

File No. 110901

Committee Item No. 7

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee PUBLIC SAFETY

Date 9/15/11

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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Completed by: Gail Johnson

Date 9/9/11

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Police Code - Safe Storage and Enhanced-Lethality Ammunition Findings]

2  
3 **Ordinance amending the San Francisco Police Code by adding Sections 4511 and**  
4 **613.9.5 to add findings to ordinances: 1) requiring a handgun to be kept in a locked**  
5 **container or disabled with a trigger lock; and 2) prohibiting the sale of enhanced-**  
6 **lethality ammunition.**

7 NOTE: Additions are single-underline italics Times New Roman;  
8 deletions are ~~strike-through italics Times New Roman~~.  
9 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough-normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Police Code is hereby amended by adding Sections  
12 4511 and 613.9.5, to read as follows:

13 **SECTION 4511. FINDINGS.**

14 1. Firearm injuries have a significant public health impact both nationally and locally.

15 a. In the United States, firearm injuries accounted for 6.6 percent of premature  
16 deaths from 1999-2007. Shootings are a leading cause of injury deaths in the nation, second only to  
17 motor vehicle crashes. On average, there were 30,125 firearm deaths in the United States annually  
18 between 2000 and 2007, inclusive. In 2007, 31,224 Americans died in firearm-related homicides,  
19 suicides, and unintentional shootings – the equivalent of 85 deaths each day and more than three  
20 deaths each hour.

21 b. Nationally, more than two thirds of homicides and over half of all suicides are  
22 committed with firearms.

23 c. Unintentional shootings killed over 5,700 people in the U.S. between 2000 and  
24 2007. In 2009, over 18,000 people were treated for unintentional gunshot wounds in the United States.

1 d. The firearm-related homicide, suicide, and unintentional death rates for children  
2 5-14 years old in the United States are significantly higher than those other industrialized nations.

3 e. Over the last five years, firearm injuries have ranked third of all causes of injury  
4 death in San Francisco, after pedestrian fatalities and falls, respectively. Almost two thirds of these  
5 firearm deaths were homicides. In addition, gunshot wounds were the third most common reason for  
6 injury-related hospitalizations in San Francisco from 2005 to 2008 and fourth in 2009. Firearm-  
7 related suicides accounted for 16.2 percent of the suicide deaths in San Francisco in Fiscal Year 2009-  
8 2010.

9 f. San Francisco General Hospital, as the only trauma center in San Francisco,  
10 treats approximately 98 percent of the city's shooting victims annually. Approximately 80 percent of  
11 the individuals treated for violent injuries at San Francisco General Hospital are uninsured.

12 2. Having a loaded or unlocked gun in the home is associated with an increased risk of  
13 gun-related injury and death.

14 a. A firearm stored loaded or unlocked increases the risk of an accidental shooting.

15 b. All U.S. case control studies (12 to date) have found that people who die by  
16 suicide are more likely to have lived in a home with a gun than similar people who did not die by  
17 suicide. Studies have also shown that the risk of suicide increases in homes where guns are kept loaded  
18 or unlocked.

19 c. A 2007 study compared the 40 million people who live in the states with the  
20 lowest firearm prevalence (Hawaii, Massachusetts, Rhode Island, New Hampshire, Connecticut, and  
21 New York) to about the same number living in the states with the highest firearm prevalence (Wyoming,  
22 South Dakota, Alaska, West Virginia, Montana, Arkansas, Mississippi, Iowa, North Dakota, Alabama,  
23 Kentucky, Wisconsin, Louisiana, Tennessee, and Utah). Although non-firearm suicides were about  
24 equal in the two groups, total suicides were almost twice as high in the high-gun states.

1 d. Keeping unsecured guns in the home increases the flow of illegal guns into the  
2 community. More than half a million firearms are stolen each year in the United States and many are  
3 subsequently sold illegally.

