature at -- at
 4 or in the State of Nevada?
 5 A. I have not.
 6 Q. Are you familiar with what is called the due
 7 process clause of the constitution of the
 8 State of Nevada?
 9 A. I -- I couldn't testify to it. No.
 10 Q. And you've never conducted any study or inquiry
 11 about that clause, am I correct in that?
 12 A. Yes. You are correct.
 13 Q. So would it be fair to say other than the classes
 14 that are facilitated and given and which -- if I
 15 understood you correctly -- can be open to affiliated or
 16 allied law enforcement agencies, the principle mission
 17 of the training division is to train law enforcement
 18 officers employed by the Department of Public Safety?
 19 A. I would say our primary mission is to train
 20 cadets to become police officers.
 21 Q. What do you mean by the term cadet?
 22 A. So when an employee is hired and -- and is
 23 attempting to become a police officer, they go to the
 24 police academy. Until they become a sworn police, they
 25 are considered a cadet.

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1 When cadets -- if this is the proper term --
 2 graduate from police academy, and they pursue their
 3 carries within the department, what are the divisions
 4 within the department that become options for them as
 5 places where they will -- where they will initially be
 6 working?
 7 A. So initially they have three options. They can
 8 go to the highway patrol, parole and probation, or
 9 capital police.
 10 Q. In each of those three options, if these cadets
 11 become sworn commissioned officers, are they lawfully
 12 entitled to carry a gun?
 13 A. Yes.
 14 Q. And do they in fact carry guns while they are on
 15 duty in each one of those three options that you
 16 mentioned?
 17 A. Yes.
 18 Q. When was the first time that you handled a gun in
 19 your life if you recall?
 20 A. I believe, I was in sixth grade.
 21 Q. So you would have been about 12 years old?
 22 A. 11 or 12. Yes.
 23 Q. Am I correct in thinking then that you've been
 24 handling guns since the sixth grade?
 25 A. No. I -- I would say that was unique. I was

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1 Q. So if I'm clear then, your mission mainly -- and
 2 please I -- I'm not trying to put words in your mouth,
 3 but I'm trying to make the record clear so we can move
 4 forward -- is the training of individuals who are
 5 seeking to become police officers after they are at the
 6 police academy; is that fair to say?
 7 A. I -- I -- I would really like to say our primary
 8 mission is to provide training. I -- I don't really
 9 want to try and weigh which one is heavier, the -- the
 10 continued education or the -- the in-service training of
 11 our officers verse the training of cadets. Because if
 12 you were to compare numbers, we're going to provide
 13 training -- continued education and in-service training
 14 those numbers will be far significant than the cadets
 15 that are being trained. So it's -- it's a difficult
 16 equation to balance so I don't really want to assign
 17 which one is our primary focus.
 18 Q. Thank you for that.
 19 When you mentioned cadets, am I correct in
 20 thinking that you mean cadets within the department?
 21 A. With the exception of the couple juvenile
 22 probations officers that are going through now.
 23 Q. And forgive me if I'm asking very elementary
 24 questions, but I want to make sure I understand the
 25 structure of the department.

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1 visiting my uncle in Michigan in a pretty rural area.
 2 They were avid hunters.
 3 Q. Did you join your uncle in -- in hunting up in
 4 Michigan?
 5 A. I did not. I have not.
 6 Q. When I say "handle a gun," did you fire the gun
 7 that you handled when you were in the sixth grade?
 8 A. Yes.
 9 Q. Between then, your sixth grade year and your
 10 graduation from high school, did you continue to handle
 11 and/or fire guns?
 12 A. Very rare occasions. Maybe once a year if that.
 13 Q. And when you handled and/or fired guns during
 14 those years -- you've already answered this with regard
 15 to the sixth grade situation, but were you hunting?
 16 A. No.
 17 Q. So could you explain the circumstances if you
 18 will between your sixth grade year and your graduation
 19 from high school in which you, on rare occasions as you
 20 stated, handled and/or fired a gun?
 21 A. Just target practice.
 22 Q. And what kind of guns did you handle and/or fire
 23 from the sixth grade until your graduation from high
 24 school?
 25 A. The sixth grade was a shotgun. I couldn't tell

Page 30

1 you what type of shotgun. And then older in life my
 2 friend's dad had a couple .22 rifles.
 3 Q. Do you mean -- when you say, "older in life," do
 4 you mean after the sixth grade and before your
 5 graduation from high school?
 6 A. Yes, sir. So high school years.
 7 Q. Did you ever handle or fire a handgun before you
 8 graduated high school?
 9 A. No.
 10 Q. But you did handle and/or fire rifles and/or at
 11 least one shotgun during that period; is that right?
 12 A. Yes.
 13 Q. Between the sixth grade and your graduation from
 14 high school, did you receive any formal training with
 15 respect to guns?
 16 A. No.
 17 Q. Now, after your, and -- and please my -- my goal
 18 here is to have an accurate and clear record. If I
 19 misspeak or I don't render what you've said correctly,
 20 please, I ask you to correct my errors.
 21 Will you do that, sir?
 22 A. Yes.
 23 Q. After enlisting in the Marine Corps in late '93,
 24 did you receive any training with respect to guns?
 25 A. Could you repeat the question? I'm sorry.

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1 training with respect to during your years with the
 2 Marines, other than the M16?
 3 A. I also carried the M249 SAW. The SAW is an
 4 acronym for Squad Automatic Weapon.
 5 Q. Could you describe what that weapon or gun was --
 6 A. It's --
 7 Q. -- or is?
 8 A. It's a belt-fed machine gun that small infantry
 9 units would carry to provide automatic fire coverage.
 10 Q. And -- and do I understand that when you say you
 11 carried the M16 and the M249 SAW or S-A-W, that
 12 obviously before carrying them you received training as
 13 to how to use them?
 14 A. Yes, sir.
 15 Q. And -- and maintain them?
 16 A. Yes, sir.
 17 Q. Did you receive any training during the Marines
 18 with respect to the creation or manufacture of firearms?
 19 A. No.
 20 Q. If I can double back now to where we were headed,
 21 beyond the M16 and the M249, did you carry and/or
 22 receive training with respect to any other types of guns
 23 or weapons during your years with the Marines?
 24 A. I also carried the M203. The M203 was a grenade
 25 launcher attachment that went on the M16.

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1 Q. After you enlisted in the Marines, if I
 2 understand correctly, in or about October 1993 --
 3 A. Yes.
 4 Q. -- and whilst you were with the Marines, either
 5 on active duty or active reserve, did you receive any
 6 training with respect to guns?
 7 A. Yes.
 8 Q. Could you explain what that was, please?
 9 A. Well, being in the infantry in the Marine Corps,
 10 the primary mission of the Marine Corps rifle squad is
 11 dealing with firearms. So I was instructed during boot
 12 camp the fundamentals of marksmanship. Learned how to
 13 take a part the M16, and reassemble it. Cleaned every
 14 component of it.
 15 Q. Was that the primary gun or weapon with which you
 16 interacted during your tenure with the Marines, the M16?
 17 A. It was the one that I carried the most.
 18 Q. Just so the records's clear, what is an M16?
 19 A. An M16 is a shoulder fired weapon that shoots a
 20 two-two-three round. The M16A2 service rifle has the
 21 semi -- semiautomatic option. It also has a three-round
 22 burst. I guess, if I can remember the acronym, it's
 23 lightweight, magazine-fed, gas-operated, air-cooled,
 24 shoulder-fire weapon.
 25 Q. What other guns or weapons did you receive

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1 Q. Anything else?
 2 A. That's it.
 3 Q. So -- and I don't mean this critically. I just
 4 want to make sure I understand -- you did not receive
 5 any training with respect to, and you did not carry any
 6 handguns, during your tenure with the Marines?
 7 A. I did not.
 8 Q. And, again, just -- I don't mean to be conical.
 9 You didn't receive any training with respect to guns or
 10 weapons during your years at the dealership or with
 11 Sizzler; is that right?
 12 A. That's correct.
 13 Q. Have you ever personally owned a firearm?
 14 A. Yes.
 15 Q. Do you own any today? And by own -- own, I mean
 16 do you personally, outside the bounds of your
 17 employment -- and obviously you're a sworn law
 18 enforcement officer. Outside that role and outside your
 19 duties in that role, which I know are very important to
 20 all of us, do you own a -- a gun?
 21 A. Yes.
 22 Q. How many guns do you personally own outside the
 23 bounds of your official duties?
 24 A. Two. Oh --
 25 Q. What are they?

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1 A. Strike that. Three.
 2 Q. And what are they please?
 3 A. They are a Sig Sauer. It's a small .380. I
 4 can't -- I can't think of the model.
 5 Q. Just to help the reporter, could you give your
 6 best understanding of the spelling of Sig Sauer to we
 7 can get it right?
 8 A. S-i-g, S-a-u-e-r.
 9 Q. And that was a .380 that you mentioned?
 10 A. .380 caliber.
 11 Q. And what is a Sig Sauer .380 caliber?
 12 A. Sig Sauer is the manufacture of the firearm, and
 13 the .380 caliber is basically the bullet it fires. So
 14 it's a little smaller than a nine millimeter bullet.
 15 Q. Is that a handgun?
 16 A. Yes. It is.
 17 Q. How long have you own that had gun?
 18 A. Since my 21st birthday. So 25 years.
 19 Q. Since I'm even older than you, I'm not going to
 20 ask you to --
 21 A. That's quite all right.
 22 Q. -- to do the math. I understand the pain.
 23 The other two guns that you own presently, if I
 24 understand your testimony, beyond the Sig Sauer, are
 25 what, please?

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1 that nature?
 2 A. Very rarely. Maybe once every five years.
 3 Q. And in those very rare occasions, which of the
 4 guns that you mentioned that you owned do you -- do you
 5 fire?
 6 A. All of them.
 7 Q. And forgive me for not knowing the Nevada law,
 8 but I'll confess that I don't.
 9 Are you required to have a permit to own and
 10 carry each of these guns?
 11 A. No.
 12 Q. Are you required to have or obtain a permit for
 13 any of them?
 14 A. Am I, personally?
 15 Q. Yes, sir?
 16 A. No.
 17 Q. Why is that?
 18 A. We used to have to register our firearms or get
 19 a -- it was called a blue card. Where you would
 20 literally go to the police department and register your
 21 firearm, and that is no longer required.
 22 Q. And that would be the case with any citizens of
 23 the State of Nevada whether or not he or she was a law
 24 enforcement officer, or do you have special privileges
 25 because you're a law enforcement officer?

Page 35

1 A. One is a Ruger 10/22 rifle.
 2 Q. And for how long have you owned that?
 3 A. Approximately five years. And the final one is a
 4 Springfield 1911 handgun.
 5 Q. Is that a collectors item would you say or is
 6 that something that you --
 7 A. It's not.
 8 Q. -- actually use?
 9 A. No.
 10 Q. What is a Springfield 1911?
 11 A. The Springfield is the manufacture. The 1911 is
 12 the model. It's a pretty common model. It would be
 13 like what the military carried back in the -- I guess,
 14 back in the day. I don't -- I don't know when they
 15 switched to Berettas.
 16 Q. And, again, the Springfield 1911 is a handgun;
 17 correct?
 18 A. Yes, sir.
 19 Q. Do you carry and/or fire these guns outside the
 20 bounds of your official duties?
 21 A. No.
 22 Q. Are you a hunter, sir?
 23 A. I am not.
 24 Q. Do you engage outside the bounds of your official
 25 duties in shooting or target practice or anything of

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1 A. Yes. Everyone would have to register a firearm.
 2 Q. But you don't because of your law enforcement --
 3 A. Citizens are no longer required to register.
 4 Q. So the benefit that -- that you were just
 5 mentioning of no longer having to register is a benefit
 6 that all citizens of the state share?
 7 A. Yes.
 8 Q. Did there come a time after you joined the
 9 department in 2000 when the department or the State of
 10 Nevada issued you a gun?
 11 A. Yes.
 12 Q. When was that?
 13 A. In 2000.
 14 Q. And was that after you successfully completed the
 15 police academy?
 16 A. You're issued your firearm in the academy;
 17 however, you're not given -- it's not given to you
 18 for -- to stay on your person. While in the academy, it
 19 will stay in the armory.
 20 Q. And then once you and I assume other cadets
 21 successfully navigate the police academy and graduate,
 22 are they then issued guns which they need to carry
 23 during the course of their official duties?
 24 A. Yes.
 25 Q. And what gun was issued to you in 2000, if I

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1 understood your testimony correctly, after you finished
 2 successfully the police academy?
 3 A. It was a Smith & Wesson .40 caliber -- I don't
 4 remember the model. 40/13.
 5 Q. Is that or was that a handgun?
 6 A. It is a handgun. Additionally, I was also issued
 7 a Remington 870 shotgun.
 8 Q. Were all cadets at that time who successfully
 9 completed the police academy issued both a handgun and a
 10 shotgun?
 11 A. No.
 12 Q. Can you explain -- and, again, I don't mean this
 13 critically.
 14 Can you explain why you were issued both?
 15 A. For the Nevada Highway Patrol, you are issued
 16 both a handgun and a shotgun. Half of our -- my academy
 17 was parole and probation officers. They were issued
 18 just the 40/13 handgun from Smith & Wesson.
 19 Q. What about the capital police, or the folks who
 20 went from the academy to the capital police? Did they
 21 get both the shotgun and the handgun?
 22 A. I did not have any capital police graduates in my
 23 academy.
 24 Q. Very good.
 25 Did the capital police exist at that time or --

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1 all, but at some point we were all issued patrol rifles,
 2 and they are Smith & Wesson AR-15 --
 3 Q. Can you --
 4 A. -- rifles.
 5 Q. Could you give me an approximate year or period
 6 during which those rifles were issued?
 7 A. Please give me a minute to --
 8 Q. Sure.
 9 A. -- to think.
 10 Q. Take your time, please.
 11 A. I'm guessing around 2012.
 12 Q. Has the department issued you any other guns or
 13 weapons other than those you've already mentioned?
 14 A. Yes.
 15 Q. And what have they been?
 16 A. At -- I believe, it was about two years ago, we
 17 traded in our Sig Sauer, 229s and were issued Sig Sauer
 18 P320s.
 19 Q. And is the Sig Sauer P320 another handgun?
 20 A. Yes.
 21 Q. Has the department issued to you any other guns
 22 or weapons?
 23 A. Yes.
 24 Q. And what -- what have they been?
 25 A. I've been issued a smaller size Sig Sauer. It's

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1 A. Yes.
 2 Q. -- or has that division developed since --
 3 A. Nope.
 4 Q. -- you joined?
 5 A. Sorry. No. They existed back then.
 6 Q. You just didn't have anybody in your class that
 7 went on to join the capital police, if I understand
 8 correctly?
 9 A. That's correct, sir.
 10 Q. Since the issuance to you, if I understand your
 11 testimony correctly, in 2000, of both a handgun and a
 12 shotgun, have you been issued by the department any
 13 other guns or weapons?
 14 A. Yes.
 15 Q. Would you explain what they were, please?
 16 A. I believe, it was approximately 2005 our
 17 Smith & Wessons were turned in for Sig Sauer P229s.
 18 Q. And was that Sig Sauer P229 another handgun?
 19 A. Yes. It was.
 20 Q. Has the department issued any other guns or
 21 weapons to you during your approximately 22 years with
 22 the -- the department?
 23 A. Yes.
 24 Q. And what were they, please?
 25 A. I will not be able to come up with the year at

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1 a nine millimeter. I -- I can't think of the model off
 2 the top of my head, but it's a -- it's a smaller framed
 3 handgun designed to carry if you're in professional
 4 business attire.
 5 Q. And do you recall when that gun or weapon was
 6 issued to you?
 7 A. At the same time as the 320.
 8 Q. In or about 2019, would that be fair?
 9 A. Yes, sir.
 10 Q. Any other weapons been issued to you other than
 11 the ones that you've mentioned?
 12 A. No, sir.
 13 Q. When these -- strike that.
 14 Going back to the police academy, if you can --
 15 and I know it's a long time, and I don't want to belabor
 16 this, but I would ask for your best recollection.
 17 Could you describe the training that you received
 18 at the police academy with respect to guns or weapons?
 19 A. Sure. Initially, we are given a one week block
 20 of basically basic marksmanship training where you're
 21 taught fundamentals of marksmanship; how to break down
 22 your weapon, how to clean it, how to maintain it, and
 23 then I -- I don't recall how many rounds were fired,
 24 several rounds, probably upwards close to 1,000 rounds.
 25 So -- numerous qualifications. Firearms training, like,

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1 geared to teach you proper fundamentals, whether it be
 2 trigger control, side alignment, side picture. Just
 3 really concentrating on the basics, the fundamentals in
 4 marksmanship. A lot of people have a lot of bad habits
 5 when they come into police academy environment, and
 6 obviously our officers need to shoot proficiently.
 7 As you progress through the academy, you continue
 8 with firearms training. So you evolve into train --
 9 more realistic training. Not so static. When I say
 10 static training, it would be standing at firing lines
 11 and just very mundane, just basically shooting to the
 12 best of your ability. Trying to acquire the best score
 13 as possible. Where you evolve into more real world
 14 tactical application of firearms.
 15 Q. During the police academy period, with respect to
 16 the training that you've just helpfully described, did
 17 you receive any training or instruction about how to
 18 make or build a firearm?
 19 A. No.
 20 Q. Same question with respect to formally
 21 manufacture or injection mold a firearm.
 22 Any training in that regard during the years --
 23 during the time at the police academy?
 24 A. No.
 25 Q. Since you graduated successfully from the police

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1 with respect to making or building your own gun?
 2 A. No.
 3 Q. Have you received any training at the department
 4 in those years with respect to the manufacture or
 5 formation of a gun?
 6 A. No.
 7 Q. Have you received any training during those years
 8 with respect to the possible injection molding of
 9 plastics or polymers --
 10 A. No.
 11 Q. -- to make a gun?
 12 A. No.
 13 Q. And I take it you yourself have never tried at
 14 any point during your life to make or manufacture a gun?
 15 A. I have not.
 16 Q. Do you know anyone who has?
 17 A. I do not.
 18 Q. And you've never discussed with anyone in any
 19 capacity the making, manufacture, or molding of a gun;
 20 is that right?
 21 MR. SHEVORSKI: Object to the extent it
 22 requires you to reveal attorney/client --
 23 BY MR. MCGUIRE:
 24 Q. I'm not asking you for your communications with
 25 counsel. I want to make that absolutely clear. No

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1 academy, have you had continuing training or education
 2 with respect to guns or weapons in the intervening 20 or
 3 22 years?
 4 A. We are required to qualify. So I'm assuming it's
 5 budgetary reasons. When I first started with the
 6 department, we would shoot once a month and qualify
 7 twice a year. So what I mean by that is we are mandated
 8 to qualify twice a year. And then the other -- excuse
 9 me -- the other months of the year would be dedicated to
 10 different types of training. Shooting and moving. Not
 11 so static, where a qualification is very static. Where
 12 the training focuses more on shooting and moving more
 13 realistic scenarios. Sorry. If I'm talking too fast.
 14 Q. Am I --
 15 A. Since then -- sorry, sir.
 16 Q. Please -- please, continue. I didn't mean to
 17 interrupt.
 18 A. I don't remember what point we transitioned to
 19 now we qualify twice a year. It's typically for half of
 20 the -- the shift, but we try and do -- excuse me. We
 21 try and incorporate some training into it, and then go
 22 into qualifications.
 23 Q. In the post police academy phase -- I guess,
 24 we're going on 20 or 22 years now.
 25 At the department have you received any training

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1 question I ask you at this deposition is meant to invade
 2 that privilege.
 3 Leaving aside any communications you may have had
 4 with counsel, have you ever discussed the making,
 5 manufacture, formation, or molding of a gun with anyone,
 6 other than counsel?
 7 A. No.
 8 Q. Have you ever had to fire your -- any of your
 9 weapons during your service with the Department of
 10 Public Safety outside of target practice or training?
 11 A. I've had to use my Taser. I mean, I don't know
 12 if you consider that in the mix, but my firearms, no.
 13 Q. Today, the -- do the officers -- and if I'm
 14 using -- I want to be respectful because I am of what
 15 you do and what your colleagues do.
 16 So if I'm using the wrong words or terms, please
 17 set me straight.
 18 A. Yes, sir.
 19 Q. But do the officers, who today work in the
 20 investigation or the investigations division, do they
 21 carry firearms of the sort that you mentioned in their
 22 day-to-day work?
 23 A. They do carry firearms. I don't know what that
 24 division issues. And then -- it would be relevant to
 25 say that officers of the Department of Public Safety are

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1 A. I went over the assembly bill, I discussed it
2 with the Attorney General's Office, and I reached out to
3 an agent with the ATF.
4 Q. You a minute ago said, I believe -- and correct
5 me if I'm wrong -- you went over AB 286.
6 What do you mean by that you went over AB 286?
7 A. Reviewed it. Read it.
8 Q. Did you read from the start to finish?
9 A. Yes.
10 Q. All of the section?
11 A. Yes. Assuming I pulled up the correct section in
12 the legislature website, which is very --
13 Q. Understood.
14 A. -- nonuser friendly.
15 Q. What -- whatever bill you read, you read it from
16 start to finish, would that be fair to say?
17 A. Yes, sir.
18 Q. Okay. Had you ever read AB 286 before your
19 reading it in preparation for this deposition?
20 A. No.
21 Q. Again, I don't want to -- and I'm not meaning to
22 inquire as to the details of what was discussed with
23 counsel, but which member or members of the Attorney
24 General's Office did you speak to about this deposition?
25 A. This gentlemen here, Steve. I also spoke with a

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1 the conversation with Mr. Newby. Object to
2 attorney/client privilege.
3 BY MR. MCGUIRE:
4 Q. Just so we're clear. If you meant that you spoke
5 to Mr. Togliatti, you're entitled to, and I will ask you
6 about that, but if you're speaking about Mr. Newby, by
7 no means, please, tell us what was discussed with Mr.
8 Newby.
9 So let me back up. Were you meaning to say you
10 spoke to Mr. Newby or you spoke to Mr. Togliatti?
11 A. I spoke to Mr. Newby.
12 Q. Okay. Very good.
13 When you spoke to the various gentlemen, the
14 three of them, Kiel, Steve, and Mr. Newby, was there
15 anyone else on the line with you, other than you and the
16 individual or individuals you were speaking with?
17 A. No.
18 Q. Who first contacted you about this deposition?
19 A. Mr. Newby.
20 Q. Did anyone within the department or your division
21 ask you to testify in this case?
22 A. Director Togliatti did.
23 Q. And did you have discussions or communications
24 with him on that subject?
25 A. About?

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1 gentlemen named Kiel. I -- forgive me. I don't know
2 his last name off the top of my head. And Craig, I
3 believe, his last name is Newbury.
4 MR. SHEVORSKI: So I'll just state for
5 the --
6 MR. MCGUIRE: Craig Newby?
7 THE WITNESS: Newby.
8 MR. SHEVORSKI: Craig Newby, and the other
9 one is Kiel Ireland.
10 MR. MCGUIRE: Right. These are all lawyers
11 who worked on the case. I can -- I can assure you.
12 MR. SHEVORSKI: Some that were --
13 MR. MCGUIRE: You talked to the right
14 people.
15 MR. SHEVORSKI: Some that were drafted.
16 BY MR. MCGUIRE:
17 Q. You mentioned three gentlemen from the Attorney's
18 General Office.
19 Did you speak to them separately or together if
20 you recall?
21 A. For sure on two occasions a conference call, and
22 I -- I believe, I spoke to Craig Newby directly on the
23 phone. I believe, when you were deposing the director,
24 he called me for --
25 MR. SHEVORSKI: Do not reveal the content of

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1 Q. About you testifying at this deposition.
2 A. Other than him telling me that I was going to
3 testify.
4 Q. And when did he do that?
5 A. I don't recall.
6 Q. Was it within the last month?
7 A. I believe so.
8 Q. How many such communications did you have with
9 the director on that subject?
10 A. I think just the one.
11 Q. Was it written or oral?
12 A. I don't remember.
13 Q. And in effect did the boss tell you that you were
14 going to be testifying at this deposition?
15 Would that be a fair summary of the
16 communication?
17 A. Yes, sir.
18 Q. Prior to that time, did you have any knowledge of
19 or familiarity with the litigation -- the action that
20 brings us together today?
21 A. No.
22 Q. Were you aware that Polymer80 or anyone had sued
23 to block enforcement of AB 286 on the grounds that it
24 was unconstitutional?
25 A. No.

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1 Q. I believe, you said as a third aspect of your
 2 preparation, beyond reading or reviewing AB 286 and
 3 speaking with certain representatives of the Attorney
 4 General's Office, and perhaps Mr. Togliatti, you also
 5 contacted an ATF agent?
 6 A. Yes.
 7 Q. Whom did you contact?
 8 A. Mike Cahill. C-a-h-i-l-l, I believe, is the
 9 spelling of his name.
 10 Q. And to your knowledge where does he -- where's he
 11 stationed or where does he serve?
 12 A. He -- he's in Northern Nevada. I don't recall if
 13 he said he was in the Carson or Reno area.
 14 Q. How -- how did you get in touch with him?
 15 A. I was forwarded an e-mail from my lieutenant on a
 16 class that the ATF was hosting, and I just -- I e-mailed
 17 the agent and said I had a couple questions, if you
 18 could please give me a call.
 19 Q. That e-mail that you mentioned, could you be more
 20 specific and explanatory about that?
 21 A. About the e-mail to --
 22 Q. That you mentioned?
 23 A. -- Mr. Cay hill.
 24 Q. The e-mail that, if I understand correctly, you
 25 received and read, which led you to contact Mr. Cahill?

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1 lawsuit or anything.
 2 Q. But the purpose of your reaching out to him, and
 3 then to Agent Cahill with the ATF, was to become better
 4 educated about some of the issues related to this case;
 5 correct?
 6 A. Specifically, I wanted -- so it's clear that the
 7 verbiage in the assembly bill is drafted from verbiage
 8 used by the ATF. So some specific terms I -- I couldn't
 9 find a definition through the ATF's website. So I
 10 wanted to reach out to an agent to see if the ATF
 11 actually defined terms, or if it was just, like, common
 12 knowledge terms.
 13 Q. What is your basis for saying and thinking that
 14 the verbiage in AB 286 stems from verbiage utilized by
 15 ATF?
 16 A. Just comparing it to the Gun Control Act.
 17 Specific language used in that act would -- it leads me
 18 to believe that the verbiage used in the assembly bill
 19 is common verbiage used in the Gun Control Act.
 20 Q. Are you -- are you familiar with the Gun Control
 21 Act?
 22 A. I -- I did some research into it specifically
 23 looking -- looking for definitions of terms in the
 24 assembly bill.
 25 Q. And you did that as part of your preparation for

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1 A. Sure. So my -- my lieutenant, my deputy chief,
 2 who's in Reno, knew of a training class that the ATF put
 3 on. So he forwarded an e-mail of the training
 4 announcement. And on part of the announcement, was that
 5 agent with the ATF, and I was able to contact him that
 6 way.
 7 Q. When you communicated with the deputy, the
 8 lieutenant, that you mentioned, were you aware at that
 9 point you were going to be deposed, or you going to
 10 appear as a witness at a deposition in this case?
 11 A. I must have been. Yes.
 12 Q. Did you and he discuss that fact that you were
 13 going to be deposed in this case?
 14 A. He knows that I'm being deposed. I don't know if
 15 at that time I advised him that it's for an upcoming
 16 deposition.
 17 Q. Well, was it the purpose of your communication
 18 with the lieutenant to learn more about the issues
 19 related to this case?
 20 A. No. It was specifically to get in contact with
 21 the agent. He and I didn't discuss -- if that's your
 22 question, he and I didn't discuss any issues or -- or --
 23 I believe, you said issues with the case?
 24 Q. Yes.
 25 A. He and I didn't discuss anything regarding the

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1 this deposition?
 2 A. Yes, sir.
 3 Q. So that would be a fourth thing you did, you did
 4 research on the Gun Control Act?
 5 A. I -- I -- I don't know see it as a fourth thing,
 6 but yes.
 7 Q. Okay. Whatever the number is --
 8 A. Sure.
 9 Q. -- in addition to reading AB 286 --
 10 A. And then reaching out to the agent. Yes.
 11 Correct.
 12 Q. Let me just finish my question.
 13 You -- you also did research into the Gun Control
 14 Act?
 15 A. Yes.
 16 Q. And it was your reading of AB 286 which led you
 17 or caused you to do some research into the Gun Control
 18 Act?
 19 A. Yes. Specifically just searching verbiage of AB
 20 286 is going to link it to the Gun Control Act.
 21 Q. In other words, were you looking for some insight
 22 into what certain language in AB 286 --
 23 A. Yes.
 24 MR. SHEVORSKI: Hold on.
 25 BY MR. MCGUIRE:

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1 Q. -- means by looking also at the Gun Control Act
 2 to see if in that federal legislation certain terms were
 3 defined or clarified?
 4 MR. SHEVORSKI: No. Go ahead. I just
 5 wanted to make sure you let him get his question out.
 6 THE WITNESS: Yes.
 7 MR. MCGUIRE: Let's just back make the
 8 record's clear. And I -- I think we're communicating.
 9 Ms. Reporter, could I ask you please to clearly read my
 10 last question to the officer. And if he would answer it
 11 again just so we have a clear record, and we can move
 12 on.
 13 (The court reporter read back the requested
 14 portion.)
 15 THE WITNESS: Yes.
 16 (Cross-talk.)
 17 BY MR. MCGUIRE:
 18 Q. Did you look at any other laws or legislation
 19 other than AB 286 and the Gun Control Act prior to
 20 today's deposition?
 21 MR. SHEVORSKI: Object to the form.
 22 THE WITNESS: I -- I can't say definitively.
 23 What I will say is on the printout that -- that you
 24 have, that has the pictures on it, I don't know if that
 25 makes reference to anything specific. So I -- I

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1 by ATF?
 2 A. Yes.
 3 Q. And that may have been a clarification or
 4 determination letter, but you're not certain?
 5 A. Yes.
 6 Q. Did you look at anything else in writing,
 7 photographs, printed documents, digital materials in
 8 preparation for the deposition today?
 9 A. I don't believe so.
 10 Q. Did you review the complaint in this action
 11 before today?
 12 A. The --
 13 Q. The complaint --
 14 A. I did. Yes.
 15 Q. So you also read the complaint?
 16 A. Not in its entirety. Yes.
 17 Q. You, shall we say, quickly reviewed it --
 18 A. Yes.
 19 Q. -- would that be fair?
 20 Did you review any of the other papers that have
 21 been filed publicly in this case, motions, memoranda,
 22 letters that are on file with the court?
 23 A. No.
 24 Q. Now, after the communications with your
 25 lieutenant -- if I understood you correctly -- up in

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1 definitely looked at the pictures on the printout that
 2 you have. So I don't know if that refers to something
 3 other than.
 4 BY MR. MCGUIRE:
 5 Q. Well --
 6 A. So I did --
 7 Q. Please, go ahead.
 8 A. I did also look at a paper from -- I don't know
 9 if it's an ATF opinion, ATF something from 2015.
 10 Q. Was that a so called classification or
 11 determination letter?
 12 A. I believe so. I -- I --
 13 Q. Okay. So just so we're clear, you read and
 14 reviewed as you've described AB 286, you did some
 15 research on and I assume read or reviewed the Gun
 16 Control Act?
 17 A. Yes.
 18 Q. You looked at those photographs. A copy of which
 19 your counsel turned over prior to today's deposition --
 20 A. Yes.
 21 Q. -- and I'll ask you about later today --
 22 A. Okay.
 23 Q. -- is that right?
 24 A. Yes.
 25 Q. And you also reviewed a document from 2015 issued

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1 Northern Nevada, through those communications, you were
 2 able to be in touch with ATF Agent Mike Cahill?
 3 A. Yes.
 4 Q. Did you speak with him?
 5 A. Yes.
 6 Q. How many times?
 7 A. Once.
 8 Q. Was that by telephone?
 9 A. Yes.
 10 Q. And for how long did that phone call last?
 11 A. Ten minutes, maybe.
 12 Q. Was that the first and only time you'd spoken to
 13 Agent Cahill during your career?
 14 A. Yes.
 15 Q. Was anyone else on that call, other than you and
 16 he, to the best of your knowledge?
 17 A. No.
 18 Q. What did you and he discuss?
 19 A. I asked if he could help me define a few terms
 20 that I could not find anywhere on the ATF's website.
 21 Q. And what terms were they?
 22 A. I know machining was one. I think, I asked him
 23 if they defined heavy machining.
 24 Q. How about casting? Did you ask him about
 25 casting?

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1 A. I'm trying to remember. I'm not trying to --
 2 Q. Take your time.
 3 A. I'm just trying to dig through there. I'm not
 4 sure if I did.
 5 Q. How about blank?
 6 A. No.
 7 Q. How about the machining process?
 8 A. I may have asked him that.
 9 Q. Am I correct in thinking that because you were
 10 speaking to him about those terms, whatever they were --
 11 and certainly machining or heavy machining and machining
 12 process. At the time you had that discussion, you
 13 yourself, even given all your many years of experience
 14 with guns, you yourself were not sure what the meaning
 15 of those terms were within the statute?
 16 A. As the ATF would define them. So if you were to
 17 a month ago stop me on the street and said, what do you
 18 think it means to machine something. I probably could
 19 have come up with a fairly articulable explanation of
 20 the process of machining something, but I was curious if
 21 whether or not there was something specific defined
 22 through the ATF.
 23 Q. Well, if you knew what those terms met, why did
 24 you ask the ATF what they meant?
 25 A. I -- I look at the ATF as -- as the -- the guys

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1 A. I did not.
 2 Q. What did he tell you in those records that is the
 3 definition or meaning of those terms?
 4 A. He sent me back an e-mail, and I believe the
 5 e-mail was of the picture that is printed out. And to
 6 the best of my knowledge, in the -- the pictures,
 7 nothing is defined.
 8 Q. When did you first become aware of the term
 9 machining in connection with guns or weapons?
 10 A. It would be difficult to say. I mean, if --
 11 Q. Would it be sometime after you joined the
 12 department?
 13 A. After I joined the military.
 14 Q. After you joined the Marines?
 15 A. Yes, sir.
 16 Q. And, again, you were 18 or 19 years old when you
 17 joined the Marines?
 18 A. 18. Yes, sir.
 19 Q. And prior to that time, you had handled and fired
 20 guns; is that right?
 21 A. Yes.
 22 Q. And at that point would it be fair to say you had
 23 never heard of and did not know the meaning of the term
 24 machining?
 25 A. Yes.

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1 that know. The experts when it comes to gun
 2 nomenclature, and I -- I would rather be right and not
 3 assume the way something is defined.
 4 Q. Well, did you see any definition in AB 286 of
 5 machining?
 6 A. Machining defined?
 7 Q. Yes.
 8 A. No.
 9 Q. Did you see any definition in AB 286 about the
 10 machining process?
 11 A. No.
 12 Q. Did you see any definition in AB 286 of the term
 13 casting?
 14 A. No.
 15 Q. Did you see any definition in AB 286 of the term
 16 blank?
 17 A. No.
 18 Q. So in order to prepare for today's deposition,
 19 you were in contact with the ATF to see if the ATF could
 20 give you more information about the definitions of those
 21 terms as leased -- insofar as ATF defined them?
 22 A. Yes.
 23 Q. And did you get that -- did you get that
 24 information or those definitions from Agent Cahill in
 25 that ten-minute call?

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1 Q. Are you aware that there are thousands of
 2 Nevadans, maybe hundreds of thousands of Nevadans who
 3 have never fired or carried a firearm?
 4 A. No.
 5 Q. You're not aware of that?
 6 A. No.
 7 Q. How many Nevadans would you say are out there who
 8 have never fired or carried a firearm?
 9 A. There's no way I could make any logical guess.
 10 Q. So you don't know how many --
 11 A. I have no idea. No.
 12 Q. Do you think all Nevadans have had experience
 13 with or know about guns?
 14 A. No.
 15 Q. But you yourself, prior to your tenure with the
 16 Marines, had no idea what the term machining meant,
 17 correct, at least with respect to guns?
 18 A. That's correct.
 19 Q. Could you tell me then or summarize if
 20 possible -- and I realize it might not be possible --
 21 what it was that you learned from ATF Agent Cahill in
 22 summary during that ten-minute call that you testified
 23 that you had?
 24 A. I didn't learn anything from him.
 25 Q. So is it correct to say that that telephone

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1 conversation did not assist you in preparing for today's
2 deposition?
3 A. Yes.
4 Q. And am I correct in thinking -- and I have not
5 had the opportunity to review what your counsel turned
6 over to me a few minutes before we started today, but am
7 I correct that, after the phone call with Mr. Cahill,
8 you had e-mail communications with him in which certain
9 information or photographs were sent back and forth?
10 A. Not back and forth. Just to me.
11 Q. From him to you?
12 A. Yes, sir.
13 Q. And after you received those materials, whatever
14 they might be -- and I have not had a chance to see them
15 yet -- did you have any further communication with him?
16 A. No.
17 Q. Did you have any further communication with
18 anyone from ATF --
19 A. No.
20 Q. -- about this deposition?
21 A. I did not.
22 Q. Did you seek any advice or education from anyone
23 before the deposition about how guns are manufactured?
24 MR. SHEVORSKI: To the extent that requires
25 you to reveal attorney/client privilege, please do not

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1 page and was on there.
2 Q. So would it be perhaps several photographs, would
3 that be fair --
4 A. Sure. Yeah.
5 Q. -- of Glock lower receivers?
6 A. What appeared to be Glock -- yes.
7 Q. And if I understood you correctly, you also
8 looked at some photographs of what you described, I
9 believe, as AR-15 components?
10 A. Yes.
11 Q. And what, if any, conclusions did you draw after
12 looking at those photographs of the Glock receivers and
13 AR-15 components, if any?
14 A. None.
15 Q. Other than Googling the company and looking at
16 these photographs on the company website, did you do any
17 other research or preparation with regard to Polymer80
18 before today's deposition?
19 A. No.
20 Q. Did you seek to obtain any other information --
21 again, outside of your communications with counsel --
22 related to this deposition, other than in connection
23 with reviewing AB 286, reviewing the Gun Control Act,
24 Googling the company's website, speaking to your
25 lieutenant, speaking to Agent Cahill, reviewing what

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1 do so. If you can answer otherwise, please do so.
2 BY MR. MCGUIRE:
3 Q. Outside of the conversations you may or may not
4 have had with counsel, leaving aside anything you
5 discussed with counsel, did you seek guidance,
6 education, clarification from anyone before the
7 deposition today and after you were asked -- or told by
8 the director to appear today about the manufacture or
9 formation of guns?
10 A. No.
11 Q. Did you do any research regarding Polymer80, my
12 client, before attending the deposition today?
13 A. I Googled the company -- or I pulled up their
14 website.
15 Q. And did you read what was on the website?
16 A. I didn't. The only thing I looked at was lower
17 receivers, and I looked at AR-15 components.
18 Q. When you say you looked at lower receivers, could
19 you be more specific, please?
20 A. I looked at several of the pictures on their
21 websites of lower receivers, which appeared to be
22 Glocks -- Glock lower receivers.
23 Q. How many such photos did you look at if you
24 recall?
25 A. It's hard to say. Whatever popped up on that

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1 Agent Cahill said?
2 A. I just want --
3 Q. Anything other than that?
4 A. Preparation-wise?
5 Q. Yes, sir.
6 A. No.
7 Q. So just so we're clear, other than what I've just
8 rendered in a litany in my last question, to your
9 knowledge you did nothing else that you can tell us
10 about, leaving aside your communications with counsel,
11 before today to prepare for today's deposition --
12 A. That's correct.
13 Q. -- is that right?
14 A. Yes, sir.
15 Q. Okay. Have you yourself ever met or spoken with
16 Governor Sisolak?
17 A. Yes.
18 Q. Have you ever spoken to him about AB 286 or about
19 your deposition here today?
20 A. No.
21 Q. Have you ever met or spoken with Attorney General
22 Ford?
23 A. I met him before he was the attorney general.
24 Q. And have you ever spoken to Attorney General Ford
25 about anything connected with AB 286?

