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Supreme Court No. 995966

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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CITY OF EDMONDS, a municipality; DAVE EARLING,  
Mayor of the City of Edmonds, in his official capacity;  
EDMONDS POLICE DEPARTMENT, a department of the  
City of Edmonds; and AL COMPAAN, Chief of Police, in his  
official capacity,

Petitioners,

v.

BRETT BASS, an individual; SWAN SEABERG, an  
individual; CURTIS McCULLOUGH, an individual; The  
SECOND AMENDMENT FOUNDATION, INC., a  
Washington non-profit corporation; and the NATIONAL  
RIFLE ASSOCIATION OF AMERICA, INC., a New York  
non-profit association,

Respondents.

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**BRIEF OF *AMICI CURIAE* BRADY AND WASHINGTON  
ALLIANCE FOR GUN RESPONSIBILITY**

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<i>Jackson v. City &amp; Cnty. of San Francisco</i> , 746 F.3d 953 (9th Cir. 2014).....	22
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<i>United States v. Hayes</i> , 555 U.S. 415 (2009).....	1
<i>Young v. Hawaii</i> , 992 F.3d 765 (9th Cir. 2021).....	1
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American Bar Association (ABA), Safe Storage (Feb. 16, 2020), <a href="https://www.americanbar.org/groups/public_interest/gun_violence/policy/20m107c/">https://www.americanbar.org/groups/public_irest/gun_violence/policy/20m107c/</a> (last visited Nov. 23, 2021).....	13, 15

Aaron Karp, Small Arms Survey, *Estimating Global Civilian-Held Firearms Numbers*, June 2018, 4 (Table 1), <https://www.smallarmssurvey.org/sites/default/files/resources/SAS-BP-Civilian-Firearms-Numbers.pdf> (last visited Nov. 23, 2021).....29

Aaron Smith, *FBI Background Checks For Gun Sales Have Hit An Annual Record Already, Fueled by Covid-19*, Forbes, Oct. 5, 2020, <https://www.forbes.com/sites/aaronsmith/2020/10/05/fbi-background-checks-for-gun-sales-have-hit-an-annual-record-already-fueled-by-covid-19/?sh=4fe8e0625360>[<https://perma.cc/TG2W-VCHJ>].....29

Alex Johnson, *Jaylen Fryberg’s Dad Guilty of Buying Gun Used in Marysville School Massacre*, NBC News (Sept. 29, 2015), <https://www.nbcnews.com/storyline/marysville-school-shooting/dad-convicted-buying-gun-jaylen-fryberg-used-kill-4-school-n435876>[<https://perma.cc/NA7Z-BL5V>]. .....11

American Foundation for Suicide Prevention, *An Introduction to Firearms & Suicide Prevention*, <https://afsp.org/an-introduction-to-firearms-and-suicide-prevention> (last visited Nov. 23, 2021). .....20

Avanti Adhia et al., *Intimate Partner Homicide of Adolescents*, 173 JAMA Pediatrics 571 (2019). .....23, 24

Brian Freskos, *Missing Pieces: Gun Theft From Legal Gun Owners Is On The Rise, Quietly Fueling Violent Crime Across America*, The Trace, Nov. 20, 2017, [https://www.thetrace.org/features/stolen-guns-violent-crime-america/\[https://perma.cc/D62H-7XG3\]](https://www.thetrace.org/features/stolen-guns-violent-crime-america/[https://perma.cc/D62H-7XG3]).....31

Cassandra K. Crifasi et al., *Storage Practices of US Gun Owners in 2016*, 108 Am. J. of Pub. Health 532, 533 (Table 1) (2018).....29, 30

Center for American Progress, *Gun Theft in the United States: A State-by-State Analysis* (Mar. 4, 2020), [https://www.americanprogress.org/article/gun-theft-united-states-state-state-analysis/\[https://perma.cc/8VYT-UW4X\]](https://www.americanprogress.org/article/gun-theft-united-states-state-state-analysis/[https://perma.cc/8VYT-UW4X]).....27, 31

Centers for Disease Control and Prevention, *United States, High School Youth Risk Behavior Survey, 2019*, <https://nccd.cdc.gov/Youthonline/App/Results.aspx?TT=A&OUT=0&SID=HS&QID=QQ&LID=XX&YID=2019&LID2=&YID2=&COL=S&ROW1=N&ROW2=N&HT=QQ&LCT=LL&FS=S1&FR=R1&FG=G1&FA=A1&FI=I1&FP=P1&FSL=S1&FRL=R1&FGL=G1&FAL=A1&FIL=I1&FPL=P1&PV=&TST=False&C1=&C2=&QP=G&DP=1&VA=CI&CS=Y&SYID=&EYID=&SC=DEFAULT&SO=ASC> (last visited Nov. 23, 2021).....15

Centers for Disease Control and Prevention,  
*Suicide and Self-Inflicted Injury*,  
<https://www.cdc.gov/nchs/fastats/suicide.htm>  
(last visited Nov. 23, 2021). .....12

Chape Barton & Daniel Nass, *Exactly How High  
Are Gun Violence Rates in the United States,  
Compared to Other Countries?*, The Trace  
(Oct. 5, 2021),  
[https://www.thetrace.org/2021/10/why-more-  
shootings-in-america-gun-violence-data-  
research/\[https://perma.cc/94RA-74MJ\]](https://www.thetrace.org/2021/10/why-more-shootings-in-america-gun-violence-data-research/[https://perma.cc/94RA-74MJ]). .....13

Chelsea Parsons & Rukmani Bhatia, *Closing Gaps  
in Washington’s Gun Laws Will Prevent  
Tragedies*, Center for American Progress (Oct.  
28, 2018),  
[https://www.americanprogress.org/article/closin-  
g-gaps-washingtons-gun-laws-will-prevent-  
tragedies/](https://www.americanprogress.org/article/closin-g-gaps-washingtons-gun-laws-will-prevent-tragedies/) (last visited Nov. 23, 2021). .....6

David C. Grossman et al., *Self-Inflicted and  
Unintentional Firearms Injuries Among  
Children and Adolescents: The Source of the  
Firearm*, 153 *Archives Pediatric & Adolescent  
Med.* 875, 877 (1999). .....3

David C. Grossman et al., *Gun Storage Practices  
& Risk of Youth Suicide & Unintentional  
Firearm Injuries*, 293 *J. of Am. Med. Ass’n*  
707, 711–12 (2005). .....20, 21

David Hemenway et al., *Whose Guns Are Stolen?  
The Epidemiology of Gun Theft Victims*, 4 *Inj.  
Epidemiology* 1, 3 (2017). .....28



David Rose, *Bellevue Police arrest suspect in ‘armed and dangerous’ home burglary, other suspect sought*, Fox 13 Seattle, Aug. 26, 2021, <https://www.q13fox.com/news/bellevue-police-searching-for-two-armed-and-dangerous-home-burglary-suspects>[<https://perma.cc/GAR2-M2SA>]. .....26

Deborah Azrael et al., *Firearm Storage in Gun-Ownning Households with Children: Results of a 2015 National Survey*, 95 J. Urb. Health 295, 298 (2018). .....6

Edmond Shenassa et al., *Safer Storage of Firearms at Home & Risk of Suicide*, 58 J. Epidemiol Comm. Health 841, 842 (2004)..... 18, 21