4 3. Children are particularly at risk of injury and death, or causing injury and death, when  
5 they can access guns in their own homes or homes that they visit.

6 a. The authors of a 2005 study found that an estimated 1.69 million children age 18  
7 and under are living in households with loaded and unlocked firearms. Many young children,  
8 including children as young as three years old, are strong enough to fire handguns.

9 b. A significant majority of the guns used in youth suicide attempts and  
10 unintentional injuries were stored in the residence of the victim, a relative, or a friend. Of youths under  
11 18 who died by firearm suicide, the vast majority used a family member's gun, usually a parent's. And  
12 more than two thirds of school shooters obtained their gun(s) from their own home or that of a relative.

13 c. Quick access to loaded firearms heightens the risk that a young person's  
14 impulsive decision to commit suicide will be carried out without reflection or seeking help, and that the  
15 impulsive attempt will be fatal. One third of youths who died by suicide had faced a crisis within the  
16 previous 24 hours. Among people who nearly died in a suicide attempt, almost a quarter indicated that  
17 fewer than five minutes had passed between deciding on suicide and making the attempt. While fewer  
18 than 10 percent of suicide attempts by other means are fatal, at least 85 percent of firearm suicide  
19 attempts end in death.

20 4. Guns kept in the home are most often used in suicides and against family and friends  
21 rather than in self-defense.

22 a. Guns kept in a home are more likely to be involved in an unintentional shooting,  
23 criminal assault, or suicide attempt than to kill or injure in self-defense.

24 b. Only one in ten firearm homicides in the shooter's home is considered justifiable,  
25 meaning the shooter was not the assailant. Of every ten firearm homicide victims killed at the shooter's

1 residence, six were intimate partners or family members of the shooter, three were friends or  
2 acquaintances of the shooter, and only one was a stranger to the shooter.

3 5. Applying trigger locks or using lock boxes when storing firearms in the home reduces  
4 the risk of firearm injury and death.

5 a. Keeping a firearm locked when it is not being carried ensures that it cannot be  
6 accessed and used by others without the owner's knowledge or permission. This simple measure  
7 significantly decreases the risk that the gun will be used to commit suicide, homicide, or inflict injury,  
8 whether intentionally or unintentionally.

9 b. Safe storage measures have a demonstrated protective effect in homes with  
10 children and teenagers where guns are stored.

11 6. There is a wide consensus among medical professionals, police chiefs, gun control  
12 advocates and gun rights groups that applying trigger locks or using lock boxes to store unsupervised  
13 guns in the home promotes health and safety.

14 a. The International Association of Chiefs of Police recommends that state and  
15 local governments mandate safe storage of firearms.

16 b. The American Academy of Pediatrics recommends that if families must have  
17 firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked  
18 ammunition.

19 c. Both gun control and gun rights advocates endorse the use of locking devices  
20 when storing guns to ensure that unauthorized or untrained persons cannot use the gun to inflict injury  
21 or death. For example, the National Rifle Association's Home Firearm Safety Handbook, developed  
22 and used as part of the National Rifle Association (NRA) Basic Firearm Training Program, emphasizes  
23 that "there is one general rule that must be applied under all conditions: Store guns so they are not  
24 accessible to untrained or unauthorized persons." The NRA Guide To The Basics Of Personal  
25

1 Protection In The Home further explains that "all storage methods designed to prevent unauthorized  
2 access utilize some sort of locking method."

3 7. Requiring unsupervised firearms stored to be secured with trigger locks or in a locked  
4 container does not substantially burden the right or ability to use firearms for self-defense in the home.

5 a. The locking requirements apply only to handguns that are not being carried.  
6 Gun owners and adults over 18 may carry loaded and unlocked handguns in the home at any time. The  
7 safe storage requirements also permit owners who wish to do so to store their handguns fully loaded.