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1 Q. So they mean the same thing with respect to both
 2 types of guns?
 3 MR. SHEVORSKI: Same objection.
 4 THE WITNESS: Yes.
 5 BY MR. MCGUIRE:
 6 Q. What then is a lower receiver?
 7 A. It's a primary component of the firearm that
 8 houses the -- the trigger -- trigger housing group.
 9 Q. And -- and it's your testimony and belief then
 10 that the meaning and definition of a lower receiver is
 11 precisely the same when you're talking about the lower
 12 receiver of a rifle as opposed to when one -- one is
 13 talking about the lower receiver of a handgun?
 14 MR. SHEVORSKI: Object to the form.
 15 THE WITNESS: I wouldn't -- now, your
 16 question was are they precisely the same?
 17 BY MR. MCGUIRE:
 18 Q. Yes. That's precisely my question. Are they
 19 precisely the same?
 20 MR. SHEVORSKI: Same objection.
 21 THE WITNESS: I would -- I wouldn't describe
 22 them as primarily the same or precisely the same. I
 23 would -- I would go as far to say they are a primary
 24 component of a -- of a -- of a weapon -- of a -- of a
 25 gun that contains needed parts.

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1 a lower receiver of a rifle was?
 2 A. No.
 3 Q. Before you joined the Marines, did you know what
 4 a lower receiver of a handgun was?
 5 A. No.
 6 Q. Did you have any way to know at that time what
 7 the differences are or were or might be between the
 8 lower receiver of a rifle and the lower receiver of a
 9 handgun?
 10 MR. SHEVORSKI: Object to the form.
 11 THE WITNESS: So, please, clarify. What do
 12 you mean, "did I have --"
 13 MR. MCGUIRE: Before -- before --
 14 THE WITNESS: Did I have any way to know,
 15 like, what? Could I have gone and sought out education?
 16 BY MR. MCGUIRE:
 17 Q. No. Not -- not my point.
 18 A. Okay.
 19 Q. Before you joined the Marines?
 20 A. Yep.
 21 Q. Based upon your life experience up to that point,
 22 I guess, at age 18, some of which involved handling and
 23 shooting of firearms, you -- you just told us, I
 24 think -- I want to -- to give you a chance to make sure
 25 the record's clear --

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1 BY MR. MCGUIRE:
 2 Q. Okay. Let's try to do it very simply for someone
 3 like myself who's not --
 4 A. Sure.
 5 Q. -- expert in guns. Both rifles and handguns have
 6 what you would call lower receivers; correct? Or a
 7 component which is known as a lower receiver; correct?
 8 MR. SHEVORSKI: Object to the form.
 9 THE WITNESS: I don't know.
 10 BY MR. MCGUIRE:
 11 Q. Okay. Some rifles have a lower receiver, would
 12 that be fair to say?
 13 A. Yes.
 14 Q. Perhaps not all, but some rifles have a lower
 15 receiver; correct?
 16 A. Yes.
 17 Q. And some handguns, based upon your experience,
 18 have a lower receiver; correct?
 19 A. Yes.
 20 Q. And, if I understand you correctly, based on your
 21 experience, typically speaking the lower receiver of a
 22 rifle is similar to but not precisely identical to the
 23 lower receiver of a handgun; is that fair?
 24 A. Yes.
 25 Q. Before you joined the Marines, did you know what

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1 A. Sure.
 2 Q. -- that you did not know at that point what a
 3 lower receiver of a rifle was; correct?
 4 A. That's correct.
 5 Q. And you did not know what a lower receiver of a
 6 handgun was; correct?
 7 A. That's correct.
 8 Q. And at that point -- again, I'm not casting any
 9 aspersions or being critical. I'm just trying to
 10 understand.
 11 At that point at age 18, before you joined the
 12 Corps, you did not know what the differences might be,
 13 if any, between a lower receiver on a rifle and a lower
 14 receiver on a handgun might be; correct?
 15 A. That's correct.
 16 Q. Did I understand earlier that you effectively
 17 told us that both in the Marine Corps and with the
 18 department you've had some experience in assembling
 19 firearms?
 20 A. Yes.
 21 Q. Let's start with the Marine Corps if we can.
 22 What experience, training, knowledge did you gain
 23 during those years with respect to the assembling of
 24 firearms?
 25 A. At my level, I was authorized to break down the

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1 rifle to the extent that I described the parts. Now,
 2 obviously armorers were knowledgeable and permitted to
 3 break them down even further, whether it be cleaning for
 4 cleaning or parts replacement, but to that extent, as
 5 described in the -- the components of the M16, that was
 6 the extent of my knowledge.
 7 Q. So just so I'm clear. During your time with the
 8 Corps, you learned how to take an M16 apart in common
 9 parlance and put it back together?
 10 A. Yes.
 11 Q. And were there -- I used this term a moment
 12 ago -- armorers in the Corps at that time?
 13 A. Yes.
 14 Q. But you were not one of them; correct?
 15 A. Correct.
 16 Q. What was the job or role or function of an armor
 17 in the Marine Corps during the years that you were part
 18 of the Corps?
 19 A. To tell me my weapon was dirty.
 20 Q. Anything else?
 21 A. Yes. To ensure the functionality of a firearm.
 22 Q. Okay. And that was their major, sole function;
 23 correct?
 24 A. To my knowledge, yes.
 25 Q. How about during your 22 or so years with the

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1 police officer, it involves some military style
 2 training, boot camp style training.
 3 And because firearms training is so crucial, I
 4 want to eliminate my training staff from that portion of
 5 instruction because I do not want to create unneeded
 6 stress on the cadets while as they're learning this
 7 necessity for their job. With that being said, every
 8 division has firearms instructors that have -- that are
 9 not -- knowledgeable in firearms, and they come in to
 10 instruct the cadets for their firearms training.
 11 Q. The various guns and weapons that you have been
 12 exposed to or carried or even fired, during your years,
 13 both with the Marines and with the department, have any
 14 of them been made of plastic or polymer?
 15 A. I owned a Glock for a while. I don't know what
 16 it was made of. It was a plastic-type material. I
 17 don't know what it's technically -- what it is.
 18 Q. That Glock handgun that you just mentioned, you
 19 did not assemble that or put that together from the
 20 component parts of the gun, did you?
 21 A. Not to the extent that I believe your question is
 22 asking. To the extent where we normally would remove
 23 the barrel, the spring, for cleaning purposes, outside
 24 of that, no, I did not.
 25 Q. In other words, this was not an item that you

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1 department. What experience, training, or knowledge
 2 have you obtained with respect either to taking apart or
 3 putting back together a gun?
 4 A. Similar. I -- I have the knowledge and
 5 experience to take the weapon to a certain point and
 6 clean those components, but not to go beyond that.
 7 Q. Prior to joining the Marine Corps, did you have
 8 any knowledge, training, or experience with respect to
 9 either taking apart or putting back together a firearm?
 10 A. No.
 11 Q. Does the training division today to your
 12 knowledge train cadets or others who are getting
 13 training from the division regarding the assembly or
 14 taking apart, if you will, disassembly of guns?
 15 A. The training division doesn't; however, the
 16 firearms -- how do I call -- firearm's instructors from
 17 the divisions assist in the training of the firearms
 18 portion of the academy.
 19 Q. So if I understand your last answer, within the
 20 training division, there are specific individuals who
 21 are firearms instructors?
 22 A. There are, but -- so my staff, my corporals, I
 23 want their primary focus to be on the -- for lack of a
 24 better term, the discipline of the cadets. So the
 25 transformation, of a police officer from civilian to

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1 originally received all the parts for or components of
 2 and then yourself put those parts or components together
 3 in order to have a fully functioning gun?
 4 A. No.
 5 Q. Are you aware that Polymer80 sells what they call
 6 kits, which contain parts or components of guns?
 7 MR. SHEVORSKI: Object to the form.
 8 THE WITNESS: Yes.
 9 BY MR. MCGUIRE:
 10 Q. Prior to the filing of the lawsuit earlier this
 11 year in this case, were you aware of such kits being
 12 sold by Polymer80?
 13 MR. SHEVORSKI: Object to the form.
 14 THE WITNESS: No.
 15 BY MR. MCGUIRE:
 16 Q. What is it that you know, as you sit here today,
 17 about kits that are sold by Polymer80?
 18 MR. SHEVORSKI: Object to the form.
 19 THE WITNESS: When I was researching their
 20 website and came across those pictures, I believe, one
 21 of the categories said kits. Outside of that, I don't
 22 know. I don't know what's in the kit.
 23 BY MR. MCGUIRE:
 24 Q. And do you know what types of products are meant
 25 to be created with respect to the sale of those kits

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1 that you learned about on the website?

2 MR. SHEVORSKI: Object to the form.

3 THE WITNESS: I do not.

4 MR. MCGUIRE: Okay. I think, we've been

5 doing about another hour's worth. So can we take our

6 next break now?

7 MR. SHEVORSKI: That's fine.

8 MR. MCGUIRE: And I'll try to get the

9 exhibits ready to go, and we can officially move

10 forward.

11 MR. SHEVORSKI: Yeah. That's fine with me.

12 MR. MCGUIRE: Okay.

13 MR. SHEVORSKI: Do you want some more water?

14 THE WITNESS: Sure.

15 THE VIDEOGRAPHER: Going off the video

16 record at 2:16.

17 (A recess was taken from 2:16 p.m. to

18 2:31 p.m.)

19 THE VIDEOGRAPHER: We are back on the video

20 record at 2:31.

21 BY MR. MCGUIRE:

22 Q. I'm going to ask the reporter, please, to mark

23 this document as Exhibit 1 to this deposition. To my

24 eye, Exhibit 1 is entitled notice of deposition pursuant

25 to NRC 30(b)(6). It is a four page document. And I'll

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1 through 15?

2 A. Yes.

3 Q. Are you aware of anyone else in the State of

4 Nevada, who is a public employee, who is more

5 knowledgeable about these topics than your?

6 MR. SHEVORSKI: Object to the form.

7 THE WITNESS: I -- I can't say for certain.

8 There's obviously employees or officers within our

9 department who probably are more gun guys than I am.

10 BY MR. MCGUIRE:

11 Q. Well, could I ask you to take a look at the

12 second page of Exhibit 1?

13 Prior to your preparation for this deposition,

14 did you know anything about the interpretation, meaning,

15 and application of AB 286?

16 A. No.

17 Q. Prior to your preparation for deposition today,

18 did you know anything about the interpretation, meaning,

19 and application of AB 286 definition of unfinished frame

20 or receiver?

21 A. As used in AB 286? No.

22 Q. And you would agree with me that my last two

23 questions were topics or items one and two of Exhibit 1?

24 A. Yes.

25 Q. With respect to item three, prior to your

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1 ask the reporter to mark it and place it before the

2 witness.

3 (Exhibit 1 was marked for identification.)

4 BY MR. MCGUIRE:

5 Q. Sir, is this -- to your knowledge, is this the

6 notice of deposition pursuant to which you are

7 testifying here today?

8 A. Yes.

9 Q. Is it your understanding that you are testifying

10 today on behalf of defendants George Togliatti and

11 Mindy McKay, both of whom are senior officials of the

12 Nevada Department of Public Safety?

13 A. Yes.

14 Q. Are you familiar with the term person most

15 knowledgeable?

16 A. Yes.

17 Q. What is your understanding of that term?

18 A. Person most knowledgeable is the representative

19 of an entity who has been tasked or is identified as the

20 person who has the most knowledge on a subject.

21 Q. And does that mean in your estimation you are the

22 person most knowledgeable --

23 A. Yes.

24 Q. -- at the Department of Public Safety about the

25 topics that are set forth on Exhibit 1, numbers one

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1 preparation for this deposition, did you know anything

2 about the interpretation, meaning, and application of

3 the word "blank," as that word is used in AB 286

4 definition of "unfinished frame or receiver?"

5 A. No.

6 Q. Same question with respect to the interpretation,

7 meaning, and application of the word casting as that

8 word is used in AB 286's definition of "unfinished frame

9 or receiver," as set forth in topic four?

10 A. No.

11 Q. Same question with respect to topic five. Prior

12 to today's -- prior to preparation for today's

13 deposition, did you know anything about the

14 interpretation, meaning, and application of the words

15 "machined body," as those words were used in AB 286's

16 definition of "unfinished frame or receiver?"

17 A. No.

18 Q. Same question with respect to topic six. The

19 interpretation, meaning, and application of the word

20 "frame," as that word is used in AB 286's definition of

21 "unfinished frame or receiver?"

22 A. No.

23 Q. Same question with respect to item seven. That

24 is -- did you have any knowledge about the

25 interpretation, meaning, and application of the words

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1 apply a new criminal statute that the state legislature
 2 passes --
 3 MR. SHEVORSKI: Object --
 4 MR. MCGUIRE: -- typically?
 5 MR. SHEVORSKI: -- to the form of the
 6 question and outside the scope of the 30(b)(6) notice.
 7 Go ahead and answer.
 8 THE WITNESS: I don't know.
 9 (Cross-talk.)
 10 BY MR. MCGUIRE:
 11 Q. And just so the record is clear. And I -- I
 12 appreciate counsel's objection, and I'm really trying to
 13 confine my questions to the scope of the deposition.
 14 Are you aware of anyone in the State of Nevada,
 15 any public body, public service entity, who has given
 16 any guidance, clarification, or instruction on the
 17 enforcement or application of AB 286?
 18 MR. SHEVORSKI: Object to the form and
 19 outside the scope of 30(b)(6) notice.
 20 THE WITNESS: I don't know of any.
 21 BY MR. MCGUIRE:
 22 Q. Just so the record is clear, and I don't mean to
 23 duplicate, but I want to make sure we move on.
 24 It is true, is it not, that the Nevada Department
 25 of Public Safety and you, yourself, had no role in the

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1 A. I am not aware of any.
 2 Q. Given your decades of experience in law
 3 enforcement and with the Nevada Department of Public
 4 Safety and in your role today as the person most
 5 knowledgeable at this deposition regarding AB 286, do
 6 you personally believe that it is important for the
 7 citizens of Nevada to understand the meaning of Nevada
 8 criminal statutes after those statutes are passed?
 9 A. Could you repeat the question one more time?
 10 MR. MCGUIRE: I think, it was a fair
 11 question.
 12 Ms. Reporter, could you please reread it to
 13 the witness? Thank you.
 14 (The court reporter read back the requested
 15 portion.)
 16 THE WITNESS: I don't know how to answer it,
 17 and I don't -- I don't mean to come across as -- as
 18 vague, but there's -- I'm sure there's laws that -- I --
 19 I mean, there's obviously -- I mean, you alluded to the
 20 fact earlier that there's probably hundreds of thousands
 21 of Nevadans who have never fired a firearm. I don't
 22 understand the need for them to have knowledge of a law
 23 that wouldn't be applicable to them.
 24 BY MR. MCGUIRE:
 25 Q. Well -- okay. Fair enough.

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1 drafting of AB 286?
 2 A. Yes.
 3 Q. Same question with respect to any role in the
 4 passage or enactment of AB 286?
 5 A. We have no role.
 6 Q. Are you aware of any communications of any kind
 7 between any official of the Nevada Department of Public
 8 Safety with any legislator in the Nevada legislature
 9 about AB 286 before it was passed?
 10 A. I am not aware of any.
 11 Q. Are you aware of any such communications with
 12 legislators after AB 286 was passed?
 13 A. No.
 14 Q. Are you aware of any ongoing investigations --
 15 without telling me the detail have them. I'm not asking
 16 about that -- that are currently underway within the
 17 Nevada Department of Public Safety relating to possible
 18 violations of AB 286?
 19 MR. SHEVORSKI: This is a yes or no?
 20 MR. MCGUIRE: Yes.
 21 THE WITNESS: No.
 22 BY MR. MCGUIRE:
 23 Q. Just so we're clear, you're not aware of any --
 24 the existence of any such investigation today, without
 25 telling me the details of any such investigation?

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1 If someone were interested in or felt he or she
 2 could be effected by a particular law, whatever it meant
 3 be.
 4 A. Sure.
 5 Q. It doesn't have to be with regard to guns or
 6 anything in particular, but if the circumstances of
 7 one's life made it such that you wanted to read or
 8 understand or know about a particular statute that was
 9 just passed, do you believe that it is important for
 10 such a person to understand the meaning of a new law
 11 after it is passed?
 12 MR. SHEVORSKI: Object to the form.
 13 THE WITNESS: Yes.
 14 BY MR. MCGUIRE:
 15 Q. Do -- do you believe that the Nevada Department
 16 of Public Safety generally has a role in helping to
 17 explain to the public what new criminal statutes mean
 18 after they are passed?
 19 MR. SHEVORSKI: Object to the form.
 20 THE WITNESS: I don't think we typically
 21 take on that role, but I -- you know, if -- if -- as a
 22 servant of the public, if somebody, a member of the
 23 public, were to call me or call one of my officers and
 24 they had a question about the law, I would certainly
 25 have an expectation of myself or one of the officers

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1 A. Yes.

2 Q. What is a finished frame or receiver?

3 A. Finished. It's -- it's basically with minor

4 adjustments, minor -- without, you know, any type of

5 machining, it can be -- be used or utilized as a

6 firearm.

7 Q. And what does it mean to be use or be utilized as

8 a firearm in -- in your mind?

9 A. It's capable of -- of firing a projectile with an

10 explosion.

11 Q. Is there any definition in AB 286, to your

12 knowledge based upon your review, of what the term

13 finished means?

14 A. I don't believe that, within the assembly bill,

15 finished is defined.

16 Q. So, again, based upon your vast experience, do

17 you believe that you have an understanding of what,

18 within the meaning of AB 286, an unfinished frame or

19 receiver is?

20 A. Within this?

21 Q. Within AB 286. Yes.

22 A. Do I have an understanding of what an unfinished

23 frame is?

24 Q. Within the meaning of AB 286.

25 A. Yes.

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1 MR. SHEVORSKI: Sure. So I'm drawing

2 distinction with the word "you." And what -- I think

3 we're getting into a little bit of a fact witness

4 knowledge whether or not -- he's here to represent the

5 Nevada Department of Public Safety.

6 MR. MCGUIRE: Right.

7 MR. SHEVORSKI: So certainly he brings his

8 experience, but I think you're -- the notice is -- is

9 asking what the Department of Public Safety knows.

10 MR. MCGUIRE: Well, I'm asking him -- just

11 so it's clear -- him personally as the rule 30(b)(6)

12 deposition witness representative of two of the

13 defendants, both of whom work for the Nevada department,

14 that is the meaning and context of my questions.

15 MR. SHEVORSKI: That's fair.

16 BY MR. MCGUIRE:

17 Q. So just so the record's clear. When I ask you

18 personally, you're here today, you've had extraordinary

19 experience, but you're also here not only yourself, but

20 you're here as a representative of -- of a department

21 and two of the individual -- senior officials of that

22 department.

23 So let me go back and ask you again, with all

24 that said, do you personally, given your role today,

25 have an understanding of the meaning and definition of

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1 Q. Okay. Can you tell us what that is please?

2 A. Certainly. So as stated before, if -- if you

3 have a firearm component, like a receiver, and it is

4 unfinished, as -- as an example, I think, in one of the

5 pictures they show a receiver of an AR-15 styled weapon.

6 So there you can see it's clearly machined, the magazine

7 is been machined. So it's hollowed out, but the

8 trigger -- the trigger control area is completely solid.

9 So picturing that, that would be unfinished because it

10 could not be readily made into a firearm.

11 Q. So, again, based upon your experience over these

12 many years with guns of different kinds, as you've

13 explained, as you sit here today you believe you

14 personally understand and know what AB 286 means or

15 defines as an unfinished frame or receiver; is that

16 right?

17 MR. SHEVORSKI: Outside -- outside the scope

18 of the 30(b)(6) -- deposition notice -- excuse me. I'm

19 sorry.

20 THE WITNESS: Yes.

21 MR. MCGUIRE: Could I just ask for

22 clarification? Because I don't want to belabor the

23 point. How is that possibly outside the scope of the

24 interpretation meaning and application of AB 286, which

25 is topic one in the -- in the notice?

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1 unfinished frame or receiver within AB 286?

2 A. Yes.

3 MR. SHEVORSKI: That's fair. I just wanted

4 to make the clarification.

5 MR. MCGUIRE: No. I want to make sure that

6 the record's clear, and I appreciate the -- the

7 objection:

8 BY MR. MCGUIRE:

9 Q. May I call your attention to page 2 of Exhibit A

10 to the complaint, which is Exhibit 2 in this action,

11 Section 3, sub 1. On that page of AB 286 reads, "A

12 person shall not possess, purchase, transport, or

13 receive an unfinished frame or receiver unless:" And it

14 goes on to specify certain situations.

15 Do you see that?

16 A. I do. Yes, sir.

17 Q. When you joined the Marines, enlisted at age 18,

18 did you know what an unfinished frame or receiver was?

19 A. No.

20 Q. May I call your attention to Section 3.5, sub 1?

21 MR. MCGUIRE: Can we go off the record,

22 please?

23 MR. SHEVORSKI: Yeah.

24 THE VIDEOGRAPHER: Going off the video

25 record at 3:28.

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1 (A recess was taken from 3:28 p.m. to
 2 3:34 p.m.
 3 THE VIDEOGRAPHER: Okay. We are back on the
 4 video record at 3:34.
 5 BY MR. MCGUIRE:
 6 Q. Could I call your attention, sir, to Section 3.5,
 7 sub 1, of AB 286, which appears, I believe, at page 2 of
 8 Exhibit A to the complaint itself?
 9 (Cross-talk.)
 10 BY MR. MCGUIRE:
 11 Q. And to my knowledge -- or to my I eye,
 12 Section 3.5, sub 1, reads, in part, "A person shall not
 13 sell, offer to sell or transfer an unfinished frame or
 14 receiver unless:" And then the statute or the bill
 15 proceeds to specify certain circumstances.
 16 Sir, when you joined the Marines at the age of
 17 18, did you know what an unfinished frame or receiver
 18 was as used in section 3.5, sub 1?
 19 MR. SHEVORSKI: Object to the form.
 20 THE WITNESS: No.
 21 BY MR. MCGUIRE:
 22 Q. Are you familiar with any aspect of federal law
 23 with regard to firearms?
 24 A. I don't -- I mean, I wouldn't say I have
 25 encyclopedic knowledge of federal firearm laws, but, I

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1 MR. SHEVORSKI: Yeah. I can --
 2 MR. MCGUIRE: I -- I apologize. I honestly
 3 don't know what happened.
 4 MR. SHEVORSKI: No. It's fine.
 5 MR. MCGUIRE: I'm sorry.
 6 BY MR. MCGUIRE:
 7 Q. Six -- Section 6 of 9 states, and I quote,
 8 "'Unfinished frame or receiver' means a blank, a casting
 9 or a machined body that is intended to be turned into
 10 the frame or lower receiver of a firearm with additional
 11 machining and -- and I'll stop there.
 12 Could I ask you to focus on those first three
 13 lines of Section 6.9 --
 14 A. Yes.
 15 Q. -- or 6, sub 9?
 16 A. Yes.
 17 Q. As you sit here today, do you know whether or not
 18 the term blank is defined within AB 286?
 19 A. It is not.
 20 Q. Do you, sir, personally, given your
 21 representative role here today, have an understanding of
 22 what a blank is within the meaning or context of AB 286?
 23 A. Yes.
 24 Q. And what is that understanding?
 25 A. My understanding is the -- the blank is -- is

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1 mean, to an extent, yes.
 2 Q. Do you have any knowledge or understanding of
 3 whether the federal definition of a firearm today is any
 4 different than what Nevada state law considers to be a
 5 firearm?
 6 A. I don't know definitively. No.
 7 Q. Okay. May I call your attention to what I
 8 believe is page 4, of Exhibit A to the complaint, which
 9 is Exhibit 2 in this action -- in -- in this deposition.
 10 Forgive me.
 11 And the section or portion of the bill that I'm
 12 interested in at this point is Section 6, sub 9, which
 13 begins, "'Unfinished frame or receiver' means."
 14 Do you see that?
 15 A. Yes.
 16 Q. I'm going to read that into the record.
 17 MR. SHEVORSKI: I'm sorry, but I don't
 18 appear to have that page.
 19 MR. MCGUIRE: Sorry.
 20 MR. SHEVORSKI: And I don't mean to
 21 interrupt. I just -- I -- I stopped at --
 22 MR. MCGUIRE: I --
 23 MS. SHEVORSKI: This is where I stopped.
 24 MR. MCGUIRE: -- don't know what happened
 25 there. Could you share, perhaps --

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1 basically an interchangeable term to be used for the
 2 materials that will become a frame or a receiver.
 3 Q. Is it not true, sir -- again, based on your
 4 understanding -- that the term blank with regard to guns
 5 or firearms has multiple meanings?
 6 A. Yes.
 7 Q. How could one reading this statute decipher which
 8 of those multiple meanings to apply to the word blank in
 9 the context of this provision?
 10 MR. SHEVORSKI: Object to the form.
 11 THE WITNESS: I don't know.
 12 BY MR. MCGUIRE:
 13 Q. Would you agree with me that sometimes a blank is
 14 described, perhaps, as a round of ammunition that could
 15 not wreak any damage or injury to someone else?
 16 A. Yes.
 17 Q. What are some of the other meanings or
 18 definitions of the word blank that you've encountered in
 19 your -- your years of law enforcement?
 20 A. Well, I mean, blank when regards to the receivers
 21 or unfinished receivers. Blank, you know, fill in the
 22 blank, but outside of the -- the round and the -- an
 23 unfinished portion of the firearm, I don't know of
 24 another meaning or another use.
 25 Q. Are you familiar with the term grip --

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1 A. Yes.

2 Q. -- in the context of a gun or a firearm?

3 A. Yes.

4 Q. Does the term grip bear any relation to the term

5 blank, based on your experience?

6 A. Sure. If -- if you have -- I don't know.

7 Q. Okay. After the word blank, the word casting or

8 the words "a casting" appears.

9 Do you see the word or words "a casting" defined

10 in AB 286?

11 A. No.

12 Q. Let me backtrack for a moment and ask when you

13 joined the Marines, did you know what a blank was?

14 A. Yes.

15 Q. Okay. And when you joined the Marines, did you

16 know what a casting was?

17 A. Specifically to firearms? No.

18 Q. Do you have an understanding today, based upon

19 your experience and in your role as a rule 30(b) (6)

20 witness, of what the word casting means within the

21 context of AB 286 here?

22 A. Yes.

23 Q. And what is that understanding?

24 A. The -- the molding or a mold of -- with the -- a

25 molding in which material, sometimes metal, sometimes

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1 A. The component that is of the firearm that is

2 created -- or the process of which the component is

3 machined or -- or created utilizing the machine.

4 Q. But what component is that?

5 In other words, in the meaning of the term or the

6 definition of the term machined body, as you understand

7 it, you mentioned a component, but you would -- you

8 would agree with me, sir, that there are numerous

9 components to a firearm; correct?

10 A. Yes.

11 Q. So which one of those components is this

12 definition or this term machined body talking about?

13 A. A frame or a receiver.

14 Q. But isn't that circular? This is the definition

15 of a frame or a receiver, and you're now saying that an

16 unfinished frame or receiver is an unfinished frame or

17 receiver by saying that the component that machined body

18 means is an unfinished frame or receiver?

19 A. True. Understandable. And sometimes it's

20 difficult to define something without utilizing the

21 word, especially when we talk about machined body;

22 however, you could say that it's a primary -- primary --

23 not a primary -- primary portion of the firearm in which

24 other components are utilized to render that component

25 of firearm. So if you're talking about a receiver,

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1 plastic, is utilized to -- to create a firearm or a

2 portion of a firearm.

3 Q. I think, it was implicit in your last answer that

4 your understanding is that a casting relates to a

5 process in which raw materials are molded into something

6 else --

7 A. Yes.

8 Q. -- correct?

9 A. Yes.

10 Q. Do you have an understanding based upon your

11 experience of when, during that molding process, the raw

12 material becomes a casting?

13 A. No.

14 Q. Moving on to the second line of 6, sub 9, we

15 encounter the words a machined body.

16 Are you aware of a definition within AB 286 of

17 the words "a machined body?"

18 A. No.

19 Q. When you joined the Marines, did you know what a

20 machined body of a gun was?

21 A. I don't know.

22 Q. Do you have an understanding of what that term, a

23 machined body, means today within the context of AB 286?

24 A. Yes.

25 Q. And what is that understanding?

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1 there's components that go into the receiver to -- to

2 make it a firearm.

3 Q. But are those components that go into the making

4 of a frame or a receiver a machined body?

5 A. I don't know.

6 Q. So you're not sure whether or not those

7 components fall within the definition of machined body

8 as used in this portion of AB 286; correct?

9 A. Correct.

10 Q. And then the verbiage picks up. "A blank, a

11 casting or a machined body -- quote. "That is intended

12 to be turned into the frame or lower receiver of a

13 firearm with additional machining."

14 Do you think, sir, when you joined the Marines,

15 you would have understood the terms that I just read

16 into the record? That is, from the words that is

17 through additional machining, quote/unquote.

18 A. I -- I would certainly be able to look at that

19 and reasonably deduct from that that there's an

20 additional process that must be done to something to get

21 it to the finished product.

22 Q. I understand that, but do you know what --

23 what -- did you -- do you believe that at age 18, when

24 you joined the Marines, that you would have understood

25 what the terms, "that is intended to be turned into the

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1 frame or lower receiver of a firearm with additional
 2 machining" meant?
 3 A. I -- I -- I don't know -- probably -- I -- I
 4 can't recall what my knowledge was at 18.
 5 Q. Okay. Well, what about today? What is your
 6 understanding of the meaning of that term -- or those
 7 words? Excuse me.
 8 A. That something will need additional work to it to
 9 become the finished product.
 10 Q. Does the statute define the meaning of the terms
 11 that I just read into the -- into the record?
 12 A. It does not.
 13 Q. Well, then how is the average citizen of ordinary
 14 intelligence to know or understand what it is that could
 15 be intended to be turned into the frame or lower refer
 16 of a firearm with additional machining?
 17 MR. SHEVORSKI: Object to the form.
 18 BY MR. MCGUIRE:
 19 Q. If -- if you can explain that?
 20 A. Explain how an average person would --
 21 Q. Could possibly know what that means?
 22 A. I -- I can't -- I can't give you an answer to
 23 that.
 24 Q. Do you think the person of average intelligence
 25 could understand what those terms mean?

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1 Q. You don't know one way or another?
 2 A. I do not.
 3 Q. Okay. Okay.
 4 Then the Section 6 of 9 continues in what I call
 5 the conjunctive with the word and. In other words,
 6 "unfinished frame or receiver" means a blank -- et
 7 cetera, and, "which has been formed or machined to the
 8 point at which most of the major machining operations
 9 have been completed to turn the blank, casting or
 10 machined body into a frame or lower receiver of a
 11 firearm." I'll stop there. The provision continues.
 12 Now, I believe, you've already told us, sir, that
 13 notwithstanding your extensive experience and knowledge,
 14 as you sit here today, you don't know anything about the
 15 formation or manufacture of guns; correct?
 16 A. That's correct.
 17 Q. And would that also include that you don't know
 18 about the formation through injection molding --
 19 A. I do not.
 20 Q. -- of Polymer80 products?
 21 A. I do not.
 22 MR. SHEVORSKI: You got to let him get his
 23 question out.
 24 THE WITNESS: I thought he was done.
 25 MR. SHEVORSKI: That's okay.

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1 MR. SHEVORSKI: Object to the form.
 2 THE WITNESS: I -- I would hope so.
 3 Additional machining. If -- if you use machining as a
 4 synonym for work, like more work needs to be done with
 5 something, I would think that the average person would
 6 know that additional work needs to be applied to this
 7 entity to make it into something else.
 8 BY MR. MCGUIRE:
 9 Q. Is that your definition of machining? That it
 10 needs addition work?
 11 A. No. I said it -- it's a synonym for machining.
 12 Q. Well, that's my point. Are you saying that
 13 machining is a synonym for work and all work is
 14 machining?
 15 A. No.
 16 Q. In your opinion, based upon your experience,
 17 would an average Nevadan, of ordinary intelligence with
 18 no background or experience in guns or firearms,
 19 possibly be able to understand the meaning of the words,
 20 "that is intended to be turned into the frame or lower
 21 receiver of a firearm with additional machining?"
 22 MR. SHEVORSKI: Object to the form.
 23 THE WITNESS: I -- I -- I have no way to
 24 answer that.
 25 BY MR. MCGUIRE:

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1 MR. MCGUIRE: I'm sorry. And I'll -- I'll
 2 try to make it clear when I'm finished with my question.
 3 BY MR. MCGUIRE:
 4 Q. Are you aware of the difference in the
 5 manufacturing process between the formation of a gun and
 6 the machining of a gun?
 7 A. No.
 8 Q. Are you familiar of the difference -- in the
 9 context of Polymer80, and its products. The difference
 10 between the formation of its products and the machining
 11 of its products?
 12 A. No.
 13 Q. When you were entering the Marines, do you think
 14 you would have understood the meaning of the terms,
 15 "which has been formed or machined to the point at which
 16 most of the major machining operations have been
 17 completed to turn the blank, casting or machined body
 18 into the frame or lower receiver of a firearm?"
 19 MR. SHEVORSKI: Object to the form.
 20 THE WITNESS: No. I don't think I would
 21 understand that.
 22 BY MR. MCGUIRE:
 23 Q. Do you understand the meaning of those words
 24 today within the context of AB 286?
 25 A. Yes.

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1 Q. And what is that understanding?

2 A. So starting at -- at which most of the major

3 machining, so -- like we talked about earlier, in -- in

4 my vision most meaning the majority of the major

5 machining has been done -- so more than 51 percent has

6 been completed -- to turn that component into a frame or

7 lower receiver of a firearm. So the majority of the

8 work or the machining has been done to the -- the

9 weapon -- or excuse me. The -- the portion of the

10 weapon has been completed to turn it into a frame or a

11 lower receiver.

12 Q. Well, let me ask you this, sir, what is your

13 understanding of the term machining?

14 A. The process of -- of -- the process of

15 mechanically converting an item to a finished product.

16 Q. So I'll represent to you Polymer80 starts with

17 materials some might call plastic or a special type of

18 plastic called polymer. Right? That's part of the

19 reason for the company's name.

20 A. Yes.

21 Q. And at the end of the process, they have

22 component parts of various kinds, which very often are

23 packaged together in kits and sold to the public.

24 A. Yes.

25 Q. Are you familiar at all with how Polymer80 gets

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1 end product that is when the machining process begins.

2 Q. What if I told you there was a huge part of the

3 process where machining was not involved at all?

4 MR. SHEVORSKI: Object to the form.

5 Incomplete hypothetical.

6 THE WITNESS: Then how would it be -- is it

7 just -- if this is -- there's no machining now,

8 obviously this phone is going to remain this phone,

9 unless it's acted upon by an outside force. What would

10 be happening if it's -- if there's no machining to it

11 that's going to get it to the end product.

12 BY MR. MCGUIRE:

13 Q. With all that said, how is one to know when most

14 of the major machining operations have been completed?

15 MR. SHEVORSKI: Object to the form.

16 THE WITNESS: The way I interpret it is

17 the -- the word most just meaning the majority. So it

18 is now past 51 percent of the work needed to get to your

19 end product.

20 BY MR. MCGUIRE:

21 Q: But how is the average Nevadan to know when that

22 51 percent point even -- even accepting your definition,

23 which respectfully I don't, but for today's purposes

24 I'll accept it.

25 How is the average Nevadsn to know when that 51

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1 from that polymer, the raw material, to the point when

2 it can stick those components into a bag and sell them

3 as kits?

4 A. No. I'm not familiar.

5 Q. Can you tell me when during that process

6 machining begins?

7 In other words, when you start with the raw

8 material and at the other end of the process you have

9 your kit in a box or a bag that sold to the product,

10 when does the machining start?

11 A. When does it start?

12 Q. Yes.

13 A. As soon as a -- a tool hits it, or -- or a

14 machine or whatever instrument is being used to

15 transition the raw material into the finished product.

16 Q. But, respectfully, you've already told us,

17 understandably, that you don't have any training in or

18 knowledge of the manufacture or making of guns or gun

19 parts; correct?

20 A. That's correct.

21 Q. So how would you know when the machining begins

22 in a process that you know nothing about?

23 A. So if -- if the machining is the process of

24 transitioning your raw material to the end, the second

25 you begin the transition of the raw material into the

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1 percent point is reached?

2 MR. SHEVORSKI: Object to the form.

3 BY MR. MCGUIRE:

4 Q. And it is not just -- if you see the -- the

5 subsection, not just 51 percent of the machining, but 51

6 percent of the major machining operations.

7 Do you see that?

8 A. I do.

9 Q. Would you agree with me there's a difference in

10 this statute between machining quote/unquote and major

11 machining operations.

12 Do you see that?

13 A. I do.

14 Q. Could you explain how the average Nevadan is to

15 know what major machining operations are and when 51

16 percent of them are completed?

17 THE WITNESS: I cannot.

18 MR. SHEVORSKI: Object to the form.

19 MR. MCGUIRE: I'm sorry?

20 THE WITNESS: I cannot.

21 BY MR. MCGUIRE:

22 Q. Continuing with the body of Section 6, 7, 9,

23 after the words into a frame or lower receiver of a

24 firearm are -- are written, the -- the statute or the

25 provision continues, "Even if the fire-control cavity

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1 area of the blank, casting or machined body is still
 2 completely solid and unmachined."
 3 Do you think that at age 18, when you joined the
 4 Marines, you would have understand -- understood the
 5 meaning of those terms that I just read into the record?
 6 MR. SHEVORSKI: Object to the form.
 7 THE WITNESS: No.
 8 BY MR. MCGUIRE:
 9 Q. Do you have an understanding of what those terms
 10 mean today?
 11 A. Yes.
 12 Q. Can you tell me what your understanding is of the
 13 fire-control cavity area of the blank, casting or
 14 machined body is?
 15 A. So the fire-control cavity area is going to hold
 16 the components that operate the trigger mechanism. So,
 17 specifically, if you were to look in one of the e-mails
 18 that -- the ATF picture. It's a portion of what appears
 19 to be an AR-15, where you can see the magazine well is
 20 completely machined and hollow. It appears that it's
 21 ready to receive a magazine; however, the area for the
 22 trigger control area, the fire-control cavity, is
 23 completely solid.
 24 Q. And it also needs to be unmachined as well.
 25 Do you see that in this statute?