Eric W. Fleegler et al., *Firearm Legislation & Firearm-Related Fatalities in the United States*, 173 JAMA Internal Med. 732, 732-740 (2013). .....16

Erin R. Morgan et al., *Firearm Ownership, Storage Practices & Suicide Risk Factors in Washington State, 2013-2016*, 108 Am. J. of Pub. Health 882, 882 (2018). .....15

Everytown, *Disrupting Access* (Sept. 10, 2018), <https://everytownresearch.org/report/disrupting-access/> (last updated Nov. 2, 2021). ..... 13, 15, 17

Everytown, *Keeping Our Schools Safe* (May 19, 2020) <https://everytownresearch.org/report/preventing-gun-violence-in-american-schools/> (last updated Jan. 25, 2021). ..... 10, 11

Federal Bureau of Investigation, *NICS Firearms Checks: Month/Year by State/Type*,  
[https://www.fbi.gov/file-repository/nics\\_firearm\\_checks\\_-\\_month\\_year\\_by\\_state\\_type.pdf](https://www.fbi.gov/file-repository/nics_firearm_checks_-_month_year_by_state_type.pdf). .....30

Guohua Li et al., *Factors Associated with the Intent of Firearm-Related Injuries in Pediatric Trauma Patients*, 150 *Archives Pediatric & Adolescent Med.* 1160, 1161–62 (1996). .....6, 9

Hanna Scott, *Snohomish County reports zero suicides in youths in a year*, MYNorthwest (Sept. 7, 2021),  
[https://mynorthwest.com/3128411/snohomish-county-youth-suicide-prevention/\[https://perma.cc/K2VV-J5JX\]](https://mynorthwest.com/3128411/snohomish-county-youth-suicide-prevention/[https://perma.cc/K2VV-J5JX])..... 12

Harvard Injury Control Research Center, *Means Matter: Lethality of Suicide Methods*,  
<https://www.hsph.harvard.edu/means-matter/means-matter/case-fatality/> (last visited Nov. 23, 2021). ..... 14, 15

Jennifer Mascia, *How Many Guns Fall Out of Circulation Each Year in the U.S.?*, Oct. 20, 2021, *The Trace*,  
[https://www.thetrace.org/2021/10/firearm-average-lifespan-how-many-lost-stolen-broken-guns/\[https://perma.cc/65Q2-G968\]](https://www.thetrace.org/2021/10/firearm-average-lifespan-how-many-lost-stolen-broken-guns/[https://perma.cc/65Q2-G968]). .....27

Jennifer L. Vainik, *Kiss, Kiss, Bang, Bang: How Current Approaches to Guns and Domestic Violence Fail to Save Women’s Lives*, 91 *Minn. L. Rev.* 1113, 1114–15 (2007). .....23

Katherine A. Fowler et al., *Childhood Firearm Injuries in the United States*, 140 *Pediatrics* 1, 7 (Jul. 2017).....8

Leigh Paterson, *How Do You Get Gun Owners to Give Up Their Guns During Crisis? Ask.*, *Guns & America* (Sept. 29, 2020), [https://gunsandamerica.org/story/20/09/29/craig-colorado-gun-suicide-red-flag-storage-mountain-west/\[https://perma.cc/Z7PP-6WDP\]](https://gunsandamerica.org/story/20/09/29/craig-colorado-gun-suicide-red-flag-storage-mountain-west/[https://perma.cc/Z7PP-6WDP]). ..... 14, 18

Linda Carroll, *Firearms Most Lethal Suicide Method By Far In The U.S.*, *Reuters* (Dec. 2, 2019), [https://www.reuters.com/article/us-health-suicide-guns/firearms-most-lethal-suicide-method-by-far-in-the-u-s-idUSKBN1Y62FD\[https://perma.cc/WRE8-F63S\]](https://www.reuters.com/article/us-health-suicide-guns/firearms-most-lethal-suicide-method-by-far-in-the-u-s-idUSKBN1Y62FD[https://perma.cc/WRE8-F63S]).....14

Lisa Dunn, *Do Safe Storage Gun Laws Prevent Gun Violence?*, *Guns & America* (Jul. 13, 2020), [https://gunsandamerica.org/story/20/07/13/do-safe-storage-gun-laws-prevent-violence/\[https://perma.cc/JL9T-Y9LT\]](https://gunsandamerica.org/story/20/07/13/do-safe-storage-gun-laws-prevent-violence/[https://perma.cc/JL9T-Y9LT]).....21

Mariel Alper & Lauren Glaze, Bureau of Justice Statistics, *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*, 7 (Table 5) (Jan. 2019), <https://bjs.ojp.gov/content/pub/pdf/suficspi16.pdf> (last visited Nov. 23, 2021).....32

Martha Bellisle, *Accidental shootings killing, injuring Washington state children*, Seattle Times, Oct. 15, 2016, [https://www.seattletimes.com/seattle-news/accidental-shootings-killing-injuring-washington-state-children/\[https://perma.cc/3KRB-F2DZ\]](https://www.seattletimes.com/seattle-news/accidental-shootings-killing-injuring-washington-state-children/[https://perma.cc/3KRB-F2DZ])..... 7, 8, 9

Michael C. Monuteaux et al., *Association of Increased Safe Household Firearm Storage with Firearm Suicide and Unintentional Death Among US Youths*, 173 JAMA Pediatrics 657 (2019). .....9

Michael D. Anestis, *Guns and Suicide: An American Epidemic* xiii (2018). ..... 13

Michael E. Lewiecki & Sarah Miller, *Suicide, Guns & Public Policy*, 103 Am. J. of Pub. Health 27, 27–28 (2013). .....*passim*

National Coalition Against Domestic Violence, *Fact Sheet: Domestic Violence in Washington*, <https://assets.speakcdn.com/assets/2497/washington-2021101912193420.pdf> (last visited Nov. 23, 2021).....24

National Coalition Against Domestic Violence, *Fact Sheet: Domestic Violence*, [https://assets.speakcdn.com/assets/2497/domestic\\_violence-2020080709350855.pdf?1596828650457](https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457) (last visited Nov. 23, 2021).....23

National Coalition Against Domestic Violence, *Statistics*, <https://www.ncadv.org/statistics> (last visited Nov. 23, 2021).....23

Press Release, U.S. Department of Justice, U.S. Attorney’s Office, Western District of Washington, *Two Tacoma men sentenced to lengthy prison terms for gun and drug crimes* (Aug. 30, 2021), <https://www.justice.gov/usao-wdwa/pr/two-tacoma-men-sentenced-lengthy-prison-terms-gun-and-drug-crimes>[<https://perma.cc/DM8D-CTFA>]. .....26

Press Release, The White House, *Fact Sheet: Biden Administration Takes Steps to Prevent Suicide, Including by Promoting Safe Storage of Firearms* (Nov. 2, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/02/fact-sheet-biden-administration-takes-steps-to-prevent-suicide-including-by-promoting-safe-storage-of-firearms/> (last visited Nov. 23, 2021). .....18

Seattle Police Department Blotter, *Detectives Arrest Aurora Robbery Suspect, Seize Stolen Gun*, Apr. 9, 2021, <https://spdblotter.seattle.gov/2021/04/09/detectives-arrest-aurora-robbery-suspect-seize-stolen-gun/>[<https://perma.cc/P3VA-MYYZ>].....26

