

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

CONNECTICUT CITIZENS DEFENSE
LEAGUE, INC., AMY JONES, TODD
SKILTON, JOHN LOWMAN, JOSEPH
COLL, TANYSHA BROWN AND
DANIEL GERVAIS

Plaintiffs,

v.

NED LAMONT, JAMES ROVELLA,
PAUL MELANSON, ANDREW COTA,
BRIAN GOULD AND JAMES KENNY

Defendants.

CIV. NO.3:20-cv-00646(JAM)

JULY 20, 2021

EMERGENCY MOTION FOR IMMEDIATE STATUS CONFERENCE

In clear violation of this Court's June 8, 2020 Temporary Injunction prohibiting the state Defendants, Ned Lamont and James Rovella, from preventing law-abiding Connecticut citizens from obtaining firearms, ammunition, and magazines, said Defendants and those under their agency, have again completely shut down all fingerprinting for the purposes of obtaining firearms permits. No local police department is currently taking fingerprints for that purpose. Further, the state Defendants are also now effectively blocking the sale of virtually all but a tiny number of firearms throughout the state indefinitely. Because of the state Defendants' blatantly unconstitutional conduct, which is currently causing irreparable

damage to the constitutional rights of numerous members of Plaintiff CCDL, and both constitutional and massive economic damages to the entire Connecticut firearms industry, the Plaintiffs seek an immediate status conference with the Court on an emergency basis to assess the next steps in this litigation and possible further injunctive relief.

BRIEF STATEMENT OF RELEVANT FACTS

The State of Connecticut has established an extensive proprietary governmental procedure under which a person wishing to exercise his or her constitutional right to obtain and/or carry a firearm must first apply for and obtain a firearms permit from the state. For a person wishing to exercise his or her Second Amendment rights, such state-mandated procedure is far more rigorous, costly and time consuming than the procedure of virtually every other state in the nation.

As part of that state-mandated process, the person must submit to being fingerprinted. Unless the person submits his or her fingerprints to the state, he or she cannot obtain a permit and is legally prohibited from obtaining and/or carrying a firearm.

On March 17, 2020, Defendant Lamont issued an executive order which effectively shut down the system of fingerprinting individuals wishing to obtain such a permit, claiming that doing so was necessary to prevent the spread of Covid-19.

By shutting down the fingerprinting system, the state Defendants effectively prevented every law-abiding citizen in Connecticut who did not already possess such a permit from exercise his or her constitutional right to keep and bear arms.

On May 9, 2020, the Plaintiffs brought this action seeking a temporary and permanent injunction from this Court prohibiting the Defendants from shutting down the state-mandated system for getting a permit necessary to obtain and/or carry a firearm.

TEMPORARY INJUNCTION AGAINST STOPPING FINGERPRINTING

On June 8, 2020, this Court issued a temporary injunction ordering Defendant Lamont to rescind his executive order and compelling the state Defendants to resume fingerprinting and processing firearm permit applications so that the people of Connecticut could have a way to exercise their Second Amendment rights. Document 70, *Order Granting Motion for Preliminary Injunction*.

In issuing its temporary injunction, the Court found that if the state mandates law-abiding citizens to utilize a given state-imposed procedure in order to exercise the fundamental constitutional right to keep and bear arms guaranteed under the Second Amendment of the United States Constitution, the state violates that fundamental right when it prevents individuals from using that state-mandated procedure.

The U.S. Constitution permits the States to set out a procedural road to lawful handgun ownership, rather than simply allowing anyone to acquire and carry a gun. It may be narrow. It may even have tolls. But it may not be built only to be indefinitely closed down when there are evident alternatives to achieve the government's countervailing compelling interest. That is what has happened here by means of suspending the requirement that the police collect an applicant's fingerprints while still demanding such fingerprints for approval of a handgun permit. Plaintiffs have shown a clear and substantial likelihood of success on the merits of their Second Amendment claim.

Id. at 23-24 (citations omitted).

