

LEGAL AFFAIRS REPORT

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TABLE OF CONTENTS

Firearms Litigation Report.....	1
Local Ordinance Project Report.....	7
Firearms Regulatory Matters Report	9
Hunting Regulatory Matters Report.....	10
Range Matters Report	12

FIREARMS LITIGATION REPORT

NRA/CRPA California and Ninth Circuit Litigation Matters

Issue	Case Name	Case Status	What's Next
Challenge to "good cause" requirement for CCWs	Peruta v. San Diego	In June 2015, a divided "en banc" panel of the 9th Circuit Court of Appeals ruled 7-4 in favor of the County, holding that the government's denial of the only means of carrying a firearm under state law does not implicate the Second Amendment. The decision reverses an earlier three-judge panel decision of the 9th circuit and now stands in direct conflict with the Supreme Court's decision in <i>Heller</i> .	Plaintiffs recently Petitioned for Full Court En Banc Rehearing by all sitting members of the Ninth Circuit. A decision from the Court on whether to rehear the case is expected in the next few months.
Challenge to "good cause" requirement for CCWs filed after CA banned Unloaded Open Carry	McKay v. Hutchens	The case has been stayed pending final resolution of <i>Peruta</i> .	After <i>Peruta</i> is resolved, a decision will likely follow in this case.
10+ Round Magazine Possession Ban	Fyock v. Sunnyvale	In 2015, the 9th Circuit upheld the lower court's denial of plaintiffs' request for an order prohibiting enforcement while the case proceeds.	The case was set to resume in the trial court following resolution of <i>Peruta</i> , but the passage of SB 1664 prohibiting the possession of 10+round magazines statewide now preempts the local ordinance. Repeal of the ordinance or a preemption claim will follow.
Challenge to DOJ's excessive DROS fees that generated massive surplus.	Bauer v. Harris	In March 2015, the district court issued an opinion upholding California's use of DROS fees to fund APPS and other law enforcement activities. Plaintiffs have appealed. The case has been fully briefed and is awaiting oral arguments.	Oral arguments will likely be scheduled in the later half of 2016 or early 2017. A decision can be expected anywhere from 3-9 months following oral arguments.
Challenges DOJ's Use of DROS surplus to fund APPS	Gentry v. Harris	An amended complaint alleging that the DROS fee is an invalid property tax was filed with the district court in November 2015. The case is currently in the discovery process.	Unknown.

NRA/CRPA California and Ninth Circuit Litigation Matters

Issue	Case Name	Case Status	What's Next
Vagueness challenge to "handgun ammunition" sales registration requirement and mail order ban	Parker v. California	The case is currently awaiting oral arguments before the California Supreme Court.	Oral arguments could be set at any time. Timeframes for decisions from the California Supreme Court can vary, but often come within a few months of oral arguments.
Challenge to CA DOJ's underground regulations regarding the Firearm Safety Certificate Program	Belemjian v. Harris	This case forced DOJ to finally begin the process of enacting regulations for the FSC program in February 2015. Plaintiffs appealed the lower court's denial of Plaintiffs' request for attorneys' fees.	Briefing is currently in progress in the California Court of Appeals.
Challenge to firearm prohibition for misdemeanor domestic violence	Baker v. Lynch	In July 2013, the district court granted then Attorney General Eric Holder's motion to dismiss the case. This decision has been appealed to the 9th Circuit Court of Appeals and briefing was completed on May 27, 2015.	Oral arguments will likely take place in late 2016 or early 2017. A decision can be expected anywhere from 3-9 months following oral arguments.
Challenge to improper denial of use permit to operate firearms retail and repair business.	Settergren v. Daly City	The case was filed on January 15, 2016. On February 18, 2016, Daly City filed an answer. The case is now in the discovery process.	Unknown.
Preemption challenge to LA ordinance banning possession of 10+ Round Magazines	Bosenko v. City of Los Angeles	This case is currently being litigated in the trial court.	The parties are in negotiations to repeal the ordinance in light of the passage of state legislation prohibiting the possession of 10+round magazines.

NRA/CRPA California and Ninth Circuit Litigation Matters

Issue	Case Name	Case Status	What's Next
New Litigation: Challenges to California's Open Carry Restrictions & Los Angeles' Ultra-Compact Handgun Ban	N/A	Final stages of lawsuit preparation challenging California's open carry restrictions. Submitting pre-litigation demand letter and preparing lawsuit against the City of Los Angeles.	Filing of lawsuits followed by motions for summary judgment.

In addition to these cases, NRA and CRPA regularly provide consulting advice and prepare amicus curiae or “friend of the court” briefs in a number of other firearm related case. NRA and CRPA have recently supported or will be supporting the following cases.