Seattle Police Department Blotter, *Police Arrest Two, Recover Stolen Car and Gun*, Oct. 4, 2021, <https://spdblotter.seattle.gov/2021/10/04/police-arrest-two-recover-stolen-car-and-gun/>[<https://perma.cc/WEA8-MUZF>]. .....25

Snohomish Health District, *Firearms in Our Community* (May 2018), <https://www.snohd.org/DocumentCenter/View/1260/Firearms-in-our-Community> (last visited Nov. 23, 2021). .....7

Thomas K. Duncan et al., *Domestic Violence & Safe Storage of Firearms in the COVID-19 Era*, 272 *Annals of Surgery* 55, 55 (Aug. 2020).....23, 24

Timothy Egan, *From Adolescent Angst to Shooting up Schools*, N.Y. Times, Jun. 14, 1998, <https://www.nytimes.com/1998/06/14/us/where-rampages-begin-special-report-adolescent-angst-shooting-up-schools.html>[<https://perma.cc/A4AK-HW3C>]. .....11

Troy Brynelson & Conrad Wilson, *Stolen gun, string of burglaries tied to Clark County detective’s killing*, Oregon Public Broadcasting, Jun. 28, 2021, <https://www.opb.org/article/2021/07/28/police-say-stolen-gun-string-of-burglaries-tied-to-killing-of-detective/>[<https://perma.cc/9BL9-VXUS>]. .....25

U.S. Department of Veterans Affairs, *Firearm Suicide Prevention & Lethal Means Safety*, <https://www.va.gov/reach/lethal-means/> (last visited Nov. 23, 2021)..... 13, 20

V. Quince et al., *Report on Gun Violence Among Youth and Young Adults: Report for King County Council* (Dec. 2019), at 9, <https://kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/~media/depts/health/violence-injury-prevention/documents/report-gun-violence-youth-young-adults.ashx> (last visited Nov. 23, 2021).....16

Violence Policy Center, *States with Higher Gun Ownership & Weak Gun Laws Lead Nation in Suicide While States with Lower Gun Ownership & Strong Gun Laws Have Lowest Suicide Rates* (Sept. 11, 2019), <https://vpc.org/press/states-with-higher-gun-ownership-and-weak-gun-laws-lead-nation-in-suicide-while-states-with-lower-gun-ownership-and-strong-gun-laws-have-lowest-suicide-rates/> (last visited Nov. 23, 2021). .....21

Washington Association of Sheriffs & Police Chiefs, *Crime in Washington 2020 Annual Report*, <https://www.waspc.org/assets/CJIS/Crime%20In%20Washington%202020-small.pdf> (last visited Nov. 23, 2021).....23

Washington State Department of Health, *Firearm-Related Injury and Death* (Feb. 2015), <https://www.doh.wa.gov/Portals/1/Documents/Pubs/346057.pdf> (last visited Nov. 23, 2021).....10

## I. INTEREST OF *AMICI*

### A. **Brady**

*Amicus curiae* Brady (formerly the Brady Center to Prevent Gun Violence) is one of the nation's oldest and largest nonpartisan, non-profit organizations dedicated to gun violence prevention. For nearly thirty years, Brady has worked to reduce gun deaths and injuries nationwide through education, research, and legal advocacy. Brady frequently files amicus briefs in cases involving lifesaving firearms regulations and policies. *See, e.g., McDonald v. City of Chicago*, 461 U.S. 742 (2010); *United States v. Hayes*, 555 U.S. 415 (2009); *District of Columbia v. Heller*, 554 U.S. 570 (2008); and *Young v. Hawaii*, 992 F.3d 765 (9th Cir. 2021).

### B. **Washington Alliance for Gun Responsibility**

*Amicus curiae* Washington Alliance for Gun Responsibility (the "Alliance") is a nonprofit organization dedicated to ending gun violence and promoting a culture of gun ownership that balances rights with responsibilities. In



collaboration with local and national experts, civic leaders, and citizens, the Alliance identifies and advocates for evidenced-based solutions to the crisis of gun violence and promotes those solutions at the local, regional, and state levels.

The Alliance has successfully led statewide coalitions to pass three life-saving ballot measures, including Initiative Measure No. 1639 (“I-1639”), which was adopted by the people of Washington with over fifty-nine percent of the vote. The Alliance initiated the drafting of I-1639, formed the political committee that spearheaded the effort to pass I-1639, successfully defended I-1639 against both ballot title language and pre-election challenges, and has successfully defended the constitutionality of I-1639 as an intervenor-defendant in federal and state courts.

## **II. INTRODUCTION**

This case involves a challenge to a common-sense ordinance by the City of Edmonds (the “City”) seeking to prevent unauthorized access to firearms and requiring their safe

storage. The issues for the Court’s review are (1) whether Respondents’ challenge to the unauthorized access provision of the ordinance is justiciable and (2) whether both the safe storage and unauthorized access provisions are preempted by state law, RCW 9.41.290. *Amici* agree that Respondents’ challenge to the ordinance’s authorized access provision is not justiciable and that preemption of the ordinance would plainly be inappropriate; however, *Amici* submit this brief to emphasize, as a larger public health and safety matter, the importance of the safe firearm storage practices required by the ordinance and the consequences of not following those practices. Particularly given these foreseeable and well-established public health and safety consequences, the City’s ordinance falls clearly within the broad police powers afforded to municipalities. The Court should not invalidate the ordinance based on an ambiguous preemption statute that does not reference “storage” or “access.” *See* Petition, 8-10.

Studies have repeatedly shown that when firearms are improperly stored or readily accessible to unauthorized persons, it is highly likely, if not inevitable, that those firearms will be misused. Improperly stored firearms often end up in the hands of children, people that are a danger to themselves or others, or persons prohibited by federal or state law from possessing a firearm. The consequences are tragic but largely preventable.

*Amici* submit this brief in support of Petitioners to provide additional background on the necessity and effectiveness of reasonable safe storage laws, like the City's.

*First*, proper firearm storage limits access to firearms by children and unauthorized minors, reducing the risk of unintentional shootings and even school shootings.

*Second*, proper firearm storage has been shown to reduce the likelihood that a gun will be used to commit suicide or acts of domestic violence.

*Finally*, safe storage laws reduce the risk that third parties will steal firearms, diverting them to the illegal market where they are likely to be used in violent crime.

This Court should reverse the decision of the Court of Appeals.

### **III. STATEMENT OF THE CASE**

*Amici* concur with and adopt the Statement of the Case set forth in the City's Petition for Review.

### **IV. ARGUMENT**

#### **A. Children Are Often Victims of Unintentional Shootings and School Shootings Carried Out with Improperly Stored Firearms**

##### **1. Unintentional Shootings**

When children or minors gain access to firearms, the results are often tragic; however, safe storage of firearms can reduce these widespread, yet preventable, tragedies.