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1 in my head in particular that -- that -- that portion of
 2 the AR-15 that I just talked about, with the -- the fire
 3 the -- fire-control cavity being completely solid still.
 4 Now, I don't want to testify that necessarily you
 5 need to put it on a machine to get that fire-control
 6 cavity hollowed out, for that now to be considered heavy
 7 machining, because I would imagine somebody might try
 8 and -- and take a DeWalt with a drill bit and try to
 9 machine that area out.
 10 So machining, yes, is -- is the application of
 11 something to this -- this body this -- this -- this
 12 product is unfinished to get it to the finished product.
 13 The -- the process of which getting this entity to the
 14 finished product.
 15 Q. And just so I'm clear. In your mind, that would
 16 be any machine that would be imposed on or applied to
 17 that frame or receiver?
 18 A. Yes.
 19 Q. And is there anywhere within the statute itself
 20 that would make it clear to the Nevadan of average
 21 intelligence that that's what machined means?
 22 MR. SHEVORSKI: Object to the form.
 23 THE WITNESS: Please, repeat your question.
 24 I'm sorry.
 25 BY MR. MCGUIRE:

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1 A. Yes.
 2 Q. And what is your understanding within AB 286 of
 3 what unmachined means?
 4 A. There's no signs that -- there's no evidence to
 5 that area that it is attempted to be further along in
 6 the process of getting it to the end product in this --
 7 in this case the fire-control cavity.
 8 Q. I just to want make sure I understand your
 9 understanding.
 10 Is it your view that the word machined means that
 11 the application of some machine would be imposed on or
 12 used with respect to whatever is being created? Is that
 13 your definition of machined?
 14 A. Yes.
 15 Q. Any machine of any kind doing anything with
 16 respect to whatever's being worked on? Is that your
 17 understanding of machined?
 18 A. Are you saying -- repeat the question, please.
 19 Q. I'm trying to understand -- and let me back up
 20 and do it a different way.
 21 What is your understanding of what machined means
 22 within the context of AB 286?
 23 A. Doing work or -- or the -- the transition of a
 24 component to a finished component. So, please, allow me
 25 to elaborate a little bit more. As -- as I'm thinking

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1 Q. In other words, if I were the average Nevadan --
 2 A. Yes.
 3 Q. -- and I were to ask you to show me where within
 4 the statute I could find guidance as to what the term
 5 machined means, where would you direct me to?
 6 A. It's not in the statute.
 7 Q. So would you agree with me you would need to have
 8 some familiarity, expertise, or experience in guns or
 9 firearms in order to have any conception of what the
 10 term machined meant?
 11 MR. SHEVORSKI: Object to the form.
 12 THE WITNESS: I don't think so. Because if
 13 you're -- obviously, there's going to be components that
 14 are machined. So if you're -- if you think of vehicles
 15 when they're on the assembly line, obviously there's
 16 going to be components of engines that are going to be
 17 machined. Now, I don't know if the average Nevadan is
 18 going to look at that and apply the thought process of
 19 what -- machining is required to make components, like
 20 an engine, which are very similar to -- I would imagine
 21 are very similar to the creation of components of
 22 firearms. I don't know if they would be able to apply
 23 that. I can't testify to that.
 24 BY MR. MCGUIRE:
 25 Q. But if I were the average Nevadan, and I asked

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1 you to help me, show me in this statute where I could
 2 look to figure out what the word machine meant, is there
 3 anywhere that you could point me to?
 4 A. No.
 5 Q. Similarly, if I, because of my own limited
 6 experience, didn't know what the fire-control cavity
 7 area of a blank, casting or machine body was, is there
 8 anywhere that you could point me within the statute for
 9 me to gain insight and knowledge and clarity about what
 10 a fire-control cavity area was?
 11 A. No.
 12 Q. Is it your understanding, based upon something
 13 you mentioned before, that the possession aspect with
 14 respect to an unfinished frame or receiver within AB 286
 15 is effective today?
 16 A. Well, it's hard to say now. You just -- you just
 17 advised me of a judge that put the kibosh on that.
 18 Q. Leaving aside the judge's ruling -- and let's
 19 assume the judge had never made any ruling of any
 20 kind --
 21 A. Right.
 22 Q. -- is it your understanding that the possession
 23 limitation that you mentioned before in AB 286 is
 24 effective today, I guess, it would be November 4 of
 25 2021?

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1 correct?
 2 A. Yes.
 3 MR. MCGUIRE: Okay. Why don't we take what
 4 I hope is our last break. I need 15 minutes because I
 5 have to read the documents that were produced a few
 6 minutes before today's deposition. And I honestly don't
 7 know how much, if any, questioning I have, but I've got
 8 to read them --
 9 MR. SHEVORSKI: Yeah. Fair.
 10 MR. MCGUIRE: -- and then determine. So I
 11 have about 4:05. Can we come back at 4:20 --
 12 MR. SHEVORSKI: Yeah.
 13 MR. MCGUIRE: -- to resume. And I think
 14 that will be the last segment of today's -- at least
 15 initially on my examination on today's proceeding.
 16 THE VIDEOGRAPHER: Going off the video
 17 record at 4:06.
 18 (A recess was taken from 4:06 p.m. to
 19 4:21 p.m.)
 20 THE VIDEOGRAPHER: We are back on the video
 21 record at 4:21.
 22 BY MR. MCGUIRE:
 23 Q. I'm going to ask the reporter, please, to mark
 24 this next item as Exhibit 3 to the deposition. I don't
 25 think these pages have been Bates stamped, but they are

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1 A. Yes.
 2 Q. Could I call your attention to page 6, of
 3 Exhibit A to the complaint, which is Exhibit 2 to this
 4 deposition.
 5 Do you see Section 10 --
 6 A. I do. Yes.
 7 Q. -- sub 2?
 8 A. Yes.
 9 Q. Sections 3 and 5 of this act become effective on
 10 January 1, 2022, quote/unquote.
 11 Did I read that correctly?
 12 A. Yes.
 13 Q. And can I call your attention back to page 2, of
 14 Exhibit A, to one of the provisions we looked at
 15 earlier, Section 3, sub 1?
 16 A. Yes.
 17 Q. And also 3 -- well, 3.5 is a different
 18 section. 3, sub 1, "A person shall not possess,
 19 purchase, transport or receive an unfinished frame or
 20 receiver unless:"
 21 Would you agree with me, sir, that based upon
 22 Section 10 it is clear that that possession language is
 23 not yet enforced in the State of Nevada?
 24 A. Yes.
 25 Q. And will not come into force until the new year;

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1 a compilation of e-mails over four separate printed
 2 pages.
 3 These were produced to me just before today's
 4 deposition -- nothing inappropriate about that --
 5 pursuant to agreement with counsel. I'd ask that those
 6 four pages be marked as Exhibit 3.
 7 (Exhibit 3 was marked for identification.)
 8 BY MR. MCGUIRE:
 9 Q. Sir, could you page through what's been marked as
 10 Exhibit 3? I would like to ask you a few questions
 11 about the e-mails that are contained within Exhibit 3.
 12 A. I have. I'm sorry.
 13 Q. Are you familiar with these e-mails that are
 14 compiled as Exhibit 3?
 15 A. Yes, sir.
 16 Q. Okay. Could we start at what I think fairly
 17 could be described as the third or the fourth pages of
 18 the -- this exhibit? With an e-mail from yourself to
 19 Mr. Cahill on November 3, 2021, at 8:45 a.m.
 20 A. Yes.
 21 Q. Now, earlier you testified that after speaking
 22 with your lieutenant up in Northern Nevada, you were
 23 essentially able to contact Agent Mike Cahill of the
 24 Federal ATF.
 25 Is that a fair summary of your earlier testimony?

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1 A. Yes, sir.

2 Q. And was this e-mail at the bottom of page 3, of

3 Exhibit 3, from you to Mr. Cahill, on November 3, your

4 initial contact directly with Mr. Cahill?

5 A. Yes.

6 Q. And am I correct that that was yesterday at 8:45

7 in the morning?

8 A. Yes.

9 Q. And you did that -- or you made that contact in

10 preparation of this deposition?

11 A. Yes, sir.

12 Q. Now, I note that the subject of that e-mail

13 within Exhibit 3 is Ghost Guns; is that right?

14 A. Yes, sir.

15 Q. And then you in the body of that e-mail say, I

16 had a couple of questions regarding ghost guns. I am

17 hoping you can tell -- you could help me with.

18 Do you see that?

19 A. Yes. I do.

20 Q. What is your definition of ghost guns?

21 A. Just a -- a -- a firearm that is not serialized.

22 It is -- it hasn't been imprinted with a serial number.

23 Q. Is an unfinished frame or receiver a ghost gun,

24 in -- in your estimation?

25 A. Unfinished. Is it a gun? No.

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1 not a ghost gun?

2 A. Yes, sir. That would be correct.

3 Q. So a ghost gun in your view is a completed or

4 finished firearm that is unserialized. Is that your

5 view of it?

6 A. Yes.

7 Q. Okay. And you were contacting Mr. Cahill just to

8 get information about ghost guns, or was your contact

9 with him broader or deeper than that?

10 A. Not at all. It was -- I think, the class that he

11 either -- I don't think he taught it. I think, he just

12 facilitated the class. It was the -- the title of the

13 class was ghost guns. So, I think, it -- it was just

14 utilizing that information that I -- I saw that he

15 facilitated that class. So specifically my question to

16 him was -- I was trying to define some of the terms from

17 AB 286 that I couldn't find through the ATF's website.

18 Q. And so ghost guns was kind of an easy way to get

19 into the general area that you wanted to explore with

20 him, but you wanted to talk to him about more than ghost

21 guns; is that fair to say?

22 A. When people -- I've heard people make reference

23 to AB 286, they -- they attach ghost gun to it. Now, I

24 don't know how those two correlate or how it comes to

25 be, but just when AB 286 was brought to my attention,

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1 Q. Now, you recall we -- we looked at AB 286, and

2 there's a very nuanced and extensive definition of

3 unfinished frame or receiver within AB 286.

4 A. Yes, sir.

5 Q. With that term in mind within AB 286 and with

6 that definition in mind, is it your testimony that a

7 quote/unquote unfinished frame or receiver within AB 286

8 is not in your estimation a ghost gun?

9 A. Yeah. That's correct. Because when I talk about

10 a gun, that's now a firearm. Firearm is an object that

11 can propel projectile with an explosion. So because an

12 unfinished product would not be able to fire that

13 projectile, it would not be a ghost gun in my --

14 Q. Again, in your view --

15 A. Yes.

16 Q. That's all I can ask you about. And I know

17 you're here in a representative capacity. And thanks to

18 counsel I want to make clear that's the context of my

19 question.

20 In your view, with all of that said, am I correct

21 in thinking that in your mind under AB 286 an unfinished

22 frame or receiver is not a firearm?

23 A. That's correct.

24 Q. Okay. And similarly an unfinished frame or

25 receiver within the context of AB 286 in your view is

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1 whoever that person was referred to some portion or it

2 involving ghost guns. Ghost guns was somehow in the

3 conversation.

4 Q. My question to you is -- let me break it down. I

5 think, I can make it clear and simply.

6 When you reached out to Mr. Cahill yesterday

7 morning?

8 A. Yes.

9 Q. And said I want to talk to you or ask you

10 questions about ghost guns, you weren't meaning to say

11 my questions are only going to be limited to ghost guns.

12 You were wanting to ask him about things in your mind

13 that you were curious about that stretched beyond merely

14 what a ghost gun is; is that right?

15 A. 100 percent. Yes.

16 Q. Okay. Thank you. All right. If we can follow

17 the chain -- the chain then.

18 About an hour or hour and 14 minutes later,

19 Mr. Cahill got back to you?

20 A. Yes.

21 Q. And essentially agreed to answer some of your

22 questions?

23 A. Yes.

24 Q. Okay. Now, can we move on to page 2 -- I guess,

25 we're going backwards or reading upwards if you will.

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1 Back to front -- on this exhibit. You then got back to
 2 him about 27 minutes later at 10:26, as reflected on
 3 page 2 of Exhibit 3, basically, trying to schedule a
 4 call.
 5 And then he, again, two minutes later made clear
 6 that he was willing to talk to you and would try to work
 7 with you on figuring out a convenient time; correct?
 8 A. Yes, sir.
 9 Q. And then as of 10:32 a.m., as reflected on page 2
 10 of Exhibit 3, you and he agreed that 12:30 would be the
 11 time to speak; correct?
 12 A. Yes. That's correct.
 13 Q. And, again, that was yesterday November 3?
 14 A. Yes.
 15 Q. And then just completing the chain. He,
 16 Mr. Cahill, at the bottom of page 1 of Exhibit 3, agreed
 17 to talk to you then. And you expressed your thanks to
 18 him in an e-mail back to him at 10:37 a.m., as reflected
 19 on page 1, correct, of Exhibit 3?
 20 A. Yes.
 21 Q. Okay. Now, is it your recollection that two
 22 hours or so later at 12:30 yesterday you and he did
 23 speak?
 24 A. Yes.
 25 Q. And that was the ten minute conversation you

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1 Q. Was --
 2 A. Website.
 3 Q. -- that blank, casting or machined body, the
 4 three terms that are used in the definition of
 5 unfinished frame or receiver within --
 6 A. I --
 7 Q. -- maybe --
 8 A. I don't think so. I was pretty sure I was able
 9 to find some of those on the ATF's website.
 10 Q. Okay. But here's my confusion. You and he spoke
 11 around 12:30 yesterday --
 12 A. Yep.
 13 Q. -- And then three hours later at 3:48 he sends
 14 you an e-mail, which starts per my voicemail?
 15 A. Yeah. He left a voicemail on my work phone.
 16 Q. Bear with me.
 17 When you finished the call at 12:30, how did you
 18 leave it with him? Was there going to be any further
 19 communication?
 20 A. Yes. He was --
 21 Q. And what was that?
 22 A. He was unable to define anything, and he was
 23 going to do some research in his internal internet and
 24 see if he could define those items for me and would get
 25 back to me.

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1 mentioned before in your earlier testimony?
 2 A. Yes.
 3 Q. Looking at these e-mails, does it -- do they
 4 refresh your recollection in any way as to anything else
 5 that you and he discussed beyond what you told us about
 6 before?
 7 A. No.
 8 Q. Now, can I ask you to take a look at the first
 9 e-mail, at the top of page 1 of Exhibit 3, which to my
 10 eye is from Mr. Cahill to you yesterday, but at 3:48
 11 p.m., and that would have been after your 12:30 or so
 12 call; correct?
 13 A. Yes.
 14 Q. Do you have an understanding or a recollection of
 15 how this -- how and why this e-mail came to be?
 16 A. His e-mail from --
 17 Q. His e-mail to you at 3:48 beginning per my
 18 voicemail?
 19 A. He -- he -- he stated that attached in this
 20 attachment will be some information that'll help me with
 21 the -- the defining the terms that I asked him about. I
 22 believe, it was the heavy machining, machining, and -- I
 23 don't recall what the third one was, but it was three --
 24 three items that I was trying to see if ATF defines
 25 somewhere because I couldn't find it in their --

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1 Q. And -- and then did he in fact get back to you
 2 and leave you a voicemail?
 3 A. He -- he did. He said he sent me an e-mail, and
 4 hopefully the attachment will help, but the attachment
 5 was -- it did nothing for me.
 6 Q. And was that the attachment with photographs that
 7 we talked about before, which I'll show you in a moment?
 8 A. Yes.
 9 Q. Okay. Just so we're clear and the record is
 10 clear, the three terms that you've mentioned a couple
 11 times, can you be precise as to what they were, or are
 12 you just not clear today what they are?
 13 A. I -- I don't remember. I know one for sure was
 14 machining. The other was heavy machining. And I can't
 15 remember what the other third one is. I know I
 16 testified to what I believed it was earlier, but as we
 17 sit here, I don't know what I testified to earlier.
 18 Q. When you say heavy machining, do you mean major
 19 machining given the use of that term of AB 286?
 20 A. I believe, it was major machining. Yes.
 21 Q. So two of the three terms were -- one was
 22 machining, and the second was major machining, and the
 23 third one you're not sure about, as we sit here today;
 24 is that fair?
 25 A. That's correct. Yes, sir.

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1 Q. Okay. And then he responded to you by, I guess,
 2 doing some research and checking.
 3 I suppose he then called you and left you a
 4 voicemail; is that right?
 5 A. Yes.
 6 Q. Telling you that he was sending you some
 7 information?
 8 A. Yes.
 9 Q. Okay. Now, do you -- do you see under the terms
 10 or the words per my voicemail, in that first e-mail in
 11 Exhibit 3, it reads, "Receiver blanks that do not meet
 12 the definition of a 'firearm' are not subject to
 13 regulation under the Gun Control Act."
 14 Do you see that?
 15 A. I do. Yes, sir.
 16 Q. Do -- do you have a -- or did you -- or do you
 17 today have an understanding of what that sentence means?
 18 A. I do not.
 19 Q. When he use the term "firearm," do you know
 20 whether he is using that term in the federal context or
 21 in the context of the State Law of Nevada?
 22 A. I don't know.
 23 Q. The next sentence reads in italics, "ATF has long
 24 held that items such as receiver blanks, castings or
 25 machined bodies, in which the fire-control cavity area

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1 and other materials that he caused to be sent to you?
 2 A. Yes.
 3 Q. Okay. Now, under that paragraph --
 4 A. Mm-hmm.
 5 Q. -- there's a -- I don't know what to call it. A
 6 line or perhaps a paragraph saying, "Source:" And then
 7 what look like an internet address or website?
 8 A. Yes.
 9 Q. Did you go -- did you click on that link or go do
 10 that address?
 11 A. Yes. That's what's printed out.
 12 Q. And is that -- was that the two pages that
 13 include --
 14 A. The pictures.
 15 Q. -- the photographs?
 16 A. Yes, sir.
 17 Q. Okay. Okay.
 18 Let me ask the reporter now, please, to mark what
 19 I think are those two pages. As -- as Exhibit 4 to this
 20 deposition. And let me qualify my statements by saying
 21 what -- Exhibit 4 is -- is a three paged document. The
 22 first page of which is printed with the heading, "Are
 23 '80s' or 'unfinished' receivers illegal." The second
 24 page is a series of what appears to me to be
 25 photographs. And the third page is -- is a blank, but

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1 is completely solid and unmachined have not reached the
 2 'stage of manufacture' which would result in the
 3 classification of a firearm according to the GCA." The
 4 Gun Control Act.
 5 Do you have an understanding of what that
 6 sentence means?
 7 A. Yes.
 8 Q. And what is that understanding?
 9 A. That -- in the example that's given, there's --
 10 the picture's the example, where the -- the fire-control
 11 cavity is completely solid in one. It's -- it's stated
 12 right there not a firearm, and then the next picture,
 13 it's -- it's basically the same component of the
 14 firearm, where you can see there's machining that's
 15 beginning in the fire control area. And it is at that
 16 point deemed a firearm.
 17 Q. So you read that sentence in the context of the
 18 other materials that he sent you, the photographs, et
 19 cetera, that were sent; is that right?
 20 A. Could you repeat the question? I didn't --
 21 Q. The second sentence in that e-mail paragraph that
 22 I read into the record that's all italicized --
 23 A. Mm-hmm.
 24 Q. -- do I understand that you relate that sentence
 25 and read that sentence in the context of the photographs

Page 161

1 for the words, "last reviewed April 6, 2020."
 2 Could you mark it, Ms. Reporter, and -- and give
 3 the document, once marked to -- to the witness?
 4 (Exhibit 4 was marked for identification.)
 5 MR. SHEVORSKI: Are we done with this one?
 6 MR. MCGUIRE: I'd keep it there.
 7 MR. SHEVORSKI: Okay.
 8 BY MR. MCGUIRE:
 9 Q. Do you have Exhibit 4 in front of you, sir?
 10 A. Yes, sir.
 11 Q. Would you agree with me that for present purposes
 12 this Exhibit 4 is three pages?
 13 A. Yes.
 14 Q. Is this the material that you uncovered or saw
 15 when you clicked on the link or checked the website
 16 address that was sent to you by Mr. Cahill at 3:48 on
 17 November 3rd, as reflected in the first e-mail on
 18 Exhibit 3?
 19 A. Yes.
 20 Q. Now, would you agree with me that the first
 21 paragraph, under the question, "Are '80s' or
 22 'unfinished' receivers illegal."
 23 The first paragraph under that is a replication
 24 of the second paragraph in the first e-mail on
 25 Exhibit 3?

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1 A. No.

2 Q. -- as of right now in your deposition?

3 A. I am aware of nothing.

4 Q. Okay.

5 MR. MCGUIRE: All right. What I'd like to

6 do, if we could, is take a short break. I would like to

7 look at my notes. I think, we are close to done or

8 perhaps done. I just need to take a few minutes --

9 MR. SHEVORSKI: Craig --

10 MR. MCGUIRE: -- to organize.

11 MR. SHEVORSKI: -- called me during the

12 break. So -- not during the break. He called me right

13 now. So let me call him back.

14 MR. MCGUIRE: Okay.

15 THE VIDEOGRAPHER: Going off the video

16 record at 4:57.

17 (A recess was taken from 4:57 p.m. to

18 5:04 p.m.)

19 THE VIDEOGRAPHER: Okay. We are back on the

20 video record at 5:04.

21 MR. MCGUIRE: Mr. Stuenkel, I have no

22 further questions. I want to thank you for your

23 patience today and for your testimony. Thank you very

24 much.

25 THE WITNESS: Thank you, sir.

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1 STATE OF NEVADA)

2) SS:

3 COUNTY OF CLARK)

4 CERTIFICATE OF REPORTER

5 I, Kailey R. Castrejon, a Certified Court

6 Reporter licensed by the State of Nevada, do hereby

7 certify: That I reported the DEPOSITION OF SCOTT

8 STUENKEL, on Thursday, November 4, 2021, at 12:06 p.m.;

9 That prior to being deposed, the witness was duly

10 sworn by me to testify to the truth. That I thereafter

11 transcribed my said stenographic notes into written

12 form, and that the typewritten transcript is a complete,

13 true and accurate transcription of my said stenographic

14 notes. That the reading and signing of the transcript

15 was not requested.

16 I further certify that I am not a relative,

17 employee or independent contractor of counsel or of any

18 of the parties involved in the proceeding; nor a person

19 financially interested in the proceeding; nor do I have


20 any other relationship that may reasonably cause my

21 impartiality to be questioned.

22 IN WITNESS WHEREOF, I have set my hand in my

23 office in the County of Clark, State of Nevada, this 5th

24 day of November, 2021.

25 

25 Kailey R. Castrejon, RPR, OCR #983

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1 MR. SHEVORSKI: This is Steve Shevorski from

2 the Attorney General's Office. I have no questions.

3 THE VIDEOGRAPHER: Do you want a copy?

4 MR. SHEVORSKI: Oh, God, yes,

5 MR. MCGUIRE: So we can close the record,

6 I -- I hope that we can get this transcript as soon as

7 possible. I hope that you were told that, that we need

8 it immediately. By tomorrow, if that's possible, but we

9 can go off the record and discuss that.

10 So with all that said, we'll close the

11 record and thanks to everyone.

12 THE VIDEOGRAPHER: We are going off the

13 video record at 5:04.

14 MR. MCGUIRE: We have a motion due

15 on Monday.

16 MR. SHEVORSKI: Yeah. We need it expedited.

17 MR. MCGUIRE: We need the transcript by the

18 end of the day tomorrow.

19 (The proceedings concluded at 5:05 p.m.)

20

21

22

23

24

25

Page 177

1 ERRATA SHEET

2

3

4 I declare under penalty of perjury that I have read the

5 foregoing _____ pages of my testimony, taken

6 on _____ (date) at

7 _____ (city), _____ (state),

8

9 and that the same is a true record of the testimony given

10 by me at the time and place herein

11 above set forth, with the following exceptions:

12

Page	Line	Should read:	Reason for Change:
13			
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Exhibit H

Exhibit H

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IN THE THIRD JUDICIAL
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LYON

PLOYMER80, INC.,
Plaintiff,

vs.

STEPHEN SISOLAK, Governor of
Nevada; AARON FORD, Attorney
General of Nevada; GEORGE
TOGLIATTI, Director of the Nevada
Department of Public Safety;
MINDY MCKAY, Administrator of the
Records, Communications; and
Compliance Division of the Nevada
Department of Public Safety,

Defendants.

CASE NO.
21-CV-00690

VIDEO DEPOSITION VIA ZOOM

OF

DANIEL McCALMON

LAS VEGAS, NEVADA

FRIDAY, OCTOBER 22, 2021

REPORTED BY: DONNA E. MIZE, CCR NO. 675, CSR 11008

Job No.: 814430

Page 2

1 VIDEO DEPOSITION VIA ZOOM OF DANIEL MCCALMON
 2 taken in Las Vegas, Nevada, on Friday, October 22,
 3 2021, at 8:02 a.m., before Donna E. Mize, Certified
 4 Court Reporter, in and for the State of Nevada.
 5
 6
 7 APPEARANCES
 8
 9 For Plaintiff:
 10 JAMES MCGUIRE, ESQ.
 MICHAEL R. PATRICK, ESQ.
 11 Greenspoon Marder, LLP
 590 Madison Avenue
 12 Suite 1800
 New York, New York 10022
 13 212.524.5040
 james.mcguire@gmlaw.com
 14
 15
 16 For Defendants:
 17 CRAIG NEWBY, ESQ.
 GREGORY ZUNINO, ESQ.
 18 Office of the Attorney General
 100 North Carson Street
 Carson City, Nevada 89701
 19 775.684.1237
 cnewby@ag.nv.gov
 20
 21
 22 Also Present: JP MARRETTA, VIDEOGRAPHER
 NICHOLAS APARO, VIDEOGRAPHER
 23
 24
 25

Page 4

1 Las Vegas, Nevada; Friday, October 22, 2021
 2 8:02 a.m.
 3 -oOo-
 4
 5 THE VIDEOGRAPHER: This is the beginning of
 6 media number one of the 30(b)(6) of Polymer80 Inc., Dan
 7 McCalmon in the matter of Polymer80, Inc. versus
 8 Sisolak.
 9 This being held via Zoom on October 22, 2021
 10 and the time is 8:02 a.m.
 11 The court reporter is Donna Mize. I'm JP
 12 Marretta. I'm the videographer with Litigation
 13 Services. This deposition is being recorded at all
 14 times unless specified to go off the record.
 15 Would all present please identify themselves
 16 beginning with the witness.
 17 THE WITNESS: My name is Daniel McCalmon,
 18 executive vice president of Polymer80.
 19 MR. MCGUIRE: James McGuire and Michael R.
 20 Patrick of Greenspoon Marder, LLP. We are counsel to
 21 Plaintiff Polymer80, Inc. and to Mr. McCalmon in
 22 today's proceeding.
 23 MR. NEWBY: I am Craig Newby. I'm deputy
 24 solicitor general with the Nevada Office of the
 25 Attorney General representing defendants in this case.

Page 3

1 INDEX OF EXAMINATION
 2
 3 WITNESS: DANIEL MCCALMON
 4
 5 EXAMINATION PAGE
 6 By Mr. Newby: 6
 7
 8 INDEX OF EXHIBITS
 9
 10 Exhibit Description Page
 11 Exhibit 1 Amended Notice of Deposition 11
 12 Exhibit 2 Nevada Secretary of State Printout 21
 13 Exhibit 3 Nevada Secretary of State Printout 23
 14 Exhibit 4 First Amended Complaint 25
 15 Exhibit 5 Web Capture 30
 16 Exhibit 6 Web Capture 32
 17 Exhibit 7 Web Capture 33
 18 Exhibit 8 Web Capture 34
 19 Exhibit 11 1/2/2015 ATF Ruling 74
 20 Exhibit 21 ATF Determination Letters 78
 21 Exhibit 22 2/18/2015 ATF Letter 82
 22 Exhibit 23 2/18/2015 ATF Letter 85
 23 Exhibit 12 8/19/2012 Comment 87
 24 Exhibit 10 Application for Search Warrant 90
 25

Page 5

1 MR. ZUNINO: Craig Zunino, deputy solicitor
 2 general also with the attorney general's office.
 3 THE VIDEOGRAPHER: Will the court reporter
 4 please swear in the witness.
 5 DANIEL MCCALMON,
 6 was called as a witness, and having been first duly
 7 sworn, was examined and testified as follows:
 8 MR. MCGUIRE: Before we get started, last
 9 evening my co-counsel Mr. Johnston, I believe, sent an
 10 email to Mr. Zunino, which I want to reiterate the
 11 substance of here particularly given defendant's
 12 posture and assertions to the court in this case on
 13 repeated occasions.
 14 We believe that the vast majority of the
 15 topics that are set forth in the subpoena or notice,
 16 excuse me, to Mr. McCalmon are well beyond the ambit of
 17 relevance in this case.
 18 We are reserving all of our objections in
 19 those regards fully and completely here and now.
 20 However, we are not going to restrict the questioning
 21 by subject matter area or relevance. At all of this
 22 deposition you will have free rein, but I want to make
 23 clear that it is our view and it may well be that we
 24 will have to press this issue later in the case that
 25 much of what is set forth on your Rule 30(b)(6) topics

Page 10

1 A. No.

2 Q. Mr. McCalmon, what did you do to prepare for

3 today's deposition?

4 A. I met with Mr. McGuire and Mr. Patrick

5 yesterday for approximately three hours. We reviewed

6 the subpoena and then I met with them again this

7 morning for approximately 45 minutes before the start.

8 Q. Did you review documents with your attorneys

9 in those meetings?

10 A. Yes.

11 Q. Do you recall specifically what those

12 documents were?

13 A. Specifically the subpoena.

14 Q. Any other documents?

15 A. Yes.

16 Q. Do you recall what any of those other

17 documents were?

18 A. I apologize, what is this, the assembly bill

19 itself, AB286.

20 Q. Anything else that you recall?

21 A. No.

22 Q. Did you meet with anyone else other than your

23 attorneys in preparing for today's deposition?

24 A. No.

25 Q. You didn't meet with anyone else at Polymer80

Page 12

1 Q. I will look for that document during a break.

2 Continuing on looking at the topics set forth

3 on page 2 and 3 of what's been marked by the court

4 reporter as Exhibit 1. Mr. McCalmon, do you recognize

5 those Rule 30(b)(6) topics?

6 MR. MCGUIRE: Again, I'm going to object

7 because I think it's confusing for the witness to ask

8 him about topics in the original notice when the

9 controlling notice is an amended notice which may or

10 may not have different topics, I honestly don't know.

11 If you are asking him if he can read the

12 document that you are putting in front of him, I'm

13 happy to have him answer that, but I think until you

14 present him with the amended notice I think we are not

15 productively using our time. I would object to the

16 form of the question.

17 BY MR. NEWBY:

18 Q. Mr. McCalmon, in preparation for today's

19 deposition did you review a list of topics associated

20 with the deposition notice to testify on behalf of

21 Polymer80, Inc. today?

22 A. Yes.

23 Q. And do you have familiarity with what those

24 topics are based on the preparations you described to

25 me earlier today?

Page 11

1 in preparing for today's deposition?

2 A. No.

3 Q. Did you review any documents on your own in

4 preparation for today's deposition outside of what you

5 did with your attorneys?

6 A. Only the same two documents previously

7 mentioned.

8 Q. I believe the court reporter has what's been

9 marked in advance as Exhibit 1 to share with the

10 witness.

11 (Exhibit 1 marked)

12 BY MR. NEWBY:

13 Q. Mr. McCalmon, you have before you what's been

14 marked in advance by the court reporter as Exhibit 1.

15 I will represent to you I believe this is the

16 deposition notice that has us here today. Is this the

17 document you reviewed?

18 MR. MCGUIRE: May I interject and say to my

19 knowledge an amended notice of deposition was issued in

20 this case. I will represent to you that is the

21 document that Mr. McCalmon was referring to earlier and

22 I wonder if you have a copy of that because to my

23 knowledge that is the notice pursuant to which he is

24 appearing today.

25 BY MR. NEWBY:

Page 13

1 A. Yes.

2 Q. You have an understanding that you are here

3 to testify on behalf of Polymer80 as what's known as a

4 Rule 30(b)(6) designee rather than as yourself with

5 what your personal knowledge is. Do you have that

6 understanding?

7 A. Yes.

8 Q. Do you agree to testify as Polymer80's

9 designee at today's deposition today?

10 A. Yes.

11 Q. What's your current employment, Mr. McCalmon?

12 A. I'm the executive vice president of

13 Polymer80.

14 Q. What are your duties as executive vice

15 president for Polymer80?

16 A. I report directly to the CEO and I work with

17 the executive team within the executive team assisting

18 in various departments throughout the company.

19 Q. Who is the CEO of Polymer80, Inc.?

20 A. Lorán Kelley.

21 MR. MCGUIRE: For the record so it's clear

22 would you spell Mr. Kelley's last name so the reporter

23 can get it correctly?

24 THE WITNESS: Absolutely. K-e-l-l-e-y.

25 MR. MCGUIRE: His first name?

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1 Q. Does Polymer80 have an understanding of what
 2 the term 80 percent receiver means?
 3 MR. MCGUIRE: I think that's been asked and
 4 answered, but if you can answer it you may do so.
 5 THE WITNESS: I believe my previous answer
 6 was no.
 7 BY MR. NEWBY:
 8 Q. To help this out, your answers with regards
 9 to 80 percent receiver would be the same as they were
 10 for 80 percent frame with the exception of referring to
 11 a receiver rather than a frame?
 12 A. That is correct.
 13 Q. Does Polymer80 have an understanding of what
 14 the term blank means?
 15 A. No.
 16 Q. Why not?
 17 A. A blank could be a number of things.
 18 Q. Like what?
 19 A. Like if I had a block of aluminum it could be
 20 considered a blank. It may not have a shape or form to
 21 it, but someone could say that that's considered a
 22 blank.
 23 Q. What other potential meanings are there for
 24 blank? You mentioned one, you described it. What are
 25 the other ones?

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1 MR. MCGUIRE: Objection to form.
 2 You may answer if you can.
 3 BY MR. NEWBY:
 4 Q. Do they use that term?
 5 MR. MCGUIRE: Same objection.
 6 THE WITNESS: Yes, I've heard other people
 7 refer -- utilizing the term blank.
 8 BY MR. NEWBY:
 9 Q. What, if anything, was Polymer80's
 10 understanding of others using the term blank in the
 11 accessories industry?
 12 A. They are referring to an unfinished frame or
 13 receiver.
 14 Q. Does Polymer80 have an understanding of what
 15 the term casting means?
 16 A. No.
 17 Q. Why not?
 18 MR. MCGUIRE: Objection to form.
 19 You may answer if you can.
 20 THE WITNESS: Again, it's a singular word
 21 that has a broad scope to it, and it could be defined
 22 as a great many things.
 23 BY MR. NEWBY:
 24 Q. Has Polymer80 used the term casting in the
 25 course of its business in the accessories market?

Page 63

1 A. I think it's vague. It's up to user
 2 interpretation. My interpretation or Polymer80's
 3 interpretation of a blank could vary and be different
 4 from anyone else. It also speaks to my previous
 5 response concerning the term 80 percent, where does
 6 that come from and what is Polymer80's understanding of
 7 it. It's not a term that Polymer80 defines as a
 8 company.
 9 Q. Is 80 percent a term that Polymer80 uses?
 10 A. Yes.
 11 Q. What does Polymer80 assert that 80 percent
 12 means when it uses that term?
 13 A. It asserts that it means the product in
 14 question is no more or less than 80 percent completed,
 15 meaning there is an additional process relative to
 16 time, money, knowledge, experience, tools required to
 17 finish the product.
 18 Q. Does Polymer80 use the term blank in terms of
 19 its products?
 20 A. For the purposes of marketing and sales, no.
 21 Q. Does Polymer80 use the term blank for any
 22 other purposes for its business?
 23 A. No.
 24 Q. Do others within the accessory industry use
 25 the term blank?

Page 65

1 A. No.
 2 Q. Is Polymer80 familiar with others in the
 3 accessories industry utilizing the term casting?
 4 A. No.
 5 Q. Does Polymer80 have an understanding of what
 6 the term machined body means?
 7 A. No.
 8 Q. Why not?
 9 MR. MCGUIRE: Objection to form.
 10 You may answer if you can.
 11 THE WITNESS: Same response as previous with
 12 casting in that it's a broad term. A machined body
 13 could be any number of things.
 14 BY MR. NEWBY:
 15 Q. Has Polymer80 used the term machined body in
 16 the course of its business in the accessories industry?
 17 A. No, it has not.
 18 Q. Is Polymer80 familiar with other businesses
 19 in the accessory industry using the term machined body?
 20 A. No.
 21 Q. Is Polymer80 aware of whether the term
 22 machined body is defined under federal law applying to
 23 Polymer80's accessories' business?
 24 MR. MCGUIRE: Objection to form.
 25 You may answer if you can.

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1 CERTIFICATE OF DEPONENT

2 PAGE LINE CHANGE REASON

3 _____

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18 * * * * *

19 I, Daniel McCalmon, deponent herein

20 do hereby certify and declare under the penalty of

21 perjury the within and foregoing transcription to be my

22 deposition in said action; that I have read, corrected

23 and do hereby affix my signature to said deposition.

24 _____

25 DANIEL MCCALMON, Deponent

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1 STATE OF NEVADA)

2 COUNTY OF CLARK)

3

4 CERTIFICATE OF REPORTER

5 I, Donna E. Mize, a licensed court reporter,

6 Clark County, State of Nevada, do hereby certify:

7 That I remotely reported the taking of the

8 deposition of Daniel McCalmon, commencing on Friday,

9 October 22, 2021, at the hour of 8:02 a.m.;

10 That the witness was, by me, remotely sworn to

11 testify to the truth and that I thereafter transcribed

12 my shorthand notes into typewriting, and that the

13 typewritten transcript of said deposition is a

14 complete, true, and accurate transcription of said

15 shorthand notes;

16 I further certify that I am not a relative or

17 employee of any of the parties involved in said action,

18 nor a person financially interested in said action;

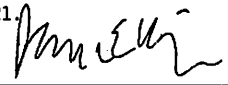
19 That the reading and signing of the transcript

20 was requested. .

21 IN WITNESS WHEREOF, I have hereunto set my hand

22 in my office in the County of Clark, State of Nevada,

23 this 28th day of October 2021.

24 

25 DONNA E. MIZE, CCR NO. 675

Page 100

1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

3 and state laws and regulations ("Privacy Laws") governing the

4 protection and security of patient health information. Notice is

5 hereby given to all parties that transcripts of depositions and legal

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

8 disclosure by Privacy Laws. Litigation Services requires that access,

9 maintenance, use, and disclosure (including but not limited to

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

15 Laws. Litigation Services expects that all parties, parties'

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

18 information, and to comply with applicable Privacy Law mandates,

19 including but not limited to restrictions on access, storage, use, and

20 disclosure (sharing) of transcripts and transcript exhibits, and

21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

23 transcripts and exhibits - including access, storage, use, and

24 disclosure - for compliance with Privacy Laws.

25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)

Exhibit I

Exhibit I

SIMONS HALL JOHNSTON PC
22 State Route 208
Yerington, Nevada 89447
Phone: (775) 463-9500

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Case No.: 21-CV-00690

Dept. No.: 1

**IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF LYON**

POLYMER80, INC.,

Plaintiff,

vs.

STEPHEN SISOLAK, Governor of Nevada, AARON
FORD, Attorney General of Nevada, GEORGE
TOGLIATTI, Director of the Nevada Department of
Public Safety; MINDY MCKAY, Administrator
of the Records, Communications, and Compliance
Division of the Nevada Department of Public
Safety,

Defendants.

DECLARATION OF DANIEL LEE McCALMON

I, DANIEL LEE McCALMON, hereby declare under penalties of perjury under the laws of the State of Nevada that the following is true and correct to the best of my knowledge:

1. I am over eighteen (18) years of age, fully competent to testify, and familiar with the facts and circumstances of this case, and I have personal knowledge of the matters set forth herein. If called as a witness to testify, I could and would do so truthfully as to the matters set forth in this Declaration, which I respectfully submit in support of plaintiff's motion for summary judgment.

2. The base of operations of Polymer80, Inc. ("Polymer80") is in Dayton, Nevada, within Lyon County. I am currently Executive Vice President of Polymer80. As such, I am deeply familiar with all of its business and commercial activities and financial information.