8 b. Gun security does not preclude quick access. For example, affordable lockboxes  
9 using Simplex-type locks, which pop open immediately when several keys or pushbuttons are touched in  
10 a preset sequence, are widely available. Users report that they can retrieve a loaded weapon in just  
11 two to three seconds, and that the locks are also easy to open in the dark. The NRA describes this type  
12 of lockbox as providing "a good combination of security and quick access." Some lockboxes also  
13 feature biometric locks, which provide immediate access when they scan the owner's fingerprint.

14 c. Portable lockboxes can store loaded weapons such that they are always within  
15 easy reach on counters, tables or nightstands. Such safely stored weapons are more quickly and easily  
16 retrieved for use in self-defense than unlocked guns that have been hidden away in seldom-used  
17 locations.

18  
19 **SECTION 613.9.5. FINDINGS.**

20 1. "Enhanced-lethality ammunition" means the ammunition that licensees may not sell,  
21 lease or otherwise transfer under Police Code Sec. 613.10 (g).

22 2. Enhanced-lethality ammunition is designed to tear larger wounds in the body by  
23 flattening and increasing in diameter on impact and/or exploding and dispersing shrapnel throughout  
24 the body. These design features increase the likelihood that the bullet will hit a major artery or organ,  
25 that it will take a more circuitous path through the body to create more widespread damage, and that it

1 will release all of its propulsive force inside the body to cause maximum injury. Accordingly,  
2 enhanced-lethality ammunition is more likely to cause severe injury and death than is conventional  
3 ammunition that does not flatten or fragment upon impact.

4 3. Enhanced-lethality ammunition has been used in shooting massacres both in San  
5 Francisco and abroad. On July 1, 1993, heavily armed gunman Gian Luigi Ferri shot and killed eight  
6 people, then himself, in the 101 California Street high-rise in San Francisco using hollow-point bullets.  
7 Most recently, on July 24, 2011, Anders Behring Breivik used lethality-enhanced bullets designed to  
8 fragment inside the body and cause maximum internal damage to kill and grievously wound dozens of  
9 children at a youth camp in Norway.

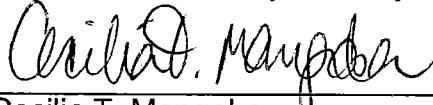
10 4. Banning the sale of enhanced-lethality ammunition in San Francisco does not  
11 substantially burden the right to self defense. The right to use firearms in self defense can be fully  
12 exercised using conventional, non-collapsing, non-fragmenting ammunition. Enhanced-lethality  
13 ammunition is not in general use, and this unusually injurious ammunition has been banned outside the  
14 United States. For example, the Hague Convention of 1899, Declaration III, has for more than a  
15 century prohibited the use in warfare of bullets that easily expand or flatten in the body.

16 5. Personal firearms kept in the home are more likely to be used against family and friends  
17 than intruders. Home firearms may also be used in suicide attempts, accidental shootings and criminal  
18 assaults.

19 6. The City and County of San Francisco has a legitimate, important and compelling  
20 governmental interest in reducing the likelihood that shooting victims in San Francisco will die of their  
21 injuries by reducing the lethality of the ammunition sold and used in the City and County of San  
22 Francisco.

1 Section 2. Effective Date. This ordinance shall become effective 30 days from the  
2 date of passage.

3  
4 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

5 By:   
6 Cecilia T. Mangoba  
7 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Police Code – Safe Storage and Enhanced-Lethality Ammunition Findings]

**Ordinance adding Sections 4511 and 613.9.5 to the San Francisco Police Code to add findings to ordinances 1) requiring a handgun to be kept in a locked container or disabled with a trigger lock; and 2) prohibiting the sale of enhanced-lethality ammunition.**

**Existing Law**

On February 14, 1994 (approved February 25, 1994), the San Francisco Board of Supervisors passed Ord. No. 91-94, which imposed certain restrictions on persons selling, leasing, or otherwise transferring firearms, firearms ammunition, and firearms ammunition components. Among those conditions was a prohibition against the sale, lease or transfer of ammunition designed to expand upon impact. Following several amendments over the years, Police Code Sec. 613.10(g) now provides:

**SEC. 613.10. LICENSE – CONDITIONS.**

In addition to all other requirements and conditions stated in this Article, each license shall be subject to all of the following conditions, the breach of any of which shall be sufficient cause for revocation of the license by the Chief of Police:

(g) The licensee shall not sell, lease or otherwise transfer to any person any ammunition that:

- (1) Serves no sporting purpose;
- (2) Is designed to expand upon impact and utilize the jacket, shot or materials embedded within the jacket or shot to project or disperse barbs or other objects that are intended to increase the damage to a human body or other target (including, but not limited to, Winchester Black Talon, Speer Gold Dot, Federal Hydra-Shok, Hornady XTP, Eldorado Starfire, Hollow Point Ammunition and Remington Golden Sabre ammunition; or
- (3) Is designed to fragment upon impact (including, but not limited to, Black Rhino bullets and Glaser Safety Slugs).

This subsection does not apply to conventional hollow-point ammunition with a solid lead core when the purchase is made for official law enforcement purposes and the purchaser is authorized to make such a purchase by the director of a public law

enforcement agency such as the Chief of the San Francisco Police Department or the Sheriff of the City and County of San Francisco.

On July 24, 2007 (approved August 1, 2007), the Board passed Ord. No. 193-07, which required handguns located in a residence to be kept in a locked container or disabled with a trigger lock whenever that handgun is not carried on a person over 18 or under the control of a peace officer. San Francisco Police Code Sec. 4512 provides, in relevant part:

**SEC. 4512. HANDGUNS LOCATED IN A RESIDENCE TO BE KEPT IN A LOCKED CONTAINER OR DISABLED WITH A TRIGGER LOCK.**

(a) Prohibition. No person shall keep a handgun within a residence owned or controlled by that person unless the handgun is stored in a locked container or disabled with a trigger lock that has been approved by the California Department of Justice.

(b) Definitions.

(1) "Residence." As used in this Section, "residence" is any structure intended or used for human habitation including but not limited to houses, condominiums, rooms, in law units, motels, hotels, SRO's, time-shares, recreational and other vehicles where human habitation occurs.

(2) "Locked container." As used in this Section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device.

(3) "Handgun." As used in this Section, "handgun" means any pistol, revolver, or other firearm that is capable of being concealed upon the person, designed to be used as a weapon, capable of expelling a projectile by the force of any explosion or other form of combustion, and has a barrel less than 16 inches in length.

(4) "Trigger lock." As used in this Section, a "trigger lock" means a trigger lock that is listed in the California Department of Justice's list of approved firearms safety devices and that is identified as appropriate for that handgun by reference to either the manufacturer and model of the handgun or to the physical characteristics of the handgun that match those listed on the roster for use with the device under Penal Code Section 12088(d).

(c) Exceptions. This Section shall not apply in the following circumstances:

(1) The handgun is carried on the person of an individual over the age of 18.

(2) The handgun is under the control of a person who is a peace officer under Penal Code Section 830.

Amendments to Current Law

The current law is amended to add updated findings to these two provisions.

Background Information

These findings clarify the Board's intent and reflect updated research and statistics regarding injuries and death caused by firearms and enhanced-lethality ammunition to ensure that the existing Police Code sections are fully enforceable under current case law.



ROSS MIRKARIMI

September 12, 2011

Angela Calvillo  
Clerk of the San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

**Regarding File No. 110901**

Madame Clerk:

I enclose for the Board's consideration copies of and/or links to the following studies and other materials that support the proposed findings for Police Code section 4512 and 613.10(g), which are currently under consideration by the Public Safety Committee.

American Academy of Pediatrics, *Firearm-related Injuries Affecting Pediatric Population*, 105 Pediatrics 370 (2000).