Researchers have found that nationwide, 4.6 million children under eighteen live with at least one improperly stored

(unlocked and loaded) gun in the home.<sup>1</sup> As a result, eighty-nine percent of fatal unintentional shootings involving children occur in the home.<sup>2</sup> Children also access improperly stored firearms in the homes of family or friends. A study of children under nineteen seeking medical treatment for an unintentional firearm injury found that forty-nine percent of the firearms responsible for those injuries were kept unlocked in the home of the child's relative or friend.<sup>3</sup> From 2002 to 2016, 1,723 children died from an unintentional firearm injury.<sup>4</sup>

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<sup>1</sup> Deborah Azrael et al., *Firearm Storage in Gun-Ownning Households with Children: Results of a 2015 National Survey*, 95 J. Urb. Health 295, 298 (2018).

<sup>2</sup> Guohua Li et al., *Factors Associated with the Intent of Firearm-Related Injuries in Pediatric Trauma Patients*, 150 Archives Pediatric & Adolescent Med. 1160, 1162 (1996).

<sup>3</sup> David C. Grossman et al., *Self-Inflicted and Unintentional Firearms Injuries Among Children and Adolescents: The Source of the Firearm*, 153 Archives Pediatric & Adolescent Med. 875, 877 (1999).

<sup>4</sup> Chelsea Parsons & Rukmani Bhatia, *Closing Gaps in Washington's Gun Laws Will Prevent Tragedies*, Center for American Progress (Oct. 28, 2018), <https://www.americanprogress.org/article/closing-gaps-washingtons-gun-laws-will-prevent-tragedies/> (last visited Nov. 23, 2021).

Safe storage laws, like those enacted by the City, are necessary to address this compelling public health and safety risk. In 2015, about 259,000 adults in Washington lived in a household with loaded and unlocked firearms.<sup>5</sup> And in Snohomish County, thirty-seven percent of adults reported having firearms in or around their homes in 2016. Thirty-five percent of those firearm-owning adults reported storing their firearms loaded, forty-three percent reported storing them unlocked, and sixteen percent—about thirty-six thousand people—reported storing them *loaded and unlocked*.<sup>6</sup>

Washington is not immune from the types of tragedies reflected in newspapers across the country. In 2014, thirteen-

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<sup>5</sup> Martha Bellisle, *Accidental shootings killing, injuring Washington state children*, Seattle Times, Oct. 15, 2016, [https://www.seattletimes.com/seattle-news/accidental-shootings-killing-injuring-washington-state-children/\[https://perma.cc/3KRB-F2DZ\]](https://www.seattletimes.com/seattle-news/accidental-shootings-killing-injuring-washington-state-children/[https://perma.cc/3KRB-F2DZ]).

<sup>6</sup> Snohomish Health District, *Firearms in Our Community* (May 2018), <https://www.snohd.org/DocumentCenter/View/1260/Firearms-in-our-Community> (last visited Nov. 23, 2021).

year-old Eddie Holmes was one of the many children in Washington unintentionally killed by an unlocked firearm. Eddie's friend pulled the trigger of a gun he "didn't believe ... was real."<sup>7</sup> Chillingly, a 2017 study found that the most common scenario behind unintentional firearm deaths of children involved the children playing with a firearm.<sup>8</sup>

Additional examples of local tragedies resulting from children accessing improperly stored firearms include:

- In 2012, a police officer in Marysville left his handgun in a car with his children. His three-year-old son accessed it and unintentionally shot and killed his seven-year-old sister.
- In 2013, a four-year-old in Sedro-Woolley fatally shot himself in the head while playing with an unlocked handgun he found in his home.
- In 2014, a two-year-old in Everett climbed onto his parents' dresser and shot himself in the head with his father's gun.

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<sup>7</sup> Bellisle, *supra* note 5.

<sup>8</sup> Katherine A. Fowler et al., *Childhood Firearm Injuries in the United States*, 140 *Pediatrics* 1, 7 (Jul. 2017).

- In 2015, a thirteen-year-old was shot in the face when he and two other children took his parents' unlocked gun into the woods.
- In 2016, a two-year-old in Seattle found a gun under her parents' pillow and shot herself in the face.
- In 2018, a fourteen-year-old in Burien was shot in the head while playing with an unlocked handgun.<sup>9</sup>

And the list goes on. These unintentional injuries and deaths of children exemplify the danger the City is attempting to address through safe-storage and unauthorized access requirements.

Studies have also shown that safe storage laws are effective in preventing unintentional shootings. For instance, a 2019 study found that almost one-third of youth suicides and unintentional firearm deaths could be prevented by requiring firearms to be locked in the home.<sup>10</sup> Another study found that

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<sup>9</sup> Bellisle, *supra* note 5; Li et al., *supra* note 2, at 1161.

<sup>10</sup> Michael C. Monuteaux et al., *Association of Increased Safe Household Firearm Storage with Firearm Suicide and Unintentional Death Among US Youths*, 173 *JAMA Pediatrics* 657 (2019).



households with locked firearms and ammunition have an eighty-five percent lower risk of unintentional child firearm injuries (fatal or non-fatal) than those households with unlocked firearms and ammunition.<sup>11</sup> A Washington State Department of Health publication revealed that in other states with “Child Access Prevention” laws requiring firearms to be stored locked, unloaded, or both, unintentional firearm deaths were reduced by twenty-three percent among children fifteen-years-old and younger.<sup>12</sup>

## **2. School Shootings**

Similarly horrific, unlocked firearms are also often used in school shootings. A recent study found that sixty-five percent of firearms used in school shootings came from the

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<sup>11</sup> Everytown, *Keeping Our Schools Safe* (May 19, 2020) <https://everytownresearch.org/report/preventing-gun-violence-in-american-schools/> (last updated Jan. 25, 2021).

<sup>12</sup> Washington State Department of Health, *Firearm-Related Injury and Death* (Feb. 2015), <https://www.doh.wa.gov/Portals/1/Documents/Pubs/346057.pdf> (last visited Nov. 23, 2021).

shooter's home.<sup>13</sup> Washington has experienced such tragedies. In 1996, a fourteen-year-old in Moses Lake killed two students and a teacher after taking a firearm from his father's unlocked gun cabinet.<sup>14</sup> In 2014, a fifteen-year-old in Marysville used his father's unlocked handgun to shoot five friends in his high school cafeteria before taking his own life.<sup>15</sup> These two devastating events, like so many others, were made possible by the improper storage of firearms. Unsurprisingly, the American Federation of Teachers and the National Education Association have urged states and localities to enact and enforce secure firearm storage laws, as the City has done here.<sup>16</sup>

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<sup>13</sup> Everytown, *Keeping Our Schools Safe*, *supra* note 11.

<sup>14</sup> Timothy Egan, *From Adolescent Angst to Shooting up Schools*, N.Y. Times, Jun. 14, 1998, <https://www.nytimes.com/1998/06/14/us/where-rampages-begin-special-report-adolescent-angst-shooting-up-schools.html>[<https://perma.cc/A4AK-HW3C>].

<sup>15</sup> Alex Johnson, *Jaylen Fryberg's Dad Guilty of Buying Gun Used in Marysville School Massacre*, NBC News (Sept. 29, 2015), <https://www.nbcnews.com/storyline/marysville-school-shooting/dad-convicted-buying-gun-jaylen-fryberg-used-kill-4-school-n435876>[<https://perma.cc/NA7Z-BL5V>].

<sup>16</sup> Everytown, *Keeping Our Schools Safe*, *supra* note 11.