Shortly after the Court enjoined the state Defendants' unconstitutional conduct, Defendant Lamont rescinded his unconstitutional executive order, and state and local authorities resumed the fingerprinting necessary for applicants to obtain their state-mandated permit.

NOW, ALL FINGERPRINTING HAS AGAIN BEEN STOPPED

Now, in open violation of the Court's temporary injunction, the state has again shut down the entire fingerprinting system in Connecticut. See affidavit of Holly Sullivan, attached as Exhibit 1. Nobody who does not already possess a permit to obtain or carry firearms, ammunition or magazines in this state has any way to obtain such a permit.

At the same time, the state has also effectively shut down the entire firearms purchasing procedure in the state. Now, even those who have already gone through the extensive permitting procedure and have been issued a permit to obtain and/or carry a firearm in Connecticut, are still effectively prohibited from legally buying a firearm.

It is no exaggeration to say that the entire firearms permitting and purchasing system in Connecticut has collapsed. The constitutional rights of thousands of Connecticut residents are being trampled. This Court must step in immediately.

ALMOST ALL FIREARM SALES IN CT ARE NOW BEING BLOCKED

As part of the extensive governmental procedure a person wishing to exercise his or her constitutional right to obtain a firearm must navigate, the state also requires that when purchasing a firearm, the individual must fill out certain state-mandated forms, and have

their identities submitted by a federally-licensed firearm dealer (an “FFL”) through the state’s proprietary firearm purchase approval system run by the Special Licensing and Firearms Unit (“SLFU”).¹

SLFU is a division of the Connecticut Department of Emergency Services and Public Protection (“DESPP”) over which Defendant Rovella is the Commissioner. Unless SLFU approves the sale of a given firearm to a given individual by a given FFL before the sale is consummated, the sale may not lawfully proceed. *Id.*

To submit a request to sell a given firearm to a given individual, the state-mandated firearm purchase approval system requires the FFL to call SLFU on the telephone and obtain verbal approval to consummate the sale. Verbal approval by SLFU is evidenced by a unique approval number SLFU personnel verbally provide to the FFL, and which the FFL includes on the firearm purchase documentation. Unless an FFL gets through to SFLU on the telephone and receives a unique approval number over the state-mandated firearm purchase approval system, the individual cannot legally purchase a firearm in Connecticut.

As of July 9, 2021, SLFU has effectively shut down the state-mandated firearm purchase approval system, making it virtually impossible for most law-abiding citizens of this state, including numerous CCDL members, to purchase a firearm of any type.

Upon information and belief, the state-mandated firearm purchase approval system

¹ <https://portal.ct.gov/DESPP/Division-of-State-Police/Special-Licensing-and-Firearms/Firearms>

was shut down to allow for an upgrade of the computers SLFU use to check the identities of those seeking to purchase a firearm.

On July 14, 2021, SLFU's new computer system purportedly became operational. However, upon information and belief, the new system is worse than the old system. The new system has proven to be highly unreliable and not trusted by SLFU personnel. Therefore, upon information and belief, each telephone purchase request which actually gets through to SLFU – a tiny fraction of those attempted by FFLs – is run through both the new system and the old system, making each such check take approximately three times as long as using only the old system.

At the same time, upon information and belief, the number of SLFU personnel assigned to answering FFL calls and processing firearm purchase authorization requests has been reduced from eleven to four. During the busy time when law-abiding citizens typically purchase firearms from FFLs – and thus, the busy time for FFLs to call in firearm purchase authorization requests to the state-mandated firearm purchase approval system, i.e., weekends – SLFU staffs the phones with only two people. There are approximately 660 FFLs in Connecticut. Many of those FFLs attempt to get through to SLFU to have sales authorized during that busy period each week.

Upon information and belief, SLFU processed an average of 600 firearms sales per day prior to the July 9, 2021 shutdown and is processing only a tiny fraction of that now.