Cummings, et al., *State Gun Safe Storage Laws and Child Mortality Due to Firearms*, 278 JAMA 1084 (1997), full text available at <http://jama.ama-assn.org/content/278/13/1084.full.pdf+html>.

EpiCenter, California Injury Data Online, *Firearm Injuries in 2000* (2004), <http://www.apps.cdph.ca.gov/epicdata/firearms/gun2000.htm>.

EpiCenter, California Injury Data Online, *Firearm Ownership and Storage* (2004), <http://www.apps.cdph.ca.gov/epicdata/firearms/gunownstore.htm>.

Fackler, Martin L., International Wound Ballistics Ass'n, *Gunshot Wound Review*, 28 Ann. Emerg. Med. 194 (Aug. 1996), full text available at <http://www.sciencedirect.com/science/article/pii/S0196064496700628>.

Farjo, Laith A. and Theodore Miclau, *Ballistics and Mechanisms of Tissue Wounding*, 28 Injury C12 (Supp. 3 1997), full text available at <http://www.sciencedirect.com/science/article/pii/S0020138397900887>.

Grossman, David C., et al., *Gun Storage Practices and Risk of Youth Suicide and Unintentional Firearm Injuries*, 293 JAMA 707 (Feb. 2005).

Grossman, David C., Donald T. Reay & Stephanie A. Baker, *Self-Inflicted and Unintentional Firearm Injuries Among Children and Adolescents: The Source of the Firearm*, 153 Arch. Pediatr. Adolesc. Med. 875 (1999).



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Harvard School of Public Health: Means Matter, <http://www.hsph.harvard.edu/means-matter/means-matter/risk/index.html> (last visited June 9, 2011).

Harvard University, Harvard School of Public Health, *Means Matter*, <http://www.hsph.harvard.edu/means-matter/means-matter/risk/index.html> (last visited June 9, 2011).

International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities* 16 (2007)  
<http://www.theiacp.org/LinkClick.aspx?fileticket=%2Fs0LiOkJK5Q%3D&tabid=87>.

Klatt, E.C., D.L. Tschirhart and T.T. Noguchi, *Wounding Characteristics of .38 Caliber Revolver Cartridges*, 34:6 *Journal of Forensic Sciences* 1387 (Nov. 1989), full text available at [http://www.astm.org/DIGITAL\\_LIBRARY/JOURNALS/FORENSIC/PAGES/JFS12780J.htm](http://www.astm.org/DIGITAL_LIBRARY/JOURNALS/FORENSIC/PAGES/JFS12780J.htm).

Legal Community against Violence, *Gun Violence Statistics*, [http://www.lcav.org/statistics-polling/gun\\_violence\\_statistics.asp#f92](http://www.lcav.org/statistics-polling/gun_violence_statistics.asp#f92) (last visited June 29, 2011).

Miller, Matthew, et. al, *Household Firearm Ownership and Rates of Suicide Across the 50 United States*, 62 *Journal of Trauma* 1029 (2007).

Miller, Matthew, et al., *Firearm Availability and Unintentional Firearm Deaths, Suicide, and Homicide Among 5–14 Year Olds*, 52 *Journal of Trauma* 267 (2002).

Miller, Matthew & David Hemenway, *The Relationship Between Firearms and Suicide: A Review of the Literature*, 4 *Aggression & Violent Behavior* 59 (1999).

National Violent Injury Statistics Sys., *Youth Suicide Fact Sheet*, <http://www.sprc.org/library/YouthSuicideFactSheet.pdf> (last visited June 29, 2011).

Naureckas, Sara M., et. al, *Children's and Women's Ability to Fire Handguns*, 149 *Archives of Pediatric and Adolescent Medicine*, 1318 (1995).

National Rifle Ass'n of America, *NRA Basic Personal Protection in the Home Course* (Rev. ed. 2009).