## **B. Safe Firearm Storage Practices Can Prevent Suicides and Fatal Acts of Domestic Violence**

### **1. Suicides**

Deaths by suicide take an enormous toll on our country, Washington, and the City. Claiming more than forty-seven thousand American lives in 2019, suicide remains a leading cause of death among all age groups.<sup>17</sup> Suicide is the tenth leading cause of death in the United States, but the second leading cause of death for Washington youth.<sup>18</sup> In Snohomish County, suicide is the leading cause of death for children between ten and seventeen and the second leading cause of death for those between fifteen and twenty-four.<sup>19</sup>

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<sup>17</sup> Centers for Disease Control and Prevention (CDC), *Suicide and Self-Inflicted Injury*, <https://www.cdc.gov/nchs/fastats/suicide.htm> (last visited Nov. 23, 2021) (reporting 47,511 suicides in 2019).

<sup>18</sup> Hanna Scott, *Snohomish County reports zero suicides in youths in a year*, MYNorthwest (Sept. 7, 2021), [https://mynorthwest.com/3128411/snohomish-county-youth-suicide-prevention/\[https://perma.cc/K2VV-J5JX\]](https://mynorthwest.com/3128411/snohomish-county-youth-suicide-prevention/[https://perma.cc/K2VV-J5JX]).

<sup>19</sup> *Id.* While Snohomish County experienced zero youth suicides from August 2019 to August 2020, this period partially overlapped with the period during which the City's safe storage

Firearm use is the most common means of suicide nationally.<sup>20</sup> And while debates around gun violence tend to focus on homicides and mass shooting, the majority of gun deaths in the United States are suicides: roughly seven out of every ten gun fatalities are self-inflicted.<sup>21</sup>

Public health experts agree that easily accessible firearms increase the likelihood that lives will be lost to suicide.<sup>22</sup>

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ordinance was in effect, before its enforcement was enjoined (March 2019 to October 2019).

<sup>20</sup> Michael E. Lewiecki & Sarah Miller, *Suicide, Guns & Public Policy*, 103 Am. J. of Pub. Health 27, 27 (2013).

<sup>21</sup> Chape Barton & Daniel Nass, *Exactly How High Are Gun Violence Rates in the United States, Compared to Other Countries?*, The Trace (Oct. 5, 2021), [https://www.thetrace.org/2021/10/why-more-shootings-in-america-gun-violence-data-research/\[https://perma.cc/94RA-74MJ\]](https://www.thetrace.org/2021/10/why-more-shootings-in-america-gun-violence-data-research/[https://perma.cc/94RA-74MJ]); Michael D. Anestis, *Guns and Suicide: An American Epidemic* xiii (2018); Everytown, Everytown, *Disrupting Access* (Sept. 10, 2018), <https://everytownresearch.org/report/disrupting-access/> (last updated Nov. 2, 2021); *see also* U.S. Department of Veterans Affairs, *Firearm Suicide Prevention & Lethal Means Safety*, <https://www.va.gov/reach/lethal-means/> (last visited Nov. 23, 2021) (reporting that nearly seven out of every ten veteran deaths by suicide are the result of firearm injuries).

<sup>22</sup> American Bar Association (ABA), *Safe Storage* (Feb. 16, 2020),

Suicidal ideation and easy access to firearms are a particularly lethal combination, given that firearms can inflict instant and often irreversible bodily damage.<sup>23</sup> Indeed, easily accessible firearms satisfy the key conditions that influence the lethality of a given method of suicide: inherent deadliness, ease of use, accessibility, the inability to abort mid-attempt, and acceptability to the attempter.<sup>24</sup>

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[https://www.americanbar.org/groups/public\\_interest/gun\\_violence/policy/20m107c/](https://www.americanbar.org/groups/public_interest/gun_violence/policy/20m107c/) (last visited Nov. 23, 2021); Leigh Paterson, *How Do You Get Gun Owners to Give Up Their Guns During Crisis? Ask.*, *Guns & America* (Sept. 29, 2020), [https://gunsandamerica.org/story/20/09/29/craig-colorado-gun-suicide-red-flag-storage-mountain-west/\[https://perma.cc/Z7PP-6WDP\]](https://gunsandamerica.org/story/20/09/29/craig-colorado-gun-suicide-red-flag-storage-mountain-west/[https://perma.cc/Z7PP-6WDP]).

<sup>23</sup> Linda Carroll, *Firearms Most Lethal Suicide Method By Far In The U.S.*, *Reuters* (Dec. 2, 2019), [https://www.reuters.com/article/us-health-suicide-guns/firearms-most-lethal-suicide-method-by-far-in-the-u-s-idUSKBN1Y62FD\[https://perma.cc/WRE8-F63S\]](https://www.reuters.com/article/us-health-suicide-guns/firearms-most-lethal-suicide-method-by-far-in-the-u-s-idUSKBN1Y62FD[https://perma.cc/WRE8-F63S]).

<sup>24</sup> Harvard Injury Control Research Center, *Means Matter: Lethality of Suicide Methods*, <https://www.hsph.harvard.edu/means-matter/means-matter/case-fatality/> (last visited Nov. 23, 2021) (hereinafter, *Means Matter*).

Not surprisingly, loaded or unlocked firearms are more likely to be used in furtherance of a suicide attempt than those that are stored securely in the home.<sup>25</sup> Compared to other methods of suicide like drug overdose—which results in death only three percent of the time—about eighty-five percent of all attempted suicides by firearm are lethal.<sup>26</sup> The presence of a loaded firearm in the home is also significantly correlated with suicide completion: it *triples* one’s risk of death by suicide.<sup>27</sup>

The increased risk of suicide associated with easy access to firearms applies not only to the firearm owner but also to members of a household in which the firearm is stored, particularly children and adolescents. In 2019, roughly nineteen percent of American children reported having

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<sup>25</sup> Erin R. Morgan et al., *Firearm Ownership, Storage Practices & Suicide Risk Factors in Washington State, 2013-2016*, 108 *Am. J. of Pub. Health* 882, 882 (2018).

<sup>26</sup> ABA, *supra* note 22; *Means Matter*, *supra* note 24.

<sup>27</sup> Everytown, *Disrupting Access*, *supra* note 21.

seriously considered a suicide attempt.<sup>28</sup> Suicide claims the lives of more young Americans than any other single cause except motor vehicle accidents, and guns are by far the most common method of completed suicide for teenagers.<sup>29</sup> As with adult suicide, the accessibility of loaded, unlocked firearms is associated with increased risk of youth suicide.<sup>30</sup> In a 2018 study of youth suicides committed in King County, researchers found that “the majority” of youths in those cases obtained the

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<sup>28</sup> CDC, *United States, High School Youth Risk Behavior Survey, 2019*, <https://nccd.cdc.gov/Youthonline/App/Results.aspx?TT=A&OUT=0&SID=HS&QID=QQ&LID=XX&YID=2019&LID2=&YID2=&COL=S&ROW1=N&ROW2=N&HT=QQ&LCT=LL&FS=S1&FR=R1&FG=G1&FA=A1&FI=I1&FP=P1&FSL=S1&FRL=R1&FGL=G1&FAL=A1&FIL=I1&FPL=P1&PV=&TST=False&C1=&C2=&QP=G&DP=1&VA=CI&CS=Y&SYID=&EYID=&SC=DEFAULT&SO=ASC> (last visited Nov. 23, 2021).