In order for an FFL to get through to SFLU to submit a firearm purchase

authorization request over the state-mandated firearm purchase approval system, the FFL often needs to call SLFU's phone number literally thousands of times. See affidavit of Lester Bastenbeck, attached as Exhibit 2. Perhaps hard to imagine, but the Plaintiffs can identify numerous FFLs across the state that employ multiple people to do nothing but continually dial the telephone hoping against all hope that during an entire workday, one call might be answered by SLFU and the FFL might be able to make a sale. After thousands of calls over the course of an entire day, an FFL may not get through to sell a single firearm. *Id.*²

This has effectively shut down the entire firearm sales industry in Connecticut, causing virtually every FFL in the state severe financial damage and putting each at substantial – even imminent – risk of closing for good. Some FFLs have not been able to make a single sale since the July 9, 2021 shutdown, without any reprieve in sight. Without the Court's immediate intervention, there may soon be no place left for a law-abiding citizen to purchase a firearm in Connecticut. Many FFLs have dozens, if not hundreds of Connecticut citizens who have already obtained their state-mandated firearms permits, and who are ready, willing and able to purchase a firearm from the FFL, but who have been prevented from doing so by the utter disaster that is Connecticut's firearm purchase approval system.

² Lester Bastenbeck, owner of The Gun Store in Waterbury, CT has documented that his employees called SLFU over three thousand (3,000) times on one day without being able to get through a single time. That means he has been unable to sell a single firearm. The Gun Store employs four people who do nothing but redial the phone hoping to get through to SLFU to have a sale authorized. Mr. Bastenbeck has literally hundreds of customers who wish to purchase a firearm from The Gun Store, but are unable to do so because it is unable to get through to SLFU to obtain a state-mandated firearm purchase approval.

Worse yet, SLFU has instructed many of the FFL's that the person seeking to purchase the firearm must be present in the store at the time the firearm purchase authorization request is made to SLFU. This means that a law-abiding citizen who has already submitted to state-mandated fingerprinting, already submitted to a state-mandated background check, already taken and passed a state-mandated firearm safety course, and already paid the state-mandated fingerprinting and permit processing fees, must now literally sit at a gun store for hours, perhaps even days on end, just waiting for the FFL to get through to SLFU on one of the thousands of phone calls the FFL is attempting each day.

CONNECTICUT'S FIREARM PURCHASE SYSTEM IS A TRAIN WRECK

Even When operating as intended, Connecticut's firearm purchase approval system has been a disaster. For example, over the past few years, SLFU has changed its state-mandated firearm purchase approval system several times. A few years ago, it implemented a system under which FFLs were required to purchase expensive electronic data processing equipment in order to submit firearm purchase authorization requests to the state-mandated firearm purchase approval system. Many FFLs incurred that significant expense only to watch SLFU "change its mind" and opt for a different system without ever activating the expensive electronic data processing equipment it required the FFLs to purchase.

Adding insult to injury, many FFLs complain about the subjective nature of the state-mandated firearm purchase approval system. CCDL is aware of several FFLs who would testify that, on the off chance SLFU actually answers the telephone, firearm purchase

authorization requests are often delayed, denied, or the phone line simply clicks off, when the prospective firearms purchaser has an Asian or Hispanic-sounding name. See affidavit of Evan B. Marto, attached as Exhibit 3.

FEDERAL INSTANT BACKGROUND CHECK SYSTEM IS AVAILABLE

The federal government operates a firearm purchase approval system called the National Instant Check System (“NICS”). Forty-Three states, including New York, Massachusetts, Rhode Island, Vermont, and Texas, exclusively or partially use the federal NICS system to conduct background checks on firearm purchasers.³ Connecticut however, mandates its own proprietary firearm purchase approval system. Although twelve other states also have some sort of state firearm purchase approval system, some of those states are “Constitutional Carry” states, meaning that although a person needs submit a firearm purchase authorization request to *purchase* a firearm, that person is not required to obtain any type of permit or government permission to *possess* or *carry* a firearm.