1 3. I also am familiar with Nevada Assembly Bill 286 (“AB 286”), certain of the
2 legislative history thereof, some of the purported reasons for its passage, and particularly its Sections
3 3, 3.5, and 6(9). I have closely reviewed and studied AB 286, with special focus on those provisions.

4 4. Based upon that review and in my role as Polymer80’s Executive Vice President, I
5 and Polymer80 are not able to understand what conduct is prohibited by AB 286 Sections 3, 3.5, and
6 6(9), because AB 286 lacks the definitional terms necessary to understand that statute and the
7 conduct it bans. Since the following terms, among others, are not defined by AB 286, Polymer80
8 and I do not have an understanding of what they mean under Nevada law: “blank,” “casting,” and
9 “machined body.”

10 5. Additionally, Polymer80 and I are not able to understand AB 286’s definition of
11 “[u]nfinished frame or receiver,” which definition incorporates the undefined terms “blank,”
12 “casting,” and “machined body.” Polymer80 and I likewise cannot discern from AB 286 Section
13 6(9) the meaning of the phrase “is intended to be turned into the frame or lower receiver of a firearm
14 with additional machining.” Nor am I or Polymer80 able to determine the meaning of the phrase
15 “and which has been formed or machined to the point at which most of the major machining
16 operations have been completed” or the verbiage “to turn the blank, casting or machined body into
17 a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or
18 machined body is still completely solid and unmachined.”

19 6. In particular, even if Polymer80 and I were able to understand what the terms “blank,”
20 “casting,” and/or “machined body” meant within AB 286, Polymer80 and I would have no way of
21 knowing how AB 286 defines “the point at which most of the major machining operations have been
22 completed.” Under the definition in Section 6(9) of AB 286 of “unfinished frame or receiver,” there
23 is no discernible point at which it is knowable that “most” of the “major machining operations have
24 been completed.”

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SIMONS HALL JOHNSTON PC

22 State Route 208
Yerington, Nevada 89447
Phone: (775) 463-9500

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7. Without an understanding of what the above terms and phrases mean, Polymer80 is not able to conform its conduct in accordance with AB 286.

Pursuant to NRS 53.045, I declare under penalties of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 8th day of November, 2021.


Daniel Lee McCalmon

Exhibit J

Exhibit J

1 CASE NO.: 21-CV-00690

2 DEPT. NO.: 1

3
4 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
5 IN AND FOR THE COUNTY OF LYON

6
7 POLYMER80, INC.

8 Plaintiff,

9 vs.

10 STEPHEN SISOLAK, Governor of
11 Nevada, AARON FORD, Attorney General
12 of Nevada, GEORGE TOGLIATTI,
13 Director of the Nevada Department of
14 Public Safety, MINDY MCKAY,
15 Administrator of the Records,
16 Communications, and Compliance
17 Division of the Nevada Department of
18 Public Safety,

19 Defendants.

20 DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

21 Defendants Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of
22 Nevada, George Togliatti, Director of the Nevada Department of Public Safety, Mindy
23 McKay, Administrator of the Records, Communications, and Compliance Division of the
24 Nevada Department of Public Safety (Defendants), by and through counsel, hereby submit
25 their Answer to Plaintiff's Complaint.

26 DATED this 23rd day of September 2021.

27 AARON D. FORD
28 Attorney General

By: 

GREGORY E. ZUNINO, Bar #4805
Deputy Solicitor General
100 N. Carson Street
Carson City, Nevada 89701
(775) 684-1237
gzunino@ag.nv.gov
Attorneys for Defendants

I.

1
2 1. Defendants admit that Plaintiff seeks the various forms of relief that Plaintiff
3 has outlined in Paragraph 1. Defendants deny that Plaintiff is entitled to any such relief.

4 2. The Nevada Constitution speaks for itself, such that no response is required
5 to Paragraph 2 of the Complaint.

6 3. Paragraph 3 contains mere characterizations, legal contentions, and
7 conclusions to which no response is required.

8 4. Paragraph 4 contains mere characterizations, legal contentions, and
9 conclusions to which no response is required.

10 5. Paragraph 5 contains mere characterizations, legal contentions, and
11 conclusions to which no response is required. To the extent a response is required
12 concerning AB 286's alleged constitutional infirmities, Defendants deny the allegations.

13 6. Paragraph 6 contains mere characterizations, legal contentions, and
14 conclusions to which no response is required. To the extent a response is required
15 concerning AB 286's alleged constitutional infirmities, Defendants deny the allegations.

16 7. AB 286 speaks for itself, such that no response is required to Paragraph 7 of
17 the Complaint.

18 8. AB 286 speaks for itself, such that no response is required to Paragraph 8 of
19 the Complaint. To the extent a response is required concerning AB 286's alleged
20 constitutional infirmities, Defendants deny the allegations.

21 9. Paragraph 9 contains mere characterizations, legal contentions, and
22 conclusions to which no response is required. To the extent a response is required,
23 Defendants deny the allegations.

24 10. Defendants deny the allegations in Paragraph 10.

25 **PARTIES AND JURISDICTION**

26 11. Defendants admit the allegation in Paragraph 11.

27 12. Defendants admit the allegations in Paragraph 12.

28 13. Defendants admit the allegations in Paragraph 13.

1 14. Defendants admit the allegations in Paragraph 14.

2 15. Defendants admit the allegations in Paragraph 15.

3 16. Defendants deny that the Court has subject matter jurisdiction over the
4 Complaint, as Plaintiff does not have standing to maintain its "facial" challenge to AB
5 286. More specifically, Plaintiff cannot satisfactorily frame the issues relevant to AB
6 286's general applicability because Plaintiff is not a proper representative of the industry
7 and market participants whom Plaintiff seeks to represent via its facial challenge to the
8 law. *See, e.g., Get Outdoors II, LLC v. City of San Diego*, 506 F.3d 886, 891 (9th Cir. 2007)
9 (holding that principles of standing require a showing that plaintiff has suffered a
10 constitutional in its own right and can satisfactorily frame the issues on behalf of non-
11 parties).

12 17. As noted above, Defendants deny that the Court has subject matter over the
13 Complaint. For this reason, Defendants deny that venue is proper in Lyon County.

14 I. AB 286.

15 18. Defendants admit the allegation in Paragraph 18.

16 19. AB 286 speaks for itself, such that no response is required to Paragraph 19 of
17 the Complaint.

18 20. Defendants admit that AB 286 amended chapter 202 of NRS.

19 II. AB 286 Section 3

20 21. AB 286 speaks for itself, such that no response is required to Paragraph 21 of
21 the Complaint.

22 22. AB 286 speaks for itself, such that no response is required to Paragraph 22 of
23 the Complaint. To the extent a response is required concerning AB 286's alleged
24 constitutional infirmities, Defendants deny the allegations.

25 III. AB 285 Section 3.5

26 23. AB 286 speaks for itself, such that no response is required to Paragraph 23 of
27 the Complaint.

28 ///

1 24. AB 286 speaks for itself, such that no response is required to Paragraph 24 of
2 the Complaint. To the extent a response is required concerning AB 286's alleged
3 constitutional infirmities, Defendants deny the allegations.

4 **IV. AB 286 Section 6(9)**

5 25. AB 286 speaks for itself, such that no response is required to Paragraph 25 of
6 the Complaint.

7 26. AB 286 speaks for itself, such that no response is required to Paragraph 26 of
8 the Complaint. To the extent a response is required concerning AB 286's alleged
9 constitutional infirmities, Defendants deny the allegations.

10 27. AB 286 speaks for itself, such that no response is required to Paragraph 27 of
11 the Complaint. To the extent a response is required concerning AB 286's alleged
12 constitutional infirmities, Defendants deny the allegations.

13 28. AB 286 speaks for itself, such that no response is required to Paragraph 28 of
14 the Complaint. To the extent a response is required concerning AB 286's alleged
15 constitutional infirmities, Defendants deny the allegations.

16 **V. Criminal Sanctions Under AB 286**

17 29. AB 286 speaks for itself, such that no response is required to Paragraph 29 of
18 the Complaint.

19 30. AB 286 speaks for itself, such that no response is required to Paragraph 30 of
20 the Complaint.

21 31. Federal law speaks for itself, such that no response is required to Paragraph
22 31 of the Complaint.

23 **VI. Polymer80 and the Impact Thereupon of AB 286**

24 32. Defendants admit the allegation in Paragraph 32.

25 33. Defendants are without sufficient information or knowledge to form a belief
26 as to the truth or falsity of the allegations in Paragraph 33.

27 34. Defendants are without sufficient information or knowledge to form a belief
28 as to the truth or falsity of the allegations in Paragraph 34.

1 35. Defendants are without sufficient information or knowledge to form a belief
2 as to the truth or falsity of the allegations in Paragraph 35.

3 36. Defendants are without sufficient information or knowledge to form a belief
4 as to the truth or falsity of the allegations in Paragraph 36.

5 37. Defendants are without sufficient information or knowledge to form a belief
6 as to the truth or falsity of the allegations in Paragraph 37.

7 38. Paragraph 38 contains mere characterizations, legal contentions, and
8 conclusions to which no response is required. To the extent a response is required,
9 Defendants deny the allegations.

10 39. Paragraph 39 contains mere characterizations, legal contentions, and
11 conclusions to which no response is required. To the extent a response is required,
12 Defendants deny the allegations.

13 40. Paragraph 40 contains mere characterizations, legal contentions, and
14 conclusions to which no response is required. To the extent a response is required,
15 Defendant denies the allegations.

16 41. Paragraph 41 contains mere characterizations, legal contentions, and
17 conclusions to which no response is required. To the extent a response is required,
18 Defendants deny the allegations.

19 **CAUSES OF ACTION**

20 **COUNT I**

21 42. Defendants repeat their above responses as they pertain to Paragraphs 1
22 through 41 of the Complaint.

23 43. NRS 30.040 speaks for itself, such that no response is required to Paragraph
24 43 of the Complaint.

25 44. Paragraph 44 contains mere characterizations, legal contentions, and
26 conclusions to which no response is required. To the extent a response is required,
27 Defendants deny the allegations.

28 45. Defendants admit Plaintiff engages in conduct that is proscribed by AB 286.

1 46. Paragraph 46 contains mere characterizations, legal contentions, and
2 conclusions to which no response is required. To the extent a response is required
3 concerning AB 286's alleged constitutional infirmities, Defendants deny the allegations.

4 47. Paragraph 47 contains mere characterizations, legal contentions, and
5 conclusions to which no response is required. To the extent a response is required
6 concerning AB 286's alleged constitutional infirmities, Defendants deny the allegations.

7 48. AB 286 speaks for itself, such that no response is required to Paragraph 48 of
8 the Complaint. To the extent a response is required concerning AB 286's alleged
9 constitutional infirmities, Defendants deny the allegations.

10 49. AB 286 speaks for itself, such that no response is required to Paragraph 49 of
11 the Complaint. To the extent a response is required concerning AB 286's alleged
12 constitutional infirmities, Defendants deny the allegations.

13 50. Paragraph 50 contains mere characterizations, legal contentions, and
14 conclusions to which no response is required. To the extent a response is required,
15 Defendants deny the allegations.

16 51. Paragraph 51 contains mere characterizations, legal contentions, and
17 conclusions to which no response is required. To the extent a response is required,
18 Defendants deny the allegations.

19 52. Paragraph 52 contains mere characterizations, legal contentions, and
20 conclusions to which no response is required. To the extent a response is required,
21 Defendants deny the allegations.

22 53. Paragraph 53 contains mere characterizations, legal contentions, and
23 conclusions to which no response is required. To the extent a response is required,
24 Defendants deny the allegations.

25 54. Defendants admit that absolute precision in drafting statutes is not required
26 to withstand constitutional scrutiny. Defendants further admit that criminal statutes
27 must generally delineate the boundaries of unlawful conduct. Defendants deny the
28 remaining allegations in Paragraph 54.

1 55. Paragraph 55 contains mere characterizations, legal contentions, and
2 conclusions to which no response is required. To the extent a response is required,
3 Defendants deny the allegations.

4 56. Paragraph 56 contains mere characterizations, legal contentions, and
5 conclusions to which no response is required. To the extent a response is required,
6 Defendants deny the allegations.

7 57. Paragraph 57 contains mere characterizations, legal contentions, and
8 conclusions to which no response is required. To the extent a response is required,
9 Defendants deny the allegations.

10 CAUSES OF ACTION

11 COUNT II

12 58. Defendants repeat their above responses as they pertain to Paragraphs 1
13 through 57 of the Complaint.

14 59. NRS 33.010 speaks for itself, such that no response is required to Paragraph
15 59 of the Complaint.

16 60. Paragraph 60 contains mere characterizations, legal contentions, and
17 conclusions to which no response is required. To the extent a response is required,
18 Defendant denies the allegations.

19 61. Paragraph 61 contains mere characterizations, legal contentions, and
20 conclusions to which no response is required. To the extent a response is required,
21 Defendant denies the allegations.

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1 **AFFIRMATION**

2 The undersigned affirms that this document does not contain the social security
3 number of any individual.

4 DATED this 23rd day of September, 2021

5 AARON D. FORD
6 Attorney General

7 By: 

8 GREGORY L. ZUNINO (Bar No. 4805)
9 Deputy Solicitor General
10 100 N. Carson Street
11 Carson City, Nevada 89701
12 Telephone: (775) 684-1237
13 Facsimile: (775) 684-1108
14 gzunino@ag.nv.gov

15 *Attorneys for Defendant*

1 **CERTIFICATE OF SERVICE**

2 I, Caitie Collins, hereby certify that I am an employee of the State of Nevada, Office
3 of the Attorney General, and that on September 23, 2021, I served the foregoing document,
4 by causing a true and correct copy thereof to be served via U.S. Mail, addressed to the
5 following:

6 Brad M. Johnston, Esq.
7 Simons Hall Johnston PC
8 22 State Route 208
9 Yerington, Nevada 89447

10 *Attorneys for Polymer80, Inc.*


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12 State of Nevada
13 Office of the Attorney General
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Exhibit K

Exhibit K

SIMONS HALL JOHNSTON PC
22 State Route 208
Yerington, Nevada 89447
Phone: (775) 463-9500

1 Case No.: 21-CV-00690

2 Dept. No.: 1

3

4 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
5 **IN AND FOR THE COUNTY OF LYON**

6

7 **POLYMER80, INC.,**

8

Plaintiff,

9

vs.

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**STEPHEN SISOLAK, Governor of Nevada, AARON
11 FORD, Attorney General of Nevada, GEORGE
12 TOGLIATTI, Director of the Nevada Department of
13 Public Safety; MINDY MCKAY, Administrator
of the Records, Communications, and Compliance
Division of the Nevada Department of Public
Safety,**

14

Defendants.

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DECLARATION OF LORAN KELLEY

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18 I, LORAN KELLEY, hereby declare under penalties of perjury under the laws of the State
19 of Nevada that the following is true and correct to the best of my knowledge:

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21 1. I am over eighteen (18) years of age, fully competent to testify, and familiar with the
22 facts and circumstances of this case, and I have personal knowledge of the matters set forth herein.
23 If called as a witness to testify, I could and would do so truthfully as to the matters set forth in this
24 Declaration, which I respectfully submit in support of plaintiff's motion for summary judgment.

25

26 2. I am one of the founders of Polymer80, Inc. ("Polymer80"), whose base of operations
27 is in Dayton, Nevada, within Lyon County, and am currently its Chief Executive Officer. As such,
28 I am deeply familiar with all of Polymer80's business and commercial activities and financial
information.

27

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SIMONS HALL, JOHNSTON PC
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Yerington, Nevada 89447
Phone: (775) 463-9500

1 3. I also am familiar with Nevada Assembly Bill 286 ("AB 286"), portions of the
2 legislative history thereof, and some of the purported reasons for its passage. I am especially familiar
3 with certain Sections of AB 286, which I believe to be directly targeted at Polymer80's business and
4 intended to harm it. Specifically, Sections 3, 3.5, and 6(9) are, in my opinion, designed to criminalize
5 Polymer80's activities, given comments made by Nevada legislators and admissions by defendants
6 to the effect that Polymer80 has allegedly engaged in wrongdoing that AB 286 is designed to address.
7 However, because AB 286 is so vaguely written and so difficult to understand, I do not and cannot
8 divine to what precise extent AB 286 does and will impact Polymer80's business.

9 4. Nevertheless, I do know that the passage of AB 286, a confusingly written, vague,
10 and indecipherable law that consumers and businesses do not and cannot understand, has already
11 negatively affected Polymer80. As a result, industry participants, such as Polymer80, are unable to
12 conform their conduct in accordance with AB 286's confusing and indeterminate requirements, the
13 violation of which imposes criminal penalties on individuals and businesses all over Nevada.

14 5. These factors, combined with the above-mentioned express and negative references
15 to Polymer80, contribute directly to the great and irreparable harm to its business. That harm is
16 ongoing and can only be ameliorated by a judicial Declaration that AB 286 is unconstitutional and
17 unenforceable and a Permanent Injunction enjoining its enforcement.

18 6. Based upon my knowledge of Polymer80's business activities and finances and my
19 understanding of AB 286, the reasons for its passage, and the industry factors discussed above (and
20 others), it is my considered opinion that, were AB 286 Sections 3, 3.5, and 6(9) to be enforced,
21 Polymer80's current annual revenue would be diminished by more than fifty (50) percent, and
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1 perhaps by as much as seventy-five (75) percent. In short, the application and enforcement of the
2 vaguely written AB 286, particularly Sections 3, 3.5, and 6(9) thereof, would seriously and
3 irreparably damage Polymer80's business and commercial interests.

4 Pursuant to NRS 53.045, I declare under penalties of perjury that the foregoing is true and
5 correct to the best of my knowledge.

6 Dated this 8th day of November, 2021.

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9 Loran Kelley

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Assembly Bill 286

Prohibits certain acts relating to firearms. (BDR 15-21)

Introduced in the Assembly on Mar 15, 2021.

Sponsored By: Jauregui (Primary), Scheible (Primary)

Fiscal Notes ([View Fiscal Notes](#))

Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on State: Yes.

Most Recent History Action: Chapter 496.

Hearings

Committee	Date	Action
Assembly Judiciary	Mar 17, 2021	Heard
Assembly Judiciary	Apr 09, 2021	Amend, and do pass as amended
Senate Judiciary	May 11, 2021	Heard, No Action
Senate Judiciary	May 12, 2021	Amend, and do pass as amended
Senate Judiciary	May 13, 2021	Mentioned Not Agendized
Senate Judiciary	May 22, 2021	Mentioned No Jurisdiction

Final Passage Votes

House	Reprint	Date	Yea	Nay	Excused	Not Voting	Absent
Assembly Final Passage	(1st Reprint)	Apr 20, 2021	26	16	0	0	0
Senate Final Passage	(3rd Reprint)	May 21, 2021	12	9	0	0	0

Bill/Amendment Text

Bill Text

[As Introduced](#) [1st Reprint](#) [2nd Reprint](#) [3rd Reprint](#) [As Enrolled](#)

Adopted Amendments

[Amend. No. 333](#) [Amend. No. 481](#) [Amend. No. 543](#)

Bill History

Date	Action
Mar 15, 2021	Read first time. Referred to Committee on Judiciary. To printer.
Mar 16, 2021	From printer. To committee.
Apr 19, 2021	From committee: Amend, and do pass as amended.
Apr 20, 2021	From printer. To engrossment. Engrossed. First reprint .
Apr 21, 2021	From printer. To reengrossment. Reengrossed. Second reprint .
Apr 22, 2021	In Senate.
May 18, 2021	From committee: Amend, and do pass as amended.
May 19, 2021	From printer. To re-engrossment. Re-engrossed. Third reprint .

Bill History

Date	Action
May 20, 2021	Taken from General File. Placed on General File for next legislative day.
May 21, 2021	Read third time. Passed, as amended. Title approved. (Yeas: 12, Nays: 9.) To Assembly.
May 25, 2021	Senate Amendment No. 543 concurred in. To enrollment.
May 27, 2021	Enrolled and delivered to Governor.
Jun 07, 2021	Approved by the Governor.
Jun 14, 2021	Chapter 496.

Sections 1, 2, 3.5, 4, 5.5 and 6 to 9, inclusive, and 10 of this act effective June 7, 2021. Sections 3 and 5 of this act effective on January 1, 2022.

ASSEMBLY BILL 286 (Enrolled, Chapter 496)

Relates to Firearms

Summary

Assembly Bill 286 places restrictions on the manufacture, possession, purchase, transfer, transportation, or sale of firearms and unfinished frames or receivers that have not been imprinted with a serial number in accordance with federal law and provides penalties for violating those restrictions. Exceptions are provided for firearms manufactured prior to 1969, as well as for importers, manufacturers, and law enforcement agencies and for certain firearms that have been rendered inoperable or are antiques, collector's items, curios, or relics. Nothing in the bill is to be deemed to prohibit the sale of an unfinished frame, receiver, or firearm that is not imprinted with a serial number to a federally licensed importer, manufacturer, or dealer before January 1, 2022.

Effective Date

Provisions prohibiting a person from possessing, selling, offering to sell, transferring, purchasing, transporting, or receiving a firearm that is not imprinted with a serial number issued in accordance with federal law are effective on January 1, 2022. All other provisions of the bill are on June 7, 2021.

ASSEMBLY BILL NO. 286—ASSEMBLYWOMAN JAUREGUI

MARCH 15, 2021

Referred to Committee on Judiciary

SUMMARY—Prohibits certain acts relating to firearms. (BDR 15-21)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; prohibiting a person from possessing a firearm on a covered premises under certain circumstances; prohibiting a person from engaging in certain acts relating to unfinished frames or receivers under certain circumstances; prohibiting a person from engaging in certain acts relating to firearms which are not imprinted with a serial number under certain circumstances; revising provisions relating to the confiscation and disposal of dangerous weapons; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law makes it a misdemeanor for a person to go upon the land or into
2 any building of another person in certain circumstances, including willfully going
3 or remaining on land or in a building after being warned by the owner or occupant
4 not to trespass. (NRS 207.200) Section 2 of this bill establishes similar provisions
5 which make it unlawful for a person to possess a firearm on a covered premises
6 without the written consent of the owner or operator of the covered premises or an
7 agent thereof after being warned by the owner, operator or agent that possessing the
8 firearm on the covered premises is prohibited. Section 2 defines “covered
9 premises” as real property that serves as certain venues, establishments, facilities
10 and any real property extending to the property line thereof.
11 Section 2 provides that, for the purpose of determining whether a person has
12 been given a sufficient warning against the possession of a firearm, the owner or
13 occupant of the covered premises or an agent thereof may: (1) conspicuously post a
14 sign at the covered premises which contains specific language relating to the
15 prohibition on firearms; or (2) if the covered premises is a public accommodation



16 facility, provide guests at the time of check-in with documentation containing
17 specific language relating to the prohibition on firearms. Upon the posting of the
18 sign or implementation of a policy for the provision of the documentation, **section**
19 **2** requires the owner, operator or agent to inform a law enforcement agency of the
20 warning relating to the prohibition on firearms at the covered premises.

21 **Section 2** provides that any person who possesses a firearm in such an unlawful
22 manner: (1) for the first offense, is guilty of a misdemeanor; (2) for the second
23 offense, is guilty of a gross misdemeanor; and (3) for the third or any subsequent
24 offense, is guilty of a category E felony. **Section 9** of this bill adds an exception to
25 the crime of trespass for application of the greater penalties prescribed by **section 2**.

26 Existing law establishes procedures for the disposal of certain dangerous
27 instruments and weapons taken from the possession of a person charged with the
28 commission of a public offense or crime or a child charged with committing a
29 delinquent act. (NRS 202.340) **Section 8** of this bill requires firearms confiscated
30 from the possession of a person who commits a third or subsequent violation of
31 **section 2** to be disposed of in the manner provided for dangerous instruments and
32 weapons.

33 **Section 3** of this bill prohibits a person from possessing, selling, offering to
34 sell, transferring, purchasing, transporting or receiving an unfinished frame or
35 receiver unless the person is a firearms importer or manufacturer or the unfinished
36 frame or receiver is required to be, and has been, imprinted with a serial number.

37 **Section 3** provides that a person who commits such an unlawful act: (1) for the first
38 offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent
39 offense, is guilty of a category D felony.

40 **Section 4** of this bill prohibits a person from manufacturing or causing to be
41 manufactured or assembling or causing to be assembled a firearm that is not
42 imprinted with a serial number issued by a firearms importer or manufacturer in
43 accordance with federal law and any regulations adopted thereunder unless the
44 firearm is: (1) rendered permanently inoperable; (2) an antique; or (3) a collector's
45 item, curio or relic. **Section 4** provides that a person who commits such an unlawful
46 act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second
47 or any subsequent offense, is guilty of a category D felony.

48 Similarly, **section 5** of this bill prohibits a person from possessing, selling,
49 offering to sell, transferring, purchasing, transporting or receiving a firearm that is
50 not imprinted with a serial number issued by a firearms importer or manufacturer in
51 accordance with federal law and any regulations adopted thereunder unless: (1) the
52 person is a law enforcement agency or a firearms importer or manufacturer; or (2)
53 the firearm is rendered permanently inoperable or is an antique, collector's item,
54 curio or relic. **Section 5** provides that a person who commits such an unlawful act:
55 (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or
56 any subsequent offense, is guilty of a category D felony.

57 **Section 6** of this bill defines the terms "antique firearm" and "firearm importer
58 or manufacturer." **Section 7** of this bill makes a conforming change relating to the
59 new definitions.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 202 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2. 1.** *A person shall not possess a firearm on a covered*
5 *premises without the written consent of the owner or operator of*
6 *the covered premises or an agent thereof after having been warned*
7 *by the owner, operator or agent that the person is prohibited from*
8 *possessing the firearm on the covered premises.*

9 **2.** *A sufficient warning against possessing a firearm on a*
10 *covered premises, within the meaning of this section, is given by*
11 *any of the following methods:*

12 **(a)** *Posting a sign in a conspicuous place at the covered*
13 *premises which contains the following language printed in*
14 *contrasting colors and in block letters measuring at least 1 inch in*
15 *height: "Firearms are prohibited on this property unless the*
16 *person wishing to possess the firearm has obtained the written*
17 *consent of the owner or operator of this property or an agent*
18 *thereof."*

19 **(b)** *If the covered premises is a public accommodation facility,*
20 *providing guests at the time of check-in with a document which*
21 *contains the language: "Firearms are prohibited on this property*
22 *unless the person wishing to possess the firearm has obtained the*
23 *written consent of the owner or operator of this property or an*
24 *agent thereof."*

25 **3.** *Upon the posting of a sign described in paragraph (a) of*
26 *subsection 2 or the implementation of a policy for the provision of*
27 *the documentation described in paragraph (b) of subsection 2, the*
28 *owner or operator of the covered premises or the agent thereof*
29 *shall inform a law enforcement agency with jurisdiction over a*
30 *violation of subsection 1 that a sufficient warning within the*
31 *meaning of this section is being provided on the covered premises.*

32 **4.** *A person who violates subsection 1:*

33 **(a)** *For the first offense, is guilty of a misdemeanor;*

34 **(b)** *For the second offense, is guilty of a gross misdemeanor;*
35 *and*

36 **(c)** *For the third or any subsequent offense, is guilty of a*
37 *category E felony and shall be punished as provided in*
38 *NRS 193.130.*

39 **5.** *This section:*

40 **(a)** *Except as otherwise provided in paragraph (b), applies to*
41 *any person entering a covered premises, including, without*
42 *limitation, any person who is the holder of a permit to carry a*



1 *concealed firearm issued pursuant to NRS 202.3653 to 202.369,*
2 *inclusive.*

3 (b) *Does not apply to:*

4 (1) *An officer of a law enforcement agency who is required*
5 *to carry a firearm as part of his or her official duties and who is*
6 *acting in his or her official capacity at the time of possessing the*
7 *firearm on the covered premises;*

8 (2) *A residential unit owner who:*

9 (I) *Carries or stores a firearm in his or her unit;*

10 (II) *Carries a firearm directly to his or her unit from a*
11 *location where he or she is authorized to carry or store a firearm*
12 *under this subparagraph or from his or her unit to a location*
13 *where he or she is authorized to carry or store a firearm under this*
14 *subparagraph;*

15 (III) *Carries or stores a handgun in his or her vehicle*
16 *located in a parking area designated for the residential unit*
17 *owner; or*

18 (IV) *Carries a handgun directly to his or her vehicle*
19 *located in a parking area designated for the residential unit owner*
20 *from a location where he or she is authorized to carry or store a*
21 *firearm under this subparagraph or from such a vehicle to a*
22 *location where he or she is authorized to carry or store a firearm*
23 *under this subparagraph.*

24 (3) *A guest of a public accommodation facility who:*

25 (I) *Purchases a firearm at a trade show in this State;*

26 (II) *Transports the purchased firearm directly from the*
27 *trade show to the public accommodation facility in accordance*
28 *with all applicable laws;*

29 (III) *Enters the public accommodation facility with the*
30 *firearm unloaded and contained within a bag; and*

31 (IV) *Notifies the public accommodation facility in*
32 *writing that his or her bag contains an unloaded firearm.*

33 6. *Nothing in this section shall:*

34 (a) *Prohibit or restrict a rule, policy or practice of an owner or*
35 *operator of a covered premises concerning or prohibiting the*
36 *presence of firearms on the covered premises; or*

37 (b) *Require an owner or operator of a covered premises to*
38 *adopt a rule, policy or practice concerning or prohibiting the*
39 *presence of firearms on the covered premises.*

40 7. *As used in this section:*

41 (a) *“Club venue” means a venue, including, without*
42 *limitation, a pool venue, that:*

43 (1) *Prohibits patrons under 21 years of age from entering*
44 *the premises;*

45 (2) *Is licensed to serve alcohol;*



1 (3) *Allows dancing; and*

2 (4) *Offers live music, a disc jockey or an emcee.*

3 (b) *“Condominium hotel” has the meaning ascribed to it in*
4 *NRS 116B.060.*

5 (c) *“Consent” does not include consent that is induced by*
6 *force, threat or fraud.*

7 (d) *“Covered premises” means:*

8 (1) *Any real property that serves as:*

9 (I) *A club venue;*

10 (II) *A golf course;*

11 (III) *A licensed gaming establishment;*

12 (IV) *A motion picture theater;*

13 (V) *A place of religious worship;*

14 (VI) *A public accommodation facility;*

15 (VII) *A shopping mall; or*

16 (VIII) *A stadium, arena, concert hall, theater,*
17 *showroom or any other facility used for live entertainment or a*
18 *sporting event; and*

19 (2) *Any real property extending to the property line of any*
20 *property described in subparagraph (1).*

21 (e) *“Law enforcement agency” has the meaning ascribed to it*
22 *in NRS 289.010.*

23 (f) *“Licensed gaming establishment” has the meaning*
24 *ascribed to it in NRS 463.0169.*

25 (g) *“Public accommodation facility” means a hotel and casino,*
26 *resort, hotel, condominium hotel, motel, hostel, bed and breakfast*
27 *facility or other facility offering rooms or areas to the public for*
28 *monetary compensation or other financial consideration on an*
29 *hourly, daily or weekly basis.*

30 (h) *“Residential unit owner” has the meaning ascribed to it in*
31 *NRS 116B.205.*

32 (i) *“Shopping mall” includes any area or premises where*
33 *multiple vendors assemble for the primary purpose of selling*
34 *goods.*

35 **Sec. 3. 1. A person shall not possess, sell, offer to sell,**
36 **transfer, purchase, transport or receive an unfinished frame or**
37 **receiver unless:**

38 (a) *The person is a firearms importer or manufacturer; or*

39 (b) *The unfinished frame or receiver is required by federal law*
40 *to be imprinted with a serial number issued by an importer or*
41 *manufacturer and the unfinished frame or receiver has been*
42 *imprinted with the serial number.*

43 2. *A person who violates this section:*

44 (a) *For the first offense, is guilty of a gross misdemeanor; and*



1 (b) For the second or any subsequent offense, is guilty of a
2 category D felony and shall be punished as provided in
3 NRS 193.130.

4 3. As used in this section, "unfinished frame or receiver"
5 means a blank, a casting or a machined body that is intended to be
6 turned into the frame or lower receiver of a firearm with
7 additional machining and which has been formed or machined to
8 the point at which most of the major machining operations have
9 been completed to turn the blank, casting or machined body into a
10 frame or lower receiver of a firearm even if the fire-control cavity
11 area of the blank, casting or machined body is still completely
12 solid and unmachined.

13 **Sec. 4. 1.** A person shall not manufacture or cause to be
14 manufactured or assemble or cause to be assembled a firearm that
15 is not imprinted with a serial number issued by a firearms
16 importer or manufacturer in accordance with federal law and any
17 regulations adopted thereunder unless the firearm:

18 (a) Has been rendered permanently inoperable;

19 (b) Is an antique firearm; or

20 (c) Has been determined to be a collector's item pursuant to 26
21 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C.
22 Chapter 44.

23 2. A person who violates this section:

24 (a) For the first offense, is guilty of a gross misdemeanor; and

25 (b) For the second or any subsequent offense, is guilty of a
26 category D felony and shall be punished as provided in
27 NRS 193.130.

28 3. As used in this section:

29 (a) "Assemble" means to fit together component parts.

30 (b) "Manufacture" means to fabricate, make, form, produce or
31 construct by manual labor or machinery.

32 **Sec. 5. 1.** A person shall not possess, sell, offer to sell,
33 transfer, purchase, transport or receive a firearm that is not
34 imprinted with a serial number issued by a firearms importer or
35 manufacturer in accordance with federal law and any regulations
36 adopted thereunder unless:

37 (a) The person is:

38 (1) A law enforcement agency; or

39 (2) A firearms importer or manufacturer; or

40 (b) The firearm:

41 (1) Has been rendered permanently inoperable;

42 (2) Is an antique firearm; or

43 (3) Has been determined to be a collector's item pursuant
44 to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C.
45 Chapter 44.



2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) *For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *As used in this section, "law enforcement agency" has the meaning ascribed to it in NRS 239C.065.*

Sec. 6. NRS 202.253 is hereby amended to read as follows:

202.253 As used in NRS 202.253 to 202.369, inclusive ~~1~~ , and sections 2 to 5, inclusive, of this act:

1. *"Antique firearm" has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).*

2. *"Explosive or incendiary device" means any explosive or incendiary material or substance that has been constructed, altered, packaged or arranged in such a manner that its ordinary use would cause destruction or injury to life or property.*

~~12~~ 3. *"Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.*

~~13~~ 4. *"Firearm capable of being concealed upon the person" applies to and includes all firearms having a barrel less than 12 inches in length.*

~~14~~ 5. *"Firearms importer or manufacturer" means a person licensed to import or manufacture firearms pursuant to 18 U.S.C. Chapter 44.*

6. *"Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.*

~~15~~ 7. *"Motor vehicle" means every vehicle that is self-propelled.*

~~16~~ 8. *"Semiautomatic firearm" means any firearm that:*

(a) *Uses a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next shell or round;*

(b) *Requires a separate function of the trigger to fire each cartridge; and*

(c) *Is not a machine gun.*

Sec. 7. NRS 202.2548 is hereby amended to read as follows:

202.2548 The provisions of NRS 202.2547 do not apply to:

1. *The sale or transfer of a firearm by or to any law enforcement agency and, to the extent he or she is acting within the course and scope of his or her employment and official duties, any peace officer, security guard entitled to carry a firearm under NAC 648.345, member of the armed forces or federal official.*

2. *The sale or transfer of an antique firearm. ~~1, as defined in 18 U.S.C. § 921(a)(16).~~*



1 3. The sale or transfer of a firearm between immediate family
2 members, which for the purposes of this section means spouses and
3 domestic partners and any of the following relations, whether by
4 whole or half blood, adoption, or step-relation: parents, children,
5 siblings, grandparents, grandchildren, aunts, uncles, nieces and
6 nephews.

7 4. The transfer of a firearm to an executor, administrator,
8 trustee or personal representative of an estate or a trust that occurs
9 by operation of law upon the death of the former owner of the
10 firearm.

11 5. A temporary transfer of a firearm to a person who is not
12 prohibited from buying or possessing firearms under state or federal
13 law if such transfer:

14 (a) Is necessary to prevent imminent death or great bodily harm;
15 and

16 (b) Lasts only as long as immediately necessary to prevent such
17 imminent death or great bodily harm.

18 6. A temporary transfer of a firearm if:

19 (a) The transferor has no reason to believe that the transferee is
20 prohibited from buying or possessing firearms under state or federal
21 law;

22 (b) The transferor has no reason to believe that the transferee
23 will use or intends to use the firearm in the commission of a crime;
24 and

25 (c) Such transfer occurs and the transferee's possession of the
26 firearm following the transfer is exclusively:

27 (1) At an established shooting range authorized by the
28 governing body of the jurisdiction in which such range is located;

29 (2) At a lawful organized competition involving the use of a
30 firearm;

31 (3) While participating in or practicing for a performance by
32 an organized group that uses firearms as a part of the public
33 performance;

34 (4) While hunting or trapping if the hunting or trapping is
35 legal in all places where the transferee possesses the firearm and the
36 transferee holds all licenses or permits required for such hunting or
37 trapping; or

38 (5) While in the presence of the transferor.

39 **Sec. 8.** NRS 202.340 is hereby amended to read as follows:

40 202.340 1. Except as otherwise provided for firearms
41 forfeitable pursuant to NRS 453.301, when any instrument or
42 weapon described in NRS 202.350 is taken from the possession of
43 any person charged with the commission of any public offense or
44 crime or any child charged with committing a delinquent act ~~H~~ *or*
45 *when any firearm is taken from the possession of any person*



1 *charged with a third or subsequent violation of section 2 of this*
2 *act*, the instrument , ~~or~~ *weapon or firearm* must be surrendered to:

3 (a) The head of the police force or department of an
4 incorporated city if the possession thereof was detected by any
5 member of the police force of the city; or

6 (b) The chief administrator of a state law enforcement agency,
7 for disposal pursuant to NRS 333.220, if the possession thereof was
8 detected by any member of the agency.

9 ➔ In all other cases, the instrument , ~~or~~ *weapon or firearm* must
10 be surrendered to the sheriff of the county or the sheriff of the
11 metropolitan police department for the county in which the
12 instrument , ~~or~~ *weapon or firearm* was taken.

13 2. Except as otherwise provided in subsection 5, the governing
14 body of the county or city or the metropolitan police committee on
15 fiscal affairs shall at least once a year order the local law
16 enforcement officer to whom any instrument , ~~or~~ *weapon or*
17 *firearm* is surrendered pursuant to subsection 1 to:

18 (a) Retain the confiscated instrument , ~~or~~ *weapon or firearm*
19 for use by the law enforcement agency headed by the officer;

20 (b) Sell the confiscated instrument , ~~or~~ *weapon or firearm* to
21 another law enforcement agency;

22 (c) Destroy or direct the destruction of the confiscated
23 instrument , ~~or~~ *weapon or firearm* if it is not otherwise required to
24 be destroyed pursuant to subsection 5;

25 (d) Trade the confiscated instrument , ~~or~~ *weapon or firearm* to
26 a properly licensed retailer or wholesaler in exchange for equipment
27 necessary for the performance of the agency's duties; or

28 (e) Donate the confiscated instrument , ~~or~~ *weapon or firearm*
29 to a museum, the Nevada National Guard or, if appropriate, to
30 another person for use which furthers a charitable or public interest.

31 3. All proceeds of a sale ordered pursuant to subsection 2 by:

32 (a) The governing body of a county or city must be deposited
33 with the county treasurer or the city treasurer and the county
34 treasurer or the city treasurer shall credit the proceeds to the general
35 fund of the county or city.