<sup>29</sup> Lewiecki, *supra* note 20, at 27; Eric W. Fleegler et al., *Firearm Legislation & Firearm-Related Fatalities in the United States*, 173 *JAMA Internal Med.* 732, 732-740 (2013).

<sup>30</sup> Fleegler, *supra* note 29, at 739.

weapon from a family member. Notably, roughly one-third of the firearms used were stored unlocked or loaded.<sup>31</sup>

Behind these suicide statistics are the lost lives of teenagers and children. One such thirteen-year-old, “Mikey,” shot and killed himself with one of his father’s unsecured guns.<sup>32</sup> Afraid that Mikey could access his father’s firearms, Mikey’s mother repeatedly asked Mikey’s father to “at least lock them up”—to no avail. Her son’s suicide was shocking: “He must have gotten angry for some reason ... [A]t that age you’re not thinking [about] how final a gun is.”

As Mikey’s story reveals—and as the Biden Administration’s recently-announced set of initiatives meant to

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<sup>31</sup> V. Quince et al., *Report on Gun Violence Among Youth and Young Adults: Report for King County Council* (Dec. 2019), at 9, [https://kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/~/\\_media/depts/health/violence-injury-prevention/documents/report-gun-violence-youth-young-adults.ashx](https://kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/~/_media/depts/health/violence-injury-prevention/documents/report-gun-violence-youth-young-adults.ashx).

<sup>32</sup> Everytown, *Disrupting Access*, *supra* note 21.



prevent suicide acknowledge<sup>33</sup>—when it comes to the suicidal crisis in the United States, including Washington, “easy access to guns is at the heart of the issue.”<sup>34</sup>

Access to lethal means is a key indicator as to whether a suicide attempt will result in death. A majority of people who attempt suicide do so without much planning; suicide attempts are often impulsive and involve little to no preparation or premeditation.<sup>35</sup> A key attribute of safe storage laws is that they put time and distance between a person in crisis and the firearm. Interviews with survivors of suicide attempts have revealed that forty percent contemplated suicide for less than

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<sup>33</sup> Press Release, The White House, *Fact Sheet: Biden Administration Takes Steps to Prevent Suicide, Including by Promoting Safe Storage of Firearms* (Nov. 2, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/02/fact-sheet-biden-administration-takes-steps-to-prevent-suicide-including-by-promoting-safe-storage-of-firearms/> (last visited Nov. 23, 2021) (prioritizing lethal means safety to reduce military and veteran suicide).

<sup>34</sup> Paterson, *supra* note 22.

<sup>35</sup> Lewiecki, *supra* note 20, at 28 (citing NVISS report showing that sixty-one percent of suicide victims had not previously disclosed an intent to commit suicide).

five minutes before the attempt.<sup>36</sup> According to other studies, almost half of all survivors reported a timespan of less than ten minutes between the suicidal thought and the attempt, and about two-thirds considered suicide for less than an hour.<sup>37</sup>

The time it takes to unlock and load the firearm gives the person in crisis critical moments to reconsider acting on suicidal ideation. Many studies have shown that the vast majority of suicide survivors do not re-attempt suicide, so these moments can mean the difference between life and death.<sup>38</sup> Thus, while the often impulsive nature of an act in furtherance of suicide makes ready access to unsecured firearms

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<sup>36</sup> *Id.*; Edmond Shenassa et al., *Safer Storage of Firearms at Home & Risk of Suicide*, 58 J. Epidemiol Comm. Health 841, 842 (2004) (“Internationally, 24% to 53% of suicides are contemplated for as little as five minutes.”).

<sup>37</sup> Lewiecki, *supra* note 20, at 28; Brady, *The Truth About Suicide & Guns* (2016), <https://brady-static.s3.amazonaws.com/Report/Brady-Guns-Suicide-Report-2016.pdf>.

<sup>38</sup> Lewiecki, *supra* note 20, at 27.

particularly lethal, it also suggests the opportunity to reduce the risk of suicide by securely storing firearms.

Safe firearm storage practices can save lives by interposing a small but effective barrier between suicidal impulses and action.<sup>39</sup> Any measure that prolongs the period between the initial suicidal thought and the suicidal act serves as a barrier that will help thwart suicidal behavior.<sup>40</sup> Various studies have documented that the practice of storing a firearm unloaded and locked significantly decreases the risk of suicide.<sup>41</sup> One such study found that firearm owners who kept their firearms locked or unloaded had a sixty percent lower

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<sup>39</sup> U.S. Department of Veterans Affairs, *Firearm Suicide Prevention & Lethal Means Safety*, *supra* note 21; *see also* American Foundation for Suicide Prevention, *An Introduction to Firearms & Suicide Prevention*, <https://afsp.org/an-introduction-to-firearms-and-suicide-prevention> (last visited Nov. 23, 2021) (“Temporarily removing lethal means from someone in suicidal crisis ... gives at-risk individuals something they crucially need: time.”).

<sup>40</sup> Lewiecki, *supra* note 20, at 28.

<sup>41</sup> David C. Grossman et al., *Gun Storage Practices & Risk of Youth Suicide & Unintentional Firearm Injuries*, 293 *J. of Am. Med. Ass’n* 707, 711 (2005).

chance of committing suicide by firearm than owners who did not follow such practices.<sup>42</sup> That effect is especially pronounced with regard to adolescent and child suicide.<sup>43</sup>

Consistent with those findings, states with more restrictive firearm laws, including safe storage requirements and waiting periods, such as California and New York, report significantly lower suicide rates—by some measures, sixty-eight percent lower—than states without such restrictions.<sup>44</sup>

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<sup>42</sup> Shenassa, *supra* note 36, at 846; Amy Barnhorst et al., *Suicide Prevention Efforts in the U.S. & Their Effectiveness*, 34 *Current Opinion in Psychiatry* 299, 303 (2021) (“[I]f 20% of households locked all household firearms, then youth firearm deaths (which are mostly suicides) would decline by up to 32%.”).

<sup>43</sup> Grossman et al., *Gun Storage Practices & Risk of Youth Suicide & Unintentional Firearm Injuries*, *supra* note 41, at 711–12; Lisa Dunn, *Do Safe Storage Gun Laws Prevent Gun Violence?*, *Guns & America* (Jul. 13, 2020), [https://gunsandamerica.org/story/20/07/13/do-safe-storage-gun-laws-prevent-violence/\[https://perma.cc/JL9T-Y9LT\]](https://gunsandamerica.org/story/20/07/13/do-safe-storage-gun-laws-prevent-violence/[https://perma.cc/JL9T-Y9LT]) (reporting 2019 Harvard study finding that nearly one-third of youth suicides or accidental deaths could be prevented by requiring guns to be locked when stored).