Connecticut is one of a very few states which require a law-abiding citizen to traverse *both* an extensive state-mandated permitting process *and* a proprietary state-mandated firearm purchase approval system. Of all the states, upon information and belief, Connecticut’s mandatory dual system (even when it is actually functioning) is the most onerous, time consuming and expensive. The federal NICS system is quick, reliable and efficient. See

³ <https://www.fbi.gov/file-repository/nics-participation-map.pdf/view>

affidavit of Cassandra A. Roth, an FFL from New York, attached as Exhibit 4. NICS checks typically take between five and ten minutes. *Id.* See also affidavit of Michael Cargill, an FFL from Texas which also uses the NICS system, attached as Exhibit 5. The federal NICS system works. Connecticut's bloated proprietary approval system does not.

Now that Connecticut's firearm purchase approval system has effectively collapsed under its own weight, it is for all practical purposes near impossible for a firearms permit holder in Connecticut to legally purchase a firearm. SLFU could completely scrap its proprietary firearm purchase approval system today and use the federal NICS system like the vast majority of other states – even if it did so temporarily while it fixed its own proprietary system. Doing so would prevent the repeated constitutional violations Connecticut's law-abiding citizens have long endured under SLFU's proprietary firearm purchase approval system, without sacrificing public safety.

REQUEST FOR EMERGENCY STATUS CONFERENCE

Connecticut treats the people's fundamental Second Amendment right to keep and bear arms as a mere governmental gratuity which can be delayed, ignored, infringed, and even disregarded altogether whenever convenient for the state's regulatory bureaucracy. Connecticut's onerous and overly complicated state-mandated firearm permitting and purchasing approval system is clear evidence of that. The state Defendant's failure to maintain a fingerprinting system which allows law abiding citizens to navigate the state's arcane permitting procedures is in direct violation of this Court's temporary injunction.

SLFU's use of the state-mandated firearm purchase approval system in its current iteration, with its current staffing levels, and current redundant computer system checks, has effectively blocked nearly all firearms sales in this state in violation of at least the spirit of this Court's temporary injunction in this action. Such a shutdown effectively prevents firearm permit holders, like many of CCDL's members, from exercising their constitutional rights. It further violated the constitutional and economic rights of every store, dealer, distributor, salesman and employee in Connecticut's firearms industry. Mandating that FFLs and firearms permit holders submit to a procedure which is completely unusable further violates their rights of both substantive and procedural due process.

Previously, this Court found the state Defendants violated the constitutional rights of Connecticut's law-abiding citizens, including the Plaintiffs, by shutting down the state-mandated firearms system by way of a fingerprinting freeze. In violation of that injunction, the state Defendants are again engaging the same unconstitutional conduct this Court previously enjoined. But now the state Defendants have added a new tactic which is producing the same unconstitutional result but on an even broader scale. They have now effectively shut down the state-mandated firearms system by making it virtually impossible to obtain state approval to purchase a firearm. The state Defendants have now slashed another head of the same regulatory Hydra, causing the same result of the entire beast's incapacitation. At the same time, they are forcing the people of this state to ride that lifeless Hydra in order to exercise their constitutional rights. This cannot be allowed to stand.

The Plaintiffs in this action seek an emergency status conference with the Court to determine how to proceed given the state Defendants' continuing unconstitutional conduct and open contempt for this Court's orders. The Plaintiffs hereby move this Court for an emergency status conference to discuss these and other issues as may please the Court.

Dated: JULY 20, 2021 Respectfully submitted,

PLAINTIFFS CONNECTICUT CITIZENS
DEFENSE LEAGUE, INC., AMY JONES,
TODD SKILTON, JOHN LOWMAN,
JOSEPH COLL, TANYSHA BROWN AND
DANIEL GERVAIS

BY /s/Craig C. Fishbein

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/s/Doug Dubitsky

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Facsimile: 866.477.1120
Email: doug@lawyer.com

CERTIFICATION

I hereby certify that this day, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

/s/ Doug Dubitsky
Doug Dubitsky

EXHIBIT 1

AFFIDAVIT OF HOLLY SULLIVAN

The undersigned, being duly sworn says:

1. I, Holly Sullivan, am an adult resident of Connecticut. I am over the age of 21, a citizen of the United States, and I am fully aware of the obligations of the oath.
2. I have personal knowledge of the facts stated herein, and if called as a witness, I could competently testify to these facts.
3. I am the president of the Connecticut Citizens Defense League (“CCDL”) which is a nonprofit, educational foundation, incorporated under the laws of Connecticut with its principal place of business in Torrington, Connecticut. CCDL is a Plaintiff in this action.
4. As part of my position as president of CCDL, I regularly contact police departments across the state to inquire about firearms-related issues, including permitting issues. I also review the websites of such departments.
5. I have reviewed the websites of multiple police departments from across the state including: Danbury, Wallingford, Fairfield, Westport, Southington, and North Haven, all of which indicate that fingerprinting for firearm permit purposes has been shut down due to a system upgrade.
6. The documents attached to this affidavit are screen shots I took of the above-mentioned websites.

HOLLY SULLIVAN

On the _____ day of _____ in the year of 2020, PERSONALLY APPEARED, HOLLY SULLIVAN, signer and sealer of the foregoing *Affidavit of Holly Sullivan*, and acknowledged the same to be her free act and deed, before me.

Notary / Commissioner Superior Court



City of Danbury Police Department

July 16 at 2:30 PM · 🌐



****Public Notice****

Due to technical difficulties, Danbury PD is unable to provide the public fingerprinting service until further notice. We apologize for the inconvenience.



👍👍👍 18

4 Shares

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City of Danbury Police Department limited who can comment on this post.

ATTENTION PISTOL PERMIT APPLICANTS

AS OF FRIDAY, JULY 16th at 11:30 AM, THE POLICE DEPARTMENT CAN NO LONGER ACCEPT PISTOL PERMIT APPLICATIONS, AS THE STATE OF CONNECTICUT IS CONVERTING TO A NEW SYSTEM.

STARTING ON OR ABOUT MONDAY, JULY 26TH, APPLICANTS WILL NEED TO REGISTER ONLINE FOR THEIR FINGERPRINT SEARCH AND MAKE PAYMENT FOR THE STATE AND FEDERAL SEARCHES PRIOR TO SUBMITTING THEIR PISTOL PERMIT APPLICATIONS.

THE WALLINGFORD POLICE DEPARTMENT WILL STILL REQUIRE A CASHIER'S (BANK) CHECK OR MONEY ORDER IN THE AMOUNT OF \$70.00.

THE WEBSITE TO ENROLL IS:

<https://ct.flexcheck.us.idemia.io/cchrspreenroll>

IN ORDER TO COMPLETE THE ENROLLMENT PROCESS, A SERVICE CODE SPECIFIC TO THE WALLINGFORD POLICE DEPARTMENT IS REQUIRED. THE SERVICE CODE HAS NOT BEEN ASSIGNED YET. PLEASE CHECK BACK WITH THE RECORDS DIVISION AFTER MONDAY JULY 26TH TO OBTAIN THIS CODE. THE PHONE NUMBER FOR THE RECORDS DIVISION IS 203-294-2810.



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Fingerprinting Procedures and Information

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Effective July 21, 2021, the fingerprinting calendar will be temporarily suspended as the State of Connecticut implements new procedures that will require online pre-registration. Once we have the pre-registration link, we will re-open the calendar and provide instructions.



Departments » Police » Fingerprint Appointments

<h2>POLICE DEPARTMENT</h2>	<p>421 Main Street South Southbury, CT 06488 Maps and Directions</p>	<p>P:(203) 264-5912 F:(203) 264-5913 EMERGENCY: 911</p>
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Appointments for Fingerprinting Services

The State of Connecticut is currently changing the way they accept fingerprints; therefore, fingerprinting services will not be available during the transition. The Southbury Police Department will resume fingerprinting services on July 28, 2021.

The Southbury Police Department provides fingerprinting services for the Southbury residents. Fingerprinting for employment, pistol permits, and other needs is performed for Southbury residents only. This service is provided to the Southbury residents at no cost. Fingerprints are



FAIRFIELD POLICE DEPARTMENT
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NOTICE:

The State of Connecticut is currently in the process of implementing a new fingerprinting system. As a result, we are not able to offer fingerprinting services at this time. We anticipate that fingerprinting will resume the week of August 2, 2021, once we are able to implement the new systems here in Fairfield. Please check back in the days leading up to that date to schedule an appointment.