36 (b) A metropolitan police committee on fiscal affairs must be
37 deposited in a fund which was created pursuant to NRS 280.220.

38 4. Any officer receiving an order pursuant to subsection 2 shall
39 comply with the order as soon as practicable.

40 5. Except as otherwise provided in subsection 6, the officer to
41 whom a confiscated instrument , ~~or~~ *weapon or firearm* is
42 surrendered pursuant to subsection 1 shall:

43 (a) Except as otherwise provided in paragraph (c), destroy or
44 direct to be destroyed any instrument , ~~or~~ *weapon or firearm*
45 which is determined to be dangerous to the safety of the public.



1 (b) Except as otherwise provided in paragraph (c), return any
2 instrument , ~~§~~ weapon ~~§~~ *or firearm* which has not been
3 destroyed pursuant to paragraph (a):

4 (1) Upon demand, to the person from whom the instrument ,
5 ~~§~~ weapon *or firearm* was confiscated if the person is acquitted of
6 the public offense or crime of which the person was charged; or

7 (2) To the legal owner of the instrument , ~~§~~ weapon *or*
8 *firearm* if the Attorney General or the district attorney determines
9 that the instrument , ~~§~~ weapon *or firearm* was unlawfully
10 acquired from the legal owner. If retention of the instrument , ~~§~~
11 weapon *or firearm* is ordered or directed pursuant to paragraph (c),
12 except as otherwise provided in paragraph (a), the instrument , ~~§~~
13 weapon *or firearm* must be returned to the legal owner as soon as
14 practicable after the order or direction is rescinded.

15 (c) Retain the confiscated instrument , ~~§~~ weapon *or firearm*
16 held by the officer pursuant to an order of a judge of a court of
17 record or by direction of the Attorney General or district attorney
18 that the retention is necessary for purposes of evidence, until the
19 order or direction is rescinded.

20 (d) Return any instrument , ~~§~~ weapon *or firearm* which was
21 stolen to its rightful owner, unless the return is otherwise prohibited
22 by law.

23 6. Before any disposition pursuant to subsection 5, the officer
24 who is in possession of the confiscated instrument , ~~§~~ weapon *or*
25 *firearm* shall submit a full description of the instrument , ~~§~~
26 weapon *or firearm* to a laboratory which provides forensic services
27 in this State. The director of the laboratory shall determine whether
28 the instrument , ~~§~~ weapon *§* *or firearm*:

29 (a) Must be sent to the laboratory for examination as part of a
30 criminal investigation; or

31 (b) Is a necessary addition to a referential collection maintained
32 by the laboratory for purposes relating to law enforcement.

33 **Sec. 9.** NRS 207.200 is hereby amended to read as follows:

34 207.200 1. Unless a greater penalty is provided pursuant to
35 NRS 200.603 ~~§~~ *or section 2 of this act*, any person who, under
36 circumstances not amounting to a burglary:

37 (a) Goes upon the land or into any building of another with
38 intent to vex or annoy the owner or occupant thereof, or to commit
39 any unlawful act; or

40 (b) Willfully goes or remains upon any land or in any building
41 after having been warned by the owner or occupant thereof not to
42 trespass,

43 ➤ is guilty of a misdemeanor. The meaning of this subsection is not
44 limited by subsections 2 and 4.



1 2. A sufficient warning against trespassing, within the meaning
2 of this section, is given by any of the following methods:

3 (a) Painting with fluorescent orange paint:

4 (1) Not less than 50 square inches of a structure or natural
5 object or the top 12 inches of a post, whether made of wood, metal
6 or other material, at:

7 (I) Intervals of such a distance as is necessary to ensure
8 that at least one such structure, natural object or post would be
9 within the direct line of sight of a person standing next to another
10 such structure, natural object or post, but at intervals of not more
11 than 1,000 feet; and

12 (II) Each corner of the land, upon or near the boundary;
13 and

14 (2) Each side of all gates, cattle guards and openings that are
15 designed to allow human ingress to the area;

16 (b) Fencing the area;

17 (c) Posting "no trespassing" signs or other notice of like
18 meaning at:

19 (1) Intervals of such a distance as is necessary to ensure that
20 at least one such sign would be within the direct line of sight of a
21 person standing next to another such sign, but at intervals of not
22 more than 500 feet; and

23 (2) Each corner of the land, upon or near the boundary;

24 (d) Using the area as cultivated land; or

25 (e) By the owner or occupant of the land or building making an
26 oral or written demand to any guest to vacate the land or building.

27 3. It is prima facie evidence of trespass for any person to be
28 found on private or public property which is posted or fenced as
29 provided in subsection 2 without lawful business with the owner or
30 occupant of the property.

31 4. An entryman on land under the laws of the United States is
32 an owner within the meaning of this section.

33 5. As used in this section:

34 (a) "Cultivated land" means land that has been cleared of its
35 natural vegetation and is presently planted with a crop.

36 (b) "Fence" means a barrier sufficient to indicate an intent to
37 restrict the area to human ingress, including, but not limited to, a
38 wall, hedge or chain link or wire mesh fence. The term does not
39 include a barrier made of barbed wire.

40 (c) "Guest" means any person entertained or to whom
41 hospitality is extended, including, but not limited to, any person
42 who stays overnight. The term does not include a tenant as defined
43 in NRS 118A.170.

44 **Sec. 10.** 1. This section and sections 1 to 4, inclusive, and 6
45 to 9, inclusive, of this act become effective on October 1, 2021.



1 2. Section 5 of this act becomes effective on January 1, 2022.

⑩



**EXECUTIVE AGENCY
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: March 22, 2021

Agency Submitting: Department of Corrections

Items of Revenue or Expense, or Both	Fiscal Year 2020-21	Fiscal Year 2021-22	Fiscal Year 2022-23	Effect on Future Biennia
Total	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

Assembly Bill 286 amends Chapter 202 of the Nevada Revised Statutes by adding the sections summarized in Exhibit 1 in regards to the possession, manufacturing, transportation and exchange of firearms. Given the lack of data available as described in the attached Exhibit 1, the Nevada Department of Corrections concludes that the impact of the proposed amendments cannot be determined at this time.

Name Adrienne Monroe
Title ASO III

GOVERNOR'S OFFICE OF FINANCE COMMENTS

The agency's response appears reasonable.

Date Monday, March 22, 2021

Name Jim Rodriguez
Title Executive Branch Budget Officer

DESCRIPTION OF FISCAL EFFECT

BDR/Bill/Amendment Number: Assembly Bill 286 Bill Draft Request 15-21

Name of Agency: _____

Division/Department: Department of Corrections

Date: March 18, 2021

Assembly Bill 286 amends Chapter 202 of the Nevada Revised Statutes by adding the sections summarized below in regards to the possession, manufacturing, transportation and exchange of firearms.

Section 2 provides that it will be unlawful for any individual to possess a firearm on a covered facility without the written consent of the owner, an agent or an operator of the covered premises, regardless of whether the individual holds a concealed firearms permit. A covered facility or a place of public accommodation will have to warn its occupants and guests that possession of firearms is prohibited unless written consent is provided by the owner, agent or operator of the property. In a public place of accommodation, a document will be provided to guests at the time of check-in; and in other types of premises, a sign will be placed in a conspicuous place in contrasting colors and in block letters at least 1 inch in height. The owner, operator or agent of the covered premises will be mandated to contact a law enforcement agency if a person is found in unlawful possession of a firearm in these types of premises after the types of warning methods mentioned herein are instituted. A third offense in violation of the prohibition to possess a firearm in a covered facility will be a category E felony. The prohibitions will not apply to: (1) a law enforcement officer whose official duties require carrying a firearm, (2) the resident of a unit of the covered premises who stores firearms in that unit or that carries the firearms from the unit to a location that is authorized, (3) a guest of a place of public accommodation provided that specific conditions are present. The owner, operator or agent of a covered premise will not be restricted from adopting additional policies or practices regarding the presence of firearms on the premises.

Section 3 provides that, except when an individual is a firearms importer or manufacturer, or if an unfinished frame or receiver is mandated by law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished receiver has been imprinted with the serial number, it will be unlawful for an individual to possess, exchange or transport an unfinished receiver. A second or subsequent violation of the provisions of this section will be a category D felony. Section 4 denotes that, unless select conditions are met, it will be unlawful for an individual to manufacture or cause to manufacture or assemble or cause to assemble a firearm without an imprinted serial number issued by a firearms importer or manufacturer in accordance with federal laws and regulations. A second or subsequent violation of the provisions of this section will be a category D felony. Section 5 dictates that, except when select conditions are met, it will be unlawful for an individual to possess, exchange or transport a firearm that doesn't have an imprinted serial number issued by a firearms importer or manufacturer in accordance with federal laws and regulations. A second or subsequent offense of violation of the provisions of this section will be a category D felony.

Sections 1 to 4 of this bill become effective October 1, 2021, and Section 5 becomes effective on January 1, 2020.

Research staff searched for statistical information regarding the possession of firearms on closed premises and places of public accommodation and it was noted that several chains, shopping malls and large merchandizers in the United States have already instituted policies prohibiting or requesting customers not to carry firearms on their premises. In Nevada it is legal to open carry a firearm without a permit and it is often unknown if an individual is carrying a weapon in a place where it's prohibited by company policy or by law unless the individual opens fire. Thus, there is no readily available statistical information to estimate how frequently an individual will likely neglect the proposed laws in Section 2 to the extent that the same individual will be guilty of a category E felony after three infractions. Thus, the impact of this section cannot be determined at this time.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Gun Control Act of 1968 (GCA) have held that unfinished receivers or receiver blanks, castings or machine bodies that are 80% complete and in which the fire-control cavity area is solid and not machined are not classified as firearms and are legal; and once they meet the definition of a firearm, they must have markings, including a serial number as per 27 CFR 478.92. Based on the findings of research conducted by the Nevada Department of Corrections (NDOC), firearms made from unmarked receiver blanks may be recovered after being used in crimes. However, when firearms made from receiver blanks are found at crime scenes, it makes it difficult to trace the firearms or their history because they lack markings or serial numbers and the owner is unknown. Given that it is legal to possess these frames, and that there is no concrete data pointing at how often firearms are made with these frames illegally in Nevada, the NDOC is unable to accurately estimate the frequency with which an individual will be arrested and convicted for possession of them. Thus, the impact of the provisions of Section 3 cannot be determined.

NRS 202.277 dictates that it is unlawful to intentionally alter or remove the serial number upon a firearm or to possess a firearm that has a serial number that has been intentionally altered or removed. The GCA mandates that all individuals engaged in the business of dealing in firearms, including manufacturing and selling, must be licensed; however, the homemaking of guns for personal use by an unlicensed individual is lawful and the gun doesn't have to be registered with a serial number, provided that the gun is not for sale. The conversion of an unfinished and unregistered frame can be converted into a ghost gun that cannot be traced if a crime is committed with it. Without access to estimates of how many of these guns are manufactured in Nevada, the impact cannot be determined. It is assumed however, that the owners of these guns will be required to relinquish these items and that passage of the law will deter the production, possession and transfer of homemade guns in the future.

None of the other amendments result in revisions to existing felony crimes and are not applicable to the NDOC.

Given the lack of data available as described above, the NDOC concludes that the impact of the proposed amendments cannot be determined.

**EXECUTIVE AGENCY
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: March 22, 2021

Agency Submitting: Department of Public Safety, Records, Communications and Compliance

Items of Revenue or Expense, or Both	Fiscal Year 2020-21	Fiscal Year 2021-22	Fiscal Year 2022-23	Effect on Future Biennia
Total	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

BDR 15-21 AB286 Section 2 provides a misdemeanor, gross misdemeanor, and E felony penalty for possessing a firearm on a covered premise. Section 3 provides a gross misdemeanor and D felony penalty for transfer of unfinished gun frame. Section 4 provides a gross misdemeanor and D felony penalty for manufacturing a firearm without a serial number. Section 5 provides a gross misdemeanor and D felony for possession of firearms without serial numbers.

If this bill as introduced is enacted, it would require the Department of Public Safety, Records Communications and Compliance Division (RCCD), Nevada Offense Code Unit (NOC) staff to create 17 NOCs and 17 subtypes. The impact cannot be determined until RCCD calculates the cumulative total of all legislation from the 2021 session. RCCD may request to return at a later date should the cumulative workload increases necessitate additional staffing.

Name Lesla Galloway
Title Administrative Services Officer III

GOVERNOR'S OFFICE OF FINANCE COMMENTS

The agency's response appears reasonable.

Date Tuesday, March 16, 2021

Name Jim Rodriguez
Title Executive Branch Budget Officer

NEVADA LEGISLATURE

Eighty-First Session, 2021

ASSEMBLY DAILY JOURNAL

THE FORTY-THIRD DAY

CARSON CITY (Monday), March 15, 2021

Assembly called to order at 12:08 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Nate Johnson.

Heavenly Father, I pray that today we look at our similarities more than our differences. That in how we think and look at one another, that we will not sacrifice unity above anything else. Help us in being One by being mindful of our own prejudices, preconceived ideas, or assumptions towards one another. Provide the courage to help one another pause before speaking out in a way that may alienate, hurt, or bring separation within our time today. Let this group be a beacon of light working together with unity in our world today. We pray these things in His Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 101, 173, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SANDRA JAUREGUI, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that the Assembly suspend subsection 1(e)(1) of Joint Standing Rule No. 14.2.

Motion carried.

Assembly Daily Journal

— 28 —

ASSEMBLY IN SESSION

At 12:32 p.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Black moved that Assembly Concurrent Resolution No. 2 be taken from the Chief Clerk's desk and placed on the Resolution File for the next legislative day.

Motion lost.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:33 p.m.

ASSEMBLY IN SESSION

At 12:40 p.m.
Mr. Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblywoman Jauregui:

Assembly Bill No. 286—AN ACT relating to crimes; prohibiting a person from possessing a firearm on a covered premises under certain circumstances; prohibiting a person from engaging in certain acts relating to unfinished frames or receivers under certain circumstances; prohibiting a person from engaging in certain acts relating to firearms which are not imprinted with a serial number under certain circumstances; revising provisions relating to the confiscation and disposal of dangerous weapons; providing penalties; and providing other matters properly relating thereto.

Assemblyman Yeager moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywomen Monroe-Moreno, Peters and Thomas:

Assembly Bill No. 287—AN ACT relating to health care; providing for the licensing and regulation of freestanding birthing centers; requiring a freestanding birthing center to perform certain screening, report certain information to the local health officer and make certain information available to the Chief Medical Officer; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-First Session
March 17, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:04 a.m. on Wednesday, March 17, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Rochelle T. Nguyen, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Cecelia González
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Lisa Krasner
Assemblywoman Elaine Marzola
Assemblyman C.H. Miller
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Sandra Jauregui, Assembly District No. 41
Assemblyman John Ellison, Assembly District No. 33

Minutes ID: 501



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bonnie Borda Hoffecker, Committee Manager
Lori McCleary, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

John M. McManus, Executive Vice President, Secretary, and General Counsel, MGM Resorts International
David Pucino, Senior Staff Attorney, Giffords Law Center to Prevent Gun Violence
Stephen J. Lindley, Program Manager, Brady Campaign & Center to Prevent Gun Violence
Emily Walton, Regional Director, State Affairs, Everytown for Gun Safety; and Member, Moms Demand Action for Gun Sense in America
Todd Mason, Director, Government Affairs, Wynn Resorts, Ltd.
James Sullivan, representing Culinary Workers Union Local 226
Chelsea Parsons, Vice President, Gun Violence Prevention Policy, Center for American Progress
Annette Magnus, Executive Director, Battle Born Progress
Elizabeth Becker, Volunteer, Nevada Chapter, Moms Demand Action for Gun Sense in America
Karl Catarata, Private Citizen, Las Vegas, Nevada
Kristee Watson, Private Citizen, Las Vegas, Nevada
Kimi Cole, Private Citizen, Carson City, Nevada
Fahima Khalaf, Private Citizen, Las Vegas, Nevada
Leonard B. Jackson, Executive Director, Faith Organizing Alliance
Emily Woodall, Private Citizen, Las Vegas, Nevada
Susan Proffitt, Private Citizen, Las Vegas, Nevada
Marissa Morano, Volunteer, Moms Demand Action for Gun Sense in America
Elaine Sanchez, Private Citizen, Las Vegas, Nevada
Teresa Crawford, Volunteer, Nevada Chapter, Moms Demand Action for Gun Sense in America
Christiane Brown, Private Citizen, Reno, Nevada
Margy Feldman, Member, Sun City Anthem Democratic Club, Henderson, Nevada
Daniel Reid, Western Regional Director, National Rifle Association of America, Institute for Legislative Action
Michael Findlay, representing National Shooting Sports Foundation, Inc.
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office; and representing Washoe County Public Defender's Office
Adam McGuire, Private Citizen, Stagecoach, Nevada
Lynn Chapman, State Vice President, Nevada Families for Freedom
Janine Hansen, State Chair, Independent American Party of Nevada
Mory Rezai, Private Citizen, Las Vegas, Nevada
Joshua Rosenthal, Private Citizen, Henderson, Nevada

Bruce Parks, Founder, Nevada Patriot; and Secretary, Battle Born Patriots, Sparks, Nevada
Kimberly Fergus, Private Citizen, Las Vegas, Nevada
Spencer Achiu, Private Citizen, Las Vegas, Nevada
Andrew Spinney, Private Citizen, Las Vegas, Nevada
Shawn Meehan, Founder, Guard the Constitution, Minden, Nevada
Daryl DeShaw, Private Citizen, Las Vegas, Nevada
Jim DeGraffenreid, National Committeeman, Nevada Republican Party
Brittany Sheehan, Private Citizen, Las Vegas, Nevada
Joes Rivas, Private Citizen, Las Vegas, Nevada
Greg Gar, Private Citizen, Genoa, Nevada
Emily Persaud-Zamora, Executive Director, Silver State Voices
Loran Kelley, Private Citizen, Dayton, Nevada
Justin Rost, Private Citizen, Winnemucca, Nevada
David Gomez, President, Nevada Peace Alliance; and Deputy Director, League of United Latin American Citizens
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Maggie Mordaunt, Private Citizen, Henderson, Nevada
Stephen Crescenti, Private Citizen, Las Vegas, Nevada
Gina St. Ores, Private Citizen, Reno, Nevada
Ethan Cullings, Private Citizen, Henderson, Nevada
Debra Songer, Private Citizen, Carson City, Nevada
Amber Carrillo, Private Citizen, Wellington, Nevada
Jesse Mosley, Private Citizen, Las Vegas, Nevada

Chairman Yeager:

[Roll was called. Committee rules and protocol were explained.] Today's hearing will be one of those days where there will be very strong and passionate disagreements on the bill in front of us. That is perfectly okay; we welcome the passion. What we do not welcome is personal attacks, inappropriate comments, profane language, and the like. I am asking all Committee members and those who may be participating on Zoom or by phone to keep your comments respectful and keep them to the substance of the bill. If we can do that, we are going to have a very successful meeting. If you are not able to stay within those parameters, you will forfeit the opportunity to provide the remainder of your testimony.

We have one bill on the agenda today. There is a lot of interest in this piece of legislation. Before I hand it over to our sponsor and presenters today, I just want to give everyone a brief description of how this meeting is going to operate. We are going to give the sponsor and presenters a chance to present the bill. There are two main concepts in the bill, so each of those concepts are going to be presented separately. After that, we will have an opportunity for questions. Members, I believe there may be a lot of questions, but I think we can help this meeting move along if you can really think about the question you have and be succinct in asking it. Hopefully, that will give everyone an opportunity to have his or her questions

answered. We will then take testimony in support, opposition, and neutral. I can tell you right now, we have more people who would like to offer testimony than we are going to have time for today. We do have a hard stop in the Committee at 11:30 a.m. We are going to get through as much of that testimony as possible. For those who would like to give testimony and are not able to do so today, I would recommend you submit it in writing, express your opinion on the Nevada Electronic Legislative Information System, or send emails. We are going to power through and do the best we can to get through this bill. I will open the hearing on Assembly Bill 286, and welcome Assemblywoman Jauregui.

Assembly Bill 286: Prohibits certain acts relating to firearms. (BDR 15-21)

Assemblyman Wheeler:

Chairman Yeager, I have a point of order if you do not mind. We just received a 20-page amendment [[Exhibit C](#)] to this bill early this morning. I know none of the caucus members or I had seen it until we walked in. I am wondering if we could put this hearing off for 24 hours so we can actually digest everything in the bill and amendment.

Chairman Yeager:

I will note, Assemblyman Wheeler, the amendment was sent out to all members yesterday about 7:15 p.m., so it should have been in everyone's inbox for at least 12 hours. Unfortunately, we do not have the luxury of pushing up any hearings. I will ask you to do the best you can. I believe Assemblywoman Jauregui did send a summary of that amendment, and I believe she will go over that. I appreciate the request, but it is respectfully denied. We will move on with the presentation.

Assemblywoman Sandra Jauregui, Assembly District No. 41:

Once we get through the presentation, I will go through the four minor changes that the amendment [[Exhibit C](#)] makes.

I am here today to present Assembly Bill 286 for your consideration. In October 2017, my friends, my husband and I, and countless others were at the Route 91 Harvest festival when a gunman opened fire, killing 58 people, wounding nearly 500 others, devastating our city, and changing our lives forever. People were here visiting Las Vegas to have an exciting, fun, memorable trip only to experience the deadliest mass shooting in modern U.S. history.

While we have made progress in the years since then, we have also seen continued violent incidents that have left both Nevadans and Las Vegas visitors questioning the safety of our community. In 2020, during a three-month period from mid-July to October, we witnessed seven shootings, including a shooting in front of the Aria Resort and Casino, a handgun just discharging inside the MGM Grand on the casino floor, and a shooting outside the Miracle Mile Shops at Planet Hollywood. The Las Vegas Metropolitan Police Department (LVMPD) confiscated 64 guns on the Strip. Just last week, we saw a shooting and a murder at the Wynn Resorts' garage. Captain Dori Koren of the LVMPD said in a January interview to the

Associated Press that violent crime on the Strip rose significantly in September and the primary driver for this activity was related to a sharp rise in firearm-related incidents and aggravated assaults. I know LVMPD and the sheriff are doing the best they can to handle this uptick, but they simply need more tools.

In a post-COVID-19 world, we know we need to show visitors and residents alike that we are a place where they can forget about their problems, not come to find more. We know we need every selling point we can get to get our tourism economy back on track. This is why I am bringing forth A.B. 286.

I would like to break this bill into two sections. Part one is the business empowerment section of the bill, which covers sections 2, 8, and 9. Part two of the bill includes sections 3, 4, 5, and 7, and deals with the rising epidemic of unmarked, untraceable guns known as "ghost guns."

Part one of the "Keep Nevada Safe" bill strengthens existing law by empowering business owners to make the decision whether or not to allow armed individuals on their property. If an individual unlawfully trespasses while in possession of a firearm, this bill puts teeth into existing law and provides criminal penalties persons can face, ranging from a misdemeanor to a category E felony if they violate a business property owner's rights.

With your permission, I would like to turn the presentation over to John McManus from MGM Resorts for remarks on the business empowerment section of the bill, and then continue to part two.

John M. McManus, Executive Vice President, Secretary, and General Counsel, MGM Resorts International:

As we emerge from the COVID-19 pandemic and continue to reopen Las Vegas, it is absolutely essential that we address an issue that has emerged as increasingly concerning for the future of Nevada's economy: violence on the Las Vegas Strip. No sector in Nevada has been as negatively impacted by the pandemic as tourism and the hospitality industry, the economic backbone of the state's economy. Our industry's ability to recover will greatly depend on its ability to maintain and ensure the public health and safety of our guests, patrons, and employees. To be clear, this bill is not intended to limit any individual's right to bear arms in Nevada.

Private businesses already have the ability to prohibit the presence of firearms on their premises. This language simply enhances the business community's tool kit to notify patrons of this prohibition and to call upon law enforcement to assist and address situations before they escalate.

The intent behind sections 1, 2, 8, and 9 of Assembly Bill 286 is to promote public safety as well as cooperation between the Nevada business community and law enforcement agencies. I want to stress, businesses may opt in to firearm prohibition with exemptions, including but not limited to law enforcement and security personnel, certain hotel guests, and attendees of trade shows that feature firearms, which are a vital part of our economy.

In closing, the language is not intended to prevent any specific incident on the Strip, but rather to prevent the emergence of the culture that invites violence on the Strip. It is essential that we signal to our customers all over the world that Las Vegas is the safest place to be. I would be happy to answer any questions at the appropriate time during the hearing.

Assemblywoman Jauregui:

We will be moving to part two of the bill, but first I would like to thank Mr. McManus for mentioning what I had left out, that this is an opt-in policy for businesses. Part two of our bill, sections 3, 4, 5, and 7, deal with the rising epidemic of unmarked, untraceable guns, also known as ghost guns. Ghost guns are growing in popularity because they circumvent background checks and are untraceable. These types of guns are manufactured in homes and also sold online as kits that are often easily assembled and, if they are used in a crime, law enforcement has no way to trace them because they do not have serial numbers.

In 2020, agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) within the U.S. Department of Justice, raided a Nevada-based company, Polymer80, Inc., one of the nation's largest manufacturers of ghost guns. Polymer80 was illegally manufacturing and distributing firearms, failing to pay taxes, shipping guns across state lines, and not conducting background checks. Last September, two deputies from the Los Angeles County Sheriff's Department were shot while sitting in their patrol vehicle by a man using a gun he built with parts from a Nevada company, Polymer80.

I would now like to turn it over to David Pucino, followed by Stephen Lindley and Emily Walton, for further remarks.

David Pucino, Senior Staff Attorney, Giffords Law Center to Prevent Gun Violence:

Giffords Law Center to Prevent Gun Violence is the legal arm of the organization founded by former Congresswoman and gun violence survivor Gabby Giffords. As the Assemblywoman said, I will be speaking to part two of A.B. 286 concerning ghost guns.

Ghost guns evade our gun laws by ingeniously exploiting a loophole in the way the federal government regulates firearms. Firearms are made up of a number of different components, but only one of these components is subject to regulation. That part is generally called the "frame" in the case of handguns and the "receiver" in the case of long guns. When individuals buy a traditionally manufactured frame or receiver, they are subject to a background check. It will come with a serial number and other markings that uniquely

identify it, and records of the sale will be made and kept. This process confirms that the buyer is legally allowed to possess firearms. It also enables a process called tracing, which is a critical tool for law enforcement in gun investigations because it allows them to connect a recovered firearm to its retail buyer and back up the supply chain.

Ghost guns evade all of these regulations. Companies sell a frame or receiver that has not quite been fully manufactured and, as a result, the federal government does not classify it as a firearm. There is no background check, there is no serial number, and there are no records. They are untraceable and are often sold with all the guides, tools, and parts needed to produce a fully functional firearm with no particular training or experience. As a result, they are a ready way for people who are not allowed to buy a gun to legally obtain one, nevertheless. They have been used by such individuals who are prohibited because of felony convictions or because they are underage in acts of mass violence, including at the Santa Monica College and Saugus High School in California.

Ghost guns have become so pervasive in California that according to the Bureau of Alcohol, Tobacco, Firearms and Explosives, one in three guns they recover there is a ghost gun. While the problem of ghost guns first emerged in earnest in California, it is rapidly spreading across the country. City after city are reporting massive increases in the number of ghost guns they are recovering. This disturbing trend has redoubled in the pandemic year, as ghost gun sellers have reported they are selling so many, they are having trouble keeping them in stock.

To give you just one example from this week, Pennsylvania Attorney General Josh Shapiro announced the number of crime gun recoveries of ghost guns in Philadelphia has increased massively in the last couple of years. In 2019, there were 99 recoveries in Philadelphia. In 2020, there were 250. In 2021, they are on pace for 600 recoveries of ghost guns connected to a crime.

This pattern is being felt across the country. Precisely because these products evade federal regulation, we do not truly know how many ghost guns are out there. What we do know is part of the reason for this explosion of ghost guns is they are highly attractive to gun traffickers. There is no need to recruit a straw purchaser with a clean record to purchase a gun from a gun dealer. There is no need to travel to different dealers to disguise buying patterns. There is no need to worry about paperwork that will link the guns back to the purchase. They are easy to obtain and untraceable. It is no wonder that when law enforcement uncovers trafficking rings, they are often finding ghost guns, including in Nevada, where one trafficking ring was using ghost gun products to manufacture untraceable machine guns.

For all of these reasons, it is my belief that ghost guns pose the fastest-rising threat to gun safety in this country. Assembly Bill 286 will address this growing crisis by cutting off the supply of ghost guns at its source. Section 3 of the bill would prohibit the unfinished frames

and receivers that are designed to avoid federal regulations. Sections 4 and 5 will address the manufacturer's possession and sale of the completed weapons. Together, this bill gives law enforcement the tools it needs to stop the flow of these parts to traffickers who are flooding the streets with untraceable firearms.

I also want to note what this bill will not do. It will not affect the manufacturing activities of firearm manufacturers that produce and sell traditional, traceable firearms, as there is an exception for licensed manufacturers. It will not prohibit the activities of hobbyists or scratch-build enthusiasts who build historically accurate firearms, as there is an exception for antique firearms, which includes replicas of weapons made before the twentieth century. It will also not prevent gun enthusiasts from assembling and customizing legally owned, traditionally manufactured firearms. Anyone who is legally allowed to possess firearms will still be able to purchase a serialized frame or receiver and build a firearm around that traceable component.

Lastly, I want to note that this bill will not immediately criminalize anyone who currently possesses these untraceable firearms. There will be a grace period that allows individuals to sell out of state, to surrender, or to render inoperable their untraceable firearms by January 1.

I want to thank you again for the opportunity to present to you today. I believe Mr. Lindley will be presenting next.

Stephen J. Lindley, Program Manager, Brady Campaign & Center to Prevent Gun Violence:

I would like to go through a short tutorial about exactly what a ghost gun is, how they are being sold, and some of the impacts for the law enforcement community. I am a 28-year veteran of law enforcement in California. Between 2009 and 2018, I ran the California Department of Justice, Bureau of Firearms.

This PowerPoint presentation [[Exhibit D](#)] deals mainly with federal law. Essentially, an 80 percent receiver is the frame of a firearm that is manufactured just below the level of completion that would require it to be considered a firearm under ATF regulations [page 2]. The ATF does have some discretion in how they look at what is and what is not a firearm and those laws impact the rest of the United States, not just particular states. Because it is not a firearm, it is not required to be serialized and not subject to any form of background check under the federal guidelines. With that, if there is no background check and no serial number, it cannot be traced in a crime. Hence, the term "ghost gun." It really does not exist in government entities, and law enforcement has no authority to find out where that gun came from when used in a crime.

Why is it a problem [page 3]? It circumvents almost all state and federal firearm laws, and if we do not have a background check, that equals big problems for not only the federal government, but for the states because we cannot keep these firearms out of the hands of

prohibited people, criminal gang members, narcotics traffickers, or people who are just prohibited from purchasing firearms because of domestic violence or mental health issues. We have seen these firearms being used by these individuals throughout the United States, including Nevada.

There are really two types of ghost guns. Again, this problem, as Mr. Pucino said, started in California as a way to get around California's assault weapon laws. These are pictures [page 4] taken at a gun show in California in late 2019. On the left is a traditional lower receiver for an AR-15, but it is in a ghost gun configuration. As you see, there is a magazine well in the middle picture, but there is no trigger mechanism; that is basically cut out of the firearm. This is sold for \$120. Oftentimes, when they sell these, it is cash and carry, no background checks, no license checks, and no age verifications. These are available to be purchased by individuals under the age of 21, depending on the state, and even under age 18. They can also be easily purchased online. The picture on the right is a different configuration that can be purchased even at a California gun show. It shows it in a pistol format AR-15 to a regular AR-15 configuration.

According to the ATF's 2018 Firearm Tracing Report for Nevada [page 5] that was released in 2019, Nevada recovered and traced a little over 1,000 long guns, of which assault weapons were a small percentage. However, there were over 4,500 handguns recovered at Nevada crime scenes. That is where we start to see the change with the ghost guns going from the assault weapon platform to the handgun platform. Assault weapons are used in most mass shootings. However, they are not as prevalent in day-to-day crimes as handguns are. That is not only a trend in Nevada, but it is pretty much a trend throughout the nation.

The picture on the left [page 6] are Polymer80 pistols in the ghost gun configuration. They are being displayed in a gun show but are not put together. However, the box underneath contains the rest of the components to put the gun together. In a subsequent gun show that had no regulations or enforcement from ATF or from the California Department of Justice, the vendor started putting them together with zip ties and rubber bands in order to show how they would actually look when they are put together. The picture on the right is the completed kit. As Mr. Pucino said, everything is in the kit made by Polymer80 to put the gun together: all the components for the firearm, along with the jig in order to drill the holes, and the materials in order to shave or sand off certain components that would bring it into a configuration to be a firearm.

This is a report on some of the California statistics [page 7, [Exhibit D](#)]. The ATF is reporting that in California alone, about 30 percent of the firearms they recover are considered ghost guns. Looking at the problem in 2000, there were zero. In 2010, there were a few being recovered. Now, ghost guns amount to 30 percent of all firearms that ATF is recovering. The City of Los Angeles Police Department recovers a large number of firearms and is reporting approximately 40 percent of the firearms recovered are considered ghost guns. That prompted the Los Angeles City Attorney, Mike Feuer, to sue Polymer80 over its business practices in providing firearms to the general public that are being used more and more during criminal activity.

Some of the things different states have done in order to address this problem include California passing Assembly Bill 1673 in 2016 [page 8]. The bill was vetoed by Governor Brown at the time. That would have stopped the problem in California before it got out of control. We missed that opportunity. In 2019, Assembly Bill 879 was passed and signed by Governor Newsom [page 9]. It originally was not going to take effect until July 2025. We were able to provide a large amount of money to the California Department of Justice to move up the implementation date. That will provide the ammunition and background check process California has toward the precursor parts of the ghost guns. However, that is not nearly as good of a background check that California does for most firearms, or even what the federal government does through the National Instant Criminal Background Check System (NICS) process.

Pennsylvania's Attorney General Josh Shapiro, in 2019, saw this as a growing problem and classified ghost guns as firearms that would require a background check [page 10]. Even that has not stopped some of the problems in Pennsylvania because the guns are so easy to traffic because there are no serial numbers.

Washington, D.C., having significant crime problems, especially with firearms, decided to take action in March 2020 because there was a growing problem with ghost guns [page 11]. In June 2020, Rhode Island passed a bill banning so-called ghost guns, making it illegal to manufacture, import, sell, ship, deliver, or possess them in Rhode Island [page 12]. Again, Washington, D.C., in June 2020, tried to take a more aggressive action by suing the manufacturer, Polymer80 [page 13]. That has been somewhat of a trend from other states and cities specifically targeting Polymer80, where the ghost guns are manufactured in Nevada. New York also took action [page 14]. We can see states and cities trying to avoid this problem or address it before it becomes too big of a problem.

This is the Polymer80 [Mr. Lindley held up an example]. These can be purchased at brick-and-mortar stores, and they are very prominent at gun shows, not only in California and Arizona, but Nevada as well. It comes with all the pieces needed. This is a jig [example shown]. It is hard to see on video. The kit provides a tutorial about what pieces need to be removed with a sandstone or by cutting. There are six holes to drill and a piece to snap off in the middle. That is all it takes to make an 80 percent lower receiver into a lower receiver that would then, under federal law, need to be serialized. All the pieces and tools come in the kit, including the barrel and the slide. This kit was purchased for \$400 cash at a Ventura, California, gun show in February 2020. It was a banner sale at this particular vendor. There were individuals under 21 years of age purchasing them. In California, individuals cannot purchase a handgun if they are under age 21. There was at least one individual who was clearly under 18 who purchased a kit. It is only cash and carry. The vendors do not provide receipts. This looks like an opportunity to have firearm trafficking because there are no regulations behind it in most states, and there are no background or identification checks.

As Mr. Pucino said, this is becoming more of a problem. In 2019, three California Highway Patrol officers were shot; one unfortunately died. The shooter was an ex-felon who possessed an AR-15-style ghost gun, which he was able to get because there are no background checks. In Sacramento, another officer was killed with an illegal ghost gun that was purchased by an individual who was prohibited in California from having a firearm. He made it into a full weapon and killed an officer. Most recently, there were two deputies in Los Angeles who were ambushed outside of a rail station. Again, that individual had a ghost gun. That prompted the City of Los Angeles to take action and move forward with a lawsuit against Polymer80, which is located in Nevada.

That is the end of my presentation, but I will stay on for any questions you might have about ghost guns, specifically. This is becoming a bigger problem and, because they are not serialized, there is nothing law enforcement can do to trace these back to the individuals who originally purchased them or to the manufacturers. That is a huge problem when it comes to investigations of serious crimes, specifically shootings and homicides.

Chairman Yeager:

Mr. Lindley, would you please email your presentation to our committee manager? I do not see that we have it uploaded on our website, but I think it would be useful to have it as an exhibit [[Exhibit D](#)]. We will have a little more testimony before I open the hearing for questions. Ms. Walton will provide additional testimony.

**Emily Walton, Regional Director, State Affairs, Everytown for Gun Safety; and
Member, Moms Demand Action for Gun Sense in America:**

Our partners in this movement have done a great job demonstrating the problem with ghost guns. When it comes to gun violence, the rise of ghost guns is the fastest-growing gun safety problem we have seen in years. During the pandemic, due to panic buying, ghost gun building blocks have been flying off the shelves.

Making a ghost gun only takes a few hours, and the ATF has allowed the core building blocks for these guns to be sold online with no background check or serial number. This means that ghost gun building blocks can be delivered right to the front door of a convicted domestic abuser, a gun trafficker, a child, or a white supremacist, without a background check. They are untraceable if later used to commit a crime.

Over the last decade, nearly 2,500 ghost guns were connected to criminal activity in 102 federal cases. We urge you to support this bill.

Chairman Yeager:

Assemblywoman Jauregui, I will hand it back over to you for some remarks on the bill itself, and then we will open it up for questions.

Assemblywoman Jauregui:

I want to take this opportunity to walk the members of the Committee through the slight changes in the amendment [[Exhibit C](#)] I submitted yesterday evening. There are no substantive changes to the bill, but there are minor clarifications. We are changing section 2, subsection 7, paragraph (d), subparagraph (1), sub-subparagraph (III), "including all tenants and business establishments located therein:". We are also adding the word "authorized" in front of "agent" throughout the bill.

We are changing section 2, subsection 2, paragraph (a), so the "opt in" is accomplished by posting a sign on the premises. We are also adding to section 2, subsection 5, paragraph (b), subparagraph (1), "or a security officer of the covered premises" as an exemption. We are changing references from handguns to firearms throughout the bill. We are also adding section 2, subsection 5, paragraph (b), subparagraph (4), to expand the exemption language for employees or operators of a trade show to hold or transport inoperable firearms.

We are now available for questions.

Chairman Yeager:

I know we are going to have a number of questions. Before we start, I would like to ask a clarifying question to make sure I understand what this bill is trying to do. Like many Committee members, I have received quite a number of emails about the bill. I want to confirm that this bill is talking about a covered premises, but nothing in this bill requires a covered premises to adopt a policy outlawing firearms, and even if the policy is adopted, nothing requires the premises to enforce the policy. The reason I ask that is, in section 2, subsection 6, on page 7 of the amendment [[Exhibit C](#)], my reading of it is this is essentially an opt-in sort of scenario for the covered premises.

I just want to make sure I understand that correctly because I have been getting a lot of communications that seem to indicate there is going to be an outright ban on everything this bill defines as a covered premises. Could you address that issue, please?