<sup>44</sup> Dunn, *supra* note 43 (reporting 2015 study finding that states requiring gun locks experienced a sixty-eight percent lower suicide rate compared to states with no such requirement);

And so, when San Francisco enacted a safe storage ordinance in 2014, the U.S. Court of Appeals for the Ninth Circuit held that it survived a Second Amendment challenge even under intermediate scrutiny, finding that “the record contain[ed] ample evidence that storing handguns in a locked container reduces the risk of both accidental and intentional handgun-related deaths, including suicide” which would “increase public safety and reduce firearm casualties.”<sup>45</sup>

## **2. Domestic Violence**

Safe storage practices can also reduce the number of deadly domestic violence incidents and violent intimidation. More than ten million American adults fall victim to domestic

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Violence Policy Center, *States with Higher Gun Ownership & Weak Gun Laws Lead Nation in Suicide While States with Lower Gun Ownership & Strong Gun Laws Have Lowest Suicide Rates* (Sept. 11, 2019), <https://vpc.org/press/states-with-higher-gun-ownership-and-weak-gun-laws-lead-nation-in-suicide-while-states-with-lower-gun-ownership-and-strong-gun-laws-have-lowest-suicide-rates/> (last visited Nov. 23, 2021).

<sup>45</sup> *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953, 966 (9th Cir. 2014).

violence every year.<sup>46</sup> When guns are involved, the likelihood of injury or death is especially acute, with the risk to women raised by 400%.<sup>47</sup> On average, fifty women are shot and killed by intimate partners each month, and abused women are five times more likely to be killed when their abuser owns a firearm.<sup>48</sup> Deadly domestic violence incidents and firearm availability go hand-in-hand. In 2020, Washington reported fifty-nine domestic violence–related murders,<sup>49</sup> and a survey of

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<sup>46</sup> National Coalition Against Domestic Violence, *Statistics*, <https://www.ncadv.org/statistics> (last visited Nov. 23, 2021).

<sup>47</sup> National Coalition Against Domestic Violence, *Fact Sheet: Domestic Violence*, [https://assets.speakcdn.com/assets/2497/domestic\\_violence-2020080709350855.pdf?1596828650457](https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457) (last visited Nov. 23, 2021); see also Jennifer L. Vainik, *Kiss, Kiss, Bang, Bang: How Current Approaches to Guns and Domestic Violence Fail to Save Women’s Lives*, 91 Minn. L. Rev. 1113, 1114–15 (2007) (“While all forms of domestic violence are potentially lethal, studies show that guns and domestic violence are a particularly deadly combination.”).

<sup>48</sup> Thomas K. Duncan et al., *Domestic Violence & Safe Storage of Firearms in the COVID-19 Era*, 272 *Annals of Surgery* 55, 55 (Aug. 2020); see also Avanti Adhia et al., *Intimate Partner Homicide of Adolescents*, 173 *JAMA Pediatrics* 571 (2019).

<sup>49</sup> Washington Association of Sheriffs & Police Chiefs, *Crime in Washington 2020 Annual Report*,

domestic violence in Washington between 2006 and 2015 found that firearms were used in fifty-six percent of domestic violence–related homicides.<sup>50</sup> And Covid-19 may make domestic violence even more common and more deadly. At the onset of the pandemic, health experts predicted that stay-at-home orders and increased stress, together with the presence of unsecured weapons in homes, would “very likely” result in increased intimate partner homicides.<sup>51</sup>

Given the frequent use of firearms in domestic violence incidents, safe firearm storage and locking mechanisms can deter impulse shootings and help reduce the risk of fatalities in such incidents.<sup>52</sup>

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<https://www.waspc.org/assets/CJIS/Crime%20In%20Washington%202020-small.pdf> (last visited Nov. 23, 2021).

<sup>50</sup> National Coalition Against Domestic Violence, *Fact Sheet: Domestic Violence in Washington*, <https://assets.speakcdn.com/assets/2497/washington-2021101912193420.pdf> (last visited Nov. 23, 2021).

<sup>51</sup> Duncan, *supra* note 48, at 55.

<sup>52</sup> Adhia, *supra* note 48, at 575.

### C. Unsecured Guns Are Frequently Stolen and Used in Crime

Unsecured firearms are also targets for theft and frequently find their way into the hands of criminals, where they are used to commit violent crimes—including murder. There are numerous recent examples of stolen firearms used during crimes in Washington, such as the following:

- Clark County law enforcement tied the June 2021 theft of firearms and 20,000 rounds of ammunition in Hazel Dell to the murder of a Clark County Sheriff's Office Detective with a stolen revolver in July.<sup>53</sup>
- Seattle police recovered a stolen handgun during an October 2021 arrest of two men suspected of stealing a vehicle and possessing methamphetamine, heroin, and fentanyl.<sup>54</sup>

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<sup>53</sup> Troy Brynelson & Conrad Wilson, *Stolen gun, string of burglaries tied to Clark County detective's killing*, Oregon Public Broadcasting, Jun. 28, 2021, [https://www.opb.org/article/2021/07/28/police-say-stolen-gun-string-of-burglaries-tied-to-killing-of-detective/\[https://perma.cc/9BL9-VXUS\]](https://www.opb.org/article/2021/07/28/police-say-stolen-gun-string-of-burglaries-tied-to-killing-of-detective/[https://perma.cc/9BL9-VXUS]).

<sup>54</sup> Seattle Police Department Blotter, *Police Arrest Two, Recover Stolen Car and Gun*, Oct. 4, 2021, [https://spdblotter.seattle.gov/2021/10/04/police-arrest-two-recover-stolen-car-and-gun/\[https://perma.cc/WEA8-MUZF\]](https://spdblotter.seattle.gov/2021/10/04/police-arrest-two-recover-stolen-car-and-gun/[https://perma.cc/WEA8-MUZF]).



- A Seattle police SWAT team found a stolen semi-automatic pistol during the April 2021 arrest of two men suspected of committing multiple armed robberies and one shooting during a four-day crime spree in March.<sup>55</sup>
- During the August 2021 arrest of two men suspected in a string of burglaries in Bellevue, police recovered a stolen pistol from one of the men's car. The stolen pistol was fully loaded and cocked at the time it was recovered.<sup>56</sup>
- Law enforcement agents discovered a stolen .45-caliber pistol during a search of the shared home of two Tacoma residents arrested in April 2020 in connection with their involvement in a methamphetamine distribution conspiracy.<sup>57</sup>

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<sup>55</sup> Seattle Police Department Blotter, *Detectives Arrest Aurora Robbery Suspect, Seize Stolen Gun*, Apr. 9, 2021, [https://spdblotter.seattle.gov/2021/04/09/detectives-arrest-aurora-robbery-suspect-seize-stolen-gun/\[https://perma.cc/P3VA-MYYZ\]](https://spdblotter.seattle.gov/2021/04/09/detectives-arrest-aurora-robbery-suspect-seize-stolen-gun/[https://perma.cc/P3VA-MYYZ]).

<sup>56</sup> David Rose, *Bellevue Police arrest suspect in 'armed and dangerous' home burglary, other suspect sought*, Fox 13 Seattle, Aug. 26, 2021, [https://www.q13fox.com/news/bellevue-police-searching-for-two-armed-and-dangerous-home-burglary-suspects\[https://perma.cc/GAR2-M2SA\]](https://www.q13fox.com/news/bellevue-police-searching-for-two-armed-and-dangerous-home-burglary-suspects[https://perma.cc/GAR2-M2SA]).

<sup>57</sup> Press Release, U.S. Department of Justice, U.S. Attorney's Office, Western District of Washington, *Two Tacoma men sentenced to lengthy prison terms for gun and drug crimes* (Aug. 30, 2021), [https://www.justice.gov/usao-wdwa/pr/two-tacoma-men-sentenced-lengthy-prison-terms-gun-and-drug-crimes\[https://perma.cc/DM8D-CTFA\]](https://www.justice.gov/usao-wdwa/pr/two-tacoma-men-sentenced-lengthy-prison-terms-gun-and-drug-crimes[https://perma.cc/DM8D-CTFA]).