National Rifle Ass'n of America, *Home Firearm Safety* (First ed. 1990)

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Okoro, Catherine A., et al., *Prevalence of Household Firearms and Firearm-Storage Practices in the 50 States and the District of Columbia: Findings from the Behavioral Risk Factor Surveillance System* 116 *Pediatrics* 370 (2005).

Petersen, Julie, *This Bullet Kills You Better*, *Mother Jones* (Sept/Oct. 1993).



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Pogatchnik, Shawn, *Doc: Gunman used special bullets in Norway to cause maximum damage*, Detroit Free Press, July 24, 2011, available at <http://www.freep.com/article/20110724/NEWS07/110724010/Doc-Gunman-used-special-bullets-Norway-cause-maximum-damage>.

Rivera, F.P. and Kellermann, A.L., *Reducing the Misuse of Firearms*, Handbook of Violence and Injury Prevention, New York: Springer (2007).

San Francisco Medical Examiner, *Annual Report FY 2009-2010* (2011).

San Francisco Medical Examiner, *The 101 California Shooting: The Black Talon Bullet*, 1994 IWBA Wound Ballistics Conference (Sacramento, CA).

Simon, T.R., et. al, *Characteristics of Impulsive Suicide Attempts and Attempters*, 32 *Suicide & Life Threat. Behavior* 49 (2001).

Somashekhar, Sandya and Nick Miroff, *Injuries Heal, but Mental Scars May Last Much Longer*, The Washington Post (Apr. 22, 2007).

U.S. Dep't of Health & Human Servs., Centers for Disease Control & Prevention, Nat'l Center for Injury Prevention & Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), *WISQARS Years of Potential Life Lost (YPLL) Reports, 1999 - 2007* (2011), at <http://webappa.cdc.gov/sasweb/ncipc/ypll10.html>.

U.S. Dep't of Health & Human Servs., Centers for Disease Control & Prevention, Nat'l Center for Injury Prevention & Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), *10 Leading Causes of Death 2007* (2011), at <http://webappa.cdc.gov/sasweb/ncipc/leadcaus10.html>.

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U.S. Dep't of Health & Human Servs., Centers for Disease Control & Prevention, Nat'l Center for Injury Prevention & Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), *WISQARS Unintentional Firearm Deaths and Rates per 100,000* (2011), at [http://webappa.cdc.gov/sasweb/ncipc/mortrate10\\_sy.html](http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html).

U.S. Dep't of Health & Human Servs., Centers for Disease Control & Prevention, Nat'l Center for Injury Prevention & Control, Web-Based Injury Statistics Query & Reporting System (WISQARS), *WISQARS Nonfatal Injury Reports 1999-2007* (2011), at <http://webappa.cdc.gov/sasweb/ncipc/nfirates2001.html>.

U.S. Secret Service and U.S. Dep't of Educ., *The Final Report and Findings of the Safe Schools Initiative: Implications for the Prevention of School Attacks in the United States*, 27 (2002).

Member, Board of Supervisors  
District 5



City and County of San Francisco

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University of Pennsylvania, Firearm & Injury Center, *Firearm Injury in the U.S.* 5 (2009) at <http://www.uphs.upenn.edu/ficap/resourcebook/Final%20Resource%20Book%20Updated%2009%20Section%201.pdf> (last visited July 12, 2011).

User Reviews of the Barska biometric gun safe, at <http://biometricgunsafereviews.net/barska-biometric-gun-safe.html> (last visited Sept. 12, 2011).

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Wiebe, Douglas J., *Firearms in U.S. Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 *Accident Analysis & Prevention* 711 (2003).

[www.nragunsafe.com](http://www.nragunsafe.com) (last visited Sept. 12, 2011).

Sincerely,

A handwritten signature in black ink that reads "Ross Mirkarimi".

Ross Mirkarimi  
San Francisco District 5 Supervisor