California and 9th Circuit Amicus and Consulting Support

Issue	Case Name	Case Status	What’s Next
Sacramento and Yolo County CCW Issuance Policies	<u>Richards v. Prieto</u>	The Richards plaintiffs joined the Peruta plaintiffs in petitioning for full court en banc rehearing by all sitting members of the Ninth Circuit Court of Appeals.	A decision from the Court on whether to rehear the case is expected in the next few months.
Hawaii CCW Scheme	<u>Baker v. Kealoha</u>	The case was stayed pending final resolution of <i>Peruta</i> .	Unknown.
California Handgun Roster	<u>Pena v. Cid</u>	The federal district court upheld the Roster in 2015. Plaintiffs appealed, and the case has been fully briefed before the 9th Circuit.	Oral arguments will likely be scheduled in the later half of 2016 or early 2017. A decision can be expected anywhere from 3-9 months following oral arguments.
10-Day Wait as applied to current firearm owners	<u>Silvester v. Harris</u>	Oral arguments took place before the 9th Circuit on February 9, 2016.	A decision from the court can be expected anytime in the next 3-9 months.
1st Amendment challenge to handgun advertisement prohibition	<u>Tracy Rifle and Pistol v. Harris</u>	In July 2015, the district court denied a request to prohibit enforcement while the case proceeds. That decision was appealed, and in February 2016, the 9th Circuit upheld the lower court’s order within two weeks of oral arguments.	Litigation in this case will now resume in the lower court.
FFL zoning ordinance	<u>NSSF v. City of Pleasant Hill</u>	Plaintiffs recently dismissed the suit and are currently seeking to recover attorneys’ fees.	Unknown.
Challenges DOJ regulation barring sale of more than one handgun in 30 days to COE holders	<u>Doe v. Harris</u>	The California trial court upheld DOJ’s regulation, and the plaintiffs have appealed the decision to the California Court of Appeals.	The case will now be briefed before the California Court of Appeals. Oral arguments will likely take place in late 2017.

California and 9th Circuit Amicus and Consulting Support

Issue	Case Name	Case Status	What's Next
<p>Challenge to ban on possession and carriage of firearms on recreational Army Corps' lands.</p>	<p><u>Nesbitt v. U.S. Army Corps of Engineer</u></p>	<p>The case has been fully briefed and is awaiting oral arguments before the 9th Circuit Court of Appeals.</p>	<p>Oral arguments are expected to take place in 2016. A decision can be expected anywhere from 3-9 months following oral arguments.</p>
<p>State Court challenge to California's microstamping requirements</p>	<p><u>NSSF v. CA</u></p>	<p>The California trial court upheld the microstamping requirements, and the plaintiffs appealed. The case has been fully briefed before the California Court of Appeals.</p>	<p>Oral arguments will likely take place in late 2016 or 2017, and a decision from the appeals court will follow.</p>

NRA and CRPA also provide assistance in a number of critical Second Amendment cases across the country that could set precedent for future challenges to California gun laws. The following are a few of the more significant examples of these cases.

National Amicus Support

Issue	Case Name	Case Status	What's Next
Challenge to Maryland's ban on "assault weapons" and 10+ round magazines	Kolbe v. Hogan	On February 4, 2016, the 4th Circuit overturned the district court's approval of the ban under intermediate scrutiny and ordered the district court to apply "strict scrutiny." The State appealed, and the case was reheard by the full 4th Circuit sitting "en banc" on May 11, 2016.	An audio recording of the recent "en banc" oral arguments is available at http://michellawyers.com/kolbe-v-omalley/ . A decision from the 4th Circuit can be expected anytime in the next 12 months.
Challenges Washington D.C.'s "good reason" requirement for the issuance of a CCW permit	Grace v. District of Columbia	On May 17, 2016, the Court granted the Plaintiffs' request for an order blocking enforcing of the "good reason" requirement. The government appealed the decision to the D.C. Circuit Court of Appeals.	On May 27, the D.C. Circuit issued a stay of the lower court's order that prohibited D.C. from enforcing its "good reason" requirement. The case is now being briefed before the D.C. Circuit.
Challenges Washington D.C.'s excessive firearm registration requirements	Heller (III) v. District of Columbia	In September 2015, the D.C. Circuit issued an opinion striking down the majority of Washington D.C.'s firearm registration requirements as a violation of the Second Amendment. On October 19, 2015, D.C. filed a petition for an "en banc" rehearing of the case by a larger panel of the D.C. Circuit.	On February 26, 2016, the Court denied the request for "en banc" review.
Challenges Colorado's ban on 15+ round magazines	Colorado Outfitters v. Hickenlooper	Oral arguments took place before a 3-judge panel of the 10th Circuit Court of Appeals on September 28, 2015.	On March 22, 2016, the Court ruled that Plaintiffs did not have standing to bring their claims and ruled against the Plaintiffs' appeal.