Assemblywoman Jauregui:

You are correct. Section 2, subsection 6, paragraph (b), states nothing in this section shall "Require an owner or operator" This is not a mandate on small businesses. It is simply an opt-in policy that a business can choose to opt in to.

Chairman Yeager:

Before we go to questions, I want to let members know that the presentation of that bill took about 30 minutes. I have reserved 30 minutes for us to get through questions. I do not know if that is going to be adequate, but we are going to do the best we can because I want to make sure we get to testimony on the bill. Please try to keep your questions as concise as possible. Assemblywoman Jauregui, when a question is asked, I will simply go to you to answer the question or you can invite one of the other presenters to answer it. We will start the questions with Assemblywoman Cohen.

Assemblywoman Cohen:

My question is in regard to the covered premises. Is there no pre-notice? If there are individuals coming from out of town and are used to carrying a firearm, when they arrive at the covered premises and see the sign, they have travelled a great distance and now do not have a place to stay. Would you consider requiring that covered premises post that information on their website when reservations are made so we are accommodating people to make sure they have knowledge before they travel?

Assemblywoman Jauregui:

This is the minimum that the covered premises have to do. At a minimum, they have to provide notice by posting a sign at their facility if they are deciding to opt in. If covered premises decide to do anything on top of that, such as providing notice before someone makes a reservation, it is up to the covered premises. What this bill is outlining is the minimum of what covered premises have to do if choosing to opt in to this legislation.

Chairman Yeager:

Assemblywoman Cohen, did that answer your question?

Assemblywoman Cohen:

It did, but I still have some concerns about individuals having no notice prior to arriving at the premises. My only other question is on page 4 of the bill on line 32 regarding guests provide written notification. I want to clarify if that could be by email as opposed to written paper.

Assemblywoman Jauregui:

Those are great suggestions, Assemblywoman Cohen. I would be happy to work with you after the hearing on suggestions you think may improve the intent of the bill.

Assemblyman Wheeler:

My first question is for Mr. Lindley. The kit guns you called ghost guns are used by a lot of hobbyists. Under federal law, those are quite legal, so outlawing them in Nevada, as this bill tries to do, basically puts a company in my district out of business. People can still go outside and buy these federally. If this is such a good law, should it not go to Congress and not to the state level, one at a time? My second question is regarding liability protection on the other side of this bill by outlawing guns. I see a lot of problems there. For businesses that opt in to this legislation, would there be a requisite for them to provide security or liability protection for people who can no longer protect themselves in an environment where, as we have seen so many times before, concealed weapons holders have been able to protect themselves when a bad guy comes in with a gun?

Steve Lindley:

It would be better if this were addressed on the federal level. The ATF has the ability to deal with this through a regulatory process. However, that is not currently taking place, so states, counties, and cities are addressing it individually. It makes for some differences between

what might happen in California compared to what might happen in New York, Pennsylvania, or Washington, D.C. All of these states and cities are trying to address the problem we see with the ghost guns and the easy access that criminals have to these firearms.

Assemblyman Wheeler:

We are going to drive a company in my district out of business, but people can still buy them in Kentucky. Maybe my constituents can move there and make solar panels.

Assemblywoman Jauregui:

Assemblyman Wheeler, I think you had another question directed toward me. Could you repeat it for me?

Assemblyman Wheeler:

What liability protections and security requirements are going to be required when businesses opt in to this legislation because licensed carriers can no longer carry in these areas?

Assemblywoman Jauregui:

I would be happy to have discussions with you after the hearing regarding liability. Carrying a concealed weapon or carrying an armed weapon does not necessarily mean individuals are fully protected. I would remind you, the man who was killed at the Wynn garage was also armed.

Assemblyman Wheeler:

What you are saying is there is no liability protection?

John McManus:

Business owners and property owners already have duties under common law to provide safe environments for their business invitees. I do not see that changing. It is a matter of what is reasonably foreseeable under the circumstances. I suspect, at least in a casino environment, any casino that chooses to opt in will already have extensive security plans and provisions for that sort of thing. I think it is probably adequately addressed under existing common law.

Assemblyman Wheeler:

I would agree with you regarding a large business like yours. I am talking about a 7-Eleven or even a political gathering somewhere. Those businesses cannot afford that type of security.

Assemblywoman Jauregui:

This is an opt-in policy, so businesses can choose to opt in. There are already a few properties that do not allow firearms on their premises. This is already existing law.

Chairman Yeager:

We will move on to other questions at this time.

Assemblywoman Hansen:

I think you have touched on some of this already. My question concerns section 2, subsections 2 and 5. In relationship to concealed weapons permit holders coming to a property that has opted in, do they need to have permission to have their weapon to stay in the hotel?

Assemblywoman Jauregui:

Yes. If property owners opt in to this piece of legislation, they would have to provide notice. That would apply to everyone carrying a firearm, unless they have written notice from the property owner that they are allowed to be in possession of a firearm while on the property.

As we look at the Las Vegas Strip area, this is already common practice. All the MGM properties prohibit people from being on their properties with a firearm. In 2020, we saw the Wynn Resorts start implementing the same policy and they installed metal detectors upon entry to the property. This already applies in current day to people who are openly carrying and people who have concealed weapons permits.

Assemblywoman Hansen:

For existing law, how are concealed weapons permit holders handled who come to a property? They cannot take their weapon inside but have to keep their weapon in the vehicle that is parked on the premises. Are those individuals now in violation and would perhaps be guilty of a misdemeanor because they have mere possession somewhere on the premises? If they are in the habit of keeping their gun in their car because of where they might be travelling, but then go to a property that has opted in and does not allow weapons, what happens to those permit holders who have a weapon in their car because they cannot bring it into the building? Do they need to park their car off the property? How do we handle it now?

Assemblywoman Jauregui:

They have to have written permission from the property to have a firearm on the property if it is a property that has opted in to this legislation. As to how it is handled now, I am not sure. Mr. McManus, can you speak to how it is handled now?

John McManus:

This is a situation we currently deal with. The law-abiding citizen, typically individuals who have a concealed carry permit, read the policy and see the notification as they enter the property, and realize firearms are prohibited. We frequently check in guns through our security department and keep them in a safe while the guests stay with us. This bill is designed more for the person who is not law-abiding. I think some of the suggestions or scenarios outlined in the question are probably good points for discussion. We want to discourage people from bringing firearms onto the property and possessing them while on the property. If there are reasonable modifications to the bill that permit people to store them in a vehicle—which I do not know if that is desirable—or checking them in with a property that prohibits them, they would be worthy of a discussion. As I said, it is a scenario we already deal with.

I do not know if that was responsive or helpful, but I am happy to expand if necessary.

Assemblywoman Hansen:

I think the difference is now the first offense is a misdemeanor. The second offense is a gross misdemeanor. For concealed weapons permit holders who are new to Nevada and realize they cannot have it in the hotel, they may leave it in their cars. I am worrying about the punitive side of the legislation as well as some other things.

Assemblyman O'Neill:

If this is opt-in legislation and we already have a law that private businesses can refuse entry to individuals with a firearm, why do we need the first section of this bill?

Assemblywoman Jauregui:

If someone is trespassing with a firearm on property that has opted in to this legislation, it gives businesses the opportunity to lean on law enforcement for removal of that person.

John McManus:

That is exactly right. Currently, although property owners are permitted to exclude people with guns or set other rules to exclude people, there is really no teeth to it. There is probably not a lower priority for law enforcement than someone violating a trespass notice. Again, as we think about the bill and the possible enforcement, there is also discretion among law enforcement and prosecutors on what to pursue. The person who innocently brings a firearm onto the property, learns of the rule, and then tries to do the right thing to figure out what to do with it is probably very unlikely to be prosecuted. However, the person who brings a weapon onto a property, tries to conceal it, and is aware of it, this law gives the business owners teeth to deal with those individuals. Up and down the Strip, I do not know if I am aware of a property that does not have a sign on the door indicating firearms are prohibited. We saw what happened this summer when we had certain parts of the criminal element deciding the Strip was a good place to hang out when everything else was closed and they were bringing weapons freely. All businesses could do was ask them to leave. They would come back the next day or later the same night. There is not much that can be done.

At least by putting some criminal sanction behind the law when it is knowingly violated, in my estimation it decreases the likelihood that someone who might not be setting out to commit a crime, such as robbery, but is carrying a weapon for less than honorable reasons might decide it is not a good idea to bring a weapon into a casino or somewhere else where there is a potential criminal sanction. In other parts of the country, including in the West, there are laws that prohibit possession of firearms in places that serve alcoholic beverages. It is really designed to lower the risk of a bad outcome when someone who might lawfully own a weapon but does not possess it for a good reason and brings it to a property where the property owner does not want it.

Assemblyman O'Neill:

Not to sound argumentative, Mr. McManus, but what I am hearing is there was an increase in crime along the Strip. The LVMPD has increased their presence on the Strip, and I believe some of that crime has dissipated. Are you saying that for the casinos along the Strip, if there were a person who was told to leave and was criminally trespassing, the LVMPD would not respond?

John McManus:

I am saying a trespass violation is a relatively low priority for law enforcement. I am not a member of law enforcement. I think there are some members of law enforcement testifying later today. It is not a high priority. The reality is, when these calls are made, it is usually individuals who are causing a disturbance or trouble or doing something suspicious that causes the businesses to do more than simply ask them to leave. When those individuals leave, it is usually fine. However, when they do not leave, at that point they have committed a crime and it gives law enforcement greater basis to interact and question them to determine what their intentions are or what the purpose of having the weapon on the property is. Right now, if they decide to walk out the door, that is where the interaction ends. All you can do with a current trespass is ask someone to leave. There is no other sanction. I do not know if that is helpful or not. I think your question might be better directed to law enforcement.

Assemblyman O'Neill:

I did 40 years in law enforcement. I am currently authorized, under federal law, H.R. 218, to carry a firearm, which will lead to my next question. Is this going to bring confusion about walking down the Strip, going to one place that allows and another that does not? When can I carry? It is a federal law. Are we trying to solve an issue in Las Vegas on the Strip that is going to influence Elko, Tonopah, et cetera?

Unfortunately, I regularly run into people who I have arrested here in Carson City. I may or may not carry, but I feel now I am going to run into people who have threatened me. I put some in custody who, if they ever escape, I will remove my family because they have vowed to kill me. I feel like I am losing the protection I have that is given to me by the federal government. That is more of a statement, if you would like to comment.

I do have a question for Mr. Lindley on the various laws throughout the country.

Assemblywoman Jauregui:

This is in no way prohibiting you from carrying with your concealed carry permit. This in no way stops what you currently do. The only change this is making is that for businesses who choose to opt in to this piece of legislation, some of whom may already have the practice of prohibiting firearms on their property, it changes a trespass into a criminal trespass in order for them to lean on law enforcement. It puts teeth behind an already-existing policy. This in no way impacts you in your current day-to-day practice.

Assemblyman O'Neill:

We may agree to disagree. I understand part of your answer. However, when I am in those buildings where the company has said I cannot carry and run into a group of people, I do feel threatened and concerned for my safety. There are things other than firearms that are extremely dangerous weapons.

Mr. Lindley, regarding the various laws you mentioned throughout the various states, the most famous is to always pick on Illinois and Chicago, where there are some of the strictest gun laws among the states. Have any of these laws decreased gun violence? I look at Chicago every week and it outnumbers every other state in shootings, let alone homicides.

Steve Lindley:

Chicago and Illinois have some unique issues they have to overcome, especially with the surrounding states and localities that have very lax gun laws compared to the city of Chicago. What we have seen in California is over the last 20 years with stricter gun laws, there has been a reduction in overall firearm violence. We also have to talk about suicides as well as firearm violence. California has seen a sharp decrease over the last 25 years when it comes to suicide with the use of a firearm.

Assemblyman O'Neill:

Could any of that be attributed to awareness, mental health facilities, and suicide hotlines, or are you strictly saying the restriction of firearms has decreased suicides by firearm?

Steve Lindley:

I do not think there is any one piece of the puzzle that is going to solve the problem. I think it is a conglomeration of issues. The first part is for people to admit there is a problem and seek different strategies in order to solve that problem, reduce victimization, reduce suicides, and overall, reduce gun violence in communities.

Assemblyman O'Neill:

Mr. McManus, I may be talking to you offline if I may, please.

John McManus:

Absolutely.

Chairman Yeager:

I would certainly encourage members to ask questions offline. This is the first step in this process. Assemblywoman Jauregui is available, and I am sure the other presenters are available as well. I would certainly invite you to do that. We will continue with questions.

Assemblywoman Marzola:

I think others have made this point. In your amendment, section 2, subsection 1, it says, "A person shall not possess a firearm on a covered premises without the written consent" That is already in statute, is that correct?

Assemblywoman Jauregui:

Mr. McManus, under our property policies, if people are provided with written consent, can they be in possession of a firearm currently?

John McManus:

Under Nevada law, if people have a proper permit, they can carry a weapon onto a property. However, property owners have rights as well, and they can exclude people if they do not follow various rules. Property owners are permitted to establish a rule that firearms and weapons are not permitted on the property. People can be excluded through general rights as a property owner, but to my knowledge, there is nothing in Nevada law that stops people from carrying a legal firearm into a casino environment.

Assemblywoman Jauregui:

Do property owners give written permission? I think that was part of Assemblywoman Marzola's question.

Assemblywoman Marzola:

I can clarify that because I may be reading it wrong. This is definitely a new space for me. *Nevada Revised Statutes* (NRS) 202.3673, section 4(d) states the provisions do not prohibit "A permittee from carrying a concealed firearm while he or she is on the premises of the public building if the permittee has received written permission from the person in control of the public building" The law is already there, correct?

John McManus:

I am not familiar with the provision you just read. Is it a criminal provision?

Assemblywoman Marzola:

It is who is authorized as a concealed carry permit holder. If people are licensed holders of a concealed carry weapon (CCW) permit, do they know the dos and don'ts, such as not carrying a gun to a public school or a public airport, and cannot go onto a premises without written permission? Would CCW holders already know those set of rules?

Assemblywoman Jauregui:

I think it is the responsibility of the people who carry guns to be familiar with the laws of the state, not just those who are licensees, but those who openly carry as well.

Chairman Yeager:

In order to get a CCW in Nevada, a course is required that includes a live training element. There is also a classroom portion of the course, and part of the classroom portion covers where people can and cannot have firearms in Nevada, as well as when they can act in self-defense, which is always a difficult area and very factually specific. That area is covered in CCW courses. I would anticipate, if we were to process this legislation and make changes, the curriculum would be adopted. However, I do remember very clearly that part of the

training is that people have an obligation to be familiar with the laws of the state, not just Nevada but when travelling out of state. That information is available for CCW holders. What they might do after the course and whether they retain that information is another question, but it is typically provided at the time of the course.

Assemblywoman Jauregui:

That is what I was trying to get at. If I have a license, I should already know the rules. I appreciate your input, Chairman Yeager.

Chairman Yeager:

We will continue with more questions.

Assemblywoman Hardy:

My question is regarding the permissions. If CCW holders want to get permission, who would they ask? Would it be a manager? Who keeps the written permission? Is it the individuals or the property owner? Does it have to be done every time they go back to the property?

Assemblywoman Jauregui:

Those seem like appropriate questions to ask and reasonable modifications we can make. What will that company's policy look like? What this legislation does is add a criminal component so properties can rely on law enforcement if someone is criminally trespassing. If we need to add more clarification in the legislation to make members feel more comfortable as to what written notification will look like, we can do that. Assemblywoman Cohen suggested using emails. Will written permission be a single use or multiple use? What those written permissions will look like is something I am willing to work with you on as well.

Assemblywoman Hardy:

Going through the list—a golf course, a movie theater, and shopping malls—a regular citizen would be running around trying to get permission from these properties. I think it could be very confusing. I have one more question. It mentions law enforcement officers and security officers can carry a firearm as part of their official duties in an official capacity. Does that mean if the law enforcement officer is off duty, they would not be able to have their weapon?

Assemblywoman Jauregui:

That is a great clarification. In the current language, it currently states that law enforcement officers acting in an official capacity and any hired armed security guards are exempt. Currently, if they are not acting in an official capacity, they would not be exempt.

I did get some clarification on the NRS section Assemblywoman Marzola referenced. That provision only applies to public buildings, not private buildings.

Chairman Yeager:

At this point, I am going to stop taking questions. I realize there may be more out there, but I do want to invite members to follow up after the hearing. It is important to me that we get through as much testimony as possible on this bill. Given the time, we will take 40 minutes of testimony in support, 40 minutes of testimony in opposition, and 10 minutes of testimony in neutral because we only have two people signed in as neutral. We will then go to concluding remarks.

Before we get to testimony, I just want to remind everyone to limit your remarks to two minutes. That is so we can get through as much testimony as possible. If you are agreeing with things that have been said, it is perfectly fine to indicate that. You do not need to use the entire two minutes. Please keep your comments to the policy that is in the bill. I understand this is an issue folks are passionate about, but we need to make sure we are being respectful of one another. It is my job as Chairman to make sure we have a fair and respectful hearing. All of you can help out in that process today.

I will open the hearing for testimony in support of Assembly Bill 286. I will take testimony from those individuals on Zoom. Mr. Mason, we will take your testimony first.

Todd Mason, Director, Government Affairs, Wynn Resorts, Ltd.:

I only wish to echo the comments Mr. McManus made in support of the bill. I would also like to thank Assemblywoman Jauregui for taking on this issue.

James Sullivan, representing Culinary Workers Union Local 226:

The Culinary Workers Union Local 226 supports A.B. 286 because allowing firearms in our casinos and hotels is a worker safety issue. While the Culinary Union supports legal and responsible gun ownership, we also believe all workers deserve to be protected from gun violence at work, and A.B. 286 will help make that a reality.

Assembly Bill 286 would not discourage or prevent legal gun ownership. Rather, the bill includes commonsense measures that give businesses the option to protect their employees and guests from gun violence in their own facilities.

During the October 1, 2017, mass shooting, thousands of Culinary Union members saw firsthand the effects of gun violence. Five Culinary Union members were injured in the mass shooting, and countless other workers suffered post-traumatic stress disorder (PTSD) after the tragic incident. The Culinary Union wants to ensure that no other hospitality worker ever has to experience that trauma again.

Gun violence on the Las Vegas Strip and downtown could also threaten the economic recovery Nevada desperately needs. On the one-year anniversary of COVID-19, the Culinary Union still has approximately 50 percent of workers unemployed as the state's number one industry. Hospitality was hardest hit during this pandemic. Economic recovery will not be possible without workers getting back to work and being safe while at work. Assembly Bill 286 will protect workers and accelerate Nevada's economic recovery.

Lastly, I would like to say that we fully support Assemblywoman Jauregui's amendment to the bill for trade shows. That is a big part of our support going forward. The Culinary Union urges you to support and pass A.B. 286.

Chelsea Parsons, Vice President, Gun Violence Prevention Policy, Center for American Progress:

I am here today to express our support for A.B. 286 and to urge its swift passage. Nevada has been the site of both tremendous tragedy and significant progress when it comes to gun violence. Las Vegas was the site of the worst mass shooting in modern U.S. history. The state was home to one of the most notorious standoffs between armed, violent extremists and federal law enforcement officers, an event that foreshadowed the recent rise in violent anti-government extremism. Nevada experiences some of the highest rates of gun violence in the nation, with the fourteenth-highest rate of firearm deaths from 2009 to 2018, and has a gun suicide rate that is 60 percent higher than the national average.

However, Nevada has also been a great spot on the map when it comes to enacting strong new gun laws in the wake of tragedy. Assembly Bill 286 will continue to build on this progress and address two significant gaps in state law that continue to leave Nevada communities vulnerable to gun violence.

First, the bill will ban ghost guns—homemade guns that are untraceable and can be acquired without a background check. The easy availability of parts, kits, and online instructions to make guns at home without a background check undermines the law requiring background checks for all gun sales that was enacted by voters just a few years ago. These guns, which are indistinguishable in function from completed firearms that are purchased from gun dealers, are made without serial numbers or other identifying markers. That means they are untraceable if they are used in violent crimes, making it much more difficult for law enforcement to identify perpetrators. Ghost guns are yet another example of the gun industry's innovation to increase its profit at the expense of public safety. Like bump stocks, the dangerous gun accessory that was used in the 1 October shooting, ghost guns pose a risk to Nevada communities and should be banned.

Second, A.B. 286 would give local Nevada businesses and other premises the ability to choose to prohibit guns on their property. This provision is quite simple: it affords the covered premises the freedom to be able to control whether guns may be brought onto the property. It is not a mandate. It creates an opt-in system that leaves the decision solely to the owner of the business. Businesses and other premises across the state have widely different needs and safety concerns and this measure will simply allow them to make their own decision regarding firearms on the premises on an individual basis.

Both of the provisions in this bill are narrowly tailored to address specific public safety concerns and are well within the scope of permissible constitutional regulation of firearms as articulated by Justice Scalia in the *Heller* decision [*District of Columbia v. Heller*, 554 U.S. 570 (2008)].

I want to thank Assemblywoman Jauregui for her leadership on these issues and the members of the Committee for allowing me the opportunity today to express our support for A.B. 286.

Annette Magnus, Executive Director, Battle Born Progress:

Today, I am here as a proud second-generation native Nevadan, a gun owner, and to represent the 20,000 subscribers to our Battle Born Progress network statewide. We have been consistent on this issue. Better gun laws are needed for the state of Nevada, and today, you heard the facts that back that up. That is why we support A.B. 286, and we thank the Assemblywoman for her continued courage and leadership on this issue.

So much has happened since the last time I testified on a bill like this. A year ago today, I was feeding people out of my garage and watching a global pandemic sweep through our communities. Today, what we have seen because of that pandemic and the political discourse is that panic buying of weapons all across this country and right here in Nevada is out of control.

Nevada is also, tragically, the site of the worst mass shooting in modern history. With this bill, we can finally address that shooting in a real way. The very least we can do is allow businesses and other places in our community to opt in if they do not want guns on their property. We have seen countless incidents on the Strip, including one at the Fashion Show Mall the day the SHOT Show started across the street. What message does that send to people who are visiting our state?

This bill will also stop the proliferation of ghost guns, a troubling new trend among violent extremists and those who seek to skirt other gun safety laws—that we have worked hard to help pass in Nevada—or simply traffic guns in our community. Assembling unfinished gun parts without serial numbers allows for untraceable deadly weapons to end up in the hands of those who should not have them.

Today, you will hear arguments that this somehow takes away the rights of gun owners. As a gun owner, I reject that. These are deeply flawed arguments. Supporting better gun laws makes me a better gun owner. I did not buy my gun from a shady Internet company. I went to a local gun store and I passed a background check. If you follow the rules, this bill will not impact you at all. As a gun owner, I make it a priority to know the laws of this state and follow them. My homeowners' association has a sign on the door that states I am not allowed to take my gun inside. Therefore, I do not take my gun inside. It is that simple.

There is overwhelming support for these policies in Nevada and across the country, as polling has consistently shown us. Nevadans want and expect you all to enact stronger gun laws during this session, and we are asking all of you in this body to support this critical bill today.

Chairman Yeager:

I do not see any additional testimony in support on Zoom. Are there any callers on the phone line who wish to make testimony in support of A.B. 286?

Elizabeth Becker, Volunteer, Nevada Chapter, Moms Demand Action for Gun Sense in America:

I would first like to thank Assemblywoman Jauregui for bringing the Keep Nevada Safe bill to the Legislature. After the devastation visited upon our community in October 2017, this legislative body passed the background check law and extreme risk protection orders during the 80th Session to keep us all safer and to keep guns out of the hands of those intending to harm themselves or others.

In the past few years, a grave new threat has emerged: the proliferation of so-called ghost guns. These weapons have no serial numbers and cannot be traced by law enforcement. They skirt background check laws by purporting to be unfinished. Purchasers can buy parts for the guns online and assemble them at home with no background check needed.

Just three months ago, the ATF raided Polymer80, located just outside where you sit in Carson City, for knowingly selling weapons without background checks, among several other charges. States across the country have discovered weapons at crime scenes and traced them back to Nevada. In California, the ATF states that more than 30 percent of guns recovered from crime scenes are ghost guns, and that number is rising rapidly.

Assembly Bill 286 addresses the problem of ghost guns head-on. I have been a member of Moms Demand Action for Gun Sense in America for almost seven years. I know that no one law will ever prevent all gun crime and the unnecessary and crippling suffering it brings to families. But I do know this: giving up and allowing bad actors to obtain weapons more easily than registering a vehicle is not an option. We must stop arming those who wish to harm us, and A.B. 286 is a step in the right direction. I urge your support for its passage. [Written testimony was also submitted, [Exhibit E.](#)]

Karl Catarata, Private Citizen, Las Vegas, Nevada:

I am a survivor of gun violence and live in Nevada. In June 2014, my family and I survived a shooting that killed two brave LVMPD officers at a local Las Vegas Cicis Pizza right before they killed another civilian at a local Walmart. I pulled my mom and brother out of that Walmart before they started opening fire. Many Nevadans remember that day, and many Nevadans think about their safety when it comes to visiting their favorite businesses.

While I am a survivor of gun violence, I come from a family of responsible gun owners. When it comes to responsible gun ownership, I was taught two things: buy responsibly, not by constructing a ghost gun; and use only when it is the dire, last resort of protection to stand your ground. While we all may have different viewpoints on guns, I think we can all come to common ground and agreement that we all want Nevada to be a safe place to live. That is where A.B. 286 comes in. Whether that is visiting a store, a restaurant, or a local Walmart to buy groceries, from where I see it, we all want to create a Nevada that empowers business owners to create a space where customers feel safe to do business. This bill allows that. I hope when you vote for the bill, you think deeply and intentionally about the lives it will

impact years from now: survivors of gun violence like me, victims of domestic abuse, veterans, and those living with PTSD. Thank you so much for your time and consideration and for listening to Nevadans who have survived gun violence and get to live another day to share their experience. [Written testimony was also submitted, [Exhibit F](#)].

Kristee Watson, Private Citizen, Las Vegas, Nevada:

I am a mom, a gun owner, and a member of Moms Demand Action for Gun Sense in America. The increased presence of ghost guns in Nevada allows prohibited buyers access to firearms after it has already been determined they cannot be trusted with a weapon with the sole purpose of taking a life.

The people of Nevada overwhelmingly support the background check law, so allowing ghost guns in Nevada is careless. A ghost gun ban is a logical step to protect my family, my neighbors, and those coming to visit our wonderful state.

To that end, protecting our number one economic driver must be top of mind, particularly after we have experienced such a difficult year finding revenue to meet Nevada's budget. In addition, most of us know a survivor of the deadliest mass shooting in modern history that occurred right here in our beloved state. For those reasons, casinos and other entertainment venues would welcome clarification for how to enforce the prohibition of firearms where private businesses see fit. This is a free market response that allows a private business to protect its revenue, employees, and valued guests from loss.

In closing, I would like to thank Assemblywoman Jauregui for her brave, bold advocacy as a gun violence survivor. You know better than most that this legislation has the power to offer lifesaving solutions. I urge respective members of this Committee to vote in favor of moving [A.B. 286](#) out of committee.

Kimi Cole, Private Citizen, Carson City, Nevada:

I am a gun owner and I am calling in support of [A.B. 286](#) because this bill will help keep Nevada safe. The new phenomena of ghost guns—guns that are unregistered, unlicensed, untraceable, and dangerous—has to stop. Many of the online retailers who offer these guns have reported that the increasing demand has led them to be sold out. These guns are cheap and easy to get and can fall into the wrong hands way too easily. We must ensure that our communities are safe. Gun ownership should be responsible and up-front, not something that exists in a back room without any checks and balances.

In addition, [A.B. 286](#) allows businesses to opt in to prohibit firearms at their venues. Businesses should feel empowered to choose whether or not they allow firearms at their facilities. This is undoubtedly one of the best ways to keep Nevada safe. This is also a measure that can prevent more mass shootings in our state. We want people to travel to Nevada. In fact, we need people to travel to Nevada, as our state is dependent on tourism. Keeping Nevada safe is a guaranteed way of promoting more tourism. Gun violence is an epidemic across our nation, but Nevada has the opportunity to be a leader in fair, smart, and impactful legislation that protects our residents and businesses. I urge you to pass [A.B. 286](#).

Fahima Khalaf, Private Citizen, Las Vegas, Nevada:

I am calling in support of A.B. 286. As small business owners, we are constantly seeing the effects of tourism or the lack of tourism in our state. State gun laws would definitely help us increase tourism. We saw the effects after 1 October of what happened to the decline in our businesses. We also ask and request our state Legislature to keep our team members safe, our businesses safe, and our families safe by enacting safety-first gun laws.

Leonard B. Jackson, Executive Director, Faith Organizing Alliance:

Being a retired military person, I am very familiar with firearms and the devastation they can cause. I stand in full support of A.B. 286, for we realize that only those who are looking to bypass the law or trying to avoid background checks are searching for illegal firearms. Those are the only ones I can see or realize would need to go to ghost guns. We have an obligation to our community. That obligation to the community is to provide a safe community for those who are visiting, those living here, and those who are physically here. I stress fully, 199 percent, to this Committee, please pass A.B. 286 for our safety and the safety of our future. Thank you for taking this step forward. Be blessed.

Emily Woodall, Private Citizen, Las Vegas, Nevada:

I am testifying today in support of A.B. 286, and I am testifying as a gun owner. The first time I discharged my weapon and felt the full power of my gun, I gained a deep appreciation for the weight of responsibility that I carry as a gun owner. As a child in school, I grew up in a post-Columbine High School world where the threat of gun violence was and is real. As an adult, I watched the horror as fellow Nevadans were gunned down right on the Strip on 1 October.

As a gun owner, I abide by all safety precautions when I store and use my weapon, but it is clear that all too often that is not the case, and too many lives have been lost because of it. I also know that being able to make my own weapons at home as a ghost gun or to carry my gun in businesses that would prefer me not to does little to protect me against bad actors. As weapons become more advanced and easier to make at home, we must also adapt our laws to these changing situations because our responsibility for our fellow Nevadans as gun owners only deepens. I am here today to urge you to support A.B. 286, which will help keep Nevada safe.

Susan Proffitt, Private Citizen, Las Vegas, Nevada:

I am a gun owner. I am a rape survivor. I was raped in a Marriott Hotel when I was travelling on business in 1994. I never travel without a gun. If you make it illegal for me to be able to protect myself from criminals, you have made me a criminal.

Chairman Yeager:

We are taking testimony in favor of the bill. If you want to offer opposition testimony, we are not quite there yet.

Susan Proffitt:

I am for the bill if you want to know where the guns are, but I am not for you making it illegal for me to be able to have a gun. That is against the *U.S. Constitution* and I am not taking it. Not from you, not from anybody.

Chairman Yeager:

We will continue with testimony in support.

Marissa Morano, Volunteer, Moms Demand Action for Gun Sense in America:

As a survivor of 1 October, the deadliest mass shooting in modern American history, I not only support, but I am filled with gratitude for A.B. 286. Since October 1, 2017, I have experienced extreme hypervigilance to loud noises, and I am extremely aware of my surroundings. Everywhere I go, I must identify the nearest exit and create an escape plan in my head.

A few months ago, I was grocery shopping at Smith's Food and Drug. I was looking at the vitamins when a woman walked by with a big, black gun attached to her hip. I froze. I became dizzy. I struggled to breathe. I wanted to run, but I could not. I wanted to cry, but I could not. I just could not do anything but be frozen. I knew what was happening. I was having a panic attack. I wanted it to stop, but it did not. I got angry. I could not find my child or my partner. I stood there waiting for her to leave, spinning, and trying to take deep breaths. I wanted it to stop. When will she shoot—bullets, bam bam—these words raced through my mind as I stood frozen. I thought I was getting better, but this is my reality—the reality that this will happen no matter how strong I get until we pass legislation that makes it safe to be at grocery stores.

Assembly Bill 286 will support my safety and my community's safety. That woman will never know the effects of what happened to me that day, but I will. You may not understand the effects of what my life is like as a survivor of gun violence, but my children, friends, and family understand. They, too, want to be safe from guns at a grocery store.

Please pass A.B. 286 so this can be the last of the many instances of my world spinning. Assembly Bill 286 will protect us all and will ensure that law enforcement has the tools they need to enforce this law. Thank you for your time and safety in our community.

Elaine Sanchez, Private Citizen, Las Vegas, Nevada:

I am in support of A.B. 286, which I believe will make our communities and businesses stronger. As economic tourism is our lifeblood, we must create protocols that allow for a more secure environment. This legislation empowers businesses, places of worship, and untold other businesses to create a higher standard of safety. It allows flexibility and gives business owners the choice, the right, to decide how they want to conduct business. It is simply an opportunity for a business to decide what it must do for itself.

To allow business owners to opt in is to provide a higher standard of safety for employees, community members, and the business itself. It also helps connect a relationship with the LVMPD or any police department that needs to assist a business owner should something go awry. There is absolutely nothing wrong with allowing the business community to make a choice for its own good. This legislation is preventative.

All these measures are preventative. They do not disallow a person from gaining a gun or wanting to have a gun, but it does provide more security for our state. As we all know, unfortunately, due to the pandemic and because we have seen gun violence in our community beforehand, we are in need of preventative measures.

Regarding ghost guns, I also want to say it is important to understand that a gun receiver is part of the firearm that houses the mechanical component and projects the bullet. Someone using a finished receiver could assemble a functioning firearm by adding necessary additional parts, such as the stock, barrel, trigger component, and magazine. Individuals interested in avoiding the background check and gun registration process can, instead, buy an unfinished receiver, also known as "80 percent blank" or "partial receiver," to make a ghost gun. Why would we, as a state, allow that to occur? Who are the individuals who would want to purchase a gun but not go through a background check? I think this measure is absolutely common sense. I believe it is important to realize that unregulated receivers can be converted into working firearms by someone with very basic skills and tools. It is important to know who those people are if they are purchasing guns. It is important to go through the background check. I am in full support of A.B. 286 as a preventative measure. I believe a business should make its own decision. I also believe it is important to go through the process correctly when trying to purchase a gun. I want to thank the Assembly Committee on Judiciary and Assemblywoman Jauregui for all her hard work in this matter. I fully support this bill as a mother, as a wife, as a daughter, and as a business owner.

Teresa Crawford, Volunteer, Nevada Chapter, Moms Demand Action for Gun Sense in America:

I want to thank Assemblywoman Jauregui for all the wonderful work she has done to help keep Nevada safe in the last Legislature and with this bill, and for the presenters for strong and clear evidence-based analyses of the two components of this bill. I also want to recognize the mass shooting yesterday. Eight people died—seven women, six Asian Americans. They died senselessly. This is the third mass shooting in the nation this year. We are always thinking about October 1, 2017. Since then, this country has continued to see gun violence that affects employees, tourists, and locals, and it always makes national news.

Currently, rules for business owners to prohibit guns on their property are unclear and lack teeth. There is even a chart I have seen—a reporter posted it yesterday—that actually encourages gun carriers to ignore the "no firearms" signs at private businesses because, at most, there will be a trespassing charge and not any kind of weapons violation.

Section 2 of this bill codifies firearm prohibition rules for all venues and businesses and gives law enforcement officers the means to enforce them. As pandemic restrictions ease, Nevadans, including seniors and families with children, look forward to shopping, dining out, and attending movies, concerts, and church in safety. From mom-and-pop pizzerias to resort properties, this bill empowers business owners to offer firearm-prohibited premises to their customers. Hotels and motels may just provide a document with language or anything they want to do that goes beyond a simple sign to communicate with their guests. As we have heard from the resort officials, they are quite happy to provide a safe way to lock and store firearms.

The bill also covers hotel guests who purchase guns at trade shows. They just have to bring them unloaded in a bag and notify the hotel management. This bill empowers private businesses to make all of us safe, bans a source of crime guns that are flowing from Nevada to other states, and continues the good work done for gun safety in the past Legislature. It is a uniquely Nevada solution that provides choice for businesses and consumers alike. Please vote yes on [A.B. 286](#). [Written testimony was also submitted [Exhibit G](#).]

Christiane Brown, Private Citizen, Reno, Nevada:

I am with Brady Nevada. I am so grateful to Assemblywoman Jauregui, and I want to thank her for sponsoring this important bill. Ghost guns pose a serious threat to the safety of all Nevadans. There is no constitutional law that exists now or ever has existed that allows anyone's right to freedom to come at the cost of another's right to safety. The unregulated use of ghost guns is one of the most urgent safety issues facing our state. These guns represent a rapidly expanding category of handmade firearms that are untraceable, not subject to background checks, and are seriously undermining the gun safety laws that exist in our state. Ghost guns have become a go-to favorite of a large class of criminals, like domestic abusers, drug traffickers, and violent white supremacists. They are also being purchased and used by children who are too young to legally buy firearms.

Dangerous do-it-yourself ghost gun kits supply everything a purchaser needs to build a fully functional and deadly firearm that is untraceable and leaves law enforcement without the critical evidence they need to do their jobs. Make no mistake, ghost guns are not a creative hobby for do-it-yourself crafters. They are deadly weapons that look, feel, shoot, and kill exactly like traditional firearms. Therefore, they must be regulated as such.

The ghost gun manufacturers and owners will tell us that ghost guns are not real firearms simply because they come unassembled. This is absurd. Ghost gun manufacturers are enabling their clients to build untraceable firearms that are subject to no laws. People who want ghost guns to remain legal are people who demand rights without responsibility. Responsible gun owners do not need untraceable weapons. Responsible gun owners register their firearms legally. Responsible gun owners purchase their weapons from licensed sellers.

Assembly Bill 286 closes a dangerous loophole ghost gun manufacturers have created, and their owners have taken advantage of. It is time for Nevada to join several states and immediately pass A.B. 286 to ban unregistered ghost guns and their parts.

Margy Feldman, Member, Sun City Anthem Democratic Club, Henderson, Nevada:

I live in the safe city of Henderson in the beautiful and safe community of Sun City Anthem, where I am representing the Sun City Anthem Democratic Club, which is the largest Democratic club in the state. We are in strong support of A.B. 286. Most of my friends and neighbors picked Henderson, Nevada, because of it being a safe place to live and play with close proximity to the Strip. Obviously, that environment has changed, especially since 1 October and with the increased crime on the Strip this summer. At the same time, we have all seen hate crimes increasing dramatically over the last years with drastic increases in 2020 alone.

For all of these reasons, and the desire to have visitors and tourism restored in our state, we strongly support and appreciate everyone's support of A.B. 286.

[[Exhibit H](#), [Exhibit I](#), [Exhibit J](#), and [Exhibit K](#) were also submitted in support of Assembly Bill 286.]

Chairman Yeager:

We have now taken 40 minutes of testimony in support. As advertised, I am going to close testimony in support at this time, recognizing that there are still individuals on the phone line who would like to provide supportive testimony. To you all, I apologize, and I ask you to please provide your comments in writing or email. I know you know how to do that because we have been getting a lot of those emails already. Thank you for being part of this process.

At this time, I am going to open testimony in opposition. Much like we did for support, we have some individuals with us on Zoom. I am going to start with Zoom. Mr. Reid, if you are there, could you please unmute and provide your testimony in opposition.

Daniel Reid, Western Regional Director, National Rifle Association of America Institute for Legislative Action:

I am here on behalf of our Nevada National Rifle Association of America (NRA) members in strong opposition to A.B. 286. I will do my best to stick to our short time frame here on this very complicated bill. There is a lot to unpack, and as you heard, there are a ton of questions surrounding how this bill actually works. I will try to go through each section as briefly as possible.