## 1. Firearm Theft

Hundreds of thousands of firearms are stolen across the United States each year, many of which are stolen from individual owners. The Federal Bureau of Investigation (FBI) Uniform Crime Reporting Program, which receives information submitted by over eighty-five percent of U.S. law enforcement agencies, estimates that over 300,000 firearms were reported stolen by individual owners in 2020 alone.<sup>58</sup> And 2020 is not an aberration. The FBI's data indicates that more than 1.84 million firearms were stolen from individual owners between 2012 and 2017, including almost 48,000 firearms stolen in Washington. Washington had the thirteenth highest number of firearm thefts from individual owners during this period.<sup>59</sup>

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<sup>58</sup> Jennifer Mascia, *How Many Guns Fall Out of Circulation Each Year in the U.S.?*, Oct. 20, 2021, The Trace, <https://www.thetrace.org/2021/10/firearm-average-lifespan-how-many-lost-stolen-broken-guns/>[<https://perma.cc/65Q2-G968>].

<sup>59</sup> Center for American Progress, *Gun Theft in the United States: A State-by-State Analysis* (Mar. 4, 2020),

Data collected from other sources confirm that the number of firearms stolen has been remarkably high over the last two decades. The Department of Justice’s Bureau of Justice Statistics (BJS) has estimated that about 1.4 million firearms were stolen in the course of household burglaries and other property crimes from 2005 to 2010, an average of 232,400 firearms stolen each year. Later research based on 2015 survey data suggests that about 380,000 firearms were stolen from individual owners each year between 2011 and 2015.<sup>60</sup>

High levels of theft are not surprising given that approximately forty-five percent of gun owners store at least some of their guns in an unlocked location within their houses, and six percent store at least some in an unlocked building

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[https://www.americanprogress.org/article/gun-theft-united-states-state-state-analysis/\[https://perma.cc/8VYT-UW4X\]](https://www.americanprogress.org/article/gun-theft-united-states-state-state-analysis/[https://perma.cc/8VYT-UW4X]) (hereinafter, “*CAP Gun Theft*”).

<sup>60</sup> David Hemenway et al., *Whose Guns Are Stolen? The Epidemiology of Gun Theft Victims*, 4 *Inj. Epidemiology* 1, 3 (2017).

separate from their houses, such as a garage or shed.<sup>61</sup> Eleven percent of gun owners also store at least some guns in their vehicles, the majority without using any type of trigger lock or other lock.<sup>62</sup>

A 2018 report estimated that there are approximately 393 million firearms owned by civilians in the United States,<sup>63</sup> and according to the number of background checks run through the FBI's National Instant Criminal Background Check System (NICS), a proxy for firearm sales,<sup>64</sup> there were over 38.5

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<sup>61</sup> Cassandra K. Crifasi et al., *Storage Practices of US Gun Owners in 2016*, 108 Am. J. of Pub. Health 532, 533 (Table 1) (2018).

<sup>62</sup> *Id.*

<sup>63</sup> Aaron Karp, Small Arms Survey, *Estimating Global Civilian-Held Firearms Numbers*, Jun. 2018, 4 (Table 1), <https://www.smallarmssurvey.org/sites/default/files/resources/SAS-BP-Civilian-Firearms-Numbers.pdf> (last visited Nov. 23, 2021).

<sup>64</sup> See Aaron Smith, *FBI Background Checks For Gun Sales Have Hit An Annual Record Already, Fueled by Covid-19*, Forbes, Oct. 5, 2020, <https://www.forbes.com/sites/aaronsmith/2020/10/05/fbi-background-checks-for-gun-sales-have-hit-an-annual-record-already-fueled-by-covid-19/?sh=4fe8e0625360>[<https://perma.cc/TG2W-VCHJ>].

million firearm background checks for new permits run in 2020 and another 32 million in the first ten months of 2021.<sup>65</sup> Over 1.33 million NICS firearm background checks for new permits have been run from January 2020 through October 2021 in Washington alone.<sup>66</sup> In light of individual gun owners' storage patterns as reported in national surveys,<sup>67</sup> these NICS figures suggest that there could be 678,000 more guns stored by individual owners in unlocked locations in Washington since the beginning of 2020.

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<sup>65</sup> See Federal Bureau of Investigation, *NICS Firearms Checks: Month/Year by State/Type*, [https://www.fbi.gov/file-repository/nics\\_firearm\\_checks\\_-\\_month\\_year\\_by\\_state\\_type.pdf](https://www.fbi.gov/file-repository/nics_firearm_checks_-_month_year_by_state_type.pdf) (providing count of background checks requested by federally-licensed firearm dealers prior to issuance of a permit or transfer to a private owner, not including checks associated with pawned firearms, rentals, or law enforcement transfers).

<sup>66</sup> *Id.*

<sup>67</sup> Crifasi et al., *supra* note 61, at 533 (Table 1) (indicating that forty-five percent of gun owners store all or some of their guns in an unlocked location in their houses and another six percent store all or some of their guns in unlocked locations separate from their houses).

## 2. Stolen Firearms Used in Crime

Stolen firearms frequently make their way to criminals and criminal markets, and ultimately are used during crimes.<sup>68</sup> Although federal restrictions bar the Department of Justice from sharing certain data regarding firearms used in crime, a recent analysis of local and state law enforcement records from thirty-six states—including Washington—indicated that the “vast majority” of the over 23,000 stolen firearms recovered by law enforcement from 2010 to 2016 were connected with criminal activity.<sup>69</sup> Data from the BJS also confirm a substantial link between stolen firearms and criminality. According to a survey conducted by BJS in 2016, 6.4% of the over 287,000 state and

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<sup>68</sup> *CAP Gun Theft*, *supra* note 59 (“Whether stolen from a licensed gun dealer or the collection of an individual gun owner, stolen guns create a significant risk to public safety in American communities.”).

<sup>69</sup> Brian Freskos, *Missing Pieces: Gun Theft From Legal Gun Owners Is On The Rise, Quietly Fueling Violent Crime Across America*, *The Trace*, Nov. 20, 2017, [https://www.thetrace.org/features/stolen-guns-violent-crime-america/\[https://perma.cc/D62H-7XG3\]](https://www.thetrace.org/features/stolen-guns-violent-crime-america/[https://perma.cc/D62H-7XG3]).

federal prisoners who possessed a firearm during the offense for which they were incarcerated reported obtaining the firearm by theft.<sup>70</sup>

## V. CONCLUSION

Laws like the City's ordinance that require safe storage are a common-sense and effective tool to reduce injuries and deaths caused by unauthorized access to firearms. This Court should not foreclose the City from enacting such laws to mitigate against the scourge of gun-related deaths and injuries that are a national, state-wide, and local concern.

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DATED this 23<sup>rd</sup> day of November, 2021.

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<sup>70</sup> Mariel Alper & Lauren Glaze, Bureau of Justice Statistics, *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*, 7 (Table 5) (Jan. 2019), <https://bjs.ojp.gov/content/pub/pdf/suficspi16.pdf> (last visited Nov. 23, 2021).

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