LOCAL ORDINANCE PROJECT REPORT

The Local Ordinance Project (LOP) is a joint venture between NRA and CRPA to research and actively monitor all of California’s 58 counties and 482 municipalities to oppose any proposed ordinance, law, or policy that threatens Second Amendment rights. LOP efforts include developing and working with a network of professionals, citizens, local government officials and law enforcement professionals to effectively oppose local threats to California gun owners. Opposition campaigns typically include the preparation of opposition letters or pre-litigation demand letters, grassroots coordination, public information campaigns, and, in some cases, appearances at city council hearings. In many instances, these efforts have prompted local governments to vote down proposals or pull them from consideration. LOP efforts also serve as the foundation for NRA and CRPA litigation efforts against municipalities that enact anti-gun legislation.

Jurisdiction	Issue	Description	Response and Current Status
N/A	Local Elections	Develop and maintain detailed records of voting histories of local politicians, including whether they proposed or supported any anti-gun legislation.	Regularly review these records each election cycle and inform local gun owners of a political candidate’s voting record on Second Amendment issues.
Palm Springs	Anti-Gun Ordinance Package	In July, the City Council opened discussion on a number of anti-gun proposals, including a duty to report the theft or loss of a firearm, a prohibition on the possession of magazines capable of holding more than 10 rounds, and a requirement that all ammunition sales be recorded.	Submitted a letter warning of the ordinance’s serious legal problems, including state preemption issues. The City agreed to remove the magazine and ammunition restrictions from the proposal. It will discuss the remaining proposals at the next City Council meeting on August 3.
Los Angeles County	Anti-Gun Ordinance Proposal	In January, the Board of Supervisors recommended that staff prepare a number of ordinances with “stricter gun control restrictions and penalties, especially related to the sale or possession of semiautomatic guns and so-called ‘assault weapons.’ ”	Met with staff and discovered that the Board was in direct contact with the Law Center to Prevent Gun Violence, which is pushing a number of restrictive anti-gun ordinances. Monitoring Board agendas for any draft ordinances submitted for discussion.
City of Los Angeles	“Bad Apple” Gun Dealers	On June 1, the City Council instructed the LAPD to work with the anti-gun organization “Crime Gun Solutions” to study and identify so-called “bad apple” gun dealers located in the City of Los Angeles.	Prepared and submitted a letter to all FFLs located within the City warning them of the Council’s action, advising them to ensure their procedures for transferring firearms are in compliance with all applicable laws and regulations, and to consult legal counsel should they be contacted by law enforcement.

Jurisdiction	Issue	Description	Response and Current Status
Oakland	<u>Anti-Gun Ordinance Package</u>	In December, the City Council proposed several anti-gun ordinances, including a prohibition against the possession of magazines capable of holding more than 10 rounds and a requirement that all firearms stored at home or in a vehicle be kept in a locked container.	Submitted opposition letters opposing the proposed restrictions. The City passed the measures in 2016.
Encinitas	<u>Locked Storage and FFL Zoning Restrictions</u>	In March, several City Councilmembers asked staff to prepare an ordinance requiring the locked storage of firearms and restricting where FFLs may be located.	As of July 19, City staff have not yet submitted a draft ordinance for review. Monitoring City Council agendas for any updates.

FIREARMS REGULATORY MATTERS REPORT

Regulatory Counsel efforts involve the continual monitoring of the California Department of Justice (DOJ) and local law enforcement interpretations of California firearm laws to protect gun owners and firearm dealers against unwarranted and unlawful regulatory and enforcement actions. Regulatory Counsel efforts include drafting regulatory comment letters, providing legal support to NRA and CRPA lobbyists, drafting NRA and CRPA member alerts, and providing compliance advice to NRA and CRPA members. Regulatory Counsel also collaborates with overlapping litigation, legislative, and regulatory matters to effectively oppose improper actions and incorrect interpretations of California law by state and local agencies.