Looking at section 2 regarding this ban on covered premises, as was clearly stated, private property owners do have the ability under existing law to set their own policies. If someone is trespassing, they have the ability to remove them and to contact law enforcement. They already have this authority now. We have heard from the proponents of this bill that this is actually adding teeth. What you are actually hearing is, we are wanting to have law enforcement take their finite amount of resources to respond to nonviolent calls. A lot of this seems to be targeted at Nevada's more than 143,000 concealed carry permit holders. These are people who have been licensed, trained, gone through background checks, and are authorized by their county sheriff, not to mention the other 27 states whose permits we recognize. Concealed carry permit holders are among the most law-abiding people in this

country, and it is a shame that they are going to have to go out and plot out their course for any day running errands to try to navigate who they have permission from, whether they are going to run into a sporting goods store, the shopping mall, or perhaps they are having lunch at a certain hotel restaurant, et cetera. That is really disappointing.

As far as this bill and the teeth, it actually goes beyond that and it starts to get into people's homes when we look at how they can actually carry and how it is limited to a residential unit owner. If these permit holders are part of a golf course community where they own a residential unit, they can only have the gun in their house. Imagine these permit-holding residential unit owners wanting to walk their dogs at night and cruise through the golf course. That is prohibited under this law. They could be facing criminal consequences. What about renters who may be renting back from residential unit owners? I do not see how the exceptions work for them. What about owners who want to do their laundry in a common area at night? That is prohibited under this bill.

I believe I heard one of the hotel representatives talking about taking possession of patrons' guns. I do want to refer back to our background check law regarding private transfers. I believe that is actually prohibited, and that should be clarified because the hotel employee could be in violation of the law if they are actually taking people's guns without intervening a licensed dealer. I do not believe that is a covered exemption.

In sections 3 through 5, which we have heard about regarding the unfinished frames and receivers, this is a longstanding American tradition. People have been making their own firearms for personal use since before the Revolutionary War. This is completely legal for personal use. If you start getting into selling them, then you need to be a licensed seller.

We heard a lot about these kits, but there are also other firearms out there that people have made before the kits. They have been doing this for a long time. How are these firearms going to be treated under this law? Are Nevadans going to be able to continue to possess these, or are they going to face criminal penalties? There are a lot of issues with that. Also, there are firearms that do not require serial numbers. I want you to think about this. The first offense under this bill is a gross misdemeanor. The second offense is a felony. Imagine you have a grandparent who has a gun collection and one of the traditions for passing on these family heirlooms is to gift a firearm in accordance with state law and interfamilial transfer when a grandchild becomes of age. A couple of these firearms do not have serial numbers because they are not required to because they are pre-1968. Is this grandparent going to run into an issue of possibly facing felony charges because he gifted one rifle to a grandchild on one day, and another several months later to another grandchild? Are these grandchildren going to be facing gross misdemeanors themselves? Perhaps one of these grandchildren lives out of state where it is totally fine, but his cousin is now facing criminal charges.

There is a lot to unpack here. I know my time is limited. I will stand for any questions. I think there is a lot that could be cleared up on this. We are in strong opposition. We encourage this Committee to focus on criminal misuse. If you are a prohibited person, you cannot possess a firearm, whether you made it at home or not. That is illegal under law.

If you think about when law enforcement is going to discover a violation, it is when they go after bad actors regardless of where the firearm came from. If it is in their possession, it is a felony and we should prosecute them as such. With that, we are in opposition. [Written testimony was also submitted [Exhibit L.](#)]

Chairman Yeager:

Thank you, Mr. Reid. I did give you a little more time. We do not have a lot of time for questions, so what I am going to do for those in opposition on Zoom is to take one question for each. Members, I know you are going to have more, but I want to get to the phone lines to take opposition testimony as well. There is a question from Assemblyman Wheeler to Mr. Reid.

Assemblyman Wheeler:

Mr. Reid, I know you are an attorney well versed in gun law, which is why I ask you this question. Someone living in an apartment obviously does not own that building. The way I read this bill, the owner of the building has to give permission. If I live in an apartment in Douglas County and want to bring my gun into my home, do I have to get written permission from my landlord?

Daniel Reid:

I appreciate that question. Depending on how you read this bill—obviously there was an amendment posted [[Exhibit C](#)] just prior to the hearing, at least for the public, that we are still trying to digest—I think there are arguments that may say it is unclear how property owners and gun owners would go about doing this. There is a lot of analysis that goes into this bill. That is really the shame with this. It becomes very unclear for our law-abiding citizens on how they are supposed to be able to exercise their inherent right to self-defense in Nevada and comply with the laws. This could be a massive patchwork throughout the state of dodging private property and how this looks when speaking of parking lots. When would citizens actually discover that the premises prohibit firearms? Not to mention that there are no requirements on these private properties to provide any sort of security measures to keep out bad actors. There is no requirement for metal detectors or for security forces. I know some of the hotels obviously have extensive measures put into place, but there is no guarantee. If someone is rendered defenseless and an incident does happen because of that factor, there is really no liability protection and no real way to exercise that right to self-defense and be the first line to their own defense.

Chairman Yeager:

I will remind members of the Committee and members of the public who are listening that this is indeed the first step of a process. A bill has to go through a lot of hoops before being signed into law. I do not want to give anyone the impression that somehow this is going to be the final opportunity to comment or work on this piece of legislation. Indeed, this is the beginning of a process and not the end.

I am going to take testimony in opposition next from Mr. Findlay, who is on Zoom.

Michael Findlay, representing National Shooting Sports Foundation, Inc.:

The National Shooting Sports Foundation, Inc. is the trade association for most firearm manufacturers, retailers, and ranges throughout the country. In Nevada, we have hosted and own the SHOT Show, which many of you are aware of. I would like to speak to you a little bit about our SHOT Show today and how this bill may potentially have unintended consequences for our show, our attendees, and our vendors.

We have had the SHOT Show consecutively every year in Las Vegas since 2010, except for this past year because of COVID-19. Our show brings in roughly 70,000 people per year. We do over \$130 million in direct economic benefit to the Nevada economy every year. We were only given the bill 24 hours in advance, along with the public, and we have not been able to digest the 20-page amendment that was given to you all this morning. The way the bill is written has a lot of unintended consequences for our show and, essentially, would be a logistical nightmare for our folks. I want to go over some examples of why it would be.

In terms of lodging and off-site events, we simply cannot house 70,000 people plus their family members in one location. Our attendees take almost every bed in Clark County for the SHOT Show. This includes Airbnbs, the Marriott, Days Inn, the Sands properties, MGM properties, and Caesar properties. With that diversity in lodging, our folks would have to obtain written permission from each owner or operator from every location when they are coming into town.

In addition to that, there was a comment about inoperable firearms, and yes, our show does display inoperable firearms that people can touch and look at in the displayed products. Something we also do in conjunction with our manufacturers as well as law enforcement, and we do have military days, is we have a range day where there are live-fire exercises for our products. In those instances, there are real questions of whether the exemption for trade shows would work for us because we are transporting from a safe location—from safes on these premises—to ranges and back. It is not just one day, but it is throughout the entire week that we have live-fire exercises and demonstrations going on. In addition to that, a lot of our folks rent condominiums or houses. A property management company, as this bill is written, does not constitute the owner. There would be real questions whether or not they would be able to approve the written consent that is required by this bill to have our products there.

As I have said, we have had this show for over 10 years, we have longstanding relationships, we love Las Vegas, and our folks who attend the show are very comfortable in Las Vegas. They have a plan set and are excited to come back next year, but if suddenly they show up and things have changed, like restaurants and lodging locations having signs posted—because most of our attendees are from out of state and out of the country—there are real questions as to what they do in that situation. For instance, the way this bill is written, we transport through semitrucks into Las Vegas. If the drivers were just to stop and get gas and the gas station had a sign posted, they could potentially be a criminal under this law because they drove into the parking lot with a semitruck full of products they intend to show at the SHOT Show.

Those are just a couple of the unintended consequences. I also want to talk about part two of the bill, which would affect the SHOT Show as well. There is not a definition under this language. This is a highly technical issue, and I believe it was not gone through by the supporters of this bill accurately. I will give you an example. Under this bill, there is not a clear definition of when that frame or receiver becomes a firearm. What determines that? Is it a cosmetic function; is it intent? At what point would a manufacturer or retailer need to comply with or treat that hunk of metal as a firearm? These questions are unclear. Through the manufacturing process, there are times when manufacturers will give the product to another contractor to do things like paint jobs. Do those contractors now have to be a Federal Firearms Licensed (FFL) dealer because that hunk of metal they are painting prior to going to a factory to become a firearm is now considered a firearm under Nevada law? This is very inconsistent with federal law. Our industry follows federal and all state laws and is in complete compliance, but this bill would cause a rift between Nevada law and federal law.

I know I am running out of time, but I would implore the Committee to really do another hearing or learn more about the technical aspects of part two of the bill. This is a very complicated aspect. I will leave you with this: the SHOT Show is very excited to come back. We had to take a one-year hiatus because of COVID-19, but we are excited to come back to Las Vegas, and we are excited to be part of the continued growth and economic prosperity that we are all clamoring for around the country, especially in Clark County. We want to be there. This bill would be a logistical nightmare for us, and I do not know how our folks would feel, this being the world-class customer service attitude, tourism economy that Nevada is. I do not think they would be very excited or receptive to a bill where they would have to jump through numerous hoops and a lot of red tape. I have a lot more to say to this, but I know I am out of time. I just want to repeat, this would be a logistical nightmare for us and there are a lot of unintended consequences.

Chairman Yeager:

Assemblywoman Bilbray-Axelrod has one question for you, Mr. Findlay.

Assemblywoman Bilbray-Axelrod:

I am glad you are here today because I do have a question specifically about the SHOT Show in 2019, which was the last one before the pandemic. I remember reading an article that about 65 firearms, silencers, and machine guns were stolen. This was before the pandemic and before what we have seen now on the Strip. I am curious, what role do you think the SHOT Show should have in keeping guns out of the hands of the wrong people?

Michael Findlay:

We are unequivocally against unauthorized access to any firearms. We do not just say that; we put our money where our mouth is. We have invested in programs such as Project Childsafe, which gives free locks to law enforcement all over the country to distribute to communities. Thus far, since its inception 20 years ago, we have given 25 million locks away. We do educational programs at SHOT Show and ongoing throughout the year that are

designed to prevent unauthorized access to firearms, such as straw purchasing. The National Shooting Sports Foundation has a program called "Don't Lie for the Other Guy." It is designed for retailers to identify people who come in—and there are telltale signs—trying to purchase firearms for others. We have a litany of other programs.

I want to speak directly to that issue, though. Another unintended consequence of this bill is, when you look at the data throughout the country—and respectfully, I am going to disagree with Mr. Lindley because his statistics are wrong—but in citing some Centers for Disease Control and Prevention (CDC) statistics, since California has put their laws in place from 2014 to 2019, according to CDC data and all the laws that have come into place, he is technically right. Violent crime has dropped from 2,945 deaths in California in 2014, to 2,942 in 2019, the last date for which we have data. There is a three-death difference.

You spoke directly to suicide prevention. We have a program with the American Foundation for Suicide Prevention that has gone into place, and we have seen suicides plateau. They are not where we want and they need to get lower, but we are working on that.

The final point I will make is, if a sign is posted, if law-abiding citizens, retailers, or vendors find out a sign is posted, they have little recourse but to leave a firearm in their car. What we have shown is that criminals get guns primarily from theft from consumers and not from firearm retailers. We are potentially setting up a situation where we are increasing the number of firearms that we know criminals get through theft.

In terms of our situation at SHOT Show, all the firearms were recovered. They were inoperable, as we did not have the components required for them to be operable. They were recovered within three to five days. We work with ATF all over the country. We offer rewards for the theft of firearms from FFLs, often matching their reward upwards of \$50,000, usually in the \$5,000 to \$10,000 range depending on the case. I hope I have answered your question, Assemblywoman. I can follow up with you if you want to talk more about that.

Chairman Yeager:

I would invite members to follow up offline on some of those points. Mr. Findlay, I would invite continued dialogue with the bill sponsor about some of the concerns you raised. Again, this is the beginning of the process, not the end of the process. We are still taking opposition testimony. Next will be Mr. Piro.

John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office; and representing Washoe County Public Defender's Office:

I would like to thank Assemblywoman Jauregui for always working hard to keep Nevadans safe and for bringing this bill forward. We have a few issues regarding this bill, and we are hopeful that we can work these issues out to move us out of opposition. Our first issue is in section 2, subsection 1. Mr. McManus stated that the goal of this bill is to catch people who

knowingly violate the law. What we are asking is if we can put the word "knowingly" in that first sentence, "A person shall not knowingly possess" We think that will add an intent element that will get rid of people who are making simple mistakes from becoming criminals.

We do have an issue that both Assemblywomen Cohen and Hardy mentioned regarding the definition of "covered premises." We are hopeful we can work that out and tweak some of the language. Hypothetically, if people were to travel from California to Nevada and get to the hotel, they cannot have the gun in the parking garage or the hotel. What are lawful gun owners to do to make sure they do not become a criminal? They would have to park in a less safe area. What we have seen here in Clark County is there are a lot of gun thefts that happen from automobiles. We need to work on a fix with the language of covered premises so lawful people are not becoming criminals or parking their cars in less safe areas with their firearms inside.

The last thing we have an issue with is the penalty scheme throughout the bill. In the beginning of the bill in section 2, the penalty scheme goes from first offense misdemeanor, second offense gross misdemeanor, third and subsequent offenses category D felony. We would ask if perhaps we could move it to a category E felony, which would provide diversion and stop collateral consequences, and if we could create that penalty scheme throughout the bill. The rest of the bill jumps from first offense gross misdemeanor to second offense felony. What we are asking is to change the penalty scheme. We are hoping we can work with the bill sponsor. Assemblywoman Jauregui is always easy to work with and listens to feedback. We thank her for that so we can move out of the position of opposition. We do support the goals and aims of this bill to keep Nevadans safer.

Chairman Yeager:

We have Assemblyman Ellison on Zoom to testify in opposition.

Assemblyman John Ellison, Assembly District No. 33:

Thank you for allowing me to speak to this bill. I have a couple of questions and am testifying in opposition. There are some areas of the bill I am concerned with. Some people feel more comfortable going into churches now because they know most of the people in the church are carrying. As an example, I cannot count how many pastors I have assisted in getting their CCW so they are able to carry concealed weapons inside churches. People who go to the movies now feel more comfortable if they do have a CCW. This law will prohibit that. I am hoping we can make amendments to some of these issues.

My family and I go to Las Vegas to the outlet malls. There is one store in the outlet mall that has posted, "No guns allowed." We do not go in that store at all. Under this bill, would that mean the entire mall prohibits guns because one business posted? In the bill, malls would have to post at every door. Does that mean every store is going to be liable because it took my constitutional rights away to protect myself and my family? I hope someone can answer that question.

Chairman Yeager:

We typically do not take questions from those testifying in opposition. The good news is, of course, you are here in the building and I invite you to connect with Assemblywoman Jauregui on your questions. I appreciate your providing testimony this morning.

Assemblyman Ellison:

I did try to meet with Assemblywoman Jauregui, but we are both pretty busy. I would like to make an appointment for a meeting so I can get some of my questions answered. I appreciate your allowing me to speak.

Chairman Yeager:

I see no one else testifying by Zoom, so we will go to the phone lines and hear testimony from callers in opposition to the bill. As a reminder, you will have two minutes to provide opposition testimony. Please, do not feel compelled to use the entire two minutes so we can get through as many callers as possible.

Adam McGuire, Private Citizen, Stagecoach, Nevada:

I have been a Nevada resident for half my life. I was originally a resident of California. As a resident of Nevada, I served the country in the Navy. Since the age of 21, I have been a CCW holder. While I was stationed in New Hampshire, New Hampshire did not recognize my CCW permit from Nevada. One night, while walking my dog, I was approached by an individual brandishing a knife. He did not speak to me, but kept approaching me until I bluffed that I had a firearm. However, I was lucky. There are other individuals in Nevada who have had situations where they had to leave their firearms because of where they were attending.

I am speaking of the story of Amanda Collins. Amanda Collins attended the University of Nevada, Reno. She had to leave her firearm off her person while she was attending a late-night course. On the way back to her vehicle, she was stopped by a man who proceeded to rape her. She was unable to defend herself. Later, there was another woman who went missing. Unfortunately, she was found dead. It was later connected that both individuals were attacked by the same man. Those were two extremely unlucky situations, especially Amanda Collins, who had the right to carry her firearm but was unable to exercise the right because of the restrictions at the location where she was attending.

I do thank Assemblywoman Jauregui for clarifying NRS 202.3673 and the definition of a public building. I would suggest either separate open carry versus concealed carry or, in some way, have it where after an individual is approached, it then becomes criminal trespass and potentially has the first misdemeanor.

Lynn Chapman, State Vice President, Nevada Families for Freedom:

I want to make a few comments. I noticed that most of the people testifying in support were from Las Vegas, and I understand why. There was a terrible incident that happened in Las Vegas. The rest of the state really does not like this bill. It is not a very good bill for everyone.

I also want to talk to the woman in the grocery store who testified earlier. My heart goes out to her because I understand the terrifying incident that happened, and that she is still suffering the residue from that terrible incident. However, if she could look at it from a different perspective; the woman in the store with the gun on her hip was there doing her business. She was not waving the gun around. If a man came in wielding a machete, at least that woman would be able to protect herself, her family, and the other woman. If she looks at it a little differently, it might help her in the future to understand why people want to carry.

I also noticed that we are not talking about the borders being wide open. We are having a lot of people come over our borders every day, hundreds and thousands in a week. The problem with that is the other day it was on the news that four known terrorists were apprehended. How many other terrorists have gotten over our borders? What kind of weapons are they bringing in? What other things are they bringing in? What about the cartels that are now operating on our side of the border? They are bringing in all sorts of weapons and terrible things. Maybe we should start looking more at that instead of going after the law-abiding citizens. I think that is where the problem lies. You are going after law-abiding citizens to jump through more hoops. We really do not need them to do that.

Janine Hansen, State Chair, Independent American Party of Nevada:

I have had a CCW permit for over 25 years. We oppose A.B. 286, which is a violation of our rights and nullifies our God-given inalienable rights. When you cannot exercise a right anywhere except in your own home, when the right to keep and bear arms is so infringed that you cannot exercise it, there is no right.

In the *Nevada Constitution*, Article 1, Section 1, it states, "All men are by Nature free and equal and have certain inalienable rights among which are those of enjoying and defending life and liberty; Acquiring, Possessing and Protecting property and pursuing and obtaining safety and happiness[.]" Assembly Bill 286 takes away our inalienable right to defend life and liberty and to obtain safety and happiness by severely restricting the right to carry a firearm. Almost everywhere we go, that right, which according to the Second Amendment in the *U.S. Constitution* "shall not be infringed" just disappears because of A.B. 286.

In Article 1, Section 11 of the *Nevada Constitution*, it states, "Every citizen has the right to keep and bear arms for security and defense" Assembly Bill 286 violates that provision of the *Nevada Constitution* when you cannot exercise the right to keep and bear arms at a golf course, theater, church, hotel, shopping mall, stadium arena, concert, showroom, anywhere there is live entertainment, a sporting event, rodeo, ballgame, fireworks event, state or county fair, horse or car race. All those places become gun-free zones, which makes all of the law-abiding citizens targets of criminals. Assembly Bill 286 denies us safety and the right to self-defense. The criminals will know that there is no one there who can stop them from killing law-abiding citizens. Assembly Bill 286 will not make us safer, but more vulnerable to those who unlawfully continue to use guns. We all know criminals prefer unarmed victims. Defeat this bill.

Mory Rezai, Private Citizen, Las Vegas, Nevada:

I have been a citizen of Las Vegas, Nevada, for the last five years. I moved here from Chicago. Chicago law does not allow anyone to carry guns. That was not the reason I came here; it was for other reasons. However, I have had many problems going to certain neighborhoods knowing the criminals carried guns and they knew I did not. Right now, I am opposed to this bill because I am also an insurance agent.

Looking at the liability that is covered, anyone at a 7-Eleven is not able to cover me or my children if I die. The coverage may be \$1 million. That is not enough for my family and my disabled child to be supported. This bill is not sufficient, even though it has some good reasons.

I appreciate the Chairman, the Committee, and those who are for this. However, there are a lot of deficiencies in such a bill. Therefore, I am opposed. If a company is willing to post a sign prohibiting firearms, they should also put a sign next to it saying, "If you come in here and you turn in your gun, we will cover you for \$10 million in case somebody shoots you," or another large liability for the person who is willing to walk into that neighborhood so they are willing to go inside. This bill has a lot of deficiencies. You have to specify the insurance information clearly and mention if someone comes in and dies, they are given \$10 million or another large amount. That has to be figured out by the legislators as to how much it is going to be to cover everyone in case something happens. I am opposed until all of these questions are properly answered.

Joshua Rosenthal, Private Citizen, Henderson, Nevada:

I am the owner of firearmdiscounts.com and I also own a staffing company in town. I am opposed to this bill. For one, this is another avenue to freeze, hold, or set back registered owners. Had this bill been more along the lines of people carrying concealed firearms who are not allowed to, I would be more for it.

According to the CDC, there are 500,000 to 3 million lives that are saved each year by guns used in defense. One of the ways it would not be helpful, nor would the law, would be for 1 October or any other mass shooting. My opinion is criminals are going to get guns and they are going to do what they want to do. They are not going to be worried about signs on doors or misdemeanors or felonies for that matter. Someone committing multiple murders is not worried about a sign for carrying a firearm.

It was also brought up about bordering states and laws. I think they were just referring to California. Arizona and Utah, which are neighboring states, are constitutional carry states. They support our Second Amendment rights and our right to bear arms. I feel this bill is championing the beliefs of false hopes and is against our Second Amendment rights. For the business owners who believe they can protect themselves by putting signs up to prohibit firearms in their facility—I am not a lawyer—but it would open up liability and lawsuits if

something should happen. I feel Nevada has become too far left to focus on what is right and what is best for our community, the rightful gun owners, the right to bear arms, and our Second Amendment, but focuses more on political and special interest groups' beliefs. I am against this.

Bruce Parks, Founder, Nevada Patriot; and Secretary, Battle Born Patriots, Sparks, Nevada:

The play on emotions by equating this bill to safety is extremely disingenuous. I challenge anybody to show me one gun control law that affects crime rates by lowering them. You cannot because none exist. I also find it disingenuous that you put two separate issues into one bill. These should both be treated as separate issues, not rolled into one.

"Untraceable" is a misnomer, as is "assault weapon." Every gun is a ghost gun because the serial numbers, unless there is a national registry, which would be unconstitutional, are meaningless. Police do not use the serial numbers of weapons to prosecute crimes. They use ballistics.

I would also like to point out that you have the most voracious anti-gun groups giving testimony about this bill, and they were allowed to make presentations. This was not a fair and balanced meeting by any stretch of the imagination. You did not invite anyone from the Nevada Firearms Coalition, the NRA, or any other group that could give testimony and presentations that show this bill is not going to do anything to make Nevadans safer. In fact, it will have the exact opposite effect and make us all less safe. You do not make criminals harmless by making good citizens helpless.

I would also like to point out that there is a lot more to Nevada than simply the Strip in Las Vegas. This would be a statewide law, not a Las Vegas law. I would also like to point out that on the Nevada Electronic Legislative Information System site, the Legislature's own website, there is a 9 to 1 ratio of people against this bill as compared to those for this bill. I cannot, for the life of me, understand why we have to be so disingenuous when it comes to firearm laws. I am just curious, what part of "shall not be infringed" is not understandable to our elected representatives? There is a reason why the Second Amendment is written the way it is. I would encourage you all to reread that and maybe digest it and come to an understanding that we have the unalienable right to protect ourselves, and that shall not be infringed.

Chairman Yeager:

I will note for the record, we did have a representative from the NRA on Zoom in opposition, and the Nevada Firearms Coalition was likewise invited, and I believe they provided written testimony and they may be on the phone. I just want to make that clear for the record that we did have that representation. We will take the next caller in opposition.

Kimberly Fergus, Private Citizen, Las Vegas, Nevada:

I am calling in opposition to this bill. This bill was written by people who hate women. I am a domestic abuse survivor.

Chairman Yeager:

Could you please limit your comments to the bill itself? We are not here to discuss the motives of who introduced the bill.

Kimberly Fergus:

I will start over and start the timer. I am calling in opposition to this bill. Since I have to omit that whoever wrote the bill must hate women, I am a domestic abuse survivor. The only thing that makes me equal in a bad situation is owning and knowing how to use a firearm. Women are the victims of a vast majority of domestic violence crimes. Why do you want to take away our rights to defend ourselves? Why do you want to see women be victims? A legally armed woman is an empowered woman. I hope every person on the Committee decides to stand with women and domestic abuse victims and vote no on A.B. 286.

Spencer Achiu, Private Citizen, Las Vegas, Nevada:

I am a student at the University of Las Vegas, Nevada, and a resident of Assembly District No. 9. I am calling today to express my opposition to this bill. I believe it is not only a waste of this Committee's time, but also a waste of the taxpayers' dollars. I urge the Committee instead to support things like campus carry, as well as constitutional carry. I would also like to echo many of the other comments made by Assemblyman O'Neill and the important issues he raised.

Andrew Spinney, Private Citizen, Las Vegas, Nevada:

I am not a gun owner, but this definitely infringes on my right. I moved to Nevada to be able to have that right. Not being able to open carry in certain places, in my opinion, just is not right. I also want to say this is going to create division between police officers and the community. When that division does happen, that is going to be on you guys who vote for it. It is not going to be okay. If you vote on this division, you are creating it. That is exactly what you are going to do, and that is what this bill is going to sponsor. There is a whole lot more division that we have seen throughout the 2020 year. It is not okay. I suggest everyone oppose this bill. We do not need more division in our state. What happened to Officer Shay Mikalonis was definitely not okay. I also want to say that this bill would not have stopped the Route 91 shooting because the shooter bought all those guns legally and he got into the hotel by sneaking them in there. Make sure you do your research. I understand the narrative is that this is about safety, but this is far from about safety. This is about your narrative and your agenda, and that is it.

Shawn Meehan, Founder, Guard the Constitution, Minden, Nevada:

I teach state legislators application of the *U.S. Constitution* across the country. I am a retired Air Force veteran. I object to the short notice of the hearing. Although you said this is the start of the process, each step for legislation is a critical process. I will give you a compliment, Mr. Chairman, that you are trying hard to give both sides equal time.

I want to echo the comments of Janine Hansen on the *Nevada Constitution* regarding the right to keep and bear arms. Constitutions are not suggestions. They are superior to the whims of society and the will of the Legislature. They are superior to laws. I also want to echo the excellent comments of Assemblyman O'Neill and the legitimate threat to him and his family and how he desires to exercise his unalienable right to self-defense.

I encourage all participants for this issue to Google the Luby's massacre, October 16, 1991, in Killeen, Texas, where a crazy man with a firearm drove a vehicle into a building. At that time, Texas law prohibited a woman inside from keeping her firearm under threat of losing her professional license. She had been trained, and after analysis, said she would have been able to stop the shooter and defend herself. He came up in front of her, put both her parents on their knees and executed them right in front of her.

One of the earlier professional testifiers from one of the casinos said this bill is designed for people who are not law-abiding. You are fixing to pass a law that some characterize as for people who are not law-abiding. I will let you all figure out what that means.

Currently, federal law prohibits many of the manufacturers this bill is going to address. I will also say that Justice Scalia in the *Heller* ruling is a dog whistle for conservatives. I believe the person who was speaking to the decision earlier has not actually read it; I would encourage her to do so. I would also like to thank Mr. Reid from the NRA for his expert comments, and some of the others earlier. Law-abiding citizens obey the law; criminals do not. Criminals who kill people mostly obtain weapons illegally. With all due respect, ladies and gentlemen of the Nevada Legislature, you will not take away my unalienable right under the *Nevada Constitution* and the *U.S. Constitution* to defend myself. God Bless, and everyone have a productive day.

Daryl DeShaw, Private Citizen, Las Vegas, Nevada:

I am a 26-year resident of Las Vegas. I am 60 years old. I have handled firearms since I was 6 years old. I grew up in a different society from what Las Vegas is today. Like much of the rest of the state, we understand the people who fear firearms. They do not see that they are not as dangerous as they think they are. The problems actually come from the criminal element. A lot of the problems are societal problems that this bill will not solve.

Most of the things I have on my list to mention have already been brought up. The important one I want to talk about, which I have not heard anyone else say anything about, is this bill creates a taking of property. If people cannot possess a gun they have built themselves legally, it is a constitutional taking of property. It provides no compensation. That is federally unconstitutional. How do you intend to pay people for their firearms? Where are the millions of dollars going to come from, because that is what it is going to take?

Additionally, I have some problems with your definition of a frame versus what I believe the federal law calls a receiver. With AR-15s, the receiver does not meet the federal definition. Pretty much, the ATF has rolled over and played dead in all the cases they had against those nationwide to try to regulate them—ghost guns and otherwise.

If you choose to not buy these guns back and let people keep them, they are not serial numbered in any manner. How do you know if a gun was built ten years ago or if the gun is built tomorrow? You do not know. California thought it was getting slick with this and created a set of laws. That did not stop people from building the guns or serial numbering the guns. That is not going so well for California right now. It is currently in the federal district court in San Diego. California has a losing record on federal gun cases out of that court. I would recommend you table this bill until you see the results of how that court is going to rule what you can and cannot do. Additionally, there are other bills in front of the U.S. Congress now that are attempting to rule these so-called ghost guns. I would maybe take the lead and wait to see what happens there. We do not need ten sets of regulations all over this country for the same thing. We need one uniform set nationwide, whether I agree with it or not. I will send all of you a lengthy written set of comments on the other items I did not cover. [Additional comments were not received.] I just think this law is going in the wrong direction.

Jim DeGraffenreid, National Committeeman, Nevada Republican Party:

I am calling in opposition to this multi-subject and omnibus gun control bill. Because of limited time, I will confine myself to the first part of the bill. Witnesses from prior testimony stated that although there is already law and policy that allows people to prevent carrying on properties, these laws are actually ineffective, and the guns are still on the premises. This law definitely infringes on our constitutional rights by preventing us from defending ourselves in these areas where guns are present. We have found that laws infringing on our constitutional rights in this way do not prevent gun violence, as has been said, but actually make people less safe by creating gun-free zones.

It was already mentioned earlier that the opinions on the legislative website are running 9 to 1 in opposition to this bill. When I checked earlier, there were 1,089 opposed to 127 in favor. I think we should take into account that this is typical with the gun control legislation that has been proposed, both in this session and in past sessions. We should take into account the wishes of the people in Nevada.

Chairman Yeager:

I am going to close opposition testimony. So everyone knows, I have been taking note of the time. We gave support 41 minutes and I gave opposition about an hour in recognition that we had some questions for our opposers on Zoom. That was the reason for giving additional time to the opposition. I know there are still a lot of folks on the phone who wanted to testify in opposition, just like there were folks who wanted to testify in support. Unfortunately, the *Nevada Constitution* requires that we conduct our business in 120 consecutive calendar days, so we often do not have as much time as we would like to hear all the testimony. I will encourage those who were unable to speak in opposition to register your opinion at the Legislature's website or contact Committee members with any additional remarks. Again, I know folks know how to do that because I have been getting those emails consistently throughout the last 36 to 48 hours, and I expect that will continue.

[[Exhibit M](#), [Exhibit N](#), and [Exhibit O](#) were also submitted as testimony in opposition to A.B. 286.]

At this time, I am going to go to neutral testimony on the bill. I have been told we have a couple of people who are neutral on the phone. Before we take those calls, I just want to remind everyone that neutral testimony is if you really have no position on the bill. You do not support it, you do not oppose it, you do not have concerns about it, you are simply giving insight to the Committee about something that could be relevant in its decision-making process with respect to the bill. We will begin neutral testimony at this time.

Brittany Sheehan, Private Citizen, Las Vegas, Nevada:

I am calling in a neutral position on this bill. I am going to make some legal considerations for all members of the Legislature. All parts of this bill pick winners and losers and is inequitable under the Fourteenth Amendment. We are allowing businesses to pick and choose who has the right to carry and protect themselves on their properties.

Chairman Yeager:

Mrs. Sheehan, this is clearly opposition testimony and not neutral testimony. I will give you one last chance to provide neutral testimony, which again, takes no position on the bill but will provide something of note to the Committee.

Brittany Sheehan:

I am attempting to note parts of the bill for consideration. One of the things I found is that someone under the provisions of this bill could grant or deny firearm owners to carry on grounds of race, gender, their favorite football team, or their political party because there is no criteria for how this is adequately applied and not arbitrarily applied.

In that same sentiment, what I have seen in this hearing is that they are supporting state revenue in a private economic sector of tourism and targeting another industry because of their legal product. However, we permit brothels, which are illicit in all other states, and service tourists who come here. We also permit marijuana, which is federally illegal.

I also find we are serving ourselves to regulate federally because the company in Nevada services their product to Americans outside of our state. There is also an issue with restricting people carrying on private property.

Chairman Yeager:

Ms. Sheehan, I am going to stop you. You are providing opposition testimony and far from neutral testimony. If you have opposition testimony on the bill, please submit that to the Committee in writing. We will take the next caller in neutral on [Assembly Bill 286](#).

Joel Rivas, Private Citizen, Las Vegas, Nevada:

I would like you to consider that if businesses have the choice whether or not to inform the authorities, they are most likely going to do it when a Black or Latino person is carrying the gun. I understand the need for safety, but the point of the matter is if a Black person goes in

with a gun and a white person goes in with gun, they are more likely to call the cops on the Black person with the gun or a Latino with a gun. Is this legislation going to hopefully do something for Blacks, Mexicans, Puerto Ricans, et cetera, in jail? This sounds kind of Jim Crow. I have no further comments.

Chairman Yeager:

I am not sure if that was neutral testimony, but you did not seem to take a position at all, so I will characterize it as neutral. I want to remind callers on the phone, if you have a position on the bill, meaning you are in support or in opposition, you are then not in neutral and should provide your comments in writing. We will take the next caller in neutral.

Greg Gar, Private Citizen, Genoa, Nevada:

I am a retired California police officer, retiring in December after 29 years of honorable service. I am also a veteran of the U.S. Navy, where I served for 14 years. The law, as written, does not recognize veterans or retired peace officers who would want to continue to defend not only themselves, but others. I would pose to the author of the bill to consider veterans and retired law enforcement officers out there who still have the desire to protect and defend not only themselves and their families, but fellow Nevadans also.

Chairman Yeager:

Again callers, I will remind you, if you are advocating for or against passage of the bill, you are not in neutral. If you have zero position on the bill and do not care one way or another whether it passes or not, then now is the time for you to speak. We will take the next caller in neutral.

Emily Persaud-Zamora, Executive Director, Silver State Voices:

Silver State Voices is testifying in neutral today. One thing we think the Committee and the sponsor of the bill should think about in this piece of legislation is voting locations, early vote, and election day locations. If this bill passes, we definitely think it should have an amendment including these locations.

Loran Kelley, Private Citizen, Dayton, Nevada:

I am calling to truly be neutral. I do not care if this bill passes or not. I am just informing you that we, as Americans, just will not comply with it no matter what you do. I do not care if it passes. I am neutral, but I will not comply.

Chairman Yeager:

That was certainly a creative way to try to offer neutral testimony. I think it is oppositional testimony, but we will characterize it for neutral for the time being. We will take the next caller in neutral.

Justin Rost, Private Citizen, Winnemucca, Nevada:

I am going to testify as neutral today. I feel the ghost gun part was a way to get a lot of other things colluded into one big bag. It has obviously been stated by several different people that the segregation of the two issues are definitely separated. I think you would find

a bipartisanship by doing so. The biggest thing I would like to point out is you find people hearing one side of the narrative and then flowing into an entire bag of tricks. I would just advocate that people on both sides, opposition and support, to critically and diligently think about the effect of the bill passing other than just the one perspective that they singlehandedly aside with.

As a gun collector myself, I can understand the pre-1968 with the NRA and the Nevada Firearms Coalition, respectively. I can also understand the perspective of those who are for it regarding the ghost guns and the newer guns. That is definitely an issue in my opinion. Therefore, this is about as fair as I can give you as a neutral perspective. Everyone take this into a critical perspective and try to see what is being shoved into the cracks under the ghost guns. I do believe if you took the ghost gun part out, this would not even be on the board.

Chairman Yeager:

Again, neutral testimony is if you have no position on the bill but have something of importance to offer the Committee in this decision making. That would not be amendments to the bill, that would not be saying you actually support the bill but want to say you are neutral. That would not be saying you oppose the bill but want to say you are neutral. We are going to stay in neutral just a bit longer. I will note, there were only two people signed up for neutral testimony prior to the hearing. If you intended to testify in some other way and are now trying to testify in neutral, that is inappropriate and violates our Committee rules.

David Gomez, President, Nevada Peace Alliance; and Deputy Director, League of United Latin American Citizens:

I am also the former president of Westside Action Alliance Corp Uplifting People with Marzette Lewis on the westside of Las Vegas, where some people have never visited. Nevertheless, I am not a gun owner, so I do not support nor oppose the bill. The problem I see is that the bill does not support anyone. Everyone is upset about the whole process. Everyone is beside themselves. I see too much division. As Assembly members, it is your responsibility to help with the process and not 24 hours, 48 hours, a half day later, present something and hope that it passes through or be denied.

Chairman Yeager:

Sir, this is not neutral testimony. We will take the next caller.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

I am one of the two people who signed in as neutral prior to the hearing. I just want the Committee to know that the LVMPD is neutral on the bill. I think there are a lot of questions raised that have merit and need to be delved into further. The LVMPD certainly supports property owner's ability to prohibit firearms on their property. However, whether or not that is a criminal penalty, we believe that is up to the Legislature to decide.

We have seen an uptick in ghost guns, but we are in the process of trying to determine how that reflects with our overall impounding of illegal firearms, what percentage that might be, and if it is significant or if it is not. We are willing to assist or work with the proponents of the bill as needed.

Chairman Yeager:

Thank you for your neutral testimony, Mr. Callaway. Given that the two people who signed in as neutral have now testified in neutral, I am going to close neutral testimony. At the beginning of this hearing, I indicated neutral would get 10 minutes, and we gave neutral 15 minutes. That was based on the number of folks who signed in for neutral testimony. With that testimony behind us, Assemblywoman Jauregui, I want to hand it back over to you to make any concluding remarks you may have on Assembly Bill 286.

Assemblywoman Jauregui:

I had various people throughout the bill hearing text me this morning to thank me for carrying this bill today. It is my responsibility. I have to do this. I am not a trained soldier; I am not a trained law enforcement officer. I was never ready for the type of situation I was put into on 1 October. I do not think I could ever adequately explain what it feels like to endure ten minutes of gunfire with over 1,000 rounds of bullets raining down and you firmly believe you are going to die or even worse, that someone you love is going to die. Ten minutes felt like an eternity. I have made it my mission since that day to work so no one, whether you are a Nevadan or a visitor in our state, ever has to experience that type of hell again.

I do want to point out a couple of things. I know it was brought up about exemptions on background checks during the hearing by Mr. Reid. I want to remind the Committee members that sections 5 and 6 of NRS 202.2548 expressly allow for the type of transfer we were talking about. Also, during opposition, we heard Mr. Findlay give numbers regarding the reduction of homicides and suicides. Mr. Lindley has already kindly sent to the Committee members information from the Federal Bureau of Investigation, U.S. Department of Justice, and CDC showing that those numbers Mr. Findlay provided were incorrect.