Thank you for your understanding and cooperation.



Type here to search



12:13 PM
7/20/2021





North Haven Police Department

5h · 🌐



Fingerprinting services will be unavailable today, 7/20/21, as we prepare for a transition to a new system. They are scheduled to resume next week. Thank you.



8

1 Share



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Comment



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Write a comment...



OTHER POSTS



North Haven Police Department

21h · 🌐



North Haven Police Provide Homicide Update

North Haven Police continue to investigate a homicide that occurred July 17th on Dixwell Avenue and have identified the victim as 28-year-old, Davonte Warren of New Haven.

Anyone with information is asked to contact the North Haven Police Department at 203-239-5321. Callers may remain anonymous.... See More



12:15 PM

7/20/2021

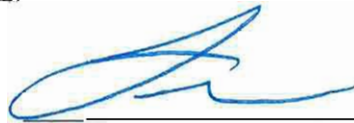
3

EXHIBIT 2

AFFIDAVIT OF LESTER BASTENBECK

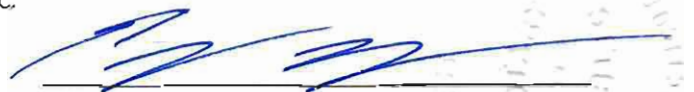
The undersigned, being duly sworn says:

1. I, Lester Bastenbeck, am an adult resident of Connecticut. I am over the age of 21, a citizen of the United States, and I am fully aware of the obligations of the oath.
2. I have personal knowledge of the facts stated herein, and if called as a witness, I could competently testify to these facts.
3. I am a federally licensed firearm dealer and the owner of the firearms retailer called The Gun Store with its principal place of business at 130 Scott Road in Waterbury, Connecticut.
4. Today, my employees called the Special Licensing and Firearms unit ("SLFU") well over three thousand (3,000) times attempting to get approval to sell one or more firearms to customers who wish to purchase them.
5. My store employs four full-time employees who do nothing but redial the phone hoping to get through to SLFU to have a sale authorized.
6. My employees typically start dialing the phones before 9:00am and dial all day long.
7. Despite calling SLFU over three thousand times today, my employees were unable to get through a single time and were unable to get authorization from SLFU to sell a single firearm.
8. This situation has been ongoing this since July 9, 2021.
9. I have literally hundreds of customers who wish to purchase a firearm from my store but are unable to do so because we are unable to get through to SLFU to obtain a state-mandated firearm purchase approval.



Lester Bastenbeck

On the 20 day of July in the year of 2021, personally appeared, Lester Bastenbeck, signer and sealer of the foregoing *Affidavit of Lester Bastenbeck*, and acknowledged the same to be her free act and deed, before me.



E. JONATHAN HARDY
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 31, 2022

EXHIBIT 3

AFFIDAVIT OF EVAN B MARTO

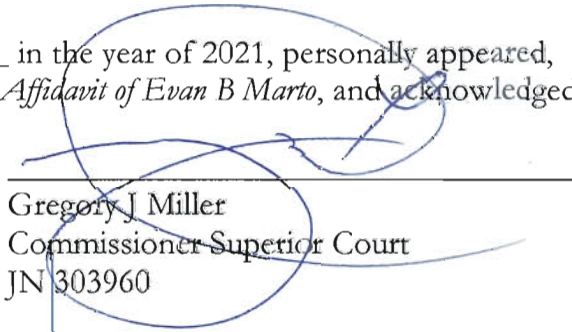
The undersigned, being duly sworn says:

1. I, Evan B Marto, am an adult resident of Connecticut. I am over the age of 21, a citizen of the United States, and I am fully aware of the obligations of the oath.
2. I have personal knowledge of the facts stated herein, and if called as a witness, I could competently testify to these facts.
3. I am a federally licensed firearm dealer and the owner of the firearms retailer called Fairfield County Firearms & Archery LLC with its principal place of business at 4 New Canaan Ave, Norwalk CT 06851
4. Today, my employees initiated a transfer for James Garcia, residing at 7 Oak Street Norwalk CT 06854.
5. Mr. Garcia arrived at our store at 10am to purchase a firearm. We began dialing the state at that time. We called repeatedly, eventually reaching SLFU at 5:02PM with Mr. Garcia still present.
6. After giving the state the required customer permit number and our FFL id, the state proceeded to run the required background check. After 58 mins, the state returned to the call, and issued a temporary denial. The state indicated that the system repeatedly timed out due to his last name. Mr. Garcia is Latino. This appears to be a common problem with Latino surnames.
7. Mr. Garcia is a regular customer, and has purchased firearms in the past.



Evan B Marto

On the 20th day of JULY in the year of 2021, personally appeared, Evan B Marto, signer and sealer of the foregoing *Affidavit of Evan B Marto*, and acknowledged the same to be her free act and deed, before me.



Gregory J Miller
Commissioner Superior Court
JN 303960

EXHIBIT 4

ADAPTIVE SHOOTING SPORTS

592 Route 22; Suite 2A
Pawling, NY 12564

P. 845-289-0390

F. 888-698-4674

info@adaptiveshooting.com

To Whom It May Concern,

My name is Cassandra A. Roth and I am the owner of Adaptive Shooting Sports LLC, an active Federal Firearms Dealer located in Pawling, NY. In accordance with New York State Law, we utilize the FBI "NICS" E-Check system routinely for our background check/firearm sale requirements. Average response times are relatively instantaneous, with the average background results being produced within 5-10 minutes.

Should you have any additional questions, please contact me directly, my contact information can be found above.

Thank You,



07.20.2021

Cassandra A. Roth
Chief Executive

E. cassandra@adaptiveshooting.com

P. 845-289-0390



Jeanine C White	
NOTARY PUBLIC, STATE OF NEW YORK	
Registration No. 01WH6345884	
Qualified in Dutchess County	
Commission Expires	08/01/2024

www.AdaptiveShooting.com

EXHIBIT 5

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

AFFIDAVIT OF MICHAEL CARGILL

My name is Michael Cargill, and every statement contained within this affidavit is within my personal knowledge, is true, and correct.

I am a federally licensed firearm dealer ("FFL"). I am the owner of a gun store, Central Texas Gun Works, located in Austin, Texas.

My business submits approximately 300 National Instant Criminal Background Check System ("NICS") requests per week.

These submissions are made for the purposes of determining whether a person is eligible to purchase, possess, or transport a firearm under 18 U.S.C. § 922.

The steps to process a NICS check are as follows:

1. Review the purchase's qualifying identification;
2. Gather information off of the ATF Form 4473 (Firearms Transaction Record);
3. Submit the information from the ATF Form 4473 to the FBI NICS E-Check portal; and
4. Await a result from the FBI.

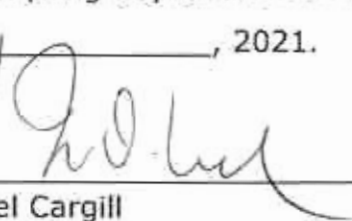
My store, like the vast majority of gun stores in the State of Texas, gather the information on the Form 4473 electronically. This information is carried over and submitted into the FBI NICS E-Check portal semi-autonomously. The time it takes to transmit the information contained on the ATF Form 4473 to the FBI NICS E-Check portal is approximately 3 to 5 minutes.

On average, the results from a NICS submission to the FBI are returned in 5 minutes.

The State of Texas does not require any additional processes concerning the background check outside of what is required under federal law and NICS.

Based on my personal knowledge and experience, NICS submissions in the State of Texas do not encounter any undue delay when attempting to process said request.

WITNESS MY HAND this 20th day of July, 2021.



Michael Cargill

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, on this day personally appeared Michael Cargill, known to me to be the person whose name is subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20th day of July, 2021.



Notary Public in and for the State of Texas