Issue	Agency	Description	Response and Current Status
Public Record Requests	<u>N/A</u>	Continually submit public record requests to CA DOJ and local law enforcement agencies for information relating to agency policies and interpretations of CA firearm laws.	Recent responses to these requests provided key financial analysis reports for many of the pending firearm bills in California, which were subsequently used in drafting legislative opposition letters and veto requests.
Gun Purchaser “Warning Letters”	<u>LA City Attorney / CA DOJ</u>	For several years, the LA City Attorney sent threatening letters to new gun purchasers, warning them of their obligations and the potential stiff penalties for violating any of California’s numerous firearm laws.	After being pressed for information on how new gun purchaser information was obtained, the LA City Attorney ceased the program.
Assistance for California Members	<u>N/A</u>	Assist NRA and CRPA with referrals regarding questions concerning California law firearm laws.	Provide ongoing assistance as needed.
Guide Re: 2016 Firearm Laws	<u>N/A</u>	California recently adopted several new firearm laws resulting in confusion amongst the public, firearm dealers, and manufacturers.	Preparing comprehensive analysis of the firearm laws to explain the effect of the laws, their scope, and the various exceptions for each law.
CCW Compliance for School Zones	<u>N/A</u>	In the wake of the passage of SB 707 (restricting the carrying of firearms on school property by CCW holders) substantial concern arose in the firearm community relating to how to comply with 707 and California carry restrictions by CCW holders	Prepared a comprehensive compliance guide for Californians with CCWs that details the various options for compliance.

HUNTING REGULATORY MATTERS REPORT

NRA and CRPA regularly monitor issues impacting hunters in California and continually develop strategies for taking action when necessary before the Legislature, the Fish & Game Commission, local municipalities, and various regulatory agencies. Hunting Regulatory efforts are also dedicated to pushing back against rabidly anti-hunting forces such as the United States Humane Society. Hunting Regulatory efforts seek to improve policies impacting hunters in California to effectively promote and defend the right to hunt in California.

Issue	Agency	Recent Action	Status
Coalition Building & Uniting Hunting Groups to Promote and Protect Hunting Rights	N/A	Prepared two full days of presentations developed by NRA and CRPA to California hunting groups laying out a plan for addressing attacks on hunting rights in California.	The groups unanimously agreed to form a coalition and develop a coordinated system to effectively and efficiently oppose and roll back anti-hunting regulations.
Monitoring anti-hunting forces	Fish & Game Commission & Municipalities & Regulatory Bodies	Ongoing monitoring of lawsuits and activities of potential interest to hunting related matters in California. Regularly submit public records act requests for documents concerning efforts of anti-hunting groups. Analyze Fish & Game Commission meeting agendas and prepare lobbyists for addressing matters of interest at FGC & WRC meetings.	Ongoing efforts to closely monitor various hunting related issues to allow for timely and effective intervention as necessary.
Increasing Support for Hunting Rights Throughout California	N/A	Developed and distributed computer presentations for distribution by coalition of hunting groups that outline the attacks hunters are facing. Presented to Council to Advance Hunting and Shooting Sports regarding issues in California to garner support.	Ongoing efforts to grow hunting rights coalitions and spread awareness.
Membership Alerts	N/A	Prepare alerts regarding new hunting rules and regulations and advise of NRA and CRPA efforts to promote and defend hunting rights in California.	Ongoing.
Anti-hunting Regulations	Fish & Game Commission	Development of petitions to repeal or amend current regulations that negatively affect hunters and to promote adoption of regulations that benefit hunters.	Several petitions were recently granted that demand transparency and structure for Fish & Game Commission operations and allow certain archery hunters to carry side arms.

Issue	Agency	Recent Action	Status
Opposing HSUS Predator Policies	Fish & Game Commission & Municipalities	<p>Ongoing efforts to prepare representatives for attendance at Wildlife Resource Committee hearings on predators. Presented at coyote management symposium regarding negative impacts of HSUS on predator management policies. Drafted manuscript explaining HSUS lies for publication in predator management circles.</p>	<p>Ongoing efforts to challenge HSUS regarding non-lethal coyote policies in cities where pets and family members are being attacked.</p>

RANGE MATTERS REPORT

Ongoing monitoring of legal issues and counsel assistance efforts for environmental, land use, design and safety litigation and representation nationwide involving shooting ranges/areas. Regularly perform range evaluations and meet with Club Board of Directors on behalf of NRA and CRPA to strategize and assist with coordination of defense campaigns against NIMBY, environmental NGOs, agency and/or municipality matters.

Range	Issue	Recent Action	Status
<p>Record Range</p> <p>Redding Range</p> <p>Nevada County Range</p>	<p><u>Stormwater runoff</u></p>	<p>Regional Water Quality Control Board (RWQCB) Region 5R has been inspecting all shooting ranges in the region requiring sampling for potential lead contamination in stormwater runoff, utilizing drinking water standards. This has the potential to set extremely bad precedent for regulating ranges for stormwater runoff (using drinking water standards) and may potentially shut down numerous ranges.</p>	<p>Ongoing efforts to assist ranges and engage the RWQCB Region 5R representatives to contest the validity of RWQCB's actions. Working to prevent RWQCB from using the drinking water standards (0.010 mg/L for lead) and invoke the proper stormwater standards (0.262 mg/L), if not stopping RWQCB's actions entirely.</p>