Members, you have heard today from people who say A.B. 286 will not stop all gun violence or save every victim. No law we pass stops every bad thing from happening. The seatbelt requirement does not stop all people from dying in a car accident. No drunk driving law stops all incidents of drunk driving. No dropout prevention bill keeps every kid in school. A mask requirement does not stop every incident of COVID-19. If the point was to stop all of this, then we should just go home. The point in all of these measures, including A.B. 286, is that we will stop some incidents. We will save some lives. It will help our law enforcement have the tools they need to keep guns out of the hands of those who would do harm. It will help the largest driver of our state's economic recovery be safe for the over 40 million visitors a year that came to Las Vegas prior to the pandemic.

This bill might have saved two sheriff's deputies' lives in Los Angeles who were shot with ghost guns built with parts from a Nevada company. It might have saved us from 1 October. More importantly, it might save us from ever having that happen again.

I want to thank everyone who has worked over the last few years to make this bill a reality. I believe it is a good piece of legislation that incorporates many compromises. I am happy to continue working with interested parties who are truly interested in seeing this bill pass. If interested parties want to discuss further ideas and amendments, my virtual door remains open. However, I will not sacrifice the safety of every visitor and every other convention for the convenience of one. Texas has passed these laws, which we modeled ours after. The gun owners in Texas have managed to own guns under the same law.

To that end, I want to thank those who have worked on this bill. I give special thanks to the LVMPD who, under the leadership of Clark County Sheriff Joe Lombardo, have done their best to keep the Las Vegas Strip safe during these tough times, including implementing crackdowns in the last month that resulted in 64 confiscated guns on the Strip. I want to thank Governor Sisolak and Sheriff Lombardo in the wake of 1 October for making it clear that there is no tolerance for gun violence, and for taking tremendous steps last session to champion and sign bills to curb gun violence. I also want to thank Everytown for Gun Safety, Brady United, Giffords Law Center, and MGM Resorts. Thank you, Committee, for your time and for considering [A.B. 286](#). I strongly urge you to support this measure.

Chairman Yeager:

Before I close the Committee hearing, I just want to put on the record the way we conducted this hearing timewise. The presentation of the bill was 31 minutes. We took 35 minutes of questions after the presentation. Following that we took 41 minutes of supportive testimony, one hour of opposition testimony, 14 minutes of some neutral and some opposition testimony, and then we had 5 minutes for concluding remarks.

I know not everyone had a chance to participate who would have liked to, but again, I ask you for your patience. I encourage you to submit comments in writing on the Legislature's website or to the Committee members. Thank you to Assemblywoman Jauregui and the presenters who joined us here this morning to spend a few hours of your St. Patrick's Day morning with us. We truly appreciate it, and I hope you have a great rest of the day.

I will now close the hearing on [A.B. 286](#). We have one other item on the agenda, which is public comment. By way of reminder, we reserve up to 30 minutes of public comment time at the end of each meeting. Commenters on the public comment line will have two minutes to provide public comment.

I will note we still have a lot of people on the phone. Many of them were to testify on the bill we just heard. Public comment is not a time to testify on the bill we just closed. Public comment is a time to bring up matters of a general nature within the jurisdiction of the

Assembly Committee on Judiciary. If you are thinking about using public comment to try to express your opinion on the bill we just heard, that would be inappropriate and you will forfeit your right to give public comment if you try to do that. We will go to the public comment line and take our first caller for public comment.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

As you know, my brother, Thomas Purdy, was hog-tied by Reno Police and then asphyxiated to death by the Washoe County Sheriff's Office while still hog-tied and prone. It is the little things I miss the most from my brother, like a hug, a phone call, the way he was so protective of my son and would always ask to make sure no one was bothering him. I miss hearing him say "Love you, Anne" at the end of our conversations. My brother was the father of two children who were Joshua, 10, and Juliana, 8, when he was killed by police. I have to bear witness to the profound and detrimental effects it has had on their lives. I have never slept over three solid hours a night since October 4, 2015. Could you imagine being a child and having to process your parent being asphyxiated to death by those who you have been taught are there to protect us?

Kenneth Stafford was the father of three daughters when he was killed by Sparks police. Niko Smith was a father when he was asphyxiated by Washoe County sheriff's officers. Johnny Bonta was a father when he was shot by Sparks police. Kyle Zimbelman was a father of three children when he was shot by multiple Nevada law enforcement agencies. Nicholas Farah was a father when he was asphyxiated to death at the Clark County Detention Center.

It was mentioned earlier today about trespassing and how it is such a minor offense in your state. My brother lost his life for it when he was a guest at a hotel and simply asked for help. There is not a single day, hour, or minute when the torture and terror he experienced is not on my mind. That is why I continue until my last breath to be his voice and advocate for change. I do not want your family to know this pain, and it is a real reality. I, too, once lived on an imaginary pedestal where my loved one would not be murdered by police without consequence. Please support bills that promote transparency and accountability, such as Assembly Bill 268, should it come before this Committee.

Maggie Mordaunt, Private Citizen, Henderson, Nevada:

I am calling to speak about the meeting we just listened to. I feel that our world has actually been homebound due to COVID-19. I feel politicians really need to think about how we can get back to normal and get back out in the world, understanding there are many criminals in the world criminalizing law-abiding citizens. They really need to think about different laws they put into place or bills they try to present keeping their own personal feelings out of it and understanding the good of the people and what our founding fathers wanted and put in place for us to protect ourselves against all forms of domestic violence.

As a woman, I really feel it is my God-given right to protect myself, my loved ones, and any person in my presence or my company. As a firearms owner, I understand there are criminals out there and see that those criminals are looking at laws and how they will benefit from them. We, as law-abiding citizens, are looking at how laws are put into place and how bills are represented and how that can actually be something that is put against us.

Stephen Crescenti, Private Citizen, Las Vegas, Nevada:

I would like to remind everyone and wish you all happy anniversary. This is the one-year anniversary of "two weeks to flatten the curve." Unfortunately, I would like to see our Assembly members and elected officials actually work toward getting Nevadans back to work to be able to provide for our families, and helping us, as Nevadans, prosper. I have been a Nevada resident for 19 years.

I am not going to mention either pro or con toward Assembly Bill 286, but what I am asking for is instead of trying to work toward partisan, whether pro or con, toward this bill, we actually put these types of conversations aside and work toward figuring out how we get back to 100 percent in our state. Not 25 percent, not 35 percent, not mask mandate or no mask, is how we work toward spending our valuable time as Nevadans in helping each other and working toward making our state a great state once again.

Gina St. Ores, Private Citizen, Reno, Nevada:

I want to build on the last caller's comments regarding the lockdown and the number of people who have been out of work. It has resulted in and caused a lot of hardships and homelessness. I want to share with you that over this past year, while all these mandates went into effect, to protect my husband, who is a cancer survivor, I did most of the shopping by myself. This past year has been a real eye-opener over the amount of protection I needed. I was realizing a lot of times I would go to the store—I did not go every week, but tried to go as little as possible to not be around other people and be safe—I would have to buy a lot of groceries. When you are going to your car by yourself after a long day of shopping and loading everything and someone sneaks up behind you to ask for money or other help, it is very disconcerting. It was a big problem this past year and is just getting worse with all these shutdowns. I do not know why we have not put a COVID-19 cleaning commission together to put these people to work cleaning and making areas in restaurants safe so other people can do business and open. I do not see what is going on. I am very concerned that my community is going downhill with the lack of safety. By the time I could even react, it could be too late. I would like to strongly emphasize that these laws are not protecting us if things are getting out of control. Please put that into perspective as someone who is trying to be both COVID-safe and community-safe.

Ethan Cullings, Private Citizen, Henderson, Nevada:

I am calling this morning to ask the Committee to hear Assembly Bill 161. By the end of the month, it is estimated that 500,000 Nevadans are going to be at risk of eviction when the Centers for Disease Control and Prevention moratorium expires. I understand this is beyond the control of this Committee, but the least this Committee could do is hear a bill that would give these folks due process.

Ending summary evictions is not a bold concept. It is standard practice in 49 other states. Please consider bringing Assembly Bill 161 to be heard.

Debra Songer, Private Citizen, Carson City, Nevada:

I do not condone, and I am sorry for these people who have seen the barrel of a shotgun or a gun being shot at them. I have been a victim twice. I was kidnapped and raped. If I had had a firearm, which I did not, I would be fine. I was a victim. I had a sawed-off shotgun to my head. I told him to shoot me, okay. I was done. I had two teenage babies. I would like you to just clean up. We have bills against firearms and all this. Even with the laws, you are not getting the criminals. This bill is not getting the criminals off the streets.

I am very emotional about it. It is not going to keep guns out of the hands of criminals. The law-abiding citizens do abide by the law. It is the criminals, and we are going to get more and more coming from California and Arizona. They have already caught people coming in with automatic guns, not semi-automatic guns. The White House and everything are fenced off. How many guns do they have surrounding them? How many guns do we have surrounding our city? None. We have nothing to protect ourselves but our guns. I do not even own a gun, but for our gun people, please think about this. I am sorry, I understand about a gun shooting. Trust me. Like I said, I have had a sawed-off shotgun to my head. You do not know how that feels. That is worse than hearing a gunshot; I am sorry. I heard it set and waited for him to click one more click. We need the law-abiding citizens to be able to have them because we do depend on them when we need them. Maybe if somebody had known about this guy that went in there with nobody knowing he had guns. His mind was set. He was going to hurt and kill some people for some reason. That is not your average, law-abiding gunman. Please think about it because you would not like a gun against your head or anywhere else. I am totally against it. Bye. I am sorry.

Greg Gar, Private Citizen, Genoa, Nevada:

I am a retired California peace officer with 29 1/2 years of honorable service and 14 years of service to the U.S. Navy. I want to share a quick story. I was on the job in the Los Angeles area, had been on the job for about a year. I got a call about a vehicle accident. When we got there, it became obvious it was no accident. Seated in the right front seat was a deceased Asian male. Seated in the left front seat was a deceased Asian female. The Asian male had a softball-sized hole in the back of his head and the whole front part of his face was completely blown off. The Asian female had a golf ball-sized hole in the front of her face and the whole backside of her head was completely blown off. They owned a Winchell's donut store. They were held up at gunpoint and told to drive to a remote location, which is the location where we found them. The person in the back seat had a sawed-off shotgun, which was illegal at the time. He pointed it at the Asian male's head and blew it off, while the wife, I would imagine, was screaming and looking over the back seat, he shot her in the face. The smell from their bodies in that vehicle stayed in my nostrils for several hours, and the memory of that smell stayed for several days.

We would all like to have laws that protect people, myself included. I enforced laws for 29 1/2 years. Assemblywoman Jauregui said a law does not prevent all deaths, but if it prevents one, then it is a good law.

Chairman Yeager:

Sir, we have closed the bill hearing, so you need to keep your comments to a general nature.

Greg Gar:

I am sorry about that. I guess that is all I have to say. We want laws that protect people, but we want to make sure these laws do not also put people's lives at risk.

Amber Carrillo, Private Citizen, Wellington, Nevada:

I strongly oppose Assembly Bill 286.

Chairman Yeager:

Madam, we are taking testimony for public comment. We have closed the bill hearing. If you have public comment of a general nature, that would be appropriate. If your comments are on the bill, you will have to submit them in writing.

Jesse Mosley, Private Citizen, Las Vegas, Nevada:

My understanding is that bill comments are now closed and if I want to submit something, I have to do so in writing. Is that correct?

Chairman Yeager:

That is correct, sir. We are in public comment, so this would be time for matters of a general nature not relating to the bill we heard.

Jesse Mosley:

I appreciate your time. I will submit something in writing to your office.

David Gomez, President, Nevada Peace Alliance; and Deputy Director, League of United Latin American Citizens:

I do not appreciate being hung up on. I do not like that, and I do not appreciate your blatantly taking into consideration other people, being Black or whatever I am. You can consider another person and say, "Sir, sir. This is not part of that. Sir, can you skip to this?" But you will not do that for me. What kind of biased issue is that? What does that say about you? What does that point out? You do not want me to speak about the bill, then you gave me something to speak about. This is what I want to speak about.

As an Assembly person, you are supposed to be unbiased. You are not supposed to pick one versus the other and be polite to one versus another. You are supposed to look at the whole situation and treat equally across the board. I have an unalienable right to be treated equal, regardless of how you feel about me, regardless of what I did when I walked against people who ran for office and what was said does not give you the right to treat me any

different than anyone else. When you speak to a woman or another man because of their etiquette, whether they live in Summerlin or Henderson or out to the Far West where you are, does not give you the right to do that. You have to treat me the exact same way.

You do not want to talk about the bill? That is your problem. My problem is that you are going to respect me as a constituent whether I live in district 41, 12, or wherever I live. That is just the way it is. If you do not like it, I can file an ethics complaint against you and tell them to listen to it and tell them to listen to how you treated me and how you treat others that do not fit the demographic criteria of what I am. I do not appreciate it, and I am telling you that right now. If you have something to say to me, you can address it in that manner and say, "Sir. Mr. Gomez."

Chairman Yeager:

Sir. Mr. Gomez, you are at your two minutes. Please wrap up your comments.

David Gomez:

Yes, sir, I will, Mr. Yeager. Let me tell you, your wife is an excellent woman.

Chairman Yeager:

We will take the next caller. [There were no additional callers.] I will now close public comment. Committee members, I am sure you are exhausted from a long morning, but is there anything you would like to say before we talk about next week?

Assemblywoman Nguyen:

I know this was a very contentious hearing, and I just want to thank you, Chair. I think you ran a very fair, open, transparent hearing, especially considering the passionate nature of the testimony in opposition, support, and apparently, neutral.

Assemblyman Wheeler:

I would like to say ditto to Assemblywoman Nguyen's comments. The hearing was fair, and you did give more time to opposition, actually, than you did in support. I appreciated that. I realize we have a lot of work to do on Assembly Bill 286. I do not appreciate people attacking you personally.

Chairman Yeager:

This was a contentious hearing and sometimes we have these hearings in the Legislature. I think we can be proud of the record that was made today. I think we all share the belief that we want to do what is best for Nevada. We might disagree about what that is or how to get there. The point of this process is so we get that input. Ultimately, we all have a vote on legislation.

I want to thank the Committee members. I know these are long mornings and difficult hearings, but thank you for your questions and your attention this morning. We have a floor session very soon, so I am going to wrap up quickly. We do have a meeting agendized for tomorrow and Friday. Both will be at 8 a.m. We have two bills on both of those days. Tomorrow, we are going to hear a bill from Assemblywoman Nguyen and also from Assemblyman Miller. I look forward to that tomorrow morning. I want to remind you to head to the floor as soon as you get a chance.

This meeting is adjourned [at 11:44 a.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Assembly Bill 286, submitted by Assemblywoman Sandra Jauregui, Assembly District No. 41.

[Exhibit D](#) is a PowerPoint presentation titled "Ghost Guns. What are they and Why Should We Care?", presented by Stephen J. Lindley, Program Manager, Brady Campaign & Center to Prevent Gun Violence, regarding Assembly Bill 286.

[Exhibit E](#) is written testimony submitted by Elizabeth Becker, Volunteer, Nevada Chapter, Moms Demand Action for Gun Sense in America, in support of Assembly Bill 286.

[Exhibit F](#) is written testimony submitted by Karl Catarata, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 286.

[Exhibit G](#) is written testimony dated March 17, 2021, submitted by Teresa Crawford, Volunteer, Nevada Chapter, Moms Demand Action for Gun Sense in America, in support of Assembly Bill 286.

[Exhibit H](#) is written testimony dated March 17, 2021, submitted by Joshua Schwartz, State Legislative Lead, Nevada Moms Demand Action, in support of Assembly Bill 286.

[Exhibit I](#) is written testimony submitted by Ryan Budman, Private Citizen, Reno, Nevada, in support of Assembly Bill 286.

[Exhibit J](#) is a copy of an email dated March 17, 2021, submitted by Kileen Kohn, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 286.

[Exhibit K](#) is a copy of an email dated March 16, 2021, submitted by N. June Eshelman, Private Citizen, Henderson, Nevada, in support of Assembly Bill 286.

[Exhibit L](#) is a letter dated March 15, 2021, submitted by Daniel Reid, Western Regional Director, National Rifle Association of America Institute for Legislative Action, in opposition to Assembly Bill 286.

[Exhibit M](#) is written testimony submitted by Dianna Johnson, Private Citizen, in opposition to Assembly Bill 286.

[Exhibit N](#) is written testimony dated March 17, 2021, submitted by Randi Thompson, representing Nevada Firearms Coalition, in opposition to Assembly Bill 286.

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[Exhibit O](#) is a collection of emails to the Assembly Committee on Judiciary in opposition to Assembly Bill 286.

SUMMARY—Prohibits certain acts relating to firearms. (BDR 15-21)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of
Imprisonment in County or City Jail or Detention Facility.

Effect on the State: Yes.

AN ACT relating to crimes; prohibiting a person from possessing a firearm on a covered premises under certain circumstances; prohibiting a person from engaging in certain acts relating to unfinished frames or receivers under certain circumstances; prohibiting a person from engaging in certain acts relating to firearms which are not imprinted with a serial number under certain circumstances; revising provisions relating to the confiscation and disposal of dangerous weapons; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for a person to go upon the land or into any building of another person in certain circumstances, including willfully going or remaining on land or in a building after being warned by the owner or occupant not to trespass. (NRS 207.200) **Section 2** of this bill establishes similar provisions which make it unlawful for a person to possess a firearm on a covered premises without the written consent of the owner or operator of the covered premises or an authorized agent thereof after being warned by the owner, operator or authorized agent that possessing the firearm

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15-21

on the covered premises is prohibited. **Section 2** defines “covered premises” as real property that serves as certain venues, establishments, facilities and any real property extending to the property line thereof.

Section 2 provides that, for the purpose of determining whether a person has been given a sufficient warning against the possession of a firearm, the owner or occupant of the covered premises or an authorized agent thereof may: (1) conspicuously post a sign at the covered premises which contains specific language relating to the prohibition on firearms; or (2) if the covered premises is a public accommodation facility, provide guests at the time of check-in with documentation containing specific language relating to the prohibition on firearms. Upon the posting of the sign or implementation of a policy for the provision of the documentation, **section 2** requires the owner, operator or authorized agent to inform a law enforcement agency of the warning relating to the prohibition on firearms at the covered premises.

Section 2 provides that any person who possesses a firearm in such an unlawful manner: (1) for the first offense, is guilty of a misdemeanor; (2) for the second offense, is guilty of a gross misdemeanor; and (3) for the third or any subsequent offense, is guilty of a category E felony. **Section 9** of this bill adds an exception to the crime of trespass for application of the greater penalties prescribed by **section 2**.

Existing law establishes procedures for the disposal of certain dangerous instruments and weapons taken from the possession of a person charged with the commission of a public offense or crime or a child charged with committing a delinquent act. (NRS 202.340) **Section 8** of this bill requires firearms confiscated from the possession of a person who commits a third or subsequent

violation of **section 2** to be disposed of in the manner provided for dangerous instruments and weapons.

Section 3 of this bill prohibits a person from possessing, selling, offering to sell, transferring, purchasing, transporting or receiving an unfinished frame or receiver unless the person is a firearms importer or manufacturer or the unfinished frame or receiver is required to be, and has been, imprinted with a serial number. **Section 3** provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Section 4 of this bill prohibits a person from manufacturing or causing to be manufactured or assembling or causing to be assembled a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless the firearm is: (1) rendered permanently inoperable; (2) an antique; or (3) a collector's item, curio or relic. **Section 4** provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Similarly, **section 5** of this bill prohibits a person from possessing, selling, offering to sell, transferring, purchasing, transporting or receiving a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless: (1) the person is a law enforcement agency or a firearms importer or manufacturer; or (2) the firearm is rendered permanently inoperable or is an antique, collector's item, curio or relic. **Section 5** provides that a person who commits such an unlawful

act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Section 6 of this bill defines the terms “antique firearm” and “firearm importer or manufacturer.” **Section 7** of this bill makes a conforming change relating to the new definitions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. *A person shall not possess a firearm on a covered premises without the written consent of the owner or operator of the covered premises or an authorized agent thereof after having been warned by the owner, operator or authorized agent that the person is prohibited from possessing the firearm on the covered premises.*

2. *A sufficient warning against possessing a firearm on a covered premises, within the meaning of this section, is given by ~~any of the following methods:~~*

(a) ~~Posting~~ a sign in a conspicuous place at the covered premises which contains the following language printed in contrasting colors and in block letters measuring at least 1 inch in height: “Firearms are prohibited on this property unless the person wishing to possess the

firearm has obtained the written consent of the owner or operator of this property or an authorized agent thereof.

(b)(a) If the covered premises is a public accommodation facility, ~~providing guests may~~ be provided at the time of check-in with a document which contains the language: "Firearms are prohibited on this property unless the person wishing to possess the firearm has obtained the written consent of the owner or operator of this property or an authorized agent thereof."

3. Upon the posting of a sign described in paragraph (a) of subsection 2 or the implementation of a policy for the provision of the documentation described in paragraph (b) of subsection 2, the owner or operator of the covered premises or the authorized agent thereof shall inform a law enforcement agency with jurisdiction over a violation of subsection 1 that a sufficient warning within the meaning of this section is being provided on the covered premises.

4. A person who violates subsection 1:

(a) For the first offense, is guilty of a misdemeanor;

(b) For the second offense, is guilty of a gross misdemeanor; and

(c) For the third or any subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. This section:

(a) Except as otherwise provided in paragraph (b), applies to any person entering a covered premises, including, without limitation, any person who is the holder of a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive.

(b) Does not apply to:

(1) An officer of a law enforcement agency or a security officer of the covered premises, who is required to carry a firearm as part of his or her official duties and who is acting in his or her official capacity at the time of possessing the firearm on the covered premises;

(2) A residential unit owner who:

(I) Carries or stores a firearm in his or her unit;

(II) Carries a firearm directly to his or her unit from a location where he or she is authorized to carry or store a firearm under this subparagraph or from his or her unit to a location where he or she is authorized to carry or store a firearm under this subparagraph;

(III) Carries or stores a ~~handgun~~ firearm in his or her vehicle located in a parking area designated for the residential unit owner; or

(IV) Carries a ~~handgun~~ firearm directly to his or her vehicle located in a parking area designated for the residential unit owner from a location where he or she is authorized to carry or store a firearm under this subparagraph or from such a vehicle to a location where he or she is authorized to carry or store a firearm under this subparagraph.

(3) A guest of a public accommodation facility who:

(I) Purchases a firearm at a trade show in this State;

(II) Transports the purchased firearm directly from the trade show to the public accommodation facility in accordance with all applicable laws;

(III) Enters the public accommodation facility with the firearm unloaded and contained within a bag; and

(IV) Notifies the public accommodation facility in writing that his or her bag contains an unloaded firearm.

(4) For a trade show that features firearms as the major purpose of the event, an employee or operator who:

(I) Possesses or displays a firearm or inoperable firearm as part of their employment at the trade show; and

(II) Transports an operable or inoperable firearm directly to or from a parking or staging area to the trade show as part of their employment.

(IV)

6. Nothing in this section shall:

(a) Prohibit or restrict a rule, policy or practice of an owner or operator of a covered premises from adopting or enforcing a rule, policy or practice concerning or prohibiting the presence of firearms on the covered premises; or

(b) Require an owner or operator of a covered premises to adopt or enforce a rule, policy or practice concerning or prohibiting the presence of firearms on the covered premises.

7. As used in this section:

(a) "Club venue" means a venue, including, without limitation, a pool venue, that:

(1) Prohibits patrons under 21 years of age from entering the premises;

(2) Is licensed to serve alcohol;

(3) Allows dancing; and

(4) Offers live music, a disc jockey or an emcee.

(b) "Condominium hotel" has the meaning ascribed to it in NRS 116B.060.

(c) "Consent" does not include consent that is induced by force, threat or fraud.

(d) "Covered premises" means:

(1) Any real property that serves as:

(I) *A club venue;*

(II) *A golf course;*

(III) *A licensed gaming establishment, including all tenants and business establishments located therein;*

~~(IV) *A motion picture theater;*~~

~~(IV)~~ (IV) A place of religious worship;

~~(V)~~ (V) A public accommodation facility;

~~(VI)~~ (VI) A shopping mall; or

~~(VII)~~ (VII) A stadium, arena, concert hall, theater, showroom or any other facility used for live entertainment or a sporting event; and

(2) Any real property extending to the property line of any property described in subparagraph (1), including, but not limited to, indoor and outdoor areas such as swimming pool areas; parking lots, parking garages, or any other parking facilities; exterior spaces; and outdoor attractions or venues.

(e) "Law enforcement agency" has the meaning ascribed to it in NRS 289.010.

(f) "Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

(g) "Public accommodation facility" means a hotel and casino, resort, hotel, condominium hotel, motel, hostel, bed and breakfast facility or other facility offering rooms or areas to the public for monetary compensation or other financial consideration on an hourly, daily or weekly basis.

(h) "Residential unit owner" has the meaning ascribed to it in NRS 116B.205.

(i) "Shopping mall" includes any area or premises where multiple vendors assemble for the primary purpose of selling goods.

Sec. 3. 1. A person shall not possess, sell, offer to sell, transfer, purchase, transport or receive an unfinished frame or receiver unless:

(a) The person is a firearms importer or manufacturer; or

(b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

2. A person who violates this section:

(a) For the first offense, is guilty of a gross misdemeanor; and

(b) For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section, "unfinished frame or receiver" means a blank, a casting or a machined body that is intended to be turned into the frame or lower receiver of a firearm with additional machining and which has been formed or machined to the point at which most of the major machining operations have been completed to turn the blank, casting or machined body into a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or machined body is still completely solid and unmachined.

Sec. 4. 1. *A person shall not manufacture or cause to be manufactured or assemble or cause to be assembled a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless the firearm:*

(a) Has been rendered permanently inoperable;

(b) Is an antique firearm; or

(c) Has been determined to be a collector's item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44.

2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) *For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *As used in this section:*

(a) *“Assemble” means to fit together component parts.*

(b) *“Manufacture” means to fabricate, make, form, produce or construct by manual labor or machinery.*

Sec. 5. 1. *A person shall not possess, sell, offer to sell, transfer, purchase, transport or receive a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless:*

(a) *The person is:*

(1) *A law enforcement agency; or*

(2) *A firearms importer or manufacturer; or*

(b) *The firearm:*

(1) *Has been rendered permanently inoperable;*

(2) *Is an antique firearm; or*

(3) *Has been determined to be a collector’s item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44.*

2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section, "law enforcement agency" has the meaning ascribed to it in NRS 239C.065.

Sec. 6. NRS 202.253 is hereby amended to read as follows:

202.253 As used in NRS 202.253 to 202.369, inclusive ~~1~~, *and sections 2 to 5, inclusive, of this act:*

1. "Antique firearm" has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).

2. "Explosive or incendiary device" means any explosive or incendiary material or substance that has been constructed, altered, packaged or arranged in such a manner that its ordinary use would cause destruction or injury to life or property.

~~2~~ *3. "Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.*

~~3~~ *4. "Firearm capable of being concealed upon the person" applies to and includes all firearms having a barrel less than 12 inches in length.*

~~4~~ *5. "Firearms importer or manufacturer" means a person licensed to import or manufacture firearms pursuant to 18 U.S.C. Chapter 44.*

6. "Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.

~~5~~ *7. "Motor vehicle" means every vehicle that is self-propelled.*

~~6~~ *8. "Semiautomatic firearm" means any firearm that:*

(a) Uses a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next shell or round;

(b) Requires a separate function of the trigger to fire each cartridge; and

(c) Is not a machine gun.

Sec. 7. NRS 202.2548 is hereby amended to read as follows:

202.2548 The provisions of NRS 202.2547 do not apply to:

1. The sale or transfer of a firearm by or to any law enforcement agency and, to the extent he or she is acting within the course and scope of his or her employment and official duties, any peace officer, security guard entitled to carry a firearm under NAC 648.345, member of the armed forces or federal official.

2. The sale or transfer of an antique firearm. ~~{ as defined in 18 U.S.C. § 021(a)(16) }~~

3. The sale or transfer of a firearm between immediate family members, which for the purposes of this section means spouses and domestic partners and any of the following relations, whether by whole or half blood, adoption, or step-relation: parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces and nephews.

4. The transfer of a firearm to an executor, administrator, trustee or personal representative of an estate or a trust that occurs by operation of law upon the death of the former owner of the firearm.

5. A temporary transfer of a firearm to a person who is not prohibited from buying or possessing firearms under state or federal law if such transfer:

(a) Is necessary to prevent imminent death or great bodily harm; and

(b) Lasts only as long as immediately necessary to prevent such imminent death or great bodily harm.

6. A temporary transfer of a firearm if:

(a) The transferor has no reason to believe that the transferee is prohibited from buying or possessing firearms under state or federal law;

(b) The transferor has no reason to believe that the transferee will use or intends to use the firearm in the commission of a crime; and

(c) Such transfer occurs and the transferee's possession of the firearm following the transfer is exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located;

(2) At a lawful organized competition involving the use of a firearm;

(3) While participating in or practicing for a performance by an organized group that uses firearms as a part of the public performance;

(4) While hunting or trapping if the hunting or trapping is legal in all places where the transferee possesses the firearm and the transferee holds all licenses or permits required for such hunting or trapping; or

(5) While in the presence of the transferor.

Sec. 8. NRS 202.340 is hereby amended to read as follows:

202.340 1. Except as otherwise provided for firearms forfeitable pursuant to NRS 453.301, when any instrument or weapon described in NRS 202.350 is taken from the possession of any

person charged with the commission of any public offense or crime or any child charged with committing a delinquent act ~~(j)~~ *or when any firearm is taken from the possession of any person charged with a third or subsequent violation of section 2 of this act*, the instrument, ~~(e)~~ *weapon or firearm* must be surrendered to:

(a) The head of the police force or department of an incorporated city if the possession thereof was detected by any member of the police force of the city; or

(b) The chief administrator of a state law enforcement agency, for disposal pursuant to NRS 333.220, if the possession thereof was detected by any member of the agency.

↳ In all other cases, the instrument, ~~(e)~~ *weapon or firearm* must be surrendered to the sheriff of the county or the sheriff of the metropolitan police department for the county in which the instrument, ~~(e)~~ *weapon or firearm* was taken.

2. Except as otherwise provided in subsection 5, the governing body of the county or city or the metropolitan police committee on fiscal affairs shall at least once a year order the local law enforcement officer to whom any instrument, ~~(e)~~ *weapon or firearm* is surrendered pursuant to subsection 1 to:

(a) Retain the confiscated instrument, ~~(e)~~ *weapon or firearm* for use by the law enforcement agency headed by the officer;

(b) Sell the confiscated instrument, ~~(e)~~ *weapon or firearm* to another law enforcement agency;

(c) Destroy or direct the destruction of the confiscated instrument, ~~(e)~~ *weapon or firearm* if it is not otherwise required to be destroyed pursuant to subsection 5;

(d) Trade the confiscated instrument , ~~{or}~~ weapon *or firearm* to a properly licensed retailer or wholesaler in exchange for equipment necessary for the performance of the agency's duties; or

(e) Donate the confiscated instrument , ~~{or}~~ weapon *or firearm* to a museum, the Nevada National Guard or, if appropriate, to another person for use which furthers a charitable or public interest.

3. All proceeds of a sale ordered pursuant to subsection 2 by:

(a) The governing body of a county or city must be deposited with the county treasurer or the city treasurer and the county treasurer or the city treasurer shall credit the proceeds to the general fund of the county or city.

(b) A metropolitan police committee on fiscal affairs must be deposited in a fund which was created pursuant to NRS 280.220.

4. Any officer receiving an order pursuant to subsection 2 shall comply with the order as soon as practicable.

5. Except as otherwise provided in subsection 6, the officer to whom a confiscated instrument , ~~{or}~~ weapon *or firearm* is surrendered pursuant to subsection 1 shall:

(a) Except as otherwise provided in paragraph (c), destroy or direct to be destroyed any instrument , ~~{or}~~ weapon *or firearm* which is determined to be dangerous to the safety of the public.

(b) Except as otherwise provided in paragraph (c), return any instrument , ~~{or}~~ weapon ~~{,}~~ *or firearm* which has not been destroyed pursuant to paragraph (a):

(1) Upon demand, to the person from whom the instrument, ~~(or)~~ *weapon or firearm* was confiscated if the person is acquitted of the public offense or crime of which the person was charged; or

(2) To the legal owner of the instrument, ~~(or)~~ *weapon or firearm* if the Attorney General or the district attorney determines that the instrument, ~~(or)~~ *weapon or firearm* was unlawfully acquired from the legal owner. If retention of the instrument, ~~(or)~~ *weapon or firearm* is ordered or directed pursuant to paragraph (c), except as otherwise provided in paragraph (a), the instrument, ~~(or)~~ *weapon or firearm* must be returned to the legal owner as soon as practicable after the order or direction is rescinded.

(c) Retain the confiscated instrument, ~~(or)~~ *weapon or firearm* held by the officer pursuant to an order of a judge of a court of record or by direction of the Attorney General or district attorney that the retention is necessary for purposes of evidence, until the order or direction is rescinded.

(d) Return any instrument, ~~(or)~~ *weapon or firearm* which was stolen to its rightful owner, unless the return is otherwise prohibited by law.

6. Before any disposition pursuant to subsection 5, the officer who is in possession of the confiscated instrument, ~~(or)~~ *weapon or firearm* shall submit a full description of the instrument, ~~(or)~~ *weapon or firearm* to a laboratory which provides forensic services in this State. The director of the laboratory shall determine whether the instrument, ~~(or)~~ *weapon or firearm*:

(a) Must be sent to the laboratory for examination as part of a criminal investigation; or

(b) Is a necessary addition to a referential collection maintained by the laboratory for purposes relating to law enforcement.

Sec. 9. NRS 207.200 is hereby amended to read as follows:

207.200 1. Unless a greater penalty is provided pursuant to NRS 200.603 ~~||~~ *or section 2 of this act*, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass,

↪ is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

2. A sufficient warning against trespassing, within the meaning of this section, is given by any of the following methods:

(a) Painting with fluorescent orange paint:

(1) Not less than 50 square inches of a structure or natural object or the top 12 inches of a post, whether made of wood, metal or other material, at:

(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and

(II) Each corner of the land, upon or near the boundary; and

(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area;

(b) Fencing the area;

(c) Posting “no trespassing” signs or other notice of like meaning at:

(1) Intervals of such a distance as is necessary to ensure that at least one such sign would be within the direct line of sight of a person standing next to another such sign, but at intervals of not more than 500 feet; and

(2) Each corner of the land, upon or near the boundary;

(d) Using the area as cultivated land; or

(e) By the owner or occupant of the land or building making an oral or written demand to any guest to vacate the land or building.

3. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection 2 without lawful business with the owner or occupant of the property.

4. An entryman on land under the laws of the United States is an owner within the meaning of this section.

5. As used in this section:

(a) “Cultivated land” means land that has been cleared of its natural vegetation and is presently planted with a crop.

(b) “Fence” means a barrier sufficient to indicate an intent to restrict the area to human ingress, including, but not limited to, a wall, hedge or chain link or wire mesh fence. The term does not include a barrier made of barbed wire.

(c) "Guest" means any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in NRS 118A.170.

Sec. 10. 1. This section and sections 1 to 4, inclusive, and 6 to 9, inclusive, of this act become effective ~~on October 1, 2021 upon passage and approval.~~

2. Section 5 of this act becomes effective on January 1, 2022.



Guns they e Care?

Assembly Committee: Judiciary
Submitted by: Stephen J. Lindley
EXHIBIT Page of 4 Date: 03/17/2021

STEPHEN J. LINDLEY, LOS ANGELES CITY MANAGER
BRADY



What is a Ghost Gun?

- ▶ Essentially, an 80% receiver is the frame of a firearm that is manufactured just below the level of completion that would require it to be considered a firearm under ATF regulations.
 - ▶ Not requiring it to be serialized (like a firearm) and not subject to a firearm background check.
 - ▶ No tracing of the firearm when used in a crime, hence a “ghost gun.”



Why are Ghost Guns a Problem?

- ▶ Circumvents State & Federal firearms laws

NO BACKGROUND CHECK = PROBLEMS



AR Series 80% Lower Receivers

D-4



The New Ghost Gun Problem?

- ▶ ATF's 2018 Firearm Tracing Report for Nevada
 - ▶ 1,008 long-guns recovered at Nevada crime scenes
 - ▶ Assault weapons are a small percentage of these recovered rifles
 - ▶ 4,514 handguns recovered at Nevada scenes
 - ▶ Handguns are the most recovered type of crime gun in Nevada and the nation



The New Ghost Gun Problem?



D-6

The Expanding Ghost Gun Problem?

Crime Guns

- ▶ ATF - California
 - ▶ 30% of firearms they recover are ghost guns
 - ▶ 2000 - 0, 2019 - 30%
- ▶ Los Angeles Police Department
 - ▶ 40% of firearms they recover are ghost guns
 - ▶ 2000 - 0, 2019 - 40%





California

2016

Assembly Bill 1673 - Vetoed by Governor Brown
Would have stopped the problem before it
grew out of control





California

2019

Assembly Bill 879 - Signed by Governor Newsom
Won't take effect until July 2022



Pennsylvania

December 2019

Pennsylvania Attorney General Josh Shapiro
classifies 'ghost guns' as firearms



Washington, DC

March 11, 2020

- ▶ D.C. Mayor Muriel E. Bowser (D) on Wednesday signed emergency legislation banning kits used to make untraceable “ghost guns” after the number of home-built firearms seized by police in the city spiked last year.



Rhode Island

June 23, 2020

- ▶ Governor Gina Raimondo has signed a bill banning so-called “ghost guns” in Rhode Island.
- ▶ The bill makes it illegal to manufacture, import, sell, ship, deliver, possess, transfer or receive any firearm that is made from plastic, fiberglass or through a 3D-printing process.



Washington, DC

June 24, 2020

- ▶ AG Racine Sues Gun Manufacturer Polymer80 for Illegally Advertising and Selling Untraceable Firearms to District Consumers



New York

July 15, 2020

- ▶ The state attorney general's office said that 17 online "ghost gun" suppliers have ceased selling firearms and firearms components in New York, 10 months after they were sent warning letters that they could face civil fines or criminal prosecution for violating state gun laws.



Good morning Chair Yeager and members of the committee. For the record, my name is Elizabeth Becker and I am speaking as a volunteer on behalf of Moms Demand Action's Nevada chapter. I would first like to thank Assemblywoman Jauregui for bringing the Keep Nevada Safe Bill to the legislature.

After the devastation visited upon our community in October 2017, this legislative body passed the Background Check Law and extreme risk protection orders during the 80th session to keep us all safer and to keep guns out of the hands of those intending to harm themselves or others. In the past few years, a grave new threat has emerged: the proliferation of so-called "ghost guns." These weapons have no serial numbers and cannot be traced by law enforcement. They skirt background check law by purporting to be unfinished. Purchasers can buy parts of guns online and assemble them at home, no background check needed. Just 3 months ago, ATF raided Polymer80, located just outside where you sit in Carson City, for knowingly selling weapons without background checks, among several other charges. States across the country have discovered weapons at crime scenes and traced them back to Nevada. In California, the ATF states that more than 30% of guns recovered from crime scenes are ghost guns and that number is rising rapidly.

AB286 addresses the problem of ghost guns head on. I have been a member of Moms Demand Action for almost 7 years. I know that no one law will ever prevent all gun crime and the unnecessary and crippling suffering it brings to families. But I do know this: giving up and allowing bad actors to obtain weapons more easily than registering a vehicle is not an option. We must stop arming those who wish to harm us and AB286 is a step in the right direction and I urge your support for its passage.

Thank you,

Elizabeth Becker